



# Monthly Bulletin

November 2022

## Contents

<b>Chairman’s Corner.....</b>	<b>2</b>
<b>BAR Electronic RO Citations .....</b>	<b>3</b>
<b>CNCDA Pushes Back Against Ford’s Model E Program.....</b>	<b>4</b>
<b>Robb Hernandez 6x Winner: Chevy Dealer of the Year.....</b>	<b>4</b>
<b>Holiday Parties in the Almost-Post-Pandemic Era .....</b>	<b>5</b>
<b>Hansel Subaru Canine Companions .....</b>	<b>7</b>
<b>Auto Dealer Claim of the Month- Could it happen to you? .....</b>	<b>8</b>
<b>Supporting Future Techs .....</b>	<b>9</b>
<b>Events.....</b>	<b>10</b>
<i>New Laws Seminars. ....</i>	<i>10</i>
<i>2023 NADA Welcome Reception .....</i>	<i>10</i>
<i>2022 CNCDA Upcoming Events.....</i>	<i>11</i>
<b>Thank You to CNCDA's 2022 Sponsors! .....</b>	<b>12</b>

# Chairman's Corner: Latest Association Updates

*By: John Oh, Lexus of Westminster, Chairman, CNCDA*

As we head into winter, we know the weeks ahead will be filled with events, holiday parties, end-of-year goal hitting, as well as planning for 2023.

Over the past few weeks, CNCDA has been actively preparing to hit the ground running in the new year. After our very successful Member Appreciation Dinner in San Diego (it was great catching up with all who attended), our Legislative Committee met to discuss the legislative objectives and strategies for the year ahead. As no surprise, we identified protecting the dealer franchise model in California as our most pressing priority for 2023.

Additionally, we discussed impending potential legislation that we need to be watching and mindful of to block in Sacramento (another fight against catalytic converter marking is anticipated). With collective support as a membership, we feel like 2023 will be the year of the auto dealer and are encouraged by the focus and strategy we have developed with advisors, experts, and of course, dealers like you.



While we're speaking about legislation, make sure to register for a [2022 New Laws Seminar](#) near you. We did have a very positive response and had to open additional seats and locations. However, if your preferred city is booked, the seminar is also offered as a webinar. Remember, these are available to members only, so make sure your colleagues join CNCDA if they would like to attend.



As part of the New Laws Seminars, the Association creates a yearly Legislative Summary discussing new laws and the requirements dealers need to adhere to in order to remain compliant. If you have questions, the New Laws Seminars will cover these rules in-depth. The 2022 Legislative Summary gives overviews and recaps as well. You can [view the digital 2022 Legislative Summary here](#).

In this issue, John Boggs will cover the laws and rules regarding hosting [holiday parties in the workplace](#). It's a good idea to read up on these now, before your events and parties, to avoid issues later.

Speaking of parties... CNCDA will again host the [NADA Convention 2023 Welcome Party](#) at the Omni Hotel in Dallas, TX. Please join us for an evening of networking and socializing just for our dealers and sponsors. Enjoy drinks and small bites while catching up with associates from around the state. [RSVP today!](#)

As always, we are thankful for your time and continued support.

John Oh  
Lexus of Westminster  
Chairman, CNCDA

## BAR Electronic RO Citations

*By: Les Swizer, Staff Counsel*

Updates to estimating software in 2019 resulted in increased marketing of estimating and/or invoicing software to Automotive Repair Dealers (ARD). After answering consumer complaints, the Bureau of Automotive Repair (BAR) observed deficiencies in many estimating/invoicing software programs. Those deficiencies and potential solutions are listed below.

<b>Issue</b>	<b>Potential Solution</b>
The software limits the number of characters allowed for estimates, work orders, or invoices.	Given ARDs are required to provide estimates and descriptions of the parts and services provided, limited characters may inhibit this ability. If needed, create a separate line item to properly define a specific job.
The software limits the number of additional authorizations that can be documented.	Create a separate document with a unique identifier (e.g., RO#) and link it to the transaction. Be sure to provide this document to the customer along with other required documents.
The software overwrites or omits required information from the estimate on the final invoice.	Retain, either electronically or in a physical document, a copy of the estimate in a format that cannot be changed or overwritten.
ARD is using two incompatible software applications.	Be sure to review all documentation for required information. If there are omissions caused by incompatibility, consider using only one software.
Software-generated parts descriptions may differ from the actual part installed.	Verify parts installed are correctly invoiced and described.
The software applies acronyms that staff or consumers may not know.	Create a legend or key to define acronyms.
The software restricts access to repair records.	Pursue an option to store records locally (either digitally or printed) to not be dependent on the software provider for record storage or retrieval.

