

RIVERSIDE LAWYER

December 2007 • Volume 57 Number 11

MAGAZINE

**Festival of Lights
at the Mission Inn**



The official publication of the Riverside County Bar Association



Rebecca Tenwick's All-Mobile Bail Bonds

Bail/Insurance Lic. #1843406

Providing fully mobile bail bonding services to attorneys and their clients discreetly and reliably throughout Riverside and San Bernardino counties.

- 8% Premium Rate for all Attorney-Referred Clients, Union Members and Veterans.
- 0% Down No-Interest Premium Financing for Homeowners with Equity.
- Domestic Violence and Addiction Counseling & Rehabilitation Program Referrals available upon request.

Rebecca Tenwick is an experienced professional with a Master's Degree in Social Work. Her compassion and concern for others is absolutely unmatched in the bail bond industry.

AVAILABLE 24 HOURS A DAY, 7 DAYS A WEEK

All-Mobile Bail Bonds is always ready to meet with you and/or your clients whenever and wherever the need may arise.



Local professional references available upon request.

Rebecca Tenwick, MSW
"Helping Families Heal"
(888) 742-2245

Publications Committee

Kirsten Birkedal
Yoginee Braslaw
Charlotte Butt
Christy Glass
Donna Hecht
Dorothy Honn
Sanjit Kaur
Rick Lantz

Robyn Lewis
Mark Mellor
Richard Reed
Donna Thierbach
Bruce Todd
Jamie Wrage
Lisa Yang

Editors Michael Bazzo
Jacqueline Carey-Wilson

Design and Production PIP Printing Riverside

Cover Design PIP Printing Riverside

Officers of the Bar Association

President

Daniel Hantman
(951) 784-4400
dh4mjg@aol.com

President-Elect

E. Aurora Hughes
ahugheslaw@aol.com

Vice President

Harry J. Histen, III
(951) 682-4121
harry@histenlaw.com

Chief Financial Officer

Harlan B. Kistler
(951) 686-8848
hbkistler@pacbell.net

Secretary

Robyn A. Lewis
(951) 686-8848
rlewislaw@yahoo.com

Past President

David T. Bristow
(951) 682-1771
dbristow@rhlaw.com

Directors-at-Large

Christopher B. Harmon
(951) 787-6800
christopherbharmon@sbcglobal.net

Daniel E. Katz
(951) 682-1771
dkatz@rhlaw.com

John D. Higginbotham
(951) 686-1450
john.higginbotham@bbklaw.com

Richard A. Kennedy
(951) 715-5000
richardakennedy@sbcglobal.net

Executive Director

Charlotte A. Butt
(951) 682-1015
charlotte@riversidecountybar.com

Officers of the Barristers Association

President

Charles P. Boylston
(909) 798-9800
cpb@hopperlaw.com

Treasurer

Matthew M. Benov

Vice President

Christopher L. Peterson

Secretary

Jerry C. Yang

Members-at-Large

Kirsten S. Birkedal
David M. Cantrell

Riverside County Bar Association
4129 Main Street, Suite 100
Riverside, California 92501

Telephone
951-682-1015

Facsimile
951-682-0106

Internet
www.riversidecountybar.com

E-mail
rcba@riversidecountybar.com

RIVERSIDE LAWYER

MAGAZINE

C O N T E N T S

Columns:

3 **President's Message** by Daniel Hantman

5 **Law Library** by Gayle E. Webb

COVER STORY:

6 **Annual Festival of Lights**
by Bruce E. Todd

Features:

7 **City of Riverside Youth Court: Focusing on Restorative Justice for Juvenile Offenders**
by Tera A. Harden

9 **How Bad Is Islamabad?**
by Richard Brent Reed

13 **Judicial Profile: Hon. Timothy F. Freer**
by Donna Johnson Thierbach

14 **Mock Trial Scoring Attorneys Needed**
by Robyn Lewis

15 **Opposing Counsel: Daniel Hantman**
by Jacqueline Carey-Wilson

17 **Opposing Counsel: Kristen R. Olsen**
by Kirsten S. Birkedal

19 **VIP Mentors: A Unique Mentoring Organization, Founded by Attorneys**
by Judy Davis

22 **State Bar President Jeffrey L. Bleich**

23 **Leo A. Deegan Inn of Court**
by Robyn Lewis

27 **Eight Weeks in the Box, Part IV**
by Donn Dimichele

Departments:

Calendar 2 Classified Ads 28

Cover photo was taken by Jacqueline Carey-Wilson.

MISSION STATEMENT

Established in 1894

The Riverside County Bar Association, established in 1894 to foster social interaction between the bench and bar, is a professional organization that provides continuing education and offers an arena to resolve various problems that face the justice system and attorneys practicing in Riverside County.

RCBA Mission Statement

The mission of the Riverside County Bar Association is to:

Serve its members, and indirectly their clients, by implementing programs that will enhance the professional capabilities and satisfaction of each of its members.

Serve its community by implementing programs that will provide opportunities for its members to contribute their unique talents to enhance the quality of life in the community.

Serve the legal system by implementing programs that will improve access to legal services and the judicial system, and will promote the fair and efficient administration of justice.

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Public Service Law Corporation (PSLC), Tel-Law, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Inland Empire Chapter of the Federal Bar Association, Mock Trial, State Bar Conference of Delegates, and Bridging the Gap.

Membership meetings monthly (except July and August) with keynote speakers, and participation in the many committees and sections.

Eleven issues of Riverside Lawyer published each year to update you on State Bar matters, ABA issues, local court rules, open forum for communication and timely business matters.

Social gatherings throughout the year: Installation of RCBA and Barristers Officers dinner, Annual Joint Barristers and Riverside Legal Secretaries dinner, Law Day activities, Good Citizenship Award ceremony for Riverside County high schools, and other special activities.

Continuing Legal Education brown bag lunches and section workshops. RCBA is a certified provider for MCLE programs.

MBNA Platinum Plus MasterCard, and optional insurance programs.

Discounted personal disability income and business overhead protection for the attorney and long-term care coverage for the attorney and his or her family.

Riverside Lawyer is published 11 times per year by the Riverside County Bar Association (RCBA) and is distributed to RCBA members, Riverside County judges and administrative officers of the court, community leaders and others interested in the advancement of law and justice. Advertising and announcements are due by the 6th day of the month preceding publications (e.g., October 6 for the November issue). Articles are due no later than 45 days preceding publication. All articles are subject to editing. RCBA members receive a subscription automatically. Annual subscriptions are \$25.00 and single copies are \$3.50.

Submission of articles and photographs to Riverside Lawyer will be deemed to be authorization and license by the author to publish the material in Riverside Lawyer.

The material printed in Riverside Lawyer does not necessarily reflect the opinions of the RCBA, the editorial staff, the Publication Committee, or other columnists. Legal issues are not discussed for the purpose of answering specific questions. Independent research of all issues is strongly encouraged.

CALENDAR

JANUARY

1 New Year's Day

RCBA Offices Closed

8 Joint RCBA/SBCBA Landlord/Tenant

Law Section

Nena's Restaurant, SBdno – 6 p.m.

(MCLE)

9 Barristers

Cask 'n Cleaver, Riverside – 6 p.m.

(MCLE)

11 Bridging the Gap

Free program for new admittees.

RCBA 3rd Floor – 8 a.m. to 4:30 p.m.

(MCLE – 7 hrs)

15 Family Law Section

RCBA 3rd Floor – Noon

(MCLE)

18 General Membership Meeting

RCBA 3rd Floor – Noon

(MCLE)

21 Martin Luther King Holiday

(RCBA offices closed)

23 Estate Planning, Probate & Trust

Law Section

RCBA 3rd Floor – Noon

(MCLE)

25 CLE Brown Bag Series "Ethics Marathon"

RCBA 3rd Floor – 11:45 a.m. to 2 p.m.

(MCLE – 2 hrs Ethics)





President's Message

by Daniel Hantman

The theme of this month's *Riverside Lawyer* is "Giving Back." All of us have donated our time, energy and money to many causes that we feel will help our family, friends, and community.

The Riverside County Bar Association (RCBA) provides a number of affiliated organizations in which to become involved. Our Public Service Law Corporation (PSLC), which was established in 1982, brings together indigent persons in civil cases with volunteer attorneys who provide legal advice and some direct representation to those persons who would otherwise be unable to participate fully in the legal process.

The Riverside County Barristers Association was established to promote "collegiality, friendship and professionalism" between new attorneys, more experienced attorneys and the judiciary.

The Leo A. Deegan Inn of Court is "an international organization dedicated to improving the legal skills of its members, and to rediscovering and promoting professionalism, civility and high ethical conduct within the legal profession." It meets eight to nine times a year. Membership is very limited.

In the September 2007 *Riverside Lawyer*, Irene Morales, Executive Director of Inland Counties Legal Services (ICLS), wrote about the free legal assistance that is provided to low-income and elderly persons. ICLS also provides funds for the PSLC, the Inland Empire Latino Lawyers Association (IELLA), and the Legal Aid Society of San Bernardino (LASSB). All of these organization welcome volunteers to assist in their mission to pro-

vide legal services to those who would not otherwise benefit from full legal representation in the legal dilemmas that confront them.

