

RIVERSIDE LAWYER

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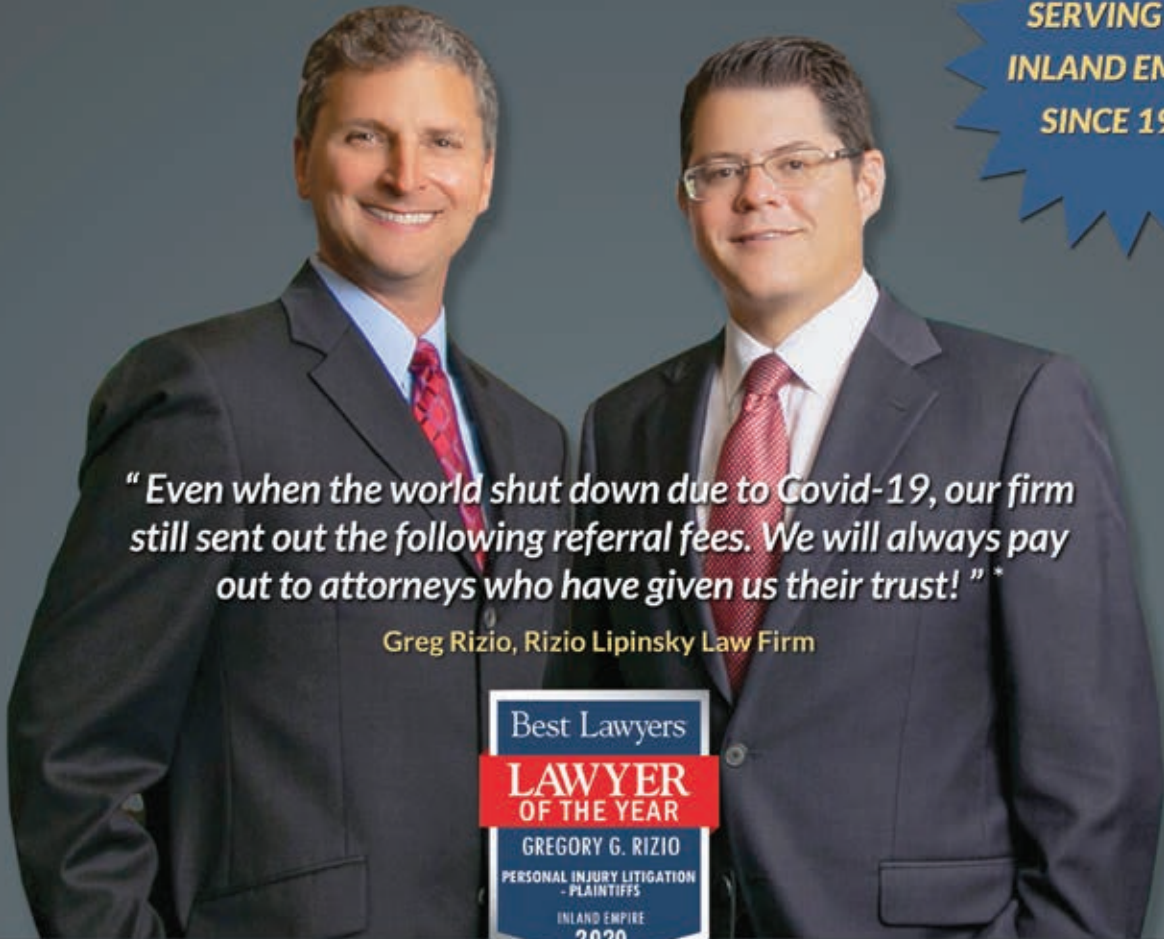


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RIVERSIDE LAWYER

MAGAZINE

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MISSION STATEMENT

Established in 1894

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

RCBA Mission Statement

The mission of the Riverside County Bar Association is:
To serve 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

July

13 Juvenile Law Section

Zoom

Noon

Speaker: Andrea Ramos, Clinical Professor of Law, Director of Immigration Law Clinic, Southwestern School of Law

Topic: "Immigration Options for Children"
MCLE

21 Appellate Law Section

Zoom

Noon

Speaker: Jennifer Hansen

Topic: "Petitions for Resentencing after SB 1437"

MCLE

22 Juvenile Law Section

Zoom

Noon

Speaker: Daniela Ramirez

Topic: "IEHP Community Resources"

MCLE

September

23 SAVE THE DATE RCBA

Annual Installation of Officers

Dinner & Charity Auction

Riverside Convention Center Outdoor Plaza

Social hour – 5:30 pm

Dinner – 6:30 pm

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.





by Sophia Choi

I cannot believe this is already my final president's column. The time really has flown. As I think back on this past year, although there certainly were many challenges navigating through the changes brought upon by COVID-19, I truly realized how much God has blessed me with such great people in my life. And, lucky for RCBA members, these great people are RCBA members, RCBA past presidents, and members of this wonderful Riverside legal community. One conversation with someone that motivates you or supports you can change your life's path, so I encourage everyone to be active in RCBA. I became active in the RCBA after past president, Robyn Lewis, asked my sister and I to co-chair the RCBA Law Day Committee. I then became an active writer for the *Riverside Lawyer* magazine. Step by step, I became more and more active in the RCBA and I loved the organization so much that I wanted to be on the board. Thanks to all the RCBA members, I was able to serve as president, and thanks to Robyn Lewis, I first started becoming involved. As I often emphasize, one conversation, long or short, can be a huge influence in someone else's life. Please make that be an influence that leads others into good paths like Robyn has done for me.

I started my year as president with a virtual installation and although most of my term has been served virtually, the final days have allowed me to finish my term with actual in-person socialization. My goals during my term as president were to preserve the RCBA's rich history, look to the future with technological upgrades, and to engage in mentorship activities.¹ I believe these goals have been met, thanks to all the wonderful people who helped achieve them.

Historical Preservation Committee

Chris Jensen is now serving as the chair of the Historical Preservation Committee. He has

¹ Please see the June 2021 issue of the *Riverside Lawyer* for RCBA's mentorship activities update.

so much knowledge about the RCBA's history that dates back to 1894. He has been researching and gathering information to fill in the blanks regarding everyone who has served as president of the RCBA. Although we had a list of most past presidents, there were some periods in time for which we did not know who served as president. Chris Jensen has been actively researching to fill in those blanks. He has also written several articles regarding the RCBA's history in the *Riverside Lawyer*, so please be on the lookout for his articles. Additionally, the RCBA website currently has a list of past presidents in chronological order. Now, if you click on the names, you will be able to see their biographies. This is still a work in progress as we continue to gather information from past presidents and draft these biographies. When you visit the RCBA building, please walk through the first floor hallway as you will see pictures of past presidents hanging on the wall in chronological order. Thank you to Chris Jensen, as well as to Charlene Nelson, Judge John Vineyard, Judge Craig Riemer, and Robyn Lewis who are working to help preserve the RCBA's history. It is so important that we not forget the work of all past presidents who have started RCBA and who have dedicated their time and work to making it grow and thrive so many years later.

Technological Upgrades

As provided in my prior president's columns, we have made many technological upgrades to the RCBA building. During Jack Clarke Jr.'s presidency, the RCBA building was renovated. In order to continue on the efforts of Jack for the building's modernity, an active effort was made to upgrade the furniture and technology within the building. Thanks to the overwhelming sponsorship during the virtual installation with \$25,550.00 raised, some of that was used towards getting all new tables and chairs for the Gabbert Gallery. Fortunately, we were able to have our last General Membership meeting in June in the Gabbert Gallery. We also added security cameras and secure keycard access to the building. We also have new computers and active Zoom accounts, which we will continue to incorporate post-pandemic.

