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MAGAZINE

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Omar Stratton and the History of the Riverside Branch of the National Association for the Advancement of Colored People (NAACP)

Building a Better Law Profession

Americans with Disabilities Act (ADA): The Court’s Role in Providing Access to Justice for All

Principles for Dealing Constructively with Diversity

Rights Versus Reality: Have Laws Protecting Employment Rights of Persons with Disabilities Lived Up to Their Promise?



Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.



The official publication of the Riverside County Bar Association

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RIVERSIDE LAWYER

MAGAZINE

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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

FEBRUARY

- 7 Civil Litigation Section**
RCBA Gabbert Gallery – Noon – 1:15 p.m.
“Case Management Conferences: Everything You Ever Wanted to Know (and More!)”
Speaker: Judge Craig Riemer
MCLE
- RCBA Board of Directors Meeting**
RCBA – 4:30 p.m.
- 8 Riverside County Mock Trial Competition (Round 1)**
Riverside, Indio, Southwest Courts - 5:30 p.m.
- 9 Federal Bar Association**
Dinner Honoring the Judges of the Central District of California
Mission Inn – Music Room
Social Hour at 5:00 p.m., Dinner at 6:00 p.m.
Keynote Speaker: Prof. Laurie Levenson
“Judicial Independence: Challenges for Judges in an Election Year”
Information: Kim Connelly at (951)686-4800
- 13 Court Holiday - Lincoln's Birthday**
RCBA Offices Closed
- 14 PSLC Board of Directors Meeting**
RCBA Boardroom – Noon
- 15 Estate Planning, Probate & Elder Law Section**
RCBA John Gabbert Gallery – Noon – 1:15 p.m.
Marguerite C. Lorenz, CTFA, CLPF
“The Fraud Triangle – A Discussion on Fiduciary Ethics”
MCLE
- Riverside County Mock Trial Competition (Round 2)**
Hall of Justice – 5:30 p.m.
- 17 General Membership Meeting**
RCBA Gabbert Gallery – Noon
“Nuts and Bolts of Pro Per Litigation”
Moderator – Judge Irma Asberry
MCLE
- 20 Court Holiday - Presidents' Day**
Courts & RCBA Office Closed
- 21 Family Law Section**
RCBA Gabbert Gallery – Noon
MCLE
- Landlord/Tenant Section Meeting**
Cask n Cleaver, Riverside – 6:00 p.m.
“Bankruptcy Issues as they Affect Unlawful Detainers”
MCLE
- 22 Riverside County Mock Trial Competition (Round 3)**
Hall of Justice – 5:30 p.m.
- 25 Riverside County Mock Trial Competition (Round 4)**
Hall of Justice – 8:30 a.m.
Mock Trial Awards Ceremony – 2:00 p.m.
Moreno Valley Conference and Recreation Center
- 28 Business Law Section**
RCBA John Gabbert Gallery - Noon
“So Your Client Wants to do Business in California, What Next?”
Speakers: David Knudsen, Assistant Deputy Director, Governor's Office of Business & Economic Development; Teresa J. Rhyne, Esq.

MARCH

- 3 Riverside County Mock Trial Competition (Semi-Final)**
Historic Courthouse - 9:00 a.m.
- Riverside County Mock Trial Competition (Final Round)**
Historic Courthouse – 1:00 p.m.
- Riverside County Mock Trial Competition**
Championship Awards Ceremony
Historic Courthouse – 3:30 p.m.



by Robyn A. Lewis

2012 is already proving to be an interesting year. And this particular issue of the *Riverside Lawyer*, which focuses on civil rights, could not be any more relevant.

Among our greatest civil rights, as citizens of the United States and as citizens of the great state of California, is the right of every citizen to have access to justice. Without our justice system, there would be no way to enforce the rights and liberties that were articulated by our founding fathers. If there were no court system to interpret those “certain unalienable rights,” citizens across the country might still be denied such rights as the right to vote or the right to be treated equally under the law. The judicial branch is a crucial part of our three-branch form of government. It was intended to be an independent branch from the executive and legislative branches to ensure all of the fundamental rights and liberties that we enjoy. And yet in recent years, our judicial branch of government seems to be under attack by Sacramento. While there are several issues that I am referencing, I want to focus this particular message on the budget cuts to the judicial branch.

We are living in hard times and in a down economy. When times are tough, it is the prudent thing to do to tighten the belt and to make appropriate cuts, where necessary. But I found it astounding to hear the statistic from State Bar President Jon Streeter that, while the budget for the judicial branch of government makes up no more than 3% of the total state budget, the judicial branch absorbed approximately 25% of the state budget cuts for 2011. How is that even possible? We need our courts open and functioning so that all of our citizens’ rights can be protected. But

apparently the courts seem to be an easy target for our representatives in both the executive and legislative branches in Sacramento. So what is being done to try to stop even further budget cuts that will further cripple our judicial branch?

I had the privilege of attending a meeting on January 11, 2012 at the State Bar offices in San Francisco, which was attended by the Chief Justice, State Bar Executive Director Senator Joe Dunn, and State Bar President Jon Streeter, as well as bar association presidents and other legal community leaders throughout the state. The meeting was organized by the co-chairs of the Open Courts Coalition, Paul Kiesel and Niall McCarthy.

For those of you unfamiliar with the Open Courts Coalition, it is a group that was created after last year’s catastrophic budget cuts to the judicial branch. It is comprised of interested citizens from both the private and public sectors, as well as former elected officials from both political parties. The sole purpose of the Coalition is to get proper funding for our courts, including the restoration of funds that were already taken away.

To give you an idea of how dire the budget cuts to the judiciary have been, let me point out that since 2008, the judicial branch has suffered a total budgetary reduction of over \$652 million. The trial courts specifically have lost budgetary funds of over \$605 million. Those figures are staggering. With respect to the 2011-2012 budget alone, the judicial branch absorbed \$1.1 billion dollars in budget cuts, which were offered as solutions to address the state budget shortfall.

Just recently, the governor has released his proposed budget, which thankfully does not provide for any further budget cuts to the courts on its face. However, there is a trigger provision, which does provide for the courts to be included in even further substantial cuts to their already depleted budget. While we are a ways off from when the budget is actually finalized by the governor’s office in May and ultimately approved by the legislature, we should all be worried about the impact that additional budget cuts will have on our court system.

Specifically, the courts would be looking at another \$125 million in cuts if the trigger is activated. While the judicial branch, and specifically the Riverside Superior Court here in our county, should be commended for their resourcefulness and their focus on improved efficiencies in court operations, I cannot imagine that judicial branch

operations would be able to survive another round of such cuts. We truly would have an epic access to justice issue, and as the Chief Justice herself stated (although I paraphrase): “The courts are the most powerful protector of our freedoms,” and “justice delayed is justice denied.”

The Executive Board of the Riverside County Bar Association is pleased to announce its support of the Open Courts Coalition. It will be our intent to reach out to our local legislators and to make sure that each one is aware of the catastrophic consequences that additional budget cuts and a lack of proper judicial branch funding will have on our very system of government.

This is not just a legal community issue. This does not involve only judges or lawyers or anyone else who makes their living by participating in our system of justice. This impacts people like a gentleman in Los Angeles who successfully fought a wrongful eviction with the help of pro bono attorneys this past year and who died while sleeping outside while he waited for the order to be processed. This impacts domestic violence victims, such as a woman in San Diego who filed for a restraining order against her abusive husband and, since she was unable to get a hearing due to budget cuts and she was at risk of being beaten if she went home, slept in her car at the superior court. The bottom line is that it affects every citizen in California. And, as someone commented at the January 11 meeting, “The courts are like the police and the fire department – you only need us when you really need us.”

I apologize for the length of my column for this issue, but I felt it was my duty as the President of the Riverside County Bar Association to report this incredibly important information to all of you. As for what you can do to help, I would urge each of you to contact me if you have any personal examples of how the budget cuts have impacted any of your clients’ access to our justice system, as that kind of information will be extremely important in our efforts to assist the Coalition.

In closing, I did just want to mention that the RCBA co-hosted the annual “Bridging the Gap” program on January 20, 2012, along with the San Bernardino County Bar Association. I want to thank all of the presenters and the members of our bar association who took time from their busy schedules to participate in this event. I also wanted to again welcome all of the new bar admittees to the practice of law and to our legal community in the Inland Empire. It is a wonderful place to begin and develop

one’s professional career, and I hope that it was impressed upon each and every attendee that the RCBA and its members look forward to getting to know its newest members.

Robyn Lewis, president of the Riverside County Bar Association, is with the firm of J. Lewis & Associates.



