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**Aitken ♦ Aitken ♦ Cohn assist in victory for Orange County residents in Fairgrounds case**  
*"This sale cannot go forward" Court says.*

*Pro bono cases matter.* Never was that more clear than when **Wylie** and **Ashleigh Aitken** helped secure a victory in the long-fought case concerning the future of the Orange County Fairgrounds.

On June 7, 2011, a California Court of Appeals held that the sale of the Orange County Fairgrounds to Facilities Management West could not go forward.

The Court found two major flaws in the California Department of General Services' plan to turn over the public land to Facilities Management West. First, the Department failed to provide the Legislature with an explicit comparison between the Fairgrounds' fair market value and any deal which the Department proposed to make as required by statute. This step would be a prelude to potential legislative intervention. Second,

Assemblyman Jose Solorio, and fairground preservation advocates, stated that "the decision rightfully places important public land where it belongs—in the hands of all Orange County and state residents."

The Court found the first flaw to be fatal, voiding the proposed sale and requiring the Department to start all over again, **if** the governor so chooses.

While the decision could be appealed to the State Supreme Court, there is no indication yet as to what the State and FMW intend to do, in light of the unanimous opinion of the appellate court.

"To Governor Brown's credit, in the first page of the State's brief they made it clear that their continued participation did not signal that further



the Court found the entire bidding process flawed in that it lacked any bid protest procedures designed to secure the highest return from a responsible bidder.

**Wylie Aitken**, who along with **Ashleigh Aitken** represented a cadre of public servants headed by State Senator Lou Correa, State

action was advisable as a matter of public policy, and that he had continued discretion to prevent the sale," Wylie Aitken said. He continued by stating that "we are hopeful that this 'local jewel' will remain with the public."

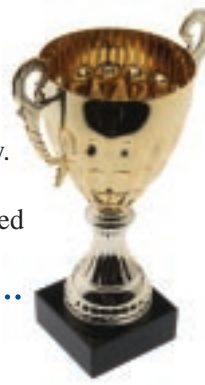
For more about the pro bono work of **Aitken ♦ Aitken ♦ Cohn**, please visit our Web site at [www.aitkenlaw.com/in-the-community](http://www.aitkenlaw.com/in-the-community).

*Free Consultation • No Recovery, No Fee*

## Recent accolades...

Wylie was honored by Banyard Inn of Court on May 21 at the Westin South Coast Plaza Hotel, receiving the Angelo Palmieri Award for Civility.

The Orange County Women Lawyers honored Wylie on May 19 at the Newport Beach Marriott Hotel. Chief Justice Tani Cantil-Sakauye presented Wylie with the "Attorney of the Year" award.



## What's NEW...



### ***Congratulations!***

**Tabitha Picken**, receptionist, married **Danny Craft** on June 2. The wedding did change her name; however, she will continue to be the voice of the office.

### ***Congratulations!***

**Diana Khoury** completed her paralegal studies and is presently awaiting her certificate. She has been moved to legal assistant to

**Ashleigh Aitken** and will continue her duties as an administrative paralegal.

### ***Welcome!***

**Danielle Carr** was hired as our new office services clerk, replacing **Matt Lee**, who is going to law school. Danielle's background includes three years at a law firm, and while going to Saddleback Community College, she worked in customer service. While energetically fulfilling her full-time position with the firm, she will continue her education on a part-time basis.

### ***Welcome!***

**Anthony Modarelli** is our new law clerk—full-time in the summer and part-time when he returns to Chapman University Law School in the fall, Class of 2012.

## Keep it safe on the road this summer

What is the most dangerous season to drive a car? You might be surprised to learn that there are more automobile accidents in the summer.

Statistics identify July as the most dangerous month to drive in the United States. Why July? It's peak vacation time, the days are longer, so we're out and about later, and there are more cars—and young, inexperienced drivers—on the road, according to the National Highway Traffic Safety Administration.

### **Reduce your risk of a summer driving accident with these tips from the NHTSA:**

- Get a checkup for your vehicle.
- Stay up-to-date with regular car maintenance, including oil changes.
- Check tire pressure and wear patterns; rotate tires after a long trip.
- Check belts and hoses, the cooling system, and top off fluid levels.
- Keep windshield wipers, headlights, and taillights in working condition.

### **Take safety precautions**

- Never leave children unattended in a vehicle, especially in hot weather, when temperatures inside a car can climb rapidly.
- Check around, under, and behind your car before backing up.
- Secure children age 12 and under in age-appropriate child seats or restraints.
- Always buckle up; remember, law enforcement will be ticketing for seat-belt violations.
- If you're drinking alcohol, don't drive; get a designated driver or call for a ride.
- Don't text while driving—it can be as dangerous as driving drunk.
- Use only hands-free equipment when using a cell phone.



## Recent RESULTS

### ➔ **Construction Accident**

The firm represented the wife and young children of a man killed in a workplace accident.

**SETTLEMENT: \$1,750,000**

### ➔ **Auto vs. Auto**

The firm represented a 73-year-old woman severely injured in a broadside vehicle collision.

**SETTLEMENT: \$750,000**

### ➔ **Products Liability/Auto**

Wrongful death of husband and father of five children caused by defendant's insufficient seat design of plaintiff's vehicle.

