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LAW FIRM BUSINESS

Helping the Vulnerable

The lawyers of Rosen Bien Galvan & Grunfeld specialize in representing prisoners and other vulnerable groups that can struggle to find legal help.

Text By Kevin Lee
Daily Journal Staff Writer

Even while working at Brobeck, Phleger & Harrison LLP, a large corporate law firm, Michael W. Bien knew he wanted to represent prisoners. That desire strengthened when he teamed up with veteran civil rights attorney, Sanford Jay Rosen, in a prison conditions suit filed in federal court in the late 1980s.

Bien and Rosen set up their own law firm in 1990. More than two decades later, Rosen Bien Galvan & Grunfeld LLP is at the forefront of developing case law on prisoner rights.

"There is something about this issue that attracted Sandy and me. I'm focused on people who are most vulnerable - people with disabilities, mental illness, victims of sexual assault," Bien said. "It really struck me as a serious wrong, and perhaps the fact that nobody really wanted to represent these people hit me as the perfect group that needed to be represented."

Their mission has been noted by others in the legal community.

"They are dogged advocates for prisoners throughout California, and their insight is invaluable," said Rebekah Evenson, an attorney at the Berkeley-based nonprofit law firm Prison Law Office, which has teamed with Rosen Bien on numerous prisoner rights cases.

The firm was at the center of the legal push to reform the state's corrections system. Bien counseled on two class actions, filed in 1990 and 2001, claiming that prisoners were not receiving adequate medical care in violation of the Eighth Amendment because of overcrowding.

As a result of the class actions, a panel of three federal judges ordered the state to submit a detailed plan to reduce the prison population. The state appealed to the U.S. Supreme Court, which upheld the panel's order in a landmark decision. The state has since proceeded with re-

alignment, which involves the relocation of inmates from state prisons to county correctional facilities.

"It is a major experiment taking place in our society with very little idea on how it's going to work out," Bien said of realignment. He said Proposition 36, the modification to the "Three Strikes" law voters passed in November, is a welcome shift that should lessen the burden on the state's corrections system. The revision eases sentences for minor and nonviolent third-strike crimes.

Paul Clement, a former U.S. solicitor general, worked with Rosen Bien, serving as lead counsel for the one of the prisoner classes and briefing the case for the U.S. Supreme Court.

"It was a real opportunity to do some good for the most vulnerable, and that's why Rosen Bien had the case in the first place," Clement said. "They are absolutely terrific advocates."

Rosen Bien lawyers handle a mix of public interest work and commercial litigation. Rosen, a former assistant legal director of the national American Civil Liberties Union, is representing the family of a Hawaiian inmate who was strangled to death by another inmate in an Arizona-based private prison. The family has brought a wrongful death suit against the state of Hawaii and the manager of the private facility, Corrections Corporation of America. *Medeiros et al. v. State of Hawaii et al.*, 12-340 (D. Hawaii, filed June 13, 2012).

Rosen said much of his time these days is also taken up by a private-sector dispute against the law firm Morgan, Lewis & Bockius LLP. He successfully argued before the U.S. Court of Appeals for the Federal Circuit that a fraud claim brought by his client, Palo Alto-based LED billboard producer Landmark Screens LLC, should be allowed to go to trial. A former Morgan Lewis partner allegedly failed to inform client Landmark that he had submitted an incomplete patent application to the U.S. Patent and Trademark Office on Landmark's



Sam Attal special to the Daily Journal

Left to right, partners Gay Crosthwait Grunfeld, Ernest J. Galvan, Michael W. Bien and Sanford Jay Rosen.

behalf. *Landmark Screens v. Morgan, Lewis & Bockius*, 2011-1297 (Fed. Cir. Apr. 23, 2012).

Rosen is now working on Landmark's case with co-counsel, who include lawyers at Hogan Lovells US LLP, at the district court level in Oakland.

The firm's newer name partners, Ernest J. Galvan and Gay Crosthwait Grunfeld, have tackled other hot-button public policy issues. Galvan joined the firm in 1998 as an associate, became partner in 2006 and was added to the firm masthead a year later, while Grunfeld joined the firm in 2005, became partner in 2008 and was added to the firm masthead in July.

Galvan worked with Moscone Emblidge Sater & Otis LLP and sole practitioner Michael Brown to represent retired Orange County public employees in a federal trial that has had legal ramifications for public retirees statewide.

During the trial last year, the state Supreme Court clarified for the 9th U.S. Circuit Court of Appeals that in California a binding commitment for vested county employee rights can be made through a county law and does not necessarily require an explicit contract or vote by elected officials. *Retired Employees Assn. of Orange County v. County of Orange*, 52 Cal.4th 1171 (2011).

"The [state Supreme Court] has put the brakes on what has been a move to

strip away the basic tenets of contract law from public employees," Galvan said.

The clarification could affect ongoing legal battles between public employee retirees seeking benefits they claim were promised and public entities trying to reduce the retirees' pension liabilities.

Grunfeld also represented three Latinos in a voting rights dispute against the city of Compton that settled last year. *Gonzalez v. City of Compton*, BC450494 (L.A. Super. Ct. filed Dec. 2, 2010).

Compton's population is two-thirds Latino, but the plaintiffs alleged the city's at-large voting system, which allows residents to vote on all four city council member seats, disenfranchised Latino voters. The plaintiffs sought a by-district voting system in which each of the city's four council members would be elected by city residents from a specific district.

As part of a settlement reached in the *Gonzalez* litigation, the city placed a measure on by-district voting on June's ballot. Compton voters overwhelmingly passed Measure B, and Grunfeld said Compton will be able to elect city council members with the new system in 2014.

"We're very pleased that the city did the right thing at last," Grunfeld said. "We're looking forward to the fact that Latinos can now elect a person of their community's choice."