

RIVERSIDE LAWYER

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MAGAZINE



IN THIS ISSUE

A New Automatic Case Management System is Coming to San Bernardino Superior Court for Family Law Probate, LPS, and Child Support

Advocacy - Digital vs. Biological

Riverside Remote Jury Trial Protocol - 2021

Attorneys Are Climbing the Technology Learning Curve

Social Media Platforms and the Regulation of Speech

Trying a Case During a Pandemic

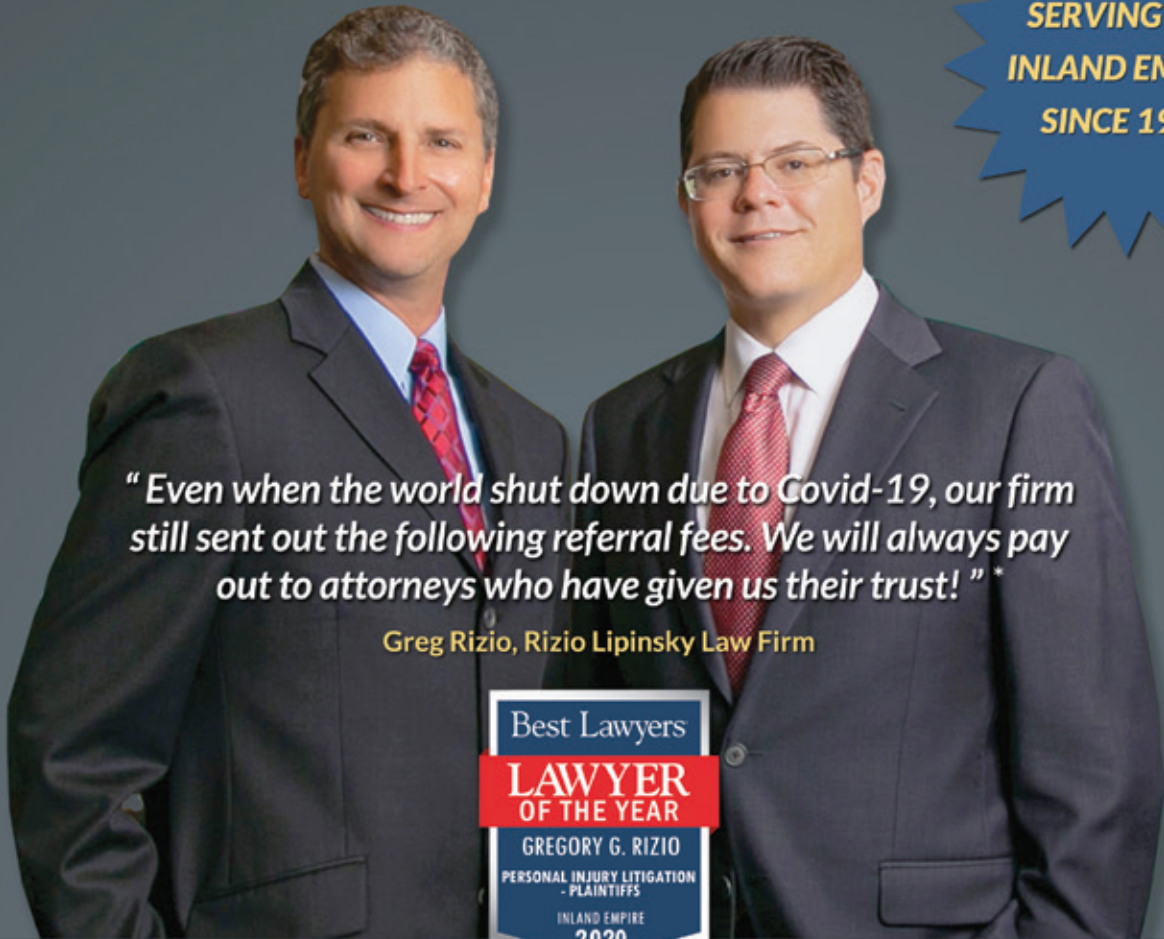


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RIVERSIDE LAWYER

MAGAZINE

C O N T E N T S

Columns:

- 3 **President's Message** by *Sophia Choi*
4 **Barristers President's Message** by *Goushia Farook*
25 **Practicing Responsibly and Ethically:
Communicating on Social Media**
by *David Cantrell & Brad Zurcher*

COVER STORIES:

- 6 **A New Automatic Case Management System is
Coming to San Bernardino Superior Court for
Family Law Probate, LPS, and Child Support**
by *Julie Van Hook*
8 **Advocacy - Digital vs. Biological**
by *Boyd F. Jensen II*
10 **Riverside Remote Jury Trial Protocol - 2021**
12 **Attorneys Are Climbing the Technology Learning Curve**
by *Jamee Rashi*
14 **Social Media Platforms and the Regulation of Speech**
by *DW Duke*
18 **Trying a Case During a Pandemic**
by *Kristin Hobbs*

Features:

- 20 **The Continuing Search for Forgotten RCBA Presidents:
Miguel Estudillo RCBA President 1917**
by *Chris Jensen*
23 **Martin Luther King Prevails in Virtual Mock Trial**
by *John Wahlin*
27 **Judicial Profile: Judge Russell L. Moore**
by *Mary E. Gilstrap*

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), Riverside Legal Aid, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Mock Trial, State Bar Conference of Delegates, Bridging the Gap, and the RCBA - Riverside Superior Court New Attorney Academy.

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, 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.

The 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 \$30.00 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 the Riverside Lawyer.

The material printed in the 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

April

1 Civil Litigation Roundtable with Hon. Craig Riemer

Zoom
Noon
MCLE

8 Juvenile Law Section

Zoom
Noon
Speakers: Jennifer Hunter, Alisa Huntington, Kelly Grotzky
Topic: "Desert Wraparound and Desert MDFT Programs – from Banning/Beaumont to Blythe"
MCLE

9 Appellate Law Section

Zoom
Noon – 1:15 p.m.
Speakers: Hon. Kira Klatchko and Susan Horst
Topic: "Writ Practice for the Appellate Attorney"
MCLE

16 General Membership Meeting

Zoom
Noon – 1:15 p.m.
Speakers: Arezou Bakhtjou, Arezou Nezamabad, Jennifer Yazdi
Topic: "Gender Bias in the Practice of Law"
MCLE – Bias

27 Juvenile Law Section

Zoom
Noon – 1:15 p.m.
Speaker: TBA
Topic: TBA"
MCLE

Please see the calendar on the RCBA website (riversidecountybar.com) for information on how to access the Zoom meetings.

EVENTS SUBJECT TO CHANGE.

For the latest calendar information please visit the RCBA's website at riversidecountybar.com.





President's Message

by Sophia Choi

Time flies! A constant reminder of how fast time flies is when my friend and RCBA Executive Director Charlene Nelson tells me it is that time again...president's column is due! It has already been seven lucky months since I have been able to serve as RCBA president, and I cannot believe it is already almost time for elections of the new RCBA board. Consistent with the theme of this month's issue on technology, I wanted to update you that we will be utilizing technology to conduct elections this year. The RCBA board made this decision due to the continuing impacts of the COVID-19 pandemic and anticipated continued telecommute schedules of many firms during the time of the board elections, which would make it more difficult to conduct an election with ballots mailed by U.S. Postal Service to predominantly firm addresses. The RCBA has already sent out an email blast to notify members that the RCBA board has decided to conduct its 2021 election by a web-based online voting system. This voting system will have identity authentication, tamper-proof electronic ballots, encrypted and anonymous results, and assurance of one vote per member email. If you prefer to receive paper ballots instead, please contact the RCBA office, and a paper ballot will be mailed to you.

I would really like to thank Charlene Nelson and Lisa Yang for working diligently through this board year to obtain each members' direct email addresses, so that we could accomplish electronic voting. Collecting email addresses was not an easy task because some members had provided only their firms' general email addresses, which does not directly go to them, and some members had not initially provided the RCBA with their email addresses. Charlene and the RCBA staff have been working hard and diligently in all aspects, which became more

evident to me as I became directly involved in all RCBA's functions during the past seven months.

