

# **The Real Housewives of Granite Bay: The Many Facets of Parallel Litigation**

**Presented by:**

**Team 4 – Anthony M. Kennedy Inn of Court**

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**MCLE Credit: 1.25 Hours (Legal Ethics)**

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## I. OVERVIEW

This presentation dramatizes how litigation can involve issues crossing multiple legal specialties. The focus is on areas of crossover between criminal and civil law.

Commonly, practitioners in criminal law and civil law may be unfamiliar with the pitfalls and potential trouble spots that may arise from too narrow of a focus on only the issues in their field of practice. The play also explores the importance of maintaining high ethical standards regardless of the field of practice. Throughout the play, the theme of competence echoes in each scene and act.

## II. KEY ISSUES AND SCENES

### ACT I – “The Ring, Lip Filler, Fraud, and a Lawsuit”

- **Summary:** Real Housewife of Granite Bay, Brandy Souffle, engages in insurance fraud as a shortcut to fund her lifestyle while simultaneously suing her med spa provider, Adrienne Aloof, for defamation. When Adrienne’s attorney, John Jaywalker decides to leverage the potential criminal insurance fraud to resolve the civil defamation case, Brandy and her inexperienced attorney, Avi Naughty, are faced with a dangerous choice of protecting her from a potential criminal investigation or dealing with a negative inference in the civil lawsuit.
- **Key Issues:** The question of the legality and ethics of using a potential criminal prosecution as leverage in a civil case is raised as well as issues of competence in spotting the issues, being prepared for deposition, and knowing how to handle potential crossover issues that arise. Additionally, the use of artificial intelligence in legal work is raised.

### ACT II – “The Crossroads of Competence and Candor”

- **Summary:** The potential trouble deepens as John Jaywalker doubles down on his strategy of using the fraud referral as leverage. Avi Naughty’s inexperience, while mitigated by his consultation with a friend who is a criminal law practitioner, still endangers his client in ways he is struggling to understand. A mediation goes awry, and Brandy Souffle and her husband, Michael Souffle, end up as defendants in federal criminal court where issues relating to funding for court appointed attorneys arise.
- **Key Issues:** This scene further develops the danger of not recognizing criminal implications in a civil case and demonstrates the temptation to leverage

potential criminal conduct as a way to strong arm a resolution. Additionally, the dramatic conclusion of the case shows how a lack of competence can result in unforeseen, yet severe consequences for clients whose attorneys are not adequately prepared to see around corners to what might lie ahead. The final act also presents questions of candor to the court and issues of professional responsibility in representing indigent clients.

### III. RULES, AUTHORITIES, AND RESOURCES

#### 1. Constitution of the United States

- a. **U.S. Const. amend. V – Right Against Self-incrimination:** “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; **nor shall be compelled in any criminal case to be a witness against himself**, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. (emphasis added)
- b. **U.S. Const. amend. VI: - Assistance of Counsel:** “**In all criminal prosecutions, the accused shall enjoy the right** to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and **to have the Assistance of Counsel for his defence [sic].**”

#### 2. California Rules of Professional Conduct

- a. **Cal. Rules Prof. Conduct, Rule 3.10(a) – Threatening Criminal, Administrative, or Disciplinary Charges:** “A lawyer shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute.”
- b. **Cal. Rules Prof. Conduct, Rule 1.1 – Competence:**  
“(a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.

(b) For purposes of this rule, “competence” in any legal service shall mean to apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably\* necessary for the performance of such service.

(c) If a lawyer does not have sufficient learning and skill when the legal services are undertaken, the lawyer nonetheless may provide competent representation by (i) associating with or, where appropriate, professionally consulting another lawyer whom the lawyer reasonably believes\* to be competent, (ii) acquiring sufficient learning and skill before performance is required, or (iii) referring the matter to another lawyer whom the lawyer reasonably believes\* to be competent.

(d) In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required if referral to, or association or consultation with, another lawyer would be impractical. Assistance in an emergency must be limited to that reasonably\* necessary in the circumstances.”

**c. Cal. Rules Prof. Conduct, Rule 1.3 – Diligence:**

“(a) A lawyer shall not intentionally, repeatedly, recklessly or with gross negligence fail to act with reasonable diligence in representing a client.

(b) For purposes of this rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or unduly delay a legal matter entrusted to the lawyer.”

**3. Statutory Provisions**

- a. **Cal. Evid. Code § 913:** “If in the instant proceeding or on a prior occasion a privilege is or was exercised not to testify with respect to any matter, or to refuse to disclose or to prevent another from disclosing any matter, neither the presiding officer nor counsel may comment thereon, no presumption shall arise because of the exercise of the privilege, and the trier of fact may not draw any inference therefrom. . .”
- b. **Cal. Fam. Code § 5700.316:** “If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.”