It is important to remember that non-compliant software does not excuse improper documentation. Dealers are responsible for meeting proper estimate, authorization, invoice, and records retention requirements. Dealers can access more information about estimate compliance in our Service Drive Manual on CNCDA Comply, [accessible here](#) or by accessing BAR's Write it Right Manual, [available here](#). BAR offers the option to schedule an in-person Write it Right presentation. Dealers can contact their local BAR field office for more information. [Click here](#) to find a local field office.

## CNCDA Pushes Back Against Ford's Model e Program

*By: Anthony Bento, Director of Legal & Regulatory Affairs*



Over the past several weeks, we've heard from many California dealers about their concerns regarding Ford's Model e program. The program requires dealers to make substantial investments in their facilities to continue to sell Ford electric vehicles. One of the most onerous requirements involves the installation of publicly accessible DC fast charging stations at dealerships. In essence, Ford is attempting to coerce its dealers into building a Ford public charging station network. Ford estimates that program compliance will cost dealers upwards of \$1.2 million.

To make matters worse, Ford initially gave its dealers until only October 31, 2022 to decide whether they will be participating in the program. CNCDA joined other state associations to ask for at least a 30-day extension in the program. Ford granted this request and extended the program response deadline until December 2, 2022.

Despite this extension, the program still may violate several franchise laws in California. Key laws that may be violated include those involving franchise modification (Cal. Vehicle Code section 3060 et. seq.) and vehicle allocation (Cal. Vehicle Code section 11713.3(a).) CNCDA staff is currently preparing a letter to Ford outlining these issues in detail.

If you have specific concerns about Ford's Model e program, do not hesitate to contact me at [abento@cncda.org](mailto:abento@cncda.org).

## Robb Hernandez 6x Winner: Chevy Dealer of the Year

*By: Autumn Heacox, Director of Communications and Marketing*

Just weeks ago, Board Member, Robb Hernandez and his team at Camino Real Chevrolet took home the Chevrolet Dealer of the Year award... for the sixth time! Out of 2,900 across the country, only 60 dealers are awarded with the honor yearly. We are grateful that Robb is a CNCDA member and shares his expertise and talents on our Board of Directors. Cheers and congrats!

If you or your dealership has recently been honored, we'd love to share the good news with our membership. Contact Autumn Heacox, [ahacox@cncda.org](mailto:ahacox@cncda.org) with your story.





# Holiday Parties in the Almost-Post-Pandemic Era

By: John Boggs, Fine, Boggs & Perkins



2022 is almost over. But we can't get to the new year without making it through the "Holiday Season." Even in "ordinary" years, we expect issues to arise. But this is not an ordinary year. Things have changed this year—dramatically!

Any HR professional or employment defense attorney will tell you that the holiday season spawns not only goodwill toward others, but also lawsuits—usually sexual harassment lawsuits. Holiday parties (especially with alcohol consumption) are the breeding ground for sexual harassment claims where managers and employees indulge a bit too much. Even managers can get out of hand, and this has serious repercussions for employment relationships. Especially given that this year President Biden signed a bill that makes sexual harassment-type claims immune from binding arbitration. That's right. Instead of having a retired judge decide a case, it will be a jury of 12 people who are likely not your peers. You can appreciate how the jury lottery wheel of justice works as opposed to arbitration with a retired judge.

## **What You Consider Before Having Holiday Gatherings In Light of Covid-19**

Covid-19 restrictions are all but gone—with the exception of symptom screening and keeping ill people out of the workplace—including holiday parties. Symptom screening (such as HR Hotlink's Symptom Checker) should be used for all participants to make sure you do not have symptomatic individual attending the gathering.

Dealers may also consider requiring Covid-19 testing with results 24 hours before the gathering (like international travel).