Additionally, thanks to the RCBA's Dispute Resolution Service, we also have a new big screen in the boardroom where we can now accommodate Zoom meetings. We anticipate further technological upgrades in the Gabbert Gallery to be forthcoming before the end of my term.

Despite the pandemic, we did not stop providing continuing legal education to our members. In fact, we have provided approximately 60 Zoom continuing legal education from September 2020 to June 2021, which is about six per month! Thank you to Executive Director Charlene Nelson, Lisa Yang, Vice President Lori Myers (who brought some amazing speakers to our Zoom General Membership meetings), and the RCBA section chairs and members for continuing to make RCBA relevant and able to provide our members undisrupted service. We have had great turnout at our Zoom meetings this year that we are planning to continue Zoom meetings in a hybrid form with our in-person meetings so that we can have the best of both worlds to allow those who cannot make it to meetings in time to attend by Zoom and allowing those wanting social interaction in-person to be able to attend in-person.

We also now not only have Facebook and Twitter pages, but you can also find us on Instagram (@rivcobar) and on YouTube. Our website is also being upgraded, so please be sure to visit our page often.

RCBA General Update

The RCBA is doing extremely well in terms of both membership and financials. The pandemic did not stop us from prospering. In fact, membership has grown from prior years as we tried to maintain contact with members, sent

out letters to encourage membership renewals, and sent out letters to encourage new membership signups, including to those who were newly admitted to the California State Bar.

I have heard that some counties' bar associations were experiencing financial hardships during the pandemic. The RCBA was so blessed this year with its financials, starting from the beginning of this board term with the installation sponsorships that far exceeded sponsorships for past installations by approximately double, which is amazing because the installation was virtual. Because it was virtual, the only expense was the printing of the invitations, which was generously sponsored by Gregory Rizio. Greg Rizio has been my sounding board and someone who I can always talk to who never hesitated to help. He was the first sponsor for the virtual installation as a Diamond sponsor, among many other generous sponsors. Sponsorship monies were thus used towards enhancing the furniture, technology, and other equipment for the RCBA. However, we still have a substantial amount left from the sponsorship monies which can be used towards the RCBA's upgrades. Additionally, Executive Director Charlene Nelson was very diligent during the pandemic in obtaining available COVID-19 relief grants, which has also helped the RCBA thrive. The RCBA is also doing so well financially because the RCBA building is now almost fully occupied! We have only one office space left, and we do not expect it to last for long! Again, Charlene Nelson has done an excellent job promoting the building.



RCBA Board of Directors 2020-2021

*Left to Right: Megan Demshki, Elisabeth Lord, Mark Easter, Goushia Farook, Sophia Choi, Neil Okazaki, Kelly Moran, Chris Johnson. Not pictured – Aaron Chandler, Jack Clarke, Lori Myers
Photo taken by Jacqueline Carey-Wilson*

We have also started a Members' Discount Program this year and have partnered with several local businesses to offer discounts for RCBA members. These businesses include Gless Ranch, Dona Timo's La Cascada Mexican Restaurant, Downtown Apothecary, Made Shop Riverside, Tula Yoga, and Molino's Coffee. Additionally, we have partnered with the National Purchasing Partners to allow our members to save on products from various businesses. In order to show proof of RCBA membership, we have RCBA membership cards available for RCBA members upon request.

I have tried to keep the members updated on the RCBA's progress through my president's columns. I do not know how many members were able to notice, but because we could not meet in person, I also used a different updated

photograph each month (except for one because that month went by much too fast). It is truly amazing how much we accomplished this board year. As board member and my good friend Megan Demshki said, we did not just survive this pandemic year, but we thrived.

There are so many people to thank, and since this is my final president's column, I would like to use this opportunity to thank some people who have really helped and supported me this year as president. The District Attorney's Office has been extremely supportive during my presidency, including DA Michael Hestrin, Chief Assistant DA John Aki, Assistant DA Elaina Bentley, Chief DDA Kelli Catlett, Chief DDA Sam Kaloustian, Managing DDA Alan Tate, Senior DDA Ashley Smith, and so many others in the office. I would also like to thank RCBA members and past presidents who have always offered advice and support, including but not limited to Robyn Lewis, Gregory Rizio, Steve Harmon, Virginia Blumenthal, David Bristow, Chris Jensen, (retired) Judge Jack Lucky, and Judge Kenneth Fernandez. The list goes on and on because I have been blessed with so many wonderful mentors, friends, and colleagues.

I would also like to thank all the committee and section chairs who have done a wonderful job keeping things active. And, of course, I would like to thank this year's board for working together towards a common goal of serving the RCBA members: Jack Clarke, Jr. (immediate past president), Neil Okazaki (president-elect), Lori Myers (vice president), Kelly Moran (chief financial officer), Mark Easter (secretary), Megan Demshki, Chris Johnson, Elisabeth Lord, and Aaron Chandler (directors-at-large), and Goushia Farook (Barristers president). Towards the end of this board term, we were finally able to take a board photograph in front of the courthouse. I thank Jacqueline Carey-Wilson for taking the time out of her busy schedule to take the photograph for us so that we can commemorate this board. I would like to wish good luck to Neil Okazaki who will be serving as 2021 RCBA president. Please mark your calendars for his installation dinner on September 23, 2021.

We also recently held our annual RCBA past presidents' dinner. This was the first time I was able to attend as the current RCBA president, but I am excited to attend this annually as a past president. It is truly an amazing group of people, and I feel so fortunate to be a part of a group of such leaders. It was so nice to meet and learn from Sandy Leer, (retired) Judge Steve Cunnison, Diane Roth, and Theresa Han Savage, who work together to plan these dinners.

I would like to thank RCBA Executive Director Charlene Nelson and RCBA staff Lisa Yang, Mae Krems, Lulu Ayala, Maddie Nopwaskey, and Barbie Trent, all who have done an amazing job! With a staff of under ten people for an organization with over 1,000 members, they work so hard behind the scenes and so do not always get the recognition and acknowledgment they truly deserve. Thank you for all that you do for the RCBA.

I have had the pleasure of working with Charlene Nelson very closely this year as we tried to navigate this pandemic. Her love for and devotion to the RCBA, its members, and its



RCBA Past Presidents' Dinner, June 25, 2021

Back row – James Heiting (1996), David Bristow (2006), Judge Stephen Cunnison (Ret.) (1981), Judge John Vineyard (1999), Brian Pearcy (2002), Geoffrey Hopper (1994), Dan Buchanan (2001), Jean-Simon Serrano (2016), Judge Craig Riemer (2000), Mary Ellen Daniels (2003), Harlan Kistler (2010), Jack Clarke (2019), Judge Kira Klatchko (2015).

Front row – Sophia Choi (2020), Robyn Lewis (2011), Theresa Han Savage (2005), Justice James Ward (Ret.) (1973), Sandra Leer (1991), Jacqueline Carey-Wilson (2013), L. Alexandra Fong (2017), Diane Roth (1998), Arthur Littleworth (1971).

