GOLDSTEIN, GELLMAN, MELBOSTAD, GIBSON & HARRIS LLP			
Presents			
<b>The Fine Print</b> <sub>TM</sub>			
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The materials available in these pages are for informational purposes only, and should not be relied on as legal advice about specific situations. Readers should consult an attorney if they need help with legal matters. We invite readers seeking legal assistance to contact one of our attorneys to discuss their needs.

# "Always Read The Fine Print"

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## g3mh MAKES ITS MOVE!



It's official! In March of 2003, Goldstein, Gellman, Melbostad, Gibson & Harris, LLP ("g3mh") will be relocating its offices to 1388 Sutter Street. Our new suite on the  $10^{th}$  floor will offer comfortable, modern and expanded facilities to meet the needs of the twenty-five members of our team. Secretarial and paralegal staff will immediately notice the change in their work areas, as they move to individual 8x8 modular workstations. Attorneys will have private offices with expansive views and lots of natural light. But the most significant improvements will be experienced by our clients, as we expand the seating area of our reception lobby, add two windowed conference rooms with striking City views, and offer convenient and inexpensive public parking within our building.

If you are taking public transport, our new address is half a block west of Van Ness Avenue, on Sutter Street. MUNI lines 2, 3, 4, 47, 49 and 76 provide service. If you are driving, the entrance to our building's indoor public lot may be found on Fern Street, a small one-way street which originates at Van Ness halfway between Pine and Sutter. Garage elevators will bring you to the Sutter Street lobby, where you may transfer to elevators which will bring you to the 10<sup>th</sup> floor.

We are looking forward to serving your legal needs better than ever at our new location, and look forward to seeing you at 1388 Sutter when you next require legal advice.



### EXTRA TIME TO FILE PERSONAL INJURY CLAIMS

By JEFFREY G. GIBSON

Governor Gray Davis recently signed Assembly Bill 688, effective January 1, 2003, extending California's personal injury statute of limitations. The new law increases the time period within which one must file a lawsuit for personal injury or wrongful death lawsuits from one year to two years from the date of the accident. However, the statute of limitations for children does not begin to run until a child becomes 18 years old, and actions again public entities such as the City of San Francisco, BART, etc., still require that adults and children file a notice within *six months* of the accident. While this new law expands the time within which an injured person may file a personal injury lawsuit, it should not be used as an excuse to delay in making a personal injury claim.

If you or a member of your family is injured, *consult an attorney immediately*. It is much more difficult for an attorney to build a case six or eight months after the fact. Memories fade, witnesses move and may no longer be available to provide a statement, physical evidence may no longer be procured. Do not hesitate to call an attorney for a free consultation immediately after any accident.

Following an accident, there are several steps you should take, whether or not you believe the injury to be the fault of another. First, if the accident involves a vehicle, notify the police or CHP and make a report, recording the report number. Take steps to preserve or obtain any evidence which is in your control, i.e. obtain the names of witnesses at the scene of the accident (even if the police are making a report), take photographs of physical injuries, bruises, scars, etc., and of property damage to a vehicle or building, as well as the scene of the accident as close to the time of the incident as possible. Waiting to gather this evidence may allow skid marks to wash away, debris from a collision to be removed, or changes in the signage or street layout. Take more photographs than you think you will need, shoot from various angles but do not use Polaroid film. Save physical evidence such as broken eyeglasses, a bent tire wheel, or shoes worn during a fall.

Next, it is important to seek prompt medical care. While all of us are busy, delay in seeking medical treatment can later be used as a basis to deny or limit a personal injury recovery. Therefore, following any accident you should be examined by your medical healthcare provider even though you do not believe you have been seriously injured. This ensures that the medical records reflect the accident in case symptoms do appear or worsen later. Tell your medical health care provider *all* physical and mental complaints you are experiencing, and follow his or her advice in carrying out your treatment. You should report any physical pain or abnormality, even though not severe, as it may provide clues to other, less obvious, conditions.

Keep a separate record of all of your medical visits (writing in a calendar is helpful), and jot down things you are unable to do or perform. This will assist you enormously months later when you are asked specific questions about your pain and physical limitations. If contacted by the other party's insurance company, do *not* give a recorded

witness statement without the assistance or presence of a lawyer. These statements can and will be used against you later.

Finally, *see a lawyer and get her or his advice*. Our firm offers free initial consultations to all persons who have been injured in an accident, whether as a pedestrian, in an auto, motorcycle, or public transportation, due to defective product or slipping or falling on a dangerous condition. We are here to offer assistance if you have suffered an accidental injury

#### About the Author

Partner Jeffrey G. Gibson is a trial lawyer specializing in all aspects of real estate, business, employment and liability litigation, and domestic partner disputes. He is an adjunct professor of law at Golden Gate University School of Law in San Francisco. Jeff chaired the American Bar Association Committee (ABA) on the Rights of Lesbians and Gay men for six years, and in 2000 was appointed by the president of the ABA to serve on its Unmet Needs of Children Committee. Jeff is available at (415) 621-5600 ext. 233, or via email at <u>JGibson@g3mh.com</u>, to discuss real estate, employment, domestic partnership and personal injury claims.



### g3mh EXPANDS CALIFORNIANS' INSURANCE COVERAGE RIGHTS

In a recent trend setting decision published by the Ninth Circuit Court of Appeals, g3mh on behalf of one of its clients expanded the rights of California policy holders to require an insurance company to pay for an attorney to defend the insured. The Ninth Circuit, the highest level of appellate court below the US Supreme Court, applied the "concurrent causation" theory to order an insurance company to pay the attorney fees of a g3mh client that had been sued and was defending itself. The court held that the insurance company was prohibited from trying to save money by focusing only on one of the exclusions in its policy. The insurance carrier also had an obligation to look at one of the other "concurrent" claims made against the policy holder that clearly was covered under the policy. The existence of this additional claim required the insurance company to pay for the defense costs as well as any liability assessed up to the policy limits.

Partner Lee Harris and Associate Brian Soriano were the g3mh counsel on the case.



**NEW TAX BREAKS FOR HOME SELLERS** 

The U.S. Treasury Department is preparing to release rules that will allow more people to escape paying capital-gains taxes when they sell their homes. Under existing law, as much as \$250,000 of home-sale profits may be excluded (\$500,000 for married couples filing a joint return) if you have owned and lived in your home for at least two of the five

years prior to the sale. The new rules will apply some or all of the exemption to owners who are obliged to sell before the two years are up, including people who sell because of death or divorce, disease, illness or injury, job loss, multiple births from a single pregnancy, or even in some cases, inability to make mortgage payments. The IRS commissioner can designate other situations that qualify, and the list of exemptions may expand in the future. Still to come are final regulations from the Treasury and the IRS on what qualifies as a principal residence when you own more than one home.

If you don't qualify for one of the official "safe harbors" but think you might still be eligible due to other unforeseen circumstances requiring a premature sale of your home, you may claim the exclusion and be prepared to defend your position if audited; if you argument is rejected, however, you may be liable for back taxes, interest and even penalties. As always, you should obtain competent advice from a tax professional when making decisions affecting the sale of real property and filing of tax returns.



### Did You Know that Goldstein, Gellman, Melbostad, Gibson & Harris, LLP, has recently assisted our clients in:

- Reinstating disability insurance benefits?
- Litigating issues arising out of job termination and employment • discrimination?



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