

The California Merchant



April, 2008

Vol. 20, No 4

Great rates for 2008!

As you probably know, your association, California Merchants Safety Association (C.M.S.A.), is no longer working with the State Compensation Insurance Fund. We have partnered with Heffernan Insurance Brokers to bring our members a new workers' compensation insurance program with **AMAZING** rates.

Check out the 2008 base rates comparison below and make sure to get a quote for your company A.S.A.P!!!

Workers' Comp Class Code	New Heffernan 2008 base rate*	Compare	SCIF 2008 base rate	Class Code Description
8017	\$4.52	<u>vs.</u>	\$6.52	Stores- Retail- N.O.C.
8018	\$7.61	<u>vs.</u>	\$10.98	Stores- Wholesale- N.O.C.
8387	\$5.44	<u>vs.</u>	\$7.86	Auto Service Stations
8389	\$5.92	<u>vs.</u>	\$8.54	Auto Repair Shops
8392	\$9.21	<u>vs.</u>	\$13.30	Auto or Truck Storage Garages
8061	\$5.69	<u>vs.</u>	\$8.21	Store, Groceries
8391	\$4.24	<u>vs.</u>	\$6.12	Auto Truck Dealers- employees
8324	\$6.08	<u>vs.</u>	\$8.77	Auto Gas Stations
9516	\$5.25	<u>vs.</u>	\$7.58	Television, Video, Audio Equip. - service/repair
9519	\$8.03	<u>vs.</u>	\$11.59	Household Appliance- service/repair
7198	\$11.28	<u>vs.</u>	\$16.28	Parcel Delivery Companies
7232	\$10.86	<u>vs.</u>	\$15.67	Mail Delivery Service Companies

* All 2008 rates are the filed base rates and do not include any individually earned merits or credits. Actual rates may be lower.

Our new workers' compensation program through Heffernan Insurance Brokers offers a substantial savings over the State Fund rates. To participate in this new program, be sure to get your quote today!!!

Call **Heffernan Insurance Brokers** at: **(866) 500-6359** and let them know you are a member of Western Regional Master Builders Association. If you currently use a broker for your insurance needs, you may have your broker call **Tangram Insurance** to get the same program and rates, at **(800) 676-2213 ext. 662** and speak to **Riley Binford**.

Don't miss out on these savings! Call today for a quote!!!



HEFFERNAN INSURANCE BROKERS

A Member of the Heffernan Group

(866) 500-6359

Prevent identity theft in your business

A new report issued today by the Identity Theft Prevention and Identity Management Standards Panel (IDSP) helps to arm businesses, government agencies, and other organizations with the tools needed to protect themselves and their customers against the theft and misuse of personal and financial information. Developed through a partnership of more than 70 leading organizations from the public and private sectors, the IDSP has created a single, comprehensive resource that promotes access to and implementation of tools and processes that can help to minimize the scope and scale of identity theft and fraud.

The report is freely available as a .pdf download from the Panel's website (www.ansi.org/idsp).

Launched in September 2006, the IDSP was established by the American National Standards Institute (ANSI) and Better Business Bureau (BBB) to identify and catalog existing standards, guidelines, and best practices related to identity theft prevention.

Panel members considered the entire life cycle of identity management: from the issuance of identity documents by government and commercial entities, to the acceptance and

exchange of identity data, and to the ongoing maintenance and management of identity information. Hundreds of documents – including the applicable laws, regulations, proposed legislation, white papers, and research studies and reports – are identified in the catalog.

The report also includes recommendations for business and government agencies to:

- * enhance the security of identity issuance processes to facilitate greater interoperability between the government and commercial sectors;
- * improve the integrity of identity credentials;
- * strengthen best practices for authentication;
- * augment data security management best practices such as the use and storage of Social Security numbers;
- * create uniform guidance for organizations on data breach notification and remediation;
- * increase consumer understanding of ID theft preventative strategies, including the benefits and limitations of

Please see THEFT, page 7

SBA partnership with minority business roundtable will expand agency assistance to minority-owned businesses

The U.S. Small Business Administration moved today to broaden its outreach to minority entrepreneurs by signing a partnership with the Minority Business RoundTable (MBRT).

The strategic alliance is part of SBA Administrator Steve Preston's ongoing effort to support small business development initiatives in underserved communities. It will allow the organizations to share resources and educate minority entrepreneurs on how to use SBA products and services to establish and grow their businesses.

"Minority businesses are one of the fastest growing sectors in the small business community, so it is imperative we reach out and educate them on SBA's products and services," SBA Administrator Steve Preston said.

"MBRT is a national membership organization for minority CEOs that serves as a unified voice for minority businesses. By working together, we can help more of these businesses succeed and stimulate economic growth in their communities and the nation's economy."