As some of you may know, the Inland Empire is the 14th largest metropolitan area in the United States. The city of Riverside has developed into the region's center of jurisprudence, higher education and the arts. Riverside is said to have around 200 arts and cultural organizations that serve more than one million persons annually. Many of you are already volunteering in these organizations.

One example is the Riverside Art Museum (RAM), led by Executive Director Daniel Foster. He stated in the most recent RAM publication, the ARTIFACTS, "Clearly, RAM started a new chapter earlier this year, and we are charging forward in many new directions (new strategic plan, long-range vision, staff members, regional initiatives, partnerships, logo, website, Board leaders, operating procedures/systems, etc.)."

Among the RAM Board of Directors are RCBA immediate-past President David Bristow (Reid & Hellyer), Judge Jean Leonard, and Richard Roth (Carney & Delany).

Our most famous four institutions of higher education, the University of California Riverside (UCR), La Sierra University (LSU), California Baptist University (CBU) and Riverside Community College (RCC), all have many legal professionals active in their affairs. They are always looking for volunteers to assist in their activities.

And we must not forget our kindergarten through 12th grade schools, public and private. There are the PTAs, sports, music, theater, art, science, Mock Trial, and many, many more activities where each one of us can make a difference.

As exemplified by those esteemed members of RCBA outlined above, we CAN make a difference. Let us join our fellow legal professionals in making our community a better place.

Robert Louis Stevenson wrote, "Don't judge each day by the harvest you reap, But by the seeds that you plant."

Dan Hantman, president of the Riverside County Bar Association, is a sole practitioner in Riverside.



by Gayle E. Webb

It's That Time of Year

The end of 2007 is near, and so is the time for getting in some last-minute **tax deductions** for this year with donations to your Law Library. Do you have any books or equipment that we could add to the library collection or put into our sale and exchange programs? Cash donations, the annual cost of maintaining your favorite law review, and even coffee and tea service sets to spruce up our conference rooms for the next time you hold an arbitration meeting or a deposition here would also be gratefully received!

While we cannot place a monetary value on used books and equipment, we will be happy to present you with a thank-you letter and a detailed list including the condition of your gifts, to use for your own evaluation or that of an appraiser who specializes in that area. 'Tis the season for giving, so put us on your list along with all your relatives and friends – you could get a tax deduction (and enthusiastic applause) from us, instead of a lukewarm reaction like, “Gee, just what I wanted.”

It's also the time of year to think of **MCLE self-study credits**, and your Law Library can help by offering several new CEB Program CDs (listed in last month's *Riverside Lawyer*), as well as the following audio CD titles from the Center for Continuing Education in

Monterey: *Practical Ethics: How Ethics Rules Are Used (and Abused) in State and Federal Trial Practice* (2 hours of MCLE credit); *Ethical Issues in Entertainment Law Practice* (1 hour); *Conflicts of Interest and Law Firm Disqualification* (1 hour); *One Strike You're Out (Disqualification & Conflicts of Interest in I.P. Practice)* (2 hours); *Prevention Detection Social Responsibility* (1.5 hours); *Computer Forensics in the Microsoft Environment and Beyond: What Every Lawyer Should Know* (2 hours); *Sports Law in the New Millennium: Ethical Issues* (1 hour); and *Procedural and Forensic Protocols in Electronic Discovery* (1.5 hours).

The Information Desk staff can sign you up for your very own **circulation card**, which will speed up the process for future check-outs and check-ins. We're also hoping to expand circulation privileges to materials other than MCLE sets sometime in 2008, so get your very own library card now and be ready!

The Board of Trustees, the entire staff and I hope your holidays are peaceful and happy.

Gayle E. Webb is the Riverside County Law Library Director.



ANNUAL FESTIVAL OF LIGHTS AT THE MISSION INN

by Bruce E. Todd

Legend has it that Mission Inn owner Duane Roberts was so enthralled as a youngster when his parents brought him to the Mission Inn to observe the holiday Christmas decorations that he decided to deck out the Inn in full splendor when he became the owner of it. At least that's what Isabelle Kaminsky has heard over the years.

Kaminsky, who is the owner of a Tustin-based company called "For All Seasons," has had the pleasure and responsibility of adorning the Mission Inn with Christmas decorations since 2000. Her company first started decorating the interior of the Inn that year and, in 2003, it also took over the exterior decorations.

Now in its 15th year, the annual Festival of Lights commenced on November 23, 2007 (the day after Thanksgiving) and will extend through January 1, 2008. With the arrival of sundown on November 23, Roberts "flipped the switch" and illuminated the historic Inn, which has been in existence as some form of boarding house since 1876. It has been estimated that as many as 60,000 onlookers attended the opening ceremonies.

Kaminsky noted that the Inn's light display has been named as one of the ten best in the country since 2003. She said that the Inn is the only landmark to be so recognized west of the Mississippi. In an article dated October 3, 2007, in the Press-Enterprise, it was estimated that the Mission Inn and the City of Riverside will spend almost \$1 million on the Festival of Lights.

Many locals will remember that the Mission Inn was closed from 1985 to 1992, during which a monumental (and quite costly) renovation took place. Roberts emerged as a savior when he purchased the Inn after it appeared that it might succumb to financial woes which would result in its permanent destruction.

When the Inn was reopened in 1992, the first Festival of Lights took place. According to Kaminsky, a Riverside-based company called Ottinger's originally handled the job of decorating the Inn. The historic structure was adorned with magnificent lights, and animated figures were created to be displayed at many locations around the building. Kaminsky estimates that there are currently about 175 of these figures. Some have suffered from the ravages of time and some have even undergone "sex-change operations."

"We spend much of the off-season cleaning, washing and refurbishing the figures," said Kaminsky. She estimates that, since her company took over the responsibility

of decorating the Inn, about 36 new animated figures have been added to the display.

The process of decorating the Inn is quite mind-boggling. The installation begins around the first of each September and ends just before Thanksgiving. Anywhere from 10 to 20 people essentially work full-time to complete the work. Furthermore, the amount of decorations increases each year. There are estimated to be over 3.5 million lights.

"At the pace we are going," laughed Kaminsky, "I'll probably have to start in August next year."

Obviously, the now-famous holiday display attracts numerous visitors. Kaminsky estimates that over a million people come to Riverside each holiday season to watch the festivities. This estimate may be somewhat generous, as there have been other estimates in the range of 300,000. In any case, Kaminsky has talked with visitors who have informed her that they have come from other states and even foreign countries. Undoubtedly, the decorations result in days when a "no vacancy" sign, if it existed, would also be illuminated at the Inn.

"Once people observe that the decorations are going up, it reminds them to make their reservations," said Kaminsky.

Each year, there is a theme for the decorations. This year's theme is "Christmas Framed." Many of the decorations will be presented as if seen through a frame. Although she already knows the theme for next year's presentation, Kaminsky judiciously refused to disclose it at this time.

Spectators this year will be treated to Dickensian carolers, horse-drawn carriage rides and a lavish Christmas tree. Lights and decorations will also adorn nearby buildings and the Main Street pedestrian mall.

For those who want to be Sonja Henie for a day, there is even an ice skating rink on the pedestrian mall!

Don't miss the opportunity to be a part of the festivities, as the Festival of Lights is truly one of Riverside's crown jewels.

Bruce Todd, a member of the Bar Publications Committee, is with the law firm of Ponsor & Associates in Redlands.



CITY OF RIVERSIDE YOUTH COURT: FOCUSING ON RESTORATIVE JUSTICE FOR JUVENILE OFFENDERS

by Tera A. Harden

On Wednesdays in the Riverside Superior Court Hall of Justice, court adjourns promptly at 4:30 p.m. However, twice a month, on Wednesday at 6 p.m., court reconvenes in Departments 21 and 22. The court bailiff goes over the courtroom rules with those persons sitting in the courtroom – silence your cell phones and pagers; no chewing gum, eating, or drinking; and no talking while court is in session. The judge then takes the bench, the bailiff calls the court to order, and the court clerk calls the first case. The jurors sit attentively in the jury box while the prosecutor begins with an opening statement. In the overburdened justice system of Riverside County, this appears to be just another efficient use of judicial resources, until one looks a little closer

Sitting next to the defense lawyer is the defendant, called the “respondent” in this proceeding. The respondent is approximately 13 years old and doesn’t quite fill the chair she is sitting in. It is her first time in a courtroom; she is pale white, her palms are unbelievably sweaty, and she is on trial for shoplifting from J.C. Penney at the Tyler Galleria. A Riverside Superior Court Judge presides over the trial, but the court clerk is a sophomore in high school, the prosecutor a junior in high school, the defense lawyer a senior in high school; the bailiff is a Riverside Police Explorer, and the jurors range in age from 12 to 17. The jurors, after serious deliberations, will hand down the sentence to the respondent. This is a typical evening at the City of Riverside Youth Court.

