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The Advocate

IN THIS ISSUE

Questioning the Legitimacy of the Bar Exam

by William Bliss

Rebecca Schisler-Adams, a 2020 graduate of Columbus School of Law, had to prepare for the Uniform Bar Exam in Maryland during the pandemic, as well as advocate for herself and her peers to be admitted on diploma privilege by submitting a public comment.

Maryland postponed the bar exam twice, extending the period aspiring attorneys would need to study, potentially delaying admission to the bar, and by extension their ability to find a job to support themselves. The frustrations of the study period increased as Schisler-Adams had to absorb legal knowledge which is not real, and would never be used in practice, but nonetheless could prevent her from being admitted to the bar if not absorbed.

"The Uniform Bar Exam (UBE) was created to promote easier access to licensure in multiple jurisdictions, but in practice, it just tests applicants on fake jurisdictions," said Schisler-Adams. She recounted that while studying, "there was a section where the professor said 'this is not real law, you will not use this in real life, but you will have to know it for the bar exam.' And I remember just wanting to scream because I'm sitting here thinking, 'why am I wasting my time on this?'"

Schisler-Adams said she sees the bar exam as pointing to larger systemic issues with legal education.

"If law schools are graduating students that can't be trusted to become attorneys, then there is a bigger problem. We're all six figures in debt for an education we spend 3 years doing nothing but law school for, then have to take an arbitrary exam, pay a thousand dollars in application fees and $1500 to $3000 on bar prep materials and months out of our lives, and even more time if you don't pass the first time," Schisler-Adams said.

Those who administer the exam hold it up as a test of competence, which protects the public from incompetent practitioners. Donna Hershkowitz, interim Executive Director of the State Bar of California, said in a statement that bar exams are the best way to ensure the twin missions of the bar are upheld: to protect the public, and to ensure the integrity of the legal profession.

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Human Composting could be a new burial alternative in California

by Tracie Ehrlich

Natural organic reduction, or human composting, may soon become legal in California.

State Assemblymember Cristina Garcia is preparing to introduce bill AB 2592, which would legalize human composting if passed. Garcia first introduced the bill last year, but it was shelved over budgetary concerns.

Human composting involves placing a deceased body in a wooden cradle filled with natural materials such as wood chips and allowing natural decomposition to occur over 30 days. Through this process, approximately one cubic yard of nutrient-dense soil is formed, which can be used to enrich and sustain trees and other plant life.

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Dummy covered in plant material to demonstrate technique of Human Composting. This shows a vessel used by Recompose to transform human remains into soil.

Image from Recompose.life

Staff List

Investing in Black Maternal health through Policy Action

by KateMarie Boccone

Black mothers in America are dying at a rate three to four times higher than their non-Black counterparts, and Congress is stepping in to try to eliminate this disparity. Congress's Black Maternal Health Caucus introduced the Black Maternal Health Momnibus Act (BMHMA). The BMHMA has garnered bipartisan support within the House of Representatives.

Championed by Congresswomen Lauren Underwood and Alma Adams, and Senator Cory Booker, the BMHMA is a collection of twelve individual bills that address holistic maternal wellness. From expanding healthcare access to tackling substance use and addressing racial bias to supporting a healthy pregnancy, this bill is broad-sweeping.

"It is so gratifying to see Congress actually naming it and pushing this forward," Michelle Oberman, Katharine and George Alexander Professor of Law at Santa Clara University, said.

Oberman said the BMHMA hds been an obvious necessity for decades.

A long-time activist in the field of Black Maternal health, Sonya Young Aadam of the California Black Women's Health Project (CABWHP), said that the BMHMA bill is just one step of many to adjust the American attitude towards pregnancy and birth. The CABWHP works to facilitate health gains for Black women and girls through advocacy, outreach, and empowerment. Currently, the CABWHP has focused its efforts on educating and uplifting Black maternal care workers to support pregnancies and deliveries with compassionate care.

"In other parts of the world you see pregnancy as something that's really lifted up in terms of labor practice, the time off policies, maternity leave, but in the United States pregnancy is somehow not regarded as this amazing thing and the gift of life," Young Aadam said.

One of the bills included in the BMHMA is the Justice for Incarcerated Moms Act. According to the Bureau of Justice Statistics, Black women are incarcerated at nearly two times the rate of white women, making issues of maternal mortality among the incarcerated also issues of race. This act would outlaw the practice of shackling incarcerated pregnant women, fund healthcare and counseling within prisons and jails, commission one study on maternal mortality among the incarcerated, and commission a second study on the impact of Medicaid coverage termination for incarcerated mothers.

Oberman said that the Justice for Incarcerated Moms Act, like the BMHMA, has been informed by decades of research, which revealed a disproportionate number of black women are pregnant in prison, and a disproportionate number of these women suffer high rates of pregnancy complications.

"These complications are an artifact of compromised health status prior to being incarcerated, which are in turn an artifact of race and gender," Oberman said.

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Questioning the Bar

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"The bar exam is the best standard we have," Hershkowitz said in the statement.

Schisler-Adams was not alone in her experience. Seeing the barriers and hardships created by the pandemic, many members of the legal community began to question the efficacy of the bar exam, and whether it serves the public's interest.

Critics of the bar exam, including Brit Benjamin-Friedman, adjunct professor at Santa Clara University School of Law, have argued that the data does not necessarily support this contention.

"It purports to test competence in a way that means something for practice that protects the public from incompetence, but the bar is not calibrated for skills relevant in practice. Instead, it artificially constricts the supply of available attorneys. And there are 20 million people who lack adequate access to representation in California," Benjamin-Friedman said.

Benjamin-Friedman wrote an opinion piece for the Recorder last year, where she explains that while protecting the public sounds like a persuasive argument in favor of preserving the bar exam, it is unsupported by data and should be dismissed.

"I refer to the state bar and all these other organizations as a cartel because they are an association of people who provide a service or product that forms a coalition with the intent to minimize competition and drive prices up," Benjamin-Friedman said.

For example, Wisconsin has a diploma privilege that allows graduates of local law schools to be admitted to practice without taking the bar exam, and Wisconsin has a very low rate of attorney discipline. According to Wisconsin's Compendium of Attorney Discipline, a comprehensive database of all attorney discipline maintained by the Wisconsin Court System, in 2019, only 25 attorneys were disciplined, and only a few were for issues of competence rather than misconduct.

Benjamin-Friedman said California's rate of attorney disbarment per capita is more than double that of Wisconsin, despite having one of the country's toughest bar exams. Additionally, it is not clear from the data how many California attorneys are subject to discipline specifically for competence.

