

# CA COURTS NEWSLETTER

ISSUE NO. 1 April 2010

*This newsletter is intended to provide you with meaningful and timely information on industry trends, hot topics, best practices and how to leverage the LexisNexis services to meet your unique needs.*

## Hot Topics

*Keep pace with developments in California statutes, regulations, court decisions, administrative rulings, and other news with our CA Courts Newsletter.*

### **Public Access to Judicial Administrative Records**

**Cal Gov Code § 68106.2**, effective 7/28/09, established a new statutory framework for public access to judicial administrative records such as baseline budget information, employee salary and benefits information, outside vendor contracts, and any final audits. **Cal Rules of Court, Rules 10.500** and **10.501**, effective 1/1/10, further defined the scope and mechanisms for public access to nonadjudicative records and the court's maintenance of budget and management information. Be ready for this important impact on the court's practices by reviewing the annotations following the new statute and rules, which explain the reasoning by the legislature and Judicial Council for enacting these new laws. See **Deering's California Codes Annotated** online for the latest updates.

### **Sealed Records**

**Cal Rules of Court, Rule 2.575 et seq.**, effective 1/1/10, established new procedures for sealing records for name change proceedings under the address confidentiality proceedings. Sealed records require some of the most stringent requirements for a court's handling of files to preserve the privacy concerns for matters subject to sealed records. Look to **Matthew Bender® Practice Guide: California Trial and Post-Trial Civil Procedure, Ch. 2, Public Access to Trials and Records** for comprehensive analysis of the sealing and unsealing of records in general, and for proceedings for specialized topics. Written for both the proponent and opponent of sealing records, this publication provides insights and strategies that counsel will consider when addressing the issue of sealed records. Be ready for the next sealed record request that is filed in your court.

## What's new?

### **Exclusively from LexisNexis!**

#### **Matthew Bender® Practice Guide: California e-Discovery and Evidence**

This one-of-a-kind product is the only place where judges and attorneys will find practical, results-oriented guidance on how to preserve, obtain, and use electronically stored information (ESI). This exciting new one-volume practice guide presents detailed, step-by-step coverage of the use of electronically stored information (ESI) in California state court litigation and fully incorporates California's new Electronic Discovery Act (effective 6/29/2009) and implementing rules of court. This publication is the only one of its kind available for California e-discovery and is a "must" for all attorneys involved in e-discovery under the California Electronic Discovery Act. Consultant Michael F. Kelleher is vice president and general counsel of DS-IQ, a technology company. For many years, he was a partner in the San Francisco office of Folger Levin & Kahn LLP, where he practiced complex commercial litigation, specializing in the litigation of technology issues, including e-discovery. He has a strong technical background in computer programming and engineering in addition to his legal experience.

Key features of **Matthew Bender® Practice Guide: California e-Discovery and Evidence** (Pub no.1550) include:

- A master checklist for all phases of e-discovery.
- Concise, practical guidance to all e-discovery issues.
- Complete discussion of the technical issues in e-discovery (including how to establish best practices for electronically stored information).
- A glossary of technical terms.
- A chapter devoted to the ethical issues in e-discovery, including the duty of competence.
- Unique examination of how to discover ESI stored in foreign jurisdictions.
- Explanation of how to admit ESI as evidence.

#### **Commission on Judicial Performance**

Decisions of the **California Commission on Judicial Performance** are now exclusively available in the online version of the California Official Reports on Lexis.com and will soon be available in a new supplement to the print version of the Official California Reports, 4<sup>th</sup> Series. The California Commission on Judicial Performance is responsible for investigating complaints of judicial misconduct and incapacity and for disciplining judges.

The collection includes decisions fully adjudicated before the commission that are subject to discretionary review by the Supreme Court. A retrospective selection of decisions is being published in a supplement section of the Official Reports, following Supreme Court opinions. Selected prospective decisions will also be published in the Official Reports. The annotated decisions are enhanced with Official Summaries and Headnotes according to the style prescribed by the California Style Manual.