Technology has also allowed us to move forward and have an installation virtually, even during a pandemic. In fact, more people were able to participate in the installation than ever before, as it allowed people to watch from their own homes, even from all the way in South Korea! Technology has allowed us to provide more security for the RCBA building this year with installation of new security cameras and secure access to the stairwell and elevator. Technology has allowed us to continue to provide continuing education programs to our members through our general membership and section meetings conducted via Zoom. Vice President Lori Myers has done a wonderful job getting speakers for the general membership meetings, many of whom may not have been able to be our speakers had it not been for virtual meetings due to the travel distance. Each section chair has also done a great job putting on virtual continuing education programs, particularly board member and chair of the Civil Litigation Section, Megan Demshki, who has put on many useful programs for attorneys adjusting to a virtual time.

As efficient and useful technology is, however, it cannot replace the value in personal contact and relationships. In-person contact builds new relationships, maintains friendships, and creates less misunderstandings. For instance, how many times have we wondered if someone is mad at us in his or her email because we cannot assess the tone of an email, other than possibly through some bold or italics used? Sometimes I have looked at an email written to me in all caps wondering why that person is yelling at me when in fact they might not be and just prefers to write in all caps, hopefully. Text messages have many different emoticons, but that cannot replace the hugs, the smiles, and the real laughter (not just an "LOL"—for me, when I am really laughing out loud, it is usually an "LOLLLLLLLL"). During the past year, how many presentations have you done virtually in which the audience is just a list of names with muted audio and cameras off? The audience feedback, facial expressions, body language, and verbal comments are all things that I miss.

There are so many wonderful things about technology that help us be more efficient, that save us from travel time, that allow us to communicate, and that assist us in many other ways. However, this past year has really helped me realize that a good balance is needed in using technology and that technology cannot be a replacement for many precious things in life.

It has been a very long time since I have seen our RCBA members, and I really miss the interaction. To bring back a little bit of the personal contact at a time when we still cannot go back to business as usual, each board member has been tasked with personally calling RCBA members on his or her allocated list, so that we can each do our best to reach every RCBA member personally. It may not be possible for every board member to get through his or her entire list due to the board members' busy schedules with work and life, so if you do not receive a phone call, I sincerely apologize and hope that you will reach out to me if you ever have any questions, suggestions, comments, or just want to talk! I will end my column this month with these lyrics from Paul Brandt's song "Virtual Life": "You can't upload love and you can't download time. You can't Google all life's answers... This ain't no Virtual Life... Ain't nothin like the real thing."

Sophia Choi is a Riverside County deputy district attorney, past president of the Leo A. Deegan Inn of Court, inaugural president of APALIE, and past vice president of the Korean Prosecutors Association.



BARRISTERS PRESIDENT'S MESSAGE

by Goushia Farook



On behalf of myself and the entire Barristers board, I would like to start this month's article by welcoming the FIRST baby barrister from this term. On March 5, 2021, current President-Elect, Michael Ortiz, welcomed his first-born, Penelope Maia Ortiz into the world! We cannot be happier for Michael and his beautiful family and wish his family the best. I

look forward to meeting our youngest barrister at an upcoming event! Congratulations!

I am a CAT

The topic of this month's issue is technology and the First Amendment. 2020 may have had many downsides, but in the technology world, technology stepped up and became a game changer. Various aspects of technology have applied to all facets of our lives. Zoom book club meetings, distance learning for children, Webex court proceedings, FaceTime family meetings, Telehealth medical appointments are but a few examples of how technology has infiltrated our daily lives. Being obsessively connected to our cell phones has gone to a new level as business, both personal and professional, is being conducted in some technological way.

Barristers have had virtual happy hours and virtual MCLE events. For many, this virtual format has allowed for an increase in access and participation. I have been approached by several bar members asking if virtual events can continue or at least a virtual element of events can continue in the future even if in-person attendance is permitted. Personally, I do not see why a virtual aspect of MCLE's, and other eligible events cannot be continued into the future. It allows for broader access, cross-county participation, and can be very cost effective. For people like myself who love being in-person and socializing outside of a virtual platform, I like the idea of having both options to increase access and networking opportunities while still allowing in-person access to those who prefer it.

As things often go in life, the positive impact of technology is not without its negatives. However, in my continued efforts to keep my articles fun and positive, I will leave the negative aspects and implications for another forum!

Keeping things fun, one of my favorite moments related to technology was the recent virtual court proceeding where counsel had a cat filter on his display screen. This was a much-needed moment of humor and lightheartedness. The situation was exceptionally handled by the bench officer. If you have not seen this video it can be found at the following YouTube link: https://youtu.be/WiL4kzLAd_8

Whether it is your first time viewing this or hundredth (guilty), it is a fun moment of comedic relief in an otherwise stressful day! Before my hearings now, I tell myself that I am indeed ready to move forward, and I AM a cat!

Furristers Unite!



Ellen Peng, Paul Lin, Laura LeBron, Goushia Farook, Laila Perviz, Kevin Collins, Jasmine Collins, Ashley DiPaolo and Alex Barraza

Barristers hosted a second Furrister hike at Mt. Rubidoux on March 13, 2021. The hike was a great success and despite the rain earlier in the week, the weather was simply perfect. Thank you to all who attended and to those who brought their pets! There was a great showing by Furristers, and it was such a pleasure to have our furry friends entertain us during the hike. We did an impromptu outdoor brunch afterwards at RetroTaco, which was more of a recon mission to see if outdoor Barristers events are in our foreseeable future! I made sure we took photos of our furrister friends and hope to see you (and your pet) at the next hike!



Upcoming Events

Stay tuned for upcoming events!

Follow Us!

For upcoming events and updates:

Website: RiversideBarristers.org

Facebook: [Facebook.com/RCBABarristers/](https://www.facebook.com/RCBABarristers/)

Instagram: @RCBABarristers



If there are any events you would like to see the Barristers host, MCLE topics you would like to see covered, or community outreach options, please contact us and we would love to explore those ideas with you. You can also reach me personally at goushia@brlfamilylaw.com.

Goushia Farook is an attorney at Bratton, Razo & Lord located in downtown Riverside where she practices exclusively in the area of family law. She is a member of the board of directors of the Inland Counties Legal Services (ICLS) and a member of the Leo A. Deegan Inn of Court and Asian Pacific American Lawyers of the Inland Empire (APALIE). Goushia can be reached at goushia@brlfamilylaw.com.



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A NEW AUTOMATIC CASE MANAGEMENT SYSTEM IS COMING TO SAN BERNARDINO SUPERIOR COURT FOR FAMILY LAW PROBATE, LPS, AND CHILD SUPPORT

by Julie Van Hook

Automated case management systems (CMS) are a necessity for the modern court. The system records litigant filings, parties, court dates, judicial rulings, and creates a public record of the case that is accessible to everyone.

Over the last several years, the San Bernardino Superior Court (SBSC) has been preparing its final transition off of a nearly two-decade old legacy CMS involving enormous amount of planning, technical conversions/equipment upgrades, and hundreds of hours of training for our judicial officers and employees. On May 17, 2021, our third and final track, which includes family law, probate, Lanterman-Petris-Short (LPS), and Child Support will transition onto our new CMS platform joining criminal, quasi-criminal, traffic, small claims, landlord-tenant, civil, and appeals case types. Case information will be accessible on one portal for all case types, with the exception of juvenile, effective May 17, 2021.

Starting Friday, May 14, 2021 through Sunday, May 16, 2021, the portal, which allows electronic case access online, will be down temporarily as case data is migrated into the new CMS. During that weekend, the court will run numerous tests to ensure that it copies the information accurately and the system is functioning properly. Starting Monday, May 17, 2021, the cases associated with family law, probate, LPS, and child support will no longer be available on our current public access website (Open Access), but rather on portal. To assist our users with navigating the portal, SBSC has developed user tutorial guides and vignettes to help ease with this new transition. Topics include smart search, advanced smart search, hearings, how to register and document purchasing. Those can be found by visiting our public website <http://portal.sb-court.org/>. For additional questions, please contact the appropriate clerk's office for details Monday through Friday, 8:00 a.m. to 12:00 p.m. (noon).

Since August 2019, we have successfully executed three major upgrades of the CMS software. which

resolved a significant number of outstanding issues and positioned the court for our next step towards implementing a paperless environment, e-filing, paper-on-demand, and eSignatures. It supports electronic processing and storage of all information related to a court case, from the filing of the initial petition to the maintenance of the court record and electronic documents.

This has been a huge endeavor for our judicial and executive leadership team, along with project teams, across the court including: training, operations, technology, and financial services. We know that these successful implementations could not have been completed without the hard work and dedication of the entire court family. Kudos to them on a job well done!