"The lack of data is a significant problem. We should be able to trivially know how many attorneys are sanctioned for incompetence," Benjamin-Friedman said.

She said she proposes that the systems in place that exist to discipline attorneys as well as the Internet can be better utilized to protect the public in a way that is better calibrated to measure competence than the bar exam is. She said allowing diploma privilege would let people try to practice law, and succeed or fail on their own.

"Most of those people are going to be reasonably competent and they will have an incentive to earn money and improve their reputation and if they are not competent, they are going to hustle and find a way to become competent. And to the extent that they don't, they can be sued for malpractice, they'll be unable to obtain clients, and they will bear the cost of that," Benjamin-Friedman said.

Benjamin-Friedman said the bar exam process only serves to delay new graduates from applying the knowledge they received.

"What that does is all these 3Ls who are young and energized and fresh on what they learned in law school, they want to work and help people, and they can go out and serve these vulnerable groups who don't have any access to legal services right now," Benjamin-Friedman said.

GameStop Investors' Impact on Stock Trading

by Alexander Carter

Nicholas Mejia, a Ph.D student at Case Western Reserve University, is not an investor by training, but he made hundreds of thousands of dollars in two months investing in GameStop stock during a once-in-a-decade buying frenzy.

"The first thing I bought were options," Mejia said. "Some expired in January, some expired in February, and the share price at the time was about $15. My original options purchase in December was about $700, and then I bought another $800 in the first week of January."

An individual may purchase an option, which allows them to buy stock at that specific price for a specified time. The person's profit would be the difference between the higher price of the stock when the option was exercised and the lower price when the option was purchased.

Mejia was encouraged to buy GameStop stock by the Reddit forum r/WallStreetBets, which now has over 9.8 million users, called "degenerates." The degenerates trade stock tips and share their most brilliant wins and their most devastating losses.

In December, there were some posts popping up on GameStop where there was a lot of information about the stock," Mejia said. "I looked into it myself and was able to corroborate the data, and that's how I first decided to spend my own money."

GameStop stock skyrocketed from around $19.95 per share on January 12, 2021, to a high of $483.00 by midday on January 28, 2021.

"At its height [my investment] was worth around $880,000," Mejia said.

The GameStop bubble was unique because it was driven in large part by investors encouraging one another on social media.

"The crossover between social media and stock trading is an important issue," said Stephen Diamond, Associate Professor at Santa Clara University School of Law, who specializes in corporate finance and securities law. "Forums like Reddit have low transaction costs and are easy to use, so anyone can access them with little screening."

Some lawmakers, including Massachusetts Senator Elizabeth Warren, urged the U.S. Securities and Exchange Commission (SEC) to take action against this type of social media activity.

"It's long past time for the SEC and other financial regulators to wake up and do their jobs," Warren tweeted on January 28.

Some scholars worry that regulators will not be able to manage the changing environment.

"There's no cop on the corner," Diamond said. "In theory, the SEC is the cop on the corner. But I'm not sure they have the ability or the interest to deal with this."

Ultimately, the price of GameStop stabilized and stood as low as $50 per share by mid-February. One factor in the bursting of the GameStop bubble was the restriction of purchases (which drive stock prices up) by brokerages like Robinhood.

Robinhood is a personal stock trading app with over 13 million users, most of them small-scale investors.

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Momnibus Bill

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Oberman said over the past several decades, traditional public health problems have been routinely approached through the lens of criminal justice reform. Tackling public health problems with public health solutions would be far more efficient and cost effective than the present approach.

“This would not only be more effective but also more humane,” Oberman said.

For Young Aadam, the more humane approach also includes empowering Black maternal care workers and holding the mirror up to the American healthcare system.

“The history, the trauma, the racism—they’re not teaching that in medical school. They’re not teaching enough even about the social determinants of health,” Young Aadam said.

She said that despite the claim that this lapse is unintentional, the harm is evident and wide-reaching.

“It's not enough to say, ‘well I didn’t know I was doing harm,’” Young Aadam said.

Young Aadam supports increasing diversity in the medical profession as a critical corrective step, which is included in the BMHMA. However, Young Aadam cautions that this is only a first step of many towards facilitating healthcare equity.

“Racism is not going to go away; it's rooted and it's ingrained. We are 100 years in and we could have 50 years more or 100 years more, but right now black babies are dying. And black women are dying,” Young Aadam said.

The BMHMA itself has not yet been subject to a vote, but the appropriations bills for 2021 delivered key victories thanks to the efforts of the Black Maternal Health Caucus. These victories included increased funding for maternal and child health programs and a new requirement to track and publish maternal health outcomes among incarcerated pregnant women. The latter is a provision of the Justice for Incarcerated Moms Act.

The BMHMA has been referred to the Subcommittee on Health in the House of Representatives and the Committee on Health, Education, Labor, and Pensions in the Senate. Further action on the bill is pending committee action, which will begin on April 26th.

California Seeks to Alter Felony Murder Rule

by Erik Perez

In 2007, a jury concluded Tony Vigeant was a “major participant” in a burglary during a homicide. Vigeant did not kill David Pettigrew, nor did he intend Pettigrew’s death. Vigeant was nonetheless convicted under California’s felony murder rule, where a first-degree murder conviction can be found when someone dies during the commission of certain enumerated felonies.

Vigeant’s story is not unique. Anup Malani, a law professor at the University of Chicago Law School, said an estimated 20 percent of individuals convicted of first-degree murder were sent to prison under felony murder provisions.

Life without parole is the mandatory minimum sentence if a person is convicted of first-degree murder, notwithstanding any mitigating factors or fairness. In California, there are currently over 5,100 people sentenced to die in prison, at an average annual cost of $81,000 per person.

State Senator Dave Cortese of San Jose introduced Senate Bill 300, The Sentencing Reform Act of 2021, to fix what he called the “worst tendencies” of the criminal system when it comes to sentencing.

“Our felony murder laws are emblematic of what is wrong with our criminal justice system today,” Cortese said.

Approximately 40 percent of individuals incarcerated under the felony murder rule are Black, according to the Felony Murder Elimination Project, a sponsor of SB 300. These are estimates because California is not required to issue reports of the total number of people convicted under the felony murder rule.

Senator Cortese said SB 300 “will reform California’s unjust ‘felony murder special circumstance’ law and ensure that the death penalty and life without the possibility of parole cannot be imposed on those who did not kill, nor intend that a person die during a crime.”

