

RIVERSIDE LAWYER

May 2013 • Volume 63 Number 5

MAGAZINE



Social Media and the Law



The official publication of the Riverside County Bar Association

Publications Committee

Christopher Buechler
Sophia Choi
Melissa Cushman
Abram Feuerstein
Stefanie Field
Alexandra Fong
Amy Guldner
Robyn Lewis

Charlene Nelson
Jean-Simon Serrano
Donna Thierbach
Bruce Todd
Jamie Wrage
Lisa Yang
Connie Younger

Editor Jacqueline Carey-Wilson
Design and Production PIP Printing Riverside
Cover Design PIP Printing Riverside

Officers of the Bar Association

President

Christopher B. Harmon
(951) 787-6800
chrisbharmon@me.com

President-Elect

Jacqueline Carey-Wilson
(909) 387-4334
jcareywilson@cc.sbcounty.gov

Vice President

Chad W. Firetag
(951) 682-9311
firetag@yahoo.com

Chief Financial Officer

Kira L. Klatchko
(760) 568-2611
kira.klatchko@bbklaw.com

Secretary

Jean-Simon Serrano
(951) 682-6400
jserrano@heitingandirwin.com

Past President

Robyn A. Lewis
(951) 682-0488
rlewislaw@yahoo.com

Directors-at-Large

Jack B. Clarke, Jr.
(951) 686-1450
jack.clarke@bbklaw.com

Neil D. Okazaki
(951) 826-5988
nokazaki@riversideca.gov

L. Alexandra Fong
(951) 955-6300
LaFong@co.riverside.ca.us

Diana Renteria
(951) 367-7100
diana@drlawoffice.com

Executive Director

Charlene Nelson
(951) 682-1015
charlene@riversidecountybar.com

Officers of the Barristers Association

President

Amanda E. Schneider
(909) 890-4499
amanda.schneider@greshamsavage.com

Treasurer

Arlene M. Cordoba

Vice President

Luis Arellano

Members-at-Large

Reina Canale
Sara Morgan

Secretary

Kelly Moran

Past President

Scott H. Talkov

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 Christopher B. Harmon
4 **Barristers President's Message** by Amanda E. Schneider

COVER STORIES:

- 6 .. **E-Discovery in the Context of Social Networking Sites**
by Daniel S. Roberts
- 8 ... **Your Client's Social Media Policy Is Already Outdated**
by Joseph Ortiz
- 11 **Trafficking and the Internet**
by Gerald Fineman
- 12 **Litigation and Social Media: Anticipating
and Preparing for Social Media's Effect
on Your Clients and Their Cases**
by Valerie Escalante
- 14 **Lawyers and Social Media**
by Mitch Jackson
- 16 **Social Media and Crime: The Role of Online
Communication in the Perpetration,
Investigation, and Prosecution of Crimes**
by Francisco Navarro
- 22..... **Social Media Comments as Protected Concerted Activity**
by Thomas Eastmond

Features:

- 9 **Continuing Legal Education Committee Presents
"Trial Practice Skills"**
- 18 **Nominees for RCBA Board of Directors, 2013-2014**
- 24 **California State Mock Trial Competition**
by the Honorable Helios J. Hernandez
- 25 **Opposing Counsel: Michael Trenholm**
by Stefanie G. Field
- 26 **Judicial Profile: Judge Matthew Perantoni**
by Sophia Choi & Warren Chu

Departments:

- Calendar 2 Membership 28
Classified Ads 28

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 our members, our communities, and our legal system.

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Public Service Law Corporation (PSLC), 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

MAY

6 CLE Event

Topic: "The Supreme Court and Affirmative Action: Re-thinking Racial Preferences in Higher Education"
Speaker: Richard H. Sander, Professor of Law University of California, Los Angeles
RCBA Gabbert Gallery – Noon
MCLE

13 CLE Event – "Trial Practice Skills" Series

Topic: "Motions in Limine"
Speaker: Kirk Lauby
RCBA Gabbert Gallery – Noon
MCLE

15 FBA-IE Chapter

Thirteenth Annual Constitutional Law Forum
Speaker: Dean Erwin Chemerinsky
Noon – 1:30 p.m.
Mission Inn
RSVP: Julie Cicero 951-328-4440

Estate Planning, Probate & Elder Law Section Meeting

RCBA Gabbert Gallery – Noon
MCLE

17 General Membership Meeting

Topic: "Veteran's Court: Serving those who have Served - Options and Opportunities for your clients"
Speaker: The Honorable Mark Johnson, Riverside Superior Court
RCBA Gabbert Gallery – Noon
Lunch by Wood Ranch
MCLE

21 Family Law Section Meeting

Family Law Court, Dept. F501 - Noon
Topic: "Substance Abuse Part I"
Speaker: Sue Ervin & Patrick MacAfee
MCLE

23 Solo/Small Firm Section Meeting

RCBA Gabbert Gallery – Noon
Topic: "Understanding Business Issues to Support Your Legal Practice"
Speaker: Doug Levinson, JD/MBA, Adjunct Professor, USC Law School
MCLE

JUNE

28 Bowling With the Bar & Beer

A social for RCBA members & their families
6:00 p.m. to 8:30 p.m.
AMF Riverside Lanes
10781 Indiana Avenue, Riverside
\$20/person-beer, bowling & food
\$13/person – soft drinks, bowling & food
RSVP & payment due by June 14
(951) 682-1015





President's Message

by Christopher B. Harmon

Long gone are the days of typewriter sounds clanging in the background of every law office. You would be hard-pressed even to find a typewriter in most offices these days. In fact, paper documents as a whole may soon go the way of the typewriter, as many law offices are already moving toward "paperless environments." Electronic document organizational programs, word-scanning capabilities, and other innovations have made reading through stacks of paper, especially in cases involving large volumes of documents, simply inefficient. Like it or hate it, this is just the reality of our ever-changing and quickly moving techno-world. While the law as an institution has always been a bit slow to adopt modern technology, there is no denying the direction our industry is moving in.

This month, our magazine focuses on social media and other technology-related issues. Social media can be a great way for us to market our law practices and stay in touch with current and former clients. but

there are certainly issues to be mindful of. Often our new technology brings with it hidden pitfalls, which can be so new and unique as to be unforeseeable until the issue actually arises. These problems may even present issues of first impression for us, without clear answers yet. It is important for us as individual lawyers and as a community bar association to educate ourselves and to develop guidelines for such quandaries. I hope that some of the issues presented in this month's magazine will be helpful in this regard. Change is not always easy, but it is inevitable.

The topic of change is a very personal one to me these days, having just lost my law partner and my best friend to the public sector. As many of you know, my dad, Steve Harmon, is the new Public Defender of Riverside County. While I could not be prouder or happier for him, I will truly miss practicing law with him. It has been a wonderful blessing to work side by side with my hero for the last 13 years. Even though I will miss him in the office tremendously, I know that he has so much to offer the lawyers who now have the privilege, as I have had, of working with him.

Chris Harmon practices exclusively in the area of criminal and DUI defense, representing both private and indigent clients.



BARRISTERS PRESIDENT'S MESSAGE

by Amanda E. Schneider



There is no denying that social media have become an important method of communication. In the last three years, the Barristers Association has used a variety of forms of social media to connect with lawyers and increase the visibility of our organization. Specifically, Barristers uses direct email, the Barristers website, and Facebook to connect attorneys and promote Barristers events.

Of these three forms of communication, Facebook has been perhaps the most valuable tool in attracting new Barristers. Currently, 152 Barristers, as well as others with an interest in the Barristers organization, receive updates regarding Barristers activities whenever they log on to Facebook. Facebook is used to advertise the time and location of Barristers meetings and has also been a growing forum for client referrals among those in the organization. Members can post questions or ask for referrals on the Barristers page. Furthermore, the Barristers Facebook page is accessible by those who are not RCBA members, encouraging them to come to Barristers meetings and promoting membership not only in Barristers

but in the RCBA as a whole. Overall, it has proven to be a useful tool for the Barristers organization.

One other use to which Facebook can be put in the coming month is to submit nominations for the Barristers Board. As I mentioned last month, Barristers elections are coming in June! Serving on the Barristers Board is a great way to develop leadership skills and connect with well-known leaders in our legal community. Many Barristers officers move on to serve as RCBA Board members. I encourage all eligible members to apply.

To be a Barrister, you must be under 37 years of age or in your first seven years of practice. Nominations for the Barristers Board must be provided to me in writing by the end of the May meeting (stay tuned for details via the media outlets discussed above, and yes, a Facebook message will count). Nominations will be open for two members at large, treasurer, secretary, vice president and president. Candidates for president must be currently active on the Barristers Board. Please feel free to contact me with any questions or to email nominations to me at amanda.schneider@greshamsavage.com.

Amanda Schneider is the 2012-2013 President of Barristers, as well as an associate attorney at Gresham Savage Nolan & Tilden, where she practices in the areas of land use and mining and natural resources.



E-DISCOVERY IN THE CONTEXT OF SOCIAL NETWORKING SITES

by Daniel S. Roberts

E-discovery is an issue that feels like it has been flogged to death over the past several years. By now we all know at least something about e-discovery – what litigation holds are, what we’re supposed to talk about in our early meet-and-confer sessions (under Cal. Rules of Court, rule 3.724 or Fed. R. Civ. Proc. 26(f)), and how generally to ask for, gather, and produce electronically stored information.

Still, there is a temptation to think of e-discovery as something that occurs in a “big” case, or at least a technologically-complex case, not a run-of-the-mill civil lawsuit between individuals or small companies. “At most,” we sometimes tell ourselves, “I’ll need to go through my client’s emails and request any emails the other side may have.”

Like so many other areas of life, however, the advent of social networking sites like Facebook, Twitter, and Instagram – and whatever turns out to be the Next Big Thing – forces us to change our thinking. Social networking sites can be an important source of valuable information, even in the smallest case. A party’s posting on Facebook or Instagram can directly belie his or her contentions in litigation, and it never ceases to amaze how far into one’s mouth one can stick one’s foot in 140 characters or less on Twitter.

E-discovery is your avenue to such potentially game-changing information. “Social networking site content may be subject to discovery under Rule 34 [of the Federal Rules of Civil Procedure].”¹ Even information posted on a “private” Facebook page “that is accessible to a selected group of recipients but is not available for viewing by the general public, is generally not privileged, nor is it protected by the common law or civil law notions of privacy.”² Though there is a paucity of published authority from the California state courts on the topic, the fact that the scope of permissible discovery under Code of Civil Procedure section 2017.010 is, if anything, *broad*er than the scope of discovery under

Rule 26(b) of the Federal Rules of Civil Procedure³ indicates that social networking site content is also discoverable in state court.