PROJECT GRADUATE UPDATE

On December 13, 2011, our trained volunteer education representatives met their assigned students and participated in the first monthly “education calendar” at the Juvenile Court. The RCBA Steering Committee hosted a lunch before the formal calendar, at which the students and their representatives began to get to know each other. These calendars will be a monthly opportunity for the students to track their goals and be recognized for their successes.

The students had their first outside enrichment opportunity in early February, when Best Best & Krieger invited them to participate in the firm’s “Job Shadow Day.” The Riverside County Office of Education is in the process of identifying additional high-school-age foster youth to participate in the program, and when that happens, we will need more trained education representatives to work with them.

If you are interested in becoming an education representative, please contact either Mona Nemat, at (951) 826-8215 or Mona.Nemat@bbkclaw.com, or Brian Unitt, at (951) 682-7030 or brianunitt@holsteinlaw.com. The Project Graduate Steering Committee is planning an informal cocktail party for any members of the bar who are interested in learning more about the program and how they can help. It will be held on February 23 from 5:30 to 7:00 p.m. at Best Best & Krieger. Watch your inbox for your invitation, and please RSVP.



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BARRISTERS PRESIDENT'S MESSAGE

by Scott H. Talkov



Barristers Celebrate 50 Years of Equality Before the Bar with Food Fight at the Cask 'n Cleaver

Why have the Riverside Barristers become the only new and young attorneys association in the Inland Empire to have lasted 50 years? To answer this question, 80 former and current Barristers gathered at the Cask 'n Cleaver, the home of Barristers for many decades, for a gala to celebrate the organization's 50th anniversary, generously sponsored by

the Riverside County Bar Association and Reid & Hellyer.

One common theme that emerged from the fond memories that attorneys had was the Barristers' uniquely egalitarian principles. Indeed, the RCBA and Barristers boards are jointly installed each fall through an oath of office in which they pledge to hold all attorneys equal before the bar. However, considering no attorney more or less important than another attorney is rather easy for the Barristers, perhaps because all new attorneys are considered equally unimportant.

Only in such an unpretentious environment could an organization become famous for its food fights, as the Barristers did many decades ago. Though claiming it was not a high point in Barristers history, State Bar President Jim Heiting was all too glad to recount the incident, with a smile from ear to ear. When the panel was asked how the Barristers helped them get where they are today, Mr. Heiting joked, "It helped me find the Other Bar."

Federal Judge Virginia Phillips had little fear about being one of the only women active in what was essentially an all-boys club when she joined Best Best & Krieger as an associate in 1982. Indeed, Judge Phillips went on to join the Barristers Board of Directors, which we are proud to report was a majority-female board as of the June 2011 election.

District Attorney Paul Zellerbach also recalled his exciting times in Barristers, describing the organization as a place where young attorneys could let their hair down and grab a drink with lawyers from diverse areas of practice. While this may have seemed like just a diversion from what was then a smaller, quieter town, District Attorney Zellerbach insisted that that the friendships he made have enriched his personal and professional career over the years.

Reid & Hellyer President Mike Kerbs took the audience back with fond memories of his seven-year tenure in Barristers, during which he rose to the position of President in 1995. Notably, Mr. Kerbs retold the tragicomedy that was the Barristers trip to Las Vegas, which began on a bus shared by senior citizens and included a less than memorable hotel conveniently located next to the Clark County Jail. The events recounted in these lively stories formed friendships that have lasted for nearly two decades.

Best Best & Krieger partner and Riverside Chamber President Howard Golds shared his cherished memories of a time when status was not determined by a lawyer's house, car or professional title. Rather, the \$25 check (now worth about

\$50) that BB&K would provide to its associates would make them the most popular attorneys in the room, as the funds would be pooled to make sure the bartender stayed busy all night long. The only downside of Barristers, Mr. Golds noted, was that "there's really nothing else like Barristers in the legal community," referring to the lively professional socializing for which the Barristers have become known.

Carrying on the egalitarian spirit of Barristers is no easy task as attorneys become more recognized in the legal community, but perhaps this is the goal that all legal associations should strive to achieve. Indeed, five decades of holding attorneys as equals may explain why the Riverside Barristers have become known for their longevity, growth in membership and fond memories.

Scott Talkov is the 2011-12 President of Barristers as well as an attorney with Reid & Hellyer, where he practices real estate and business litigation.



ABRAHAM LINCOLN: AN ORDINARY MAN WHOSE LIFE WAS MARKED BY EXTRAORDINARY THINGS

by Andrew Heglund

Abraham Lincoln was truly a remarkable man, an ordinary man whose life was marked by extraordinary things. His résumé would not read like a résumé of today's leader – you wouldn't find an Ivy League education, a Rhodes Scholarship, or legal experience in a prestigious international law firm. Rather, you would find a humble upbringing with no ancestral "coattails" to ride into political office. His mother died when he was only ten years old, two years after his father had moved the family to Indiana.

He admitted that he "did not know much" when he was growing up. But perhaps the greatest lesson he learned was the lesson of diligence and hard work. Not relying on his difficult childhood as an excuse, Abraham Lincoln worked, both physically and mentally, to better himself, whether splitting rails for a fence or working in a store in Illinois.

It is unlikely that during his early years, he ever imagined that he would serve as President of the United States, that he would be forced to take steps to keep his great nation together, or that he would one day sacrifice his life for the cause in which he believed. No, young Abraham Lincoln simply applied himself to his work and to his studies.

Those who aspired to become attorneys in Lincoln's time ordinarily apprenticed with a member of the bar or clerked in law offices. However, Abraham Lincoln did not have these opportunities available to him. Instead, he borrowed law books from the man who would one day be his law partner. He taught himself the law from these books, with no law school, no Socratic method, no bar prep class, and no study groups.

After being certified to practice law in Illinois in 1836, Abraham Lincoln practiced law from 1837 to 1861, the year that he assumed the Presidency of the United States. While he did serve in the Illinois legislature and in the United States Congress, his primary passion was practicing law. Throughout his law practice, he practiced both litigation and transactional law and argued before the Illinois courts, including his state's Supreme Court, as well as the federal bench.

By 1861, the nation was divided on an issue that would threaten its very existence. For nearly 100 years, the United States had survived as a great example for the world of a new variant of government that required the good character of its people, a representative democracy. However, this fledgling nation was facing permanent destruction. It was at this time that Abraham Lincoln became President of the United States.

During the tumultuous events that molded his presidency, including the secession of the Southern states from

the Union, President Lincoln, with divine wisdom, navigated through the complex issues that this nation faced to insure that it would remain as that great example. While brother fought against brother and thousands of young men lay bleeding to death in battlefield after battlefield, President Lincoln was able to extend to the nation hope that one day it would recover from this tragedy. This was demonstrated in no greater way than through his comments at Gettysburg:

"It is rather for us to be here dedicated to the great task remaining before us – that from these honored dead we take increased devotion to that cause for which they here gave the last full measure of devotion – that we here highly resolve that these dead shall not have died in vain – that this nation, under God, shall have a new birth of freedom – and that government of the people, by the people, for the people, shall not perish from the earth."

Even after this address at Gettysburg, his work was not done. Before his great life was extinguished, he effectively ended slavery with the Emancipation Proclamation and placed the early stitches in the mending of this great nation.

Today, we live in a country that enjoys the benefits of his work and sacrifice, which earned him little more than a bullet at the hand of a maniacal extremist. The headlines the following day read, "OUR GREAT LOSS – Death of President Lincoln." While the loss was great, Abraham Lincoln's legacy continues to inspire us and our nation to greatness.

We as attorneys can learn from and be inspired by President Lincoln's example that one does not need position, prestige, or money to be great. Greatness is born in diligence, humility, and a willingness to affect people in every setting in which we find ourselves.

While an Ivy League law degree may make a job search somewhat easier, and being a partner in an international law firm may allow more opportunities for recognition, they do not guarantee greatness. Each of us can impact our world. As attorneys, we have tremendous opportunities every day to make a difference in those lives with which we come in contact. Being great and doing extraordinary things in our world simply require the characteristics often held by those who are simple, ordinary people, just like Abraham Lincoln.

Andrew Heglund is an attorney with the Bakersfield City Attorney's Office.



CIVIL RIGHTS — YOU'VE COME A LONG WAY, BABY!

by Stefanie G. Field

This slogan was coined in the late 1960s as part of a cigarette ad campaign targeting women, but the slogan has come to stand for more than Virginia Slims cigarettes. It has come to stand for a celebration of progress. It certainly applies well to the civil rights movement and the impact it has had on our society. The slogan also does a credible job of summarizing the experiences and perceptions regarding gender, race and civil rights that Justice Carol D. Codrington was kind enough to share with me.

