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LEGAL BYTE

Another byte of law for your interest: Attorney Vacations & the Court's Calendar.

Case: *Tenderloin Housing Clinic, Inc. v. Sparks* (1992) 8 Cal.App.4th 299.

You finally made some time for a vacation. You prepaid for a trip to Australia to visit a Vegemite factory, your life's dream. You do everything right: you notify the court and you notify opposing counsel that you will be unavailable for 2 weeks.

You guessed it, opposing counsel sets the deposition of the crucial witness during your vacation knowing that you will be unavailable. You hire an attorney to specially appear for you to ask the court to quash the deposition but the judge refuses. You beg counsel to move the deposition just a few days and, of course, the attorney refuses. You are forced to cut your vacation short, purchase a one way ticket from Australia, and, when you arrive home, opposing counsel informs you the deposition has been cancelled. You decide not to give him his gift box of Vegemite.

You file a motion for sanctions which is granted. Opposing counsel appeals the sanctions arguing that he had a legal right to set the deposition and did nothing wrong. What can the Court of Appeal do now?

In the case above, the court of appeal affirmed the trial court's imposition of sanctions. The court stated "An attorney has an obligation not only to protect his client's interests but also to respect the legitimate interests of fellow members of the bar, the judiciary, and the administration of justice." *Id.* at 306.

The moral? Be nice.

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Appeals; civil trials; family law; assist with trial preparation: 2nd chair, motions, research, witnesses, all aspects of trials; local counsel (California); referral fees paid.

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