Youth Court began in the spring of 2004, when the Riverside Police Department decided to start a program that would provide an alternative to the juvenile justice system for first-time youthful offenders, focused on restorative justice. The City of Riverside received a Juvenile Accountability Block Grant in the amount of \$60,386, and the city was required to add \$6,710 in matching funds. With the coordination of the Community Policing Division of the Riverside Police Department, an Advisory Council was formed to oversee and implement the program. The Council is made up of members from the Riverside Superior Court bench, the office of the Mayor, the Riverside Police Department, the Riverside County Probation Department, the Public Defender’s office, the District Attorney’s office, the Riverside County

Bar Association, the Alvord Unified School District, the Riverside Unified School District, the Riverside Youth Commission, and the community.

The Youth Court Advisory Council developed criteria for what cases would be accepted into the program, set parameters for sentencing respondents, and established a curriculum for training of youth court volunteers. Respondents are referred to the program by Riverside police officers; juvenile arrestees from the ages of 10-17 may qualify for Youth Court. In order to participate in



the Youth Court program, the respondent must have no prior criminal history, accept responsibility for his or her actions, and agree to cooperate in the program; his or her parent or guardian must agree to cooperate, as well. Cases accepted into Youth Court include charges of fighting in public, trespassing, possession of marijuana, possession of tobacco, battery, graffiti, possession of a knife on school grounds, commercial burglary, disturbing the peace, resisting arrest, vandalism, and shoplifting.

Juvenile volunteers ages 10-17 are the most integral part of the success of Youth Court; they serve as jurors, court clerks, bailiffs, defense attorneys, and prosecutors. Since the program's inception, over 450 youths from the City of Riverside have been trained as Youth Court volunteers. All juvenile volunteers are required to participate in a seven-hour training session covering the justice system, crimes, youth court procedures, deliberation techniques, and restorative justice. During the training, through the use of role-playing, volunteers learn how to deliberate effectively and determine appropriate sentences. Sentences for respondents depend on the severity of their behavior and may include community service monitored by the Riverside County Volunteer Center, jury duty, apology letters to the crime victim, essays, educational workshops, jail tours, drug testing, school attendance, and evening curfews.

The first Youth Court case was heard on September 22, 2004 in Department 22 of the Riverside Superior Court; since then, over 382 respondents have participated in the program. The program has been unbelievably successful in meeting its goals of early intervention and restorative justice for first-time youthful offenders, with only a 6.8 percent recidivism rate. The program's success is due to the integration of all aspects of the justice system working together. The Riverside Youth Court has drawn the attention of other entities wanting to replicate the program in their areas, including the City of Murrieta, the San Bernardino County Sheriff, Marin County, the Los Angeles Police Department, and the Long Beach Police Department.

The past and continued success of the Riverside Youth Court would not be possible without the support and volunteerism of the Riverside Superior Court judges, deputy public defenders, deputy district attorneys, private attorneys, police officers, juvenile volunteers, and adult volunteers. If you are interested in getting involved in the Riverside Youth Court Program, contact Officer Hal Webb, Youth Court Coordinator, at (951) 353 7683, or go to www.riversideyouthcourt.com.

Tera A. Harden, a juvenile law and criminal law attorney, is with the Law Offices of Brian C. Percy in Riverside.



How Bad Is ISLAMABAD?

by Richard Brent Reed

Things are not good in Islamabad, capital city of Pakistan. On October 6, 2007, Pakistan's incumbent president, General Pervez Musharraf, won re-election – or did he? It seems that Pakistan's constitution does not allow a person to be, at once, president and general. Musharraf says that he will resign as army chief and rule as a civilian, once the court has confirmed his re-election, but has set no date for that step. Meanwhile, Pakistan's Supreme Court had to make a decision on the constitutional validity of that re-election. It was just about to when, on November 4, 2007, Musharraf issued a Provisional Constitution Order (PCO) suspending Pakistan's constitution. The PCO was later ratified by the Majlis-e-Shoora, Pakistan's parliament. Citing Abraham Lincoln's suspension of habeas corpus as precedent, Musharraf gave rising tensions and spreading terrorism as reasons for his decision.

Chief Justice Sunk by an Anchor

Pakistan's Supreme Court declared the state of emergency illegal, and Chief Justice Iftikhar Mohammed Chaudhry said that Musharraf had no power to suspend the constitution; he refused to take the oath under the PCO. Musharraf promptly fired the chief justice and had him arrested, along with ten other judges. It's the second time this year that Musharraf has relieved Chaudhry of his duties. This most recent sacking was, apparently, caused by attorney and TV anchor Naeem Bokhari, who had criticized Chaudhry for getting his son a job on the police force and for taking official aircraft out on joy rides.

Attorneys Take to the Streets

On November 7, the PCO was denounced by the PBC (Pakistan Bar Council). The PBC appealed to the legal community to strike until the removed judges were restored. The following statement was signed by PBC Vice-Chairman Mirza Aziz Akbar Baig and Supreme Court Bar Association Acting President Sakhi Sultan, among others:

“We appeal to the lawyers' community throughout Pakistan that complete strike and boycott of the courts should continue until Saturday, and thereafter lawyers may appear before the subordinate courts but the boycott of the Supreme Court as well as the high courts should continue indefinitely till all the PCO judges are ousted and the judges under the Constitution are restored to perform their constitutional duties and functions.”

The PBC urged the country's attorneys to demonstrate inside and outside the PCO judges' courtrooms – but not out in the streets. Of course, being lawyers, they immediately ignored the street restriction and hit the bricks. Hundreds of attorneys were tossed in jail, including Asma Jahangir, the U.N. special rapporteur on freedom of religion, and

Aitzaz Ahsan, President of the Supreme Court Bar Association, who was placed under a 30-day detention.

And then the PBC did a curious thing: it called for recording the names of lawyers who flouted its directive not to appear before the PCO judges so that the attorneys could be removed from the membership of their bar associations. A novel solution, indeed: to answer a pogrom with a purge. Even so, that a bar association should speak truth to power and not yield to pressure from on high – even at the risk of losing membership – inspires both admiration and surprise.

In a show of solidarity, the Bar Association of San Francisco called a “Rally for Lawyers in Pakistan” on November 9 in front of the Federal Building in downtown San Francisco:

“We are working with our elected representatives to push for General Musharraf to restore liberty to Pakistan and to the imprisoned attorneys, and we implore attorneys and other members of the public to do the same. We also pledge to hold ourselves to the high standard set by the Pakistani lawyers, and to defend our own judiciary against attacks on its impartiality.” (The American Bar Association also called for a rally to be held on November 14, 2007, in Washington, D.C.)

The BASF pledge is a bold one: the Pakistani attorneys, after all, are committed enough to go to jail for their convictions. That is a high standard, indeed. Conviction, too often, yields to convenience. The American philosopher Thoreau didn’t like the Mexican-American War, so he refused to pay his taxes. His fellow-philosopher Emerson visited him in jail; Emerson greeted his friend with: “Henry David Thoreau, what are you doing in there?,” to which Thoreau replied: “Ralph Waldo Emerson, what are you doing out there?” “When good men are in jail,” Thoreau went on to admonish, “the only place for a good man is in jail.”

Constitutional Complication

The Pakistani constitution is far from clear as to what can be done. Part III,

Chapter 1, Article 43, of the Constitution of the Federation of Pakistan says:

“The President shall not hold any office of profit in the service of Pakistan or occupy any other position carrying the right to remuneration for the rendering of services.”

“Any other position” would include, arguably, being a general in the Pakistani army, who must take the following oath:

“(In the name of Allah, the most Beneficent, the most Merciful.) I, _____, do solemnly swear that I will bear true faith and allegiance to Pakistan and uphold the Constitution of the Islamic Republic of Pakistan which embodies the will of the people, that I will not engage myself in any political activities whatsoever and that I will honestly and faithfully serve Pakistan in the Pakistan Army (or Navy or Air Force) as required by and under the law. [¶] May Allah Almighty help and guide me (A'meen).”

“Any political activity” would include, arguably, running for president.

However, on November 30, 2004, the Pakistani parliament passed – now get this – the “President to Hold Another Office Act”:

“WHEREAS paragraph (d) of clause (1) of Article 63 of the Constitution of the Islamic Republic of Pakistan provides for holding another office of profit in the service of Pakistan if declared by law as such;

“AND WHEREAS it is expedient to make declaratory provision enabling the President to hold another office of profit in the service of Pakistan;

“It is hereby enacted as follows: [¶] . . . [¶] . . .

“The holder of the office of the President of Pakistan may, in addition to his office, hold the office of the Chief of the Army Staff which is hereby declared not to disqualify its holder as provided under paragraph (d) of clause (1) of Article 63 read with proviso to paragraph (b) of clause (7) of Article 41 of the Constitution of the Islamic Republic of Pakistan or any other law for the time being in force or any judgment of any court or tribunal:

“Provided that this provision shall be valid only for the present holder of the office of the President.” (Italics added. In other words, it’s the “Musharraf Is Allowed to Hold Another Office Act.”)