In 1983, the California Supreme Court opined that the felony murder rule could be “barbaric” in application. The Court has published recent opinions that rein in using the “major participant” and “reckless indifference” special circumstances that SB 300 targets.

“Decades of research has failed to show any public safety benefit from [life without parole sentences] or the death penalty,” Cortese said.

A California Senate Committee report found that the felony murder rule does not have a deterrent effect on people committing dangerous felonies or killings during felonies.

SB 300 amends California Penal Code Section 190.2 and repeals Section 1385.1. The changes constitute three main provisions.

First, SB 300 repeals provisions requiring punishment by death or life without parole for persons convicted of murder in the first degree if they did not personally kill or intend to kill. This restores judges’ discretion to impose sentences of 25-years-to-life with the possibility of parole if the judge believes such a sentence is fair and just.

Second, SB 300 provides a pathway for persons convicted of first-degree murder based on felony murder special circumstances to petition to have their conviction findings vacated, to have their sentence recalled, and to be re-sentenced if the person was not the actual killer and did not act with intent to kill.

Third, the prosecution must prove beyond a reasonable doubt that the petitioner is ineligible for re-sentencing.

SB 300 has three public opponents. One opponent, the Peace Officers’ Research Association of California (PORAC), argued to the Senate Committee that SB 300 would repeal voter-implemented Proposition 115.

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Human Composting

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"This is a consumer choice issue," Anna Swenson, communications manager at Recompose, said. "Folks deserve access to the choices they want."

Recompose is a Washington-based company which has been working to promote human composting as an alternative method of disposition of human remains after death. In 2019, Recompose successfully lobbied for legalization in Washington—the first state in the nation to do so. Since the law went into effect in 2020, over 600 individuals have signed up with Recompose to compost their remains.

Proponents of human composting emphasize both the environmental sustainability and personal autonomy inherent in this option. Swenson said for those committed to sustainability, traditional burial and cremation may feel out of line with their values. She said many customers may ask how their remains can be disposed of in a way that reflects their lifestyle.

According to Recompose, each individual who chooses human composting in lieu of traditional burial or cremation prevents one metric ton of carbon dioxide from entering the atmosphere. The process of human composting is also energy sustainable—requiring only one eighth of the energy used for traditional burial or cremation.

Tseming Yang, professor of law at Santa Clara University School of Law, explained that delivering on this promise is key for green death care conduits such as Recompose.

"All industries are being pushed to be greener," Yang said. "From a consumer protection perspective, I think this actually raises similar issues to other sectors where industry has wanted to take advantage of this desire by consumers to be greener."

Yang likened the consumer protection needs to that of organic labels, which government agencies have moved to regulate in recent years.

"Consumers don't have control over how this is being done – but at least you can make sure they understand to what extent it is in fact green, and that these are not just words being used for marketing," Yang said. "Transparency, disclosure and anti-fraud protections would go a long way in ensuring that this new trend is consistent with what consumers think they are paying for."

Tanya Marsh, professor of law at Wake Forest University, said there is growing demand for such a choice. However, Marsh explains that efforts to legalize human composting and other green disposition alternatives are hampered by the antiquated body of law governing death.

"[Funeral and cemetery law] were written in reaction to what people were already doing," Marsh said. "We had already been burying people in the United States for 150-200 years before we got any regulatory law on the subject. So rather than imagining what is the world we want to see, the legislature said, what is the world that exists? Let's codify those practices," Marsh explained.

With this history, Marsh suggests that integrating new disposition methods will require significant alteration to existing law. Marsh said this is no new challenge: cremation—which now accounts for over 50% of all dispositions in the United States—was originally illegal and had to be added to the law about 100 years ago.

"Everything that is in the law is backwards looking, in terms of what people's practices were," Marsh said.

Marsh said the greatest challenge to legalization of human composting is reframing the topic of death and empowering American citizens and lawmakers to take action.

"We have a real problem with talking about death in the United States. It's not a socially acceptable topic of conversation," Marsh said. "As a result, most people are fairly ignorant about what our options are, and how things are changing. You encounter this body of ignorance on this topic, a topic that people don't want to talk about, and then you try and convince them to change the law – that's a difficult political thing to accomplish."

Marsh said an accessible discussion may hold the key to change.

"I think the best thing any of us can do if we're interested in having reform of the existing system is to try to normalize conversations about the topic in general and normalize discussions about this practice in particular. The main thing we need to do to get any of these kinds of changes is to normalize the conversations," Marsh said.

California Pollinators Face Extinction Because Insects are Not Fish

by Felicia Hipps

Agricultural interests have challenged the listing of four fish as candidates for protection under the California Endangered Species Act (CESA) because these "fish" are actually four species of California native bumblebees.

The California Fish and Game Commission with the Department of Fish and Wildlife (CDFW) are appealing a Nov. 2020 decision from the Sacramento Superior Court that precludes the listing of insects and other invertebrates for protection as threatened or endangered species of fish if they are not "connected to a marine habitat."

Represented by the Stanford Environmental Law Clinic, the Xerces Society for Invertebrate Conservation has joined CDFW and the Fish and Game Commission as intervenors in this case, claiming that insects fall under the designation of "invertebrates" in accordance with the Fish and Game Code's definition of "fish."

Fish are broadly defined in Fish and Game Code § 45 as "a wild fish, mollusk, crustacean, **invertebrate**, amphibian, or part, spawn, or ovum of any of those animals," without mention of a specified habitat.

Sarina Jepsen, Endangered Species Program Director at the Xerces Society, co-authored the petition to the CA Fish and Game Commission to list and protect four bumblebees (Crotch, Franklin's, Western, and Suckley's cuckoo) as endangered invertebrates.

"Insects make up more than three-fourths of all animal life. They provide essential ecosystem functions like pollination, pest control, nutrient cycling, dung burial, and food for other wildlife," Jepsen said. "If we don't protect insect diversity, how can we possibly protect biodiversity?"

Following the 2018 petition by the Xerces Society, the Fish and Game Commission accepted the four bumblebee species for listing as candidate species under CESA. The Almond Alliance of CA subsequently filed suit, arguing that CESA prohibits the listing, and therefore protection, of insects.

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"CESA's purposes do not confer authority that the Legislature withheld"
-Sacramento Superior Court

Felony Murder Legislation

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According to PORAC, Proposition 115 was passed in 1990 because "voters recognized that regardless of whether an individual was the actual person who committed the murder, the fact that they had participated in the act, with the intent to kill or knowing full well their actions could cause the death of someone, is just as egregious as the act of murder itself."

