

# *The Californian*

## *The Quarterly Newsletter of*



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*The countdown to the Annual Conference is on.*



*Need help with travel planning? We've got you  
covered.*





## REGISTRATION NOW OPEN **2018 ANNUAL CONFERENCE**

October 16, 2018 6:00 pm President's Reception  
October 17-18, 2018 Seminar & Exhibits



## **NEW FOR 2018**

The Awards Dinner will take place on Wednesday night. Please make plans to attend this special event honoring our California security professionals.

For the first time we are offering a session dedicated to tackling the multi-faceted topic of cannabis in California. This is one session you won't want to miss!

**AS ALWAYS** we strive to bring you the most relevant information to help you run your business as efficiently and productively as possible!

Session topics include: Legal Update Affecting the California Security Industry, Legislative Update, Terrorism 101, Human Resource Challenges, The Business of Worker's Compensation and General Liability, BSIS Update, Candidate Sourcing and Recruitment and more.

[Click here to view the schedule.](#)

Sponsor and vendor opportunities are still available!



# CALSAGA

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## PRESIDENT'S REPORT

**David Chandler,**  
CALSAGA President

Here we are entering August and the temperatures are

rising! I hope that you had a safe and enjoyable 4th of July holiday. One important message that I want to bring to everyone's attention is that I have tasked our Executive Director Roy Rahn with raising money for our PAC. This will give us more influence in Sacramento. With many new bills coming up regarding labor and firearms we have to be in a stronger position to thwart any damaging pieces of legislation. Roy will be contacting members and asking for donation to PAC fund. I ask that you please give thoughtful consideration to a contribution.

We're getting very excited for the annual conference and look forward to seeing everyone there. Remember this is an election year! The conference will be held in beautiful Rancho Mirage October 16th – 18th. This year the Annual Awards Dinner will be held on the second night of the event rather than the last. This is our opportunity to recognize deserving security professionals. I hope that you will make plans to attend! The Agua Caliente Casino Resort Spa has extended some great hotel rates to our group. Why not come early or stay after the conference to take advantage of the gorgeous pool area and spa or win some money in the casino. See you in October!



*Executive Director Roy Rahn and CALSAGA President David Chandler at the 2017 Awards Dinner*



# BSIS UPDATE

Roy Rahn, Executive Director



You may have heard the news that Governor Jerry Brown has appointed a new Chief for the Bureau of Security and Investigative Services. Darrel Woo previously served as the first vice president for the Sacramento City Unified School District Board of Education Area 6. He has also held positions with the California Department of Insurance, California Department of Food and Agriculture Division of Fairs and Expositions, California Energy Commission as well as served as an adjunct professor of law at Lincoln Law School of Sacramento. I had the opportunity to speak with Darrel this week. The association looks forward to a great working relationship.

In addition, Gloriela Garcia has been appointed as a new deputy chief at the bureau. She replaces Clarissa Serrato-Chavez who has moved on to another department.

On the legislative front it has been somewhat quiet as the legislature is taking a summer break. The Assembly and Senate will reconvene on August 6th. We are gearing up for midterm elections and are hoping to find a more business-friendly legislature in the new year.

Our Annual Conference is around the corner! If you have not yet registered, I encourage you to do so! The programming this year is not to be missed!

## REGULATION CORNER

David Chandler, CALSAGA President

### *Did you know?*

The BSIS has hired a new enforcement manager. Analysts are on the road doing audits for private security training facilities and private patrol operators. It is very important that you have all of your records organized and presentable. If you are having trouble or not understanding the requirements, please contact us so that we may provide assistance.

Unfortunately, our team still encounters companies that are issuing certificates that are not in compliance. As a reminder, the CALSAGA Training Database issues certificates that are 100% compliant and use of the database is free for members! Contact Kate Wallace at [kwallace@calsaga.org](mailto:kwallace@calsaga.org) to get started with the database today.

# BRADLEY & GMELICH LLP's LEGAL CORNER

In this issue, we have two articles. From our Employment Team, we address a new California Supreme Court case requiring payment of wages for trivial work that may be performed after an employee clocks out, even if it only takes two minutes. We also present, from our Business Team, an article to those PPOs who are thinking of selling to another company – some questions to help you look for potential blind spots.