Because social networking site content is discoverable, it is necessary to raise the issue with your client from the very beginning of a dispute. You’ll need to understand what social networking sites your client uses and how he or she uses them. Then you need to institute a litigation hold to ensure that all such information is preserved – you must make sure your client knows that he or she cannot delete potentially relevant postings from his or her social networking page, no matter how much he or she may wish such information was not posted there. You’ll also need to discuss social networking sites in your early meeting with opposing counsel and come to an agreement on how such information will be requested, gathered, and produced.

When it comes time to seek the other side’s social networking information, the proper tool is a regular request for production, whether under Rule 34 of the Federal Rules of Civil Procedure or Code of Civil Procedure section 2031.020. While it is tempting to seek the information directly from the social networking site via subpoena, social networking sites have been held to come within the Stored Communications Act, and are therefore prohibited from producing user information pursuant to a subpoena.⁴

While social networking information is discoverable, courts have recognized that such discovery presents an enhanced opportunity for inappropriate “fishing expeditions” into the parties’ private lives. In addition to entering appropriate protective orders,⁵ courts have

1 *Mailhoit v. Home Depot, U.S.A., Inc.* (C.D. Cal. 2012) 285 F.R.D. 566, 570.

2 *Tompkins v. Detroit Metro Airport Authority* (E.D. Mich. 2012) 278 F.R.D. 387, 388.

3 Whereas Rule 26(b) of the Federal Rules of Civil Procedure limits discovery to matter relevant to a party’s *claim or defense* and allows discovery into the broader circle of items “relevant to the subject matter involved in the action” only by court order upon a showing of good cause, Code of Civil Procedure section 2017.010 allows discovery into nonprivileged matter “relevant to the subject matter” of the case without first obtaining a court order.

4 See *Juror Number One v. Superior Court* (2012) 206 Cal.App.4th 854; *Crispin v. Christian Audigier, Inc.* (C.D. Cal. 2010) 717 F.Supp.2d 965.

5 See, e.g., *E.E.O.C. v. Simply Storage Management, LLC* (S.D. Ind. 2010) 270 F.R.D. 430, 434.

focused on the requirement that requests for social networking information (like all discovery requests) must be “reasonably calculated to lead to the discovery of admissible evidence” and have sustained objections to overbroad requests seeking production of a party’s entire social networking profile or “wall.”⁶ Courts have focused in particular on limiting social networking discovery to postings with particular relevant content, as opposed to requests simply seeking production of everything a party has said on the social networking site.⁷ For example, a request for all social network postings a plaintiff may have made regarding his feelings about his workplace may pass muster as likely to lead to the discovery of admissible evidence regarding the plaintiff’s claims that his work environment was stressful or hostile, but a request for all postings by the plaintiff on any topic, on the theory that all such communications are theoretically relevant to the plaintiff’s emotional state, would not be permissible.⁸ Courts have buttressed this requirement by focusing on whether the discovery request “put[s] a ‘reasonable person of ordinary intelligence’ on notice of which specific documents or information would be responsive to the request.”⁹

Provided that you are careful in drafting your requests, however, so that you stick closely to what is relevant in your given case, discovery into the opposing party’s social networking information is permissible and may yield the “gold” that will help you win your case.

Daniel S. Roberts is a litigation partner with Best Best & Krieger LLP.



6 See *Tompkins v. Detroit Metro Airport Authority*, *supra*, 278 F.R.D. at 388; *Mailhoit v. Home Depot, U.S.A., Inc.*, *supra*, 285 F.R.D. at pp. 570-572.

7 *Ibid.*

8 See *E.E.O.C. v. Simply Storage Management, LLC*, *supra*, 270 F.Supp.2d at p. 435.

9 *Mailhoit v. Home Depot, U.S.A., Inc.*, *supra*, 285 F.R.D. at pp. 571-572.

CONSTRUCTION DEFECTS CONSULTING SERVICES

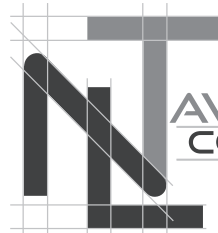
- Negotiation / Mediation Facilitation
- Courtroom Trial Experience
- Property Damage Assessment
- Expert Witness Testimony



**Court e-filing
Services**

Nicholas L. Tavaglione

RCBA Member



AVAGLIONE
CONSULTING



951.333.4102

NLTAVACONSULTING@YAHOO.COM

Website: WWW.NLTAVACONSULTING.COM

YOUR CLIENT'S SOCIAL MEDIA POLICY IS ALREADY OUTDATED

by Joseph Ortiz

By now, you are tired of hearing how Facebook, LinkedIn, and Twitter have radically changed the way companies and employees communicate. It has been clear for the better part of a decade that social media are here to stay, and many early adopters have already drafted social media policies in anticipation of their continuing impact. Unfortunately, many of those policies are already outdated.

Most businesses have been deluged with training seminars, presentations, and articles about social media in the workplace since October 2010, when the National Labor Relations Board (NLRB) first catapulted the topic into public consciousness by filing a complaint¹ against American Medical Response of Connecticut (AMR) over its firing of an employee for Facebook comments that were critical of the company. This complaint was monumental, as it constituted the first time the NLRB had expressly asserted that social media postings were, in some cases, entitled to legal protection under the National Labor Relations Act (Act).

AMR had a social media policy that broadly prohibited employees from, among other things, “making disparaging, discriminatory or defamatory comments when discussing the Company or the employee’s superiors, co-workers and/or competitors.” AMR’s employee was fired after she posted comments on her personal Facebook page describing her supervisor as “a scumbag,” among other – more colorful – pejoratives. The employee’s posts spurred supportive responses from co-workers. But, to the extent the employees engaged in any “discussion” about the terms and conditions of employment, it took place only online. Nonetheless, the NLRB concluded that the social media remarks constituted a protest of supervisory actions and that they were concerted activity with other employees, which is protected activity under Section 7 of the Act.²

Section 7 of the Act gives employees rights “to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection,” including the right to communicate with coworkers regarding terms and conditions of employment. The NLRB actually has the power to strike down work rules that “would reasonably

tend to chill employees in the exercise of their Section 7 rights.”³ A work rule is unlawful on a showing that: (1) employees would reasonably construe the language to prohibit Section 7 rights; (2) the rule was promulgated in response to union activity; or (3) the rule as applied restricts the exercise of Section 7 rights.⁴ After the complaint against AMR, it was clear that, at a minimum, the NLRB considered AMR’s specific enforcement of its policy to be interference with those rights, whether the employee was a member of a unionized workforce or not.⁵

In the years following the AMR case, the NLRB took an active role in delineating what it considered acceptable work rules regarding social media. On May 30, 2012, for instance, its General Counsel issued a 24-page memorandum⁶ outlining the agency’s stance. Troublingly, many “typical” social media policy provisions were considered unlawful, such as:

- policies broadly prohibiting the release of confidential company information, because they “would reasonably be interpreted as prohibiting employees from discussing and disclosing information regarding their own conditions of employment, as well as the conditions of employment of employees other than themselves – activities that are clearly protected by Section 7”;⁷
- policies prohibiting employees from generally posting photos, music, and videos without obtaining the owner’s permission, because “employees would reasonably interpret these provisions as proscribing the use of photos and videos of employees engaging in Section 7 activities”;⁸ and,
- policies prohibiting the posting of offensive, demeaning, abusive remarks, because they “proscribe[] a broad spectrum of communications that would include protected criticisms of the Employer’s labor policies or treatment of employees.”⁹

3 *Lutheran Heritage*, 343 NLRB 646 (2004).

4 *Id.* at 647.

5 See nlrb.gov/concerted-activity (describing the rights of employees to act together for mutual aid and protection, even if they are not in a union).

6 Memorandum OM 12-59 (May 30, 2012).

7 *Id.* at 4.

8 *Id.* at 7.

9 *Id.* at 8; see also *Karl Knauz Motors, Inc.*, 358 NLRB No. 164 (Sept. 28, 2012) (finding unlawful a rule asking employees to be courteous, respectful and not to post defamatory comments on

1 *American Medical Response*, NLRB Case No. 34-CA-12576 (Oct. 27, 2010).

2 The NLRB also alleged that AMR violated Section 8(a)(1) of the Act, which makes it unlawful for an employer to “interfere with, restrain, or coerce” employees in the exercise of their Section 7 rights.

This list is, unfortunately, not exhaustive, but the take-away is that any prohibition must be narrowly tailored to allow concerted activity by coworkers.

Consistent with the tenor of this principle, the NLRB has actually recommended dismissing cases where the social media policy is narrowly tailored to allow concerted activity between coworkers. On October 19, 2012, the NLRB recommended the dismissal of charges against Cox Communications, Inc. (Cox), in part, on the grounds that the social media policy did not interfere with the employee's Section 7 rights.¹⁰ In that case, Cox's policy expressly prohibited communications about customers or co-workers that were "vulgar, obscene, threatening, intimidating, harassing, libelous, or discriminatory," but also expressly stated that it was not designed to interfere with employee communications regarding wages, hours, or other terms and conditions of employment. The NLRB opined that the context of the prohibition provided the "key to the 'reasonableness' of the particular construction" and that "employees could not reasonably believe that the rule applies to statements protected by the Act"

Finally, do not forget that, in addition to these federal restrictions, California has recently added a layer of protection. Effective January 1, 2013, Labor Code section 980 expressly prohibits an employer¹¹ from requiring or requesting an employee or applicant to (1) divulge a username or password for the purpose of accessing personal social media; (2) access the employee or applicant's personal social media in front of the employer; or (3) divulge "any personal social media" (presumably printouts of content). It makes it illegal for an employer to discharge, discipline, threaten to discharge or discipline, or retaliate against an employee or applicant who refuses to comply with an employer request that violates this law.¹²

Joseph Ortiz is a partner at the law firm of Best Best & Krieger LLP in Riverside. He is a member of the firm's labor and employment practice group, teaches employment law through the University of California, Riverside Extension, is active in local human resources professional groups, and regularly lectures on employment law issues.



the internet).

10 *Cox Communications, Inc.*, NLRB Case No. 17-CA-087612 (Oct. 19, 2012).

