



A NEWSLETTER FROM COLEMAN & HOROWITT, LLP, ATTORNEYS AT LAW

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COLEMAN & HOROWITT, LLP ADDS NEW ATTORNEYS, NEW PRACTICE GROUP AND SACRAMENTO OFFICE

For those who have followed our firm over the years, you know that when Coleman & Horowitz, LLP was founded, it was determined that lawyers would not be added merely to create a larger firm. Rather, we would add lawyers when it would provide benefits to our clients. This has allowed the firm to obtain slow but steady growth.

We are pleased to announce that **Lee N. Smith, Lucille Goins Dimmick** and **Craig A. Tristao** have joined the firm. With the addition of Lee and Craig, the firm has created an Environmental Practice Group and adds a new Sacramento office located at **1215 "K" Street, Suite 1700, Sacramento, CA 95814.**



Lee N. Smith joins the firm as a partner and head of the firm's new Environmental Practice Group. Lee will manage the firm's Sacramento location and work in each of the firm's offices.

Lee's practice includes land and natural resource regulations and development, environmental compliance, water law and litigation. He is experienced in federal and state water quality, hazardous materials,

air quality and Prop. 65 compliance issues, including environmental due diligence projects for mining and energy projects. He has handled cases before the Central Valley Regional Water Quality Control Board, the San Joaquin Unified Air Pollution Control District, and local environmental agencies.

Lee has drafted and negotiated environmental provisions for complex agreements and assisted clients on due diligence issues. He has also been involved in state court litigation concerning pesticide contamination, the California Environmental Quality Act (CEQA), and Prop. 65 litigation, as well as federal litigation involving pesticide registration and the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA).

Lee's experience extends from representing dairies in federal RCRA, Clean Air and Water Act cases, to permitting wind farms and ethanol and cogeneration facilities in the Central Valley. He has also worked on due diligence and environmental investigations and defending enforcement actions for commercial and food processing facilities as well as various agricultural processing and production facilities. Lee can be reached at lsmith@ch-law.com.

Lucille Goins Dimmick joined Coleman &

Horowitz, LLP as a paralegal when it first opened in 1994. After obtaining her law degree at San Joaquin College of Law, Luci joined the firm as its second associate attorney. From there, she provided outstanding service to the clients and became the firm's first new partner.

Luci's clients appreciated her common sense approach to solving complex legal problems so much that she was hired by one of the firm's clients to serve as in-house counsel to advise on litigation and compliance issues relating to auto financing. That company, WFS Financial, Inc., ultimately became Wells Fargo Dealer Services, where Luci served as vice president and senior counsel. Luci retired in 2016, but was not finished practicing law. We are pleased to announce that Luci has rejoined the firm as senior counsel. Luci will advise clients on compliance issues relating to consumer financing, including automobile financing and credit cards. Luci can be reached at (800) 891-8362 or ldimmick@ch-law.com.



Craig A. Tristao joins the firm as an associate in the firm's litigation department, will work as part of the firm's new Environmental Practice Group, and will also advise clients on matters concerning Agricultural Law and Agribusiness. Craig comes to the firm from Perkins, Mann & Everett, where he practiced

complex civil litigation involving public works contracts for multi-facility developments, long term agricultural leases, the Perishable Agricultural Commodities Act, contract matters involving fresh fruit and cold storage facilities, CEQA, the RCRA, and eminent domain matters involving underground storage tank facilities.

Prior to Perkins, Mann & Everett, Craig worked at the Law Offices of Joseph A. Uremovic as a trial attorney on matters involving crop damage to annual and perennial crops, pesticide use, and breach of contract. Craig has also appeared and argued before administrative agencies, advised clients on compliance with state and federal environmental laws and regulations, and served as co-counsel on several appeals. He can be reached at ctristao@ch-law.com.

We are excited by these changes, which enhance the firm's existing practice groups and allow the firm to offer services throughout the state. Further, with the firm's membership in Primerus (www.primerus.com) the firm can assist clients throughout the US and the world.

PRACTICE GROUP FOCUS: ENVIRONMENTAL AND AGRICULTURAL PRACTICE GROUP

Since its inception, Coleman & Horowitz, LLP has represented clients in environmental and agricultural matters, but only to a limited extent. As our practice has grown, we have recognized that our farming and real estate clients would benefit from having a more robust environmental and agricultural practice group.

