



BIS NEWSLETTER

San Diego Irvine Los Angeles Riverside Fresno Sacramento Stockton Bay Area
 Published by Baechler Investigative Services Winter, 2010
 1-800-726-9401 www.investigative.net

•On July 1, 2009 Baechler Investigative Services completed 21 years of providing Professional statewide Investigative Services.

•In 21 years BIS investigated approximately :

12,300 cases, of which 80% were related to corporate, insurance defense and fraud.

Located over 630 "missing persons".

Used over 10,500 original subrosa video tapes.

Sent investigators to several foreign countries.

Served over 2,000 Subpoenas or Process on "people who could not be located and/or served".

Investigated over 60 deaths including homicide.

Investigated over 2,200 AOE/COE's

Obtained over 3,000 witness statements.



Meet Your BIS Staff



This edition we would like to introduce Shana Hackett. Shana is assigned to the Litigation Support Section at our San Diego Office. She is known for her attention to detail, which is critical in her Litigation Support duties. Shana is a graduate of the State University Of New York with a B.A. in Psychology and earned a Juris Doctor degree from Thomas Jefferson School Of Law in San Diego. Shana enjoys reading, traveling and cooking. Shana always looks forward to her annual sailing trip in the Caribbean.

BIS goes paperless—Well almost

Good, bad, or indifferent the age of paperless is here. It is not possible to go completely paperless in the investigative field, due to evidence requirements, signed witness statements and other documentation where the original must be maintained, and stored for several years. There are many documents that do not require storage and simply take up space. It is not uncommon for our Litigation Support digital imaging section to copy records of this nature.

Written works such as our investigative reports, invoices and this newsletter can be sent via email. This not only saves resources and postage, but provides the paperwork immediately.

Effective January 1, 2009 BIS will be switching to email invoicing whenever possible. Our goal remains to provide complete

client satisfaction and if you prefer to have your invoice or reports mailed, we will be happy to do so. In the event there are any documents that require an original signature, or in cases of subrosa DVD's or videotape we will continue to use the postal service.

Please feel free to provide any input or suggestions that are helpful for your particular needs.

POINTS OF INTEREST

Almost 4 billion trees or 35% of the total trees cut around the world are used in paper industries on every continent, including tissue, writing and wrapping paper.

It has been estimated that one cord of this wood will yield 2700 copies of an average daily newspaper, or 942 hard cover books.

Former Corrections Employee Ordered To Pay Back \$244,000

A former corrections employee has been ordered to repay the California Public Employees Retirement System \$244,400 that she received while supposedly disabled, says Sacramento County District Attorney Jan Scully. June Ann Lucena is serving a seven-year prison sentence for the fraud. In 2007 a jury convicted her of a variety of insurance fraud related charges. Ms. Lucena had been employed as a correctional officer with the California Department of Corrections and Rehabilitation. According to evidence at trial, she was legitimately injured on the job. She subsequently began receiving

workers' compensation benefits and also filed for disability retirement with CalPERS. After she recovered from her injuries, she continued to claim she was severely restricted in her physical activities, says Ms. Scully. But surveillance videos showed her riding a jet ski and going down waterslides without any problems. The \$244,400 restitution is the amount of money she obtained from CalPERS, including interest. Judge Michael Sweet ordered the full amount requested by CalPERS and the defense did not contest the amount of money owed.

Mileage Rate Reduced

The mileage rate for medical and medical-legal travel expenses will be decreased to 50 cents per mile effective Jan. 1, 2010. This rate must be paid for travel on or after Jan. 1, 2010 regardless of the date of injury. Labor Code section 4600, in conjunction with Government Code section 19820 establishes the rate payable for mileage reimbursement for medical and medical-legal expenses and ties it to the Internal Revenue Service (IRS) published mileage reimbursement rate. The mileage rates for 2010 reflect slightly lower transportation costs compared to a year ago.

WORKERS' COMP FRAUD NEWS

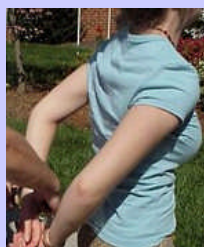


Photo is for illustration only and is not Maggie Gomez

A City Councilwoman pleaded not guilty to 12 counts of felony insurance and workers' compensation fraud.

Councilwoman Faces 12 Counts of Felony Insurance Fraud

A Daly City, Calif., Councilwoman pleaded not guilty to 12 counts of felony insurance and workers' compensation fraud.