Photo taken by Sylvia Choi.

history is like no other. To Charlene, the RCBA is not just a job or a career, it is part of her life, and it is like her child. She helped raise it to what it is now with each RCBA president. Charlene Nelson became executive director in May of 2009, but she first started as a volunteer in college in 1977, which is 44 years ago. That is more than many of our members' ages! It is not easy to find an executive director with this much love and dedication to an organization, and I have seen firsthand the amount of work she does, the long hours she works, and the loyalty and love she gives to the RCBA. I would not have been able to get through this year without her, and she is the true driving force behind the RCBA and its prosperity. We are so fortunate to have her.

Last, but most certainly not least, I would like to thank my loving family for always praying for me and loving me. My family is more vested in my happiness and wellbeing than I am for myself, and I cannot thank them enough for being the best family I can ever ask for. And, I am so lucky to have my sister support me in this same legal community. I had hoped that they could attend a Mission Inn in-person installation for my presidency year, but, because of COVID-19, that was not impossible. However, it was such a blessing to have my family host the in-person RCBA Past Presidents dinner with such wonderful leaders of our Riverside legal community towards the end of my term.

Time really, really flies, and this board term went by far too fast. Many members have told me that it is unfortunate that my term was a virtual year because I was unable to experience all the wonderful in-person activities that are normally a part of serving as RCBA president. Although I wish that I served a "normal" year too by seeing everyone in person, I really enjoyed my term, and I did my best and devoted myself to the RCBA. I will continue to do my best until the last day of my term on August 31, 2021. Thank you for allowing me to serve you as the RCBA president. It has been an honor and privilege, and I will continue to stay involved as immediate past president, Appellate Law Section co-chair, and Mentorship Committee co-chair.

I would like to end with this quote: "Sometimes you will never know the value of a moment, until it becomes a memory." -Dr. Seuss. Au contraire. I valued every moment I was able to serve as RCBA president as much as I will cherish the memories and appreciate more moments to come. Thank you, RCBA.

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.



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BARRISTERS PRESIDENT'S MESSAGE

by Goushia Farook



Barristers Appreciation

In 2020, the Barristers Board was fortunate to be sworn in by the Honorable Commissioner Belinda Handy. I have had the privilege of appearing in front of the Honorable Commissioner Handy in my practice as a family law attorney where I have both admired her and viewed her as a role model. When I heard the

Honorable Commissioner Handy would be transferring to a new assignment on July 2, 2021, I was happy for her career advancement, but saddened to lose such an amazing bench officer in family court.

The Honorable Commissioner Handy has served our family law bench with respect, honor, and professionalism since 2016. She is always prepared and expects nothing less from counsel appearing before her. On behalf of the Barristers and myself, we wish you the best in your new assignment and know how fortunate they will be to have you as a bench officer. We hope to see you at future Barristers events and thank you for your support of our organization. I personally thank you for being a role model who always demonstrates strength, intelligence, and civility on and off the bench.

Give Yourself a Break

I have noticed a common theme in speaking to colleagues and friends the past few months – everyone is busy! Not just slightly busy, but extremely busy with impacted court hearings, in-person trials, depositions, and catching up with the stagnant 2020 calendar. The COVID-19 levees have broken and most practitioners are trying to regain balance in a sudden overworked schedule.

While it has been satisfying going back to the practice of law in a semblance of normalcy, moving cases forward and getting finality for clients, it can come at a personal expense. I have spoken to several friends and they speak of being tired, overwhelmed, and just stressed.

The World Health Organization defines burnout as “a syndrome conceptualized as resulting from chronic workplace stress that has not been successfully managed.”¹ This can include feeling exhausted, having less energy, reduction in professional efficacy, and feeling negative about one’s job.

While many of us may not classify these feelings into the concept of professional “burnt out,” we have all been there. I am no expert, but I certainly know the value and importance of taking a step back and taking a break. I also know the personal guilt associated with wanting to take a break. Thinking I am less

capable or weak if I need to take a break or say no to a delegated task. Admittedly, I still need to do better in taking a step back and giving myself a break, but I am learning! I have found that a “break” does not have to mean you must go on a three-week vacation we have all been putting off since 2020. A break can be just sitting down and reading that novel you have had on your list, taking an impromptu day trip to the beach with the family, and meeting with friends for dinner and just catching up. More than anything, laugh. The feeling of being renewed and refreshed after a good laugh is a feeling all to itself. Our work is often thankless and we deal with very heavy issues. Surround yourself with good company and have a laugh and take a break! Find your happy place and spend a few moments a day there!

Meet Your New Barristers Board

I am incredibly happy to announce the 2021-2022 Barristers Board. While the 2020 term has had its difficulties, I am happy to see new members and returning members.

President	Michael Ortiz	
President-Elect	Lauren Vogt	
Secretary	Alejandro Barraza	
Treasurer	David Rivera	
Members-at-Large	Ankit Bhakta	Alfonso Smith
	Kevin Collins	Brigitte Wilcox
	Braden Holly	
Past-President	Goushia Farook	

Upcoming Events

July 15, 2021: Happy Hour at Downtown Experiment (3601 University Avenue) at 5:15 p.m.

August 5, 2021: Happy Hour at Prohibition Whiskey Lounge (3597 Main Street) at 5:15 p.m.

Follow Us!

For upcoming events and updates:

Website: RiversideBarristers.org

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

Instagram: [@RCBABarristers](https://www.instagram.com/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.



1 www.who.int/news/item/28-05-2019-burn-out-an-occupational-phenomenon-international-classification-of-diseases

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RELIGION IN THE CONTEXT OF SAME SEX RELATIONSHIPS AND FOSTER CARE, THE MATTER OF *FULTON VS. PHILADELPHIA*

by DW Duke

The United States Supreme Court recently rendered a decision concerning the balance of religion and same sex relationships in the context of foster care agencies. The case was SHARONELL FULTON, ET AL., PETITIONERS v. CITY OF PHILADELPHIA, PENNSYLVANIA, ET AL. (June 17, 2021) No. 593 US _____. In *Fulton*, the City of Philadelphia had stopped referring cases to Catholic Social Services (CSS), a foster care agency that refused to certify homes with same sex couples, for foster care placement.

Foster agencies provide a vital service to the community in Philadelphia. The Catholic Church has been providing foster care service in Philadelphia since 1798. Pennsylvania law gives the authority to certify foster families to state-licensed foster agencies like CSS. (55 Pa. Code §3700.61 (2020)). Before certifying a family, an agency must conduct a home study during which it considers statutory criteria including the family's "ability to provide care, nurturing and supervision to children," "existing family relationships," and ability "to work in partnership" with a foster agency. (§3700.64). The agency must decide whether to "approve, disapprove or provisionally approve the foster family." (§3700.69).

When a child becomes eligible for placement, the city sends a referral notice to the agency in question. The agency responds by notifying the city whether it has any certified homes available and if so, the agency places the child in a certified home. After placement, the agency supervises the foster home to assure everything remains in compliance.

Because it is the official position of CSS that marriage is a sacred bond between men and women, and certification constitutes endorsement of that relationship, it will not certify unmarried couples—regardless of their sexual orientation—or same-sex married couples. No same sex couple has ever applied to be a foster home with CSS in Philadelphia and the agency reports that if they had, the couple would have been referred to an agency that does certify same sex foster homes.

In 2018, another adoption agency complained to a local newspaper that CSS would not certify same sex couples and the newspaper ran an article concerning the position of CSS. This triggered an inquiry by the City of Philadelphia and eventually an investigation by the State of Pennsylvania. The city then decided not to enter into a contract with CSS, for foster care services on the grounds that it violates the city's anti-discrimination policy. CSS

and three affiliated foster agencies filed suit seeking to enjoin the city's referral freeze on the grounds that the city's actions violated the Free Exercise and Free Speech Clauses of the First Amendment.