11 While the law does not currently expressly state that it is applicable to public employers, the California Legislature is currently considering A.B. 25 which – if adopted – would amend the current law to make it applicable.

12 Importantly, Labor Code section 980 expressly states that it does not prohibit an employer from either (with certain stated conditions) (1) requesting that an employee divulge social media "relevant to an investigation of allegations of employee misconduct or employee violation of applicable laws and regulations" or (2) "otherwise taking an adverse action against an employee or applicant if otherwise permitted by law."

CONTINUING LEGAL EDUCATION COMMITTEE PRESENTS "TRIAL PRACTICE SKILLS"

The Continuing Legal Education (CLE) Committee of the Riverside County Bar Association (RCBA) is pleased to announce that, beginning in May 2013 and continuing monthly thereafter, it will present a series of MCLE sessions devoted to Trial Practice Skills. This series will include the following topics:

1. Motions in limine
2. Voir dire
3. Opening statements
4. Preparing your client for testifying at trial
5. Direct examination
6. Cross-examination
7. Presenting expert testimony
8. Evidentiary issues from a judicial perspective
9. Closing arguments
10. Appellate tips for trial practitioners

The initial program, to be held on May 13, 2013, will feature Kirk A. Lauby, partner at Fernandez & Lauby LLP, who will discuss motions in limine. In June 2013, voir dire will be the topic of discussion at an MCLE session presented jointly with the Civil Litigation section of the RCBA. On July 18, 2013, John Aki and Michael Hestrin, deputy district attorneys with the Riverside County District Attorney's office, will present a program on how to prepare and deliver effective and winning opening statements.

The trial practice programs should be of interest to newly licensed as well as established attorneys within the Riverside community.

The CLE Committee is responsible for overseeing the RCBA's Minimum Continuing Legal Education Program. The RCBA is a State Bar-approved MCLE provider. The committee meets monthly to discuss ideas for upcoming programs that it hopes will be interesting for members and that are designed to help RCBA members comply with State Bar educational requirements. The current committee consists of five members: L. Alexandra Fong, D.W. Duke, Abram Feuerstein, Robyn Lewis, and Brandon Mercer.

If you are interested in joining the CLE Committee, monthly meetings are held on the first Thursday of the month. The committee is always looking for new members and ideas for future MCLE sessions that the RCBA members will enjoy.



TRAFFICKING AND THE INTERNET

by Gerald Fineman

Criminals are trafficking in your county, in your city, perhaps even in your office. With the help of the Internet, they are moving contraband through Riverside County, across the state, and to other parts of the nation. Riverside is a perfect hub for trafficking. Proximity to California's borders makes Riverside an ideal location. Deals can be arranged from the south, and the contraband can stop here and be marketed for distribution north or west into Los Angeles, or east into Arizona or Nevada. The Internet marketing of this contraband is particularly lucrative. It helps to avoid detection and creates difficulty in establishing jurisdiction. The contraband has qualities both common and unique. The product is easily found. It can be obtained with little notice from the outside world. The product has a high street value. It has a special benefit as compared to other types of contraband. Unlike drugs or firearms, this product can be used again and again. When it loses its value, it can be sold off or completely discarded.

The Internet shields the product from law enforcement and gives the product a cloak of legitimacy. The product is human flesh. Women and men, often underage, are being sold online. Human sex trafficking exists in Riverside County.

Trafficking has become a financial resource for criminal street gangs. Unlike narcotics or firearms, sex trafficking gets fewer headlines and involves less violence. By moving across jurisdictional lines, gangs draw less attention from law enforcement. Sex trafficking is so lucrative, it has created bonds between gangs that were former rivals. In fact, rival gangs have provided prostitutes to each other for use at parties.

Traffickers can find young men and women readily. They court them, targeting runaways, at-risk, and disenfranchised youth. The courtship starts as a boyfriend/girlfriend relationship involving the purchase of gifts, drugs, or excursions. It later progresses into manipulation, where the victims will engage in sex as a form of repayment to the trafficker. Soon, the victim is nothing more than a human slave, earning money to support the trafficker. Victims may refer to their "pimps" as "boyfriends."

Internet sites such as Backpage purport to offer social networking opportunities for the legitimate world. What they clearly do provide is a marketing site for human traffickers. Phrases like "fresh, young, 18, new in town, and barely legal" translate to "underage" and provide easy targets for pedophiles who are willing to pay for sex with minors. Fees for various sex acts are advertised as "donations" or "smiles." "And they can get anything via these websites," Riverside Sheriff's Department Sergeant

John Sawyer said, "any fetish imaginable." Backpage has a disclaimer which tells users they must agree to report any illegal activity to the authorities, especially if it involves the sexual exploitation of children. The California Attorney General along with those of other states authored a letter asking Backpage to prevent users from posting ads for sex. A similar effort in 2010 resulted in Craigslist limiting such postings.

The traffickers will obtain a motel room and schedule a day full of "clients" to meet with the victims. Traffickers will leave the victims under the watchful eye of a "bottom," a term for an experienced prostitute who has worked his or her way up in the organization. Victims are subject to sexual assault or attacks beyond what was ever bargained for in the online negotiations. The purchasers of these sex acts may become victims themselves. Robbers target the sex purchasers, knowing that their reporting to police would disclose their own criminal activity.

Riverside County District Attorney Paul Zellerbach points out, "Human trafficking has become a multi-billion-dollar-a-year business worldwide. It is a significant societal problem and everyone needs to be aware of the signs of trafficking." Riverside County has established the Riverside County Anti-Human Trafficking Task Force (RCAHT). This task force includes Riverside County Sheriff's Department personnel, a team of Riverside County Deputy District Attorneys assigned to each of the offices throughout the county, Victim Services Advocates, and representatives from Operation Safe House, Million Kids, the U.S. Attorney's Office, and the Federal Bureau of Investigation. The task force focuses not only on sex trafficking, but also on labor trafficking (using forced laborers). In addition to enforcing California's tougher new trafficking laws implemented by Proposition 35, the task force educates the community to recognize trafficking. Since its inception, the task force has made arrests that have resulted in prosecutions in both state and federal court.

If you work with at-risk children or in the hospitality industry, you or your clients may encounter human trafficking. If you believe you have encountered trafficking, you should contact law enforcement. The task force can be reached by email at ht@riversidesheriff.org.

Gerald Fineman is a Supervising Deputy District Attorney assigned to the Training Division of the Riverside County District Attorney's office and a member of the Riverside County Anti-Human Trafficking Task Force.



LITIGATION AND SOCIAL MEDIA: ANTICIPATING AND PREPARING FOR SOCIAL MEDIA'S EFFECT ON YOUR CLIENTS AND THEIR CASES

by Valerie Escalante

With the advent and subsequent boom in the past decade of social media sites such as Facebook, Twitter, YouTube, LinkedIn, Instagram, Flickr, MySpace, Google+, and Pinterest, social media have become an increasingly important and, in some cases, critical factor in the world of legal practitioners. The chances are great that lawyers will be faced with considering the implications of social media for their clients and their clients' cases.

In fact, understanding social media is nearly a prerequisite to adequately providing legal representation. California lawyers have a duty to act competently, which includes the duty to acquire sufficient learning and skill to perform legal services. (Rules of Prof. Conduct, rule 3-110.) This duty may apply to the learning and skill associated with the use and effect of social media in connection with legal matters. In May 2012, a U.S. district judge considered issuing sanctions against a plaintiff's counsel for his lack of diligence in ensuring that his client searched for and provided all material related to discovery on Facebook. (*Calvert v. Red Robin Intern., Inc.* (N.D.Cal. 2012) [2012 WL 1668980].) The court focused on the fact that counsel failed to have a strong working knowledge of Facebook technology and, thus, could not properly work with his client in providing Facebook-related discovery. The court noted: "The result of plaintiff McConnell's and his counsel's conduct is that multiple motions, including discovery disputes, have been filed, and defendant has had to engage in discovery in order to identify deficient compliance with Rule 26 and the Court's explicit orders. This is a direct result of plaintiff McConnell's misconduct, and counsel's failure to supervise and exercise due diligence over his client's actions. . . . Plaintiff's counsel has . . . asserted that he has taken an active role in the prosecution of this case and in the oversight of his client At the hearing, however, plaintiff's counsel expressed that he was unfamiliar with Facebook technology, and that he had no choice but to rely on McConnell's word, and had performed his duty to oversee to the best of his ability. In addition, counsel also stated that after defendant's initial disqualification motion was filed he instructed an addi-

tional search be done, and uncovered more messages as a result of a better understanding of Facebook. This was due in part to the assistance of one of counsel's associates." (*Id.*, 2012 WL 1668980 at p. *6.) Ultimately, the court refrained from issuing sanctions against counsel, but it did enter an order disqualifying and issuing sanctions against his client, the plaintiff class action representative.

Social media issues can arise at any stage of litigation: as the basis of a complaint; in discovery; in use by jurors; and in use at trial. For this reason, it is important to strategize regarding a social media plan at the onset of any litigation when social media may be a factor.

First step: send a litigation hold letter advising your client(s) to retain and not destroy any social media communications related to the dispute, to work with you on storing and maintaining any such communications, and to identify any individuals other than the client who may have any such communications as well. Second step: if you haven't already, conduct your own due diligence to learn about the relevant social media sources, how best to preserve and retain the data, and how to obtain it in order to provide it in the context of discovery or for use in motion practice. Third step: if social media data will be used in discovery, motion practice, or even at trial, brainstorm in advance how to authenticate it.

Addressing relevant social media data to avoid the spoliation of evidence in your case is essential. For instance, in the case of *Allied Concrete Co. v. Lester* (2013) 285 Va. 295, a Virginia state judge awarded over \$700,000 in sanctions for the spoliation of Facebook evidence; \$542,000 of that award was directed against the attorney who had instructed his client to remove photos from his Facebook page.

Another essential issue to consider is that third parties who are associated with the social media may have privacy concerns. For example, a common situation that may arise is that a friend of the plaintiff has taken photos or videos of interactions with the plaintiff and has posted them to Facebook or Instagram, sharing those pictures only with close family. In an action for personal injury, a

defendant wants to obtain the third party's photos and any communication threads stemming from the posting of those photos to use at trial because they may be relevant to discount the plaintiff's claimed injuries. This scenario not only raises privacy concerns of the third party posting the photos, but also of the other third parties featured in the photos or making comments on them. Planning ahead, be it as counsel for plaintiff, defendant, or third parties, will prepare you and your client to address privacy concerns and the relevance and scope of the items sought to be discovered. Such efforts may avoid costly motions to compel or motions for protective orders.