Furthermore, Part III, Chapter 1, Article 41, Section 6 states: “The validity of the election of the President shall not be called in question by or before any court or other authority.” This, presumably, would preclude a challenge by or before the Supreme Court. So . . . now what? Since the parliament has ratified the president’s actions, it’s two branches of government against one. This is a conundrum that even Chief Justice John Marshall might have difficulty solving (especially if he had been fired as chief justice).

Button, Button, Who’s Got the Button?

Consider the ramifications for world peace: if Musharraf resigns his position as Chief of the Army Staff, he will no longer be commander-in-chief of Pakistan’s military. That office will fall to Musharraf’s second-in-command, former intelligence officer General Ashfaq Kiyani. That means that Pakistan’s nuclear weapons will be in General Kiyani’s good keeping. The transfer of nuclear power could generate many undesirable scenarios in a country where succession by assassination is the norm. Some ambitious colonel or general could see a profit in raiding a nuclear facility. In a land where both the Taliban and al-Qaida are very active, no one wants fissionable material to fall into the wrong hands.

Things in Islamabad are bad. We can all deplore Musharraf’s high-handed, lawyer-jailing, job-preserving tactics. It is certainly convenient to do so from 10,000 miles away. Musharraf, whose term was up in November of this year, has promised that the state of emergency will last only 30 days and that another election will be held in January or February. We shall see. Meanwhile, not only Pakistan’s fragile democracy, but the stability of the entire region hangs in the balance.

Richard Brent Reed, a member of the Bar Publications Committee, is a sole practitioner in Riverside.



JUDICIAL PROFILE: HON. TIMOTHY F. FREER

by Donna Johnson Thierbach

I continue to be fascinated with how members of the Riverside bench became interested in the law and came to live in Riverside County. It turns out we have some pretty interesting people in our judiciary. Judge Timothy Freer grew up in Purcellville, Virginia, which is a small town near Ball's Bluff (you Civil War buffs will appreciate that). His father was an administrator with veteran's hospitals throughout Northern Virginia and the Washington, D.C. area.. His mother was a nurse. He experienced a "definite change of pace" when he was 13 and his father was transferred to upstate New York.

So how did he become interested in law? Judge Freer said in high school, he grew up watching lawyer television shows, so as an undergraduate, he thought being a sports agent attorney seemed fascinating. He apparently was not the only one in the family who had a fascination with lawyer shows. Of his two brothers and two sisters, his older sister is an independent camera operator involved in the crime show NCIS, and his younger sister is a public defender in Kings County, Washington.

After graduating from public high school in upstate New York, Judge Freer attended Marquette University in Milwaukee, Wisconsin. Marquette is a Jesuit Catholic University, which is one of the reasons he selected it. He said his father made a deal with him that if he attended a Catholic university and got a job and student loans, his father would help supplement his financial costs. Judge Freer majored in history, with minors in philosophy and political science, but also ended up playing a little football. He said Marquette had disbanded football in the early 1960s, but a few years later formed a club sport team that played under NCAA rules. He had not played football in high school, but one day while he was walking around the Marquette campus, he was asked if he wanted to play on their football team. He signed up and played as a running back. He said he really did not play that much and is pretty glad that at least he never fumbled. He said his team mostly got "obliterated" in games, but it was a lot of fun.

After receiving his bachelor's degree from Marquette, Judge Freer attended McGeorge School of Law in Sacramento. He said he selected the school because he liked Sacramento and was impressed with the McGeorge bar passage rate. In the meantime, Judge Freer's parents had moved to Grand Junction, Colorado. Thus, he spent his first summer of law school in Grand Junction and



Hon. Timothy F. Freer

interned for the district attorney's office there. He said it was a valuable experience and caused him to change his goal from sports attorney to criminal prosecutor.

Judge Freer said in his third year of law school, he applied at the Ventura District Attorney's office and was hired. He loved the job, but the cost of living was very high in Ventura. After about 18 months, the Riverside

District Attorney's office came to Ventura to recruit attorneys. Riverside was offering good salaries, quick advancement and great sabbaticals. He decided to go to Riverside that May to view the city and the office. The day was picture-perfect and, of course, he was led to believe the weather was always like that. Needless to say, he accepted an offer.

Judge Freer said it turned out to be an excellent decision, not only because he loved his job, but because he met his wife, Alina. Alina was a clerk in the office; later, she was hired as an attorney after she graduated from law school. They have now been married 16 years and have two children. Their daughter just made the mock trial team and aspires to be a district attorney. Their son loves computer games and electronics. Judge Freer said Alina was a good district attorney and then went into private practice. He said he could not have had any of his success or opportunities without her and she is truly his soul mate.

Judge Freer said being a district attorney also made him a better person, because he helped people. He prosecuted pretty much every kind of case, including murder, child abuse, child molestation, and career criminal. He said his favorite assignment was career criminal, because the people charged were so dangerous that his job was singular in nature, to prosecute. On the other hand, his most rewarding assignment was prosecuting child molesters, because the victims were finally able to tell their stories and see justice.

Judge Freer said he had never really thought about being a judge until Judge Fields told him about the process. However, he took no action toward applying until Judge Dickerson started encouraging him. He said it turned out to be a good decision, because he loves it. He feels especially fortunate, because he has great staff and wonderful support from the bench. His current assignment is misdemeanor trial readiness conferences, overflow motions and preliminary hearings.



MOCK TRIAL SCORING ATTORNEYS NEEDED

by Robyn Lewis

I know you have already heard something about the Mock Trial program. Every year around this time, you are probably bombarded with mailers from the RCBA to volunteer to be a scoring attorney. Maybe you have considered being a scoring attorney but didn't have the time. Or maybe you threw away those fliers because you just weren't interested. However, participating in Mock Trial is truly one of the best experiences that you can have as an attorney. I would urge you to make the time and volunteer this year – I promise, you won't regret it!

Mock Trial is a program coordinated by the Constitutional Rights Foundation, which is a nonprofit, nonpartisan, community-based organization dedicated to educating America's young people about the importance of civic participation in a democratic society.

Each year, students in over 35 California counties participate in the Mock Trial program. A hypothetical criminal case is put together and released statewide. The information provided regarding that hypothetical criminal case includes summaries of case law, witness statements, official exhibits, and simplified rules of evidence.

High schools that wish to participate then form teams of students, who will become witnesses, attorneys, and courtroom staff. Attorneys can become involved by volunteering to become coaches of those teams, teaching and mentoring students as they prepare their cases for trial.

In early February, students in this county begin competing with other high schools. The competitions in Riverside are held in the Hall of Justice in downtown Riverside, as well as in Indio and at the Southwest Justice Center. Each "trial" is presided over by one of our judicial officers. The teams are scored by attorney volunteers. Based on their performance, the teams are narrowed down to two finalists, with the winner being named county champion. The county champion then goes on to compete in a statewide competition, which will be held this year in our own county.

I am a former coach of the Mock Trial team from Santiago High School in Corona. I started coaching at the urging of my husband, who is also an attorney in Riverside. He wanted to become involved in Mock Trial

because he had participated in the program when he was a high school student. His coach was none other than Steve Harmon, renowned Riverside criminal defense attorney, who made such an impression on him that he decided to become an attorney.

Although both of us were civil practitioners and had never had any criminal experience, being a Mock Trial coach for three years was one of the most rewarding experiences of my career. Although it was a significant time commitment, I can attest that these students work unbelievably hard to put their best case forward. You can see their interest in the law developing and you realize that you are making an investment in the future of our legal community and our profession by volunteering for this worthwhile program. And I can honestly say that I think that I am a better attorney because of my experiences with Mock Trial.

The problem is that the program often faces a shortage of scoring attorneys when competition time rolls around. All we ask is that you sign up for at least one round of competition. The competitions will be held after work from 6-8 p.m. on February 6, 2008, February 13, 2008 and February 20, 2008. There is also another round, which will be held on Saturday, February 23, 2008 from 9-11:30 a.m. You can pick the date and time that work best for your schedule, as well as the location at which you wish to score. No criminal law background is required – attorneys from all disciplines are encouraged to participate. To volunteer, please contact Tracey Rivas at Riverside County Office of Education; phone (951) 826-6570 or email trivas@rcoe.us.

I cannot emphasize enough how hard the students work for months to prepare for this competition. As a member of our Inland Empire community, I really hope that you will consider donating your time this year to this worthwhile program. I am certain that you will not be disappointed.

Robyn Lewis, RCBA Secretary and a member of the Bar Publications Committee, is with the Law Offices of Harlan B. Kistler. She is also Co-Chair of Membership for the Inland Empire Deegan Inn of Court.