The addition of Lee N. Smith and Craig A. Tristao has allowed us to create a practice group dedicated to representing agricultural and real estate clients in a wide variety of agricultural and environmental matters.

The practice group will represent clients:

- Before administrative agencies including the State Water Resources and Regional Water Quality Control Boards and Regional Air Districts, CALEPA and the USEPA on enforcement, compliance and litigation matters.
- In private cost recovery actions in federal RCRA and CERCLA actions as well as state actions for nuisance and trespass.
- In land use, permitting and CEQA matters both on the compliance and Petitioner side.
- In pre-project due diligence in the areas of land use, environmental and water law.
- In SGMA and Water issues.
- In advising clients regarding Prop 65 and defense of Prop 65 claims.
- In federal and state court litigation involving pesticide registration, CERCLA and the RCRA.
- In the defense and prosecution of crop damage to annual and perennial crops, pesticide use, and breach of contract.

For more information, contact Lee or Craig at (559) 248-4820 or (800) 891-8362 or lsmith@ch-law.com or ctristao@ch-law.com.

COLEMAN & HOROWITT, LLP BLOGS PROVIDE RELEVANT UPDATES

We at Coleman & Horowitz, LLP believe that in addition to providing creative, responsive and value driven representation, we should provide our clients

with information that affects their business. After all, preventing a legal problem is often a greater help than providing representation once a problem festers into a lawsuit. For that reason, since its inception, the firm has provided information through this newsletter, its website and news alerts.

We are pleased to also offer our clients additional value through the firm's two blogs: the Central Valley Intellectual Property Law Blog (www.fresnoip.com) and the California Agricultural and Environmental Law Blog (<https://californialawr.blogspot.com/>). The IP Law Blog is updated by the firm's intellectual property practice group, including Sherrie M. Flynn and Gary S. Shuster. It provides timely articles on current intellectual property law issues.

The Agricultural and Environmental Law Blog is the brainchild of the firm's new Environmental and Agricultural practice group. It will be updated by the practice group members including Lee N. Smith and Craig A. Tristao. It provides timely information on the important environmental issues that affect the agriculture business community.

These blogs are updated regularly, so review them often. The beauty of the blog is also for you to comment on what has been presented. We hope you do - and we hope you enjoy and make use of the blogs.

FIVE REASONS TO MEDIATE

By Darryl J. Horowitz

Most courts and savvy business owners recognize the benefits of mediation (the use of a neutral party to help parties reach a settlement). It is so important that court rules require parties to mediate (or participate in some other form of alternative dispute resolution) before trial and business contracts require mediation before any suit or arbitration may be filed. Many parties still wonder, however, why they should mediate believing it shows a weakness. Here are a few key reasons why you should consider mediation.

1. You have control. When parties mediate, they have control over the process (i.e., how to mediate), but once a lawsuit is filed you lose that control. More importantly, in court, the judge or jury determines who is right and who is wrong and that more often than not leaves a winner and loser. In mediation, however, you can control the outcome and in doing so fashion a win-win settlement.

2. It is more cost effective. Litigation costs can escalate, often exponentially. Significant expense is

incurred in conducting discovery, even though the parties know the facts. Because of that knowledge, mediation can be commenced without the need of expensive discovery. Mediation can even benefit the parties if the case is not settled. The parties may determine what additional information is needed in order to settle and either negotiate a voluntary exchange of information or engage in limited further discovery, all at a cost savings to clients.

3. It's required by the court or your contract. As noted above, most courts in California will require mediation before trial. Many contracts also require parties to mediate. As long as you are going to spend the time to mediate, you might as well put forth your best effort. After all, statistics show that most cases settle without trial. Thus, settling it at the earliest possible date saves you money in litigation costs that are avoided.

4. You can preserve your business relationships. In many instances, parties to a lawsuit have a long-standing business relationship that has soured because of a single transaction gone wrong. Spending time and money on fighting a lawsuit often further sours the business relationship to the point of no return. Mediating the case, even if it requires significant compromise by both parties, can save that business relationship so the parties can go back to doing what they do best, making money, by conducting business with each other.