Finally, producing evidence sufficient to support a finding that the social media evidence is what you or your opponent claims it to be (i.e., authenticating it) may be the most challenging part of planning for the use of social media in litigation. (See Fed. R. Evid. 901; Evid. Code, § 1400.) In most cases, the social media evidence will be in printed form, such as a copy of the Facebook page that contains the status update, message thread, or photo at issue. Counsel will not only need to show that the printout reflects what was in fact displayed on the social media website, but also that the social media evidence is attributable to the person from whom it purports to stem. One California Court of Appeal considered the authentication of a photograph, showing the defendant's girlfriend flashing a gang sign, which had been downloaded by a police detective from the girlfriend's MySpace page. Ultimately, the court determined that the prosecution failed to properly authenticate it, given that no evidence had been produced that the photograph was an "accurate depiction" of the girlfriend and no expert testified regarding whether the photograph was "faked." (*People*

v. Beckley (2010) 185 Cal.App.4th 509, 514-516.)

Accordingly, planning ahead for authentication purposes can be critical. To show that the copy reflects what was actually on the social media site, counsel will need to be prepared to provide testimony from a person who viewed the social media site and subsequently printed the copy, or, if this is not available, testimony from a person who saw the social media site when the social media post was on it and who can attest that the copy reflects what he or she saw. To show that the post is attributable to the person it purports to stem from, counsel will be required to provide testimony either from the individual who made the social media post or from another source – for example, a witness who was present with the individual when the post was made and can testify to witnessing the posting, a witness who can link the identifying information of the social media account to the individual who made the post, or a forensic computer expert who can link the use of the individual's computer to the date and time the post was made.

Given the alteration of the legal landscape over the past decade due to this social media boom, attorneys must now be prepared and plan ahead for how social media may affect their clients and their client's cases. With the increasing development and use of social media, the importance of such preparation will only grow greater in years to come.

Valerie Escalante is an attorney with the law firm of Best Best & Krieger LLP, located in the firm's Ontario office. Ms. Escalante practices civil litigation in both state and federal court representing both public and private clients. Her practice areas include federal and state civil rights and constitutional law, corporate bankruptcy, and business and contract disputes.



LAWYERS AND SOCIAL MEDIA

by Mitch Jackson

In case you haven't noticed, there's a new global movement changing how we practice law. For you tech guys and gals out there, SEO means "search engine optimization." In today's world, Lisa [Lisa M. Wilson] and I think SEO should be "*social engineering optimization*." Here's what we're talking about . . .

Social Media Blur. There's a social media blur taking place that's redefining how lawyers should practice law. The difference between the daily practice of law in the office and a lawyer spending time online with social media is no longer a black-and-white distinction. In fact, we would argue that one, without the other, is often a disservice to you and your client.

The web as we know it (we're talking about the easy-to-use hyperlinked web) is less than 20 years old. The ability to use online platforms to connect with others down the street, on the other side of the country, and even the other side of the world has become incredibly simple, inexpensive, and effective. With the latest advancements in social media such as live video chat, our sphere of influence has considerably expanded. At the same time, things have become much more personal.

The Winds of Change. The winds of social and digital change have brought new technology, attitudes, and transparency to how lawyers do business and interact with others. Never before in history has one single technology changed how people and companies do business and how lawyers practice law. For the first time, you can now effectively market your product or service to hundreds, thousands, and even millions of people in less time than it takes to order your morning latte at Starbucks. Go about it the right way and you can get others to do the same thing by sharing your message with their tribes.

Today, smart lawyers use social media to inspire, inform, educate, and build new relationships. Using social media, my firm has shared a ton of free resources and helped thousands of people with their legal problems. We know other lawyers are busy doing the same thing. Are you?

Virtual Welcome Mats. We've turned each page of our web site and blog and each social media platform and post into separate and distinct virtual front door welcome mats. We've created thousands of "access points" for potential clients to introduce themselves and say hello. As a result, we've really enjoyed building new relationships and improving the quality of our client services.

We're incorporating new social media-based approaches and ideas into our efforts each week. Things change. It's truly exciting.

Lisa and I have been trying cases for almost three decades, and before social media came along, we had a pretty good local reputation here in Southern California. But, tapping in to the power of modern day social media, it's been exciting to see our firm's reputation grow. We're now known around the world and are contacted each week by potential clients not only from the United States, but countries many time zones removed.

We're developing new relationships with other lawyers and clients in an easy and fun way that simply wasn't possible five years ago. It's enjoyable and a win-win for everyone involved. It keeps things fresh and exciting.

We Love Practicing Law and Helping Others. Because of this "global expansion," using the web and social media and the new relationships we're actively growing across the globe, we truly enjoy coming in to work each day and helping people with their legal needs. Even after 27 years of practice, it's now more exciting than ever to work on our practice (rather than in our practice) using these new online approaches and tools. How many other lawyers can honestly say this?

We think it's important to be passionate about what you do. If you're not enjoying the practice of law, then you should change how you're going about it or maybe even do something else. Life's too short.

Start Right Now! Here's a suggestion. Try incorporating social media into your daily activity. Take things slow at first, but take a risk and trust us on this. Be open and transparent and strive to answer questions and help others. Give it a few months. See if your passion for practicing law is reignited. We think it will be. That's how exciting this new way of doing business and practicing law is.

Look, if you're not already onboard with the power of the internet and social media, you better step up and make some changes. Whether you like it or not, life as you know it has forever changed. Think about it for a minute. The last time you needed to find a service or product, what did you do? Chances are, you went straight to Google or asked your social media tribe for a recommendation. It's fast, easy, and efficient. Get on board or get run over. It's entirely up to you!

Smart lawyers are using these new social media platform tools to make things better for others. And that's what it's truly all about: to bring value to others and to help them in a time of need.

Get Past the ROI Issue. Old-school marketing dollars and ROI concerns are being replaced by this new approach to building relationships. And that's a good thing. It's okay

not to be able to specifically quantify how much bang for your buck your social media efforts are returning back to your practice. Worried about not being able to quantify your ROI? Let me ask you a question. What's the ROI with your spouse and kids?

If you're not already doing so, we respectfully suggest that beginning in 2013, you start to use new social platforms to establish and work towards accomplishing clear relationship-building goals. We encourage you to take constant and focused daily action directed, with laser precision, toward achieving a desired and specific outcome. That means listening and helping.

Lawyers who "get it" are now, for the first time, balancing family and friends with the challenges and demands of their profession. Each day, they remind themselves that trust, credibility, and transparency are their keys to the successful long-term practice of law and, even more important, to a successful and happy life.

Approach Social Media the Right Way. Smart lawyers use social media to develop rapport and to help others. They listen more than they talk. They genuinely make others feel meaningful and important. They know that being their unique selves, and nobody else, is what helps them stand out and separates them from everyone else.

When it's all said and done, these lawyers choose to be happy and live their lives and practice law with genuine unbridled passion. After all, they know that the "pursuit of

happiness" is an inalienable right and that it's their duty to use this right to build the best law practice and life possible.

It's going to be an exciting 2013. We would appreciate it if you would share your social media adventures with us. We would truly enjoy hearing about your efforts, challenges, and successes.

Also feel free to send any questions you have our way. We truly enjoy social media and will always be here if you need us.

Having said that, we are full-time trial lawyers, and our law firm clients always come first. But we're very organized and efficient and pretty good about returning calls or responding to email or direct messages. So send your questions over, and we'll help if we can. We'd also be happy to recommend great third-party experts and resources if you need help with getting your social media efforts moving forward.

Reprinted with permission from Mitch's blog at JacksonandWilson.com.

Mitch Jackson is a 2013 California Litigation Lawyer of the Year (CLAY Award) and 2009 Orange County Trial Lawyer of the Year. He enjoys helping victims of personal injury and wrongful death. When he's not trying cases, Mitch uses social media to connect with others and to help improve their trial and communication skills. More at JacksonandWilson.com.



"Postpartum Psychosis: A Medical and Legal Perspective"

Hosted by:

Inland Empire Perinatal Mental Health Collaborative

Funded by:

Riverside County Department of Mental Health & MHSA Prevention and Early Intervention

Monday, June 3, 2013 ~ 8:30 a.m. to 5:00 p.m.

At Crestmore Manor, 4600 Crestmore Road, Jurupa Valley, CA 92509

Speakers:

Lucy Puryear, MD, is a reproductive psychiatrist in Houston, Texas. She is the Medical Director of "The Women's Place: Center for Reproductive Psychiatry" at Texas Children's Hospital, Pavilion for Women. She has consulted on or testified in several infanticide cases, including The State of Texas vs. Andrea Yates where she was an expert witness for the defense.

George Parnham, Esq., is an attorney who has been in private practice in Houston, Texas for over 40 years. He has extensive trial experience including lead defense attorney for Andrea Yates.

This is a free event! Lunch will be provided.

RSVP/More Info: Contact Janine Moore at (951) 955-7125 or jamoore@rcmhd.org

MCLE: 4.0 Hours General

The Riverside County Bar Association, a State Bar of California approved MCLE provider (#521), certifies that this activity has been approved for MCLE credit in the amount and type of credit indicated.

SOCIAL MEDIA AND CRIME: THE ROLE OF ONLINE COMMUNICATION IN THE PERPETRATION, INVESTIGATION, AND PROSECUTION OF CRIMES

by Francisco Navarro

Dictionary.com defines “social media” as “web sites and other online means of communication that are used by large groups of people to share information and to develop social and professional contacts.” It seemed appropriate to go online for a definition of a term that owes its existence to the internet. In today’s world, the internet is widely used for just that purpose – obtaining information. Not surprisingly, social media websites now play a role in the perpetration, investigation and prosecution of crimes.

Perpetration

Cyberstalking, prostitution, solicitation, and making a criminal threat are just some of the crimes that are committed via social media sites. A cellphone can be used by an abuser to track a domestic violence victim. Facebook users can update their status, and this is made visible on their profile. This status allows others to see what activities the user is doing and, more importantly, where the user is doing it. Abusers can use this information to locate and terrorize their victims. Criminals can also post threats that add to the state of fear that their victims are already in. Therefore, it is not shocking that victims of cyberstalking or domestic violence often don’t involve the police or that they recant once they come to court due to having been threatened via Facebook or other sites. Social media give abusers another avenue to terrorize their victims by monitoring their every move.