Constitutional scholars had anticipated that the United States Supreme Court would split 5 to 4 with the conservative members ruling in favor of CSS and the free exercise of religion. To the surprise of many, the Supreme Court rendered a unanimous decision in favor of CSS. The Court held Philadelphia's decision not to enter into a contract with CSS unless CSS agrees to certify same sex households to constitute an unconstitutional violation of the agency's free exercise of religion. Previous cases had held that laws incidentally burdening religion are ordinarily not subject to strict scrutiny under the Free Exercise Clause, so long as they are both neutral and generally applicable.¹ However, the Court held that this case falls outside *Smith* because the city has burdened CSS's religious exercise through policies that do not satisfy the threshold requirement of being neutral and generally applicable.² A law is not generally applicable if it invites the government to consider the particular reasons for a person's conduct by creating a mechanism for individualized exemptions.³ Where such a system of individual exemptions exists, the government may not refuse to extend that system to cases of religious hardship without a compelling reason.

Religious freedom advocates praised the ruling as a huge step forward in the preservation of religious liberties in America. However, as was noted by Justices Samuel Alito, Clarence Thomas, and Neil Gorsuch, in their concurring opinion, the case has limited applications to situations where there is a mechanism of individual exceptions. Hence, the case is not so broad as to overrule the holding of *Smith* that requires a mechanism for individual exemptions to rise to the level of strict scrutiny; and hence, laws that have general and neutral applicability are not addressed by the holding of this Court even if they do burden the free exercise of religion. The concurring justices urged the Court to specifically overrule the *Smith* decision on the grounds that the First Amendment

1 See Employment Div., Dept. of Human Resources of *Ore. v. Smith*, 494 U. S. 872, US 494; 878–882.

2 *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U. S. 520, 531–532.

3 (*Smith*, 494 U. S., at 884.)

continued on page 10

SYSTEMS IN PROGRESS, NOT YET PERFECTED: THE RIGHT TO COUNSEL FOR NONCITIZENS

by Andrea J. Garcia

The test of first-rate intelligence is the ability to hold two opposing ideas in mind at the same time and still retain the ability to function.¹ Psychologists coin it cognitive dissonance: the mental discomfort that results from holding two conflicting beliefs, values, or attitudes. Public defenders may shrug it off as a day at work.

Even counsel for the state of Florida, Bruce Jacob, the man who argued against the right to counsel for indigent defendants, dedicated a large portion of his career after losing *Gideon* to representing indigent defendants and assuring such access to counsel.²

The Fourteenth Amendment through the due process clause and the Sixth Amendment guarantees representation by public defenders for the indigent as a protective measure of equal justice.³ This right to counsel attaches at the initiation of proceedings through all critical stages, including the plea-bargaining stage.⁴ Counsel must be reasonably effective and fall within reasonable professional norms, which includes immigration advice.⁵

The current definition of deportation is not punishment, but more than merely a collateral matter.⁶ Non-citizens are people in the criminal justice system constitutionally guaranteed to stand equal before the law while at the same time “aliens” with virtually no constitutional protections in the immigration system.⁷

People who voluntarily and knowingly choose mandatory immigration penalties after sound advice, cannot lessen state penalties to avoid the double trouble by getting deported faster. In exercise of its broad power over naturalization and immigration, Congress makes rules as to noncitizens that would be unacceptable if applied to citizens.⁸ Noncitizens are not people but aliens.⁹ National security and fear of noncitizens sustain this system.¹⁰

Removal can be a death sentence for some and a relief for others.¹¹ Shaving time off prison in a plea bargain may be a goal for one person. On the other hand, there may be a situation where he might well have elected to have more prison time because it would keep him close to his family, where he would be able to visit his children.¹² Likewise, a misdemeanor under state law may be classified an aggravated felony under immigration law.

Public defenders were historically tasked with representing the indigent in the most severe cases.¹³ Moreover, before *Gideon* or *Padilla*, the Court discussed the limitations of the judge in providing advice to the accused. Defense counsel is the only player in our adversary criminal justice system positioned to

ex rel. Bilokumsky v. Tod, 263 U.S. 149, 157 (1923) (involuntary confessions admissible at deportation hearing).

8 *Demore v. Kim*, 538 U.S. 510, 521 (2003).

9 *Ozawa v. United States*, 260 U.S. 178, 198 (1922) (the Japanese race is not Caucasian, persons of that race born in Japan are not eligible to naturalization and therefore belonged entirely outside the zone on the negative side); *Fong v. United States*, 13 S.Ct. 1016 (1893) (to prove his legal right to be in the U.S., an undocumented Chinese laborer was required to procure at least one credible white witness that he was a resident of the United States).

10 *Harisiades v. United States*, 72 S.Ct. 512 (1952); Memorandum from John D. Tasviña, Principal Legal Advisor, ICE, Off. of the Principal Legal Advisor (OPLA), to All OPLA Att’y’s, Interim Guidance to OPLA Att’y’s Regarding Civil Immigr. Enf’t and Removal Pol’y’s and Priorities (May 27, 2021) (on file with ICE).

11 Melissa Crow, Deportation is a death sentence, and our government’s hands are bloody, Southern Poverty Law Center (Mar. 3, 2020), <https://www.splcenter.org/news/2020/03/03/deportation-death-sentence-and-our-governments-hands-are-bloody>.

12 Justice Roberts stated, “the fact is this is a situation where he might well have elected to have more prison time because it would keep him in --in Tennessee, close to his family, where he would be able to visit his children, where he could even, as I think the judge suggested, have some role in continuing to -to run the restaurant.” Transcript of Oral Argument at 35, *Lee v. United States*, 137 S. Ct. 1958 (2017) (No. 16-327).

13 Transcript of Oral Argument, *Gideon v. Wainwright*, 372 U.S. 335 (1963).

1 F. Scott Fitzgerald, *The Crack-Up: A desolately frank doctrine from one for whom the salt of life has lost its savor*, *Esquire*, Feb. 1936, at 41, 41.

2 Ellen S. Podgor, Bruce Jacob: A Leading Voice in Public Defense, 48 *Stetson L. Rev.* 305 (2011).

3 “Justice Douglas asked “You mean, if a person can’t have a fair trial without a lawyer and this is a problem of federalism, you come down to whether—how a state has a constitutional right to provide a system that perpetuates unfair trials.” Transcript of Oral Argument, *Gideon v. Wainwright*, 372 U.S. 335 (1963).

4 The last clause of the Sixth Amendment upon the states: “[I]n all criminal prosecutions, the accused shall [...] have the Assistance of Counsel for his defense”; *Hamilton v. Alabama*, 82 S. Ct. 157 (1961).

5 *Strickland v. Washington*, 466 U.S. 668, 687-90 (1984); *Padilla v. Kentucky*, 559 U.S. 356, 367 (2010).

6 *Padilla v. Kentucky*, 559 U.S. 356, 367 (2010).

