

Goodwin Procter Grows With New Offices In L.A., San Diego

By Emma Dewald
Daily Journal Staff Writer

Boston-based Goodwin Procter is continuing its aggressive West Coast expansion by placing five lateral hires into a second Los Angeles office and a new San Diego shop.

The new Los Angeles outpost, once opened, will feature three real-estate partners. The firm is in negotiations for downtown space, according to Regina M. Pisa, chair and managing partner of the firm.

Dean C. Pappas and Dani L. Vogt from Mayer, Brown, Rowe & Maw will be joined by Edward C. Hagerott Jr. from Munger, Tolles & Olson. The trio will work out of the firm's Century City office until a deal is struck downtown, Pisa said.

Pisa expects the three partners will be joined by six more lateral hires — to be announced at a

future date.

Mayer Brown recently made headlines with its decision to dump 45 partners. But, Pisa said, that wasn't what prompted Pappas and Vogt to make the jump.

She said the Mayer Brown lawyers had shared clients with Goodwin Procter for many years.

"As a result of that relationship the opportunity just came up," she said.

Pappas, she said, introduced Hagerott to the firm. Pisa said no recruiter was involved in that deal.

Pappas said he wanted to join Goodwin in 2003, when he made the move from O'Melveny & Myers. But that was prior to Goodwin's having established a West Coast presence.

"I really do think this is the pre-eminent real-estate capital markets firm in the country," he said.

A spokesman for Mayer Brown declined to

comment on the departures of Pappas and Vogt.

Mark Helm, co-managing partner of Munger Tolles, said of Hagerott: "We're sorry to see Ed go, we're going to miss him. ... As far as our real-estate practice goes, we think it will continue to be strong and growing."

Goodwin's new San Diego office, to be located in La Jolla, will house partners Stephen C. Ferruolo and Ryan A. Murr, both from Heller Ehrman. Pisa said she expected that office to grow to 25 lawyers "in short order."

In San Diego, she said, the firm used a recruiter, whom she declined to identify.

Reports earlier this year suggested Ferruolo would be joining Heller Ehrman's new London office.

But according to Craig Andrews, head of Heller Ehrman's San Diego corporate and venture law group practice, Ferruolo announced two weeks

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Say No to Speech? Maybe, If It Promotes Drugs



Associated Press

Lawyer Kenneth Starr with former drug policy czar Barry McCaffrey, right, stands outside the Supreme Court Monday after arguing a high school principal was right to suspend a student.

9 — JUSTICES

Keyes, KNOX-0330.
Leaves Questions Open

"Thus, although the indictment recognizes the possibility that stock options may be employed in a legitimate fashion to promote a company's interests, it does not necessarily follow, as defendants contend, that the indictment also therefore recognizes their alleged backdating scheme as furthering legitimate corporate purposes," he adds.

Beyer described his own ruling as a "narrow" one, and it leaves open the question of whether Keyes and Jensen will be able to prove at trial that they did not profit from their alleged actions or that they acted in accordance with Brocade's

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Settlement in Bar Review Suit Receives Preliminary Approval

By Rebecca Beyer
Daily Journal Staff Writer

LOS ANGELES — A proposed \$36 million settlement between 290,000 bar review takers and the nation's leading bar review provider received preliminary approval from U.S. Central District Judge Manuel L. Real on Monday, despite the objections of one class representative.

The settlement stems from a pair of antitrust class actions filed against defendants BAR/BRI, owned by Thomson's West Publishing Corp., and Kaplan, the nation's largest test-preparation company. In February, attorneys announced West would pay \$36 million and Kaplan would pay \$13 million to settle the cases.

In the complaints, the class said BAR/BRI has monopolized the bar review market since the mid-1990s.

At that time, a bar review competitor, West Bar, was formed by West Publishing Corp., a subsidiary of Thomson. In 1996, Thomson acquired West Publishing and tried to sell West Bar to Kaplan.

The class maintains BAR/BRI paid Kaplan at least \$500,000 a year to stay out of the bar review business. In return, BAR/BRI agreed to keep out of the LSAT test preparation market.

In 2001, Thomson and West Publishing purchased BAR/BRI, thereby eliminating any competition from the market, according to class counsel.

Class member Loredana Nesci, a private practitioner from Studio City, objected to the settlement, saying the \$49 million was inadequate.

If divided evenly, it represents \$125 per class member. The class was See Page 9 — SETTLEMENT

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seeking \$170 million in damages.

As the settlement stands, class members will be compensated based on a percentage of what they paid for the bar review course, which varies from state to state. In 2006, the price for a general applicant in California was \$3,150.

Nesci added that the class had been under the impression that the settlement would include some form of injunctive relief, specifically the breakup of BAR/BRI.

