DAILY APPELLATE REPORT

CIVIL LAW

Civil Rights: Statistical evidence showing that minorities comprise large percentage of bus ridership is insufficient to prove that expansive rail program will disparately impact minorities. Darensburg v. Metropolitan Transportation Commission, U.S.C.A. 9th, DAR p. 2558

Constitutional Law: Use of rock band's exact likeness in videogame is not 'transformative' use subject to First Amendment protection. No Doubt v. Activision Publishing Inc., C.A. 2nd/4, DAR p. 2543

Immigration: Visa holder is inadmissible for being likely to engage in terrorist activity based on jihadist materials on computer, connections, and background. Abufayad v. Holder, U.S.C.A. 9th, DAR p. 2572

Insurance: Insured's complete failure to comply with pilot warranty requirement precludes any recovery for jet's accident under aviation insurance policy. *Trishan Air Inc. v. Federal Insurance Co.*, U.S.C.A. 9th, DAR p. 2565

intellectual Property: Court properly determines trademark is suggestive on remand, after finding mark did not immediately convey information about nature of services offered by trademark holder. Lahoti v. Vericheck Inc., U.S.C.A. 9th, DAR p. 2578

Taxation: Substantial compliance doctrine does not apply to applicant's failure to enter extension period when applying for filing extension for federal estate tax return. Baccei v. United States, U.S.C.A. 9th, DAR p. 2553

CRIMINAL LAW

Juveniles: Offense of making challenge to fight in public place is specific intent offense. Cesar V., a Minor, C.A. 6th, DAR p. 2537

Summaries and full texts appear in insert

BRIEFLY

I state court of appeal sided ith employees in a meal-andest-break case against United 'arcel Service on Wednesday, aying that employers must pay mployees who miss legally equired breaks two hours worth of additional pay, not one. The ase is UPS, Inc. v. Superior court of Los Angeles County, lecided by the 2nd District court of Appeal. The state abor Code requires employers o pay employees who miss reaks one additional hour of lay for each workday that the reak wasn't provided. The ourt in UPS took that a step urther, saying employees are intitled to two payments per lay — one for a missed meal reak, and one for a missed est break.

rederal lawmakers announced in Wednesday a committee limed at promoting and



S. Todd Rogers / Daily Journal

LawPivot co-founders Nitin Gupta, left, and Jay Mandal at their new Google campus offices in Palo Alto.

Startup Provides Clients With What They Want Most: Free Legal Advice

The Challenge For LawPivot is to Turn Companies Into Paying Clients for the Lawyers Supplying Answers

By Sara Randazzo

Daily Journal Staff Writer

Jay Mandal and Nitin Gupta know all of the traditional methods to drum up legal business. The trouble is, they don't find them particularly effective.

So a bit more than a year ago, the two lawyers quit their day jobs — Mandal as mergers and acquisitions counsel at Apple Inc. and Gupta as a litigator at what was then Townsend and Townsend and Crew LLP — to launch a website aimed at bringing clients to attorneys' doors without the business development lunch.

The site, LawPivot.com, is geared toward California startup companies seeking legal advice on the cheap while working to get off the ground. After an approval process to assure each client is a legitimate operation, the companies can pose questions to participating attorneys and receive confidential answers within a few days.

Since going live last July, LawPivot has been completely free of charge, both for the companies asking questions and for the lawyers answering them. Mandal said LawPivot has plans to eventually charge a nominal fee for those getting legal advice and fee-based premium features for the lawyers.

LawPivot isn't the first online legal forum — sites like Legal OnRamp, launched in 2007, enable in-house lawyers and outside counsel to collaborate and share ideas — but LawPivot appears to be one of the first to pair lawyers with people seeking advice.

Mandal and Gupta hope it creates another avenue for attorneys to develop business, a skill that's become increasingly necessary to advancement in law firms.

"We're trying to empower lawyers to take control of their careers and find a way to survive in a challenging legal environment," said

Mandal, who worked at Pillsbury Winthrop Shaw Pittman LLP and the now-defunct Brobeck, Phleger & Harrison LLP before joining Apple

The company won't disclose the exact number of participants, but at least 140 attorneys have public profiles on the site. Those involved range from sole practitioners to associates and partners at major law firms, such as Kirkland & Ellis LLP, Pillsbury, Reed Smith LLP and Wilson Sonsini Goodrich & Pagett PC

Michael Powlen, a former Morrison & Foerster LLP partner now with Virtual Law Partners, said he has answered a few dozen questions so far, mostly related to his tax specialty. It hasn't led to any paying work, he said, but since answering each question takes very little time, he sees no reason to stop logging on.

The site seems like a good way for lawyers to 'get past the big sticking point of where to find a hungry population.'