Back in 1896, in *Plessy v. Ferguson*, 163 U.S. 537, the U.S. Supreme Court sanctioned state-mandated segregation under the separate but equal doctrine. The reality was that separate was not equal. That disparate reality was acknowledged by the Supreme Court in 1954 in its landmark decision in *Brown v. Board of Education of Topeka*, 347 U.S. 483, which overturned *Plessy*. That decision held that segregation in the schools was inherently detrimental and violated the equal protection clause of the Fourteenth Amendment. That ruling helped pave the way for integration and, ultimately, the civil rights movement.

Although I do not have statistics comparing the number of women and minorities in the profession from the 1960s to the present, there can be little doubt that the numbers have grown and that diversity has increased. As can be seen from the NALP annual review of diversity in the legal profession¹ and the 2010 State Bar Annual Meeting presentation, “Strategies for Eliminating Bias in the Legal Profession and Judiciary,”² there is room for improvement. But focusing on the negative, without celebrating the tremendous strides that have been made, does a disservice to the pioneering men and women, like Justice Codrington, who have blazed a path for future generations and serve as role models for those seeking to enter the profession.

Justice Codrington did not set out to be a role model. Her desire to become an attorney began with a school trip to a courthouse, where she saw a judge in action. She always wanted to serve the public. As a result of that trip,

she hoped to become a judge some day. She never considered that her gender or race could be a barrier. Instead, she set out to become the best litigator she could, while maintaining the highest level of integrity. She believed (and still does) that with a ton of hard work and an ongoing commitment to fairness and excellence in jurisprudence, you can achieve success.

Does that mean that Justice Codrington never saw or experienced discrimination, inequality, or civil rights violations? Of course not. One of her earlier personal experiences came through the struggles of her brother. He had a physical disability that necessitated the use of a wheelchair. Before the enactment of the Americans with Disabilities Act, entering buildings, attending college classes on the second floor, and even crossing streets all provided him with challenges that had to be overcome. Because of the ADA, those physical access issues (which many of us never even need to think about) that Justice Codrington’s brother experienced have been significantly improved. Progress.

Justice Codrington also saw issues of disparity of treatment at play in her education and career. When she attended Loyola Law School, there was a pervasive perception that all minorities were admitted because of affirmative action, rather than merit. Yet, when she returned as a professor and director of litigation at the Western Law Center for Disability Rights at Loyola, just over a decade later, that perception had changed significantly. Contrast that with her experience as a jurist. Justice Codrington states that her journey has been extremely rewarding, due, in no small part, to the fact that her extraordinary colleagues on the trial and appellate court have warmly embraced and encouraged her from the very beginning. Progress.

Early in her career, she saw that women and minorities were underrepresented at the partnership level in law firms and in the leadership of organizations. Knowing the importance of increasing their representation at these upper levels of management, she became active in a variety of organizations that encouraged parity in achievement, such as the State Bar of California Ethnic Minority Relations Committee, the California Women Lawyers

1 “Women and Minorities in Law Firms by Race and Ethnicity,” NALP Bulletin (January 2010), available at nalp.org/race_ethn_jan2010.

2 Available at html.documation.com/cds/SBC10/PDFs/014.pdf.

Association, the Black Women Lawyers Association and the Women Lawyers Association of Los Angeles, Inc. She also unwittingly became a role model. For example, she was sent to Texas for a deposition. Before long, there was a parade of faces peering in the conference room. She learned that the staff members (women and minorities) had never seen a black woman lawyer before. The possibility was a revelation to them, as it was to perhaps too many of the secretaries and paralegals with whom she worked. A number of them followed her lead by going to law school and becoming lawyers themselves. Progress.

As Justice Codrington pointed out, we are living in an unprecedented time in American history. In 2005, Condoleeza Rice became the first African-American female Secretary of State. In 2007, Nancy Pelosi became the first woman Speaker of the House of Representatives. In 2008, Hilary Clinton became the first woman ever to win a U.S. primary election, Sarah Palin became the first woman to run for vice-president on the Republican ticket, and Barack Obama became the first African-American President of the United States. In another milestone, Sonia Sotomayor became the first Hispanic U.S. Supreme Court justice. The California Supreme Court has Chief Justice Tani Cantil-Sakauye, its first Asian/Filipina-American Chief Justice. Progress.


Of course, the County of Riverside has its own unique history. Just to highlight some of it: In 1981, Janice McIntyre became the first woman judge in Riverside County when she was appointed to the municipal court, followed by Judge Jean Pfeiffer Leonard, who was the first woman appointed to the superior court in 1997. In 2000, Richard T. Fields became the first African-American judge in the history of Riverside County. He served as the first African-American presiding

judge in 2007 and 2008. Judge Irma Asberry was the first African-American woman judge in Riverside. Newly appointed Judge Raquel A. Marquez is Riverside County's first Latina judge, preceded by Latino Judges Francis M. Estudillo and Ernest M. Lopez in the 70s. And, of course, Justice Codrington is the first African-American appointed to the Fourth District Court of Appeal (although she is currently the only African-American woman justice in the state of California). Progress.

Women and minorities have made tremendous strides in society and in our profession. Now law students are more than 50 percent women. The legal profession should include qualified people from all walks of life in order to more adequately reflect California's rich diversity and its constituents. That diversity enriches the bench and the practice of law. Not only does diversity bring different perspectives to the table, but it also increases public trust and confidence in the courts and fairness in our legal system.

How, then, do we keep the progress that has been made going? As Justice Codrington will readily tell you, first, "mentorship." A good mentor can help change the direction of a child's life and open up a child's perception of possibilities. It can also help students and young attorneys succeed in their careers. Second, focus on what people have in common, rather than their differences. If we all focused on what we have in common, rather than our differences, perhaps a discussion of the progress of civil rights would become obsolete. Wouldn't that be nice?

Stefanie G. Field, a member of the Bar Publications Committee, is a Senior Counsel with the law firm of Gresham Savage Nolan & Tilden.



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POLICE MISCONDUCT: A MOVING TARGET FOR CIVIL RIGHTS LAWYERS

by Andrew Roth

Despite media reports of notorious police misconduct trials¹ and attorney fee awards for those who prevail,² most constitutional violations by police never get to trial, and most victims cannot find lawyers to take their cases. Why? In addition to the difficulty of convincing a jury that an officer misbehaved and is lying about it, various legal trends raise obstacles to even getting such a case heard by a jury.

What Civil Rights Are Protected?

Fewer and fewer. Two examples are illustrative:

Several centuries of common law held that one's home was one's castle,³ and American courts held that the Fourth Amendment required that, even with a valid warrant, officers must knock and announce their purpose before entering. Absent exigent circumstances, failure to do so was a constitutional violation.⁴ Or so we thought. In 2006, knock-notice *disappeared* from the Fourth Amendment.⁵

Under the Fifth and Fourteenth Amendments, freedom from coercive police questioning was historically a fundamental right implicit in the concept of ordered liberty. In 2003, we learned that the Fifth Amendment is violated when – *and only when* – statements obtained by such questioning are actually introduced in a criminal trial. And substantive due process under the Fourteenth

Amendment is not violated by coercive questioning – when police have a reason to want answers.⁶

When Is a Police Officer Immune from Civil Suit for a Violation of a Constitutional Right?

Most of the time. In addition to excusing police mistakes of fact (e.g., the wallet looked like a weapon, or the warrant looked okay), judicially created “qualified immunity” invites judges to excuse virtually all civil rights violations, except where there is no reasonable law enforcement reason and no judicial precedent – anywhere – arguably allowing the court to do so.⁷

How Many Chances Do Officers Get to Avoid Trial?

At least four. They can test the plaintiff's case and assert immunity on legal grounds in demurrers or Rule 12(b)(6) motions, or on evidentiary grounds in summary judgment motions or Rule 56 motions. Officers may also move to dismiss a complaint that states facts sufficient to state a cause of action, if the factual allegations don't meet the heightened pleading standard of “plausibility.”⁸ An officer disagreeing with a denial of qualified immunity is entitled to interlocutory *de novo* review by the court

1 Damage claims for police misconduct under 42 U.S.C. section 1983 are cognizable in both state and federal court. Additional California state law claims include intentional torts, the Unruh Act (Civ. Code, § 51 et seq.), and the Bane Act (Civ. Code, § 52.1).
2 42 U.S.C. section 1988 and various state statutes (e.g., Code Civ. Proc., § 1021.5) allow fee awards.
3 “The poorest man may in his cottage bid defiance to all the forces of the Crown. It may be frail – its roof may shake – the wind may blow through it – the storm may enter – the rain may enter – but the King of England cannot enter – all his force dares not cross the threshold of the ruined tenement!” William Pitt (Pitt the Elder), *Speech on the Excise Bill*, House of Commons (March 1763).
4 *Wilson v. Arkansas* (1995) 514 U.S. 927, 930; *Sabbath v. United States* (1968) 391 U.S. 585, 588-589; *Miller v. United States* (1958) 357 U.S. 301, 313.
5 *Hudson v. Michigan* (2006) 547 U.S. 586, 594, holding that the Fourth Amendment does not require that evidence obtained in violation of knock-notice requirements be suppressed.

