

# *The Californian*

## *The Quarterly Newsletter of*



*May 2019*

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*Included  
in this  
edition:*

- 3 - **PRESIDENT'S MESSAGE**
- 4 - **REGULATION CORNER**
- 4 - **WEEKLY PAY REMINDER**
- 5 - **HEAT ILLNESS PREVENTION**
- 6 - **ESSENTIAL CONTRACT TERMS FOR YOUR SECURITY SERVICES AGREEMENTS**
- 8 - **FIVE QUESTIONS INSURANCE UNDERWRITERS ASK ABOUT SECURITY COMPANIES**
- 9 - **U.S. SUPREME COURT: COURTS MAY ONLY COMPEL CLASS-WIDE ARBITRATION IF EXPRESSLY AGREED UPON IN EMPLOYMENT ARBITRATION AGREEMENT**
- 10 - **ON-CALL AND CALL-IN SHIFTS REQUIRE PAYMENT OF WAGES**
- 11 - **SECURITY GUARD VS. SECURITY OFFICER**
- 12 - **3 HIGH-VALUE QUALITIES OF LEADERSHIP YOU NEED NOW MORE THAN EVER**
- 13 - **IMPROVE YOUR RETENTION (AND YOUR BOTTOM LINE)**
- 14 - **TAKING A LONG TERM VIEW**
- 15 - **HIRING, TRAINING, & EMPLOYEE ENGAGEMENT**



Running a security business is complex. Make sure that you have all the knowledge and resources required to stay compliant with the law and competitive in the industry. This event is beneficial for new private patrol operators, those looking to advance in the security world and industry veterans!

## **SAVE THE DATE**

Security University Lite  
July 17th  
Fresno, CA

Full Program  
August 14th - 15th  
Orange County, CA

\$99 per day or \$185 for both days  
Registration includes a light breakfast and lunch

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# PRESIDENT'S REPORT

David Chandler, CALSAGA President

**A**s we previously reported to you, there is a new Chief of the Bureau of Security & Investigative Services, Lynne Andres. I look forward to meeting with her this month to continue the great partnership that we have with BSIS.

As an association we strive to keep you updated on legislation that will affect you and your business. There are a lot of potential changes in legislation coming; these changes are in regards to labor, firearms and ammunition. I am constantly in Sacramento along with our CALSAGA lobbyist Kelly Jensen of Sloat, Higgins, Jensen & Associates meeting with Senators and Assembly Members. We work to make sure that they are aware of the issues facing our industry. If you are having a legislative issue, please do not hesitate to let our team know. We would be happy to

accompany you to meet with your representative. Last week we held a session of our management training program Security University in Southern California. Due to the event selling out we will be holding the event again in August! Tickets will be on sale soon. Don't forget that tickets are still available for the 2019 CALSAGA Annual Conference in Rancho Mirage October 15th - 17th.

In April we launched our online, on-demand and interactive Sexual Harassment Training. The training was developed in partnership with Anne Laguzza of The Works Consulting and complies with the requirements of SB1343. Don't hesitate to contact Kris or Kate if you have any questions about the training. Thank you for your continued support of the association. I look forward to seeing all of you at the conference in October!

Be Safe,  
David Chandler



Jaimee Wellerstein of Bradley & Gmelich, CALSAGA President David Chandler and Barry Bradley of Bradley & Gmelich at Security University in Orange County

# WEEKLY PAY REMINDER!

Jaimee K. Wellerstein, Esq.,  
Bradley & Gmelich,  
CALSAGA Network Partner



Attention Private Patrol Operators! According to Labor Code Section 201.3, you are a “temporary services employer” if you contract with clients/customers to supply workers to perform services for the clients/customers, and:

1. Negotiate with clients/customers for matters such as the time and place where the services are to be provided, the type of work, the working conditions, and the quality and price of the services; and
2. Determine assignments or reassignments of workers, even if workers retain the right to refuse specific assignments; and
3. Retain the authority to assign or reassign a worker to another client or customer when the worker is determined unacceptable by a specific client or customer; and
4. Assign or reassign workers to perform services for clients or customers; and
5. Set the rate of pay of workers, whether or not through negotiation; and
6. Pay workers from your own account or accounts; and
7. Retain the right to hire and terminate workers.

In almost every instance, Private Patrol Operators are “temporary service employers.” To make matters Labor Code Section 201.3 was amended specifically singling out this industry. It requires that security guards who are working for Private Patrol Operators be paid weekly, regardless of when their assignment ends. Failure to pay security guards accordingly could expose the PPO to serious damages including Private Attorneys General Act (PAGA) civil penalties. (This can result in penalties of approximately \$10,300 per employee, per year!)