The San Mateo County District Attorney's Office filed the charges against Daly City Councilwoman Maggie Gomez last month, which also include attempted perjury from statements the politician allegedly made during deposition, according to the San Mateo County Times.

According to a county prosecutor, Gomez is accused of filing a fake workers' compensation claim in August 2005, claiming she was injured during her work as a patient-relations manager at a city hospital. The district attorney's office alleges that Gomez lied to company representatives about her physical condition, the Times reported.

Following a tip that the claim may be fraudulent, the district attorney's office investigated Gomez, eventually witnessing her working out at a gym and walking long distances while shopping, activities her alleged injury would have prevented her

from performing, according to the prosecutor.

She remains free on \$100,000 bail and is due back in San Mateo County Superior Court Jan. 27.

California restaurateurs linked to \$5.8 M workers' comp. fraud case

An Orange County, Calif., couple who run a pair of Japanese-cuisine restaurants face 14 felony counts including workers' compensation insurance fraud and tax evasion.

Simon Sungheok Hong and his wife, Katie Kyanghee Shinn, both 42, of Coto De Caza, Calif., surrendered to authorities and were arraigned on the charges Nov. 16, according to the Riverside County District Attorney's Office.

The couple operated Maki Maki, California Japanese Cuisine with locations at the Irvine Spectrum and The River at Rancho Mirage.

An investigation found that the pair knowingly underreported payroll to their workers' compensation carrier, which was not

named, and the state's Employment Development Department, according to the district attorney's office. Hong and Shinn also knowingly underreported sales tax revenue to the California Board of Equalization, authorities said.

The total estimated loss to all the agencies is \$2.9 million. With penalties and interest assessed, that sum becomes \$5.8 million, according to the district attorney's office.

In October, Hong and Shinn abruptly closed both restaurants without notifying the landlords or paying employees. The couple also vacated their home.

District Attorney Increases Size OF Fraud Unit.

Maureen O'Connell, a Deputy District Attorney with the San Bernardino County District Attorney's office has doubled the staffing of the fraud unit because of the uptick in both employer and claimant workers' compensation fraud. "The theory is that in a difficult economic climate, crime tends to go up as does fraud," according to the District Attorney's Office.



Charged with insurance fraud were the owners of Maki Maki, a restaurant serving California Japanese Cuisine with locations in Irvine and Rancho Mirage



Proposed New Court Rules in San Diego become effective on January 1, 2010

San Diego Court Rule Changes

PROPOSED CHANGES TO THE SAN DIEGO SUPERIOR COURT RULES TO BECOME EFFECTIVE JANUARY 1, 2010

Proposed changes to the San Diego Superior Court local rules, with an effective date of January 1, 2010, have been approved by the Court in principle and submitted to the bar for comment in accordance with Rule 10.613 of the California Rules of Court.

Proposed rule changes have been posted to the Court's

viewing and downloading at: www.sdcourt.ca.gov - click on Rules of Court in the list on the left side. changes are also available for review at each branch of the San Diego County Law Library and business offices, and at the San Diego County Bar Association. Anyone desiring a hard copy by mail may make that request to the Rules Coordinator, Skye Resendes, at (858) 634-1621.

2009 Record Year for training

The SIU of Baechler Investigative Services conducted several anti-fraud and classes in 2009. The seminars were primarily three hours classes related to determining Claimant fraud, Medical provider fraud, Employer fraud, subrosa and ways for the Claims Representative to help assure a successful prosecution in fraud cases.

If your firm or agency needs to schedule training please call our toll free number. In most cases we can provide the training within 60 days.

The Subrosa Chain OF Evidence

A lot of articles and information has been published on the Chain Of Evidence and the importance it plays in SIU convictions, civil trials and WCAB hearings.

Recently, a Workers' Compensation Adjuster commented that he had ordered a lot of Subrosa over the years and the chain of evidence had never been challenged at a WCAB hearing. He went on to explain that once the Applicant Attorney saw the investigator's initials on the tape, and the investigator testified it was the original tape, the evidence was readily accepted.

The information relayed by the adjuster is common at WCAB hearings as the investigator is present to substantiate the evidence and when properly marked, stored and proper records are kept, it is hard to dispute the videotape evidence.