6 *Chavez v. Martinez* (2003) 538 U.S. 760, 766-767, 774-776 [plur. opn.], holding that a police officer violated neither the prohibition against self-incrimination nor due process when he obtained a confession in a hospital emergency room over protests from a man just blinded and paralyzed by police gunfire.
7 E.g., *Brosseau v. Haugen* (2004) 543 U.S. 194, 201, in which the Supreme Court reversed the Ninth Circuit's denial of qualified immunity claimed by an officer shooting an unarmed assault suspect trying to escape in a car, because it fell in the “hazy border between excessive and acceptable force” based on conflicting views in similar cases from the Sixth, Seventh, and Eighth Circuits.
8 *Ashcroft v. Iqbal* (2009) 556 U.S. 662, ___ [129 S.Ct. 1937, 1949-1950] [requiring that plaintiffs include enough facts in their complaint to make it plausible – not merely possible or conceivable – that they will be able to prove facts to support their claims]; see also *Bell Atlantic Corp. v. Twombly* (2007) 550 U.S. 544, 566-569 [pleading standard under the Sherman Act].

of appeal.⁹ That's *four* bites at the apple, not counting *in limine* motions, motions for nonsuit, and motions for judgment on the pleadings, all *before* the first witness gets sworn.

Are Civil Rights Victims Getting Their Day in Court?

A civil rights lawsuit remains the most powerful arrow in a lawyer's quiver to identify and combat police abuse of fundamental rights and to address its effect on citizens' lives and liberty. But the trend of case law is making use of that arrow more tentative and cumbersome and rendering its target smaller, hazier, more evasive, and more distant. When this is combined with the respect we afford officers, as well as their access to public resources to defend and indemnify their misconduct, more and more of America's victims of civil rights violations are losing the right to trial by jury.

⁹ *Mitchell v. Forsyth* (1985) 472 U.S. 511, 524-530, holding that orders denying qualified immunity fall within a small class of decisions that should not be deferred until final judgment

Andrew Roth is a Riverside lawyer with four decades of federal and state civil and criminal trial and appellate experience. His jury trials number over 100 and include civil rights, victims' rights, workers' rights, Ku Klux Klan Act, wrongful death, police violence, and death penalty cases. In 2006, he was honored with the Erwin Chemerinsky Defender of the Constitution Award by the Inland Empire Chapter of the Federal Bar Association.



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PERRY V. BROWN: AN UPDATE ON SAME-SEX MARRIAGE CASES

by Christopher J. Buechler

Since I last wrote about the *Perry v. Schwarzenegger* case in July 2011,¹ all of the issues before the courts at that time have been decided, and we now have these issues returning to the Ninth Circuit for resolution at the appellate level. What follows is a rundown on the issues covered before and the new developments that have occurred since I last wrote on these cases.

Standing in the Ninth Circuit – The California Supreme Court Weighs In

The issue of standing – and whether a ballot proponent would have it in a federal appellate court when the governor and attorney general decline to appeal – had been briefed, argued and then sent to the California Supreme Court as a certified question. On November 17, 2011, the court unanimously answered that question in the affirmative, but only as to an initiative proponent's standing to assert the state's interest when the state officials decline to do so.² The court declined to answer whether proponents have a particularized interest that grants them standing for appeal. This duck on the particularized interest issue seems to put us right back where we started, and may lead to at least one interesting decision on this issue. The City and County of San Francisco filed a supplemental brief in the Ninth Circuit arguing that if proponents do have standing to represent the state's interest, then their arguments should be limited to those consistent with the state constitution (i.e. they cannot argue for the favored status of one group over another in issues of procreation and child-rearing).³ This argument points out a critical reason why standing to represent the state's interest may not be sufficient for federal appeals. Basically, state officials are sworn to uphold the constitutions of California and of the United States, a restriction that does not apply to initiative proponents. The appellate court may decide if the proponents' arguments pass U.S. Constitutional muster, but if the substance of the merits violates the California Constitution, we may be back in the state Supreme Court again, relitigating this particular issue.

1 Buechler, "Perry v. Schwarzenegger and Marriage Equality: Where Do We Stand?," *Riverside Lawyer*, July/August 2011.

2 *Perry v. Brown* (2011) 52 Cal.4th 1116.

3 Plaintiff-Intervenor-Appellee City and County of San Francisco's Supplemental Brief at 1-2, *Perry v. Schwarzenegger*, No. 10-16696 (9th Cir. Dec. 2, 2011) available at www.ca9.uscourts.gov/dastore/general/2011/12/05/10-16696_supp_brief_plaintiff.pdf.

Or we could have the Ninth Circuit decide that the proponents have not met the burden of showing a particularized interest as required for standing and dismiss the appeal before a decision is made on the merits. One court-watcher I know, however, anticipates that Judge Reinhardt (the most reliably liberal of the three-judge panel) wants to decide the issue on the merits so that the case can go before the Supreme Court of the United States. But SCOTUS has not been one to shy away from deciding cases regarding controversial substantive issues based on procedural defects.⁴

Proponents' Motion to Set Aside

Prop. 8 proponents were handed two setbacks in the district court that have now become issues in the Ninth Circuit. As previously reported, the Hon. James Ware denied a motion to set aside the verdict issued by the Hon. Vaughn R. Walker, which argued that Judge Walker had a substantial nonpecuniary interest in the outcome of the case because he was in a long-term same-sex relationship. Additionally, Judge Ware ordered the release of the recordings of the district court trial to the public.⁵ However, Riverside attorneys had already had a glimpse of some of the trial footage when Judge Walker presented a lecture on "Cameras in the Courtroom" on March 8, 2011 to the Inland Empire branch of the Federal Bar Association. These two issues have already been briefed, and oral arguments were held on December 8, 2011, so a decision is forthcoming. Until the next update, you can track changes on the courts' websites; most of them have direct links to filings in these cases because of the high level of public interest.

Christopher J. Buechler, a member of the RCBA Publications Committee, is an attorney based in Riverside. He can be reached at chris.buechler@gmail.com.



4 See *Elk Grove Unified School Dist. v. Newdow* (2004) 542 U.S. 1 [rejecting a father's challenge to his daughter being compelled to say "under God" in the Pledge of Allegiance because, as a noncustodial parent, he did not have standing].

5 Order Granting Plaintiffs' Motion to Unseal Digital Recording of Trial; Granting Limited Stay, *Perry v. Schwarzenegger*, No. C 09-02292 (N.D. Cal. Sept. 19, 2011), available at ecf.cand.uscourts.gov/cand/09cv2292/files/812.pdf.

OMAR STRATTON AND THE HISTORY NATIONAL ASSOCIATION FOR THE ADVAN

by Waudieue Rucker-Hughes

Several years ago, I had the pleasure and good fortune of spending time with Mrs. Lucille Stratton-Taylor, since deceased. Mrs. Stratton-Taylor was the daughter of Omar Stratton, the founder of the Riverside Branch of the NAACP. As she talked, I took copious notes, and here's what I learned:

Omar and Bertha Stratton met in Nashville, Tennessee, where they were married on November 16, 1916. The Strattons moved to Los Angeles, California in 1921, then on to San Bernardino, California in 1923. In San Bernardino, Mr. Stratton started his own successful plastering company, with 15 employees. Around this same time, Mr. Stratton built a four-room cottage as a vacation spot on five acres of land he owned in the Valley Truck Farms area in San Bernardino.

During the Depression, the building and plastering industry was wiped out, and Mr. Stratton was forced to relocate his family to their vacation home in the Valley Truck Farm area. Mr. Stratton did not, however, give up. He began to build chicken houses and incubators, and he raised fryers and squabs for sale in the Bear Market in downtown San Bernardino. In 1933, Mr. Stratton designed and built St. Mark's Baptist Church on Central Avenue in the Valley Truck Farm community.