Understanding that the portal platform does not work for everyone, SBSC has been pursuing options to provide a home-grown portal, which would allow for customization to cater to the needs of the public and our legal community in San Bernardino County, as we continuously look for ways to improve. During this last year, courts across California have experienced swift and significant funding reductions as a result of the COVID-19 pandemic. Specifically, SBSC's general operating funds were reduced by \$8.3 million in fiscal year 2020-21 alone. Despite these significant financial impacts, SBSC was awarded grant funding through the Judicial Council of California to upgrade its portal system. We are excited to announce that this project is underway, and will launch sometime this year, and as early as summer 2021. During that time, the SBSC will invite the legal community to participate in a live event that will go over user functionality to ensure a successful transition yet again.

It's an exciting time for our court and for those we serve as we continue to improve court access through innovative technology solutions.

Julie S. Van Hook is the Communications and Public Affairs Officer for the Superior Court of San Bernardino.





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ADVOCACY – DIGITAL VS. BIOLOGICAL

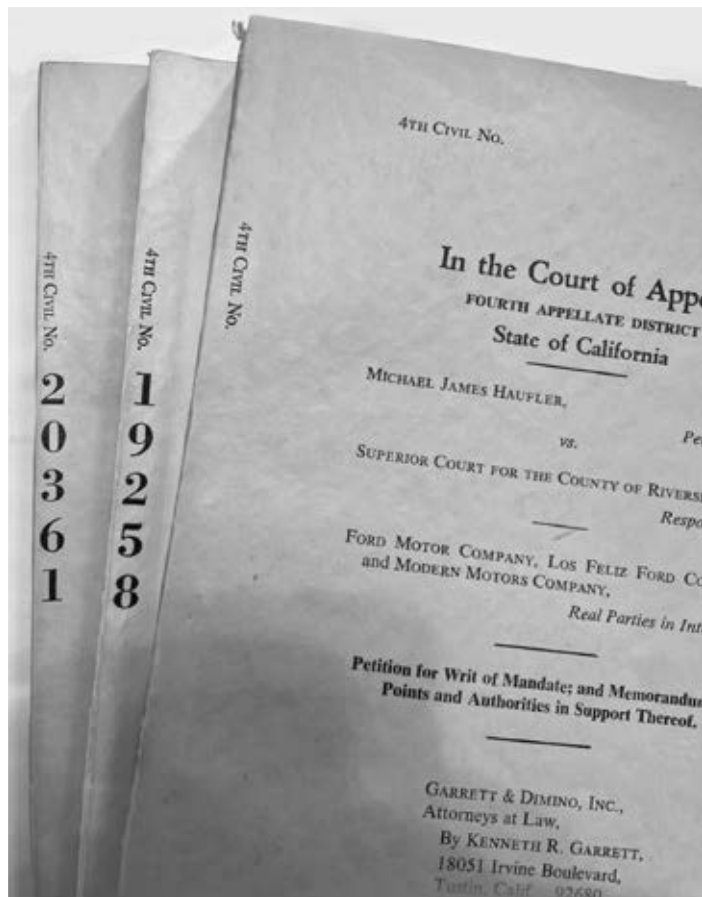
by Boyd F. Jensen, II

The entire civil action pleadings including lengthy appellate briefs (pictured herein prior to being formally printed) were typed using carbon paper; by wonderful, patient, hardworking, skillful and elegant secretaries, who sometimes typed the same pleading twice, because at best your manual and later IBM Selectric typewriters could punch through, was four pages – with three sheets of carbon paper in between. The county clerk's office was completely organized with paper, without access to retrieval any other way than producing other paper. Mimeograph machines were used for meeting agendas. There were few computers or actual copy machines of images on paper generally in usage by regular law firms.

Yet off of paper interactions of advocacy were physical – biological – using optical ability, mental faculties, speech, hearing and overall movement – fashioned over millenniums. We could read Lincoln's speeches on paper, but it was our biologic – emotional and intellectual reactions – that inspired advocacy. There was no American's With Disability's Act and lawyers like former bar president Art Swarner were heroes, who in spite of serious physical challenges, got up in the morning, dressed in a suit and took one step after another as they walked the courthouse hallways practicing law – hard to document that on paper.

Book sellers, law schools, and entrepreneurs aplenty will offer their perspective on the affects and changes to the practice of law in our digital world. It is easy to pontificate – to be a philosopher – a theorist – to speculate about the digital, but does reading those help us as we communicate with clients whose financial survival, family happiness and freedom lie in the balance? Digital platforms exist primarily for “form practice” which a non-lawyer can often perform. To me it always comes back to the biologic – the tone of voice, eye contact, physical features, ability to actually listen and articulate desires and risk. Biologic evolution has stamped our human processes, patterns, diversity, and how we have changed over time. The similarities and differences we have developed particularly phenotypic traits affected by contemporary environmental choices is who we are and we must continue to refine them to practice well.

Client communication, lay and expert witness selection, juror analysis all seem to prefer the human element of analysis. While legal research, ease of access to documentation, including digital presentations, pleading, and form preparation, billing and being able to



carry an iPad as opposed to banker boxes relegate in favor of the digital world. Courtroom appearances may be better or worse in either world.

To illustrate, I refer to an incident of an eighteen-year-old enlisted U.S. Marine Tyler Jerrell, who died the summer of 2017, after multiple failed state governmental ride inspections in Ohio, New Jersey, Virginia, both Carolinas and the so called “a m u s e m e n t mecca” State of Florida. The state ride inspection program officials in Ohio, which opened this corroded ride to the public, and the ride operator, the next day, lawyered up, refusing to talk, even to the federal investigators. This is a photo of patent, painted over corrosion at the ride fracture site.¹



1 All of the facts heretofore of this incident are accurate and public.

As one would imagine in 2017, the digital reaction was monumental. All of the digital tools were active and the benefits very revealing. It is always more problematic when both public agencies and private enterprises fail, especially when local public service and enforcement agencies refuse to communicate with other oversight agencies, because of self-interest – i.e. avoid prosecution for a criminal homicide. The internet social sites exploded and almost overcame the day to day representation of the parties involved. Facts were flying everywhere with other complaints of each jurisdiction’s failure complicated by so-called witnesses to other events and this one were numerous.

In the process perhaps the most significant weakness of digital communication, reared its head – accuracy. What about the honesty of the communicators and the reliability of the internet generated facts? In *Psychology of the Digital Age* [(Cambridge University Press, 2016) researchgate.net], author Professor John Suler offers: “It’s well known that people say and do things in cyberspace that they wouldn’t ordinarily say or do in the face-to-face world. They loosen up, feel more uninhibited, express themselves more openly. Researchers call this the ‘disinhibition effect’... the disinhibition effect may not be so benign. Out spills rude language and harsh criticisms, anger, hatred, even threats...On the benign side, the disinhibition indicates an attempt to understand and explore oneself, to work through problems and find new ways of being.”

The oldest cases I found which referred to “disinhibition” date

However, to avoid affecting potentially ongoing legal activities in that matter, what follows is an analysis from another death case – just as tragic, but not named or geographically identified. The effort is to mitigate anything that might cause families or those involved to be negatively affected.

to 1990² and were criminal cases where the disinhibition related to drugs or trauma; and each of them were questioned, withdrawn or went unpublished! I could not find a published California case based solely upon internet disinhibition.

In the above tragic event eye to eye contact and the emotional/biological responses of people under pressure from the digital/internet compulsions prevailed. Ultimately, it was people interacting with other people using digital tools well or not. I will never forget the conversation I had with one of these very responsible and high-ranking officials. When questioned about the multiple failures – and even on his watch – he had no logical explanation, and I could palpably see the pain in his eyes and face as he tried to explain. I would not have seen that pain or felt respect and sympathy for him in a photo. You had to see it. You had to watch his lips move as he acknowledged what he knew. You had to hear it. It had to be in person. Such transparency and genuine honesty can only be truly measured, equipped with copious digital information, but experienced person to person – and in close quarters rather than digital replications.

I have over 70 email addresses and 50 domains. I like to think I understand the digital world. But my experiences as a civil trial lawyer provide me proof, that the joy in being able to practice law is when the digital remains in the shed, with the other tools of our trade, and the interaction is as human as possible.

Boyd F. Jensen, II, a member of the RCBA Bar Publications Committee, is with the firm of Jensen & Garrett in Riverside.



² *People v Hackett* 223 Cal. App.3rd 1488 (1990); *People v Dwall* 9 Cal. 4th 464 (1995); *People v Sims* and *People v Robles* both unpublished in 2003.