7 *Navia-Duran v. INS*, 568 F. 2d 803, 808 (1977) (the absence of Miranda warnings does not render an otherwise voluntary statement by the respondent inadmissible in a deportation case); *Abel v. United States*, 362 U.S. 217, 236-237 (1960) (search permitted incidental to an arrest pursuant to an administrative warrant issued by the INS); *Galvan v. Press*, 347 U.S. 522, 531 (1954) (ex post facto Clause has no application to deportation); *Carlson v. Landon*, 342 U. S. 524, 544-546 (1952) (Eighth Amendment does not require bail to be granted in certain deportation cases); *United States*

investigate the facts, advise and direct the defense, and participate in those necessary conferences between counsel and accused.¹⁴

Against this backdrop, modern day defense counsel engages in plea bargaining with the prosecution as a strategy, crafting a conviction and sentence that reduces the likelihood of deportation, as by avoiding a conviction for an offense that automatically triggers the removal consequence.¹⁵ A criminal episode may provide the basis for multiple charges, of which only a subset mandate deportation following conviction. Counsel who possess the most rudimentary understanding of the deportation consequences of a particular criminal offense may be able to plea bargain creatively with the prosecutor in order to reach an equitable resolution.¹⁶ At the same time, the threat of deportation may

¹⁴ *Powell v. Alabama*, 53 S. Ct. 55, 61 (1932).

¹⁵ See *Padilla* at 373.

¹⁶ *Id.*

provide the defendant with a powerful incentive to plead guilty to an offense that does not mandate that penalty in exchange for a dismissal of a charge that does.¹⁷

We may be living in the history of what is to come. The Supreme Court may one day deem automatic deportation consequences punishment that results in double jeopardy, a definition rooted in common sense. Yet, until then, public defenders will continue to manage opposing ideas and function within a system in progress, not yet perfected.

Andrea J. Garcia is a fourth generation Kansas Citian, a Riverside County Public Defender, and a certified specialist in Immigration & Nationality Law by the State Bar of California. She was in private practice for 12 years focusing on detention, removal defense and family-based immigration.

¹⁷ *Id.*



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free exercise of religion should require the application of strict scrutiny regardless of whether the law has only a general application and an incidental infringement on the free exercise of religion or whether the law is specifically applicable and has exemptions available on various grounds.

As was stated by Justice Alito in the concurrence in *Human Resources of Ore. v. Smith*, 494 U. S. 872 (1990), the Court abruptly pushed aside nearly 40 years of precedent and held that the First Amendment's Free Exercise Clause tolerates any rule that categorically prohibits or commands specified conduct so long as it does not target religious practice. Even if a rule serves no important purpose and has a devastating effect on religious freedom, the Constitution, according to *Smith*, provides no protection. This severe holding is ripe for reexamination.

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THE EXECUTIVE POWER OF THE PRESIDENT OF THE UNITED STATES

by Charles S. Doskow

Article II of The Constitution of the United States recites: "The executive power shall be vested in a President of the United States." It further names some specific powers: Commander in Chief of the armed forces; grant of reprieves and pardons; appointments, including judges. The president may also negotiate treaties, subject to the consent of the U.S. Senate. And there is an obligation to "Take Care" that the laws be faithfully executed. But the extent of the executive power, as such, is nowhere defined in the Constitution.

Two recent scenarios illustrate the law that may be invoked when executive actions are contested. One continues to add uncertainty to the lives of individuals brought to this country illegally as minors, the Dreamers. The other negated the effort to insert a politically charged question into the 2020 Census. Both involve judicial decisions on separation of powers.

The laws that the president has taken an oath to enforce are those enacted by the legislative branch by a process which requires presidential action, either approval of the enactment or a veto. Constitutional doctrine is clear that lawmaking is the exclusive province of the Congress.

When the president acts on his own, without authorization from Congress and not following a specific mandate of the Constitution, or in derogation of the intent of Congress, issues of the separation of powers arise. The most celebrated case of presidential action being set aside as unauthorized grew out of President Truman's 1947 seizure of the steel companies. The Supreme Court, by a 6-3 vote, ruled that Congress not having authorized such action, the president had no right to act based on Constitutional power alone.

Justice Robert Jackson, concurring in *Youngstown Sheet & Tube v Sawyer*, delineated three levels of presidential power beyond those explicitly given in the Constitution: acting with Congressional authorization, acting when Congress has not acted and lastly, when he is acting contrary to legislative action. That triad has been adopted by the courts as the analytical framework for measuring executive actions.

Enough of the lecture. Let's get down to cases.

In 2012, the Secretary of Homeland Security, part of the executive branch, issued a memorandum creating the Deferred Action for Childhood Arrivals (DACA) program. Upon registration, DACA prevented, for two years, any action to remove children who were brought to the United States unlawfully. It further provided their eligibility for various federal benefits and authorization to work.

There are a lot more details, but those are the basics. Between 700,000 and 800,000 individuals registered under the program to secure its benefits. The Obama administration justified the action by citing Congress' failure to take this popular and humane step.

The legitimacy of this relief for children facing deportation through no action of their own was implicit in the 1982 Supreme Court decision in *Plyler v Doe*. The school board of Tyler, Texas, acting under the authorization of a state statute, imposed a prohibitive tuition charge on the children of parents who had entered the U.S. illegally. The charge was challenged as violative of the equal protection clause of the 14th Amendment.

A five-member majority of the Court invalidated such tuition, holding that the children's undocumented status did not justify the imposition of a cost imposed on no other persons. Such a charge did not meet even rational scrutiny, the lowest level of equal protection review. The four dissenters relied on doctrine which would hold that this group was not a suspect class justifying heightened review. Both opinions opined that education was not a fundamental right.

But, said the majority, it is not "merely some governmental benefit indistinguishable from other forms of social welfare regulation." To deny basic education to these children was to impose a disability on their ability to function in society.

Plyler protected the immigrant children, but only during their minority. When they turned eighteen, they were no longer "Plyler children" but adults who had entered the United States illegally and were therefore subject to deportation. Their exclusion from the United States would have penalized them for actions which were not their responsibility and banished them to a country they never knew. The injustice was and is apparent.

These are the Dreamers, so called because the dream was a legislated pathway to citizenship.

Despite popular support for such legislation, none was adopted. It was left to the executive branch to act.

DACA was adopted by the Obama administration in 2012 against this background and remains in effect. It has faced legal challenges from the start, based on U.S. immigration law, which does not permit the continued presence of persons who have entered the country illegally without a legislative exception. DACA is pure executive action. Republicans have argued that it was an abuse of executive power.

The DACA granted a renewable two-year period deferring deportation and provided eligibility for a work permit. Individuals are required to register and to renew their registration biennially. Felonies or serious misdemeanors are disqualifications. (DACA does not provide a path to citizenship, which was included in the proposed DREAM act.)

Constitutional court challenges to DACA quickly followed. A group of states led by Texas filed suit in the Southern District of Texas, Brownsville Division, a court known to be unsympathetic with immigration. Plaintiffs contended that DACA violated both the Administrative Procedure Act's (APA) notice

and comment requirements, and the executive's duty under the Take Care clause to enforce the law. The Texas court issued a nationwide preliminary injunction barring implementation of DACA, finding that plaintiffs had a likelihood to prevail on the merits. The order was stayed, pending appeals. It remains stayed today.

The Fifth Circuit affirmed the injunction. A 4-4 vote in the Supreme Court (in what is called the *Regents* case) affirmed the injunction in 2016, returning the case to the District Court in Texas, where it has still not been decided.

The election of 2016 was the game changer. The Trump administration wasted no time and in June 2017 the Department of Homeland Security (DHS) simply rescinded the DACA Memorandum, citing the pending case and policy preferences. The litigation shoe thus shifted to the other foot, and three suits were filed contesting the DHS' action in an effort to preserve DACA.