In 1934, Mr. Stratton moved his family to Riverside, California. The family brought with them "Bossie, the cow, a big black wood stove and chickens and squabs." The family was Seventh-Day Adventist, and because of this, they soon established a branch Sabbath school in their home. Eventually, Mr. Stratton and Pastor Dennis Black designed and helped to build a Seventh-Day Adventist church on the corner of 11th Street and High Street (now Victoria Avenue). The church was named Emanuel Seventh-Day Adventist Church, and it served as the gathering point for all black Adventists in Riverside, until they outgrew the facility and sold the property to the Amos Temple CME Church in 1971. The Strattons and other Adventists then relocated to the corner of Kansas Avenue



Waudieue Rucker-Hughes

and 14th Street (now Martin Luther King Boulevard) and renamed the church Kansas Avenue Seventh-Day Adventist Church.

According to Mrs. Stratton-Taylor, her daddy was a community activist with a beautiful bass-baritone voice. Whenever he was asked to speak to a white audience, he always ended his speech with his favorite and signature Negro spiritual, "Go down Moses, way down in Egypt land. Tell old Pharaoh to let my people go!"

Perhaps as he sang its chorus, Mr. Stratton, founder and first president of Riverside's NAACP, visualized a freedom he would seek through the NAACP on behalf of all of the "colored folks" living in Riverside, California during the 1940's.

Mrs. Stratton-Taylor shared that her daddy believed that Riverside's colored citizens did not initially feel a pressing need to establish an organization. He felt that this was probably because black people in Riverside "enjoyed" benign neglect and de facto segregation. Additionally, they could boast of some advancements, such as home ownership (albeit most were confined to the eastside of town) and semi-integrated schools, businesses, and professions.

She further stated that these advancements, however small, were significant to the colored citizenry of Riverside, especially since throughout America, many

OF THE RIVERSIDE BRANCH OF THE CEMENT OF COLORED PEOPLE (NAACP)

African-Americans were feeling the continued effects of Jim Crow and systemic racism, i.e., riots, lynching, and not being able to vote. In addition, they were being subjected to discrimination in employment and the military, and they had reminders of their proverbial “separate but equal” status all around them.

However, on a night in 1941, something caused the colored people of Riverside to reconsider whether there might be a need for an organization such as the NAACP. On that night, colored soldiers and white soldiers from nearby bases engaged into a game of softball, and sometime during this game, a near-riot occurred.

As a result of high tensions being displayed between both groups of soldiers, as well as the attention the near-riot was getting from onlookers in the stands, several of Riverside’s prominent African-American men did what they could to get the colored soldiers back to their bases quickly. Their reasoning for this was that they knew from the reaction of the white people present that, if they stayed, there would be trouble. In fact, from that night on and throughout the weeks to follow, the colored citizenry began to encounter many white people who were quick both to retaliate and to lay blame.

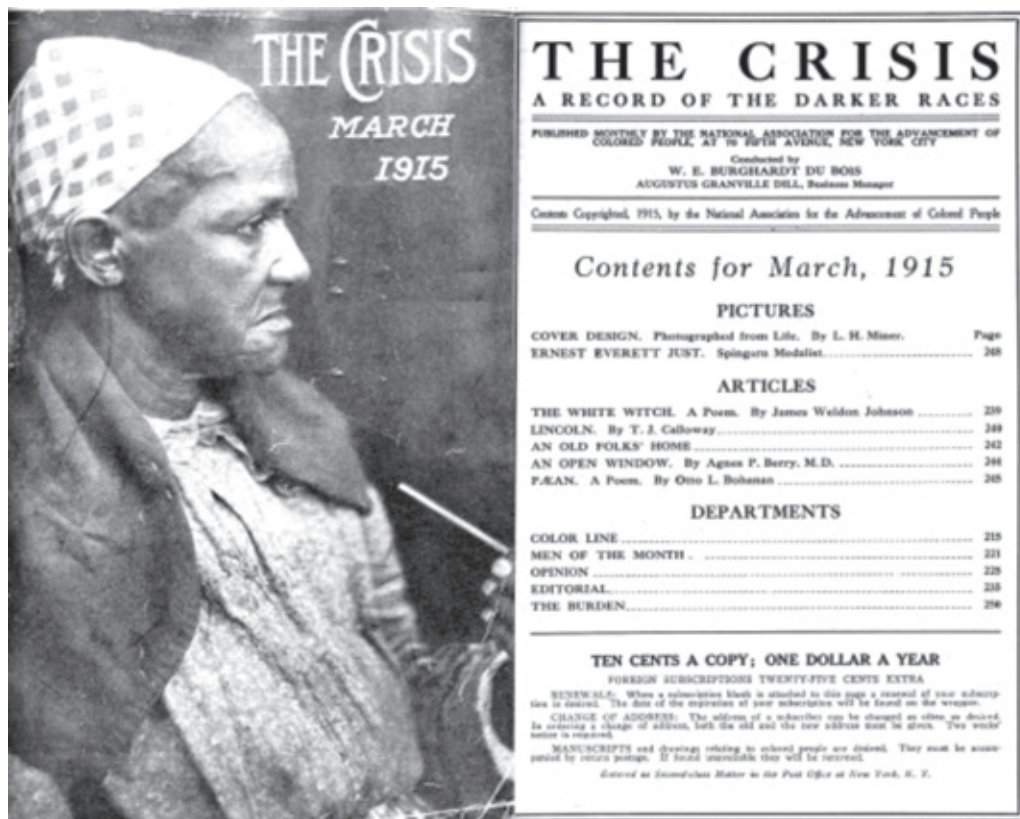
Alarmed by this new fact, several members of the black community began the organizing process to establish a branch of the NAACP, and on September 26, 1942, the National Office of the NAACP granted the group a charter. Mr. Stratton became

the group’s first president. He was quoted as saying “that from that day on, we never had another uprising, and although we sometimes would run into opposition, most of the authorities were gracious in granting our desires, and our relations with the city and county were on a high level.”

To this end, for the last 70 years, socially conscious individuals in Riverside, from all walks of life, from all parts of the political spectrum, of all races and religions, have done something wonderful. They have dared to speak out for that which was right and against that which was wrong. They have believed that civil rights and democracy were for everyone, not just for some. They have been unafraid to speak the truth. In addition, for 35 years, the Riverside Branch operated an award winning Head Start and childcare program on the east side.

Our founder, Omar Stratton, was a pathfinder who made it possible for us today to continue his legacy and his dream.

Waudieur “Woodie” Rucker-Hughes is the current President of the Riverside Branch of the NAACP.



BUILDING A BETTER LAW PROFESSION

by Gina Cárdenas

It's no secret that the leadership in major law firms is predominantly made up of white males. Though firms have taken action to address this reality with diversity programs and formal mentoring strategies, women remain 10-20% of partners at the majority of large firms, and several firms have only a handful of minority partners, if that.¹ Task forces like the American Bar Association Presidential Diversity Initiative and surveys and rankings conducted by the American Lawyer and the National Association for Law Placement work to publicize the problem, but where do students – the associates and partners of the next 10 years – fit in? Enter Building a Better Legal Profession.

Building a Better Legal Profession (BBLP) is a national section 501(c)(3) nonprofit organization started in January 2007 by students at Stanford Law School. Recognizing the potential for student market power to effect change in law firm practices, students adopted consciousness-raising strategies for graduates entering major law firms, published a book, *Building a Better Legal Profession's Guide to Law Firms* (Kaplan 2009), and went on a tour of top law schools across the country. It continues to publish rankings on its website – the hub of the BBLP project – betterlegalprofession.org. Michele Landis Dauber, a law professor at Stanford, has served as the faculty advisor and guided the organization as the student makeup changes. She emphasizes the power students have in affecting law firm management and power structures. “Today’s elite law students, both white and minority, are part of a generation that has attended integrated elite schools and colleges and

law schools. They expect diversity to be part of their surroundings and are shocked when they enter the elite law firm and find that it is still more or less an all-white enclave. They don’t want to belong to all-white country clubs, don’t want to live in all-white neighborhoods, and don’t want to spend their careers in an all-white workplace or under an all-male management structure. The chief insight of BBLP is that there is a great deal of variation among firms – while none are really great on diversity, some are a lot better than others. BBLP puts this information in students’ hands in a useful, searchable, user-friendly manner so that students can vote with their feet for diversity,” Professor Dauber said.