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RIVERSIDE REMOTE JURY TRIAL PROTOCOL - 2021

On March 18, 2021, Riverside Superior Court announced that it would be conducting remote civil jury trials effective March 22. Also effective April 5, 2021, judges handling the unlimited civil calendars would have discretion to conduct in-person bench and jury trials on a case by case basis. Jury trials could also be a combination of both remote and in person segments. Factors to be considered would be public health orders, circumstances of the case, number of parties, length of the trial and availability of the applicable resources. Other factors could also be considered including agreement between counsel for fewer than 12 person jury panels, and the expedition of evidence presentation considering public & private litigation witness/resource availability.

Prior to this civil trial notice and on February 1, 2021, Riverside Superior Court produced their Protocol for Remote Jury Trial (“Protocol”). This document can be obtained online (www.riverside.courts.ca.gov/GeneralInfo/AttyLitigants/Remote-Civil-Jury-Trials-Protocol.pdf.) The Riverside County Bar Association Publication Committee believed it would be of service to members to summarize some of the important “protocols” particularly for those who may be unaware of this new procedural advisory.

Preparation

In becoming familiar with all 16 pages of the Protocol and included links, the following outline summarizes many important segments. This is of particular importance in preparation for any remote jury trial, because we are working with witnesses, clients and supportive office staff, also unfamiliar with this type of platform and in a litigation environment. We must be so familiar to confidently shoulder our advocacy responsibility and their desire for justice in an environment unfamiliar to all.

(1) WebEx Familiarity. Given the various conference platforms and the fact that the eyes of the community may be observing, navigating the WebEx style platform and methods is mandatory. Practice sessions are provided by the court, using built-in links, with significant and important WebEx control features and authorizations. Obviously clients and witnesses may be unfamiliar with this particular platform and will therefore rely heavily upon their counsel’s skills to compensate for their potential awkwardness, on and off the witness stand.

(2) Pre-Trial Documentation. Besides conventional pre-trial meetings with opposing counsel, there is always the advance preparation of documentation, i.e. motions



Protocol for Remote Jury Trials

Riverside Superior Court

February 1, 2021

in limine; jury instructions; voir dire questions and concerns; exhibit inventories, both digital and paper; witness lists and important adjustments to routine and conventional Trial Setting Orders. A linked attachment within the Protocol is an Amendment to Trial Setting Order. This document provides an excellent remote jury trial description with clear criteria and procedures. Of lasting importance is the expectation from Judge Craig Riemer that the remote jury trial option may remain with us in civil litigation.

Trial

Because the trial is remote and the preparation extensive, perhaps the most challenging considerations during the trial will be negotiating the remoteness with objections, interruptions, breaks, sidebars, and being able to work with your client, while watching the evidence delivery effect upon the jurors and the court. Peremptory challenges, opening statements, and taking testimony will likely not bend too far from in-person trials. Frankly, the presentation of documentary evidence

may be even easier from behind your computer camera than at a table in the courtroom. Closing arguments; verdict form presentation, and the explanation of jury instructions, juror questions, deliberation, and reading the verdict may also be more manageable in a remote environment.

Post Trial

Of great interest to the experienced advocate will be discussions with the members of the jury panel after the verdict has been read and the jury released. Hearing their observations in consideration with past in-person trial experiences and preparing for future remote trials should be extraordinarily beneficial and unique. Post trial motions and procedures should be unaffected, but motions for new trial and verdict modifications might be of interest, since almost everything could be recorded.

The Protocol ends with an important statement, upon which I believe all judges and counsel will rely: "It is important to note that each superior court judge as a constitutional officer retains the power and discretion to conduct civil trials as he or she sees fit." (Protocol p.15). It is expected that judges and trial lawyers will be called upon to work in greater collaboration, until we more fully unravel this new justice technique and process.

This article was prepared by the Publications Committee with committee member Boyd Jensen as scribe.



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ATTORNEYS ARE CLIMBING THE TECHNOLOGY LEARNING CURVE

by Jamee Rashi

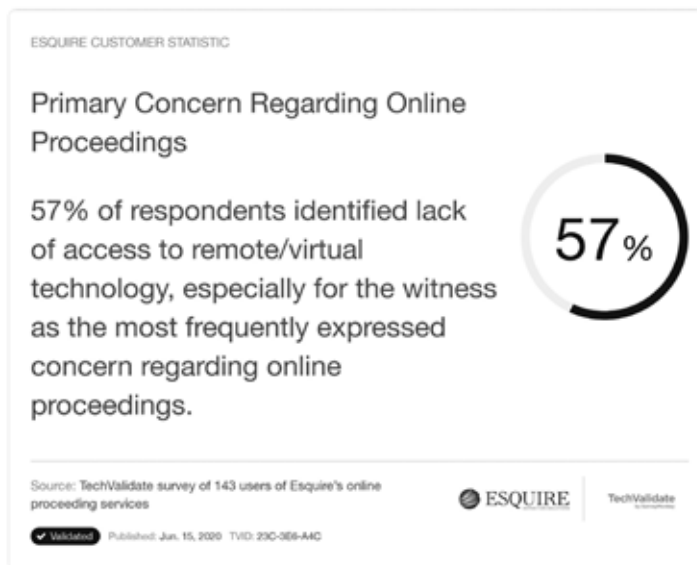
At this point in the legal community's forced conversion to virtual lawyering, this much is clear: attorneys are succeeding with remote technologies, but not without a few bumps on the road to success.

That sentiment was evidenced in a recent survey of attorneys conducting remote depositions—many for the first time—conducted by TechValidate, a third-party research service, on behalf of Esquire Deposition Solutions.

According to the survey, the most frequently

expressed concern regarding online proceedings, which received attention as lawyers rapidly switched to remote processes during the first weeks of the COVID-19 epidemic—were not among the leading concerns uncovered by the survey. Just 27 percent of respondents expressed a concern about the security of remote depositions.

The survey collected sentiments from 163 attorneys who conducted remote depositions with Esquire since March 2020. The attorneys came from a wide cross-section of the legal community: corporate legal departments, private practices large and small, and government agencies.

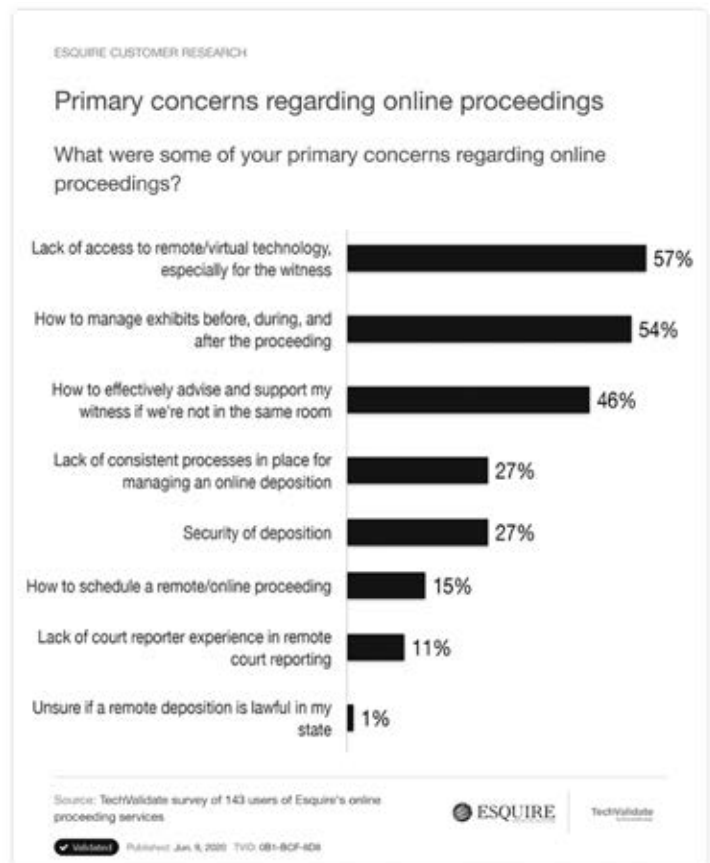


expressed concern involved the deposition witness. Fifty-seven percent of respondents expressed concern that the deposition witness lacked adequate technology to participate in the proceeding. Another 46 percent said they worried they could not adequately defend their witness if they were not physically together in the same location.

One commenter, making a point made by several others, noted that remote depositions were “easy to do as long as the witness has the technology.”

The second most commonly expressed concern involved digital exhibits, with 54 percent of respondents reporting uneasiness with the process of managing digital exhibits before, during, and after the proceeding.