**SETTLEMENT: \$500,000**

### ➔ **Auto vs. Auto**

The firm represented three children in their claim for the wrongful death of their father and mother, who were killed when their vehicle was hit head-on by the defendant's vehicle.

**SETTLEMENT: \$300,000**

### ➔ **Passenger in Auto**

The firm negotiated a policy limits settlement on behalf of a 75-year-old woman injured due to the negligence of the driver of the car in which she was a passenger.

**SETTLEMENT: \$250,000**

# STATE PROBES 284 O.C. theme-park medical problems

Wylie is quoted in a recent *Orange County Register* article regarding injuries occurring at theme parks. The statute requiring such reporting was enacted in response to the tragic death of a Disneyland guest who was killed due to a malfunction of the sailing ship *Columbia*. **Aitken ♦ Aitken ♦ Cohn** was proud to

represent the family of the man killed and helped lead the fight for greater safety and accountability for theme-park operators. Read the full story here: [www.ocregister.com/news/state-304008-disney-park.html](http://www.ocregister.com/news/state-304008-disney-park.html).



## SUMMER SAFETY— Pedestrians take caution!

A recent article in the *Orange County Register* highlighted an alarming revelation. The article titled “O.C. can be dangerous place for pedestrians” noted that between 2000 and 2009, Orange County lost 454 lives due to vehicles colliding with pedestrians. With summer here and the increasing use of cell phones by motorists, there could not be a better time to remind pedestrians to take caution when walking. Roadways, especially in metro areas like Orange County, are dangerous for pedes-

trians and motorists alike. To prevent a tragic accident, pedestrians should be aware of their surroundings, avoid walking while texting, and make sure to remain in the crosswalk when crossing a street.

that both use the roadways without a motor vehicle. Thus, it may seem that bicycle lanes are open for pedestrians’ use as well. In California, that is not the case. Pedestrians may use a bicycle lane but only when there is no adjacent adequate pedestrian walkway.

Summers in Southern California bring out the urge in all of us to get outside and bask in the sun. Whether it be walking around the beach, walking a dog, or heading out for a jog, it is important to be cognizant of the rules of the roadway. As noted above, the rules of the roadway are not only for motorists to follow; they must be followed by all users of the roadway, including pedestrians. The rules of the roadway are for our benefit and can help us avoid accidents.



To prevent vehicle accidents with pedestrians, both the motorist and the pedestrian must follow the rules of the roadway. So while you are enjoying another warm summer in Orange County, please remember to walk with caution!

Interestingly, the mantra we all learned when taking our driving test was “pedestrians always have the right of way.” A closer look at the law reveals that this statement is cursory. Under California law, pedestrians who are not in a marked crosswalk or within an unmarked crosswalk at an intersection must yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard. What does that mean? The pedestrians do not, in fact, always have the right-of-way when it comes to crossing intersections. Only when pedestrians are within a marked or unmarked crosswalk do pedestrians have the right-of-way.

How about bicycle lanes? Bicyclists are like pedestrians in



and your loved ones from tragic injuries due to the wrongful conduct of others, including those injuries suffered by pedestrians. For more information, call our office or visit the California Department of Motor Vehicles Web site: [dmv.ca.gov](http://dmv.ca.gov).

At **Aitken ♦ Aitken ♦ Cohn**, we strive to provide information that can be used to protect you



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## Referrals

*Thanks to all of you who have recommended our firm to your relatives, friends, and neighbors. We appreciate your vote of confidence and pledge to care for these "VIPs" as well as we care for you.*

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# Underinsured motorist insurance coverage in California

Recently proposed legislation that suffered a procedural defeat in the Insurance Committee of the California State Assembly aimed to provide California's insured drivers with benefits of underinsured motorist benefits up to the full amount of their limits. AB 1063, which was sponsored by Assemblyman Steven Bradford, sought to correct a more than 30-year-old provision in the California **Insurance Code** that allows insurance companies to take an "offset" for funds recovered from an at-fault party's insurer, thus reducing the actual coverage provided by one's underinsured motorist policy.

To illustrate the proposed impact of the bill, assume that a victim suffered \$200,000 in damages after being struck by a driver who had automobile insurance liability coverage limits of \$50,000 per person, and no more than \$100,000 for any one incident. Assume further that the victim had her own automobile insurance policy that provided uninsured-underinsured motorist coverage of up to \$100,000 per person, and no more than \$300,000 per accident. Under current California law, the maximum amount available for recovery under the underinsured portion of the victim's own insurance policy is \$50,000 (the \$100,000 in total underinsured coverage, minus the

\$50,000 recoverable from the at-fault party) for a total recovery of \$100,000.

Under the proposed legislation, California law would have allowed a victim to recover the entire limits of their underinsured motorist coverage without an offset for the coverage obtained from the at-fault party. This change would have provided the victim in the example with \$150,000 in total recovery (\$50,000 from the at-fault party and the full \$100,000 limit from the victim's own policy).

Despite the California Insurance Commissioner's testimony before the Insurance Committee confirming that the

enactment of the bill would not significantly raise insurance rates for California drivers, the power of the insurance lobby prevailed and the bill was sent for interim study—a procedural maneuver that generally stops the bill in its tracks.

While this attempt to increase protections for consumers, and give insureds the full value of the coverage they pay for, failed, it serves as a learning tool to all drivers to make sure they understand the scope and limits of their coverage so that they are adequately covered in the event of an accident—whether it is their fault or the fault of another.

