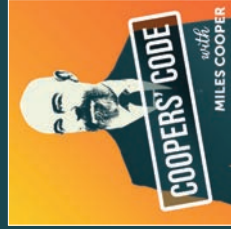


This is a newsletter prepared by lawyers to apprise folks about the law, cases, safety, and significant events. Coopers LLP has lawyers licensed in California, Oregon, and Washington State, and accepts referrals and co-counsel opportunities to better serve the plaintiff community.

COOPERS' CODE PODCAST

Legal legends, practice pointers, and (maybe) some jokes.



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COOPERS' COUNSEL

Stories, case studies, and practice pointers
from consumer law experts

ISSUE #3 | FALL 2024



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Coopers LLP helps seriously injured people and accepts referrals and co-counsel opportunities from lawyers. We excel in strategizing. Have a matter you'd like to brainstorm? **Call or text us at 866-912-2789.**

Coopers LLP has lawyers licensed in California, Oregon, and Washington State, and can affiliate with local counsel on matters where Coopers can make the difference.

Visit us at coopers.law.

Cover photo: Dawid Zawila, Unsplash.

A LETTER FROM THE COOPERS



Being present. Showing up. Living in the moment. Learning that is espoused, and appreciated, by many of us at Coopers. In this issue we examine certain duality within these concepts. We look at the importance of showing up and preparing for the site inspection. Google Earth, scene photos, and witness depositions are great, but they cannot compete with a visit to the scene itself. At the same time we evaluate the challenges and opportunities created by in-person, remote, and hybrid work environments. Can knowledge workers be present by not being physically present? Our experience has been yes.

Working with people gives us an opportunity to highlight a recent Coopers' Code podcast interview with employment lawyer Krista Mitzel. Her recommendation to surround oneself with folks who are fountains instead of drains was pithy enough we made it the episode title.

We dive into one of a multitude of cases we resolved recently. We help defense counsel and a carrier recognize their duty to pay commercial policy limits in a case with almost no economic damages. Finally, we highlight some of the teaching Coopers team members provided to the community. The consumer lawyer community is vibrant, giving, and dynamic as we all want to effect safety changes and get the best results for all clients.

We hope this issue finds you being present and living in the moment, whatever that means for you and yours.

Happy hunting,
M&M

Miles B. Cooper, Maryanne B. Cooper, and everyone at Coopers LLP

CASE SPOTLIGHT

COMMERCIAL TRUCK CRASH AND LOSS OF CONSORTIUM

Navigating challenges on the road to resolution

On a seemingly ordinary day in Sausalito, Jane Doe's life took a tragic turn. As she navigated a familiar intersection, a commercial truck, driven by a distracted driver, barreled into her car, causing a devastating T-bone collision. The impact was so forceful that Jane's vehicle rolled over, pinning her inside. Miraculously, Jane survived the crash, but the physical and emotional scars ran deep. The collision left her with a torn rotator cuff, a sore back, and a shattered sense of security.

Jane's world, once filled with joy and routine, was irrevocably altered. She developed severe anxiety, struggling with the fear of driving. Her once vibrant personality dimmed, replaced by a profound sense of isolation.

The impact of the accident extended beyond Jane herself. Her husband, grappling with the loss of his wife's former self, filed a claim for loss of consortium. The emotional toll on their relationship was immense.

As Jane's legal team, Coopers, delved into the case, they uncovered a pattern of negligence on the part of the truck driver's employer. Dashcam footage revealed the driver's reckless behavior, including speeding and

using their phone while behind the wheel. Despite the company's reputation, they had failed to provide their drivers with adequate training and equipment to prevent such incidents.

In the face of many challenges posed by the case, Coopers remained steadfast in their pursuit of justice for Jane. They meticulously documented her injuries, both physical and emotional, and argued that the company's negligence had directly contributed to her suffering. Through expert testimony and compelling storytelling, they highlighted the profound impact of the accident on Jane's life.

Ultimately, Jane's story resonated with the defendants, who agreed to settle the case for the policy limit. While the settlement could never fully compensate for the pain and loss she had endured, it provided some measure of closure and allowed her to begin the long process of healing.

Jane's case serves as a stark reminder of the devastating consequences of distracted driving. It also underscores the importance of holding corporations accountable for the actions of their employees.

Prosecuting attorneys: Bryan Vix, Maryanne Cooper, and Miles Cooper of Coopers LLP.