## WHEN DOES A “TALL” BECOME A “VENTE?” (OR, WHEN DOES SOMETHING MINIMAL BECOME BIG?)

Barry A. Bradley, Esq., Bradley & Gmelich, CALSAGA Network Partner



On July 26, 2018, the California Supreme Court dealt another blow to employers, as it departs from applying federal law to our wage and hour issues. In *Troester vs. Starbucks Corporation*, plaintiff brought a class action on behalf of himself and all non-managerial hourly employees who had to perform store closing tasks.

Essentially, Troester said he was required to clock out at closing, and then transmit data from the computer regarding daily sales, profit and

loss, and store inventory data to Starbucks' corporate headquarters. Troester would then activate the alarm, exit the store, and lock the front door. Occasionally he would escort other employees to their cars, pursuant to Starbucks policy. These tasks typically took anywhere from 4 to 10 minutes to complete, but averaged less than 5 minutes.

He sued Starbucks arguing that he (and all non-managerial employees who closed the stores at night) should have been compensated for this minimal time. (Over a 17-month period, it added up to \$102.67.) Starbucks argued that the time was de minimus, or so trivial that it doesn't deserve to be counted. Federal labor laws have long recognized that such minimal work need not be compensated, under the so-called de minimus doctrine.

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**Check out the rest of the Legal Corner on page 10.**



# CALIFORNIA SUPREME COURT DECISION REDEFINES THE GUIDELINES OF INDEPENDENT CONTRACTORS

**Shaun Kelly, Tolman & Wiker,  
CALSAGA Preferred Broker**



On April 30, 2018, The California Supreme Court issued a ruling in *Dynamex Operations West, Inc. v. Superior Court*, making it much more difficult to classify

an individual as an independent contractor (rather than employee). The previous standard for classifying individuals as employees or independent contractors had been in place since the 1980's and was based on a multi-factor test that considered, among other factors, the individual's abilities, the method of payment, and the extent of control exercised over individual. In the *Dynamex* ruling, the Supreme Court adopted a new three-part "ABC Test" that is intended to reduce the use of independent contractors in the California workforce.

The new standard adopted by the California Supreme Court requires the hirer to establish three factors in order to properly classify a worker as an independent contractor – and in the process greatly expands the definition of "employee" under California law.

Here is the information to classify an individual as an Independent Contractor:

- A. Is free from the control and direction of the hirer in connection with the performance of the work, both under contract for the performance of such work and in fact; and
- B. Performs work that is outside the usual course of the hiring entity's business; and
- C. Is customarily engaged in an independent established trade, occupation or business.

All three are required in order to fulfill the test.

Even though the "ABC Test" is written to simplify the definition of independent contractor, the application of the three part test is not going to be that simple. It will be the hirer's responsibility to satisfy the "ABC Test" in order to lawfully classify an individual as an independent contractor.

Please keep in mind, this decision was made under the Wage Orders of the Industrial Welfare Commission. As we all know, there will more than likely be subsequent cases, actions and rulings that will be restricting or expanding the Court's decision to other state department (i.e. Workers' Compensation). So, if you are hiring independent contractors or being hired as an independent contractor, now is the time to review the following regarding the new "ABC Test":

- Identify your independent contractor relationships
- Description of duties of those relationships to the "ABC Test" article.

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# THERE IS NO WORK LIFE BALANCE ON YOUR JOURNEY TO SUCCESS!

Anne L. Laguzza, M.A., The Works  
Consulting

**W**ork-life balance is a concept that has been around forever. However, I believe it's time to shift from this myth of balance and begin your quest for work-life fulfillment. In the highly connected world we live in today, work and life have become more symbiotic rather than segregated. So how do you embrace this new approach?

It starts by letting go of the scarcity that comes with the struggle and grind to maintain balance. Then, you need to understand how approaching work and life from abundance allows you to focus on your priorities. This may sound overwhelming, flying in the face of conventional wisdom, so there is one simple word substitution that will immediately support you on your path to fulfillment. We'll get into that a little later.