Interestingly, security issues—such as “Zoom-bombing” and loss of client confidential information,



Many survey respondents described working with a technology learning curve that, with persistence, eventually resulted in success with remote depositions. According to Maria H. Chaves-Hawley, GEICO, “Everything went smoothly and though I was nervous

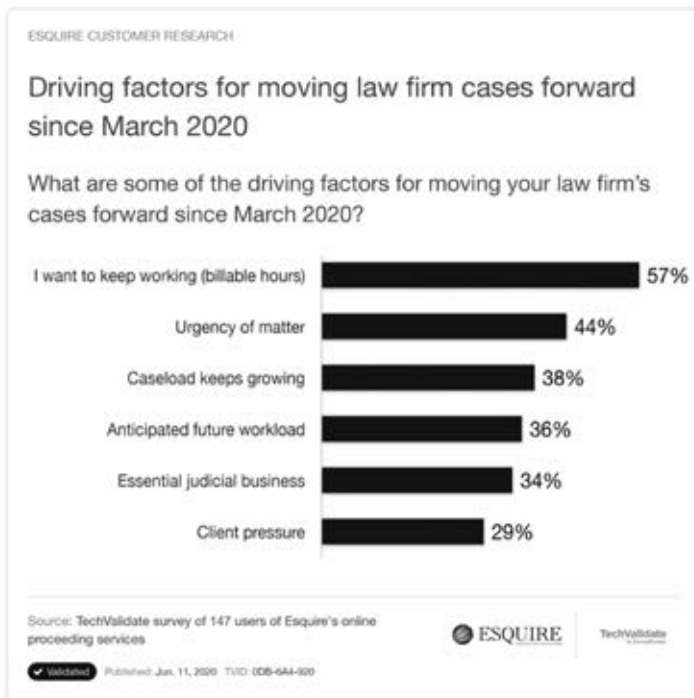
beforehand, after doing 10+ over the last 2 months, I wish to never go back to in-person depositions.”

Matthew S. Nasser, also with GEICO, added, “It was the first remote deposition and we had a lot of audio problems, but that has now been entirely worked out.”

Finally, another comment that may best represent the views of many attorneys:

“We came to a screeching halt for 2 weeks at the end of March, and then everyone realized the show must go on. So depositions got rescheduled, and most attorneys realized it’s more convenient to do it remotely anyway.”

Fifty-seven percent of attorneys—the most frequent response—indicated that the desire to keep working was a reason why they had scheduled remote depositions. Another 44 percent said that the case matter was too urgent to allow to languish until social distancing restrictions are lifted.



Another large percentage of respondents believed that the press of legal business would overwhelm them if they waited until conditions were more favorable to in-person depositions: “urgency of matter” was mentioned by 44 percent, and “caseload keeps growing” was cited by 38 percent of respondents.

Twenty-nine percent listed “client pressure” as one of their reasons to embrace remote depositions.

Litigators Are Making It Work

The legal community has so far shown itself to be an agile—if not eager—adopter of virtual alternatives to in-person legal processes. Remote depositions have

been no exception. The overwhelming majority of survey commenters reported a “very good,” “excellent,” or “great” experience with remote depositions—even among first-timers.

One commenter appeared to speak for many when he called his deposition a “surprising success,” implying that he expected a few hitches that fortunately did not materialize. Another litigator reported “a positive experience, much easier than I anticipated.”

The reported high level of satisfaction with remote depositions, coupled with attorneys’ ability to quickly master the technology, suggests that attorneys and their clients will be looking hard at remote depositions as a way to save litigation expenses. For many, in-person depositions will not be the default option. Every litigator, it seems, is now actively weighing which depositions must be conducted in-person and which ones can be conducted remotely without prejudice to the client’s interests.

Very few respondents—less than one percent—were concerned that remote depositions are not a lawful means of conducting pretrial discovery in their state.

Quibbles aside, the survey’s overwhelming message is that litigators are learning how to succeed and move their cases forward with remote depositions. A few encountered challenges, whether with exhibit management or witness connectivity, but everybody else rose to the challenge and made it work.

Note: The TechValidate survey was conducted in May 2020 among attorneys who conducted remote depositions with Esquire Deposition Solutions since March 2020.

Jamee Rashi is with Esquire Deposition Solutions.



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SOCIAL MEDIA PLATFORMS AND THE REGULATION OF SPEECH

by DW Duke

Historically, technological advances have often resulted in conflicting views concerning the regulation of various aspects of the new technology. Notwithstanding legislation addressing the proper regulation of emerging industries, disputes frequently find their way to the courts for interpretation of those laws and clarification of rights and duties not expressly addressed in the enacted legislation. For example, mass communication in the form of broadcasting led to the enactment of the Communications Act of 1934, which established the Federal Communications Commission (FCC) to replace the more specific Federal Radio Commission. The FCC was charged with addressing such matters as obscenity, the content of speech, and images in the communications industry. However, the definition of obscenity was a matter ultimately requiring review by the courts.

With the development of social media platforms, such as Instagram, Twitter, and Facebook a new concern emerged. Will social media platforms be legally responsible for inappropriate content by those who post on their page? Congress attempted to tackle this concern preemptively before social media platforms fully developed with 47 USC 230, which was a component of the Communications Decency Act (CDA) of 1996, the common name of Chapter V of the Telecommunications Act of 1996, which amended the Communications Act of 1934. The Telecommunications Act was introduced in 1995 by Senators James Exon and Slate Gorton to the Senate Committee on Commerce, Science and Transportation. The CDA was later introduced in the same year. In 1997, the decency provisions of the CDA were successfully challenged in *Reno v. ACLU* 521 U.S. 844 (1997) and subsequently repealed by Congress.

The portion of the CDA that remained after 1997, was 47 USC 230, which has evolved into one of the leading controversies of this century to date. As social media communication companies such as Facebook, Twitter, and Instagram have grown into multi-billion-dollar industries and monopolies, they also acquired an ability to control speech and thought by regulation. But should they be liable for abuse of this ability? The operative language in Section 230 provides:

“No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”

This statute provides immunity to social media companies for the content of posts made on their platform, including the removal of posts they deem improper though the immunity is not absolute. For example, a social media platform may still be sued for copyright infringement if it allows violative material to remain on the internet after becoming aware of the infringement. After the presidential election of 2020, social media companies faced severe criticism for not taking steps to eliminate false information being published on Facebook during the election. The accusation was that these media services did nothing to reduce the number of false memes and other forms of information which in turn allowed President Trump to win the presidential election. After several years of criticism, and testimony before Congress, the media companies developed a system whereby the social media platforms would use “independent” fact checkers to assure the truthfulness of the content of posts. If a post appears to contain false content, according to the independent fact checkers, it is covered by a message that the content has been determined to be false by independent fact checkers. Often there is a flashing warning to the person preparing to repost the content that knowingly posting false information on Facebook can result in a person being permanently banned from the platform.

Now that the social media platforms are taking action to warn of or block false content, it is frequently alleged that these communication mediums are silencing voices of a particular political persuasion, while simultaneously promoting views of the opposing perspective. It is further alleged that the persons most frequently censored are political conservatives. With the recent banning of such individuals as Donald Trump, conservative actor Kevin Sorbo (*Hercules, The Legendary Journey*) and political activist Candice Owens, these media giants are censoring the most widely used media communication in the world today and now the primary form of communication in the general population. Those who are fighting against this

information control allege that this censorship is bringing us very close to a situation where people are penalized for the content of their speech, which of course, is the first step toward the creation of an authoritarian regime.

Some have argued that given the importance and popularity of social media platforms they should be treated like utility companies and prohibited from regulating content based on political views of the person posting the comment. Others have argued that these mega-giants should be broken up by application of anti-trust litigation. Senator Ted Cruz has argued that because these monopolies are involved in restricting the content of speech on their pages, with warnings that a post is false, they are no longer simply social media platforms, but have become publishers thus losing their protection under Section 230.

Those of us who are sufficiently seasoned to remember the Free Speech Movement that began at UC Berkeley in the 1960s, also saw the backlash called the Politically Correct Movement that began at the University of Michigan, Ann Arbor, in the 1980s. Ironically, the term "Politically Correct" was actually coined by free speech advocates in the 1970s who intended to mock the rigid adherence to political dogma and partisan politics. Apparently, some persons, upon hearing the term thought it a grand idea and hence began the Politically Correct Movement. When

speaking at the University of Michigan commencement in 1991, President George H.W. Bush warned of the dangers of political correctness when he said, "The notion of political correctness has ignited controversy across the land. And although the movement arises from the laudable desire to sweep away the debris of racism and sexism and hatred, it replaces old prejudice with new ones. It declares certain topics off-limits, certain expression off-limits, even certain gestures off-limits."