**LESSON LEARNED:** If you are not paying your California PPO employees on a weekly payroll system, you are exposing your company to unnecessary liability.

# REGULATION CORNER

David Chandler, CALSAGA  
President

As stated in section 7582.12 of the California Business and Professions Code, your license shall at all times be posted in a conspicuous place in the principal place of business of the licensee.

What constitutes a “conspicuous place?” The BSIS believes a conspicuous place to be a location that can be seen by the public when entering through the front door. This means that a license hanging in the hallway or posted in a lunch or break room is not compliant. If you are in violation, make sure that you rectify the situation as soon as possible! Each violation may carry a \$250 fine.

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# HEAT ILLNESS PREVENTION

Shaun Kelly, Tolman & Wiker,  
CALSAGA Preferred Broker



It's that time of the year...not post tax season...  
Heat Illness Prevention season!

With the change in seasons comes the warmer weather and it is imperative (And required by Cal/OSHA) that all employers train their supervisors and employees on heat illness prevention. The safety of your employees is the responsibility of the employer and if an unfortunate event does occur, Cal/OSHA may be investigating the event. If so, they will be asking if you have your Heat Illness Prevention Program in place. The investigation will include verification that you have provided training to your supervisors and employees.

A Cal/OSHA study identified the key role that employers play in preventing worker fatalities due to heat illness. The findings highlighted the value of training supervisors so that they can make the fullest use of their power to control safety on the job.

California Code of Regulations, Title 8, Section 3395 Heat Illness Prevention requires all employers to have a Heat Illness Prevention Program which includes the following:

### Provide fresh/potable drinking water

Employers must provide employees with fresh, pure, and suitably cool water, free of charge. Enough water must be provided for each employee to drink at least one quart, or four 8-ounce glasses, per hour and the water must be located as close as practicable to the work area.

Employers are also required to encourage employees to drink water frequently

### Provide access to shade

When temperatures exceed 80 degrees, employees must be provided shade at all times in an area that is ventilated, cooled, or open to air and that is as close as practicable to the work area. There must be sufficient space provided in the shade to accommodate all employees taking rest. When temperatures do not exceed 80 degrees, employees must be provided timely access to shade upon request. Employees should be allowed and encouraged to take preventative cool-down rest as needed, for at least 5 minutes per rest needed.

### Have high heat procedures in place

High heat procedures are required of agricultural employers when temperatures exceed 95 degrees. The procedures must provide for the maintenance of effective communication with supervisors at all times, observance of employees for symptoms of heat illness, procedures for calling for emergency medical services, reminders for employees to drink water, pre-shift meetings to review heat procedures and the encouragement of employees to drink plenty of water and take preventative cool-down rest as needed. Agricultural employers must additionally ensure employees take, at a minimum, one 10-minute preventative cool-down rest period every two hours in periods of high heat.

**CLICK HERE TO CONTINUE  
READING**

# BRADLEY & GMELICH LLP's LEGAL CORNER

Good intelligence and preparation is the best way of staying out of legal trouble. As the great warrior, Sun Tzu said in *The Art of War*, “know yourself and you will win all battles.” Having your internal policies and procedures solidly in place will keep you out of the war. In another quote, Sun Tzu reminds us that “The greatest victory is that which requires no battle.”

In this issue we provide you with some additional intelligence to help you implement solid procedures and practices. The first article will cover Contract Essentials. Next is a recent court ruling about paying employees who are either on-call or are required to call-in two hours before their shift to see if they are needed. We also have an article on the US Supreme Court's recent employment arbitration agreement decision, and how it will affect your business practice. And of course, there will be a not-so-gentle reminder about paying your employees weekly. Win the war before you even begin to fight.

## ESSENTIAL CONTRACT TERMS FOR YOUR SECURITY SERVICES

### AGREEMENTS



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



While recently teaching CALSAGA's Security University course on contracts, it became clear that many of your service contracts with your clients are often missing some vital essential terms. Without going into too much detail in this limited space, examine your contract template and see if they contain each of the following:

- **General Statement of Duties (Scope)**  
Are your duties clear and defined both as to location, post responsibilities, hours, expectations, and especially limitations? Are your officers to use force? Are they just required to observe and report?