"There are over 5 million minority businesses employing millions of Americans that create businesses and jobs in the U.S. economy," said Roger A. Campos, MBRT President & CEO. "MBRT is pleased to partner with SBA to deliver valuable services and products to help build the capacity of this rapidly expanding economic force."

The SBA and MBRT alliance is intended to strengthen and expand small business development across the nation for minority entrepreneurs. SBA will provide

MBRT with timely information on the agency's programs, services and resource partners, and advise them on events that will impact their mission.

As part of the resource pooling, MBRT will cooperate with SBA and its resource partners to provide information to members about its business development programs and services, and share current SBA news and information.

The two-year agreement is a renewal of the partnership between the SBA and MBRT and was implemented on February 2, 2008.

Please visit your association,
California Merchants Safety Association,
at its new website.

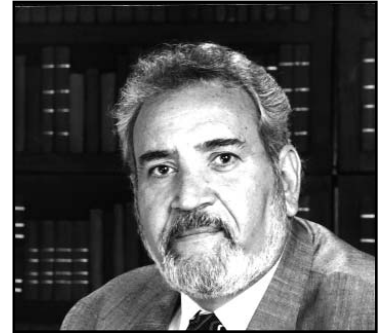
www.califmerchants.com





LAW TALK

By Sam K. Abdulaziz
Law Offices of Abdulaziz, Grossbart & Rudman



The ability to sue and be sued

Any time an individual, company, corporation or other entity decides that it wants to file a lawsuit against another individual or company, etc., the plaintiff must establish that it has the capacity as well as the right to sue. These are two separate legal concepts.

“Standing to sue” is defined as the one who has the right to relief in court. What this means is that the person who is suing the other person in court has a claim against that other person. A simple example would be where one person might be injured as a result of an automobile accident, but another person attempts to sue for those injuries. This other person clearly lacks standing to sue because he or she has no right to that relief in court.

The “capacity to sue”, however, is a different concept. “Capacity” is defined as the ability to sue. A minor may not have the capacity to sue. Some business examples of the capacity issue are corporations and businesses doing business under a different name. Corporations are granted authority of specific corporate powers given to them by the Secretary of State. Other entities operate under fictitious business names, i.e., Jim Jones doing business as ACME Construction. In order to have the capacity in court, you must be able to prove to the court that you are in fact a corporation, or alternatively, you are in fact the individual you say you are and that you are doing business under the fictitious business name that you have sued under. Failure to establish this capacity will keep you from either prosecuting your action or defending yourself if you are being sued.

‘Standing to sue’ is defined as the one who has the right to relief in court. What this means is that the person who is suing the other person in court has a claim against that other person.

“Capacity to sue” is much different than “standing to sue”. If an individual or business lacks standing, it more than likely will never be able to correct that lack of standing. However, lack of capacity often times can be corrected.

Common situations with regard to the lack of capacity come up in the area of corporations and fictitious business names. Corporations may have their corporate powers suspended for one reason or another and the likely reason is for failure to pay taxes. If a corporation filed a lawsuit, and its corporate powers have been suspended, it will be kept from prosecuting its action or defending itself.

In one case, the issue of whether a corporation could defend itself due to lack of capacity came before the court. The defendant who was being sued was a

corporation. The plaintiff found out that the corporation had been suspended several months previously for failure to pay taxes. On the day

of trial, the plaintiff brought this fact up to the court and upon review, the court determined that the corporation had lacked capacity because its corporate powers had been suspended. The attorneys representing the defendants asked the court for a continuance of the trial to correct its corporate status and bring it back in line. The trial court denied this request and allowed the plaintiff to obtain the relief that they had requested by way of a default judgment. This is basically a judgment entered without any defense whatsoever.

The defendant filed an appeal and upon review the Appellate Court overruled the lower court stating that the lower Court abused its discretion by not allowing the corporation to be given an opportunity to revive itself by bringing the corporate taxes current. As you can see, capacity can be, and often is, corrected. In this set of facts, the corporation must be given an opportunity to revive itself and if it does so before the matter has actually gone to trial, the corporation is deemed to have revived itself and thus can proceed with the prosecution and/or defense of itself without any penalty.

This same situation applies for those with fictitious business names. One of two things generally happens in this area. Either the individual just forgets altogether to file and publish a fictitious business name statement and operates under the name without filing any type of paperwork to establish their entitlement to that name, or, they forget to renew their fictitious business name.

Please see SUE, page 8



SAFETY MATTERS



Get back to safety basics

By Ken J. Helfrich

What makes a safety program effective? There is no question that the reduction of your claims frequency through effective safety management and claims handling provides a competitive business advantage.