— David H. Freeman

Jeff Aronson, a partner with DLA Piper in San Francisco, has had a similar experience. "I can see where in theory it could lead to business," Aronson said, though it hasn't yet reached that level for him. "It's a good service, and I don't see it as a huge time commitment. On my end, I'm no worse off."

A 2,500-character limit per response means that answers can only go skin deep, and more complex questions will usually require more than LawPivot's platform can provide.

"From my observations, the format is suited as a way to have an introductory interaction between potential consumers of legal services and providers of legal services, but is not a means of delivery for substantive legal advice beyond a rudimentary level," Powlen said.

Sometimes Powlen will reply to questions by saying the legal issue sounds too big to address without a meeting. "There's no way you can advise someone on issuing a preferred class to offshore investors in 400 words without seeing the documents," Powlen said.

Mandal insists companies have followed up with lawyers for paying work, and testimonials on the site by companies like Tweetswirl, a Twitter compilation service, back up that claim.

He said the company has thought carefully about how to avoid potential ethical issues, like an attorney helping a person who has a conflict of interest with one of the attorney's existing clients, and protecting attorney-client privilege. He said it has put safeguards in place to make attorneys feel as comfortable as possible using the site, and that it even has a provisional patent in place on its system to screen for potential conflicts.

As it helps get other startups off to a solid start, LawPivot's founders hope to create their own success. So far, the company has caught the attention of venture capitalists, including former Apple Inc. executive David Austin, and raised \$600,000. In January, Google Ventures pledged fiscal support, though the company won't disclose the exact amount, and gave LawPivot access to office space Google owns in Palo Alto.

The six-person team relocated in January, a welcome change from working out of Mandal's Fremont home since conceiving the idea in 2009.

David H. Freeman, who runs a consultancy in Laguna Beach focused on business development, and works on an adjunct basis for Altman Weil, said the site seems like a good way for lawyers to "get past the big sticking point of where to find a hungry population." He said it also provides a structure for what he finds to be one of the most successful business development techniques — a prospective client sampling an attorney's services.

Mandal, 37, and Gupta, 30, speak about LawPivot with a level of enthusiasm common among Silicon Valley startups. As Mandal puts it, "Any two- or three-person team could be the next Facebook."

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State Justic Will Weigh In on Prop. Standing

By Laura Ernde
Daily Journal Staff Writer

The state Supreme Court agreed day to weigh in on whether propo Proposition 8 have legal standing t the same-sex marriage ban in feder:

The court's opinion, likely to comend of the year, will have implication state's initiative process, as well as marriage in California. Perry v. Schuger (Hollingsworth), \$189476

The question came to the jus January from the 9th U.S. Circuit Appeals, which got stuck on the sta sue while reviewing now-retired U.S. Judge Vaughn Walker's August ru Prop. 8 violated the U.S. Constitutio

Prop. 8 proponents filed the appe absence of then-Gov. Arnold Schw ger and then-Attorney General Jerry who chose not to defend the measur

Chief Justice Tani Cantil-Sakauye an expedited briefing schedule the for oral argument as soon as Septen a decision by early December. Frien court briefs are due by May 2.

Proponents of Prop. 8, who ha the court to answer the question, I papers by March 14.

Ted Olson of Gibson, Dunn & CLLP, who represents the plaintibrought the federal challenge to Prourged the high court to reject the because, he said, it's clear the prodon't have standing and that the Court's involvement will delay the tion of marriage rights for same-sex in California.

If the federal appeal is thrown standing grounds, Walker's rulin stand and same-sex marriage would legal in California

legal in California.

Gay rights groups argue that

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Activists Critic Plan to Cut Sto Regulator Budş

By Robert Iafolla
Daily Journal Staff Writer

WASHINGTON — A coalition of holder-rights groups is fighting a can proposal to slash the budgets Securities and Exchange Commisthe Commodities Futures Trading of sion, saying the funding cuts could lintegrity of the financial markets.

As part of a plan to cut \$61 billion i government spending in 2011, Rep in the House of Representatives pr \$25 million cut from the SEC's \$1.1 budget and \$56.8 million from the \$168.8 million budget.

"House Republicans have remo remaining ambiguity about their defund regulators whose role is to Wall Street excess," Barbara Rope tor of investor protection for C Federation of America, said in a st "The cuts proposed for the SEC ar are immaterial in the context of th federal budget, but they would be to the SEC and nothing short of crip the CFTC."

The Consumer Federation of A Council of Institutional Investor ShareOwners.org launched a c Wednesday to generate public pre lawmakers to prevent the cuts.

The SEC enforces securities law regional offices, including one in S cisco and another in Los Angeles, i largest, behind Washington, New Y Chicago. The SEC, which saw it budget double since 2001, suffer eyes from high-profile failures, like Bernie Maddoff's multibillion-doll

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