

CIVIL APPELLATE CASES FROM 2012 THAT YOU MUST KNOW

Attorney Spotlight



*Gene Stone
Partner*

Written By : Gene Stone

1. *Quarry v. Doe I (2012)* 53 Cal.4th 945 (Statute of Limitations)

Plaintiffs brought an action against the Roman Catholic Bishop of Oakland, alleging that defendant bore responsibility for sexual abuse committed during the 1970's by a priest then assigned to the Oakland diocese. Plaintiffs alleged that they discovered for the first time that the cause of their adult psychological injuries was the sexual abuse inflicted by this priest when they were children. At issue was whether their claims were within the limitations period established by Code of Ci-

vil Procedure section 340.1. The court held that the revival of any lapsed claims against the subcategory of defendants identified in the 2002 amendments was governed by subdivision (c) of section 340.1. The court also established that as of 1998, plaintiffs' claims necessarily had lapsed and plaintiffs' claims were revived by the 1999 amendments, but for one year only. Because they did not file their claims within that year, their claims were barred under the applicable statute of limitations.

2. *Colony Bancorp of Malibu, Inc. v. Patel (2012)* 204 Cal.App.4th 410 (2d Dist.Div.4) (Due Process)

Defendant and appellant Patel appealed a judgment in favor of

plaintiffs following a court trial. Patel contended that the trial court denied his right to due process by resuming trial after a lunch break without the presence of his defense counsel. The record reflected the trial court directed the parties to return for the 1:30 p.m. afternoon session. Trial resumed promptly at 1:30 p.m. with neither Patel nor defense counsel being present. Plaintiffs' counsel asked seven questions of a witness on direct examination. At the end of the seventh question, defense counsel arrived. Defense counsel made no objection and the proceedings continued. The Court of Appeal held that Code of Civil Procedure section 594 authorizes the trial court (provided proper notice has been given) to proceed with trial in the absence of a party.

Gene Stone is a partner with the law firm of Homan & Stone. His practice focuses on general liability and casualty defense in the areas of products liability, premises liability, professional malpractice, automobile, wrongful death, and employment law. He has tried dozens of cases involving auto, general liability issues, wrongful death and product liability. He has also successfully tried cases involving construction site accidents, product liability, automobile accidents, employment disputes, and general personal injury litigation.

\$3M Class action lawsuit against Crate & Barrel

A \$3 million settlement has been reached in a privacy violation class action lawsuit pending against Crate & Barrel. The lawsuit alleges the retailer asked customers to provide their ZIP codes when making credit card purchases, which is in direct violation of the Song-Beverly-Act.

While the precise settlement amount has not been made public, according to a recently filed settlement memorandum Crate & Barrel has agreed to provide about \$2.5 million in merchandise credits to Class Members and approximately \$490,000 in lawyers fees. The lawsuit was filed in 2011 over customer allegations that Crate & Barrel violated the Song-Beverly Credit Card

Act, which prohibits companies from asking for personal information during credit card transactions, including phone numbers and ZIP codes.

Crate & Barrel has denied any wrongdoing, stating it did not violate the law, and only asked for ZIP code information after credit card transactions had gone through, not during them. The retailer also claims it stopped the ZIP code policy in its California stores in February 2011.

The Crate & Barrel Song-Beverly-Act Class Action is entitled *Shughrou v. Euromarket Designs Inc.*, Case No. 11-cv-02325, U.S. District Court for the Northern District of California. Details on how to file a claim will be made public in the coming months.



Alpharetta Crate & Barrel, designed by Kathryn Quinn Architects

Upcoming Events

CSIA's 2013 Annual Meeting and Educational Conference at the Disneyland Hotel.

Annual Meeting and Educational Conference held on Thursday and Friday, March 14 and 15, 2013 at the Disneyland Hotel in Anaheim, CA.

If you have any questions, please contact Phil Millhollon at (925) 648-2002.