PORAC opposes SB 300 because "Under [SB 300], if two individuals shoot at a law enforcement officer and that officer dies, but it is proven that only one bullet killed the officer, then the person who's shot did not hit the officer will not be subject to the same penalties of the actual shooter." PORAC was not responsive to further comment on SB 300.

Another opponent, John Brouhard, Assistant District Attorney at Alameda County, on behalf of the California District Attorney Association (CDAA), testified to the Senate Committee that SB 300's retroactive provisions are too broad.

A previously sentenced "defendant will be entitled to resentencing on all other charges" if the "defendant convinces the judge to dismiss the felony murder special circumstance" Brouhard testified.

"At a minimum, this bill should limit release to the felony murder special circumstance at issue;it should provide that no other crime, special circumstance, or enhancements are subject to resentencing." CDAA was not responsive to further comment on SB 300.

SB 300 was passed by the Senate Public Safety Committee on April 6, with a vote of 4-0. The Senate Appropriations Committee voted on April 19 to place the bill on the suspense file, to hear before the committee's fiscal deadlines.

Image from Unsplash.com & Sandra Dempsey

California Residents Split on Prop 19 Change

by Nicolas Garofono

A new property tax law in California may affect how you pay taxes this year and may cause your family to rethink its retirement planning.

Beginning on April 1, 2021, Proposition 19 allows homeowners who are either over the age of 55, physically disabled, or victims of a natural disaster—most notably wildfires—to transfer their current property's assessed value to a home up to three times. These three transfers can be made regardless of the value of the replacement property's value (subject to a blended tax rate adjustment if higher).

"[Previously], property owners could only transfer their base-year assessed value to a home of equal or lesser value and only one time," Suzanne Yost, adjunct lecturer at Santa Clara University School of Law, said.

Although facially straightforward and beneficial for qualifying homeowners, there is a caveat that is not written in Proposition 19, which will have a pronounced impact on intergenerational property transfers. Previously, under Propositions 13, 58, 60, and 90, which Proposition 19 supersedes, all homeowners could transfer their property to leave a low tax burden to their descendants—rather than slingshotting the tax basis to the current market value.

The Propositions described below give breadth to the evolution of property transfers in California:

Proposition 13: passed in 1978, capped property tax 1% of assessed value, plus local % additions by county. Assessments could rise at a maximum of 2% a year despite the skyrocketing real estate prices in California.

Proposition 58: passed 1986, excluded transfers from parents to children from reassessment. Additionally, it also excluded the first $1 million of the assessed value for other property types transferred to children, such as commercial property. For example, a family owning a single-tenant building, such as a laundromat or gas station.

Proposition 60: passed in 1986, allowed for the transfers of a base year value within the same county (intracounty).

Proposition 90: passed in 1988, allowed for the transfers of a base year value from one county to another county in California (intercounty) if the county has authorized such a transfer by an ordinance.

"[The tax incentives] provided an avenue for parents to build their nest eggs for their children, particularly when many homes in California are worth well over $1 million," Joseph Zimmerl, estate and business attorney, said.

Thus, prior to Proposition 19, you could transfer your Proposition 13 property tax basis of your property to your children, via Proposition 58, or, in the few permitting counties, could transfer your Property 13 tax basis to another replacement property in the new county-intercounty- via Proposition 59. Proposition 19 eliminates the intra and intercountry distinction and permits a qualifying seller to transfer the tax basis of the sold property to anywhere in California.

This change allows qualified homeowners that were particularly affected by wildfires to eliminate the restriction of where they could move their property tax base.

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Bay Area Residents Face Housing Concerns During Pandemic

by Yilin Du

Bay Area residents are continuing to face evictions during the pandemic, despite protections provided by the state.

The economic downturn that followed the novel coronavirus (COVID-19) caused financial hardship on many families, leaving them with no income to pay their rent. To protect tenants who are experiencing financial hardship, California is offering the CA COVID-19 Rent Relief program, a $2.6 billion emergency rental assistance program aimed at assisting Californians that are impacted by the pandemic. The program's funds come from federal emergency assistance that was distributed to state and local governments.

According to the County of Santa Clara Office of Supportive Housing, the State of California legislature has enacted two state laws: Assembly Bill No. 3088, which took effect on August 31, 2020, and Senate Bill No. 91, which took effect on February 1, 2021. These two pieces of legislation temporarily prevent evictions of tenants due to financial hardships caused by the COVID-19. With Senate Bill 91, the state now extends the eviction moratorium until June 2021.

Renee Elias, executive director of the Center for Community Innovation, said despite these statewide protections, many tenants are still experiencing eviction during the COVID-19 lockdown.

"When we talk to many of our collaborators who are community-based organizations and legal advocacy organizations, they definitely reported to us that evictions are still happening despite the moratorium placed," Elias said.

Elias said issues of financial instability during the pandemic may have impacted housing stability.

"An estimated 1.5 million California families, front-line workers and low-wage earners are behind on their rent due to the economic fallout of this pandemic," Lourdes Castro Ramirez, Business, Consumer Service and Housing Agency Secretary (BCSH) of California, said in a news release. Even with the moratorium, many families still cannot afford to stay in their homes during the pandemic.

According to data from sheriffs' offices in the Bay Area's nine counties, at least 527 tenants were evicted during the COVID-19 pandemic, but these individuals may not be the only ones that were evicted.

"An estimated 1.5 million California families, front-line workers, and low-wage earners are behind on their rent due to the economic fallout of this pandemic." - Lourdes Castro Ramirez

In "Public Oversight Roundtable on: Examining the District's Legislative Prohibition on Evictions During the COVID-19 Pandemic" by the Office of the Tenant Advocate, it is said that many tenants "self-evicted," or felt compelled to move out of their homes due to misunderstanding of their rights. Evicted tenants are forced to stay in a hotel or become homeless in the midst of a pandemic.

The CA COVID-19 Rent Relief program is created to help these tenants who are in financial distress. This program's funding comes from the $2.6 billion in federal emergency rental assistance program to states and local jurisdictions.

In BCSH's most recent news release regarding CA's Rent Assistance Program, landlords who have low-income renters may apply for this program. The landlord will be reimbursed for 80% of the past due rent from the tenants. However, the landlord must agree to waive the remainder of 20%. If the landlord does not agree to this plan, tenants will also be able to apply for this relief. Tenants will receive 25% of their unpaid rent between April 1,2020 to March 31, 2021 to help with paying missed rent to their landlord. This will help keep the renters in their homes under the extended eviction moratorium.