Also, remember, the Cal/OSHA Standards require that individuals affected by work-related exposures (of non-vaccinated employees) have rights, including paid time-off. Holiday parties can lead to increased absences and payroll expenses if multiple employees become symptomatic after the holiday gathering.

## **The Liability Checklist**

Regardless of where your Holiday party falls on the spectrum, you should plan to minimize your risk. And as an employer planning your Holiday party, there are a few simple, yet very important, liability issues which should be on your "liability checklist:"

## **Employee (and Manager) Conduct**

The Work Rules Apply!!! Since the Holiday Party is off-premises, and off-the-clock, employees (and even managers) overlook the fact that the party is an employer-sponsored event and, consequently, all of the normal rules regarding employee conduct still apply. This means that any inappropriate conduct, including sex harassment, can form the basis for a later complaint. Well in advance of the Holiday Party, you should advise all of your employees and managers that, while everyone should have a good time at the Party, the normal rules regarding employee behavior still apply, and that violations of the employee conduct rules may result in discipline, up to and including discharge. The best way to communicate this message is through an invitation to the party outlining the Company's expectations.

### **Have an Alcohol Plan in Place**

The consumption (and over-consumption) of alcohol tends to magnify behaviors, which could result in Company liability. Alcohol and work parties are a bad mixture in the best circumstances. The risks of sexual harassment, inappropriate jokes and comments, "dirty dancing," drinking and driving, and other inappropriate conduct are, of course, magnified when the Company chooses to provide alcohol at the Holiday Party. You may want to include a short statement warning employees against over-consumption along with your Holiday party announcement and encourage any employee with questions to contact your Human Resources office. Refusing to provide free alcohol is the best approach and limiting alcohol consumption is the next best approach. As an example, in order to discourage over-consumption, do not provide an unlimited "open bar" at this year's party. In its place, you could provide employees with a limited number of drink tickets (maybe 2 per employee) to limit the amount of Company-provided alcohol. Also, you should prohibit sharing or pooling tickets. On the Company's part, responsible alcohol service and moderate consumption should be planned for well in advance, and monitored closely, including of course, NO consumption by minors.

### **Use Monitors**

You may also want to designate a few members of management to act as sober "monitors" for the event, kind of like designated drivers. While they might not be quite as merry as the other partygoers, they could serve an important role in discreetly advising employees who may have had a bit too much to drink, or warning those who are in danger of violating the rules on employee conduct. Also, the sober party Monitors could be responsible for saying goodnight to employees as they leave and offer to arrange transportation for those who have had one (or a few) "too many."

### **Transportation**

You could also arrange for some kind of employer-provided transportation home. Employees who have had too much to drink are very likely to be over California's legal limit for blood-alcohol content and could be a real source of liability for your company. Having a pre-arranged (and sober) Monitor be responsible for making the taxi/Uber arrangements could give you peace of mind on this important issue. Driving home after the party is a major cause of injuries and subsequent lawsuits when alcohol is involved in a company party. You may even want to encourage those who drink to stay in near-by hotels.

## Insurance

Finally, we would encourage you to review your general-liability insurance policies for any possible exclusions which may apply to your function, including exclusions for alcohol-related losses or for off-premises activities. If you are using a restaurant or catering service, you may wish to see whether your event would be included on their insurance prior to officially engaging the vendor.

Just remember that many employees (and even supervisors) mistakenly view the Holiday party as a kind of “free-for-all” at which they are not responsible for their behavior. Everyone at your Company should be advised well in advance that the Company’s personal conduct policies, including its harassment policy, will be in effect at the event, and all employees should be encouraged to have a good time, within the reasonable boundaries of your policies.

Should you have any questions, please contact Fine, Boggs & Perkins LLP at (650) 378-3150 for further guidance.

## Hansel Subaru Canine Companions

*By: Autumn Heacox, Director of Communications & Marketing*



Need a feel-good story for the day? Look no further than Hansel Subaru’s Canine Companion partnership. Hansel Subaru has partnered with the organization for the last 10 years. Canine Companions for Independence raises, trains, and places service dogs for those in need. Through Subaru’s Share the Love promotion, Hansel Subaru has donated nearly \$200K in cash to ensure Canine Companions can place these pups free of charge to their new friend. They also provide loaner cars to the group.