Bryan Vix, Maryanne Cooper, and Miles Cooper.

Have you been injured due to someone else's negligence? If you or a loved one has been involved in an accident resulting in serious injury or wrongful death, Coopers LLP is here to help. Contact our experienced personal injury attorneys today for a free consultation.

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PRACTICE POINTER

SITE-SPECIFIC INSPECTION PLAN

Preparing for and executing the site inspection

By Miles Cooper

The lawyer stood on a berm, a river on one side and green fields the other. A bald eagle lifted off from a nearby tree, putting some distance from the lawyer and site inspection team. A man had been killed near the field. The expert team was there to parse the failures that led to his electrocution.

Preparation

The site inspection is a significant information-gathering opportunity. The extent of information ranges from simple measurements and photos to much more invasive visits. Most inspections require working with opposing counsel to define inspection parameters. If those parameters cannot be agreed upon, then the court becomes involved (preferably before rather than after the inspection). It helps to think through the inspection's potentialities. If one has not already retained experts, now is the time. Next, ask the experts what they'd like to accomplish with an inspection. Do they need equipment depowered? Will they want to fly drones? How much time

will they need? No matter how much time they estimate, the inspection will usually take 50% longer. Lots of experts and more lawyers? Longer still. In the planning phase ask the experts if they think there are any other areas of expertise needed. The mechanical engineer may feel an electrical engineer is needed during a product inspection, for example.

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Once one has gathered all this information, set time aside for a visualization. Yes, just like high-level athletes. You're at the site. The inspection is proceeding. The experts are gathering data. How does it all come together? What's missing? What obstacles could come to pass? What did you fail to consider? What unexpected learning do you gain? Note these. Once all this is done draft a detailed inspection notice. Be overinclusive so there are no surprise onsite fights. If one cannot agree to the terms, conduct the motion practice before rather than after.

Optimist Murphy

Expect failures. Reconfirm the inspection at least once in the week before the inspection. Are folks flying in? Reduce transit issues by avoiding day-of flights. Have all mobile numbers programmed and provide one's own mobile to everyone so that if people have a hard time finding the location, there's a way to make contact. This includes opposing counsel or whomever is serving as entry agent if one is going through a locked gate or front door. If opposing counsel won't be present or will be junior without authority, establish a way to reach a decision maker for any issues. The justification for this is cost savings on all sides. A cratered inspection will undoubtedly result in all sides spending more money than is necessary. Consider packing one's own fail-safes. While experts are supposed to be self-sufficient, experts are human and can still make mistakes. A camera, extra SD cards, charging pack, chargers, and measuring tape can come in handy. On the camera front, consider taking one's own photos. There can be umpteen

Bald eagle along the river, unprofessionally taken by the author.



experts at an inspection, each taking hundreds of photos, and the one essential angle ends up being the one photo not taken. The fail-safe material complements the usual weather-dependent materials. Consider bringing a sunhat, sunblock, boots, layers, and water. Standing outside for hours is generally always hotter or colder than one expects. Those hours can be miserable without proper gear.

Scene it all before

No matter how experienced the team, there tends to be a transitory energy when one arrives onsite. Acknowledge this to oneself and help the team transition into the inspection with a team huddle. What is everyone going to do, how are they going to do it, and do they need any assistance from anyone? Shadow the experts whose information one most needs to learn. This is a liability and causation deep-learning opportunity. Don't waste it chatting with opposing counsel about their golf game. There's also the emotional component. Something awful happened here. Acknowledge it. Take time to simply be where the incident happened. If one cannot do it physically, then get as close as one safely can and visualize it. Use those five senses to gather what one needs to help the jury understand the event's brutality. Throughout the inspection remain curious and open to outcome. Ask dumb questions. Some of the best information, including issues the experts did not think of, come from maintaining that awareness and being unafraid of asking things that might seem silly or obvious.

As the event concludes, bring the expert team back into an ending huddle. Confirm that everyone got everything they needed. Are there any immediate to-dos from the inspection? More discovery? Specific individuals or designated agents that need to be noticed for deposition? Are there any ongoing safety risks that should be brought to opposing counsel's attention? This latter bit happens with surprising frequency.

Outro

Back to our lawyer standing along the river. After four rounds of, "We're wrapping up," followed by finding other notable items, the team finished its inspection. Lots learned, and lots to gather. The lawyer started the trek back to the office for the gathering.