Social media sites can also be used to initiate criminal behavior. Prostitution has existed since the beginning of time, but through the internet, the profession has evolved from the prostitute walking up and down a street looking for johns. Until recently, Craigslist had an “Exotic Services’ tab on its home page that was used primarily for the solicitation of sexual services. A Craigslist prostitution ad would look something like this:

Sensual Massage
I’m 5’4”, blue eyes, blond hair and curvy
½ hour – 60 Roses
1 hour – 120 Roses
Girlfriend experience – 200 Roses
Call me (951) 555-5555

This ad would often include a photo of a scantily clad woman (usually from the neck down). Industry vernacular would be used to disguise the fact that this was an ad for prostitution. Here, “roses” refers to money, while “girlfriend experience” means services including sex and kissing. Ads like the one above demonstrate the need for law enforcement to stay current as to new and sophisticated uses of social media to facilitate criminal behavior.

Investigation

Law enforcement by its nature is reactive to trends, and the use of social media often makes the goal of crime prevention even more difficult. However, sites can often be used by law enforcement to investigate cases. Sting operations can be conducted to deal with prostitution by creating fake prostitution ads meant to lure prospective perpetrators. The goal is to curb the use of such ads as word spreads of these sting operations. Pretext contacts can also be made via social media sites in hopes the offender will admit wrongdoing or make their identification clear. Sometimes just the monitoring of these sites is extremely helpful in ongoing investigations. For example, gang members and associates often boast on Facebook about a crime recently committed; this has led to leads that law enforcement can use.

Prosecution

Presenting a persuasive case to a jury is the goal of every prosecutor in every criminal trial. Social media evidence is extremely compelling and damaging to the defense. Gang members often deny membership, but it becomes difficult to do so when the prosecutor has Facebook photos of the defendant flashing gang signs or a YouTube video of the defendant bragging about his or her gang’s criminal exploits. Gang members often use social media sites to post photos and videos that can be used to prove the existence of the gang itself, to identify members, and to illustrate its criminality. In the case of the person making criminal threats or the domestic abuser, the words used in messages or postings are often undeniably threatening in nature, which makes it difficult for the defense to explain away. Usually a subpoena duces tecum is needed to bring in evidence, but with social media, the victim can provide printouts or law enforcement can take screen shots from a computer or smartphone.

Social media sites create a new forum able to be used for criminal behavior. As citizens, we must be cognizant of the dangers of social media and do what we can to protect ourselves. It is vital for law enforcement to understand how various social media sites work and how the information on those sites can be used to commit crimes. Also, law enforcement should understand how to use social media sites to gather information that will help lead to the prosecution of criminals. It is important that, as social media sites advance or come and go, law enforcement, including prosecutors, constantly remains proactive with ever-changing times.

Francisco Navarro is a deputy district attorney with the County of Riverside and is assigned to the Domestic Violence Unit.



NOMINEES FOR RCBA BOARD OF DIRECTORS, 2013-2014

The Riverside County Bar Association's Nominating Committee has nominated the following members to run for the RCBA offices indicated, for a term beginning September 1, 2013. (See the biographies below, which have been submitted by each candidate.) Please watch your mail for ballots. Election results will be announced at the RCBA General Membership meeting in June.



Jacqueline Carey-Wilson
President

As President-Elect for 2012-2013, Ms. Carey-Wilson will automatically assume the office of President for 2013-2014.



Chad Firetag
President-Elect

Mr. Firetag recently joined the Law Office of the Public Defender for Riverside County as an Assistant Public Defender. He was formerly a partner in the law firm of Grech & Firetag. During his time with his former firm, he represented numerous clients in a wide range

of criminal matters.

Mr. Firetag graduated Phi Beta Kappa from the University of California at Riverside with a B.A. in Political Science and a minor in History. He received his law degree from the University of California at Davis.

Mr. Firetag has been an active member of the Riverside County Bar Association and the Leo A. Deegan Inn of Court. He currently serves as Vice-President of the RCBA and has served as the Co-Chair of the RCBA Criminal Law Section.

Mr. Firetag lives in Riverside with his wife, Victoria, and their three sons, William, age 7, Nathaniel, age 3, and Lucas, age 1 month.



Kira Klatchko
Vice President

Kira L. Klatchko is the only Certified Appellate Specialist in Riverside County and a partner at Best Best & Krieger LLP. Ms. Klatchko currently serves as Chief Financial Officer on the RCBA board. She was Chair of the RCBA's Appellate Law Section from 2006 thru 2009 and

its Co-Chair in 2010. Ms. Klatchko served several terms as a contributing member of the RCBA's CLE Committee and has chaired and organized numerous events for the RCBA, including programs on family law appeals, stays and supersedeas, oral argument, writs, and limited civil appeals. She also presents an annual program on appellate law for new admittees attending Bridging the Gap. Ms. Klatchko is an active sup-

porter of the Mock Trial program; she served five seasons as an attorney coach for Palm Springs High School.

Ms. Klatchko was appointed to the California State Bar Standing Committee on Appellate Courts in 2009 and is currently serving as its acting chair. She is a volunteer mediator at the Fourth Appellate District, Division Two, and also conducts private mediations and mediations through the Riverside County Superior Court's Civil Mediation Panel. In 2009, 2010, 2011, and 2012, Ms. Klatchko was named to the list of Super Lawyers' "Rising Stars for Southern California" in appellate law. She is also co-author of the "California" chapter of the Appellate Practice Compendium (ABA 2012), an insider's guide to appellate practice.

In 2010, the City of Palm Springs, along with Athena International and the Palm Springs Chamber of Commerce, named her Young Professional of the Year in recognition of her professional accomplishments and her work with numerous community-based nonprofits, including Angel View, a non-profit dedicated to serving children and adults with disabilities.

Ms. Klatchko was born and raised in Palm Springs and returned home to practice law after graduating from the UC Davis School of Law. She received her B.A. in political science, with distinction, from UC Berkeley and her M.B.A. from the Executive Management Program at the Peter F. Drucker and Masatoshi Ito Graduate School of Management at Claremont Graduate University.



Jean-Simon Serrano
Chief Financial Officer

Jean Serrano is an associate with the Riverside law firm Heiting & Irwin, where he has practiced plaintiff's personal injury law since shortly after his admission to the bar in 2006. Jean was President of the Riverside County Barristers, served one year as Director-

at-Large of the RCBA, and is the current Secretary of the RCBA. Jean has also been a member of the Leo A. Deegan Inn of Court for the past four years and is a member and contributing writer of the RCBA Publications Committee. He has also been named a "Southern California Rising Star" by Super Lawyers for two consecutive years (2012-2013).

Having spent three years on the RCBA's Board of Directors (one year as President of Barristers, one year as Director-at-Large, and one year as Secretary), Jean looks forward to the opportunity to continue on as Chief Financial Officer.



L. Alexandra Fong
Secretary

I am honored to be nominated for Secretary of the Riverside County Bar Association ("RCBA"). I am a Deputy County Counsel for the County of Riverside, where I practice exclusively in the area of public entity defense. I received my undergraduate degree and

J.D. locally.

I am currently a Director-at-Large of the RCBA and was elected to the position in June 2012. I am also an Executive Board Member of the Leo A. Deegan Chapter of the American Inns of Court ("Inn") and was elected to the position in May 2012.

After graduating from law school and passing the bar exam in 2000, I began practicing law at the San Bernardino offices of Lewis D'Amato Brisbois & Bisgaard LLP (now Lewis Brisbois Bisgaard & Smith LLP), one of the largest law firms in California. While at Lewis Brisbois, I was mentored by many local attorneys. I practiced primarily in public entity defense before moving to Riverside County Counsel.

Since 2005, I have been an active member of the RCBA. I am currently the chair of the RCBA's Mentoring Program Committee. Our program has paired approximately two dozen protégés with respected attorneys within the community.

I am a member and contributing writer of the RCBA Publications Committee. Since 2009, I have authored a number of attorney profiles and several judicial profiles. I have also written about local community efforts to assist the less fortunate, including, Be a Santa to a Senior, Fill a Backpack, Thanksgiving Baskets, and the Snowman Banner Project.

I am Chair of the Continuing Legal Education Committee of the RCBA. The committee meets monthly in order to discuss, plan, and organize upcoming mandatory continuing legal education (MCLE) events that do not fall within one of the many sections of the RCBA. These MCLE events include the yearly Bridging the Gap program, as well as presentations on the difficult-to-obtain specialized credits: ethics, substance abuse, stress relief, and elimination of bias. This year, starting in May, we will present a series of MCLE events focusing on trial practice skills, beginning with motions in limine and concluding with appellate tips.

Since 2010, I have been a member of the Inn. I have been honored to be a member of teams led by the Honorable Tom Cahraman (2010-2011), the Honorable John Vineyard (2011-2012), and the Honorable Jacqueline Jackson (2012-2013.) At the final meeting of the Inn's 2011-2012 program year, I was presented with the Louise Biddle Award. The award is given to an outstanding attorney who exemplifies the goals of the Inn, for his or her professionalism and dedication to the legal community. The award is in memory of Louise Biddle, former executive director of the Inn and the RCBA.

I have participated in the Mock Trial program as a scoring attorney, an experience I highly recommend. It is rewarding to observe the high school students argue a criminal case from pretrial motions to closing argument.



Jeff Van Wagenen
Secretary

Jeff Van Wagenen is currently an Assistant District Attorney in the Riverside County District Attorney's office. Mr. Van Wagenen, a graduate of the University of Southern California and Hastings College of Law, has been actively involved in the legal commu-

nity of Riverside since 1996. He is a Past President of the Leo A. Deegan Inn of Court, has served as Chair of the RCBA Criminal Law Section, and is a past member of the Advisory Committee of VIP Mentors. As an attorney with experience in both the public and private practice of law, Mr. Van Wagenen has been working closely with the current and past presidents

of the RCBA in their efforts to increase participation of government lawyers in our local bar association.

Mr. Van Wagenen lives in Riverside with his wife Dawn, who has previously served on the board of the Junior League of Riverside and is a Past President of the Riverside County Law Alliance, and their two children.

Mr. Van Wagenen looks forward to the opportunity to serve the membership of the RCBA as Secretary for the Board of Directors.