Above are photos of Hansel, a sponsored pup that is almost done with the training program, Canine Companions Outback and [click here to view their heartwarming testimonial video](#).

As always, if you have a great project or story that we can share to our association and/or on our social accounts, please [email Autumn Heacox](#).

## Auto Dealer Claim of the Month- Could it happen to you?

*Provided By: Federated Insurance*



An out-of-state customer purchased a vehicle online with manufacturer financing that was arranged through the dealership. A local transportation company arranged for the vehicle to be picked up at the dealership and delivered across the country.

One week after the sale, the insured was advised by local law enforcement that the vehicle had been purchased with the false identification of a man who had been contacted by the lender requesting the initial payment. Further investigation revealed that the transportation company was contacted after the vehicle was picked up at the dealership, and arrangements were made for delivery to a new location in a different state.

The vehicle has not been recovered and the suspect has not been apprehended to date.

CLAIM AMOUNT: \$54,000.00

Although many steps can be taken to avoid fraudulent vehicle purchases, such as obtaining multiple forms of identification and working with vendors to assist with verification of identification, many times the best form of prevention is your own employees. In the loss noted above, a potential red flag is an out-of-state customer buying a rather common used vehicle and shipping it across the country. Additional follow-up on the customer's identification could have possibly prevented the fraudulent purchase.

Federated Mutual Insurance Company is recommended by 19 state and national auto dealer associations for customized insurance programs and value-added risk management services, such as mySHIELD®, the Risk Management Resource Center, and the Federated Employment Practices Network®. Visit [federatedinsurance.com](http://federatedinsurance.com) or contact your local marketing representative for resources you can use to create or enhance your own risk management program.

This article is for general information and recommendations for risk prevention only and should not be considered an offer of insurance or legal or other expert advice. The recommendations herein may help reduce, but are not guaranteed to eliminate, any or all risk of loss. Coverage will be determined by the facts of the claim and the terms of your policy, if approved for issue. The information herein may be subject to, and is not a substitute for, any laws or regulations that may apply. All products and services not available in all states. Qualified counsel should be sought with questions specific to your circumstances and applicable laws. © 2022 Federated Mutual Insurance Company.



## Supporting Future Techs

*By: Kim McPhaul, Executive Director, CNCDA Foundation*



Last month, L.A. Pierce College in Woodland Hills celebrated a new automotive technology center which was supported by the Greater Los Angeles New Car Dealers Association. The dealers' donation was used to purchase used vehicle training aids, including OBD II compliant vehicles from wholesale auction lots and stick shift vehicles for manual transmission workshops and instruction, such as driving a stick shift in a dealer environment.

Pierce college student techs often go to work at local dealerships upon completion of the program, so investing in college training facility makes sense. "Our members have long been dedicated supporters of growing the automotive workforce in the Los Angeles region and it is now more important than ever to help support the training for the next generation of auto technology workers," Smith said. "We are committed to supporting job growth and creation in the region and are so pleased to be able to support these important workforce development programs."

There are over 50 community colleges in California with Automotive Technology programs. Community College tuition is free, so students are not saddled with debt upon completion, even though they are learning about bumper-to-bumper systems from instructors who are typically master technicians with years of industry experience. These schools are a great place to find new hires for your service department.

The CNCDA Foundation has awarded scholarships to California students in community college automotive technology programs for nearly three decades. The Foundation can also connect you to your local community college, as building a relationship now can be your pipeline of future employees. For more information about California's community college automotive technology programs, contact CNCDA Foundation Executive Director, Kim McPhaul, at [kmcphaul@cncda.org](mailto:kmcphaul@cncda.org) or (916) 441-2599.

## Events

### New Laws Seminars

#### Various Dates, Times, and Locations

In 2022, policymakers in Sacramento approved a wide range of measures that directly impact California dealers. Although CNCDA and dealer advocacy was able to block some of the most onerous and unfair proposals, California's legislature pushed forward a very progressive agenda this year. Important new laws include (but are certainly not limited to) new restrictions on the sale of GAP, new consumer disclosures, new employer leave obligations, and mandates on the sale of electric vehicles.