First, struggle comes from scarcity. The pressure that comes with striving for balance in work and life is counter-productive. This pressure often leads to disempowering questions as you compare yourself to those around you

: "How does so and so do it" or "that person really has it all together." You're assuming that person has what you don't and that they attained it in a nice, clean, problem-free way. With this approach, you are robbing yourself of your joy as you obsess over what you don't have. You're creating undue stress and anxiety because your life does not match-up with how you perceive someone else's life to be.

Spoiler alert: success IS messy. Worrying about not having it all together (or being perceived as such by other people) is one of the easiest ways to be held back from realizing your full potential.

Next, allowing comes from abundance. Those who are the most fulfilled in work, health, and relationships are all-in, all the time, regardless of what others are doing or how messy things get. They allow for possibility and abundance by declaring "I can have it all and you can too".

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**Is your company is  
complying with the  
Heat Illness Prevention  
Standard? Click here  
for assistance.**



# 5 SMART KPIs FOR YOUR SECURITY OPERATIONS

**Mark Folmer, CPP, TrackTik**

This is a no-brainer: Why does a client prefer to work with a security services provider that can measure their own performance?

Because those numbers give your client the peace of mind that comes with knowing their business has been secured in the way agreed to.

## **Choose your KPIs with care**

So naturally, as an owner or manager of a professional security service solutions provider, you want to have key performance indicators (KPIs) for your business in order to measure performance and efficiency.

Now KPIs come in a slew of varieties. Today, let's focus on those related to your field service operation. So let us assume that the fact-finding questions you ask about your client's needs, assets, risk profile, etc., lead you to this



July Board of Directors  
Meeting in Glendale at the  
Offices of Bradley & Gmelich

conclusion: Onsite guards and mobile guard patrols are part of a cost-effective solution to the client's situation.

Being slightly obsessed (your business or life partner uses other words) with efficiency, you understand the value of adopting a Computer Assisted Dispatch (CAD) solution: It ensures your field security patrols and responses are coordinated as efficiently as possible.

If you are forward thinking, you have linked your CAD solution to a security workforce management platform (that also includes a security guard tour system). Having this software allows you to fully automate your KPIs and also drive up field service business by offering data-supported Service Level Agreements (SLA) to your client.

Since you have taken the time to invest in the best training and equipment for your mobile teams, now you want to know how well they are doing. Consider these five smart KPIs for your field operations:

## **1. Completion Rate**

Having spent time with your client analyzing security requirements, your ultimate goal is to achieve 100% of the site visits promised. That number means that the client is receiving what they want and you can invoice all that has been agreed to.

## **2. Response Time**

Measuring response time is the ultimate efficiency measure. So you want to respond as quickly as possible. It goes without saying that responding within the agreed-to response time is critical.

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# GOING TO WORK FOR THE BUYER OF YOUR SECURITY COMPANY

Harold A. Laufer, Esq.,  
Bradley & Gmelich,  
CALSAGA Network Partner

**C**ongratulations! You have an offer to sell your security company to a much larger operation. Due to your success, they want you to come and work for them, maybe to even continue to run your business or to manage an even larger security entity. They are also talking about giving you equity in the big company with potential bonuses. Hmmm. What should you be thinking of when evaluating how good a deal this really is, and whether you should stay on with the new company, or just take your money and head to the golf course? For purposes of this article, we're not going to talk about how to structure the deal – whether it should be a stock sale or an asset transaction. And we're not going to discuss your tax issues. These are all really important, but instead we are focusing on the potential issues involved when you not only sell your business but go to work for the buyer of your security company. Ask yourself how you will answer all of the questions below.

## Who's The Boss?

Let's start with your employment contract. You're used to running the show. Now you have a boss.

The first question is “are you OK with that”? – or even if you're not sure – are you receiving enough money to make it alright? Who are you reporting to? What do you know about the man or woman you'll be reporting to? Do they seem reasonable? Under what circumstances can you be terminated? Because if the job isn't all that secure, and you're counting on the paycheck to get the deal worth what you'd like to make, you may be better off negotiating the sale price harder now rather than hoping things will work out later.