Christopher J. Buechler
Director-at-Large

Christopher, or Chris to his friends, is a sole practitioner based in downtown Riverside, with a focus on family law. He first joined the RCBA in January 2010 and has been an active member, both among the general membership and in the Barristers program. Chris has also been a regular volunteer with the Public Service Law Corporation Family Law Clinic since February 2010, and he was recognized for his contributions with the Outstanding Volunteer Service Award at the 2012 Inland Counties Legal Services/PSLC Wine and Cheese Benefit.

In addition to his legal work, Chris also serves on the RCBA's Publications Committee – frequently writing feature articles for the *Riverside Lawyer* – as well as the Continuing Legal Education committee. He is the 2012-13 Chair of the Solo and Small Firm Section, and he is a member of the RCBA's Technology Committee, tasked with redesigning the RCBA website to better serve its members and attract public interest. He hopes to carry forward this mission of professional and public outreach as a director on the RCBA board.

Chris was born and raised in Southern California. He received his A.A. degree from Orange Coast College, his B.A. in Philosophy from Cal State Long Beach in 2006, and his J.D. from USC Law School in 2009. He currently resides in Riverside with his domestic partner, William Marin. In his free time, Chris plays contract bridge at the Riverside Bridge Club – where he serves on the Board of Directors as Vice President – and enjoys exploring computer technology.



Sophia Choi
Director-at-Large

Sophia Choi is a Deputy County Counsel for Riverside County and has been with the office since 2006. She graduated from Notre Dame High School in Riverside as valedictorian. She received her B.A. degree from the University of California, Los Angeles with highest Latin honors. She was a member of the Alpha Kappa Delta Sociology Honors Society and served as the General Manager for the Southern California Korean College Students Association. Sophia Choi received her J.D. degree at the age of 22 from Southwestern University School of Law in the SCALE two-year J.D. program and was Co-Editor in Chief for the Advocates. She received the CALI Excellence for the Future Award in Constitutional Perspectives. During law school, Sophia did an externship with the California Attorney General's office in the Criminal Appeals, Writs, and Trials Division.

Having a strong interest in community involvement, Sophia has served as a board member of the City of Riverside's International Relations Council. As the Korea liaison for the Lunar Fest Committee, she organized the involvement of Korean groups in Korean cultural dances, tea ceremonies, and other activities to bring Asian cultural awareness to the Riverside community through the Lunar Festival held in Downtown Riverside. She is also the Co-Founder and President of the Asian Pacific American Lawyers of the Inland Empire. She has received special recognition from the City of Riverside, being honored as a recipient of the HRC Riverside Heroes Award by the Human Relations Commission and Mayor Ron Loveridge for her community involvement. Sophia has served as a board member of the Korean Prosecutors Association and currently serves as its Secretary.

Sophia Choi has been active in the Riverside County Bar Association for several years. She is a contributing writer of the Bar Publications Committee, for which she has written numerous articles, including judicial and attorney profiles and featured articles. She has also been the Co-Chair of the Law Day Committee, through which efforts were made to contribute to the general public of the Riverside County community. Sophia participated as a scoring attorney in the Mock Trial program for several years. She further served as the Director-at-Large for the Riverside County Barristers Association and is a member of the Leo A. Deegan American Inn of Court. Sophia Choi would love the opportunity to serve the Riverside community through the Riverside County Bar Association. Riverside has been her home since the age of seven, and she would love to work actively to contribute to the advancement of the Riverside County Bar Association.



Jack Clarke, Jr.
Director-at-Large

Jack Clarke, Jr. is a Partner in the Litigation and Schools Departments of the Riverside office of Best Best & Krieger, LLP. Jack is involved in several types of litigation concerning education law, special education disputes, public agency litigation, and other types of substantial litigation matters.

Jack has successfully defended school districts and other clients in general litigation matters, student disciplinary matters, civil rights, constitutional claims and special education due process hearings in administrative and courtroom hearings and trials. Jack received his Juris Doctorate degree, with distinction, from the University of the Pacific, McGeorge School of Law, in 1985 and his B.S. degree in Business Administrative Studies from the University of California, Riverside in 1980.

Jack noted, "It would be a privilege to continue and an honor to be considered for the Riverside County Bar Association Board of Directors. Thank you for your consideration."



DW Duke
Director-at-Large

DW Duke (David W. Duke) is an experienced trial attorney, writer, and noted lecturer. He has authored four published books, including the very popular book *Palestine*, and dozens of articles on various legal topics, ranging from

real estate and insurance law to human rights. This summer, DW will release his fifth book, *The Duke Legacy*, which is a historically accurate novel about the family that built Duke University. Currently, he is co-authoring the autobiography of Jon Anderson, the founder and former lead singer of the world-famous progressive rock band YES, known for such songs as *Owner of a Lonely Heart*, *Round About*, *Awaken* and *Turn of the Century*.

DW received his Juris Doctor from Washington University School of Law in St. Louis, Missouri, and his Bachelor of Arts from the University of Michigan. He is a member of the California Association of Realtors Strategic Defense Panel and lectures regularly to members of the real estate industry. DW manages the Inland Empire office of Spile, Leff & Goor, LLP, serving clients in Riverside, Orange, and San Bernardino Counties, and is the principal of the Duke Law Group.

DW has been active in the Riverside County Bar Association for many years and is the chair of the Human Rights Section. He is the President of the Institute for Children's Aid and a member of the Board of Directors of Stop Child Executions. He holds a third-degree black belt in taekwondo with the World Taekwondo Federation in Seoul, Korea, and has been a competitor, instructor, and referee in the United States Taekwondo Union, which is the official governing body of the U.S. Olympic Taekwondo Team. DW is an accomplished musician who plays keyboards and guitar. DW lives with his wife Laura in Temecula, where they are active in human rights and numerous civic and charitable organizations.

Admissions:

- California
- United States Court of Appeals, Ninth Circuit
- Supreme Court of the United States



Abram Feuerstein
Director-at-Large

Abram S. Feuerstein is employed by the United States Department of Justice as an Assistant U.S. Trustee in charge of supervising the Riverside Field Office of the Office of the U.S. Trustee. The mission of the U.S. Trustee Program is to protect the integrity of the nation's bankruptcy system. Prior to joining the UST Program in September 2009, Mr. Feuerstein was a principal of the Central Valley-based law firm, Suntag & Feuerstein, practicing in all areas of business litigation and bankruptcy. Previously, he practiced business litigation and bankruptcy with the San Francisco law firms of Thelen, Marin, Johnson & Bridges (1987-1990); Heller, Ehrman, White & McAuliffe (1990-1992), and Feldman, Waldman & Kline, where he was a partner until 1996. He attended Vassar College and Boston University School of Law. Currently, Mr. Feuerstein is a member of the RCBA's CLE and Publications Committees. He previously was a member of the Board of Governors of the San Joaquin County Bar Association and chaired its MCLE Committee.



Stefanie Field
Director-at-Large

Stefanie Field is a Senior Counsel at Gresham, Savage, Nolan & Tilden, APC who specializes in litigation. She has been a member of the RCBA since 2000. She is currently a member of the RCBA Publications Committee, Mock Trial Steering Committee and Technology

Committee. She has also been active in the Leo A. Deegan Chapter of the American Inns of Court for a number of years. Ms. Field is proud to practice law in the Inland Empire and welcomes the opportunity to further contribute to the legal community and the RCBA.

In addition to her involvement with the RCBA, Ms. Field is also an active member of the community. Ms. Field would have the advantage of bringing her experience on other boards to the RCBA. She has been involved in several other organizations and has been an active participant on those boards of directors. For example, she has been the Finance Director of the Junior League of Riverside, Inc., a nonprofit that has been active in our community since 1928. Her experience sitting on other nonprofit boards would make her an ideal candidate for the RCBA board, and Ms. Field would welcome the opportunity to use her experience to benefit the RCBA.

As general background, Ms. Field graduated from the Georgetown University Law Center in 1995 and was admitted to the California Bar in February 1996. She has represented corporate clients and public entities in both state and federal courts in matters relating to business disputes (contract and tort actions), CEQA writ petitions, probate litigation, product liability and toxic tort actions, tort claims, CERCLA contribution claims, and claims for unfair business practices under Business and Professions Code section 17200. Her practice focuses on civil litigation and appellate matters.



Neil Okazaki
Director-at-Large

This year, I was called upon to complete Richard Roth's term as a RCBA Director-at-Large after his election to the State Senate. I am now seeking a full term to continue to provide a voice on issues of importance to our legal community, such as the following:

Preservation of Justice: The voice of the legal community must be heard when it comes to advocating for adequate court funding.

- Promoting Diversity: The diversity of our legal community is an asset. I would like to expand the RCBA's mentoring programs to include first-year law students from diverse backgrounds and diverse groups of high school students. The RCBA should reach out to the Richard T. Fields Bar Association and the newly formed APALIE to advance diversity outreach programs.
- Judicial Inclusiveness: We should expand opportunities to interact with our judicial members in informal settings.
- Public Attorney Membership: Work remains to recruit more government attorneys to ensure that our membership adequately represents the makeup of our overall legal community.
- Access to Justice: More low-income families are coming into our overburdened court system without legal help at a time when funding shortfalls have created significant challenges. The RCBA must continue to support the work of ICLS, IELLA, and RLA.

I received my B.A. from U.C. Riverside. I earned my J.D. from Loyola Law School on a partial scholarship and was a Note and

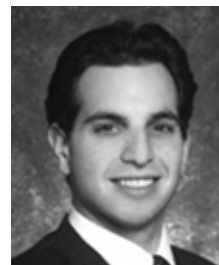
Comment Editor of the *Loyola Law Review*. My published law review article has been cited by the California Court of Appeal, the Texas Court of Appeals, American Law Reports (A.L.R.), and California Criminal Law (Witkin). I was sworn in as an attorney in Riverside and began practicing law in this legal community. In my 13 years as an attorney, I have tried 16 cases (including 15 as sole trial counsel).

I am in my eighth year as a deputy city attorney for the City of Riverside, handling issues related to employment law, civil rights, general tort litigation, and disability law. My practice area involves litigation in the federal and state courts, including matters that have gone before the United States Supreme Court (certiorari petition), the California Supreme Court, the Ninth Circuit Court of Appeals, and the California Court of Appeal.