A greater concern lies in the post-pandemic time, when the eviction moratorium will no longer be in place.

"Something that many housing advocacy organizations are concerned about is what is going to happen once the eviction moratoria expires, because they will eventually expire," Elias said. "When they do expire, I think that is when we expect an increase in displacement pressures." Many landlords are also under the pressure of mortgage payments. Long term failure of rent payments may lead to landlords losing their homes.

Elias said although the pandemic is seeing signs of recovery with the availability of vaccines, the recovery for both tenants and landlords is still a far reach.

"We are not anywhere near a recovery at this point, and a lot needs to be done to ensure both housing stability and financial stability to protect some of those residents who are most vulnerable to being displaced, when the eviction moratoria do expire," Elias said.

GME

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The trading restrictions prompted scrutiny from disparate groups, including the SEC, and a flurry of class action lawsuits alleging that Robinhood had breached its fiduciary duty to its customers.

"I think that there is certainly harm here," said Maurice Pessah, Principal at the Pessah Law Firm in Los Angeles, and an attorney representing Robinhood users in one of the class action suits, *Gossett, et al. v. Robinhood Financial, LLC, et al.* "If a client has a call option when Robinhood restricts buying, there is only one thing that can happen - the price goes down."

Given that stockbrokers know (or ought to know) that they are subject to certain financial requirements, Diamond is skeptical of the official story from Robinhood, but does think they were caught off-guard.

"I don't think we've heard the full explanation from Robinhood but I was not impressed by the CEO's explanation of the trading stoppage," Diamond said.

Despite the novelty of the GameStop phenomenon, some have expressed hesitancy about the role of regulation.

John Coffee, a securities law professor at Columbia Law School, doubts Congress's ability to step in.

There is good regulation and bad regulation. You can't just say 'regulate it' without specifying how," Coffee said. "Frankly, Congress doesn't understand this and is more likely to write bad legislation."

Coffee said regardless of Congress's action; this situation may not happen again.

"Pain is a great teacher, and when you lose your shirt in the game, you may learn something (those who do not learn go bankrupt). Thus, I do not assume that this same level of exuberant irrationality will continue absent legislation," Coffee said.

Bumblebees and the California Endangered Species Act

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In his decision, Judge Arguelles argued that judicial deference is not warranted because the Legislature clearly intended to delineate invertebrates as those "connected to a marine habitat" when it designated "fish" in both CESA and the Fish and Game Code generally.

"Here they use the term fish, not in its biological definition, but fish in a colloquial way," said Professor Tseming Yang, Professor of Environmental Law and Director of the Center for Global Law and Policy at Santa Clara University School of Law. "That is absolutely clear, on its face, in the text, that 'fish' is more than just fish. ['Invertebrates'] clearly does include insects, so how far can you then stretch that?"

When reconciling statutory ambiguities, judicial deference to a governing agency's expertise is more strongly relied upon at the federal level via *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*.

"You have a legislative provision where it's unclear whether insects are covered or not. You then have this problem of how this ambiguity should be resolved," Yang said.

California's analogous rule for *Chevron* deference, from *Yamaha Corp. v. State Bd. of Equalization*, further requires evidence of both the agency's long-standing consistency in interpreting the statute, and that the interpretation is consistent with legislative intent.

Matthew Sanders, lead counsel for the defense and supervising attorney with the Stanford Environmental Law Clinic, argues that CESA listings accepted as far back as 1980 satisfy both Yamaha requirements.

"The Trinity Bristle snail is terrestrial. It's not an aquatic invertebrate. So if, in fact, invertebrate listings were limited to aquatic species, then it's difficult to explain that," Sanders said. "The statutory language and the legislative history don't, in any way, limit protections to aquatic invertebrates."

First passed in 1970, CESA established a policy to "conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat." CESA has been amended several times, adding plants for protection in 1977, updating several definitions, and the inclusion of an agricultural exemption in 1997.

This amendment created FGC § 2087, which precludes farmers and ranchers from liability in the event of an "accidental take" of protected species.

"In CESA, there's an exemption for routine agricultural activities that is terminal, but every time it comes up for readoption, the legislature readopts it," Sanders said. "The types of concerns that we think Almond Alliance and other petitioners have, we think are misplaced."

Charlsie Chang, Communications Director for District 25 Assemblymember Alex Lee, has been spreading awareness in the CA Legislative offices about the need to strengthen protections for threatened and endangered species, including the Vaquita porpoise, Monarch butterflies, and CA native bees.

"I just thought, 'Insects are protected', because that's what you would assume from an endangered species act," Chang said.

If the bees lose on appeal, Chang said a different kind of relief should be sought.

"I think the Legislature just needs to make this move and change this, to protect the insects," Chang said. "I think they need to amend the California Endangered Species Act to include insects."

Chang stressed the importance of reaching out to legislators and educating them about important policy issues.

"Legislators are able to fill those gaps, but they're not able to if they don't know what the problem is," Chang said.

Jepsen said increasing awareness, education, and involvement for the general public, policymakers, and future lawyers is critical for the future of environmental policy change.

"There is a real need to better communicate some of these nuanced conservation messages to the public," Jepsen said.

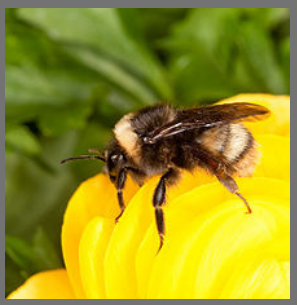
"If we have to make a change in legislation, it's going to require a huge show of public support, a huge amount of organizing, and a huge amount of work to get it to happen."

The four species of native bumblebees that were petitioned to be listed as endangered species under the California Endangered Species Act

Crotch bumblebee (Bombus crotchii)

Franklin's bumblebee (Bombus franklini)

Suckley's cuckoo bumblebee (Bombus suckleyi)



Western bumblebee (Bombus occidentalis occidentals)

Photos from Wikipedia.com

New Property Taxes under Proposition 19

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Rather than mostly limiting this tax incentive to only other property within one's county, a qualified homeowner is free to go anywhere in California. For a qualifying homeowner in a county devastated by forest fires, there is a limited inventory of available property, thus Proposition 19 greatly eases this burden by opening "California's entire real estate market [to the Proposition 13 tax benefit]," Yost said.

