

Patti Perez, President and Founder of Puente Consulting and a Commissioner with the Fair Employment and Housing Commission, focuses her practice on conflict resolution (conducting neutral investigations and performing pre- and post-litigation mediations) and presenting trainings nationwide. She can be reached at perez@puenteconsulting.com or at (619) 876-4600.



Message From the Chair

By Patti Perez

LIE TO ME

“Every truth has two sides. It is well to look at both sides before we commit ourselves to either side.”

-Aesop

A few years ago, I took my son to watch “Hoodwinked,” an animated film based on the Little Red Riding Hood children’s story. The movie trailer says, “if you think you know the story, think again,” and shows you that things are not always as they appear. After the movie, my son and I talked about some of the lessons we’d learned—clichés like “don’t judge a book by its cover.” When I thought about those lessons later, it dawned on me that the movie went beyond teaching my son a few important life lessons; I realized that the story paralleled what I see at work every day.

When asked (as I often am) whether people lie to me when I’m conducting an investigation or mediating a matter, my standard response is, “it’s rare that people actually lie to me . . . people tell me *their* version of the truth.” Don’t get me wrong—every once in a while, I encounter someone who just flat-out lies. But more often than not, the employee or supervisor is simply retelling *her* story from *her* vantage point. As a result of my work, this idea of “truth” has become one on which I focus quite a bit. As a neutral, it’s often my job to not only find “the truth” but also to convince others of this truth.

Those who don’t know me might think me naïve in believing that this concept of truth is one we should consider as employment attorneys. Believe me, I’m a realist. I understand that we have an obligation to seek justice and that most of you represent a specific interest and you need to ardently represent that interest. I do believe, however, that we would all be well-served by understanding that even within our adversarial system, there is room for looking at the validity of the

other side’s “truth.” It would serve all our clients’ interests.

The issues of truth and perception are amazingly clear within the context of employment law. An employee’s work and career are often tied to his or her self-image. Nothing is worse for an employee than feeling he or she has been treated unfairly. Nothing is worse for a manager than being called unfair or biased (or worse yet, racist or sexist). We see how these perceptions play out when we analyze the types of complaints employees file.

Though we have not yet received statistics from the DFEH for 2009 regarding case filings, we now have a wealth of information regarding patterns over the last few decades that illustrate this point through the research done in the UCLA-RAND study (summarized in the September 2009 issue of the *Law Review*). The details may differ, depending on the stated protected category, but there is no doubt that there has been a drastic increase in complaints filed over the last few decades. Nowhere is this more obvious than in the area of disability discrimination. For years, this has been the protected category most often cited by complainants who go to the DFEH to file complaints. In fact, preliminary data from the UCLA-RAND study shows that disability discrimination complaints in employment increased by over 75% between 1997 and 2008.

Our Section will continue to collaborate with the DFEH and others to provide you with information that will help you in your practice, and this year we’ll do so in a number of interesting ways. As a side note (and with more details to come soon), we have had to make some changes to our educational offerings this year. The Disneyland hotel, though part of the “happiest place on earth,” is experiencing some unhappiness at the moment. With a labor dispute pending, we unfortunately

had to abandon our plans to have our Annual Meeting there in March (not only is holding an event at a hotel with an ongoing labor dispute not allowed under State Bar rules, given the make-up of our Section, it is imperative that our Section not hold events at a location where there is an active labor dispute). The good news is that we plan to present the wonderful program we already had organized in March of 2011 instead (hopefully at the Disneyland hotel, assuming all disputes are resolved by then).

The other good news is that we will have a “mini” Annual Meeting in 2010. Details will be announced very soon, but what we know so far is that it will take place in Northern California and that it will be a one-day conference. Given the importance of truth and perception, combined with what we now know about why employees most often feel unfairly treated, we are planning a meeting that will incorporate all of these concepts. We will begin our 2010 “mini” Annual Meeting in the way we always do, with a presentation of the latest developments in employment law. This presentation will be followed by a series of panels that will follow a disability discrimination fact-pattern. The panels will include presentations on the entire gamut of pre-trial, trial and post-trial techniques that all employment attorneys must master to serve their clients’ interests most effectively.

I hope you’ll join us this year at our Annual Meeting, our Public Sector Conference on May 7th in Sacramento, or at one of our many live programs that will be offered throughout the state. I also hope you’ll join me in the pursuit of truth. ⁴²