At present, there is some bipartisan support for repealing Section 230. Opponents argue that this will essentially destroy social media because the platforms will be plagued by lawsuits. The emergence of social media creates a new set of issues that have never been addressed at the magnitude we are facing today. Social media effects every aspect of our lives and even influences our elections. Congress will need to carefully identify the issues, without political partisanship, and find ways to assure that legitimate voices are allowed to be heard without overburdening the social media industry with lawsuits. Certain states, such as Florida and Texas are implementing fines of \$100,000 per day against social media companies that do not allow certain political candidates on their platform. The government of Poland is entertaining a bill that will impose a \$1 million per day fine for similar violations.

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Questions arise concerning the propriety of addressing First Amendment free speech issues in privately owned social media companies perhaps via the Commerce Clause. Enforcement and remedies are far beyond the scope of this short article, but suffice it to say, this is an unresolved area that will require bipartisan efforts to assure free speech without overly burdening the social media platforms.

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U.S. President George H.W. Bush, at the University of Michigan (May 4, 1991), Remarks at the University of Michigan Commencement Ceremony in Ann Arbor, May 4, 1991. George Bush Presidential Library

47 USC 230

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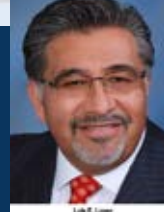
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TRYING A CASE DURING A PANDEMIC

by Kristin Hobbs

Back in March 2020 – aka, the “Pre-COVID-19 era” – Ricardo Echeverria and I started trial on a below the knee leg amputation case where liability was being hotly disputed. We were in Yolo County, a small county northwest of Sacramento, and trial was expected to last about three weeks.

Trial began uneventfully, other than the evidence seemed to be coming in great and we were ahead of schedule. On March 10, a Tuesday, we (plaintiff) rested our case. Court was dark the rest of the week, and defense planned to bring their witnesses the following Monday and Tuesday, March 16 and 17, with closings to begin Tuesday afternoon.

On March 15, Governor Newsom issued the social distancing mandate, but we were not yet under a safe at home order. On Monday, March 16, defense counsel and their witnesses flew in from all over the country to finish the trial, and we flew up from Claremont. As we walked into the courtroom, our judge announced that we could not resume trial because he could not ensure social distancing, and to meet and confer on how to proceed. Ultimately, we agreed that we would all come back on May 15, 2020 – jurors included – to try to finish the last few days of trial.

Fast-forward to May 15, 2020, and it was clear the pandemic remained in high gear and trial would not be able to resume. The court set up a voir dire session with the attorneys and jurors through Zoom to discuss how the jurors have been affected by COVID-19 and how they felt about resuming the case in June 2020. Two jurors did not appear – which was concerning to say the least because we only had two alternates – but those that did appear remained engaged in the case and willing to resume when the time was right.

On June 30, 2020, trial started back up in-person. Twelve jurors appeared, and the two alternates were sworn in. The jurors were staggered in the jury box that had a clear partition set up between the rows, and the left side of gallery, which we were to treat as an extension of the jury box. The court provided seat cushions for the jurors that sat on the wooden benches in the gallery, and the judge switched up which jurors were seated in the box each day.

Only certain people were allowed in the courthouse, so each witness had to be pre-approved and on a list at the security desk in order to enter. Everyone was required to wear masks or clear face shields and maintain a social distance from one another. When witnesses were testifying, they were able to wear a face shield, so that the jury could see their expression during testimony.

Only two people were allowed on each side of counsel table, and remaining persons – other counsel, tech support, and/or clients – could only be seated on demarcated spots on the right side of the gallery. This left room for only four

people per side, and remaining personnel were able to listen on a livestream outside of the courtroom.

Once evidence was presented and closing arguments concluded, the judge ordered the courtroom vacated, so that the jury could use the courtroom for deliberations since the jury room was too small to maintain social distancing. This presented an issue with removing all our trial materials, which we were able to do on sporadic breaks. This also created an issue when the jury had a question since an open courtroom needed to be found so that the question could be discussed by the parties and the judge, and the result reported by the court reporter.

Other than minor inconveniences, the trial resumed and the jury reached a verdict without issue.

A few months later, Ricardo and I found ourselves again starting trial during the pandemic, this time in Orange County. This trial would only be 3-5 days, and the judge strongly encouraged the parties to stipulate to an eight-person jury to reduce voir dire time since only 17 potential jurors could be in the courtroom at a time. We all agreed, and were able to pick our jury from one 17-person panel, which was great since there were less than 40 potential jurors in all.

I strongly suggest stipulating to an eight-person jury to anyone trying a case with the pandemic precautions in place. It reduced the overall trial time and made placing the empaneled jurors in the courtroom during trial much more manageable.

The Orange County courtroom did not allow face shields – everyone had to wear masks – but the witness box had Plexiglas around it so that the witnesses could remove their face coverings during testimony.

As with the Yolo County trial, only certain people were allowed in the courtroom and there were long lines to be checked in at the front. I suggest double-checking with security prior to a witnesses arrival to make sure that they are properly on the list and advising witnesses that there may be delays in entering the courthouse, so that they could plan accordingly.

After having the privilege of trying two cases in this pandemic-world, I would not hesitate to try another one. With a little extra time and planning, it can be done safely and effectively.

Kristin Hobbs, is a partner at Shernoff Bidart Echeverria LLP, working to protect consumers in insurance bad faith and serious personal injury/wrongful death cases.





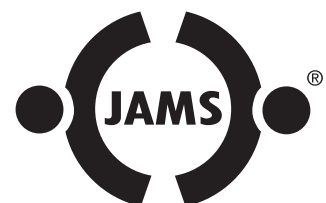
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THE CONTINUING SEARCH FOR FORGOTTEN RCBA PRESIDENTS: MIGUEL ESTUDILLO (RCBA PRESIDENT 1917)

by Chris Jensen

Some 20 years ago, while investigating the missing years of RCBA presidents, then immediate past RCBA President John Vineyard inquired of retired Associate Justice John Gabbert (and RCBA president in 1949) about names of the past presidents, including Miguel Estudillo. Justice Gabbert opined that it was hard to believe Miguel Estudillo had not also been a president of the association. Of course, who would know better than Justice Gabbert, whose early career overlapped for fifteen years with the end of Estudillo's (1934 to 1949). To Justice Gabbert, knowing some of Estudillo's career highlights, it must have seemed Estudillo had to have been an RCBA president. It turns out Justice Gabbert was correct. Miguel Estudillo was president in 1917.

The Estudillo family roots are part of the beginning of California. Miguel Estudillo's great-grandfather, Jose Maria Estudillo, was born in Spain in 1772, married in New Spain (Mexico) in 1795 and shortly thereafter was part of the colonizing of Alta California. Eventually, Jose Maria became Spain's Comandante of the Presidio of San Diego. Miguel Estudillo's grandfather, Jose Antonio, whose adobe home still stands in San Diego, was granted over 26,000 acres of what is now the area from Temecula to San Jacinto. At one point, the family owned over 110,000 acres in Southern California alone.

Miguel's father and uncle constructed identical two story mansions on what remained of the family's extensive property holdings; the one by his uncle in San Jacinto and the other just inside the Soboba Indian Reservation. The San Jacinto home has been restored to its beautiful original luster; the other is in a state of disrepair.

Miguel was born 20 September 1870, in San Jacinto, then San Bernardino County. His great-grandfather, his grandfather, his father, and other relatives all served extensively for the governments of New Spain, Mexico and the United States. Miguel was destined to serve.

The Estudillo family never considered themselves Mexicans. They were Spanish, then Californio, then citizens of the United States. During the 26 years, California was considered part of Mexico, the California residents, who arrived during the Spanish era, considered themselves



Miguel Estudillo

Californios and for the most part independent of Mexico City because of abandonment or loyalty to their new independence. Miguel's mother, Carmen Rubidoux, was the daughter of the celebrated mountain man, Louis Rubidoux, namesake for the town and Riverside's iconic mountain, Mt. Rubidoux.