However, accompanying this benefit for qualifying homeowners is the near total elimination of the Proposition 13 and 58 parent-child property transfer benefit. Proposition 19 only "maintains the parent-child property transfer" Yost said, "[for the limited exception] where the child moves into the property within a year making it their primary residence.

The group behind Proposition 19, *YesOn19*, bought millions of dollars worth of TV advertisements featuring firefighters battling forest fires and consoling devastated homeowners in front of their burnt down former homes. The *YesOn19* ended their commercials with the powerful line that Proposition 19 will help wildfire victims to move into a new home "without a tax penalty."

"Proposition 19 will encourage seniors in bigger homes to downsize, which should free up inventory in the state's [increasingly unaffordable] housing market," Yost said.

Although proposed to alleviate the severe housing shortage in California, Yost said the opposite may happen.

"Proposition 19 could have the adverse effect of depriving middle-class families of investment income," Yost said.

This is because Proposition 19 only permits the parent-child transfer to one property—the one in which the child makes their primary residence—thus any rental properties a family built up over the years for passive income purposes cannot be transferred absent Proposition 19's tax basis reassessment.

"It's hard for anyone to buy a house in most of California, which is the principal factor for Californians moving out of expensive areas..."" - Joseph Zimmerl, Estate and Business Attorney

The *YesOn19* commercials left out details of eliminating the parent-child tax transfer, and only focused on the benefits to qualified buyers and increasing funds to fight wildfires. Given that the California Association of Realtors spent over $42 million to back the Proposition, this left a sense of buyer's remorse from some Californian voters, including Carolyn Garrison, a homeowner in Monterey County.

Garrison described Proposition 19 as a "ploy by California Association of Realtors to increase sales. It inhibits the home to stay in the family. It basically forces the beneficiaries to have to sell their inherited homes. Also, I do not think elderly people—like myself—should be given the advantage, tax basis wise, in purchasing new homes."

Because of the speedy implementation schedule, affected families have been scrambling to try to protect their wealth and estate planning objectives. Zimmerl said he has been swamped with clients' questions asking "whether they could still leave a nest egg to their kids" that they have been anticipating for years.

"It's hard for anyone to buy a house in most of California, which is the principal factor for Californians moving out of expensive areas, whether out of state or cheaper areas within California, such as Fresno," Zimmerl said.

Some, however, cite the former Propositions as a factor to elevated rents because such inherited property, Yost said, is "then used as an income generator for the children... to benefit from high rent income with falsely low property taxes... [which] has created [a] disparity." Further, Yost said Proposition 19 is intended "to allow [qualifying homeowners] to relocate to be closer to family without having a large property tax increase. By freeing up this housing, it provides more supply for younger and first-time buyers."

"[Its] potential will not have a dramatic effect" on property prices, Zimmerl said. Moreover, Yost said, "the real issue affecting inventory is that there is no new construction of new homes to meet the demands" of homebuyers."

"Proposition 19 is a win, lose... while beneficial for a [qualifying] parent, the parent may likely also be conflicted in how their children would inherit the property [without unexpected taxes]," Maria Finkle, a realtor in Monterey, said. "It's essential to be prepared; [this is] particularly true regarding an unexpected [parental death]."

An unexpected parental death triggers Proposition 19 as a change in ownership.

Although Proposition 19 is in full force, Zimmerl said, the Board of Equalization ("BOE") needs to make several needed clarifications. Certified Public Accountants, lawyers and the BOE alike do not have several important clarifying answers due to the limited explicit language of Proposition 19.

Zimmerl said there are two big, unclarified issues: if the analysis is per parcel or a one-time exclusion, and who determines the market value for transferred property from parent to child.

Image from Unsplash.com & Erik Mclean

U.S. Senate Considers Labor Reforms

by Colan MacKenzie

A massive piece of legislation is sitting on the desks of United States Senators, and the future of American labor and workers' rights could be entirely determined by how, and if, those senators vote.

The Protecting the Right to Organize Act, otherwise known as the PRO Act, was passed by the U.S. House of Representatives in March of this year and has been widely lauded by labor organizations across the country. Its terms run the gamut from repealing so-called "right-to-work" laws nationwide to developing a more robust enforcement system for the National Labor Relations Board (NLRB) when dealing with unfair labor practices.

"This is sort of a massive wishlist of everything unions have wanted," Brandon Magner, a Kentucky attorney specializing in labor law, said.

The act would significantly overhaul the National Labor Relations Act (NLRA) of 1935 and the later Taft-Hartley Act of 1947. The Taft-Hartley Act was passed to amend the Great Depression-era NRLA and is widely seen by workers' rights advocates as extremely anti-union and anti-labor.

Magner, who is also the writer behind a publication on Substack called "Labor Law Lite", where he tries to demystify the field of labor law, said the PRO Act seeks to plug a lot of the holes left by previous legislative action.

"I have my wishlist, and already 90 percent of it is being answered in the PRO Act," Magner said. The NLRB is currently known as one of the weaker federal agencies in terms of actually enforcing its own law, but the PRO Act would make the NLRB much more formidable in cracking down on wrongdoers."

Magner's last point about expanding the rights of certain private-sector workers under the NLRA is particularly important to modern labor organizers, as it includes freelancers and independent contractors.

Among the PRO Act's many changes, one of its most significant is the nationwide application of the "ABC Test" to independent contractors. That test, created by the California Supreme Court in the 2018 *Dynamex v. Superior Court* decision and codified by the California legislature in Assembly Bill *5*, reclassified many California independent contractors as employees.

Essentially, the ABC Test construes the independent contractor classification very stringently and therefore requires the extension of benefits to more workers than the law previously required. It also allows those workers, now employees, to unionize. This test is one of the more controversial portions of the bill, and employers and their representatives have ardently campaigned against the entire bill by primarily targeting the adoption of the ABC Test at a national level.

"The ABC Test is no solution," Marshall Anstandig, Professor at Santa Clara University's School of Law and Senior Vice-President and General Counsel to MediaNews Group, Inc., said. "It almost operates as badly as saying there's no test at all."

Anstandig said one problem is in determining which test should be used.

"It's one thing to be doing sophisticated science and math, and another to be doing manual labor. Are you going to be judging both of those by one standard? Good luck with that," Anstandig said.

This independent contractor classification issue has also been a point of concern for many people across the country, particularly those who work as independent writers and journalists. They worry that the PRO Act could legislate their job away.

But Magner is not worried about that.