For six years, I was a member of the Leo A. Deegan Inn of Court. For the past two years, I have served on the Attorney Settlement Officer Panel for the United States District Court for the Central District of California. I have spoken at the League of California Cities Annual Conference, Legal Secretaries, Inc. (two quarterly conferences), UCR Extension, and UCR Law Day. I have prepared updates to the California Municipal Law Handbook and the LSI Law Office Procedure Manual. Additionally, I served five years as a member of the UCR Chancellor's Advisory Committee for Asian Pacific Islanders.

I thank you for your consideration to continue my work for the RCBA.

The following member has submitted his name by way of petition for the office indicated (as per the Riverside County Bar Association bylaws, Article VI, Section 4):



Scott Talkov
Director-at-Large

Scott Talkov is Barristers Past-President and an attorney at Reid & Hellyer, where he practices real estate, civil, and bankruptcy litigation. Scott was named a 2013 "Rising Star" by Super Lawyers magazine and was the first runner-up for the position of Director-at Large

in last year's RCBA election.

In his second year of practice, Scott was elected by his peers as President of the Riverside Barristers, chairing the Barristers Board and serving as a member of the RCBA Board of Directors. Scott also worked alongside numerous Barristers to reestablish the Associated Students of U.C. Riverside Legal Clinic, which provides no-cost legal advice to current UCR students.

Scott graduated *cum laude* from Washington University in St. Louis School of Law and served on the board of the *Washington University Law Review*, where his law review was published by the American Bar Association. He began his studies at U.C. Riverside, completing his bachelor's degree at U.C. Santa Barbara. Scott was born and raised just west of Riverside County, in Walnut, where he rose to the rank of Eagle Scout.

Scott's legal and political ventures have been featured on Fox News, CNN, KCAL 9 and KCBS 2, as well as in the *Press-Enterprise* and *Los Angeles Times*. Scott's endorsements for the RCBA Board have included numerous Past-Presidents and board members of the RCBA and Barristers.

As a board member, Scott hopes to raise the profile of the RCBA in its tireless service to its members and the community.

Scott lives with his wife, Adina, and two dogs, Stout and Cozy, in their Wood Streets, Riverside home. He spends his free time home brewing and running his online venture, InlandEmpire.com. More information can be found online at ScottTalkov.com.

SOCIAL MEDIA COMMENTS AS PROTECTED CONCERTED ACTIVITY

by Thomas Eastmond

An employee's complaints about her coworkers trigger a profanity-laced Facebook discussion among the targets of her criticism. A salesman at a car dealership makes sarcastic social media posts about an accident at the dealership and the dealership's penny-pinching taste in promotional snacks. Employers might naturally have concerns about how such things affect their ability to maintain a professional work environment and present a positive image to customers. However, decisions over the past year by the National Labor Relations Board (NLRB, or Board) underscore the need for employers to tread carefully in addressing employees' use of social media.

The NLRB is the implementing agency for the National Labor Relations Act (NLRA). As well as overseeing union organizing campaigns and adjudicating labor disputes, the Board also adjudicates claims alleging unfair labor practices, as defined in the statute, regardless of whether a workplace is unionized. These practices include an employer's discharge or discipline of an employee for engaging in "concerted activity" under Section 7 of the NLRA. (29 U.S.C. §§ 157-158.)

Generally speaking, "protected concerted activity" occurs when a group of employees act together for their mutual aid and protection, such as to improve their working conditions. Even action by a single individual may be "concerted" as long as it is "engaged in with the object of initiating or inducing . . . group action. . . ." (*Whittaker Corp.*, 289 NLRB 933, 933 (1988).)

Over the past year, the NLRB has issued several decisions that apply these principles in the context of social media. In *Hispanics United of Buffalo*, 359 NLRB No. 37 (2012), a worker, Lydia Cruz-Moore, frequently complained to her coworker, Marianna Cole-Rivera, about other employees who, according to Cruz-Moore, did not adequately assist the employer's clients. On one nonworkday, Cole-Rivera received a text message from Cruz-Moore stating that the latter intended to discuss her complaints with the employer's executive director. Cole-Rivera then posted a message on her Facebook page:

"Lydia Cruz, a coworker feels that we don't help out clients enough at [employer]. I about had it! My fellow coworkers how do u feel?"

Four off-duty employees responded on the Facebook thread, objecting to Cruz-Moore's complaints with varying degrees of erudition. ("Tell her to come do mt [*sic*; *sc*.

"my"] [expletive deleted] job n c if I don't do enough, this is just dum.")

Cruz-Moore herself joined in the Facebook fray, demanding that Cole-Rivera "stop with ur lies about me." She then complained to the employer's executive director, stating that she had been slandered and defamed. On the first workday after the Facebook postings, the director discharged Cole-Rivera, stating that their remarks constituted "bullying and harassment" of a coworker and violated the employer's "zero tolerance" policy prohibiting such conduct.

Over a strong dissent by NLRB Board Member Hayes that this "group griping on Facebook" did not have mutual aid and protection as its object, the Board ruled that the discharges violated the NLRA. It reasoned that "a concerted objective may be inferred from a variety of circumstances in which employees might discuss or seek to address concerns about working conditions" (*Hispanics United of Buffalo*, *supra*, slip op. at p. 10) and concluded that Cole-Rivera's unstated objective in initiating the "group griping" was to prepare her coworkers for a group defense to the complaints she anticipated that Cruz-Moore was about to make. (Id.)

In contrast, in *Karl Knauz Motors, Inc.*, 358 NLRB No. 164 (2012), a salesman at a BMW dealership had less success with a "protected concerted activity" claim. Robert Becker was fired after making two Facebook posts, one mocking his employer's underwhelming choices in promotional snacks ("The small 8 oz bags of chips . . . and the semi-fresh apples and oranges were such a nice touch"), and another sarcastically recounting an incident at an adjacent, commonly owned Land Rover dealership, where a 13-year-old boy was evidently allowed to get behind the wheel of a three-ton truck, which he promptly drove into a nearby pond.

The dealership, unamused, fired Becker. The NLRB did find that Becker's sarcastic remarks about the snacks might be considered concerted. Other employees had also complained about the snacks, the inadequacy of which they felt might result in fewer sales and commissions, and Becker's Facebook post might be considered an effort to initiate group activity targeting the problem. However, the Board accepted the dealership's testimony that Becker was fired for the remarks about the accident, not the snacks. Since concerted-activity protection does not extend to activity "solely by and on behalf of the employee

himself' (*Meyers Industries*, 268 N.L.R.B. 493, 497 (1983)), Becker's termination was not unlawful.

The Board did, however, find that the provision in the dealership's employee handbook that "[n]o one should be disrespectful or use profanity or other language which injures the image or reputation of the Dealership" violated the NLRA, as it could tend to chill employees in their exercise of their rights to engage in concerted action.

The interplay between social media and the NLRA is evolving and highly sensitive to the facts of individual cases. Generally, it appears that the more employees are involved in a social media discussion, and the more explicitly work conditions are referenced, the likelier it is that social media communications may be considered protected concerted activity. Employers should review their employment policies and employee handbooks to ensure compliance with the NLRA in the context of social media.

Thomas J. Eastmond is of counsel with the law firm of Best Best & Krieger in Irvine.



OFFICE SPACE AVAILABLE **Riverside County Bar Association Building**

4129 Main Street, Riverside 92501

In the heart of Downtown Riverside

Next to Family Law Court

**Across the street from Hall of Justice
and Historic Courthouse**

**Within walking distance to
U.S. Bankruptcy Court, U.S. District Court
and Court of Appeal**

Office suites available from 250 sq. ft. to 1,700 sq. ft.

**Contact Sue Burns or Charlene Nelson:
(951) 682-1015
rcba@riversidecountybar.com**

CALIFORNIA STATE MOCK TRIAL COMPETITION

by the Honorable Helios J. Hernandez

The California State High School Mock Trial Competition was held in Riverside on March 22-24, 2013. Some 32 county champion teams competed. Local favorite Poly High School finished 3-1 and did not make the final two. Their only loss was to the number-two team, Redlands High School. The same thing happened to Poly last year, when their only loss was to the number-two team, Dos Pueblos (Santa Barbara). This year's champion is La Reina High School (Ventura). This is their third state championship in a row. They also won in 2008. No other team has won four state championships (Poly has three), and no other team has won three in a row.

The Constitutional Rights Foundation (CRF) sponsors the Mock Trial Competition statewide. In Riverside, the sponsors are the Riverside County Office of Education, the Riverside County Bar Association, and the Riverside County Superior Court. The CRF loves coming to Riverside. They are very impressed with our spirit of volunteerism. On Friday, Riverside Mayor Rusty Bailey welcomed the students and coaches. Riverside Chief of Police Sergio Diaz put on extra patrols in the evening, when the students and adults were walking back and



RCBA President Chris Harmon presents James Scharf, Attorney Coach from Willow Glen High School in Santa Clara County, with the Mock Trial Adult Advocate of the Year award.

forth to the court and the hotels. Several of our judges and many of our attorneys volunteered for the various rounds. Several of the scorers for the final round were connected to Riverside: Judge Raquel Marquez (a former Mock Trial participant), Judge Joe Hernandez, and Deputy District Attorney Linda Dunn (now of Madera County, but previously from Riverside County). The presiding judge was Justice Miguel Marquez (Sixth District, and yes, brother of Judge Raquel Marquez).

At the awards ceremony on Sunday afternoon, among the presenters were District Attorney Paul Zellerbach, Public Defender Steve Harmon, and RCBA President Chris Harmon. Mock Trial is a great program for our youth, and it is a bonanza for our city. Well over 1,000 people were in town for the competition. That translates into a lot of hotel rooms, dinners, and hamburgers paid for in Riverside. The National Mock Trial Competition will be in Indianapolis, Indiana on May 10-12, 2013.

Photos courtesy of the CRF staff.



Riverside County Superior Court Judge Raquel Marquez presents San Mateo's Menlo High School team with their third place award.

OPPOSING COUNSEL: MICHAEL TRENHOLM

by Stefanie G. Field

Michael (Mike) Trenholm is one of the Inland Empire's preeminent attorneys practicing in the area of patent, copyright, and trademark matters and is the managing partner of Knobbe Martens' Riverside office.

Although originally from Seattle, he made his move to California in the 1980s, when he attended UCLA, from which he graduated with a Bachelor of Science in Electrical Engineering. After taking some time and gaining a little experience, he decided to return to school, obtaining his Juris Doctor from the University of the Pacific, McGeorge School of Law.