How much control will you have? Can you run things as you see fit, or if you don't have a completely free hand, is it clear what the limits to your authority will be? Are you OK with the answer to that question? If part of your deal involves performance bonuses or an earn-out, are the targets realistic and achievable? And even if they are, is it confirmed the buyer will provide you with a sufficient budget and with enough operating discretion to actually hit your targets, or are the bonuses really illusory? It may sound great but in the real world will it actually happen?

## How Much Longer Can I Take This?

The next question is how long do you want to work as an employee, even if you're an officer of the company making a lot of money? Does the amount of time you are required to stay on match how long you actually want to remain? Is it too long or not long enough to be worthwhile? We'll talk more about this in a little while, but if you're being offered equity, does your employment term align with how long it takes for your stock to fully vest?

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# UNDERSTANDING CUMULATIVE TRAUMA CLAIMS AND THE GROWING THREAT TO EMPLOYERS

**Nick Langer, Turner Surety &  
Insurance Brokerage, Inc.,  
CALSAGA Network Partner**

**T**he impact of cumulative trauma (CT) claims on employer's Workers' Compensation insurance is astounding. While Cumulative Trauma claims are most prevalent in the manufacturing sector, the increased activity seen in the security industry demands attention.

**What is a Cumulative Trauma?** A cumulative trauma disorder, also known as CTD or CT, is defined as the excessive wear and tear on tendons, muscles and sensitive nerve tissue caused by continuous use over an extended period of time. CTDs can develop from improper work positioning, repetition or force. Cumulative trauma disorders (CTDs) are also known as repetitive strain injuries, repetitive motion disorders (RMDs), overuse syndrome and work-related musculoskeletal disorders. CTDs are injuries of the musculoskeletal system, which

includes joints, muscles, tendons, ligaments, nerves, and blood vessels. CTD's can include mental trauma as well.

## **What are the Risk Factors Contributing to Cumulative Trauma Injuries?**

- Work Position
- Awkward postures/Static postures
- Force/Forceful exertions
- Repetition/Repetitive motions
- Vibration
- Lifting methods
- Lack of sufficient recovery time
- Mental stress

## **The Statistics – as published in independent reports from the Workers' Compensation Insurance Rating Bureau (WCIRB) & the California Workers' Compensation Institute (CWCI)**

- 13.3% of all claims are now CT claims. This has been steadily increasing since 2008. Most of these increases are coming from the Los Angeles Area. (WCIRB)
- 80% of statewide CT claims involved attorney representation. (WCIRB)
- 61% involve multiple body parts (WCIRB)
- 39% of CT claims are being filed post-termination (WCIRB)

Physical or mental injuries that arise over time from repetitive stress or repetitive motion exposures cost 53% more than claims that stem from a specific event or accident (CWCI)

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# SECURE BEHIND THE WHEEL: DECIDING TO PREVENT DISTRACTED DRIVING

Tory Brownyard, Brownyard Group

**F**rom public health officials to your insurance agent to the local police department, everyone wants to talk about distracted driving these days. We all know the basic facts: Distracted driving is common—and some experts (such as the National Safety Council) believe distracted driving is underreported as a cause of accidents. Getting distracted from the task of driving leads to crashes, injuries and worse. According to the National Highway Safety Administration, 3,450 people died nationwide in 2016 as a result of distracted driving. Plus, distracted driving is often against the law—in California, thanks to AB 1785, it is illegal to drive with a cell phone in your hand. Preventing unsafe driving of all kinds comes down to decisions: whom security firms decide to hire, the decisions that security officers make on the road and how the company decides to respond to accidents. If you are responsible for hiring or managing security officers with driving responsibilities, you can put in place systems to support better driving decisions.

1. Understand what falls under the umbrella of distracted driving  
The term “distracted driving” is often used to mean driving while using a cell phone. Yet “distracted driving” refers to any type of driving during which the driver is not attending to the road. Eating and smoking are distractions, as are GPS devices and radios. Texting while driving is particularly dangerous, because it takes our hands, eyes and minds off the wheel.

2. Develop enforceable and clear driving policies

Most companies have some version of a cell phone ban for employees who drive. But a distracted or safe driving policy needs to outline clear, distinct and enforceable policies for employees.

3. Questions a policy can answer include:

What should employees do instead of using their cell phones when driving?

What are the consequences for dangerous driving behaviors?

