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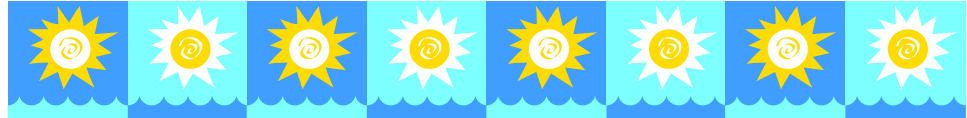
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CLAIMS BARRED BY STATUTE OF LIMITATIONS

This case deals with claims. In this case, the owners (Gundogdus) purchased a home in 1995. The purchase was based on a purchase contract. The Gundogdus notified the seller of twenty-six types of repairs that needed to be completed on the property. The seller (King Mai) agreed to complete the repairs.

In 1997, King Mai tried to repair the premises but failed to meet the expectations of the Gundogdus, who were now the owners. They continued to complain about the damage to the property, including defects in the walls, windows, and water damage caused by leakage from a winter storm.

In February 1997, the Gundogdus found that prior defects had not been corrected and excess dirt existed around the home's foundation. As a result, the purchasers sued King Mai for negligence and breach of implied warranty. The seller (King Mai) was granted a favorable judgment in the trial court based upon the contention that the complaint was barred by a ten-year statute of limitations within the *Code of Civil Procedure* Section 337.15.

The Appellate Court affirmed the trial court's decision because Section 337.15 states that, "no action may be brought to recover damages from any person or surety of a person who develops real property... ten years after substantial completion." The Notice of Completion was filed in 1995 and the complaint was filed in 2006. More than ten years after completion.

However, you should understand there are rare instances where that would not be the case. As an example, the statute of limitations cannot be used by way of a defense by any person in actual possession or control as owner, tenant, or otherwise.

Two little boys, ages 8 and 10, were excessively mischievous. They were always getting into trouble and their parents knew all about it. If any mischief occurred in their town, the two boys were probably involved.

The boys' mother heard that a preacher in town had been successful in disciplining children, so she asked if he would speak with her boys. The preacher agreed, but he asked to see them individually.

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So the mother sent the 8 year old first, in the morning, with the older boy to see the preacher in the afternoon.

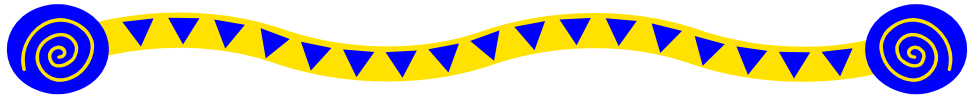
The preacher, a huge man with a booming voice, sat the younger boy down and asked him sternly, "Do you know where God is, son?" The boy's mouth dropped open, but he made no response, sitting there wide-eyed with his mouth hanging open. So the preacher repeated the question in an even sterner tone, "Where is God?" Again, the boy made no attempt to answer. The preacher raised his voice even more and shook his finger in the boy's face and bellowed, "Where is God?"

The boy screamed and bolted from the room, ran directly home and dove into his closet, slamming the door behind him. When his older brother found him in the closet, he asked, "What happened?"

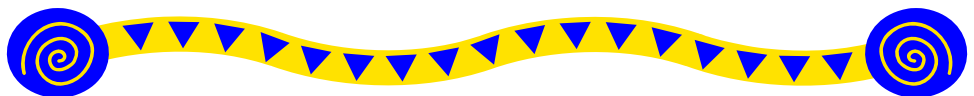
The younger brother, gasping for breath, replied, "We are in BIG trouble this time,"

"GOD is missing, and they think we did it!"

Thank you to Charlene McCombs!!!!!!



**Johnny Bench and Sam Abdulaziz at a recent
PHCC Trade Show**



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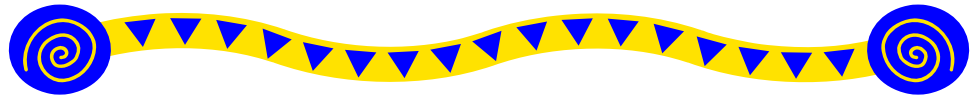
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SANCTIONS AND ARBITRATION

The Defendants, MCL Financial Group, Inc. and Michael Upton, hired several Financial Industry Regulatory Authority representatives to assist clients with property transfers on a commission basis. The Plaintiffs sued over their commissions. The trial court directed the parties to **arbitrate** their dispute in accordance with an Agreement the parties had signed.