5. Your case will settle anyway, so why not do it as early as possible at mediation. Statistics show that most cases settle prior to trial. There are a variety of reasons for this, including costs, the fact that a jury may render an adverse decision (to either or both parties), the parties have fought so long that they have forgotten why they started the lawsuit in the first place and want to be done with it, etc. Whatever the reason, cases settle. If that is the case, scheduling an early mediation might resolve the case before all that time and expense has been incurred.

THANK YOU

We recognize that no business can grow without referrals. We value the confidence you have placed in us with your business and referrals. We hope you will continue to show us your confidence with future referrals.

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RECENT DEVELOPMENTS

WE ARE PLEASED TO REPORT
THE FOLLOWING DEVELOPMENTS:

- **C. Fredrick Meine III** recently assisted a client in removing a difficult tenant from a commercial property. In the action, the tenant failed to make payment under the lease and an unlawful detainer action was filed. Fred was able to negotiate a settlement by which the tenant paid double damages and vacated without trial.
- **Darryl J. Horowitz** and **Craig A. Tristao** obtained a favorable arbitration award in a construction dispute. In the action, a subcontractor sued our client, the general contractor, for additional compensation of over \$100,000 that our client claimed was part of the original scope of work. The arbitrator found our client owed nothing further and was entitled to recover attorney's fees (which have been paid).
- **Darryl J. Horowitz, Paul M. Parvanian, and Jennifer T. Poochigian** were successful in an appeal. In the action, our client provided financing for the purchase of a used vehicle. Following the sale of the vehicle, the plaintiff claimed that the dealer failed to disclose that the car had been in an accident and sued the dealer and our client, who had potential liability as the holder of the finance contract. The dealer filed a motion for summary judgment on the grounds that the dealer made no false representations and accurately disclosed that the vehicle had not been in an accident. The plaintiff opposed the motion, claiming that the dealer's failure to advise the customer that the vehicle had pre-existing frame damage constituted fraud. The court granted the motion and the plaintiff appealed. The court affirmed the trial court's decision, handing our client a complete defense victory.
- **Eliot S. Nahigian** obtained the following results for firm clients:
 - Successfully negotiated a lease for an owner of real property to a new tenant where there was a substantial likelihood that the property otherwise would have been vacant.
 - Successfully advised seller of business assets on income tax aspects of his sale including allocations to a covenant not to compete, consulting agreement, and goodwill.
 - Successfully negotiated an offer in compromise with the Internal Revenue Service.
 - Successfully represented a tenant who had breached her lease in obtaining relief from liability.
- **Coleman & Horowitz, LLP** has been recognized by numerous national and international publications including:
 - Named "**2017 Class Action Defense Law Firm of the Year in California**" by Corporate INTL Magazine, an international monthly newsletter with over 280,000 recipients that run, invest in, or advise businesses throughout the world.
 - Named "**2017 Best for Business Law in California**" by Corporate Vision Magazine, an international monthly magazine with over 130,000 subscribers with an audience of executives, directors and other key decision-makers at businesses across the world.

- Named “**Best Banking & Finance Litigation Firm - California**” by Wealth & Finance International, a magazine distributed to more than 130,000 high net worth and ultra-high net worth individuals, fund managers, institutional investors and professional services firms around the world with the latest industry news across both traditional and alternative investment sectors.
 - Named “**Best Civil Litigation & Transactions Law Firm- California**” & **Darryl J. Horowitz** was named “**Business Trial Lawyer of the Year 2017 - California**” by Corp America, a leading magazine for deal makers and decision makers in the U.S. business market which is distributed to over 135,000 business and professional service providers.
- **Darryl J. Horowitz, David J. Weiland, and Keith M. White** have started their fourth year of assisting the Merced County Superior Court as volunteer settlement officers.
- **Darryl J. Horowitz** recently served as a neutral in helping the parties settle two separate personal injury matters, a consumer claim arising from an automobile purchase and financing, and a multi-party dispute involving a real estate dispute.

If you have any questions regarding any of the developments referenced above or have a similar matter you may wish to discuss with us, please contact Maria O’Neill at (559) 248-4820/(800) 891-8362 or by e-mail at moneill@ch-law.com.

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