- c. *Baxter v. Palmigiano*, 425 U.S. 308 (1976): Supreme Court authorizes adverse inference in federal civil proceedings from invocation of the Fifth Amendment.
- d. **Cal. Pen. Code § 518(a)**: “Extortion is the obtaining of property or other consideration from another, with his or her consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.”
- e. **Cal. Pen. Code § 519**: “Fear, such as will constitute extortion, may be induced by a threat of any of the following:
  1. To do an unlawful injury to the person or property of the individual threatened or of a third person.
  2. To accuse the individual threatened, or a relative of his or her, or a member of his or her family, of a crime.
  3. To expose, or to impute to him, her, or them a deformity, disgrace, or crime.
  4. To expose a secret affecting him, her, or them.
  5. To report his, her, or their immigration status or suspected immigration status.”
- f. **Criminal Justice Act: Chapter 2, §230**: Compensation and Expenses of Appointed Counsel (18 U.S.C. § 3006A(d))  
<https://www.uscourts.gov/administration-policies/judiciary-policies/guidelines-administering-cja-and-related-statutes-6>

#### 4. Case Law

- a. ***Janik v. Rudy, Exelrod & Zieff* (2004) 119 Cal.App.4th 930, 936-937**:  
 “Generally, the attorney-client relationship imposes upon the lawyer the obligation to represent his client with “ ‘such skill, prudence, and diligence as lawyers of ordinary skill and capacity commonly possess and exercise in the performance of the tasks which they undertake.’ ” (*Kirsch v. Duryea* (1978) 21 Cal.3d 303, 308.) “It is well settled in California that an attorney is subject to liability for malpractice when his or her negligent investigation, advice, or conduct of the client's affairs results in loss of a meritorious claim. [Citation.] When rendering advice to a client, ‘[A]n attorney assumes an obligation to his client to undertake reasonable research in an effort to ascertain relevant legal principles and to make an informed decision as to a course of conduct based upon an intelligent assessment of the problem.’ [Citation.] This includes a duty to ‘discover those additional rules of law which, although not commonly known, may readily be found by standard research techniques.’ (*Stanley v. Richmond* (1995) 35 Cal.App.4th 1070, 1092.)”

- b. ***People v. Alvarez (2025) 114 Cal.App.5th 1115***: An attorney filed an opposition to a motion to dismiss an appeal of criminal conviction on behalf of his client that included a quotation attributed to a case, but the purported quote did not exist. The attorney clarified that it was not a direct quotation because he modified it to incorporate broader principles. The opposition also included a citation to a nonexistent case. The attorney additionally cited two cases that did not address the issues for which they were cited. The Court of Appeal for the Fourth District, Division One, issued an order to show cause why sanctions, including monetary sanctions, should not be imposed for violations of Bus. & Prof. Code, § 6068, subd. (d); Rules Prof. Conduct, rule 3.3; and Cal. Rules of Court, rule 8.1115(a).

The Court of Appeal imposed a sanction in the amount of \$1,500 to be paid by the attorney individually and directed the clerk of the court to notify the State Bar of the sanctions against the attorney. The court held that when criminal defense attorneys fail to comply with their ethical obligations, their conduct undermines the integrity of the judicial system. It also damages their credibility and potentially impugns the validity of the arguments they make on behalf of their clients, calling into question their competency and ability to ensure defendants are provided a meaningful opportunity to be heard. Thus, criminal defense attorneys must make every effort to confirm that the legal citations they supply exist and accurately reflect the law for which they are cited. The court noted that sanctions should deter future improper behavior.

## 5. Other Resources

- a. Eastern District Historical Society, *A History of the Eastern District of California: Federal Defenders* (January 2026) <https://courthistory.info/history-of-the-eastern-district/>
- b. Memorandum re: Appointment of Counsel for Indigent Defendants During Lapse of CJA Funding (October 27, 2025) [https://s3-us-west-2.amazonaws.com/dailyjournal-prod/attachments/pdfs/000/005/237/original/USAO\\_CJA\\_Appointment\\_Memo\\_v.2.pdf?1762475386](https://s3-us-west-2.amazonaws.com/dailyjournal-prod/attachments/pdfs/000/005/237/original/USAO_CJA_Appointment_Memo_v.2.pdf?1762475386)
- c. Raymond, Nate (2025, November 13). *Judge Tosses Criminal Case Over Funding Shortfall Tied to US Government Shutdown*. Reuters. <https://www.reuters.com/legal/government/judge-tosses-criminal-case-over-funding-shortfall-tied-us-government-shutdown-2025-11-13/>