During a pre-hearing dispute, the Plaintiffs delivered documents they later discovered were subject to the attorney-client privilege, to the Defendants. The Plaintiffs demanded the materials to be returned immediately. Instead, the Defendants attorney copied the material before sending it to the arbitration panel. The panel directed the objector (Defendants' attorney) to pay \$7,500.00 as sanctions for copying privileged documents.

The Appellate Court agreed with this decision. The Appellate Court held that the *Code of Civil Procedures* Section 1286.6, allows a court to correct an arbitration award when the arbitrators exceeded their powers. Here, the objector (Defendants' attorney) subjected himself to the jurisdiction of the arbitration panel and was subject to the rulings by voluntarily appearing for the Defendants in the arbitration proceeding, including the pre-hearing discovery, and responding to the Plaintiff's claims that some of the documents produced were privileged material. Rather than immediately returning the privileged documents, the objector should have sought guidance from the arbitration panel rather than unilaterally copying the material and sending it to them.



EMPLOYMENT AT WILL

In California there is a presumption that words like "employment at will" cannot be easily overcome. The California Supreme Court has found that an offer letter's plain statement that employment is "at-will and may be terminated at any time" does not mean that good cause is necessary for termination. Even though the employer did not spell out that the termination could be without cause, this language is clear and unambiguous.

The Supreme Court found that "simple logic" would conclude that "terminated at any time" meant without cause.

SOMEONE IMPORTANT

A very large old building was being torn down in Chicago, to make room for a new skyscraper.

Due to its proximity to other buildings, it could not be imploded and had to be dismantled floor by floor. While working on the 49th floor, two construction workers

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found a skeleton in a small closet behind the elevator shaft.

They decided that they should call the police.

When the police arrived, they directed them to the closet and showed them the skeleton fully clothed and standing upright. They said, "This could be Jimmy Hoffa or somebody really important!"

Two days went by and the construction workers couldn't stand it any more. They had to know who they had found. They called the police and said, "We are the two guys who found the skeleton in the closet and we want to know if it was Jimmy Hoffa or somebody important."

"Well," said the police, "it's not Jimmy Hoffa, but it was somebody important. In fact, he's famous for being undefeated in his field."

"Who was it?" asked the eager construction workers.

"The 1962 National Hide-and-Seek Champion."



CALL BEFORE YOU DIG NATIONAL NUMBER 811

There is a national number available to everyone (homeowners and contractors). This number should be called before any digging project, even if you are just planting a tree or shrubs. Calling 811 will be like calling 911 or 411. When you dial 811 you will be connected with your local One Call Center who will then contact your local utility company to send someone out and mark underground utility lines for free. A professional locator should come out within a few days of your phone call.

The deepness of utility lines varies a lot. In addition, there may be multiple lines in one area. If you dig without calling, you can cause harm to yourself or those around you. It is also possible to disrupt service to an entire neighborhood.

For more information, you can visit www.call811.com.

Attorney Sam Abdulaziz of Abdulaziz, Grossbart & Rudman has been practicing construction law for over 30 years. He has written a book called "California Construction Law" which is updated annually. He represents numerous construction trade associations and contractors. He appears at Contractors State License Board meetings and has argued a number of cases before the appellate courts, including the California Supreme Court dealing with the "Pay-If-Paid Clause." Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients. The documents are of a general nature and are intended to highlight areas of the subject matter and should not be used as a substitute for legal advice. It is intended to highlight the areas being discussed. This document does not create an attorney-client relationship, or protect any confidential information until a written agreement is signed. You should seek the aid and advice of a competent attorney, accountant and/or other professional instead of relying on the presentation and/or documents. Sam Abdulaziz can be reached at Abdulaziz, Grossbart & Rudman, P.O. Box 15458, North Hollywood, CA 91615-5458; (818) 760-2000, Facsimile (818) 760-3908; or by E-Mail at info@agrlaw.net. On the Internet, visit our Website at www.agrlaw.net