As a law student, it can be difficult to navigate through the job search process. Typically, firms – mostly behemoth corporate law firms – recruit at the beginning of a student’s second year, when the student has taken only core courses and a couple of electives. Some students have never worked in the legal field before, and choosing which firms to interview with, let alone to accept a summer associate position at (with the hope that such a position will lead to a full-time position), can be daunting. BBLP toured elite law schools last spring to help students navigate this process and to demonstrate how BBLP can be of help. “Last spring, as I toured Harvard, Yale, Columbia, and NYU Law Schools promoting BBLP, I met extraordinarily talented female and minority students who were afraid that their career ambitions would be stymied by the dynamics at most firms that make it hard for women and people of color to advance. I met bright students of all backgrounds who were concerned about their ability to work at the prestigious law firms that recruit on their campuses while remaining true to their desires to perform pro bono work and to work for good causes. BBLP makes it easier for these students to find a firm that truly respects their values, with actual numbers, not just flashy advertisements and token examples. By creating this transparency, we are moving the ball forward for all law students and bringing the legal profession one step closer to

1 U.S. Equal Employment Opportunity Commission, “Diversity in Law Firms” (2003), available at eeoc.gov/eeoc/statistics/reports/diversitylaw/lawfirms.pdf; see also American Bar Association, *Diversity in the Legal Profession: The Next Steps* (2010), available at americanbarfoundation.org/uploads/cms/documents/aba_diversity_report_2010.pdf [“Despite decades of reports, task forces, and goals, in 2000 the legal profession remained about 90% Caucasian, with the national population at that time being about 70% Caucasian. Demographic projections for the legal profession for 2010 are not suggesting that much progress has been achieved. The legal profession is less racially diverse than most other professions, and racial diversity has slowed considerably since 1995.”].

being a profession that we can all be proud of,” said Kelli Newman, a Stanford 3L and Co-President of BBLP.

One of BBLP’s goals is to help law students navigate this process with rankings of aspects of firm life that are both hard to question the firms themselves about in the interview process and of serious importance to the student’s choice. Things like attorney attrition, the number of minority and women associates and partners, and the minimum and average number of billable and pro bono hours are ranked on the BBLP website in a user-friendly and up-to-date format. One of the distinguishing features of the rankings is that they are done by region (currently New York, Boston, Washington, Chicago, Texas, Los Angeles, and San Francisco/Silicon Valley) and not just by firm, so a firm with great attrition in just one office won’t mislead a jobseeker in a different region. “The information BBLP provides was a huge asset to me during my job search, and most other students I talk to are thrilled to use data-driven rankings that make it easy to get past firms’ glossy brochures to compare actual performance,” said Holly Ragan, BBLP Co-President and a 3L at Stanford.

BBLP attempts to fill that gap in information, and it encourages students and law firms to make decisions based on poor performance in such areas. Essentially, BBLP seeks to be a resource for law students and law firms to use in comparing firms, but with an element of social justice: publicizing these numbers motivates firms to recognize that students – their future employees – care about these issues, and as future leaders of the legal profession, they can work with their chosen firm to make a substantial change to the status quo. Ashley Simms, a 3L at Stanford and Director of Data and Research for BBLP said, “Working with BBLP has completely shifted the way I look at law firms. If BBLP stands for anything, it’s the conviction that students and young lawyers do not have to accept the flaws in the system. We have the ability to make changes before we even start working, if only by asking questions and focusing attention on issues we think are important.”

Gina Cárdenas is a J.D. candidate, Class of 2013, at Stanford Law School.



AMERICANS WITH DISABILITIES ACT (ADA): THE COURT'S ROLE IN PROVIDING ACCESS TO JUSTICE FOR ALL

by Sherri R. Carter

Full and equal access to justice has long been a guiding principle for the Riverside Superior Court. By accommodating individuals under the Americans with Disabilities Act (ADA), the court not only ensures equal access and fair treatment, it fulfills its obligation to address and correct disparate and prejudicial treatment and practices.

The ADA covers a wide range of disabilities, including physical conditions impairing mobility, stamina, sight, and hearing. It also includes conditions such as emotional illness and learning disorders. Any person with a disability who has business with the court, including litigants, attorneys, witnesses, victims, jurors and public observers of court hearings and trials, is entitled to receive an accommodation, if deemed appropriate by the court.

The State of California has adopted California Rule of Court 1.100, which outlines the methods for requesting accommodation services. These requests are made *ex parte*; however, they must address only the accommodation requested by the applicant and cannot address the subject matter or merits of the proceedings before the court. An accommodation request may be made orally or in writing (through form MC-410 or in any other written format). Requests received at public service counters, through the mail, or in the courtrooms are immediately forwarded to the court's ADA Coordinator. Requests should be made at least five court days before the requested implementation date, but the court can waive this requirement on a case-by-case basis. The court keeps all information relating to such requests confidential, unless the applicant chooses to submit a written waiver of confidentiality.

If an accommodation request is denied, in whole or in part, the denial must be in writing and the reasons stated. Some reasons for a denial might include the fact that an applicant has failed to satisfy the actual requirements of the rule, the accommodation would create an undue financial or administrative burden on the court, or the request would fundamentally alter the nature of the court service being rendered. The

court attempts to provide alternative accommodations for denied requests, if possible. For example, the court recently denied a request, due to a medical condition, for a bed to be placed in the courtroom, but it assisted the applicant with securing a telephonic appearance as an alternative accommodation.

In 2011, 136 requests were received by the court's ADA Coordinator; 106 were approved, and 30 were denied. Of the 30 denied requests, the court was able to make alternative accommodations in six cases. The vast majority of the 136 requests were from litigants; three were from jurors. ADA requests ranged from listening devices, assistance lifting files, special seating accommodations, wheelchair access, transportation to the courthouse, and use of emotional support animals in court.

The court offers a wide array of auxiliary accommodation aids and services. These may include qualified interpreters, notetakers, computer-aided real-time transcription services (CART), written materials, assistive listening devices and systems, telecommunications devices for deaf persons (TDD's), qualified readers, Braille materials, large-print materials, and other effective methods of making aurally and visually delivered materials available.

The court has devoted an entire portion of its website to providing information on the ADA process, including important resources, forms, contact information, and other details. The information can be easily accessed by going to riverside.courts.ca.gov and clicking on the "General Info" tab. In 2011, there were over 5,000 hits to the court's ADA webpage, reflecting the large number of citizens seeking information regarding this very important resource.

As Wendell Phillips once noted, "The first duty of society is justice." The Riverside Superior Court is committed to providing full and equal access to justice for all.

Sherri R. Carter is the Court Executive Officer and Clerk of the Court for Riverside Superior Court.





OPPOSING COUNSEL: DENNIS SANDOVAL

by Sophia Choi

Dennis Sandoval is an inspiring attorney whose life story gives inspiration to all.

In 1992, Sandoval was on the freeway in Orange County when he went off a bridge. This car accident resulted in severe injuries, leaving him paralyzed. However, Sandoval is an optimistic person who was able to recover from this experience and to meaningfully turn it around. His experience has helped him in dealing with some of his disabled and senior clients as he reaches out to them with a sincere desire to help. To Sandoval, his client is not just another case, but rather a unique person, with specific experiences and goals, as well as a friend.

Sandoval was born and raised in Riverside. He graduated from Notre Dame High School in Riverside, where he met his wife. However, it was not until college that they started to date. At the time of graduation, Sandoval married her; they now have three girls. After getting married, he moved to Orange County, where he had his own investment office as a Certified Financial Planner. He also received designations as a Registered Financial Consultant and Enrolled Agent.

After his car accident in 1992, it took him two years to get through therapy. While at Casa Colina Centers for Rehabilitation, which provides inpatient services for spinal cord and brain injuries, Dennis contemplated whether to continue to do financial planning. Upon serious thought, he decided to become an attorney himself, rather than refer cases to estate planning attorneys.

Sandoval received his Bachelor of Arts degree in Business Administration from California State University at Fullerton and earned his J.D. cum laude in 1996 from Western State University College of Law. He also received a Master of Laws degree (LL.M.) in Taxation cum laude from Golden Gate University College of Law in 1999. Sandoval opened up his own practice in 2000. He is the only attorney in California with certifications in the three areas of estate planning, taxation, and elder law. He indicated that the elder law specialization exam



Dennis Sandoval

was the hardest test he had ever taken.

Sandoval's goal is to continue to build his law practice. His firm provides very detailed attention to its clients from both legal and humane aspects. In fact, he stated that his firm is the only one in the Inland Empire that has a social worker on staff. The social worker provides such services as visiting clients in assisted living homes to make sure that they are receiving good care and to help them put together good transition plans. Sandoval finds this satisfying, as it gets things in place for his clients to be assured that everything will be all right.