The most important component of safety excellence is providing management leadership and commitment. A company's top leadership team must demonstrate a strong, genuine, continuous, and personal commitment to safety. Leaders must:

- * Communicate a vision and integrate goals for addressing safety
- * Define roles and responsibilities
- * Require accountability from all employees
- * Allocate resources to support programs
- * Conduct assessments to support changes
- * Take pro-active measures

The second most important compo-

Continuous safety improvement is the final component of an effective safety program. This is a process-oriented approach that emphasizes contributions to long-range and permanent solutions.

nent is employee involvement. Involvement incorporates activities that pro-actively identify hazards as an important component of an effective safety program, including the use of job safety analysis, physical surveys, employee safety training, safety meetings, and job safety observations. Employee involvement includes the following:

- * Visible and consistent commitment by management
- * Individual development program and training
- * Constant communication
- * Understanding and awareness of company safety policies and procedures
- * Recognition and reward for good work and safety performance

Safety excellence is based on the implementation of a measurement system. A Loss Control Specialist from Employers Direct Insurance Company can help your company lay the groundwork and create a plan with your team that will identify your loss sources and also list the steps to control identified exposures.

Continuous safety improvement is the final component of an effective safety program. This is a process-oriented approach that emphasizes contributions to long-range and permanent solutions:

Phase 1: Gain management commitment and involvement (vision and leadership)

Phase 2: Establish a baseline (snapshot of "as is")

Phase 3: Set goals (where company "should be")

Phase 4: Implement strategies (close the gap between "as is and "should be")

Phase 5: Review and adjust (reach for where company "could be")

Ken J. Helfrich is assistant vice president of field services at Employers Direct Insurance Company. Email him at khelfrich@employersdirect.com.



OSHA CORNER

Cal/OSHA Safety Publications

Please visit the following address on the web to download helpful safety posters, guides and pamphlets for a safer workplace.

<http://www.dir.ca.gov/dosh/PubOrder.asp>

WORK SMARTER, NOT JUST HARDER

Think Ergonomics—fitting the task to the person
for very small businesses—retail/wholesale



Don't lift heavy loads with your back.

1
LIFT
SMART



Bend your knees.



Get a dolly or get help.



Don't climb on shelves.



Use a step stool.

2
MODIFY
HEIGHT AND
REACH



Avoid working too low or too high.



Bring work to a comfortable position.



Don't leave a mess.

3
KEEP WORK
AREA CLEAN



Clean up spills.



Don't use the wrong tool for the task.

4
USE THE
RIGHT
TOOL



Use a tool that fits your hand.



To learn more about job safety and receive free publications,
please call our toll-free number: 1-800-963-9424



Cal/OSHA reminds employers to post annual summary of work-related injuries and illnesses

The Department of Industrial Relations' Division of Occupational Safety and Health (DIR/DOSH) reminds all California employers of their requirement to post at their place of business a summary of job-related injuries and illnesses that occurred during 2007 at their workplace. The summary must be displayed from February 1 through April 30 for employee review.

"The log details what injuries have occurred and how they happened," said DIR Director John Duncan. "The summary creates health and safety awareness in the workplace for employers and employees so similar injuries can be prevented in the future."

The Form 300A requires employers to report the number of injuries each year, even if no work-related injuries occurred. Vital information must also include the nature of the injury or illness that the employee suffered, the severity of the work-related incidents and the number of days the employee missed work due to the injury.

Employees, former employees and their representatives have the right to review the Cal/OSHA Form 300A in its entirety at any time.


Employers with 11 or more employees, except those covered in the California low-hazard establishments in the retail, services, finance and real estate sectors, must display the totals from the Summary of Work-Related Injuries and Illnesses

(CAL/OSHA form 300A) wherever employee notices are usually posted. If there is more than one business establishment, a separate log and summary must be posted in each physical location that is expected to be in operation for one year or longer.


Employers who need more information about their posting requirements and on how to reduce workplace injuries are urged to visit the DIR Web site at <http://www.dir.ca.gov/DOSH/EmployerInformation.htm>.

FREE Theme Park Discount Coupons!!!
Available to all W.R.M.B.A. members and their employees


Call the Association office to request these and other coupons!




Knott's Berry Farm




Legoland




Long Beach Aquarium




Universal Studios-Hollywood




L.A. Zoo



San Diego Zoo and Wild Animal Park





Sea World... ..AND MORE!!!

**To receive these discounted admission coupons...
 call the Association office at
 (800) 823-4038**

Theft

Continued from page 2

security freezes.

“We brought together a diverse group of identity protection experts to create a valuable and accessible resource – something that was needed but didn’t yet exist,” explained Joseph Gurreri, chairman of the IDSP, and president of CorporatePlanningGroup.NET. “Together, we identified a broad spectrum of materials that can be used by businesses and government agencies to strengthen the way they protect the personal data for which they are responsible.”