OPPOSING COUNSEL: DANIEL HANTMAN

by Jacqueline Carey-Wilson

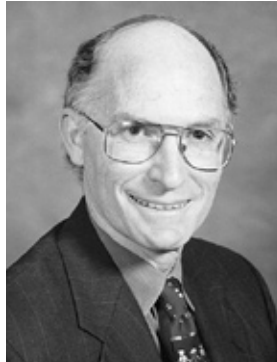
“Mr. Riverside”

The first time I met Dan Hantman was in January 1996, when he spoke at the RCBA “Bridging the Gap” program. Bridging the Gap educates new attorneys on various practice areas in the law. Dan had just finished giving a presentation on representing clients who are trying to obtain benefits from the Social Security Administration. I was struck by Dan’s knowledge of this area of law and his commitment to his clients. Dan has been advocating for seniors and disabled individuals for over 30 years. Dan chose a line of work that fit with his personal commitment to assist the most vulnerable in our society. Dan traces his passion for helping others to his strong family.

Dan is a native Californian – born and raised in Los Angeles. He has two older brothers, Joseph Hantman and David Hantman, and a younger sister, Elizabeth Rudzinski. His parents, Jacob Hantman and Marcia (Levenson) Hantman, reared their children to be involved and give back to the community. From early childhood, Dan wanted to be an attorney. Dan fondly recalls the seeds of the profession being planted when his father took him to observe court proceedings as a young child. To reach his goal, Dan attended UCLA for his first three years of his undergraduate education and then transferred to UC Berkeley for his final year, majoring in political science.

Before Dan entered the challenging world of law school, he decided to obtain some real-life experience by spending two years as a Peace Corps volunteer. Dan was assigned to Thailand, where he learned to speak fluent Thai while he taught English as a second language to high school students. Dan enjoyed his stay in Thailand so much that he wanted to stay an additional year; however, there were no openings with the Peace Corps.

Dan’s additional year stretched out to six years when he was employed by the American University Alumni Association Language Center as a Provincial Officer. In this position, Dan was instrumental in establishing 11 centers throughout Thailand for teaching English as a second language. Today, many of the Thai people speak English. While in Thailand, Dan was devoted to the community and understood the Thai way of thinking and living. When Dan was about to leave the country, one of



Daniel Hantman

his Thai “mothers” affectionately wrote, “No matter how far away Dan is, he will always be remembered by his many Thai friends whom he called mothers, sisters and brothers.”

Dan came back to Southern California and attended the University of San Fernando Valley College of Law. After Dan’s graduation, retired Judge Ronald Taylor, who was then director of Inland Counties Legal Services (ICLS), hired him. At ICLS, he specialized in elder law. In 1984, Dan went into the private sector with a general civil practice. Gradually,

his practice evolved into the specialty of representing clients who have been denied benefits from the Social Security Administration.

Dan has always found time to give something back to the legal community. He has served on the RCBA Board of Directors for the past seven years and is currently President of the RCBA. He has also been a very active member of RCBA committees and sections, including Mock Trial, Lawyer Referral Service, Continuing Legal Education, Estate Planning, Probate and Trust Law, Family Law, Juvenile Law, and Environmental Law. Dan has helped organize Bridging the Gap programs and brown-bag MCLE seminars. He is a member of the Social Security Advisory Committee. Dan has also served as judge pro tem for the Small Claims and Juvenile Divisions of the Riverside County Superior Court. In 2005, Dan was honored by the Riverside Opportunity Center with the *Golden Legal Eagle Award* for his outstanding contributions to the legal community.

Dan has also been very active in the Riverside community. Dan has been a board member of the Greater Riverside Chambers of Commerce and served as the Downtown Division President from 1995 to 1996. He is the Chamber’s official “way-finder” (i.e., human directional sign) for most events and is an avid volunteer for Keep Riverside Clean and Beautiful. Dan and his longtime companion, Marcia Gilman, adopted a stretch of Central Avenue in the Canyon Crest area and strive to keep it clear of litter. Dan also walks throughout downtown Riverside with a special stick for grabbing litter so he can help keep all of Riverside beautiful.

In 2005, Dan was honored with the Iron Eyes Cody Award for exceptional leadership in raising public awareness about litter prevention and roadside and community

beautification. The Keep Riverside Clean and Beautiful Advisory Board issued a press release, which stated, "Wherever there is a need, Dan can be found volunteering, leading the way, cheering and encouraging others to take personal responsibility for the environment."

Dan is a 10-year member of the Coalition for Common Ground, which is an organization that promotes diversity in the Inland Empire. Dan is on the Mission Inn Foundation and is the immediate past chair of the Mission Inn Docent Council. As a member of the Docent Council, Dan gives tours of the Mission Inn four times a month. Dan also serves on the International Relations Council of Riverside and the World Affairs Council. In 1998, Dan and Marcia traveled with the Mayor Ronald Loveridge's Sister City Group to Korea and India to promote business, education and cultural relations. On their way back to the U.S., Dan and Marcia toured China for two weeks.

When he is not working in the legal profession or promoting Riverside, Dan loves to travel for fun. He has visited almost every country in Europe and East Asia. Dan has also traveled to Mexico, Belize, Guatemala, Costa Rica, Peru, Egypt, Turkey, Israel, Jordan, Tanzania, Zanzibar, and twice to Cuba for social security workshops. While in Tanzania, Dan climbed 19,335.6 feet to the top of Mount Kilimanjaro in seven days and went on a safari. In Amman, Jordan, Dan participated in an archeological dig with Dr. Larry Geraty, former president of La Sierra University.

Dan has found living and working in Riverside to be a very rewarding experience. I believe we all have benefited from Dan's dedication and commitment to the community.

Jacqueline Carey-Wilson is a Deputy County Counsel for San Bernardino County, editor of the Riverside Lawyer, and President-Elect of the Federal Bar Association.



OPPOSING COUNSEL: KRISTEN R. OLSEN

by Kirsten S. Birkedal

Giving Back Is in Style

“Wigs are for Wimps!” Kristi Olsen proclaimed in an entry from her daily online journal about her recent battle with breast cancer. It was September 2007, and Kristi had just completed her last treatment. Kristi explained that she “felt empowered to go around bald” because she had survived cancer. Kristi was only 38 years old when she was diagnosed with breast cancer. In reflecting back on that time, Kristi said, “I had always been a strong person, but the cancer sure kicked that up to a whole new level.” The experience also made Kristi aware of how much she depended on the support of her family and friends during that difficult time, especially when she was at her weakest points. Kristi became very aware of the fact that not everyone in this world is so fortunate as to have a support network in place. As a result, Kristi’s experience only solidified her passion for giving back to those who are in need. According to Kristi, “Those of us who are strong need to step up and provide whatever assistance we can in the community to help those who are weaker and/or less fortunate.”

Even before she was faced with one of her toughest challenges, Kristi exemplified a passion for giving back. Family friend and next-door neighbor to her parents, Dave Moore of Reid & Hellyer, has known Kristi most of her life and praises Kristi as “a very engaging person who shows great compassion and strength and has always been an active force in our community.” Like most attorneys, Kristi has a busy work schedule; she is a trusts and estates lawyer at Varner & Brandt. When she is not working, Kristi devotes the majority of time to her family, which includes her husband Craig and their four-year old daughter Mallory. Yet despite her full schedule, Kristi still finds time to give back to her community.

Kristi first learned about the importance of giving back from her parents, James and Barbara Robinson. Kristi’s father is the Director, Chairman of the Board, and CEO of Security Bank of California. Kristi’s mother is recently retired from Bank of America. Both Jim and Barbara serve on the University of California Riverside Foundation Board as well as the Board of the Loma Linda Children’s Hospital. As a result of her parents’ positive influence, Kristi and her brother Jamie Robinson also became involved with their community. In fact, on July 13, 2006, the Robinson family was honored with an award for their outstanding service to the Riverside community from the Family Services Association of Western Riverside County.



Kristi with her husband Craig Olsen. Picture taken by friend Ronni McCarty.



The Robinson family was honored with an award for their outstanding service to Riverside from the Family Services Association of Western Riverside County. From left to right: Jamie Robinson, Melissa Robinson holding Grace Robinson, Kristi Olsen, Craig Olsen holding Mallory Olsen, Barbara Robinson, James Robinson, Bruce Varner.

Kristi found her first opportunity to become involved with the community when she became a member of the Junior League of Riverside after she graduated from McGeorge School of Law in 1998. Kristi believes that Junior League gave her exposure to many local charitable organizations in need of volunteers. One of the Junior League projects Kristi fondly remembers being a part of was a mentorship program for girls in elementary and middle school. The purposes of the program were to build the girls’ overall self-confidence and to help with their school work.

Soon after joining Junior League, Kristi also joined the Avant Garde Committee, which is associated with the Riverside Art Museum. The purpose of Avant Garde is to encourage younger generations to get more involved with arts and culture. At the time, Avant Garde’s focus was on raising money for the children’s art museum. Through her volunteer work with Junior League and Avant Garde, Kristi

soon realized that she wanted to become more involved in improving the lives of children.

As a result, Kristi next became involved with the Olive Crest Abused Children's Foundation of the Inland Empire. Olive Crest provides residential homes for children in the Inland Empire who have been neglected or abused so that they can live and go to school safely. Olive Crest also coordinates foster and adoption services. Kristi currently serves as a Trustee of Olive Crest's Inland Empire Foundation. Kristi is proud to be a part of Olive Crest because its numerous programs help children who otherwise might not have a chance either emotionally and physically.