- **Term of Contract** When does your service agreement expire? Will it automatically renew? Is termination addressed?
- **Price and Payment Terms** Are all service hours defined and invoicing defined?
- **Attorney's Fees** If a dispute arises between you and your client (for example, for non-payment), does the prevailing party have a right to recover its reasonable attorney's fees?
- **Disclaimers** Are you making promises you shouldn't?
- **Indemnification** This is perhaps one of the most vital areas of your agreement. Is it in your favor, or are you giving up the farm?
- **Insurance Requirements** Are you providing appropriate insurance coverage? Are you required to name your client as an Additional Insured? Are there exclusions that might apply for which you might not have coverage?
- **How Disputes are Resolved** In the event of a legal dispute with your client, where and how will it be addressed?

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# REGISTRATION NOW OPEN



October 15, 2019 6:00 pm President's Reception  
October 16-17, 2019 Seminar & Exhibits

Rancho Mirage, CA



# FIVE QUESTIONS INSURANCE UNDERWRITERS ASK ABOUT SECURITY COMPANIES

Tory Brownyard, Brownyard Group



Whether we're insuring a family mini-van or an oil company operating in a hostile environment, insurance underwriters carefully evaluate the risks and exposures facing a particular person or company. In commercial underwriting, we consider a company's loss experience, risk management practices and other factors in determining whether or not we can accept the risk and what kind of coverage it requires.

For the security industry, there are several questions we ask ourselves about a company and its application. Here, I review some of these questions and try to shine a light on insurance coverage for security firms based on my experience as an insurance underwriter for security risks.

*What industries does the firm work with?* Many security firms specialize in serving one industry or environment, whether that's government contracts, retail stores or large events. An application for insurance will often ask detailed questions on this topic.

This helps underwriters determine if a firm is a "low-profile" or "high-profile" risk. A high-profile security risk assigns officers to posts that have a great deal of exposure to the public, large crowds or criminal activity. Unfortunately, there is another factor we must take into consideration when looking at industries served by a firm: active shooter risk. Some environments have been susceptible to active shooter incidents, such as hospitals and churches.

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Barry Bradley  
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# U.S. SUPREME COURT: COURTS MAY ONLY COMPEL CLASS-WIDE ARBITRATION IF EXPRESSLY AGREED UPON IN EMPLOYMENT ARBITRATION AGREEMENT

Jaimee K. Wellerstein, Esq., Bradley & Gmelich, CALSAGA Network Partner



In a split 5-4 decision in *Lamps Plus, Inc. v. Varela*, No. 17-988 (Apr. 24, 2019), the U.S. Supreme Court held that courts may only compel class action arbitration where the parties expressly declare their intent to be bound by such actions in their arbitration agreement. The holding and rationale are important to employers because the Court decisively ruled that class arbitration “fundamentally” changes the nature of the “traditional individualized arbitration” envisioned by the Federal Arbitration Act. Thus, the Supreme Court said, “Courts may not infer from an ambiguous agreement that parties have consented to arbitrate on a classwide basis.”

Following the Supreme Court’s ruling, arbitration agreements must unequivocally state that the parties agree to resolve class actions through arbitration in order to proceed this way. Courts cannot compel the parties to arbitration when an arbitration agreement is ambiguous about the availability of class arbitration.

**Employer Takeaway:** This ruling is a win for employers. Courts can no longer impose class-wide arbitration unless the employer’s arbitration agreement clearly authorizes this. Only express agreements between the parties can lead to class arbitration. Companies, along with their counsel, should review their employment arbitration agreements to determine whether they comply with the SCOTUS standards.

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# ON-CALL AND CALL-IN SHIFTS REQUIRE PAYMENT OF WAGES

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



A sales clerk brought a putative wage and hour class action against his employer, Tilly's, alleging that store employees were due reporting time pay for on-call shifts or call-in shifts in which employees were required to contact the stores two hours before the start of their shift to determine whether they were needed. The sales clerk argued that having to be on a tether to determine if he should have to report is the same as being under the employer's control and should be compensated as reporting time.

The employer argued that on-call scheduling is not what triggers the Wage Order reporting time pay requirements, but rather when they actually report physically to work. In *Ward v. Tilly's, Inc.*, 31 Cal. App. 5th 1167 (2/4/2019), the Court of Appeal sided with the employees and held that if an employer directs employees to present themselves for work by telephoning the store two hours prior to the start of a shift, then the Wage Order's reporting time requirement is triggered by the telephonic contact.

Reporting time pay is one-half of the scheduled shift and, in any case, not less than 2-hours of pay at straight time. (See, IWC Wage Order No. 4, section 5.)

**LESSON LEARNED:** Although the On-Call or the Call-In models are not typically used in the security industry, if you do, be aware that each employee is deemed to be under the employer's control while they are waiting to see if they will be needed. As such, reporting time wages are required to be paid.



