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Ronald J. Nessim Authors Article Weighing Pros and Cons of Asserting Your Fifth Amendment Right in California Lawyer

Bird Marella Principal Ronald J. Nessim authored the article, “Taking the Fifth” published by *California Lawyer* discussing the advantages and disadvantages of asserting the Fifth Amendment privilege against self-incrimination in a parallel noncriminal proceeding.

Mr. Nessim practices in both the white collar criminal and civil litigation arenas and often represents clients facing parallel criminal, civil and/or administrative proceedings relating to the same events.

In discussing the advantages of asserting the Fifth, Mr. Nessim explains that there are circumstances when counsel will advise their client to assert the Fifth, such as where the ultimate facts and/or direction of a criminal proceeding are not yet clear, where truthful admissions may be incriminating, and where counsel believes that there is a substantial risk of the client giving false or incomplete testimony in the noncriminal parallel proceeding.

On the other hand, he says there are situations where the consequences of asserting the Fifth are greater than the benefits of asserting the privilege and it makes sense for the client to testify in the parallel noncriminal proceeding.

Mr. Nessim states that whether a client should assert the privilege or testify must be made on a case-by-case basis by experienced counsel in consultation with the client. “If counsel has reasonable confidence that he knows the material facts including what evidence does and does not corroborate his client’s account – counsel is more likely to recommend that the client testify in the parallel noncriminal proceeding.”

Click here to read the full article.