A version of this article originally appeared in the September 2024 issue of Plaintiff magazine, where Miles has written his monthly Back Story column for Northern California-based consumer lawyers for over 13 years. Interested in Plaintiff and its coverage? Read more at plaintiffmagazine.com.

COOPERS' CODE

FOUNTAINS, NOT DRAINS WITH KRISTA MITZEL

A recent favorite from our podcast



*Employment attorney and HR expert
Krista Mitzel*

We recently sat down with Krista Mitzel, entrepreneur and business-savvy employment defense lawyer, to help us understand why we need to surround ourselves with folks who are fountains instead of drains.

As an employment lawyer and people expert, Krista and her team help businesses, executives, and human resource professionals craft proactive and preventative strategies to comply with and stay ahead of the challenging, fast-changing regulatory environment.

Krista is a sought-after "fixer" for a company's stickiest people situations — ones that others were often unable to solve. She also serves as an adjunct professor at Golden Gate University Law School and is a frequent media commentator in print, television, and radio.

During our 2-part discussion (all of which are available on your favorite podcast platforms, and in full video on YouTube), we covered a wide range of topics including:

- PR and crisis comms
- How Krista's firm was born
- Lawyer's jobs (and how the scope goes beyond the law)
- Balancing parenthood and career (not working less — working differently)
- Mental health
- Managers vs. mentors vs. leaders

... and many other subjects. We hope you enjoy this dynamic conversation as much as we did.



Use the QR code to go directly
to Krista Mitzel episode 1.

STAFF STORY

OFFICE SPACE

Collaboration, mentoring, and firm culture in various work environments

In a post-pandemic world, firms' work environments vary widely: from being back in the office, to fully remote, to something in between. The differing styles sometimes reflect stereotypical demographic attitudes toward knowledge work. Some more seasoned lawyers trend toward in-person work. Collaboration and mentoring didn't work without five senses interactions, they feel. Yet the most senior folks, the ones who could generate that collaborative benefit, when pushed, tend to admit they are not in the office as frequently as they expect the staff and junior lawyers to be. Less tenured lawyers tend to be much more comfortable working in a dispersed manner. So how does one collaborate, mentor, and maintain firm culture when not everyone comes to the office regularly anymore?

All in

The firms that rotated back to all in-person, all the time, benefit from regular human interaction. Maintaining firm culture, keeping the office doors open to collaborate, grabbing lunch, mentoring: these flow more easily with a traditional office. They cannot be put on autopilot, however. Team building requires conscious effort. Simultaneously, full-time in-person work creates talent and productivity risks. Deep work is best done without interruption, for one. Additionally, with so many hybrid options available, top talent may decide that firms with more flexibility better meet their needs. Fewer commutes mean more time. Flexible hours are attractive, particularly for those with children or other obligations. Is an in-person mandate worth losing talented parents?

A common concern? Unwatched workers aren't actually working (or aren't working as hard as they should be.) A little secret: shirker employees shirk just as much in the office as out. There are plenty of places to hide in knowledge work, where widget production per hour cannot be measured. For more on this, dig into Douglas McGregor's Theory X and Theory Y human work motivation and management. Theory X managers trend toward heightened supervision, external rewards, and penalties. They tend to attract Theory X employees, who require heightened supervision, rewards, and penalties, i.e., heavy managerial input, to perform. Contrast



Theory Y, which relies on job satisfaction and less direct supervision. Theory Y managers attract Theory Y workers. Theory Y teams trend happier and tend to outperform Theory X teams. And Theory Y teams don't require in-office supervision.

The question in-person firms should ask themselves: Is the in-office requirement truly a mentoring and collaborating tool or simply a Theory X environment where workers are distrusted? One metric for this: are senior members in the office five (or six, or seven) days a week, or do they espouse in-office work for the staff while rarely making it into the office themselves? If the latter, one should acknowledge one operates a Theory X environment. There's nothing wrong with that. Just know that the beatings there will continue until morale improves.

