



California LITIGATION

CAN AI SUE
IN FEDERAL
COURT?

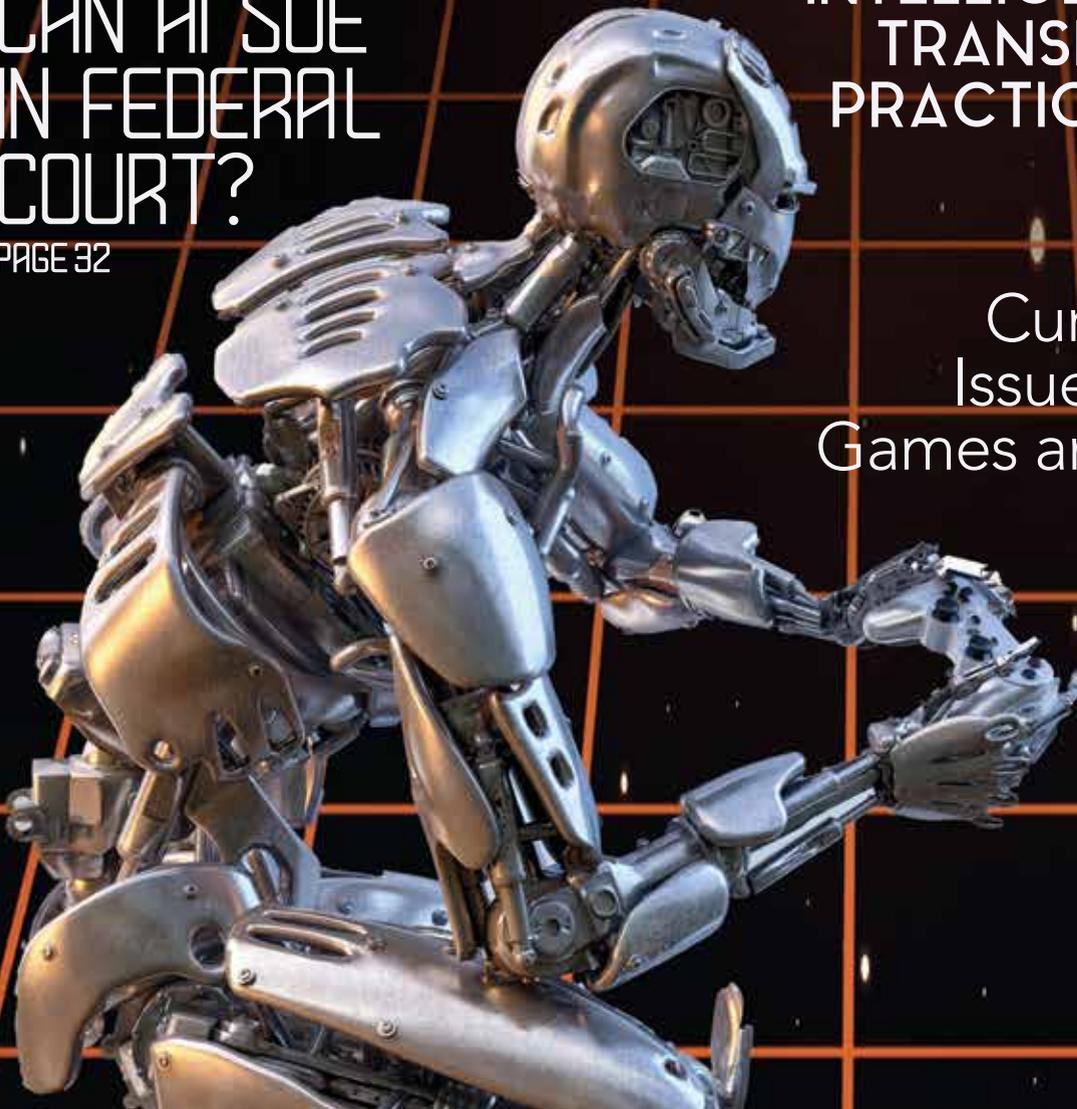
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EDITOR'S FOREWORD

The Future Is Here

By Benjamin G. Shatz



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It's 2020! I hope you enjoyed your commute to the office today via jetpack. Well, that's 20th Century futurism for you. Why bother physically moving your meat-body when you can simply teleport your consciousness via Wi-Fi? And why have an office at all, when technology allows us to work from anywhere and at any time? (Hooray?)