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## SECURITY GUARD VS. SECURITY OFFICER

Kwantek, CALSAGA Network Partner



So, you have a position opening up in your contract security firm. Now is the time to post the job in various places using your standard job description and other boilerplate materials you use when hiring.

You know you need systems in place for this, so you arm yourself with tools like an applicant tracking software or detailed hiring spreadsheets.

The question now becomes, what should your job title be?

Security Guard or Security Officer?

Many people in the industry will tell you there is no difference in the two.

Some say an Officer is armed and a Guard is not.

Some say the Officer has greater training and/or responsibility.

As we look at today's hiring and retention landscape, there are two main reasons you should prefer the term "Security Officer" rather than "Security Guard."

### 1) "Security Officer" is Searched More Often on Indeed

Thanks to data made available by Indeed, we are able to know exactly how people are searching for security jobs.

**CLICK HERE TO CONTINUE READING**

# 3 HIGH-VALUE QUALITIES OF LEADERSHIP YOU NEED NOW MORE THAN EVER

Anne Laguzza,  
The Works Consulting,  
CALSA Network Partner



**T**here are many contradictions about what leadership is and the qualities needed to be an effective leader. From below looking up, leadership appears to be a form of dictatorship.

One person presides over a larger group of people. That group must follow the directions of the leader or suffer the consequences.

True, healthy leadership doesn't align with this structure. Instead, the framework for healthy leadership embodies three high-value qualities.

## **Leadership Defined:**

**The position or function of a leader, a person who guides or directs a group.**

Notice how this definition does not say who is in charge nor does it mention title or rank. It does not mention serving authority, most skilled, loudest, tenured, or aggressive person. It only says the person who guides or directs the group.

This is great news because it means that a leader may present themselves anywhere in an organization.

It also means that what matters most is the guidance a person provides not the title or pay grade they hold.

So what are the three high-value qualities embodied by someone skilled at guiding and directing others? How can you embrace them to level up your leadership ability?

## **High-value #1: Commitment.**

With commitment, an individual knows that regardless of how they feel they will do what needs to get done. No matter what.

For example, think about a time when you committed to something significant and you didn't want to let anyone down. You found reserves of energy, creativity, and resiliency you may not have known you had to fulfill your commitment.

## **High-value #2: Courage.**

Courage because there will be conflicts that need immediate resolution. Conflict is inevitable and can be a healthy part of team development. Only a strong leader will face them head on to seek resolution.

Someone lacking courage will more often than not find a way to delegate, delay or defer. That of course is not leadership at all, even though it may occur more often than it should.

## **High-value #3: Discipline.**

In today's world discipline has become somewhat of a profane word. What comes to mind when hearing the word is either a drill sergeant or a parent disciplining a child.

While both examples make sense, the discipline of leadership is not punishment focused. Discipline is simple, do what is right not what is easy.

Discipline glues commitment to courage, for the purpose of attaining a meaningful end goal. This combination eliminates excuses and justifications leaving only the example of how to lead.

**[CLICK HERE TO CONTINUE READING](#)**

# IMPROVE YOUR RETENTION (AND YOUR BOTTOM LINE)

## How security contractors can use data to impact this important metric

TEAM Software and Kwantek



In the security industry, it's difficult to keep good people employed for any length of time. As strategic partners with end-to-end solutions specific to security contractors, Kwantek and TEAM Software know how important issues like retention and turnover are to your business. We hear it every day from our customers, prospects and industry partners. With so many things you can't control — high labor costs, fierce competition and thin margins — taking control of something you can control, like retention, is a game-changer.

Many of the organizations we work with view turnover and retention challenges as a given, and in many ways, that's true. Yes, turnover is going to happen. Instead of dwelling on that fact, the best thing you can do is take steps to manage it and reduce its impact on your business.

### **Calculate Your True Cost Per Hire**

Do you know your true cost per hire? We've heard ranges of \$20 to \$5,000, but according to the Society for Human Resource Management (SHRM), the average cost per hire across all industries is \$4,129. The key to calculating your true cost per hire is to assume no costs are fixed. You must think of all the costs — both internal and external — associated with your hiring process including sourcing, recruiting and staffing.

The best way to do this is to ask yourself: What costs would you be able to eliminate if you didn't have to hire anyone for an entire year? Then, ask yourself: What else could you eliminate if you didn't have to hire anyone?

### **Evaluate Your Site Manager Bonuses Program**

Site managers play critical roles in the contract security industry. They're entrusted to deliver on your contracts and keep your customers happy. One way you can insure your site managers are helping drive your business forward is to reevaluate how you incentivize them so you're rewarding based on a holistic picture of performance. Rather than focusing solely on job site profitability, look at employee retention costs by site as well. That will give you a more accurate view of who your best performers are, and it can help you avoid some bad manager practices that can hurt your retention, too.