"Attorneys do move, Your Honor," Nesci said. "They will re-enter the marketplace. They have to keep taking bars."

Nesci told the judge she believed the class needed be reassured by lead class counsel Eliot Disner of McGuireWoods in Los Angeles that he supported the settlement.

She said Disner's signed declaration of approval of the settlement came as part of a "team effort."

"We are very afraid Disner is not behind this settlement," Nesci said. "We are very concerned there is a difference of opinion in the firm."

Before the announcement of the settlement, Disner had maintained the class could defeat BAR/BRI in trial on the claim of the illegal merger between BAR/BRI and West. If the class won on that claim, he said, it would be awarded triple damages, or \$400 million.

Nesci said that, because of the merger of Van Etten Suzumoto & Becket, Disner's former firm, with McGuireWoods in April 2006, Disner has been largely absent from the negotiations and that class members' calls to him have gone unanswered.

Sidney Kanazawa of McGuireWoods in Los Angeles said Disner remained involved in the case throughout. As settlement talks began, Kanazawa said, Disner was assigned to prepare the case for trial and Kanazawa to negotiate a settlement.

When Real asked Disner whether he had anything he would like to add, Disner was evasive, saying he

would speak if the court wanted him to but that his firm had stated its position.

Kanazawa said the firm had made a decision to present the settlement to the class as "fair, reasonable and adequate."

"There are a lot of folks, and you can include me, who would love to have the freedom to go try a case," he said. "Our desires individually of what we might want to do without consequence are different than the judgment we have to exercise as class counsel."

Kanazawa said that to "break up a public company" like BAR/BRI is not "an easy task."

"We have to take that into account," he said, "when we make a determination whether a settlement that will get something for a lot of people right now is better than taking a chance on trial to break up the company."

On Monday, McGuireWoods also made a motion to withdraw as class counsel for three of the class representatives, including Nesci, because, Kanazawa said, "it's very hard to speak for those that disagree with the settlement as well as for those who agree with the settlement."

Real denied the firm's motion to withdraw.

After the hearing, when asked whether he supported the settlement, Disner declined to be specific.

"This was a preliminary approval with a very low threshold of merit for the settlement," Disner said. "If I have anything more to say, I will be saying it at the final approval."

The settlement's final approval is scheduled for June.

An attorney for Kaplan could not be reached for comment.

West Publishing's attorney Steven F. Molo, of Shearman & Sterling in New York, told the judge that the defense believes the settlement was fair and adequate.

Citing West Publishing's policy, Molo had no comment after the hearing.

High Court Upholds

By Brent Kendall
Daily Journal Staff Writer

WASHINGTON — In a loss for the Bush administration, the Supreme Court on Monday let stand a 9th U.S. Circuit Court of Appeals ruling that blocked the U.S. Forest Service from allowing commercial timber harvesting in a Northern California forest struck by two major fires in 2004.

After two October 2004 fires burned 19,000 acres of the Eldorado National Forest, the U.S. Department of Agriculture Forest Service proposed two restoration projects that would have allowed logging on 8,500 acres affected by the fires. *U.S. Forest Service v. Earth Island Institute*, 06-797 (U.S.

S.Ct. March 19, 2006

The Forest Service said trees should be replanted if they still had economic value. The agency added that the projects would reduce safety hazards by removing hazardous trees.

The environment group said the agency had failed to adequately protect the forest on the California side of the Sierra Nevada. The group said the Forest Service had overestimated the number of trees harmed by the fires and that commercial harvest would be more than necessary.

Justices May Let Schools

Continued from page 1

ner incident, said the case was not about drugs at all.

"This is a case about free speech," said Douglas Mertz, a Juneau, Alaska, attorney. The banner, Mertz said, did nothing to disrupt the school. Administrators, he said, just didn't like its message.

At the end of a lively hour of oral argument, the court appeared more sympathetic to the school than the student, though the court may have a difficult time crafting a ruling in the school's favor.

That's because a majority of the justices clearly were bothered by Starr's sweeping argument that schools could suppress any student speech that undermined or disrupted a school's educational mission.

"I find that a very, very disturbing argument, because schools have ... defined their educational mission so broadly that they can suppress all sorts of political speech and speech expressing fundamental values of the students," Justice Samuel A. Alito Jr. said.

The Bush administration is supporting the high school principal in the case, but the arguments made by Starr and the White House have frightened free-speech advocates on both sides of the political spectrum, producing a highly unusual alliance of groups



Luke Remchuk of Bethesda, Md., protest

with the authority of a school's work and discipline. In later years, the school administrator's light touch to prohibit student speech in sexually explicit or engaging in sexually explicit speech.

The current dispute began weeks before the 2004 Olympics, when stud-

Special Prosecutor on Lam's Firing Is Possible, Experts Say