Remote control

Other firms gave up leases and in-office work entirely. They run dispersed workforces. The pros here are reduced cost, flexible work schedules, and more hours in the day without commute or aesthetic worries. Pajama bottoms all day! The cons are the slow evaporation of firm culture and the risk of work ethic slippage. The ethic shift can go either way — less work or working all the time. Neither shift is good for long-term knowledge worker success. Dispersed workforces can be successful at mentoring and collaboration. They can even maintain firm culture. But success requires very intentional efforts. What does that look like? Weekly short (15 minute)

HIGHLIGHTS FROM COOPERS 2024 SUMMER SESSION

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“From the roundtable gathering on arrival, lunch with the entire team, and the department-based escape room activity, they were all a great way to have impromptu discussions regarding ways to improve firm procedures, develop better communication styles, and learn a bit more about each other outside of #worklifebalance.” — Kay Sandoval



“I really like seeing presentations by various departments and getting a better understanding of their roles and processes. While of course this can be done online, there is nothing like the dynamic of in-person interactions and then being able to follow up one-on-one during breaks and social activities.” — Canice Flanagan



“I had just started working and it was wonderful to meet everyone in-person and get to know a bit more about them, their roles, and responsibilities! It was a well planned and executed company event. The escape room experience and the exceptionally delicious food at Frances was a wonderful treat!” — Preeti Zalavadia

”

all hands video huddles to celebrate wins, share news, and communicate. Regular one-on-ones with reports. Office hours for leaders. The willingness to spend on semi-annual in-person get-togethers to deepen working relationships. Developing these requires heightened efforts that can be challenging in busy litigation environments. They stretch the comfort zone for small business consumer lawyers, most lacking any formal corporate, business, or management training. In some ways the in-person environment can be an easier one to operate.

Hybrid

We now come to what some perceive as the Goldilocks solution. Some in-office, some remote. There are innumerable ways to establish this. Many today require a certain number of days in the office, with the remaining days being flexible. To the extent the format allows for fully remote participants one needs to make sure the system remains fundamentally fair. Allowing some to be fully remote while forbidding others can seem arbitrary and could lead to disgruntlement (or worse). Without effort the remote folks can be overlooked. Regular conscious efforts to incorporate remote members increase their likelihood for success and remaining a part of the team.

Outro

So, what path did Coopers choose? We want our people to be able to perform at their best. For some, that’s in person. For others it’s remote work. We’ve found that, with effort, we can continue to be a teaching law firm with a dispersed workforce. There are many ways to slay corporate dragons. The best one? Whatever works for you and your firm.

Selects from Coopers 2024 summer session.



COMMUNITY

GIVING BACK BY TEACHING

Bryan Vix: Wellness for New Lawyers with ACBA



On August 8th, Coopers attorney Bryan Vix spoke at an ACBA (Alameda County Bar Association) webinar along with defense attorney Emily Genge and mental health chiropractor Dr. Brendan Collins-Bridge. The topic? Wellness for new lawyers: How to avoid burnout, manage stress, and foster a healthy mindset.

From Bryan: “One insightful comment I received was how different law firms view mental health, including turning phone and email off to recharge. Older

firms expect that you are always available, and newer firms don’t as much. But for new lawyers, one thing they look for is managers who understand work/life balance, and they are willing to hop firms until they find the right fit – it’s an employee’s market right now.”

Robert Igleheart: Experts with SFTLA



Attorney Robert Igleheart joined June Bashant and Quinton Cutlip for an SFTLA (San Francisco Trial Lawyers Association) MCLE discussion on experts. The August 20th session covered retaining experts, preparing experts for deposition, and examining experts at trial.

Robert spoke highly of his involvement. “Even though I was a speaker, the presentations by SFTLA and its members are amazing resources to learn from

colleagues’ experiences and knowledge. There were multiple strategic nuggets discussed that will be implemented into future cases. These events are important for the community to learn from others’ experiences and avoid making the same mistakes.”

Miles Cooper: Berkeley Law Artificial Intelligence Institute, SFTLA tech talk, and presenting to the ADC



Maintaining the technical advantage Coopers has become known for requires deep learning. To that end, Miles returned to his old Berkeley stomping grounds this September, attending the three-day Berkeley Law AI Institute to better understand the AI landscape, how to leverage its advantages for consumers, and what pitfalls exist.

A few days later Miles joined forces with the Milanfar Law Firm’s Shahrad Milanfar* to present a detailed question-and-answer session on all things tech in litigation and trial for the San Francisco Trial Lawyers’ Association.

Finally, Miles was asked to present on implementing technology and artificial intelligence by the Association of Defense Counsel for its conference in San Francisco.

** Note: If you have not had a chance to check out Shahrad’s appearance on Coopers’ Code you’re missing out. Listen to it here:*



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