He decided to merge his love of science with his love of law and went to work at Knobbe Martens in their San Diego office in 1992. At that time, Knobbe Martens did not have much of a presence in the Inland Empire. They staffed their single-attorney Riverside office with a constant rotation of junior attorneys, of whom Mike was one.

The agreement to rotate assignments in the Riverside office was fortuitous for both Mike and our community. Mike saw the opportunity to grow his practice in a way that was unavailable to a junior attorney in markets like San Diego and Orange County. The Riverside community lacked options when it came to providing local legal representation in the specialized field of intellectual property. In 1994, he made a leap of faith and moved full-time to Knobbe Martens' Riverside office. What a ride it has been! For a while, he and one staff person constituted the entire Riverside office. Then they grew, and he had other attorneys and more staff to oversee. With economic downturns, however, he has also seen their Riverside office contract.

Why would the economy cause such fluctuations? Well, Mike is in the business of helping ideas come to fruition. His clients come to him excited; they have an idea that they want to develop. His job is to help them in that development process, including protecting the products that they develop and building their brand names. But developing products and building brands takes resources – time



Michael Trenholm

and money. When the economy is good, people are more willing to take risks and expend the resources necessary to get a new product or brand up and running. When the economy is poor, people become risk-averse. For example, Mike recalls a three-month period in 2009 when the phone never seemed to ring with new business.


In fact, for several years IP filings across the country were down, but the trend lines are very positive. That trend has been spilling into the Inland Empire. Mike has seen slow but steady growth in business every year since then. That growth means he gets to keep doing what

he loves to do – working with clients to help their businesses grow.

Practicing this type of law has other added bonuses. His clients are classic nonlinear thinkers. They are all intensely bright. Some are well-educated; others have learned through experience. But they are all typically very interesting people who think outside the box. Dealing with them helps keep Mike on his toes!

There is little doubt that Mike loves what he does and is passionate about helping his clients succeed and protect their success. We are very fortunate to have him as part of our community.

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



**FINAL DRAWING
of the
Riverside
Historic
Courthouse
by Judy Field**

**\$100 each
(unframed)**

**Signed and numbered limited edition prints.
Great as a gift or for your office.
Contact RCBA office, (951) 682-1015
or rcba@riversidecountybar.com**

JUDICIAL PROFILE: JUDGE MATTHEW PERANTONI

by Sophia Choi & Warren Chu

In the words of Fred Rogers, “Anyone who does anything to help a child in his life is a hero to me.” Judge Matthew Perantoni is truly a hero. His life and his career have focused on helping children. By the end of this article, every reader will be inspired by all that Judge Perantoni has done to better the lives of children.

Judge Matthew Perantoni was born in Jeannette, Pennsylvania, and he grew up in Delaware. He has a brother and a sister and is the oldest of the siblings. After graduating from high school, Judge Perantoni decided to stay close to home and went on to the University of Delaware, where he received his Bachelor of Arts degree in 1983. With a major in political science, Judge Perantoni decided in his last year of college to go to law school. After graduating from the University of Delaware, he headed out west to California to attend Whittier Law School and graduated in 1986. Interestingly, his brother and sister both followed his lead and eventually moved out to California, as well.

Initially, Judge Perantoni went into private practice. He worked for two civil firms in Los Angeles, practicing in the areas of general civil litigation, personal injury, and unlawful detainers. Wanting to do more trial work, he decided to make another change, and, in December 1989, he headed slightly east to Riverside County to work in the Public Defender’s office. During his first six years there, he represented adults. In 1995, he transferred to juvenile court to represent delinquent children. This was a very natural transition for him, as he always had a passionate concern for children.

In 2005, after 15 years in the Public Defender’s office, he was appointed as a Commissioner of the Riverside County Superior Court. For over four years, he heard matters in the family law court. Then, for three years, he heard matters in the juvenile court. He really enjoyed juvenile cases because of his love for children. His love and sincere concern for the children, who appeared before him several times in their juvenile dependency cases, were evident as he addressed each child and made sure he made his rulings truly in the best interests of the children. After over seven years as Commissioner Perantoni, he applied in 2011 to become Judge Perantoni, having been encouraged to apply by both friends and colleagues. On December 25, 2012, Christmas Day, at 8 p.m., he received *the* call from the Governor’s appointments secretary. Judge Perantoni’s cellular phone rang with a New York area code. Not knowing whom the out-of-state phone call was from, he picked up the call and received a wonderful Christmas present: appointment to the bench. He is currently assigned to Department 2, law and motion. When asked what he noticed



Judge Matthew Perantoni

as differences between the types of matters he heard, Judge Perantoni noted that the majority of the parties in family law court were in pro per. In juvenile court, all parties were represented by counsel, but the attorneys were usually the same ones on every case, and there were not many private attorneys. However, in the civil cases he currently handles, almost all of the parties are represented by counsel, with different groups of attorneys every day. Though he enjoys all areas of the law, Judge Perantoni ultimately would like to go back to the juvenile court and hear either delinquency or dependency cases because of his love for children.

Judge Perantoni’s love for children is nothing new. When asked what he wanted to be when he was little, he answered, “Pediatrician.” Although he ultimately took a different career path, his devotion to bettering the lives of children remains strong. Even his personal life revolves around children. He has two daughters, Monique and Andrea, both of whom he adopted as infants. Judge Perantoni’s brother is 12 years younger than he is, and Judge Perantoni helped to raise him, which taught him some skills for taking care of young children. As a single father, he also talked to friends and received advice as to how to raise his two young babies, from changing their diapers to feeding them. Monique is now 13 years old, and Andrea is 11 years old. Judge Perantoni’s hobbies all include activities with his two girls. Every summer, he and his girls visit his friends and family on the east coast and attend a family camp in the mountains of Western Pennsylvania. He travels with his girls, including on Disney cruises. As the girls attend private school and are involved in extracurricular activities, Judge Perantoni is busy attending their softball and volleyball games. Having devoted his life to his children, Judge Perantoni has never been married, as he has not yet found the right person. However, the right person will be very lucky, as Judge Perantoni is not only a loving family man, but he knows how to cook! His favorite type of food is Italian food, and he loves to eat and cook Italian foods, such as pastas and pizzas. He also enjoys Thai food and Korean food.

Every part of Judge Perantoni’s life focuses on his love for children, and it is very evident that he has bettered the lives of so many of them, whether through his work or in his personal life. Unquestionably, Judge Perantoni is a hero.

Sophia Choi, a member of the Bar Publications Committee, and Warren Chu are both deputy county counsel for the County of Riverside.

photo courtesy of Jacqueline Carey-Wilson



MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective May 30, 2013.

Byron Berry – Sole Practitioner, Temecula

Clara R. Budd – Sole Practitioner, San Bernardino

Robert E. Carter – Lewis Operating Corp., Upland

Howard R. Chalawsky (A) – Sea View Tax Group, Riverside

Sophia Contreras (A) – Paralegal, District Attorney's Office, Riverside

Gurjeet-Gary Harr – Sole Practitioner, Irvine

Ryan E. Hart – Office of the Public Defender, Riverside

Sarah K. Moore – Law Student, Riverside

Brian T. Okabayashi – Law Student, Riverside

Brandon L. Parks – Law Student, Menifee

Jennifer L. Weldy – The Belmont Firm, Redlands

(A) – Designates Affiliate Member



ATTENTION RCBA MEMBERS

If you are not getting email updates/notices from the RCBA and would like to be on our mailing list, visit our website at www.riversidecountybar.com to submit your email address.

The website includes bar events calendar, legal research, office tools, and law links.



You can register for events, make payments and donations, and much more.

CLASSIFIED ADS

Office in Rancho Mirage

Nice, large, window office w/ optional secretarial space. Partial law library, conference room, lounge, phone system, built-in cabinets, copier/fax privileges, part-time reception, other amenities. Near Palm Springs & Indio Courts. Thomas A. Grossman, PLC (Desert ADR), (760) 324-3800.

Office Space – Downtown Riverside

1 block from the Court Complex. Full service office space available. Inns of Court Law Building. Contact Vincent P. Nolan (951) 788-1747, Frank Peasley (951) 369-0818 or Maggie Wilkerson (951) 206-0292.

Office Space – Grand Terrace

Halfway between SB Central & Downtown Riverside. 565 to 1130 sq ft., \$1.10/sq ft. No cams, ready to move in. Ask for Barry, (951) 689-9644

Office Space – RCBA Building

4129 Main Street, downtown Riverside. Next to Family Law Court, across the street from Hall of Justice and Historic Courthouse. Contact Sue Burns at (951) 682-1015.

Virtual Office Space in Murrieta, CA

\$55 per month with discounted conference room at \$10 per half hour. 7 miles from Southwest Justice Center and 4 miles from Riverside County Superior Court in Temecula. Less than 1 mile from the 215 and 15 freeways. Close to shopping and dining. www.JeffersonPointeOffices.com

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 Charlene or Lisa at the RCBA office, (951) 682-1015 or rcba@riversidecountybar.com.

Riverside Law Firm Seeking to Hire an Attorney

With 5+ year litigation experience – public agency defense, eminent domain/inverse condemnation and/or construction experience preferred. Strong research and writing skills. Trial experience required. Send resume and two writing samples to Julianna K. Strong, Redwine and Sherrill, 1950 Market Street, Riverside, CA 92501.

Now Hiring!!!

Special Assistant Inspector General. Annual Salary \$101,832-\$125,724 + outstanding benefits. Must be an active member of the CA State Bar with 8+ years of full-time experience in the practice of law. For more info, visit: www.oig.ca.gov or call the Office of the Inspector General at (916) 830-3600.



Riverside
County

LAWYER

Riverside County Bar Association

4129 Main St., Ste. 100, Riverside, CA 92501
RCBA 951-682-1015 LRS 951-682-7520
www.riversidecountybar.com rcba@riversidecountybar.com

PRSR STD
US POSTAGE
PAID
PERMIT #1054
RIVERSIDE, CA

YOU BE THE JUDGE

RCBA Dispute Resolution Services, Inc. (DRS) is a mediation and arbitration provider

Why let the judge or jury decide your case when an experienced professional mediator from DRS can assist you in achieving a settlement of your dispute...on your terms.



DRS, a less expensive, prompt and effective means to Dispute Resolution

DRS is the approved mediation service for the Riverside County Superior Court.
4129 Main Street, Suite 100, Riverside, CA • (951) 682-2132 • www.rcbadrs.org