The heart of this issue presents a variety of articles focusing on artificial intelligence and technology. These concepts seem to be the talk of the day, and are even being addressed by forward-looking law schools. See *UC Irvine School of Law gets grant to expand AI curriculum* (Daily Journal, Jan. 24, 2020). Forget contracts and real property — law students apparently need an AI curriculum! The following articles might help the rest of us understand this.

Rob Toews explains how *Artificial Intelligence Will Transform the Practice of Law* and Abe Meltzer piles on by exploring *Can AI Sue in Federal Court?*

For a bit more of the here and now (and wow), Robert Klein describes a wonderful new CLA benefit you simply must check out: As a dues-paying CLA member you have bought yourself access to Fastcase, so why not use it? Fastcase is new legal research tool you owe it to yourself to see if it can

get the job done for you, allowing you to free-up funds you're currently spending on other electronic research tools.

There's simply no escaping the computer revolution, so why not give in? Perhaps you already use your leisure time to play video games? Yen-Shyang Tseng teaches us about legal issues in the video games and esports worlds. Yes, esportsing is a word, and indeed is big business (or "a thing" in modern parlance). For those who can't really play video games, watching others do so may be the next best thing. This was a natural evolution in the same way that physical sports are fun to watch too. (I guess.)

Sticking with our new-reality digital-world a "bit" more, Diana Iketani Iorlano provides a primer on the California Consumer Privacy Act, which deals with electronic stuff and a whole lot more. Putting aside robot-plaintiffs and other futuristic legal developments, the CCPA is here and now — and it's extremely likely to affect your practice.

Also in the realm of the extremely practical and important, Robert Kehr walks us through some key new ethics rules. And we've got an MCLE test to accompany that article too. (Providing low-cost MCLE is part of CLA's mission, and California Litigation journal endorses that worthy goal!)

On the federal side of things, Allison Westfahl Kong provides recap of recent important items in federal practice, reporting on an event presented by the L.A. County Bar Association. (CLA is not “afraid” of other bar organizations or publicizing their fine work and programs. To the contrary, CLA actively seeks to partner with local and other specialized bar groups. Why? To maximize the benefits reaching members of all such groups, of course. If you have ideas on this front, please let us know.)

Few skills are as important to lawyers as how to string together a sentence. As Steve Martin quipped, “Some people have a way with words, and other people ... um ... uh ... no ... have ... way.” Writing guru Howard Posner focuses his talents on teaching us how to unburden overworked sentences and get us into that first group.

Another nuts-and-bolts article is Jim Wagstaff’s piece on forum selection, or as he calls it: *Capture the Flag*.

Providing our legal-history blast from the past is Marc Alexander’s review of *The Second Founding* covering the Reconstruction Amendments.

And propelling us into the future (maybe) is David Majchrzak’s article about Embracing Evolution in the Delivery of Legal Services. This is a controversial topic that is not for the faint-hearted. I expect letters to the editor. Don’t disappoint me!

Lastly, do not miss Jon Eisenberg’s *Reflections on Becoming an Appellate Lawyer Hall of Famer*. This is a written version of his remarks at the 2019 Litigation and Appellate Summit that brought down the house and had us all in tears and laughter and in song. If you missed that event — indeed, even if you were there — you absolutely must read this. Thanks, Jon. You’re an inspiration to us all. Guess that’s why you’re in the Hall of Fame.

Signing off for now with a final note to clear your lenses to get that proverbial 2020 vision. And, to paraphrase a philosopher named Bueller, “Law moves pretty fast. If you don’t stop and read California Litigation once in a while, you could miss important developments.”

Letter to the Editor

Having just finished reading the article in California Litigation about under-publication of Court of Appeal opinions (Grimes & SeLegue, *Is It Time for a Major Shift in Thinking About Under-publication of Court of Appeal Opinions in California?* (2019) 32:3 Cal. Lit. 14), I write to express my enthusiastic agreement with it. I know in the Probate area it would be very useful to be able to cite to unpublished decisions. There are not many published decisions in this area and it is one where there are often complex issues for which analysis or guidance would be helpful. In turn, the Supreme Court then takes very few Probate cases — thereby further reducing the chances of obtaining needed law. In reviewing unpublished decisions myself to

keep up, I am often surprised why opinions would not have been published. It also seems so much effort is put into these decisions and then that they cannot be used is a poor use of all that work. There seems also a growing trend of lawyers referring to unpublished decisions — even when knowing they are not allowed to do so — because they often provide useful analysis. It is hard to tell counsel not to do so where there may be no other authority. I suspect most Probate judges and lawyers would support being able to cite to unpublished decisions.

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