

LEGISLATIVE LAW

Why Should I Renew My CASD Membership When I Can Barely Afford to Pay My Rent?

by L. Tracee Lorens

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Times are tough right now for all of us. I just received my membership renewal applications for CASD, CAOC and AAJ. While Wayne and I are fortunate and have been successful in our practices, facing renewal dues for all of the attorneys in both of our offices for each of these organizations can be a bit daunting. I have to admit it crossed my subconscious brain as I signed the checks, "What do these organizations really do for me?"

As you know, I was the president of CASD in 2003 and am on the Board of Governors for CAOC. Wayne Hughes, my partner in law, love and life, is CASD's president for 2009. So, if I am struggling to justify the cost of renewing our memberships to these organizations, I have to assume that some of you are too. Don't be.

CASD has as its slogan, "**Never stand alone.**" It could not be a more apropos statement of what CASD is all about. The list serve alone justifies the cost of membership. I cannot tell you how many times I have used the list serve or our document bank to find sample motions that would have otherwise taken me tons of time to draft from scratch. Likewise, whenever we are getting ready to take an expert's deposition and are looking for prior testimony, I find that the deposition and expert banks on the CASD website contain a "treasure trove" of information. When I don't find what I need, I just go back to the list serve again. It never ceases to amaze me when I make a list serve inquiry, how quickly I feel like I am part of a 700-member law firm. Everybody helps everybody and it makes us stronger than our opponents, even though their resources are always far greater than our own.

Of course, there are also the fabulous seminars produced year after year by CASD members, which in my opinion are the most reliably and consistently great seminars by any organization in the entire state. Sustaining members get to go to all of the CASD seminars for free. What a bargain! And then there are the events which include the CASD monthly mixers where we meet at a local bar and pay for our own drinks (but the hors d'oeuvres are always free), and the CASD list serve parties (there are two a year with food and drinks and sometimes even a band and they are also free) and then of course there is the annual Trial Stars dinner and the annual Installation and Awards dinner. These are fancier functions but always leave me feeling inspired and "pumped" and ready to go slay the bad guys. One of the things I love about CASD is that they offer "scholarships" to their members, who

members, who would not otherwise be able to afford the two fancier dinner events each year. It is completely anonymous and all you have to do is call CASD's administrative offices or my partner Wayne Hughes and they will discreetly find funds to assist you in affording these events. No one is ever left out at CASD because CASD members and clients "**Never stand alone.**"

Some of you may have noticed that this column in the *Trial Bar News* is called the Legislative Law Column and are wondering what any of the above has to do with legislation or legislators. That is where CAOC comes into the mix. The bottom line is that CAOC makes sure that our clients have access to justice. I can tell you as lead trial counsel in the *Hohnbaum v. Brinker* action that my case would be dead but for organizations like CAOC. *Brinker* is not really about whether when Labor Code §226.7 uses the word "provide" it means "make available" or "ensure", but instead is all about politics. The defense bar and the employers' associations have attacked the word "provide" in the statute (even though the Wage Orders have defined this word consistently since about 1928) because if they are able to convince the courts that "provide" means merely "make available" then they can argue that class certification can never be granted in a meal break case, a rest break case, and/or off-the-clock case, and now they are even stretching it to a mis-classification case.

In other words, this is all about whether or not our clients should be allowed to have their claims heard by a jury in a court of law. The corporations in our state know that the claims are small and that if they cannot be grouped into a class action they will not be pursued. Without organizations like CAOC, the politics of *Brinker* would have already closed the court house doors to the 100,000 plus employees and former employees who have been systematically deprived of wages owed to them, even though *Brinker* has corporate records showing who missed breaks or had their time "shaved" by the company.

CAOC also made sure that **not one major bill passed** that restricted civil justice or consumer rights or our practices in 2008. CAOC was also effective in streamlining electronic discovery, reducing court congestion in Riverside and other counties, eliminating elder pre-dispute binding arbitration agreements, and restricting unlawful health care policy rescissions. Unfortunately, but not unpredictably, Governor Schwarzenegger vetoed these bills. CAOC spearheaded a bipartisan effort addressing the issue of enhancing access for persons with disabilities, while at the same time addressing some abuses that were occurring. This bill, SB1608, was signed by the Governor and will prevent any future initiatives that aim to restrict the legal rights of persons with disabilities.

CAOC's 2008 president, **Don Ernst**, worked tirelessly all year long fighting bad legislation, passing good legislation, and raising money to ensure consumer friendly candidates were elected, even though there were *three* elections this year alone. He has such a heart of gold that no one could ever say no to him when he asked for our help. You always knew that he was fighting for righteous causes and advocating consumer issues and fighting to make sure that we could afford to keep our doors open, so that we can assist consumers with their claims, and by doing this in such a pure and deeply involved way, he was able to energize hundreds of attorneys across the state needed to support him in accomplishing his goals.

As a result of **Don Ernst's** efforts, CAOC was successful in three of their four priority races in the Assembly and at least one seat in the Senate. A second senate seat, which CAOC worked very hard to pick up is in Senate District 19 (Santa Barbara) where, as of the writing of this article, we were

still anxiously awaiting results in hopes that Hannah-Beth Jackson will prevail. In San Diego County (one of the priority races) we were able to take back the seat previously held by Shirley Horton, which will now be held by Marty Block, who was heavily supported by CASD and CAOC.

And then there is **Lee-Ann Tratten**. Lee-Ann takes my phone calls and my emails and responds generally within moments, or at least a few hours, to ensure that our client's issues are immediately addressed in Sacramento. She works 24/7 and never "dodges" my calls, even on weekends or at 5:30 in the morning, when I wake up wanting to discuss all the things I woke up worrying about the night before. She exudes class, intelligence, and pragmatism, while at the same time fighting for our rights like a barracuda.

The national equivalent of CASD and CAOC is AAJ. AAJ is focused on ensuring that California state laws (among other states) are not preempted by weakened federal legislation and regulations, which have been rampant under the Bush administration. They are also fighting to pass the Arbitration Fairness Act, which would ensure that consumers are not sold an Arbitration Agreement, hidden in the fine print of a lengthy contract, which they have little, if any, ability to negotiate. Instead, they are promoting post-dispute arbitration agreements so that consumers are cognizant of what they are entering into instead of being force fed those arbitration clauses when they sign an agreement with their cell phone carrier or their bank or their employer in a setting designed to eliminate any real arm's length negotiation or awareness.

So, when considering whether or not to support CASD or CAOC or AAJ by becoming a member, I say join and get involved! These are the organizations which support us in our practice and ensure that we are able to enter the court house and fight for our clients' rights utilizing the best legal system in the world, the jury system. While it is easy to forget what these organizations do for us and our clients, their efforts and success cannot be underestimated. So, while all of us are struggling to balance our finances and survive the current economic turmoil enveloping our nation and others, in my opinion, the money spent supporting these organizations is money **very well** spent.