"I don't want to say there will be no effect, but the NLRB isn't some overbearing or strong watchdog over labor rights like OSHA who goes into a workplace once a year and investigates workplace safety," Magner said. "Even if I am likely to be ruled an employee under the ABC Test, unless somebody in my workplace files an unfair labor practice charge that would cause the NLRB to investigate, the NLRB is never going to come and inspect my work situation."

Even with generally strong backing from American labor, left-wing activists, and politicians like Representatives Ro Khanna (D-CA) and Alexandria Ocasio-Cortez (D-NY), who co-sponsored the bill in the House, the PRO Act does not fix all of the problems some labor organizers see.

Ruth Silver-Taube, a professor at the Santa Clara University School of Law and coordinator for the California Wage Theft Coalition, broadly supports the 2021 version of the PRO Act, but thinks it could be improved.

"They also mentioned sectoral bargaining in the 2019 version," she said. "This would allow bargaining across a whole sector which is really important for certain industries, like fast food, where it is difficult to organize a union. You have a lot of small employers, and there are so many of them, if you could bargain across the whole sector it would be hugely beneficial."

The PRO Act, for all of its pros and cons, may not even clear the Senate, where it has 45 co-sponsors but comes fifteen members shy of having a filibuster proof majority. Many pundits believe that the PRO Act will not be able to survive a concerted filibuster from the Republican party.

Even some Democrats have not been keen on it and significant effort has gone into trying to get the remaining four Democratic Senators — Joe Manchin (D-W.Va), Kyrsten Sinema (D-AZ), Mark Kelly (D-AZ), Mark Warner (D-VA), as well as Senator Angus King (I-ME) who caucuses with the Democrats — on board to get the bill to 51 cosponsors, at which point Senate Majority Leader Chuck Schumer (D-NY) has promised to hold a vote.

As a result, many labor organizers now view the filibuster as one of the biggest obstacles to further reform.

"The filibuster is what tanked every attempt at pro-labor reform to the National Labor Relations Act," Magner wrote for Labor Law Lite. "With [it] gone, we may finally be able to achieve the NLRA's purpose of bringing industrial democracy to the United States."

Companies and Prop 22

by Jessica Le

In less than half a year since the passage of Proposition 22 ("Prop 22"), large grocery chains in California are following the lead of gig-economy companies such as Postmates, Uber, Doordash, Instacart, and Lyft.

Grocery stores have been reportedly firing their own employees and relying on gig-economy independent contractors to deliver groceries instead.

Prop 22 was drafted as a collective effort by gig-economy companies and other supporting organizations to fight for exemption from Assembly Bill 5 ("AB 5"), which provides a three-part test ("ABC Test") for purposes of determining classification between an independent contractor versus an employee. The passing of Prop 22 did exactly that by classifying "app-based drivers as 'independent contractors,' instead of 'employees,'" as provided by CA's Official Voter Information Guide.

"AB5 is not well-suited to drivers in the gig economy, and Prop 22 thankfully eviscerates it," Damien Park, an lecturer at Santa Clara University Leavey School of Business, wrote in an article he wrote about voting "yes" on Prop 22 in October 2020. Park said that he would hold the same opinions today as it was published in the article he wrote.

Park said he shares the ideology of the many advocates of Prop 22. They believe that requiring gig-economy workers to classify as employees would take away the element of free will and flexibility that workers seek when working for these companies. Additionally, an "employee" classification would essentially force most gig-economy workers out of work, which would reduce accessibility to the services their work provides.

Park said that even if gig-economy workers do not get all employee benefits, they still get some benefits from being classified as an employee.

"Proposition 22 grants them [benefits], including increased workplace safety standards, worker's comp, medical subsidies and earnings floors for the times they are actively driving passengers," Park said.

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Image from Unsplash.com & Imants Kaziluns

Google Employees' Union

by Amy Allshouse

Chewy Shaw is working to make sure his fellow Google employees feel empowered.

"Google was the place to go when you wanted to help uplift lives rather than being part of systems of power. That's one of the key motivations," Shaw said.

Shaw is the Vice-Chair of Alphabet Workers Union (AWU), a new union in the heart of Silicon Valley, started by Google employees with over 800 members so far.

Stephen Diamond, Associate Professor of Law at Santa Clara University, said this unionizing effort reveals the dynamics at play in the tech industry.

"There are two souls to Silicon Valley," Diamond said. "One is a very aggressive free market that is profit-driven, the other — a kind of employee participation model."

Accordingly, while Google is not the first technology company to unionize, the precedent is limited. AT&T has been organized since the 1930s by the same union, and Kickstarter formed a union just last year, shared Diamond.

But Google's AWU might offer a different story with the opportunity for unique impact.

Shaw said he is working to increase employee participation in Silicon Valley.

"We see this as being a place where trying to get worker power and worker organizing is the right next step," Shaw said.

In addition to upholding core values, Shaw suggests that a second key motivation for organizing is the unfair contractor system, which appears to be worsening. He explains that with a majority of company employees comprised of contract-based workers, fear of job loss is real and ever-present.

Molly Gabel, a partner at Seyfarth Shaw LLP, said this organizing effort is a concerted call to action to inform company values. Per Gabel, AWU organizers are trying to get Google to care about what its employees care about.

"This is not set up to do what the labor laws provide a union the right to do," Gabel said.

According to AWU's mission statement, the goal of the union is threefold: to protect Google employees and the global society, mitigate workplace discrimination, and advocate for ethical practices.

Gabel said companies are solely mandated to discuss specific topics with unions, including wages, hours, and employment terms and conditions. Gabel emphasized that unions and companies are specifically precluded from bargaining unless they have a majority representation, so the goals of AWU may not be legally actionable.

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Prop 22 and Grocery Stores

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Nonetheless, Prop 22 has passed, and is likely here to stay thanks to a California court recently denying a lawsuit challenging its constitutionality.

"While the recent passing of Prop 22 managed to solve some answers regarding the classification as an employee versus an independent contractor for gig-economy companies such as [gig-economy companies], it raised other issues," Connor O'Flaherty, a Kirkland & Ellis lawyer practicing in the corporate sector, said.

O'Flaherty explained that Prop 22's passage still leaves questions for businesses that fall outside the gig-economy space because classifying workers as an "employee" versus "independent contractor" carries significant weight for their hiring practices.

Opposers to the bill have and continue to advocate for protection of gig-economy companies workers by demanding employee benefits and refuse to settle despite the passing of Prop 22, as demonstrated by KTLA's news report of the attempted lawsuit.

While gig-economies may benefit society, there are still conflicting issues between keeping the benefits of these companies while also being conscientious of the implications on human rights.