These suits argued that the revocation action was arbitrary and capricious, and thus violated the APA, and the Equal Protection Clause of the 14th Amendment. The Trump administration argued that the administrative action was unreviewable under the APA, because it was "committed to agency discretion." To set the action aside, it had to be found to be "arbitrary and capricious."

All three cases in the lower courts were successful in keeping DACA alive.

The Supreme Court on June 28, 2020, in a 5-4 opinion by Justice Roberts found the DHS actions legally reviewable and then upheld plaintiffs' contention that the administration's action in terminating the program was arbitrary and capricious. (This is referred to as the *Regents* case.)

The Court supported its finding by noting that the government, in terminating DACA, failed to adequately articulate its reasons and failed to consider less drastic alternatives, which might include retaining part of it, or accommodating certain reliance interests. This amounts to a finding that to avoid being arbitrary and capricious, an action must consider the available alternatives.

The case-in-chief attacking the creation of DACA now resides back in the district court which, on August 24, 2020 called for discovery and briefing on both sides pending summary judgment motions. As recently as May 15, 2021, the U.S. Citizenship and Immigration Service, under pressure from a letter signed by 22 members of Congress, agreed to expedite its issuance of travel permits to Dreamers, allowing them to travel abroad without fear of being excluded on their return.

The foregoing history is somewhat compressed but illustrates the standards by which executive actions may be judged. Major programs can become law without legislative input. The DACA program has registered over 700,000 individuals. A decision terminating the program would put them at risk of deportation. That risk itself creates ongoing uncertainty and complicates their lives.

(It should be noted that public opinion shows strong support for DACA across the board. President Trump at one point offered to withdraw his administration's opposition if the Democrats would approve funds for the southern border wall. That proposal went nowhere.)

An earlier case in the Supreme Court illustrates how executive action can be attacked. The Secretary of Commerce proposed to add a question on citizenship to the questionnaire

used in the 2020 census. It was contended by many groups, particularly those advocating the interests of immigrants, that including the question would have an intimidating effect on certain groups of persons, especially "noncitizens and Hispanics." Suit was brought to prevent inclusion of the question—an executive act. The prime argument was that inclusion of the request for information would "depress the response rate."

Lengthy and complex litigation ensued. Ultimately Chief Justice John Roberts wrote for a badly splintered 5-4 Court, ruling that the citizenship question could not be included.

Defenders of the proposal had argued that although there is a presumption of judicial review, certain matters are "committed to agency discretion" and are therefore nonreviewable. And that this was such an action. (The case is *Department of Commerce v. New York*.)

The Chief Justice conceded the point but held that there is a narrow exception when the mental processes of the agency are questioned, and there has been a strong showing of bad faith and improper behavior. The case record disclosed serious inconsistency among the several statements of reasons given at different times for inserting the question. Evidence in the record raised issues of whether these reasons were in fact the Secretary of DHS's motivation for the inclusion. Ultimately, a 5-4 majority of the Supreme Court found that the decision was based on a pretextual rationale and was therefore invalid. That resolved the census issue.

The DACA lawsuit *Texas v U.S.* remains pending.

The DACA litigation may be influenced by two major events. The first is the election of 2020, which replaced the Trump administration with one more hospitable to immigrants. The position of the administration in the case has been reversed.

On his first day in office President Biden ordered his cabinet to "make efforts to preserve DACA."

The other event is the death of Justice Ruth Ginsburg and her succession by Amy Coney Barrett. A 5-4 conservative Court has become a 6-3 Court, which would not need the Chief Justice's vote to enable conservative doctrine.

The administration's support and a deadlocked Congress leave the judiciary as the only branch of government which can immediately threaten the 2012 executive action creating DACA protections. The case filed by the states in 2014 remains pending in the lower courts and could end up in the Supreme Court again. That reconstituted Supreme Court, and the possibility of a Republican win in 2024, remain a potential threat to the Dreamers.

The Supreme Court in *Regents* did not decide the basic question of the legitimacy of the original executive action creating DACA. That remains unresolved.

The Founders created a system of national government with the separation of powers among three coordinate branches of government and a vision of how each would work. Deadlock in Congress and a change of administrations have challenged that system. The immigration and citizenship issues discussed reflect the fundamental division of political opinion in this country. The failure to resolve a simple question of fairness, which *Plyler* correctly resolved, remains a serious ongoing national failure.

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BAIL AND THE NEW *HUMPHREY* CASE

by Al Menaster

On March 25, 2021, the California Supreme Court gutted state's money-based pre-trial release system, holding that "[t]he common practice of conditioning freedom solely on whether an arrestee can afford bail is unconstitutional. (In *re Humphrey* (2021) 11 Cal.5th 135.) Further, it is only "[i]n unusual circumstances [that] the need to protect community safety may conflict with the arrestee's fundamental right to pretrial liberty." (Emphasis added.)

While it's good to hear our Supreme Court confirm that keeping poor people locked up because they're poor is unconstitutional and that pre-trial detention is permitted only in unusual circumstances, what does the holding in *Humphrey* mean, exactly? How can we use this?

There's lots of excellent language in this opinion we can cite to the superior court judge ruling on bail. "While due process does not categorically prohibit the government from ordering pretrial detention, it remains true that [i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." (Citation and internal quotation marks omitted.) "When making any bail determination, a superior court must undertake an individualized consideration of the relevant factors. These factors include the protection of the public as well as the victim, the seriousness of the charged offense, the arrestee's previous criminal record and history of compliance with court orders, and the likelihood that the arrestee will appear at future court proceedings."

It is only "*In unusual circumstances* [that] the need to protect community safety may conflict with the arrestee's fundamental right to pretrial liberty. . . ." (Emphasis added.) The Supreme Court plainly stated that current bail practices undertaken by the courts in the State of California are not constitutional: "*Humphrey* asks whether it is constitutional to incarcerate a defendant solely because he lacks financial resources. We conclude it is not." "What we must therefore conclude is that pretrial detention is subject to state and federal constitutional constraints. Consistent with the aforementioned principles, we hold that such detention is impermissible unless no less restrictive conditions of release can adequately vindicate the state's compelling interests."

The standard is clear and convincing evidence: "Because that provision requires a court to find the specified risk of harm by 'clear and convincing evidence' before detaining an arrestee by denying bail (Cal. Const., art. I, § 12, subs. (b), (c)), we similarly interpret our Constitution to bar a court from causing an arrestee to be detained pretrial based on concerns regarding the safety of the public or the victim, unless the court has first found clear and convincing evidence that no other conditions of release could reasonably protect those interests."

The *Humphrey* opinion can be broken down into three categories. First, when is a release on the defendant's own recognizance required? Second, if the court is permitted to set bail, what must the court consider in setting the amount of bail? Third, when can the court order no bail? That does not mean release without bail, it means preventive detention, no release, no bail. Here's the court's own summary on these issues:

1. In those cases where the arrestee poses little or no risk of flight or harm to others, the court may offer OR release with appropriate conditions. (See Pen. Code, § 1270.) Where the record reflects the risk of flight or a risk to public or victim safety, the court should consider whether nonfinancial conditions of release may reasonably protect the public and the victim or reasonably assure the arrestee's presence at trial. If the court concludes that money bail is reasonably necessary, then the court must consider the individual arrestee's ability to pay, along with the seriousness of the charged offense and the arrestee's criminal record, and - unless there is a valid basis for detention - set bail at a level the arrestee can reasonably afford. And if a court concludes that public or victim safety, or the arrestee's appearance in court, cannot be reasonably assured if the arrestee is released, it may detain the arrestee only if it first finds, by clear and convincing evidence, that no nonfinancial condition of release can reasonably protect those interests.