As part of her work with Olive Crest, Kristi helped organize one of its most successful fundraisers, the annual "Black-Tie Bowling" event. Kristi noted that this event was the brainchild of local fundraiser extraordinaire Sue Mitchell. Kristi eagerly helped organize the first Black-Tie Bowling event and then served in the event again on its fifth anniversary. Kristi emphasizes the event's growing popularity through the years, because it is not your average black-tie fundraiser. The Sixth Annual Olive Crest Black-Tie Bowling event will take place on May 14, 2008.

In addition to her work with Olive Crest, Kristi has also raised funds for Loma Linda University Children's Hospital's "Big Hearts for Little Hearts" Guild. This program provides much-needed comfort for hospitalized children, including a regularly scheduled story hour, a garden for the children to see from their hospital rooms and a redecorated family waiting room.

Most recently, Kristi became Honorary Co-Chair of the second annual "Shop to Stop Breast Cancer" event, which is scheduled for March 31, 2008. The event proceeds will support the nonprofit Inland Agency's Breast Health Program, which offers about 15,000 free mammograms a year to local women. In addition, the program has recently received a grant to provide breast cancer detection services to women who are 40 and younger. As a recent survivor of breast cancer herself, Kristi understands the impact the disease has on the community and wants to take action to help other women. Shop to Stop Breast Cancer is also unique in that it offers an opportunity for donors to give money to the cause and at the

same time shop and socialize at a special boutique set up for the event. Kristi emphasizes the importance of early detection and having access to mammograms for all women, even women under the age of 40.

Kristi also finds time to lend a helping hand at her firm, Varner & Brandt. In fact, Kristi states that her partners strongly encourage their attorneys and staff to give back to the community. For example, each year the firm takes part in a program called "Shoes that Fit." The purpose of the program is to provide new or gently worn shoes for local elementary school children in need. Kristi and her coworkers enjoy taking part in a program, which requires little effort but returns high rewards for the children.

Based on her volunteer experience, Kristi encourages her peers to volunteer on a regular basis; she points out that her fellow lawyers do not have to limit their volunteerism to pro bono legal work, but can give back to their community in other ways. While Kristi enjoys practicing law, she also finds pleasure in occasionally stepping out of her lawyer shoes and doing something different to help her community. Like Kristi, we should all make an effort to give back to our community, not just during the holiday season, but throughout the year.

Kirsten S. Birkedal is a member of the Bar Publications Committee and an associate attorney at Thompson & Colegate LLP in Riverside. To learn more about the organizations that Kristi Olsen is involved with, please feel free to contact her at kro@varnerbrandt.com. To learn more about Olive Crest and its annual Black-Tie Bowling fundraiser, go to www.olivecrest.org. To learn more about Shop to Stop Breast Cancer, go to the Inland Agency's website at www.inlandagency.org.



VIP MENTORS: A UNIQUE MENTORING ORGANIZATION, FOUNDED BY ATTORNEYS

by Judy Davis, VIP Program Director

T is the season to be thankful! Riverside County VIP Mentors is a unique mentoring organization based on people helping people through the power of personal influence. We are the only organization in Riverside County that recruits attorneys, and only attorneys, to mentor men and women on parole from state prison as they make the difficult transition back into the community. VIP is part of a statewide organization founded by attorneys in 1972 to help change the correctional system into something other than a revolving-door process. Since April 2000, our program in Riverside has been one of 13 VIP programs throughout the state.

The parolees who seek out VIP are ready to change their lives. Their volunteer mentors spend an average of three to four hours per month helping them get past the tough re-entry problems they face upon release from prison. The mentor is a friend, role model and advisor. A match might talk on the phone or meet for lunch to discuss, for example, finding employment or setting goals, or just to share each other's day. Although attorneys, mentors are not allowed to provide legal representation to their mentees. Both the mentor and the mentee are impacted by the relationship.

Elisa Castro found that being a mentor is beneficial because of the valuable friendships that are formed. Her match with a parolee named Priscilla (who has since been discharged from parole) was especially inspirational. "I know it's supposed to be the other way around, but I think that Priscilla inspired me to be a better person. I've also learned to appreciate a lot of things about my profession that I took for granted before or just did not appreciate in the past."

Kathryn Manis is very proud and grateful to be a part of this program. "Too often in the practice of criminal law, you are witness to the breakdown of a person's life as they go off to prison. Not only are they affected, but also their family and friends. VIP Mentors gives you a chance to see and be part of the rebuilding of lives. When a mentee perseveres through difficult times and challenges and

ultimately succeeds in rebuilding his or her life into one of accomplishment and triumph, the reward of playing even a tiny part in that is tremendous and exciting."

Judge John Rayburn has also had a very positive experience being a mentor. "I have thoroughly enjoyed my experience with VIP because it has afforded me the opportunity to form strong and lasting relationships with several fantastic young men. The mentees whom I have had the privilege of working with have been truly dedicated to leading positive and constructive lives, and their enthusiasm to better their lives has greatly enriched mine."

Several VIP mentees report similar insights. New mentee Steve said, "It's nice to know that if you are willing to try hard enough to change, the VIP program is there for you. John is nonjudgmental and he's willing to help me every chance that he gets."

VIP mentee Kim was recently discharged from parole. According to Kim, having a mentor when he got out of prison provided him with some measure of stability at a time when everything seemed unsure. "The program, as a whole, put me in connection with a lot of positive outlets where I could share my experience and heal from it. I've also been able to help others, which has been very edifying."

Edward, a former VIP mentee, adds, "Since the onset of my involvement with VIP Mentors, I've built a standing relationship with both Judy Davis and my mentor David Philips. They've encouraged me throughout my quest for a higher education and are very supportive of my career in human services. Today, my reflection shows me the man I've always wanted to be."

Special recognition and appreciation goes out to the following attorneys and judge who have participated as mentors over the past year in the Riverside County VIP program: Anthony Beaumon, Jesus Bernal, Jim Bostwick, Elisa Castro, Doug Edgar, Darryl Exum, Joe Forth, Jody Isenberg, James Kearney, Jo Larick, Marsha Levine, Emilia Muokebe, Hugh Patty, David Philips, Tony Raphael, Judge John Rayburn, Rosa Elena Sahagun, Cathy Schwartz, Reginald Taylor, Jeff Unitis and Forest Wright.

VIP also recognizes and thanks the following individuals, who are members of the local VIP Advisory Committee: Jorge Alvarado, Liz Benner-Wick, Yogenee Braslaw, Vicki Broach, Edward Cagwin, Jacqueline Carey-Wilson, Darryl Exum, Mike Hestrin, Doug Johnson, Judge Stephen Larson, Kathryn Manis, Fletcher Mariner, Lynn Mawhorter, Joe Mendoza, Justice Douglas P. Miller, Jahan Naghshineh, David Philips, Judge Craig Riemer, Jeff Van Wagenen and John Vineyard.

To learn more about VIP or to become a mentor in Riverside County, please contact Judy Davis, Program Director, at (951) 782 4479, ext. 242 or at vip-riverside@vipmentors.org. You can also visit our website at www.vipmentors.org.



STATE BAR PRESIDENT JEFFREY L. BLEICH

Reprinted with permission of the State Bar of California and California Bar Journal.

Photograph courtesy of Howard K. Watkins, www.watkin-photoarchive.com.

San Francisco attorney Jeffrey L. Bleich was elected the 84th president of the State Bar. A partner at Munger, Tolles & Olson LLP, Bleich was sworn in at the Bar's Annual Meeting last September. "How can the public trust us to promote equal opportunity for all, when in one of the most diverse states in our nation, the California Bar remains overwhelmingly white and male?" Bleich asked in his inaugural speech. He suggested more programs like those offered by the Bar Association of San Francisco, which introduce middle school students to the legal system and legal careers and then follow up with mentors and scholarships.

"The same is true of pro bono," Bleich said. "If we don't find ways to give access to those who can't afford an attorney, then we are failing. Period. The public trusts us to ensure that *everyone*, regardless of how poor they are, can have their day in court."

A graduate of Amherst College who earned a public policy master's degree from Harvard and a law degree from Boalt Hall School of Law, Bleich has a slew of distinctions: He was editor-in-chief of the California Law Review and was picked to join the Order of the Coif national honor society for graduating in the top 10 percent of his class. He was a clerk for Judge Abner Mikva of the D.C. Circuit of the U.S. Court of Appeals, U.S. Supreme Court Chief Justice William Rehnquist, and Judge Howard Holtzmann of the Iran-U.S. Claims Tribunal in the Netherlands. He was president of the Bar Association of San Francisco. President Clinton named him director of the National Campaign Against Youth Violence in 1999. He also serves on the boards of 20 or so charitable and civic organizations.