"There needs to be a third category that is a medium between the classifications as employee versus independent contractor," O'Flaherty said.

Photograph of Austin, Texas Downtown District

Image from Unsplash.com & Jeremy Banks

Google Worker Union

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Nonetheless, Diamond said the culture of Silicon Valley might bolster AWU's efforts or block them further.

"If you look at the origins of Silicon Valley, it has its roots culturally in what I would call utopian socialist ideas," Diamond said. "It seems like what we are seeing right now is that as more employees desire a socialistic approach, they are concerned about how the companies are managed and what their values are."

According to Diamond, some businesses may thus react to such efforts by moving. California specifically is a pro-union state, meaning the attitude towards unionizing efforts is friendly, Diamond said. Thus, some companies may decide to move their headquarters to another state, Diamond explained.

In fact, Oracle and HP recently announced that they are moving their headquarters to Texas. Similarly, Tesla shared just last year that it will be building its newest and largest facility in Austin. While Apple and Facebook are maintaining their California headquarters, both companies are also expanding their presence in Texas.

Shaw said the business movement is not the only recourse: organizing that draws attention to the core issues is vital, even absent tangible impact. Shaw points to the Women's Walkout, which he cites as receiving immense attention and driving meaningful conversations, despite the limited change.

"[Google's 2018] Women's Walkout is pointed to as being one of the most impactful moments because of how we all spoke out at once," Shaw said.

Shaw said that the primary focus must be protecting those who speak up, and with this objective, company silencing may be meaningfully halted.

"So then if the company wants to silence somebody, they can't retaliate against one person. They now have to face a growing number of people who are strategizing together," Shaw said.

Diamond said AWU's values, though not legally actionable, may inform the future of unionizing. Diamond believes that other Silicon Valley companies may follow suit and unionize in this new way.

"What they're doing is really important, and it's very creative," Diamond said.

Editors' note: A previous version of this story appeared in Issue 3.

Opinion

Views expressed in this section are exclusively those of the authors and do not necessarily represent the views of The Advocate and its staff as a whole

D.O.J.'s Antitrust Investigation of Sony is Misguided

by Shyam Rajan

It is no surprise that the latest iteration of antitrust litigation has hit the burgeoning online streaming industry.

The Department of Justice began investigations suggesting that Sony's potential acquisition of San Francisco's streaming firm, Crunchyroll, could violate antitrust laws by consolidating within one firm most worldwide anime streaming, a prominent Japanese import whose profitability has increased substantially over the past decade. Substituting scrutiny of an anime streaming monopoly instead of scrutinizing the video streaming market as a whole is an administrative experiment which ignores the core market and delays its investigation with an insufficient and underinclusive substitute.

Alleging antitrust in this situation is like alleging Tesla is a monopoly because it owns almost 80 percent of the electric car market, ignoring the automobile market as a whole. Likewise, the Department of Justice will not invalidate Sony's acquisition of Crunchyroll because its service is a niche sector within video streaming that is not representative of the market entirely, is unessential, and its dissolution will not promote competition.

Previous antitrust litigation targeted essential industries like telecommunications, personal computers, and social media. Included were the most dominant firms in their markets— Bell Systems, Microsoft, and Facebook. Conversely, anime streaming is an unessential service which is only one unrepresentative slice of the now-essential video streaming pie.

Additionally, prior monopolies were dismantled to foster healthy competition. Dissolving Sony would create no such benefits because it operates in diverse sectors, and small anime firms have historically not survived without acquisition or licensing.

Media streaming has become an essential mode of consumption. Purveyors include independent giant Netflix, complemented by offerings from Amazon Prime and Hulu. Considering its massive growth, it is no shock that video streaming is now a disruptive, revolutionary industry finally coming under scrutiny. It was not if the Department of Justice would investigate, but when. Sony's attempted acquisition of Crunchyroll for $1.2 billion cash just so happened to become the case that caught the judiciary's attention.

In 2020, the anime streaming market was valued at $24.23 billion. It is expected to grow to $43.73 billion by 2027. Comparatively, the entire video streaming market is expected to grow to $108.306 billion by 2025. Anime streaming accounts for almost half of the video streaming market, and The Verge considers anime streaming to be "one of the biggest fronts in the streaming wars." At one time, the market included competitors like Netflix, Crunchyroll, Funimation, and Viz Media, each distributing production from companies including Sony's own Aniplex, now A-1 Pictures.

Sony is consolidating streaming services to secure a permanent space in the streaming war by dominating in anime solely. It acquired French streaming service Wakanim, Australia's AnimeLab and Madman Anime Group, the UK's Manga Entertainment, and Funimation, the latter of which was a $143 million deal approved by the Department of Justice. Funimation was a leading American licensor and streamer of Japanese products.

Both Funimation and Crunchyroll made agreements with the internationally dominant Viz Media to stream its products.

If Sony were to purchase Crunchyroll, most of the world's major anime streaming services would be conglomerated under one umbrella. Its purchase of Funimation, its acquisition of smaller local firms, and its partnership with Viz Media have established Sony's dominance by fully occupying a salient niche in online streaming in almost every prominent geography. If the streaming war cannot be won, dominating the anime streaming market is a healthy alternative.

The industry is the scapegoat that will finally begin close judicial scrutiny of the entrenched video streaming industry. Because video streaming is a permanent transition in media consumption, its growth cannot be ignored.

Purchase of Crunchyroll will entail acquisition of a firm accounting for almost half of the anime streaming industry's revenues in 2018. Afterwards will exist a market consisting primarily of Sony, Netflix, Hulu, and Amazon Prime. The latter three broadcast diverse portfolios with anime streaming only a small, but growing service. Sony, on the other hand, will have a single core competency - anime streaming. That it does not intend to enter the streaming wars entirely is highlighted by their recent partnership with Netflix to distribute their Sony Pictures catalog. That the anime streaming market has grown so fast in such a short time has not only made it the unintentional victim within modern media trends, but warns the industry of regulation soon to come.

Previous antitrust litigation included familiar companies operating in essential sectors, but the massive $1.2 billion deal offered here caught the Department of Justice's attention. Even so, the acquisition will be uncontested. The investigation serves only to alert the industry that regulation is underway, while alerting regulators of a paradigm shift in media consumption. Sony's acquisition will instead incentivize the market to provide better service through partnerships with studios, diversified streaming portfolios, and membership perks.

Logos of Major Anime Streaming Services Sony, Crunchyroll, and Funimation