**5 DEC-5 JAN**

**2022 NEW LAWS SEMINARS**

**DATES AND LOCATIONS**

<b>DECEMBER 5, 2022</b> SAN DIEGO	<b>DECEMBER 6, 2022</b> ANAHEIM
<b>DECEMBER 7, 2022</b> BURBANK	<b>DECEMBER 12, 2022</b> WALNUT CREEK
<b>DECEMBER 13, 2022</b> FRESNO	<b>DECEMBER 20, 2022</b> SACRAMENTO <b>SOLD OUT 2022</b>
<b>DECEMBER 15, 2022</b> WEBINAR	<b>JANUARY 5, 2023</b> REDDING

**REGISTRATION**  
[WWW.CNCDA.ORG/EVENTS](http://WWW.CNCDA.ORG/EVENTS)

**PRESENTERS**

- BRIAN MAAS**, President, CNCDA
- ANTHONY BENTO**, Director of Legal and Regulatory Affairs, CNCDA
- JOHN BOGGS**, Fine, Boggs & Perkins LLP
- LES SWIZER**, Staff Counsel, CNCDA

MCLE Credit: This activity has been approved for Minimum Continuing Legal Education credit by the State Bar of California in the amount of 2 hours as appropriate to the content of the activities and CNCDA certifies that this activity conforms to the standards for approved education activities by the rules and regulations of the State Bar of California governing minimum continuing legal education. Provider #22009.

Prepare for 2023 by joining Brian Maas, CNCDA President; Anthony Bento, CNCDA Director of Legal and Regulatory Affairs; Les Swizer, CNCDA Staff Counsel; and John Boggs of Fine, Boggs, and Perkins LLP this fall and winter for our annual presentation on new laws impacting your dealership. This is your opportunity to learn what laws and regulations are coming your way and how you can best prepare yourself, your employees, and your businesses to navigate California's ever-changing political and business climate. [CLICK HERE TO REGISTER TODAY.](#)

**CNCDA**  
California New Car Dealers Association

**WELCOME PARTY**

6-8 PM  
FRIDAY  
JAN 27

OMNI  
HOTEL  
DALLAS

DEALERS & GUESTS ONLY

**RSVP NOW**

### 2023 NADA Welcome Reception

CNCDA members are invited to attend our 2023 CNCDA Welcome party at the NADA convention in Dallas on January 27, from 6- 8 p.m. We look forward to kicking off a great convention with our California representatives and guests.

[RSVP HERE TO RSVP AND JOIN THE PARTY!](#)

# 2022-2023 UPCOMING EVENTS



## Webinars:



### DECEMBER 15

New Laws Webinar Series  
Part I: 10 a.m. - 11:30 a.m.  
Part II: 2 p.m. - 3:30 p.m.

### STAY UP-TO-DATE

AND REGISTER FOR EVENTS BY VISITING

[www.cncda.org/events](http://www.cncda.org/events)

## In-Person Events:



### DECEMBER 5

New Laws Seminar  
9:30 a.m. - 11:30 a.m.  
San Diego, CA



### DECEMBER 6

New Laws Seminar  
9:30 a.m. - 11:30 a.m.  
Anaheim, CA



### DECEMBER 7

New Laws Seminar  
9:30 a.m. - 11:30 a.m.  
Burbank, CA



### DECEMBER 13

New Laws Seminar  
9:30 a.m. - 11:30 a.m.  
Fresno, CA



### DECEMBER 14

New Laws Seminar  
9:30 a.m. - 11:30 a.m.  
Sacramento, CA



### DECEMBER 12

New Laws Seminar  
9:30 a.m. - 11:30 a.m.  
Walnut Creek, CA



### JANUARY 5

New Laws Seminar  
11 a.m. - 1:00 p.m.  
Redding, CA



### JANUARY 27

2023 CNCDA NADA  
Welcome Party  
6 p.m. - 8 p.m.  
Dallas, TX



### MARCH 29, 2023

Dealer Day  
SAVE THE DATE  
Sacramento, CA



## Thank You to CNCDA's 2022 Sponsors!

Thank you for investing in CNCDA and the franchise new car system in California. We could not accomplish our goals without continued support, involvement, and enthusiasm of our committed sponsors. *Interested in securing your 2023 CNCDA sponsorship? Email [Jennifer Aragon](#) today.*

### Diamond



### Platinum



### Gold



### Silver



HughesDealerLaw.com