In addition to providing compassionate legal services, Sandoval's goal is to devote more time to disability charity groups. Through his charitable services, he has worked with people with Down syndrome and brain trauma, speaking to them and encouraging them to work and to become more productive. As Sandoval continues to inspire others, he indicated he continues to be inspired by others, including many of his clients. Having represented some clients with amyotrophic lateral sclerosis (ALS), also referred to as Lou Gehrig's Disease, Sandoval indicated that he was truly amazed by their spirits and their optimism.

Sandoval has various hobbies and interests outside of work. Many of his hobbies are aquatic. He enjoys sailing and scuba diving. He also enjoys building wooden model ships. Due to his love of marine life, his law office has aquariums with exotic fish, sea horses, and coral reefs. He also has numerous pets at his home, including dogs, cats, turtles, chinchillas, and birds.

One of Sandoval's favorite quotes is by Aristotle: "It is the mark of an educated mind to be able to entertain a thought without accepting it." Being a person of rational and careful thought, Sandoval's life exemplifies one of an "educated mind."

Sophia Choi, a member of the Bar Publications Committee, is a deputy county counsel for the County of Riverside.



PRINCIPLES FOR DEALING CONSTRUCTIVELY WITH DIVERSITY

*by Dr. Carlos E. Cortés, Professor Emeritus of History
University of California, Riverside*

*(From his talk, "Bias: The Seven Deadly Dilemmas of Diversity,"
given to the Riverside County Bar Association on January 13, 2012.)*

To deal constructively with diversity, people should strive continuously to:



*Dan Hantman (left) and Judge John Vineyard (right)
with Dr. Carlos Cortés (middle)*



*(From left to right) Jim Heiting, Justice Barton Gaut (retired),
Justice James Ward (retired) and Dr. Carlos Cortés at the
RCBA General Membership Meeting on January 13, 2012*

1. Categorize without distorting.
2. Generalize without stereotyping.
3. Label without demeaning.
4. Live with your biases without discriminating.
5. Treat people equitably, even if this sometimes means not treating them all alike.
6. Accommodate diversity without becoming unreasonable or being afraid to set limits on accommodation.
7. Seek to understand the perspectives of others without writing a relativistic blank check.
8. Develop and maintain a personal moral compass while navigating a world of laws, codes, and mores.

Photos courtesy of Jacqueline Carey-Wilson



RIGHTS VERSUS REALITY: HAVE LAWS PROTECTING EMPLOYMENT RIGHTS OF PERSONS WITH DISABILITIES LIVED UP TO THEIR PROMISE?

by Brian Unitt

Not too long ago, I spoke with a young woman who had been interviewing for about six months after graduating from law school. She is blind and uses a guide dog. In her latest interview, she thought things were going well until the interviewer asked her, "If you get the job, is there any way you can leave the dog at home?" She did not get the job, and the last time I heard from her, she still was not employed full-time. The fact that an employer, especially one in the legal profession, could still feel free to ask a question like that as recently as 2010 compels us to confront the question posed by the title of this article.

Since the end of World War II, when the federal and state governments recognized the need to assist disabled veterans in finding strategies to re-enter mainstream society and the workforce, many laws have been enacted to protect persons with disabilities from discrimination in seeking and holding employment. At the federal level, the Rehabilitation Act promotes access to employment with the federal government and its contractors. Title I of the Americans with Disabilities Act (ADA) outlaws employment discrimination against person with disabilities and requires reasonable accommodation to allow access to employment. In California, discrimination in employment is specifically addressed in the Fair Employment and Housing Act, which includes a broader definition of disability than does the ADA.

Writing on the 20th anniversary of the signing of the ADA, Labor Secretary Hilda Soliz observed: "In the years that have passed this landmark legislation has fundamentally altered the landscape of employment, government services, businesses, public areas, transportation and many other avenues of modern

life – opening access for those with disabilities in the process."

Yet the fact that only one in five persons with disabilities is actually considered to be part of the workforce, as well as the actual experience of disabled job-seekers, shows that the promise of these laws has yet to be fulfilled. According to the most recently available data from the Department of Labor's Bureau of Labor Statistics (which began tracking the numbers in 2008), as the disabled workforce shrank by 423,000 to about 4.9 million in the two years through May 2011, the unemployment rate for people with disabilities increased from 13.7 percent to 15.6 percent. The unemployment rate for people with no disabilities dropped from 8.9 percent to 8.5 percent in that same period. Chet Cooper (founder of Ability Magazine and Joblink) points out that those statistics only account for people with disabilities who have been actively working, lost their jobs and are seeking employment. In reality, the unemployment figure actually approaches 80%, because once people have given up the job search, they are no longer counted in government statistics that measure the workforce.

An article in the July 6, 2011 issue of Business Week quotes comments made by Senator Tom Harkin (the ADA's original sponsor) to the U.S. Chamber of Commerce's Corporate Disability Employment Summit: "The ADA and the special education laws have combined to produce the best-educated population of people with disabilities in U.S. history." But "[n]ow that the Bureau of Labor Statistics is reporting regularly on the employment situation for people with disabilities, we have strong evidence that it has gotten disproportionately worse for workers with disabilities in the last two years."

The Business Week article points not only to the barriers faced by this population, but also to some encouraging pathways to change. One employer who has successfully employed disabled workers noted that: "People worry that if you hire a person with a disability . . . there's going to be more absenteeism and the biggest misnomer is that you can't fire them because there will be a lawsuit." In fact, lawsuits over reasonable employment accommodations are very rare and seldom successful.

What potential employees with disabilities often do need is training and, in some cases, technology to help them do their jobs. Adaptive technology can range in cost from a few hundred dollars to several thousand dollars, and often companies qualify for tax breaks on those expenses.

Another misconception is that people with disabilities will not be successful in science, technology or math-related occupations. However, advances in adaptive technology have opened these occupations to people with a wide range of disabilities.

The divergence between aspiration and accomplishment shows that the passage of the ADA may have removed the legal barriers to employment of people with disabilities, but much work remains to be done to tear down the wall of myth and misconception. As Senator Harkin has said: "Every individual with a disability deserves a chance to realize the four great goals of the ADA: equal opportunity, full participation, independent living and economic self-sufficiency."

Brian Unitt is a shareholder with Holstein, Taylor and Unitt, a Professional Corporation, specializes in civil writs, appeals and motions, and is chair of the steering committee for Project Graduate.



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THE RCBA ELVES PROGRAM 2011

by *Brian C. Percy*

On December 24, 2011, the RCBA's Elves Program concluded its first decade of helping needy families in Riverside County. This year, your Elves purchased, donated, wrapped, and delivered gifts to 32 economically challenged families, providing Christmas gifts and a holiday dinner to 110 children and 49 adults.

Again, we had the opportunity to work with the Casa Blanca Home of Neighborly Service, the Riverside County Department of Public Social Services, ICA Fostering and Adoption Services, and the Victim Services Division of the Riverside County District Attorney's office.

For the tenth year now, the success of the RCBA Elves Program is due to the great support and generosity of our membership. Helping others is infectious, and Elf participation has grown beyond the immediate membership to include their office staff, their families, their clients, and their friends. And now for some recognition:

The Money Elves

Last year, the Money Elves generated what was then the largest amount of donations ever, but despite the tough economy, the Money Elves really stepped up to the plate this year and beat last year's donations! Our funds came from both direct donations as well as several bar association events held throughout this past year.

A special thank you to: the Appellate Law Section and its chair, Susan Brennecke, who donated their luncheon proceeds to the Elves Program; the Barristers and their presi-

dent, Scott Talkov, who conducted a toy drive for the Elves; and Mike Gouveia, who held the special weekend MCLE seminar "How To Grow Your Practice" for RCBA members with the specific goal of giving all proceeds raised to the Elves.

The money raised provided gifts for each family member, along with a Stater Brothers gift card to buy their holiday dinner fixings and a Union 76 gas card to help out the family's travel.