Let's look at each of these points, one at a time.

A. Release without Bail

The judge cannot require bail at all unless the court finds by clear and convincing evidence that no release condition other than detention can ensure the defendant's appearance and protect the public. "In order to detain an arrestee under those circumstances [no option other than refusing pretrial release can reasonably vindicate the state's compelling interests], a court must first find by clear and convincing evidence that no condition short of detention could suffice and then ensure the detention otherwise complies with statutory and constitutional requirements." "[W]e hold that such detention is impermissible unless no less restrictive conditions of release can adequately vindicate the state's compelling interests."

The court articulates a variety of conditions that can be imposed on an own-recognizance release: "Other conditions of release - such as electronic monitoring, regular check-ins with a pretrial case manager, community housing or shelter, and drug and alcohol treatment - can in many cases protect public and victim safety as well as assure the arrestee's appearance at trial."

Obviously, this is the goal we want for almost all of our clients. Our challenge is to recognize the situations where a judge will resist imposing release without bail, and find a

program or suggest conditions that will obviate the judge imposing bail at all.

B. Setting the Bail Amount

The court repeatedly states that when the judge does set bail, the amount cannot be set to ensure that the defendant remains in custody; it must be set in light of the defendant's ability to post the bail. "What we hold is that where a financial condition is nonetheless necessary, the court must consider the arrestee's ability to pay the stated amount of bail - and may not effectively detain the arrestee 'solely because' the arrestee 'lacked the resources' to post bail." "Humphrey asks whether it is constitutional to incarcerate a defendant solely because he lacks financial resources. We conclude it is not." "Yet if a court does not consider an arrestee's ability to pay, it cannot know whether requiring money bail in a particular amount is likely to operate as the functional equivalent of a pretrial detention order." "When making any bail determination, a superior court must undertake an individualized consideration of the relevant factors. These factors include the protection of the public as well as the victim, the seriousness of the charged offense, the arrestee's previous criminal record and history of compliance with court orders, and the likelihood that the arrestee will appear at future court proceedings." (Citations omitted.)

The "courts must consider an arrestee's ability to pay alongside the efficacy of less restrictive alternatives when setting bail,..." "[W]e similarly interpret our Constitution to bar a court from causing an arrestee to be detained pretrial based on concerns regarding the safety of the public or the victim, unless the court has first found clear and convincing evidence that no other conditions of release could reasonably protect those interests." "[W]e conclude that our Constitution prohibits pretrial detention to combat an arrestee's risk of flight unless the court first finds, based upon clear and convincing evidence, that no condition or conditions of release can reasonably assure the arrestee's appearance in court." (Citations omitted.)

In the real world, your judge is going to be inclined, and the prosecutor may well argue, that the crime is bad and your client is not reliable and so bail should be set in an amount everyone knows that the client can't post. Apart from all the good language in *Humphrey*, this is the core holding: the judge can't set bail to keep the client in jail. The court must determine a bail amount that the defendant can post, and must then set that as the bail amount.

C. No-Bail Detention Orders

The Supreme Court in *Humphrey* expressly says that they are not discussing no-bail detention orders. However, there is language in the opinion that might be seized on by judges to claim that their power to order no-bail detention has been expanded. For example, the court says, "An arrestee may not be held in custody pending trial unless the court has made an individualized determination that (1) the arrestee has the financial ability to pay, but nonetheless failed to pay, the amount of bail the court finds reasonably necessary to protect compelling government interests; or

(2) detention is necessary to protect victim or public safety, or ensure the defendant's appearance, and there is clear and convincing evidence that no less restrictive alternative will reasonably vindicate those interests." (Citations omitted.) Last year the court articulated the limitations on no-bail detention orders. The California Constitution articulates three situations in which bail can be denied;

(a) Capital crimes when the facts are evident or the presumption great;

(b) Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or

(c) Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

(Cal.Const., art. I, sec. 12.)

In *In re White* (2020) 9 Cal.5th 455, the California Supreme Court said, "To deny bail under article I, section 12(b), a court must satisfy itself that the record contains not only evidence of a qualifying offense sufficient to sustain a hypothetical verdict of guilt on appeal, but also clear and convincing evidence establishing a substantial likelihood that the defendant's release would result in great bodily harm to others." (Id., at p. 471.) The facts of *White* were egregious and we have to limit *White* to those facts. The defendant in *White* was charged with kidnapping with intent to commit rape and assault with intent to commit rape of a child. The defendant and a cohort were accused of attacking and attempting to kidnap and rape a 15-year-old-girl, who was a stranger. The defendant allegedly acted as a lookout and drove his cohort away.

I fear that *Humphrey* may be used as a sword to justify no-bail detention orders. These should be extremely rare, not common. Be ready to recite both the Constitution and *White*, along with the language in *Humphrey*, to resist such orders.

The biggest challenge to implementation of *Humphrey* will surely be inertia. Every judge in Los Angeles, and probably most if not all judges in California, who are used to setting bail, relying on the bail schedule (the language above should doom any attempt to claim reliance on any bail schedule), may well see *Humphrey* as permission to start denying bail and release altogether. We will have to educate our bench and insist that *Humphrey* is the law, the Supreme Court said so, and each judge is mandated to implement this law.

Al Menaster is the head deputy for training and appellate law for the Los Angeles County Public Defender's Office, where he has worked since 1973. Al has argued a case to the United States Supreme Court, Fare v. Michael C., and is the co-author of three legal treatises currently being published by Thompson Reuters: The California Evidence Code Annotated, California Trial Objections, and The CALCRIM Companion Handbook.



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THE INLAND EMPIRE IS STILL IN NEED OF ADDITIONAL FEDERAL JUDICIAL RESOURCES TO SERVE THE NEEDS OF OUR COMMUNITY

by Daniel S. Roberts

In the summer of 2018, I took to the pages of this publication to highlight the extreme burden the understaffing of the federal court in Riverside puts on the litigants in the Inland Empire. In the three years since we have received some help from Washington in that regard, but the case numbers reveal that we are still in need of additional judicial resources.

It took a long time (four years since the Honorable Virginia Phillips transferred to the Los Angeles courthouse to assume her position as Chief Judge of the Central District, leaving the Honorable Jesus Bernal as the only district judge here), but in September 2020, President Donald Trump, with the advice and consent of the Senate, appointed the Honorable John W. Holcomb to the Central District of California. Judge Holcomb quickly set up shop in the George E. Brown, Jr. Federal Building and U.S. Courthouse in Riverside and got to work. As I am sure will be outlined further in his profile contained elsewhere in this issue, Judge Holcomb is a fantastic addition to our local federal court bench.

Judge Holcomb's appointment to fill the long-vacant second district judge seat in Riverside has gone a long way to address the extreme problem of a shortage of district judges in the Inland Empire, but it has not solved the problem entirely. Even now with two district judges here, there are still far more cases filed in the Eastern Division of the Central District (covering all of Riverside and San Bernardino counties) than can equitably be heard here, and we continue to rely on help from judges in Los Angeles and Santa Ana to hear our federal cases.