Miguel attended and graduated from Santa Clara College, California, in 1890. Shortly thereafter he became a deputy clerk for the San Diego County court serving in that position until 1893. For two years thereafter, he was as the clerk of the Board of Supervisors for the County of San Diego. All

during the time he worked for San Diego County, Miguel studied the law during his "leisure time." As was done at the time, at the end of the studies Miguel was granted admission to the California State Bar. One of Miguel's earliest cases took him to Mexico for three years undertaking multiple matters. Upon his return to California, Miguel focused his practice in the city of Riverside, but the practice of law was not enough for Miguel.

In 1903, Miguel married Minerva Cook, a descendant of a Mayflower passenger and of a revolutionary war patriot.

By 1904, Miguel garnered sufficient support from a faction of Republicans who opposed the William Collier (who would become the 1914 RCBA president) political machine eventually achieving the nomination from his party for, and the eventual seat in the California State Assembly.

Miguel was an ardent supporter of the Teddy Roosevelt conservation policies. During his term as assemblyman, he authored Assembly Bill number 248, to transfer land from the State of California to the federal government for the purpose of creating Yosemite Valley and the National Park as we know it today. A grateful letter of thanks was sent by John Muir to Miguel.

Estudillo also co-sponsored the University of California's legislation to create the UC Citrus Experiment Station in Riverside, which would eventually become the campus of the University of California, Riverside.

One of Estudillo's questionable moments as assemblyman was widely reported by the press when he and his brother-in-law, a fellow assemblyman from San Diego, Percy Johnson, both appointed each other's wives as their

committee clerks. This appointment allowed both to be placed on their respective payrolls increasing the family per diem.

In 1908, Estudillo's influence was growing and he was elected to the California State Senate. During his term as senator, he was known as being a major supporter for the anti-saloon faction.

After his terms as senator, Miguel returned to Riverside and his law practice. In 1918, Estudillo became the City Attorney for the city of Riverside, a one year appointment. He was reappointed in 1941 and served in that position into 1949.

As did many of his colleagues, Estudillo practiced in a variety of legal arenas. One case of note was the civil rights case of *People v. Harada*, representing the People opposite the firm of Purrington & Adair, A.A. Adair (Adair was the first RCBA president).

It appears Estudillo's first governing involvement in the Riverside County Bar Association was in 1915 when he was elected as a director. His position was renewed in 1916.

By 1917, Estudillo was elected president of the Riverside County Bar Association. One of his tasks as president was to select two legal advisors for the purpose of drafting a questionnaire for determining exemptions from the World War I draft. Another project undertaken was advocating for Riverside hosting the California State Bar annual conven-

tion which eventually took place in 1921; the 12th annual meeting being held at the Riverside Mission Inn.

Miguel Estudillo was a member of the California National Guard, a Captain in Company M, seventh Regiment. He also organized the Riverside Red Cross Ambulance Corps. Estudillo was a member of the Riverside Elks Club, a very active philanthropical community group, and was also a member of Riverside's Victoria Country Club, as well as the Riverside Country Club.

Estudillo's home where he resided from 1918 until 1950 is still standing in Riverside. It is known as the "Gamble-Estudillo Holmes Home" located at 4515 Sixth Street.

Miguel Estudillo died April 29, 1950, aged 80 years. He was survived by his wife and two sons, one of whom, Francis Estudillo, was then a Riverside County Municipal Court Judge (later a Superior Court Judge in 1967). On the day of Miguel's funeral, the judges of the Riverside Courts adjourned for the day, as did the City Council, so all could attend and honor Miguel Estudillo. Most major newspapers in California reported Miguel's death and legacy. The American flag was lowered to half-mast over Riverside City Hall.

Chris Jensen, partner in the firm of Reynolds, Jensen, Swan & Pershing, is president of the Dispute Resolution Service, Inc. Board of Directors.



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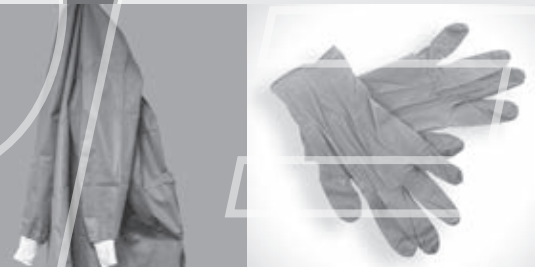
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MARTIN LUTHER KING PREVAILS IN VIRTUAL MOCK TRIAL

by John Wahlin

In March of 2020, the COVID virus became a reality for high school mock trial programs throughout California. The state competition was cancelled with future competition in doubt. Fortunately, the Riverside County Office of Education and Riverside County Bar Association were intent on conducting the competition and it was decided that the competition would be held on a virtual basis. Using Zoom technology, students participated in the mock trial in virtual courtrooms. Presiding judges and attorney scorers participated from the virtual location of their choice.

The championship round of the county competition matched a frequent finalist, Martin Luther King Jr. High School from Riverside, against Chaparral High School from Temecula. This was Chaparral's first appearance in the county final. As usual, the final round was extremely close with Martin Luther King prevailing. King went on to participate in a virtual state competition.

Superior Court Judge Kenneth Fernandez presided over the County Final. Scoring the final were District Attorney Michael Hestrin, RCBA President Sophia Choi, Presiding Judge of the Superior Court John Monterosso, and defense attorneys Paul Grech and Virginia Blumenthal.

Twenty teams from throughout the county participated in the first four rounds of competition. The highest scoring 8 teams then continued the competition in the "Elite 8" single elimination tournament. The pairing of the Elite 8

teams included, *Riverside Poly High School vs. Temecula Valley High School; Martin Luther King, Jr. High School vs. Xavier College Prep of Rancho Mirage; Riverside Notre Dame High School vs. Murrieta Valley High School; and Riverside Ramona High School vs. Temecula Chaparral High School.* In the "Final Four" semifinal round, Martin Luther King High School defeated Notre Dame High School and Chaparral High School defeated Poly High School.

Individual awards for outstanding performances were announced at a "virtual" awards ceremony. First, second, and third place awards were presented in attorney and witness categories. Internships with the District Attorney, Public Defender, and the Superior Court were awarded to the top trial and pre-trial lawyers.

The many volunteers from the legal community made this year's competition a reality, notwithstanding the challenging circumstances. Without coaches, judges, and scoring attorneys, there would be no program. For more information concerning the volunteer opportunities, please contact the RCBA.

John Wahlin, co-chair of the RCBA Mock Trial Steering Committee, is a partner with the firm of Best Best & Krieger LLP



The photos below depicts the students and coaches (Ben Hampton and Amy Zeta) from Martin Luther King High School Mock Trial team, who are the 2021 Riverside County Champions.





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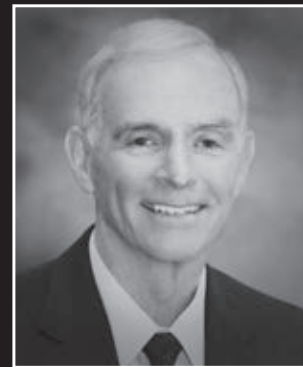
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PRACTICING RESPONSIBLY AND ETHICALLY: COMMUNICATING ON SOCIAL MEDIA

by David Cantrell & Brad Zurcher

Technological changes invariably yield new ethical challenges. Nowhere is this more evident than in the domain of attorney communications. The internet, after all, is essentially just a means of transmitting information. Attorneys have expectedly found it to be a superb tool for attracting new clients. But the ease of online communication—and the existence of digital fora that link our professional and personal lives—can also be a trap for the unwary. A less than careful attorney may intend to publish a short note to her friends on social media, and yet in the eyes of the State Bar, such might constitute a prohibited communication. This edition of *Practicing Ethically and Responsibly* discusses the rules of which an attorney should be aware when discussing their practice on social media.

Attorneys have a First Amendment right to advertise their practice. Fifty years ago, this was a controversial statement.¹ Since then, the Supreme Court of the United States has unequivocally held that attorney advertisement is commercial speech protected by the First Amendment, and therefore, “advertising by attorneys may not be subjected to blanket suppression.”² This, of course, does not entail that attorney advertisement may not be regulated in any way, only that such regulation must withstand a heightened degree of scrutiny.³

In California, communications concerning an attorney’s practice are regulated by Rules of Professional Conduct 7.1 through 7.5 and Business and Professions Code sections 6150 – 6159.2. Although the precise contours of these regulations are somewhat nuanced, for our purposes they may loosely be summed up in the following two principles. First, an attorney may not make a statement that is false or that, by omission or otherwise, could be misleading to a reasonable person. Second, subject to a few important exceptions,⁴ an attorney shall not direct a communication to a particular individual for the purpose of soliciting business.

