

Summer of 2023: FPLG Blog Favorites

01.08.24 | Linda J. Rosenthal, JD



It's time again to present the list of our favorite blog posts from the second half of 2023.

As in [earlier retrospectives](#), the chosen items span an “eclectic range of topics.” That’s because our readership “.. [isn't easily pigeonholed](#) into one or another narrow audience category.”

And the “...[unifying thread](#)” that runs through our almost ten years of blogging – with over 800 posts to date – is the “...common belief of the nonprofit community that philanthropy serves a vitally important role in today’s society. It must be strengthened and supported however possible.”

That means we discuss not only the important tax-exemption rules but other obligations imposed by law more widely at the local, state, and federal levels. And we write about “... [sector-wide trends](#), challenges, and controversies along with opportunities to “advocate for government and public policies that bolster the charitable community and its beneficiaries.”

With that introduction, let’s jump into the chosen items from June through August 2023, picking up the September through December favorites in succeeding posts.

The Summer Selections

[New Surveys: Alarm Bells for Nonprofit Sector](#) (June 26, 2023); **[Burnout: Nonprofits’ Five-Alarm Worry](#)** (July 30, 2023); **[Readings on Nonprofit Burnout](#)** (August 2, 2023)

By early summer, one particular topic had emerged from its usual place in the shadowy corners of nervous conversations and uncomfortable meetings.

The nonprofit sector has been [roasted on the outside](#),” wrote Tim Delaney, the CEO of the National Council of Nonprofits, in an [article](#) we quoted in the June 26th post. It’s “like “...a hard pretzel rod on the verge of snapping in half. That’s how fragile things are right now....”

As the head of the nation's largest membership association of tax-exempt organizations, Mr. Delaney is certainly in a position to know about the sector's deepest concerns and dangers. "It's a "kind of burnout at the highest level Leaders are beyond fried, They've been trying to hold things together with baling wire and chewing gum."

This same sentiment, and the urgency of it, also runs through our July 30th and August 2nd posts, discussing the newest surveys, reports, and analyses.

Charitable organizations in mid-summer 2023 were still struggling to recover financially from the COVID-19 pandemic and the disruptions in normal avenues of revenue. Inflation was spiking as well along with bizarre supply-chain glitches. And a newly identified problem – the Great Resignation – was exacerbating a preexisting staffing shortage. Organizations were bleeding employees from top to bottom.

A puzzling chicken-or-the-egg question has emerged: Is record-breaking burnout causing staff to flee the sector, or is the worker exodus spiking the dangerously high burnout levels?

But as we wrote in the July 30th post, "[p]erhaps the answer doesn't really matter. Burnout, particularly in the nonprofit sector, is much broader and deeper than the problem of insufficient staff (or the money to find and keep them.) It is now a multi-headed Hydra, and it presents an existential threat."

Forced Out Nonprofit Directors in California Don't Lose Standing to Sue (August 10, 2023); ***Another Favorable Standing Ruling for CA Nonprofits*** (August 18, 2023)

Two posts from August return to the more direct subject-matter for a blog covering nonprofit law: that is, access to a courtroom to decide disputes.

The August 10th blog post reports on the conclusion of a six-year-long legal battle involving one of San Diego's most prominent philanthropies, the Conrad Prebys Foundation. (Nationally, that name may ring a bell as it's mentioned every Sunday night on PBS as one of the key sponsors of Masterpiece Theater.)

It was much more than – (as somewhat blithely described by the San Diego Union-Tribune) – "a complicated San Diego Superior Court case involving family and inheritance." Following the 2016 death of Conrad Prebys, conflict erupted among the five directors of the foundation that he intended to continue carrying out his billion-dollar charitable program. Four of them disagreed on a critical issue with the fifth – Debbie Turner – who happened to have had a key role as the late Mr. Prebys's life partner.

Long story short: Debbie Turner took the other four directors to court for alleged breach of fiduciary duty. They, in turn, kicked her off the board and out of the foundation. The four then asked the Court to dismiss her lawsuit against them on grounds of lack of standing.

The trial and appellate courts sided with the four directors, but the California Supreme Court reversed them both in *Turner v. Victoria* (August 3, 2023), 4th Dist, Div. 1 [San Diego]. The case isn't over, of course; the high court's ruling merely paves the way for Debbie Turner to proceed with her lawsuit.

But it's important because it strengthens whistle blowers on a nonprofit board. The ruling thwarts efforts to silence them by tossing them off the board to cancel their standing to sue.

The second case, discussed in the August 18th post, is *California Medical Association v. Aetna Health of California, Inc.* (July 17, 2023), 2nd Dist, Div. 8 [Los Angeles].

In a unanimous ruling by the state Supreme Court, the justices “reopened a door for certain California nonprofits to successfully assert standing to sue. This time it's under the state's unfair competition law (UCL); more particularly, the Unfair Business Practices Act (CA Business & Professions Code section 17204).”

This case is quite a bit more complex than *Turner v. Victoria* and takes much more explanation, so we'll skip that in this summary.

Note, though, that – in both cases – “the California Attorney General was among the *amici curiae* voicing critical support for the sole legal issue: reinstating the right to sue without getting tossed out at the initial stages of the litigation. The government took no position on the merits of either case; that will be thrashed out in later stages of these lawsuits.”

Conclusion

Next up will be the hands-down reader favorite of the entire year: *Some Charity Fraud With Your Hot Dog, Sir?* (September 1, 2023). There have been developments including interest from local law enforcement in San Diego as well as in other big-stadium cities nationwide. And now the FBI is paying attention!

– Linda J. Rosenthal, J.D., FPLG Information & Research Director