### **Analyze the Effectiveness of Your Site Managers**

Speaking of those site managers, take a deeper look at the retention-related metrics you should use to evaluate your site managers to grow your bottom line. If you're evaluating your site managers solely on contract profitability (site revenue minus payroll costs), is that the best long-term strategy? When you're looking to scale your business, you need to look beyond that one measure and we think you can boil it down to this one question: What's the most effective way to retain your clients?

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# TAKING A LONG TERM VIEW

Mark Folmer, TrackTik



**T**he security sector is growing - nobody can argue that. With estimates pushing the 290 Billion USD mark by 2025, it is difficult to argue that opportunities do not exist. With frontline security guarding/services estimated at more than two-thirds of that figure, the question that security business owners should be reflecting on is: how do I position myself to take advantage of that market, that growth, in short, that opportunity.

The reality is that today much of the market is being served by business focused on supplying guards to fill a schedule. There is an opportunity for businesses to get beyond HPW - hours per week. Security shifting in the direction whereby guards are deployed in advanced security markets and are performing more higher value-added security measures. Not only having guards show up as a schedule requires, but also bringing with them measurable data.

Security service companies are not solely to blame for this restricted view of their potential. Clients contribute to the issue as well. Consider where

“lowest technically acceptable bid” (LTAB) reign, often under the guidance of strict purchasing rules. It is very obvious that this encourages doing as little as possible as opposed to exploring potential. In markets where qualified staff are hard to source, this pressure is exponential when security officers are being viewed as a commodity, with price being the key factor distinguishing providers. This becomes a problem that spirals out of control and spills over into other areas such as not developing talent, retaining qualified officers.

Solutions can be found in getting clients to understand that there is a need to have a strategic understanding of security. Forward thinking companies understand that security has to bring value to their organisation. For instance, Microsoft has Global Security Strategy and Diplomacy Team focused on driving strategic change to advance security and resilience in a way that addresses challenges such as risk management, incident response, emergency comms & information sharing.

The transition from the bad of today to the potential of tomorrow happens when businesses truly grasp the understanding that they are offering a “peace of mind” service to their clients. In other words: if something happens we are there and we can respond, escalate and manage a situation.

For an interesting down the road view of the future of security services consider the idea of return on data (ROD). The data in question is the information that security teams can generate and act upon to provide for secure environments.

Security companies need to develop a data strategy if they wish to run intelligently. This is evidenced by the Microsoft Accenture survey which revealed that 83% of the top investments that security leaders are looking to make within the next 3-5 years are on big data and analytics.

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# HIRING, TRAINING, & EMPLOYEE ENGAGEMENT

Chris Anderson, Silvertrac Software



Business owners in the security industry all have one major problem in common: hiring good employees. The traditional way of hiring through speed and convenience often leads to trouble. Resulting in uninspired employees who quit, get fired, or hurt your company's reputation.

Companies today separate hiring, training, and employee management. Then spend endless days, weeks, months — not to mention resources — trying to figure out why they can't find good officers.

This focus is understandable. Owners wear many hats, are strapped for time, and struggle to find balance in their day-to-day work. But what we've found over the past 10 years in the security industry is clear.

To see success, you need to look at your business as one well-rounded, well-oiled machine.

This may come as a shock, but it's important to have good hiring techniques. Good techniques lead to more motivated employees who commit to better training programs. They empower employees to go above and beyond their job roles. And how can you forget the time (and money) you save with a strong process in place.

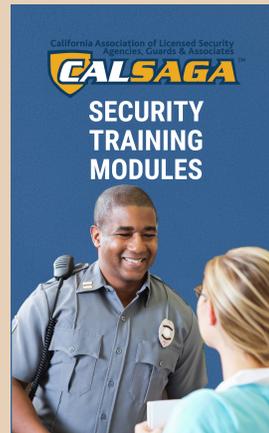
The result? A successful, well-oiled operation with happier clients, more bids, and more secure contracts.

Below we'll talk about past lessons we've learned, and how they've helped security companies like yours build long-term success.

**First, what's your current hiring process?** If you're like most small-to-midsize security companies, you constantly spin your wheels to hire officers. Time is never on your side. You need to fill posts fast and as painless as possible, because every other part of your business demands attention. So how can you put any thought into who you hire?

Remember, these officers represent you and your company. You need to trust and depend on them. That's why we promote one way to hire officers: Slow Down!

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