Are there systems for monitoring employees’ driving behavior, such as dashcams and telematics?

What happens after an employee gets in an accident?

These policies can be supported by regular road tests and ride-alongs that help detect signs of trouble among drivers while giving managers an opportunity to review policies in context. In order to ensure a policy is enforceable, it should be developed in conjunction with human resources and legal counsel.

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# CHANGE IS HERE

Steve Reinharz, Robotic Assistance Devices, Inc.

‘Change’ is one of the most overused words and concepts in most every industry. It gets people’s attention; it clicks and is therefore a powerful word for promoters to use. People generally are fearful of change because it challenges the stability that so many seek.

Change is opportunity and risk. Opportunity of being part of the ‘next big thing’ and risk that if you miss out it could be catastrophic. And although it’s an overused word I’m going to use it here: Our guarding industry is finally being changed by emerging technologies. Historically we haven’t had much ‘real’ change in guarding because of the nature of guarding itself. Since the ‘sell’ of guarding is a human at a location(s) there has been little ability to innovate. Instead, much of the industry has been trading a similar commodity service and there’s been few opportunities to do anything other than compete on price in a race to the bottom. Naturally there are many exceptions; I’m simply talking about the part of the market with these characteristics.

But finally, for better or for worse, real change is here and we are going to have separation

between adopters and resisters. And as always the adopters will prevail. Adopters can be characterized as more forward-thinking, risk-taking and engaged than resisters.

A parallel example is what happened in security integration industry in the late 90s. DVRs and IP based solutions started to emerge. Adopters thrived and resisters struggled. Same thing for many industries that had significant technologies introduced.

For guarding the revolutionizing technology is called ‘robots’. I write it like that because until the technology is perfected and given a real name we’ll call them ‘robots’. Someone once told me that ‘a robot is a robot until it’s called a washing machine’ which illustrates the point that immature technology gets a unique name and industry once it proves itself. But it will get better and it will get better faster.

[CLICK HERE TO CONTINUE  
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Brian Cotton of Patrol One was among the recipients of the Lifesaving Award at the 2017 CALSAGA Annual Conference.

**Nominations are now being accepted for the Al Howenstein Lifetime Achievement Award, Valor Award, Lifesaving Award and Security Officer of the Year Award.**

**Each year at the Awards Dinner that takes place during the conference, we recognize deserving security professionals.**

**[Click here for the award criteria and nomination form for the 2018 Al Howenstein Lifetime Achievement Award](#)**

**[Click here for the award criteria and nomination form for the 2018 Valor, Lifesaving and Security Officer of the Year awards.](#)**

# WHAT'S IN YOUR ARMOR?

ATEK Defense Team

There is so much talk about protection these days, but what is in your armor? Here we will make an attempt to give a quick overview of body armor for a human body and what standards to look for.

There is a government organization called the National Institute of Justice or NIJ for short. This is the governing body for body armor certification for the law enforcement industry. Many others outside law enforcement use these guidelines, but really these certifications only apply to Law enforcement. Most federal agencies have their own testing guidelines and do not use the NIJ certification.

The NIJ certifications were designed with our officer's safety and protection in mind. Each threat level has certain calibers associated with it (see chart below). The testing required by the NIJ are more rigid and intense than one might think. You can't just purchase rounds off the shelf to test with. The testing requirements actually require the rounds to be much hotter and rounds must reach velocities of 300-400 fps faster than standard off-the-shelf rounds.

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# PERFECTING THE PRE-HIRE PROCESS

Kwantek Team, CALSAGA Network Partner

For 15 years, Kwantek has served the recruiting needs of thousands of companies across the nation. Most of our clients have a need to fill low-paying, hourly jobs. They use our applicant tracking software to post these jobs en masse across multiple job boards and take advantage of our seamless onboarding process once hired.

A natural byproduct of these types of these jobs is poor employee retention. After monitoring the pre and post-hire process for over 1,000,000 security and building services jobs, we've been able to identify three critical pieces of data for these industries that directly correlate retention back to the interview process:

- 1) 50% of scheduled interviews will ever show up for the interview.
- 2) Over 90% of interviewees are offered jobs in the interview process.
- 3) Over 40% of new hires make it past 30 days of employment.

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