

## **BHBA MARCH, 2017 CASE UPDATE**

### **Civil Procedure**

A statutory sanction for unreasonable failure to comply with a demand for exchange of expert witness information--exclusion of expert testimony—applies at the summary judgment stage of litigation, as well as at trial. In this personal injury case, the plaintiff submitted 2 experts' declarations in support of his opposition to the defendant's summary judgment motion after not having disclosed the experts when the exchange of expert information was due. The court of appeal affirmed the trial court's exclusion of the plaintiff's experts' declarations.

*Perry v. Bakewell Hawthorne, LLC* —filed Feb. 23, 2017, First District, 2017 S.O.S. 911.

### **Property Tax**

Under Rev. & Taxation Code §5097(a)(3)(A)(i), a property tax refund claim must be filed within one year after the county assessment appeals board makes a final determination on an assessment reduction application and mails a written notice of the determination to the taxpayer. The taxpayer's argument that the 1-year period began to run when the payment of the disputed taxes was made was inconsistent with the unequivocal statutory language.

*California State Univ., Fresno Association, Inc. v. County of Fresno*, Filed March 2, 2017, Fifth District, 2017 S.O.S. 1132.

### **Legal Malpractice**

Counsel's service of the motion to withdraw terminated any reasonable expectation by the client of continuing representation, triggering the 1-year statute of limitations for a legal malpractice action. Counsel's motion to withdraw was served on 11/25/09, and the court granted the motion on 1/7/10. On 1/6/11, the plaintiff sued counsel. His malpractice action was time-barred because the 1-year statute started running when the motion was served, and not when it was granted.

*Flake v. Neumiller & Beardslee*, Filed March 2, 2017, Third District, 2017 S.O.S. 1140.