

## MARCH 2021 — ADI NEWS ALERT

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### Citations to facts in argument section

At a recent bench-bar meeting of dependency attorneys the court complained about the quality of some briefing. After the meeting, they emailed an example of a defective brief. (Thankfully, it was a County brief!) The defect was failure to cite to the record to support facts stated in the argument section. Most experienced attorneys know to support facts in the statements of the case and facts, but may not remember to do so in the argument. We remind counsel that, wherever cited, facts based on the record require support.

### CADC conference is March 12 and 13

The annual CADC conference will be remote this year, on March 12 and 13. Each day's agenda is posted on ADI's [Calendar of Events](#). More information is on the [CADC website](#).

### Brady advisory for San Diego County defendants: questionable chemist reports

San Diego Assistant District Attorney David Greenberg has sent defense attorneys a *Brady* advisory, calling their attention to concerns about San Diego Sheriff's supervising

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<sup>1</sup>As always, panel attorneys are responsible for familiarizing themselves with all ADI news alerts and other resources on the ADI website.

criminalist, Connie Milton. It said in full:

It has come to the attention of the District Attorney's Office that Connie Milton, Supervising Criminalist with San Diego Sheriff's Crime Lab, has a record of matters that may be relevant to her credibility as a witness. Pursuant to Penal Code §1054.1, *Brady v. Maryland*, and the California Rules of Professional Conduct, the following information is being disclosed:

Certain corrective actions, quality incident reviews, and proficiency tests noted potential concerns regarding Ms. Milton's lab performance, data interpretation, conclusions, and following of office policy between 1996 and 2013. Corrective steps were taken by the lab to mitigate these concerns. Should you believe this information may be relevant in a case involving one of your clients, please contact the DDA assigned. If a DDA is no longer assigned, please contact DDA Amy Colby at 619-531-4256.

We believe that by turning over this information we have complied with our *Brady*, Penal Code section 1054.1, and California Rules of Professional Conduct discovery obligations. While the People are providing this information pursuant to *Brady*, section 1054.1, and the California Rules of Professional Conduct, any attorney or member of the defense team who discloses this information to outside parties may subject themselves to civil and/or criminal liability. (See Welf. & Inst. Code, § 827; *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767; *Davis v. Alaska* (1974) 415 U.S. 308, 315-316, see also Cal. Const. Art. 1, § 1; Civil Code §§ 1798.53, 1798.24, 43, 47; Pen. Code § 630.)

Please consult with the assigned staff attorney should Connie Milton's name come up in one of your cases.

### **Additions to website**

We call your attention to some new material on the ADI website that may be helpful in the your practice.

- **Article on orders reversing and remanding**

Staff attorney Anna M. Jauregui-Law has authored a new practice article entitled [Reversal and Remand: Appellate Counsel's Duties](#). It is intended to provide guidance when the Court of Appeal reverses and remands a case to the trial court in the client's favor and no further petitions are pursued or granted that would alter the disposition.

- **Materials for incarcerated clients to claim stimulus payments**

Under a federal court decision, incarcerated persons are entitled to claim Covid economic impact payments or CARES Act stimulus checks. For a variety of reasons, many have

failed to get the payments they are entitled to. The prisoner reentry organization Root & Rebound has created a packet, accessible [here](#) and on [that organization's website](#), to send to people inside a penal institution. Helping your client with this is not within the scope of your appointment, but you may want to include the packet in a mailing to your client. Please keep in mind the deadline is **April 15, 2021**.