Among his other goals as president are to obtain a multiyear fee bill from the legislature, to continue the campaign for civility among lawyers begun by his prede-



Jeffrey Bleich and Chief Justice Ronald George

cessor, Sheldon Sloan, to promote an increase in legal services funding and to demand that banks increase IOLTA (interest on lawyers' trust accounts).

"No organization of this size can do proper long-term planning if it does not know what its funding will be beyond the coming year," he said. As to the civility issue, he said the public "trusts us to show them how to resolve their problems without bitterness and without needless expense. When we lack civility – when we create bitterness or expensive sideshows with our own nasty treatment of one another – it is no wonder the public loses confidence in us."

The new president noted that a number of the Bar's almost 212,000 members sometimes consider the Bar "an obstacle" rather than a service. But many of the Bar's problems, he said, including a decrease in influence, are due in no small part to "our own distrust and disinterest." He added, "It would not require a revolution for this to be the year when each of us stops rooting against the Bar and starts rooting for it."



LEO A. DEEGAN INN OF COURT

by Robyn Lewis

On October 24, 2007, the Leo A. Deegan Inn of Court began its 2007-2008 season with a presentation headed by "Team Gabbert."

This year, each team in the Inn is named after either a notable jurist or attorney in the Riverside legal community. "Team Gabbert," which is led by Judge Paul Zellerbach and includes attorneys David Bristow, Marlene Allen-Hammarlund, Chris Harmon, Jackie Carey-Wilson, David Cantrell, Yoginee Braslaw, and Mike Hackworth, is named after one of the most respected members of the Riverside legal community, the Honorable John Gabbert.

Team Gabbert focused its presentation on the effect of present-day court congestion on cases that are approaching the five-year mark. A hypothetical case was presented wherein a trial date was set out beyond the five-year mark. This exact issue was deliberated in the case of *De Santiago v. D and G Plumbing, Inc.* (2007) 155 Cal.App.4th 365, which was decided by our own Court of Appeal in September of this year. That case involved a complaint-in-intervention for reimbursement of workers' compensation benefits that related to a personal injury action.

In the *De Santiago* case, a trial date was set beyond the five-year mark without objection. A motion was later filed by the respondents to the complaint in intervention on the ground that the complainant "failed to prosecute the action within five years of the filing of [the plaintiff's] underlying complaint." (*De Santiago v. D and G Plumbing, Inc.*, *supra*, 155 Cal. App.4th at p. 370.) The complainant opposed the motion on the grounds that "the five-year period was tolled under [Code of Civil Procedure] section 583.340, subdivision (c), based on impracticability arising from trial continuances due to court congestion." (*Ibid.*). the respondents' motion was later granted and the complainant's complaint-in-intervention was dismissed with prejudice.

The appellate court relied on the case of *Tamburina v. Combined Ins. Co. of America* (2007) 147 Cal.App.4th 323.



Hon. John Gabbert



Team Gabbert: Chris Harmon, Mike Hackworth, Judge Paul Zellerbach, Justice John Gabbert, Marlene Allen-Hammarlund, David Bristow, Yogenee Braslaw, and Jackie Carey-Wilson

Generally, an action must be brought to trial within five years of the date of filing unless bringing the action to trial was “impossible, impractical or futile.” (Code Civ. Proc., § 583.310, subd. (c).)

According to the *De Santiago* court, *Tamburina* set forth criteria for the impracticability exception: “[T]he court must find the following three factors: (1) a circumstance of impracticability; (2) a causal connection between that circumstance and the plaintiff’s failure to move the case to trial; and (3) the plaintiff was reasonably diligent in moving the case to trial.” (*De Santiago v. D and G Plumbing, Inc.*, *supra*, 155 Cal.App.4th at p. 372).

In *De Santiago*, the court determined that the complainant had established a circumstance of impracticability because of the court congestion. (*De Santiago v. D and G Plumbing, Inc.*, *supra*, 155 Cal.App.4th at p. 373.) However, the court did not find that the other two criteria were met. Specifically, the court held that the complainant was not reasonably diligent in moving the case to trial. ““Where a plaintiff possesses the means to bring a matter to trial before the expiration of the five-year period by filing a motion to specially set the matter for trial, plaintiff’s failure to bring such motion will preclude a later claim of impossibility or impracticability.”” (*Id.* at p. 375.) Reasonable diligence, the court opined, “is a critical factor to be considered in determining whether the impracticability exception applies.” (*Ibid.*)

The *De Santiago* court specifically rejected the reasoning in the case of *Chin v. Meier* (1991) 235 Cal.App.3d 1473, which had held that “when there is a court-ordered continuance, [t]he trial court must merely subtract the aggregate periods of time attributable to each court-ordered continuance because of courtroom unavailability.” (*De Santiago v. D and G Plumbing, Inc.*, *supra*, 155 Cal.App.4th at p. 376.) In *De Santiago*, the court rejected *Chin* “to the extent it concludes that the trial court must merely subtract the aggregate periods of time attributable to each court-ordered continuance because of courtroom unavailability, without considering whether the plaintiff

was reasonably diligent in bringing the case to trial, particularly as the five-year mark approaches.” (*Ibid.*)

Following the presentation, Justice Gabbert remarked on Judge Leo A. Deegan, for whom the Riverside chapter of the American Inns of Court is named. “He is perhaps the finest man I have ever had the privilege to know,” said Justice Gabbert.



Jake Thomas Cantrell

David Cantrell is also a member of the “Team Gabbert.” However, he was unable to participate in the presentation because his wife, Tonia, gave birth to their first child the night before the Inns of Court meeting. Making his debut a few weeks early, Jake Thomas Cantrell was born on Tuesday, October 23, 2007. Jake weighed only four pounds at birth, but is gaining weight daily and is doing well. The members of the RCBA want to congratulate David and Tonia on the birth of their son!

Robyn Lewis, RCBA Secretary and a member of the Bar Publications Committee, is with the Law Offices of Harlan B. Kistler. She is also Co-Chair of Membership for the Leo A. Deegan Inn of Court.



RIVERSIDE COUNTY BAR ASSOCIATION ~ PROPOSED 2008 BUDGET
(Budget to be approved at January 18, 2008, General Membership Meeting.)

REVENUE	
Bar Magazine Advertising	\$ 45,000.00
Bridging the Gap	\$ 100.00
Committee/Section Meetings	\$ 3,500.00
Donations	\$ 3,000.00
DRS Reimbursement	\$ 45,000.00
Fee Arbitrations	\$ 30,000.00
General Membership Mtgs	\$ 12,000.00
Installation Dinner	\$ 13,000.00
Interests & Dividends	\$ 4,800.00
Labels & Rosters	\$ 3,300.00
Lease Income	\$ 250,000.00
LRS Panel Dues	\$ 14,000.00
LRS Percentage Fees	\$ 175,000.00
LRS Referral Fees	\$ 103,000.00
MBNA Royalty	\$ 700.00
Misc. Revenue	\$ 700.00
Mock Trial T-Shirts	\$ 2,850.00
Parking	\$ 4,500.00
RCBA Dues	\$ 160,000.00
Room Rental	\$ 500.00
Special Events	\$ 10,000.00
Specialty Directory	\$ 7,500.00
TOTAL REVENUE	\$ 888,450.00
EXPENSE	
ADP Fees	\$ 3,800.00
Advertising (Yellow Pages, etc.)	\$ 55,000.00
Bar Education	\$ 500.00
Bar Leaders Conference/NABE	\$ 2,500.00
Bar Magazine Production	\$ 60,000.00
Bridging the Gap	\$ 100.00
Building Reserve	\$ 30,000.00
Building/Maintenance & Misc.	\$ 53,000.00
Committee/Section Meetings	\$ 6,000.00
Computer Software Upgrade	\$ 1,500.00
Conference of Delegates	\$ 3,500.00
CPA Services	\$ 2,000.00
Donations	\$ 2,500.00
Educ. Program Materials	\$ 600.00

Employee Benefits	\$ 23,000.00
Employee IRA	\$ 6,000.00
Employee Salaries	\$ 275,000.00
Equipment Lease	\$ 9,000.00
Exec. Dir. – Seminars/Workshops	\$ 1,000.00
Executive Director's Fund	\$ 100.00
Federal Taxes	\$ 31,000.00
Florist/Gifts	\$ 1,200.00
General Membership Meetings	\$ 12,100.00
Installation Dinner	\$ 13,000.00
Insurance – Building	\$ 4,000.00
Insurance – E & O	\$ 1,500.00
Insurance – Workers Comp.	\$ 5,000.00
Interests & Fees	\$ 3,500.00
Internet Services & Website	\$ 3,500.00
Interpreters (Sign Language)	\$ 600.00
Janitorial Services	\$ 33,000.00
Janitorial Supplies	\$ 3,800.00
LRS Conferences/Seminars	\$ 2,500.00
LRS Recertifications	\$ 3,800.00
Misc. Expense	\$ 550.00
Mock Trial - State Competition	\$ 1,000.00
Mock Trial T-Shirts	\$ 1,800.00
Mortgage - Principal/Interest	\$ 73,000.00
Office Supplies	\$ 12,000.00
Payroll Taxes	\$ 24,000.00
Phone Services	\$ 25,000.00
Pictorial Directory	\$ 10,000.00
Postage (Bulk, FedEx, Meter Mail)	\$ 14,600.00
President's Fund	\$ 300.00
Printing (Stationery/Brochures, etc.)	\$ 3,000.00
Property Taxes	\$ 12,500.00
Public Bar/Law Day	\$ 800.00
Refreshments	\$ 2,250.00
Taxes, License & Dues	\$ 450.00
Tel-Law Support	\$ 3,600.00
Utilities	\$ 50,000.00
TOTAL EXPENSE	\$ 888,450.00

Please contact the RCBA if you have any questions or comments, (951) 682-1015 or rcba@riversidecountybar.com.