“The IDSP report is a much-needed approach to fight a crime that totals \$49.3B and affects 8.4 million victims each year,” said James van Dyke, president and founder of Javelin Strategy & Research. “As businesses and government agencies standardize their identity-handling processes, fewer people will be victimized, more criminals will be thwarted, and the costs of identity crimes will drop.”

“The organizations involved in the IDSP have demonstrated their commitment to reducing a major threat to consumers and the economy,” said Gurreri. “Now it is time for other market players to join forces with us to combat identity theft and bolster fraud prevention.”

About IDSP

The Identity Theft Prevention and Identity Management Standards Panel (IDSP) is a cross-sector initiative that works to create a single resource of standards and guidelines that businesses and other organizations can use to prevent and respond to identity theft and fraud. Jointly sponsored by the American National Standards Institute (ANSI; www.ansi.org) and the Better Business Bureau (BBB; www.bbb.org) the IDSP’s nine founding partners are AT&T; ChoicePoint; Citi; Dell Inc.; Intersections, Inc.; Microsoft; Staples, Inc.; TransUnion; and Visa Inc. Founded in September 2006, the Panel leverages ANSI’s unique expertise as coordinator of the U.S. standards and conformity assessment system with BBB’s extensive experience in advancing trust in the marketplace, and includes participation from all affected marketplace stakeholders. For more information, visit www.ansi.org/idsp.

Web Corner

The Internet is a growing resource for merchant industries. Web Corner is a place for you to share websites that have helped you in your business life. Please send recommendations to greleht@aol.com for inclusion in the column.



Government business website, business.gov, expands services

Small business access to government information took another substantial leap forward today with the addition of new state and local search capabilities on Business.gov – the official business link to the U.S. government.

Round One focused on significantly expanded content along with new federal government search capabilities from Google that allowed business owners to search for federal information on programs, services and regulations affecting small businesses.

With the recent announcement of Round Two, small business owners can search for information from state and local government Web sites, as well as federal Web sites, from a single search box. The new search engine intelligently reads the words a user types in the search box, and returns only the most relevant Web sites. If a business owner types in “starting a business in Seattle, Wash.” the relevant results will be returned from the city of Seattle and King County, Wash., Web sites.* The unique new service improves general search services by delivering results specific to doing business in a particular geographic area, saving business owners’ time by getting to the right information more quickly.

“These new search offerings make it easier for businesses to learn about doing business in specific localities,” said Nancy Sternberg, program manager of the Business Gateway Initiative. “Business.gov improves upon general purpose search engines by understanding the intent of the user and providing results from the most pertinent, official state and local government Web sites.”

Sternberg adds, “Try it yourself: Go to www.business.gov and find the box in the upper right that says ‘Try Our New Search Engine’ and click ‘Read More About Search.’ On the next page, type in ‘business license,’ type the name of your city, and see the results.

Business.gov is the official business link to the U.S. Government. Business.gov is managed by the U.S. Small Business Administration (SBA) in a partnership with 21 other federal agencies. This partnership, known as Business Gateway, serves as an incubator of technologies designed to improve the delivery of services and information to the nation’s small business community. Business.gov provides a single access point to government services and information to help the nation’s businesses with their operations.

CALIFORNIA MERCHANT
4153 Northgate Blvd., #6
Sacramento CA 95834

Periodicals
Postage PAID at
Sacramento, CA

8 The California Merchant April, 2008

Sue: Check on the status of your company

Continued from page 3

In these instances, the business must be given an opportunity to correct itself, i.e., publish and file a renewed fictitious business name statement. As long as you have your filing in place before you go to trial, you will be given the opportunity to bring your case to the court and seek the relief that you feel you are entitled to. Even if you don't have your status correct, you should always ask for a continuance to give yourself the opportunity to correct your problems.

In conclusion, it is best if all of you who are involved in litigation check with the Secretary of State, if you are a corporation, and make sure that the status of your company is in line with both the Franchise Tax

Board and the Secretary of State. For those of you who do not operate under a fictitious business name, make sure that your filing is up-to-date and that you have filed the documents that you are required to file.

Attorney Sam Abdulaziz of Abdulaziz, Grossbart & Rudman has been practicing construction law for 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 specific legal advice. You should seek the aid and advice of a competent attorney and/or accountant 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

CALIFORNIA MERCHANT (USPS 002498) is published monthly except bi-monthly in July/August and November/December by SMC Publishers, 4153 Northgate Blvd., #6, Sacramento CA 95834. Annual subscription is \$12, available with membership in the California Merchant Safety Association. For membership information, call 1-800-823-4038. Periodicals Postage Paid at Sacramento, CA.

POSTMASTER: Send address changes to *The California Merchant* at 4153 Northgate Blvd., #6, Sacramento CA 95834.