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**California Statutes of Limitation****California Forms of Pleading and Practice**

contains one of the most practical and useful research tools when researching statutes of limitation in California: the **Ch. 345 Table of Limitation Periods**. In addition to comprehensive analysis of statutes of limitation and the equitable principle of laches, this chapter includes a thorough listing of limitation periods arranged by subject matter. Rather than hunting through the various codes for limitation periods, let the easy-to-use table with over 170 topics direct you to the appropriate code section, along with the latest case authorities interpreting the limitation period, and cross-references to other chapters in this 56-volume encyclopedia of civil substantive and procedural law for more in-depth analysis.

**California Official Reports Summaries and Headnotes**

The **California Official Reports**, both online on Lexis.com and in print, are the only place to find official Summaries and Headnotes of California opinions. The California Official Reports Summaries and Headnotes are the definitive word on California case law because they are written by attorneys and approved by the California Reporter of Decisions and the author of the respective opinion. Located at the top of all published California opinions, the Official Summaries and Headnotes provide a great filtering tool to find cases relevant to your research, as the judges' review and approval ensures that the Official Summaries and Headnotes convey what the court considers vital about each opinion. We work closely with the California Reporter of Decisions office and review and copy edit every published California opinion. Any changes, corrections, or modifications made during this process are reflected online on Lexis.com within 24 hours of approval of the proposed correction and will be reflected in print in the California advance pamphlets.

**Reminder:** You can access the California Courts site at:

<http://www.lexisnexis.com/clients/ca/courts/>

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**Did you know... referees are subject to new disclosure requirements, hearing location restrictions, and parties have new document submission rules?**

**Cal Rules of Ct, Rule 3.931** now provides in each case in which he or she is appointed referee, a referee must file a statement that provides the name, telephone number, and mailing address of a person who may be contacted to obtain information about the date, time, location, and general nature of all hearings scheduled in matters pending before the referee that would be open to the public if held before a judge. The referee may also provide the address of a website containing the information and must file his or her statement of contact information at the same time that he or she files the referee certification. Rule 3.931 also provides if a court staff mediator or evaluator is required to attend a hearing before a referee, unless otherwise ordered by the presiding judge or his or her designee, the location selected for the hearing must be no more than 15 minutes' travel time from the mediator's or evaluator's work site. All proceedings before a referee that would be open to the public if held before a judge must be open to the public.

**Cal Rules of Ct, Rule 2.400** now provides in a case pending before a referee, all original documents are to be filed with the clerk in the same manner as would be required if the case were being heard by a judge, including paying any required fees. The filing party must provide to the referee a file-stamped copy of each document relevant to the issues before the referee, and a party who has submitted a document to a temporary judge or referee must immediately notify the temporary judge or referee if the document is not accepted for filing by the court or if the filing is subsequently canceled. Documents and exhibits in the possession of a temporary judge or referee that would be open to the public if filed or lodged with the court must be made available during business hours for inspection by any person within a reasonable time after request and under reasonable conditions. For detailed discussion of these new rules, see **California Forms of Pleading and Practice, Ch. 38, Reference**.

**Did you know ... the privilege against self-incrimination does not prevent an employer from requiring a public employee to answer job-related questions?**

The California Supreme Court in **Spielbauer v. County of Santa Clara (2009) 45 Cal. 4th 704** has held that a public employer may discipline and even dismiss a public employee for refusing, on grounds of the constitutional privilege against self-incrimination, to answer the employer's job-related questions, as long as the employee is not required, as a condition of remaining in the job, to waive or surrender his or her constitutional protection against criminal use of the statements thus obtained, at least when the employee is specifically advised that he or she retains that protection. For detailed discussion of this case and similar cases, see **California Forms of Pleading and Practice, Ch. 118, Civil Service**.

**Did you know ... the Supreme Court has ruled on the use of hidden cameras in the workplace?**

The California Supreme Court in **Hernandez v. Hillside Inc. (2009) 47 Cal. 4th 272** has held that while two women employed at a facility for neglected and abused children had shown an intrusion into their shared office space, a place in which they had a reasonable expectation of privacy, by showing that the facility director had placed a hidden camera and motion sensor in their office in order to capture video evidence of which employee had been using one of the computers in that office late at night to view Internet pornography, they could not demonstrate under the circumstances that the intrusion would be considered utterly unjustified and highly offensive to a reasonable person. For detailed discussion of this case and similar cases, see **California Forms of Pleading and Practice, Ch. 429, Privacy**.