We are now in a new era of camcorders with SD flash cards, or hard drive memory and digital voice recorders instead of the 8mm video tape or audio tape. There is also a much stronger emphasis on criminal fraud prosecution than in the past, which means the video footage evidence may need to be admitted into criminal court. The rules of evidence are often closely scrutinized in criminal court, by the

Criminal Defense Attorney.

In many cases, if the video is not allowed into evidence, the criminal case is easier for the Defense Attorney to defend.

There is still some debate over using standard taped video versus digital for Subrosa, primarily for evidentiary admission reasons. At BIS we use both depending on the case, however as 8 mm tape and camcorders become harder to get, the change to straight digital will eventually occur out of pure necessity. This necessitates the need for proper evidence tracking and marking more so than in the past.

It is imperative that the investigator maintain an accurate and up to date log of the video he or she has obtained. The investigator should personally copy or oversee the copying of the video onto the DVD. In some cases, but not all, the original video should be preserved, if possible.

BIS Secure website for assignments protects privacy and allows faster service.

In 2009, Baechler Investigative started using a secure website bisinc.us for clients who prefer to request services online.

There are a number of forms on the site including fillable pdf forms and internet forms.

The internet forms are filled out online and the submit button is clicked. The form is immediately posted to the BIS server. A copy is instantly displayed after submitting the form to BIS, for your records. BIS will always provide a telephonic or email confirmation, in addition to the online receipt.

When using the fillable pdf forms it is important to print them before clearing the screen as they cannot be saved and all information you entered is erased upon leaving the secure site. The pdf forms can be faxed to us after they are printed.

The website bisinc.us can be accessed directly, or by clicking on the link at investigative.net our regular website.

We have also updated the links on investigative.net. You can now click on California Laws and Code which will take you to the state site where you can research every code in the California law books. This is a real time saver if you are doing detailed research, or need clarification on a particular code. WCAB and DOI have separate links on our links page.

2009 A BIS Year In Review

2009 is sure to go in the history books as one of the most unusual years in American history. In spite of all the gloomy news, 2009 was not completely a devastating year. The 'experts' predict that primarily because of American business know-how, business sales and activity will increase in 2010. Real estates sales are increasing, consumer confidence is up a little bit and overall 2010 looks like a good year.

BIS had challenges in 2009, like many small and large businesses. Being a service provider, we are successful when our clients are successful. 2009 witnessed a large increase related to fraudulent claims, with less client resources to fight it. Requests for our training seminars doubled in 2009 with an emphasis on fraud detection,

prosecution submittal of fraud cases and subrosa investigations.

We received and investigated over three hundred new cases including Subrosa, AOE/COE, traffic collision, SIU and other investigations. Approximately fifty additional closed cases were reopened. Our investigators were responsible in helping to save our clients an estimated 20 million dollars in fraudulent and inflated claims.

Our Subrosa investigators conducted somewhere in the neighborhood of 750 days of surveillance, using an estimated 800 video tapes or DVD's, including copies. Several of our Subrosa investigations were forwarded to the Department of Insurance for fraud prosecution. In

more than 150 cases we learned and confirmed that the Claimant was employed in some capacity while collecting either disability or Workers' Compensation benefits.

Our field interviewers interviewed an estimated 500 plus people including Claimants and witnesses. The interviews were conducted as a result of claims filed in virtually every aspect of the insurance industry, including AOE/COE, disability, liability, traffic collisions, stolen vehicles and other investigations.

At BIS, we are looking forward to the professional and personal successes of 2010.

Actual Excerpts Taken From the Courtroom



By Attorney: Did you ever stay all night with this man in New York?

By Witness: *I refuse to answer that question.*

By Attorney: Did you ever stay all night with this man in Chicago?

By Witness: *I refuse to answer that question.*

By Attorney: Did you ever stay all night with this man in Miami?

By Witness: *No.*

By Attorney: Doctor, did you say he was shot in the woods?

By Witness: *No, I said he was shot in the lumbar region.*

By Attorney: Sir, What is your IQ?

By Witness: Well, I can see pretty well, I think.

POINTS TO PONDER

Why does the sun lighten our hair, but darkens our skin?

Why is lemon juice made with artificial flavor, while dishwashing liquid is made with real lemons?

Who tastes dog food when it has a "new & improved" flavor? .

Why does someone believe you when you say there are four billion stars, but has to check when you say the paint is wet?

In 1906 Alabama, Mississippi, Iowa, and Tennessee were each more heavily populated than California.



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