EIGHT WEEKS IN THE BOX, PART IV

by *Donn Dimichele*

(Part four of a four-part series.)

8. Battle of the Ph.D.s, CVs, and DVDs, Part 2 – Sequence of Expert Testimony

My other suggestion concerning experts is that those who testify on the same subject matter testify at the same time in the trial, rather than having each party's experts testify during that party's case. In our case, the defendants did not begin their cases until weeks after the plaintiff's most important experts had testified. By that time, I found it difficult to remember what the plaintiff's experts had said on the points being covered by the defense experts. The plaintiff's rebuttal evidence helped somewhat to refresh my memory, but it would have been much easier to evaluate and compare the opposing experts if they had testified at the same point in the trial, when the plaintiff's experts' testimony was fresh in the jurors' minds.

I realize there are some potential problems with having the defense experts testify out of order. The plaintiff or the prosecution may object to the disruption of its case, and the defense may protest that it should be permitted to test the plaintiff's or the prosecution's evidence with a nonsuit or acquittal motion before having to put on any evidence of its own. However, courts have the statutory discretion to vary the normal order of proof,¹ and I submit that, in long cases with numerous experts, having the opposing experts testify at the same time would be a reasonable exercise of that discretion. At the least, the court could propose the procedure and follow it if there is no objection.

9. Get It in Writing, Part 3 – Jurors' Review of Notes

At the end of the eight weeks of evidence, my notes filled about three and one-half of the steno pads we were given. This posed a problem if I was going to make full use of my notes. I realized I wouldn't have time to look through all of my notes during the deliberations and still pay attention to what the other jurors were saying. But failing to pay attention would constitute a failure to deliberate and a dereliction of my duty.²

As a possible solution, I asked the bailiff to ask the court if I could take an hour or so of my own time before deliberations to review my notes in the jury room. The court considered the request and discussed it with the parties, but ultimately decided not to grant it, explaining that reviewing one's notes privately would constitute delibera-

tion, which had to take place in the company of the other jurors. As a result, I had to try to review my notes and listen to the other jurors at the same time, and I was able to make only limited use of my notes.

I could understand the court's misgivings. By statute, jurors may take their notes of the trial with them when they retire to deliberate.³ However, they are prohibited from deliberating except when they are together.⁴ If, as the court concluded, reviewing one's notes would be a form of deliberation, it would run afoul of this prohibition.

I have to question, however, whether reviewing one's notes should be considered deliberation. If it is, then merely thinking about the evidence out of the other jurors' presence also is deliberation, as exactly the same mental process is involved, except that in one case one relies on his or her memory instead of written notes. And notwithstanding the standard admonition jurors receive when they leave the courtroom, it is not realistic to expect them not to think about the case as they go about their normal lives. In a trial transcript I read once while working on an appeal, the judge recognized that fact, telling the jurors as they left for a break during the presentation of evidence, "And when I say don't draw any conclusions, it doesn't mean you can't start ordering the evidence in your mind and making some preliminary references to what you've heard and what you would like to still hear. . . ." ⁵

It is difficult enough in a long and complex trial to remember what the witnesses said and how what they said fits into the case as a whole. Thinking about the evidence when the trial is not in session, with or without the assistance of one's notes, is a logical way to enhance one's assimilation of the evidence, and, I submit, shouldn't be a cause for concern. In fact, research data suggest that allowing jurors to review the evidence as the trial goes along actually improves their effectiveness as jurors, especially in a long or complex trial.

That was the finding of a well-known experiment in the Arizona state courts in which jurors were allowed to discuss the evidence as the case was being presented, instead of being required to defer any discussion until the case was submitted, as they normally would. Researchers who monitored these pre-submission discussions concluded: "In complex cases, when factual questions arose about the evidence, discussion tended to improve the accuracy of recall."⁶ They also found that the jurors who were allowed to discuss the evidence before submission "reported sig-

nificantly greater ease in comprehension of expert testimony” than did the jurors who were not allowed to do so.⁷ And although the researchers found that individual jurors in the experiment sometimes violated the warning not to take a final position during pre-submission discussions on what the outcome of the case should be, they found “no clear indication” that these “early verdict statements” altered the outcome of any case.⁸

Granted, pre-deliberation discussion among jurors is different from pre-deliberation review of notes by one of them. However, the Arizona findings support a general conclusion that jurors can think about the evidence and even take positions as to the proper outcome of the case prior to formal deliberations without deleterious effects on the decision process. If pre-deliberation discussion of the case by jurors is not harmful, it’s difficult to imagine that permitting jurors to review their notes before deliberations would be, even if such a review could be seen as a form of solitary “deliberation.” I therefore recommend that trial judges consider affording jurors who wish to review their notes before deliberations the opportunity to do so.

Conclusion

Because jury service is a mandatory duty of citizenship, it is easy for us who work in or with the court system to think and act as though jurors exist to serve the system. In fact, of course, it is the other way around. The jury system, along with the rest of the judicial system, exists to serve the citizens, of whom the jurors are, after all, a subset.

One way the system can serve jurors better is for all of us who are involved in its administration to remember why the jurors are there in the first place: they are the judges of the facts. As such, they should be given the same consideration and assistance we would give an appointed judge presiding over our case. Accomplishing this in a given case may require doing things differently than in the past, if doing so will help jurors better understand the evidence and determine the facts.

I believe based on my experience as a juror that the suggestions included in this article, if put into practice, would make jurors’ performance of their roles as judges easier and more effective. Some of the suggestions likely will be controversial or perceived as unworkable. However, I hope at least that my ideas will provoke further thought and discussion on the subjects I have addressed.

Donn Dimichele is a Deputy City Attorney for the City of San Bernardino.



¹ Code Civ. Proc., § 607; Pen. Code, § 1093; see also Evid. Code, § 320.

² See *People v. Thomas* (1994) 26 Cal.App.4th 1328, 1333 (juror’s failure to answer questions put to him by other jurors was a ground for removal).
³ Code Civ. Proc., § 612; Pen. Code, § 1137.
⁴ Code Civ. Proc., § 613; Pen. Code, § 1128.
⁵ Hon. Dallas Holmes, in Department of Fair Employment & Housing v. County of Riverside, Riverside County Superior Court No. RIC352666.
⁶ Diamond, et al., *Juror Discussions During Civil Trials: Studying an Arizona Innovation* (2003) 45 Ariz. L. Rev. 1, 75 (hereafter cited as *Juror Discussions*).
⁷ Diamond, et al., *Juror Discussions*, supra, 45 Ariz. L. Rev. at p. 76.
⁸ Diamond, et al., *Juror Discussions*, supra, 45 Ariz. L. Rev. at p. 75.

CLASSIFIED ADS

Fingerprint Consultant

Court qualified expert in the field of the fingerprint science. Also Cal-ID Experience. Contact Granville (Bud) Kelley, email budeffie@yahoo.com, phone (951) 689-2286. Court qualified expert in fingerprint identification and testimony. Superior and Municipal Courts. Resume available upon request.

Court Appearance Attorney/Contract Attorney

Experienced litigation/probate attorney available for contract work (depositions, trial preparation, pleadings etc.) Also available for in person court appearances in Riverside County (Indio) and San Bernardino County (Redlands) or other court-call appearances at other locations. Call Flint Murfitt (909) 557-4447 or (760) 320-6008.

Office Space – Indio

Central Indio, CA. New Class A Office Space. Call Dominick Mancuso at (760) 773-3155 or Email dmancuso@dc.rr.com. Coldwell Banker NRT.

Attorney Offices – Rancho Cucamonga

Furnished professional all attorney offices for rent in prime Rancho Cucamonga area on Haven Avenue. Offices are 12 x 18 which include furniture, direct dial phone, coffee room and conference room privileges. Each office is \$540.00 per month. Please contact Julie Clancy at (909) 581-8300.

Secretary/Clerk Positions

Part-time Legal Secretary for family law office. Must be experienced in family law. Possible full-time in future.

Part-time file clerk receptionist for law office. Hours flexible. Possible full-time in future.

Conference Rooms Available

Conference rooms, small offices and the third floor meeting room at the RCBA building are available for rent on a half-day or full-day basis. Please call for pricing information, and reserve rooms in advance, by contacting Charlotte at the RCBA, (951) 682-1015 or charlotte@riversidecountybar.com.