These regulations apply to attorney postings, messages, and comments on social media. The comment to Rule 7.1 notes the breadth of the Rule’s scope: “This rule governs *all communications of any type whatsoever* about

the lawyer’s services...” The provisions of the Business and Professions Code concerning attorney advertisement are only slightly more narrowly circumscribed.⁵ Thus, before posting about the stellar results received for a client or offering legal services in a social media comment, the prudent attorney should first consider whether the publication might be considered misleading or otherwise be prohibited by the rule against solicitation.

In such a short column, we can but gesture at a few rules of thumb in this regard. First, when publicizing a favorable outcome in a particular case, an attorney should consider Business and Professions Code section 6158.3 and Comment 3 to Rule 7.1. These provisions caution that a truthful statement about an outcome received for one client may, absent a disclaimer, nonetheless be misleading to the extent it does not make clear that the achieved result was dependent upon the facts of the client’s case. Second, prior Rule 1-400 provided sixteen standards more specifically describing presumptively improper advertisements and solicitations. Although these standards have since been repealed⁶, they still provide helpful guidance when considering whether a given communication is prohibited. These prior standards remain accessible on the State Bar’s website.⁷

The ease of electronic communication and the digital overlay of an attorney’s private and professional life can lull him into unwarranted laxity when posting about his professional life on social media. Such tendency should be resisted. If, however, an attorney is mindful when discussing her successes and the range of her services online, social media remains an excellent way to raise one’s visibility within the legal community.

David Cantrell and Brad Zurcher are members of the firm Lester, Cantrell & Kraus, LLP. Their practice focuses on legal malpractice and professional responsibility. David is certified by the California State Bar’s Board of Legal Specialization as a specialist in legal malpractice law.



1 See, e.g., *Jacoby v. State Bar* (1977) 19 Cal. 3d 359, 362 “No issue in recent years has generated more controversy among members of the bar than the asserted right of attorneys to publicize their skill and services.”

2 *Bates v. State Bar of Arizona* (1977) 433 U.S. 350, 383.

3 See *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of New York* (1980) 447 U.S. 557.

4 For the exceptions, see Rule 7.3(a)(1), (2) and comments 1 and 2.

5 Bus. & Prof. Code § 6157(c), defining “advertise”.

6 The Commission for the Revision of the Rules of Professional Conduct reasoned that “standards are not necessary to regulate inherently false and deceptive advertisement” and “determined that most [of the standards] fell into that category.” Thus, their repeal simply reflects the judgment that they were superfluous.

7 <http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Rules/Rules-of-Professional-Conduct/Previous-Rules/Rule-1-400>



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JUDICIAL PROFILE: JUDGE RUSSELL L. MOORE

by Mary E. Gilstrap

If he was stuck on a desert island, Judge Russell L. Moore (“Rusty” to his friends and colleagues) would have Led Zeppelin, Van Halen, and U2 on his playlist. Not surprising, given Judge Moore plays the guitar, bass and piano, writes music and was in a rock band for years. He also confesses that he sings on occasion, much to the chagrin of his neighbors.

Judge Moore was appointed to the Riverside County Superior Court in 2018 by former Governor Jerry Brown along with fellow Judge Gregory Olson. Judge Moore “rides circuit,” meaning he presides over a courtroom in three different locations: three days a week in Blythe, two days in Indio and the occasional day at Southwest. Judge Moore hears family law, civil, criminal, traffic, and the California Environmental Quality Act (CEQA) cases – mostly ones that originate in Eastern Riverside County.

No stranger to the courtroom, Judge Moore was a career prosecutor, having spent three years as a District Attorney in Contra Costa County, followed by almost 13 years as a prosecutor in Los Angeles County. Judge Moore loved being a prosecutor. He self-deprecatingly jokes that he was not “God’s gift to a courtroom” but his strong points were thorough trial preparation. “I would outwork you,” Judge Moore said with a chuckle.

Judge Moore grew up in the Bay Area where his father practiced personal injury law after acting as a deputy attorney general in California’s Central Valley, and his mother taught elementary school. He did his undergraduate work at UCLA where he walked onto the cross-country and track teams as a distance runner until he was sidelined with injuries. He then went on to get his J.D. from the University of San Francisco School of Law.

Although happy as a District Attorney in Los Angeles, he grew tired of the “carnage” that he saw while prosecuting homicides. He considered applying for a judicial appointment, but only for Riverside County as he loves the desert, having spent weekends and vacations at his family’s home in the Coachella Valley. “I am beyond lucky to have been appointed to the bench here, and I’m extremely grateful for the opportunities that I have been provided,” Judge Moore said. In the first eight months after his appointment to the bench, for example, Judge



Russell L. Moore

Moore presided over 21 jury trials, which ran the gamut from misdemeanors to serious felonies – opportunities that Judge Moore said he was lucky to have.

Since then, Judge Moore has joined the habeas corpus panel and has taken a lead role in developing and fine-tuning protocols for the Riverside County Superior Court’s remote jury trial process, working closely on this project with other judicial officers and members of the bar. He is also a member of the Warren Slaughter/Richard Roemer Inns of Court in the desert and

coaches mock trial.

Judge Moore’s work ethic has not gone unnoticed. “He’s such a team player,” said Judge Gregory Olson. “He’s great with everyone and always wants to help. He’s an outstanding addition to the bench.”

Being somewhat of a techie, Judge Moore recommends the use of PowerPoint or similar programs at trial if possible. “If you know how to use it, it’s very effective,” Judge Moore said. However, the biggest mistakes people make in their PowerPoint presentations, in his opinion, are too much text, poor quality images and too much information on one page.

The five most important things Judge Moore looks for in a lawyer are 1) preparation – follow the local rules, have your exhibits and witnesses in order; 2) researching applicable legal issues and providing the court with the law; 3) being cordial with opposing counsel whenever possible; 4) being respectful to court staff; and 5) attempting a reasonable resolution of the case through settlement whenever possible.

Judge Moore’s staff in Blythe include courtroom Judicial Assistants Yadira Saldana and Christina Avalos, Riverside County Sheriff’s Deputies Stephanie Livingston and Katie Bond, and Court Reporter Juliette Barron. His staff in Indio are courtroom Judicial Assistants Clarita Luna and Braulia Shelton and Riverside County Sheriff’s Deputy Dustin Lloyd.

Mary E. Gilstrap is a partner of the law firm of Roemer & Harnik LLP and a past president of the Desert Bar Association.



CLASSIFIEDS

Searching for Donald O. Vogel's Attorney

Searching for Riverside County attorney who drafted estate planning documents for Donald O. Vogel, who resided in Pahrump, Nevada. Please contact Joshua M. Hood, Esq., of the law firm of Solomon Dwiggin & Freer, Ltd., at 702-853-5483 or jhood@sdfnvlaw.com.

Office Space – RCBA Building

4129 Main Street, Riverside. Next to Family Law Court, across the street from Hall of Justice and Historic Courthouse. Office suites available. Contact Charlene Nelson at the RCBA, (951) 682-1015 or rcba@riversidecountybar.com.

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Attorney Position Available

Inland Empire Latino Lawyers Association is seeking to fill the position of "Housing Attorney." IELLA is a non-profit legal aid that provides services to low-income residents of Riverside and San Bernardino Counties. Must speak Spanish. Contact Sylvia Quistorf, Executive Director, at squistorf@iellaaid.org for more information.

Conference Rooms Available

Conference rooms, small offices and the Gabbert Gallery 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.



MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective April 30, 2021.

- Immanuel P. Aldeguer** – Solo Practitioner, Palm Desert
- Megan Boling (A)** – Sandoval Legacy Group, Riverside
- Tekisha R. Carbajal (A)** – Sandoval Legacy Group, Riverside
- Melanie Cartagena (A)** – Sandoval Legacy Group, Riverside
- Venessa Damon (A)** – Sandoval Legacy Group, Riverside
- Snezhanna I. Didich** – Office of the District Attorney, Riverside
- Viktoriya S. Kurtzer** – Hanson Gorian Bradford & Hanich, Murrieta
- Donald McKay** – Law Office of Donald McKay, Palm Desert
- Valerie A. Navarro** – Office of the Public Defender, Riverside
- Traci Pederson (A)** – Thompson & Colegate, Riverside
- Nicole Pico (A)** – Thompson & Colegate, Riverside
- Beth Saleson (A)** – Thompson & Colegate, Riverside
- Bryanna Sandoval (A)** – Sandoval Legacy Group, Riverside

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