I'd like to thank the following Money Elves for their support: Mary Jean Pedneau; the Honorable Irma Asberry; the Honorable Becky Dugan; Sandra Leer; Daniel Greenberg; the Honorable Tom Cahraman; the Honorable Pamela Thatcher; Barrie Roberts; the Honorable Paul Dickerson; Vicki Broach; Ruth Adams; Carol Larinto; Mary Frimond; Lauren Twitchell; James Latting; Linda Linsey; Dennis Sapire; Michael Gouveia; Donna Gephart; Solomon Cheifer; Jeffrey Jacobs; Keri Anderson; Mitchell Tsai; the Honorable Richard Van Frank; the Honorable Paulette Barkley; the Honorable Dallas Holmes; the Honorable Woody Rich; the Honorable John Vineyard; the Honorable James Ward and his wife Carole; Laura Rosauer; the Bail Depot Bail Bonds; Thomas Allert; Pamela J. Anderson-Walls; the Honorable John Gabbert; Susan Brennecke and the Appellate Law Section; Julianna Strong; Bruce Todd; Judith Murakami of Attorneys to Go; John Michels; the Honorable John Monterosso; Holstein, Taylor & Unitt; Lauren Fisher; George Reyes; Yonit Kovnator; Lisa Ruiz-Cambio; Susan Plummer; Cassandra Owen; Richard



Bill and Pam Bratton



RCBA past president, Harry Histen and Marjorie Dahl



Judith Runyon

Anderson; Stephanie Straka; Danielle Sakai; Zakia Kator; Glen Price; Kira Klatchko; Mark Easter; Michael Grant; Margaret Barnes; Michelle Ouellette; Kimberly Byrens; Charity Schiller; William Floyd; Isabel Safie; Scott Ditfurth; Cynthia Germano; Lucas Quass; Steven Anderson; Allison De Tal; Haviva Shane; Joyce Zimmerman; Joe Gonzales; and Kirsten Shea. I would also like to provide a very special "Thank you" to all at Best, Best & Krieger for their very generous firm donation and to Mark Easter, who took it upon himself to collect the donation internally.

The Shopping Elves

This year, we had a record-breaking shopping session, and thanks to the help of the numerous Shopping Elves, my assistant Veronica, Charlene and a very helpful Kmart staff, we were able to shop, bag, tag, and deliver the presents to the bar association in under five hours. It was a joy to experience the festive mood of various individuals, firms, and families as they put on their Elf hats and their best bargain-hunting caps to find deals for our families. Kmart once again helped stretch our dollars by providing us with an additional discount on every item purchased, resulting in over \$800 of extra savings. The store manager, Tom Rynders, was incredibly supportive; he dedicated two registers and several staffers to ring up, bag and tag the Shopping Elves' purchases.

This year's Shopping Elves were: Susan Lowrance; Jo Lynne Russo-Pereya; Judi Murakami and Andy Graumann; Carol Ledesma and her daughter Allyson Dewald; the Offices of Bratton & Bratton; Tera Harden; Marcos Reynoso and family; Deepak Budwani; Jo Larick; Marie Myers and family; Jesse Male; Meg Hogenson; Diana Renteria and family; Tara Durbin; Robert Deller; Harry Histen and family; Lachelle Crivello; Barbie Trent; Judith Runyon; Marge Dahl; Lester and Susan Douty; Vanessa Douty and family; Virginia Corona; Marek Kasprzyk of MJK Investigations; Doris Dunker; and Christina Sovine and family

The Wrapping Elves

Due to the big jump in donations, the number of presents to be wrapped increased as well. This meant our Wrapping Elves needed to be a model of efficiency. Over the course of two evenings, the Wrapping Elves wrapped the largest number of items (toys, clothes and household goods) ever.

This year's Wrapping Elves were: L. Alexandra Fong; the Honorable Paulette Barkley; the Honorable Pamela Thatcher; Evan Rae Easter; Susan Lowrance; Stephanie Lowrance; Diana Renteria and family; Maria Medina; Andrew McManus; Madeline Tannehill; Toni Lucero; Judith Runyon; Jenece Soloman; Heather R. Whitehead; Jeff Smith; Marika Myers; Cub Scout Pack 65; Jo Lynne Russo-Pereya; Seanna Panico; Quintin Panico; Dominic Pereyra; Sebastian Kaye; Boy Scout Troop 270; Dylan Walker; Thorn Panico; Tara Durbin; Jan Durbin; Jametha Hamre; Vanessa Douty; Daisy Duarte; Laura Moreno; Chris Buechler; Lynn Venegas; Devin McComber; Hanna Hopper; Daniel Hantman; Christina Sovine; Deepak Budwani; and Veronica Reynoso.

Delivery Elves

Our Delivery Elves touched down in various areas of Riverside County, including Corona, Sun City, Riverside, and Temecula. The Delivery Elves who donated their time and gas were: the Honorable Charles Koosed and family; the Honorable Pamela Thatcher; Frank Tetley; Susan Lowrance; Jo Lynne Russo-Pereya; Joyce Schechter; Harry Histen and family; Susan Nauss Exon; Tara Durbin; Diana Renteria; Kevin Kump; Robert Deller;



Zach Myers, Rick Myers and Marie Myers



Veronica Reynoso with husband Marcos Reynoso and son Little Marcos Reynoso



Wrapping Elves

Jenna L. Acuff; Virginia Corona; Judith Runyon, Melodee Kantor; Lynn Venegas; Lisa Yang; Jonathan Gilpatrick; Vivian Le; Andrew McManus and the Bail Depot Bail Bonds group; Vanessa Douty and family; Mark Easter and his daughter, Evan Rae Easter; Joy Ashwood; Marek Kasprzyk of MJK Investigations; Deepak Budwani; and Tera Harden.

Special Thanks

Once again, big kudos to my assistant Veronica, whose dedication and organizational skills made this a very efficient and fun experience for all involved; to the Riverside County Bar Association staff, especially Charlene Nelson and Lisa Yang, for all their energy and assistance; to the management and social workers of the Casa Blanca Home of Neighborly Service and the Riverside County Department of Public Social Services, ICA Fostering and Adoption Services, and the Victim Services Division of the Riverside County District Attorney's office for making sure we help the most needy families in the county. Once again, "Thank you" to Tom Rynders and his staff at the Big Kmart at Mission Grove in Riverside.

Finally, "Thank you" to the Elves themselves. Your wonderful spirit and camaraderie are represented in the photos accompanying this article.

For those of you who have not yet volunteered as an Elf, I suggest you put it on your agenda for next year. In the past, members have asked for more bar opportunities (i.e., non-MCLE related) to socialize with your colleagues. Ladies and gentlemen, I submit to you, this is one such opportunity! It is truly a great way for you, your family, and your staff to share the joy of the holiday season.

Brian C. Percy, president of the RCBA in 2002, is chairperson (and Head Elf) of the Elves Program.



Judith Murakami

*Photographs courtesy
of the Percy Law Offices.*



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Third-Place Winner, Poetry Contest, 2011 California Bankruptcy Forum Conference

To Antonio

by Vicki Broach

When Sears called demanding payment on a plasma TV
I told the debt collector it was a mistake
I knew that you, who ate bag lunches and favored movie matinees,
would never buy on time what you could get for free
during happy hour at Killarney's

I warned you,
cautioning that some thief might be using your sterling credit
to furnish his home and cruise to Hawaii

You didn't laugh like I expected
You sounded nervous and harassed
I heard the new wife's voice, sharp and inquiring
You said, I have to ring off
And I put down the phone, puzzled but incurious

Marriage to you was always mysterious
You once told me you dreamed of solitude
A studio flat in San Francisco
A view of the Golden Gate and an antique Underwood
Possession meant nothing in your lexicon
Art was your aspiration

How startling then to find your name blinking like a neon sign
in a public notice in the local newspaper
The listing of debts and assets landed like a blow
Fracturing my image of you as
one pure partner in a troubled alliance

If bankrupt means broken bench,
maybe Chapter 7 is the last episode in severing our lives
But I still wish that, like Shakespeare's infamous merchant,
Your ships may yet come in.

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The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective February 29, 2012.

Roxana Amini – Wesierski & Zurek LLP, Irvine

Joshua M. Baskin – Sole Practitioner, San Bernardino

Richard Scott Case – Sole Practitioner, Chino Hills

William G. Cotter, Jr. – Sole Practitioner, Corona

Brooke D. Elia – Sole Practitioner, San Bernardino

Brian C. Gibson – Sole Practitioner, El Segundo

Cameron L. Holmes – Bevins & Glauser, San Bernardino

Martin Lax – Sole Practitioner, Palm Desert

Steven Lockhart – Sole Practitioner, Menifee

Kevin G. Macnamara – Sole Practitioner, La Palma

Andrew R. Morand – Varner & Brandt LLP, Riverside

Nathan Mubasher – Sole Practitioner, Corona

Elizabeth M. Otley – Creason & Aarvig LLP, Riverside

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David T. Ruegg – Swanson & Ruegg, Riverside

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Ricky S. Shah – Sole Practitioner, Ontario

Scott T. Stotz – Sole Practitioner, Redlands

Ariadna C. Tajoya – Sole Practitioner, La Puente

Baktash Zameer – Law Offices of Ziad Rawa, Chino Hills



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