To illustrate, prior to Judge Holcomb's appointment last fall, roughly two-thirds of the federal civil cases that should have been heard in Riverside were instead randomly transferred to judges in the other divisions pursuant to the Court's blackout-date procedure. Judge Holcomb's September 2020 appointment helped the situation, but solved only about half of that problem. From October 1 through December 31, 2020, 27% of the civil cases filed in the Eastern Division still had to be reassigned to judges in Los Angeles or Santa Ana.¹ This was to be expected, as it does not take a math wizard to calculate that if one District Judge can fairly handle about one-third of the cases filed in our Division (resulting in the other two-thirds being reassigned out of Division), then two District Judges can fairly handle about two-thirds of the cases, still leaving roughly one-third to be reassigned. The actual numbers only confirm this.²

Thus, while less cases now face the burdens of reassignment, the consequences remain for the litigants in approximately one-third of the civil cases (as well as criminal cases once the grand jury resumes full operations) that should be heard in Riverside,

but cannot. Travel to Los Angeles or Santa Ana for hearings (likely to increase with the reopening of the court and the resulting reduction in Zoom hearings) presents a substantial increase in costs for Inland Empire litigants over what would be incurred if the case could be heard in Riverside. The burden is even higher when it comes time for trial, as not only do counsel, parties, and witnesses face even greater travel (or lodging) expenses over multiple days, but Inland Empire parties also face trial by juries drawn from outside their own community.

As a community, we should continue to be thankful for the extraordinary efforts of the judges in Los Angeles and Santa Ana in their hard work and devotion to helping resolve our cases much faster than would be possible but for their help. The best solution for everyone – the judges and the parties in all areas of the Central District – would be to have sufficient federal judicial resources in the Inland Empire, so that cases do not have to be reassigned across divisions, however.

The problems caused by reassignment will only get worse if we in the Inland Empire do not continue to speak up for our needs, so that at least one of the remaining vacancies on the Central District bench is filled by a judge committed to sit in Riverside. There are presently still six vacancies on the Central District bench, with a seventh to come in February 2022, when Judge Virginia Phillips is scheduled to take Senior Status. Cases are reassigned between divisions to keep the overall number of cases among judges relatively equal district wide. With the number of existing vacancies, the total number of cases per judge is extraordinarily high for all judges.

Once those vacancies are filled, however, that number will decline for all judges, including ours in Riverside. If all seven current and expected vacancies are filled in Los Angeles and Santa Ana, and we still only have our two district judges, the number of cases to be heard in Riverside (two times the average number of cases per judge) will decline relative to the number of cases assigned to the other divisions. The result will be a higher percentage of Inland Empire cases being reassigned to judges in Los Angeles or Santa Ana. It is therefore imperative that the Inland Empire promote qualified applicants for appointment to the federal bench from our community who are committed to serve in our community.

Of course success on this front – appointment of another district judge desiring to sit in Riverside – only begs the question of where she or he will actually sit once appointed. Presently, there are only four courtrooms in the George E. Brown, Jr. Federal Building and U.S. Courthouse in Riverside, occupied by a total of five judges (with our three Magistrate Judges sharing two courtrooms). Physical space needs will be a nice problem to have, however, once we secure another district judge (and in fact are already being worked on within the administrative machinery of the federal courts). For now, the case is clear for another district judge to serve the Inland Empire.

Dan Roberts is the managing partner of Cota Cole & Huber LLP's Southern California office in Ontario and is a current member of the board of directors and past president of the Inland Empire Chapter of the Federal Bar Association.



1 There were no criminal cases reassigned in the fourth quarter of 2020, but this was due to a massive reduction in case filings, not the increased capacity to hear them. Due to COVID-19, grand jury proceedings were suspended from December 9 through the end of 2020. This resulted in a nearly 50% drop in criminal filings in the fourth quarter.

2 I would especially like to thank the Clerk's office for their assistance in providing the case-filing data for the periods before and after Judge Holcomb's appointment. Without their assistance, this article would not have been possible.

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SISTERS-IN-LAW: RCBA AND FBA

by Krystal N. Lyons

If you are reading this magazine, then you are probably a member of the Riverside County Bar Association (RCBA), or you are at least familiar with RCBA. (If you are not a member, you should join ASAP!) You may not, however, be as familiar with one of RCBA's sisters in law, the Federal Bar Association of the Inland Empire (FBA/IE). Since its founding over 20 years ago, the FBA/IE has served as the principal voluntary bar association for attorneys who practice and judges who sit in the Inland Empire's federal court.

The Inland Empire's federal court in downtown Riverside, named the George E. Brown, Jr. Federal Building and United States Courthouse, is part of the U.S. District Court for the Central District of California, which is based in downtown Los Angeles. Collectively, the courts in the Central District serve over seventeen million people across seven counties, making it the largest federal judicial district by population. The federal courthouse in downtown Riverside covers both Riverside and San Bernardino counties, which together make up the Central District's "Eastern Division." The Eastern Division court is small, but mighty, housing a total of nine federal judges, including two U.S. District Judges (the Honorable Jesus G. Bernal and the Honorable John W. Holcomb¹), three U.S. Magistrate Judges, and four U.S. Bankruptcy Judges, who serve over 4.5 million residents in Riverside and San Bernardino counties.

Like the Eastern Division, the FBA/IE is also compact, but we offer robust, diverse social networking events like our annual Judges' Night Dinner, where we honor the judges in the Central District, or the annual Constitutional Law Forum, where Dean Erwin Chemerinsky provides a concise, entertaining summary of important U.S. Supreme Court cases decided in the past year and his predictions for the coming year. The FBA/IE also hosts opportunities for attorneys to meet newly appointed judges. This year, we partnered with the Los Angeles and Orange County FBA chapters to co-host a virtual event where attorneys could meet the four newest judges appointed to the Central District.

A common misconception is that membership in the FBA/IE is only valuable for attorneys who routinely practice in the federal courts. I can personally confirm that this is not true! When I joined the FBA/IE, I was an administrator at La Verne College of Law and was not actively practicing law. I presently serve as general counsel for the San Bernardino County Superior Court

where I implement federal laws, but I still do not practice in the federal courts. Despite not being a practitioner in the federal courts, I have developed meaningful personal and professional relationships through FBA/IE events and I have enhanced my legal knowledge and skills through CLE events such as the Constitutional Law Forum, Ethics, Mentoring, and Supervision In the "Me Too" Era, and a legal writing seminar conducted by Magistrate Judge Jean P. Rosenbluth.

The FBA/IE also sponsors and supports community engagement through the RCBA Elves program, participation in local high school Career Day fairs, and other programs that offer volunteer and pro bono opportunities. In 2019, our chapter hosted a Pro Bono and Public Interest Showcase where attendees could learn about local public interest agencies and how they could support them. Before the pandemic, our chapter also hosted a few social happy hour networking events each year where attorneys, law students, and law clerks could mix and mingle. Now that physical distance requirements have been lifted, we hope to host one of these networking events this year.

I invite you to join the FBA/IE. Please visit fedbar.org/membership/join/ to learn more about the benefits of membership. Regardless of whether you routinely practice in the federal courts, or if, like me, your practice primarily involves state law, I am confident that you will enhance both your personal and professional development. Our chapter offers all of the fantastic opportunities described above as well as leadership opportunities for those who are interested in a broader range of service to the legal community. Our next event is the Constitutional Law Forum with Dean Chemerinsky. This informative event, which will take place virtually on July 29, at noon, will provide you with the unique experience of being entertained while obtaining CLE credits. Our sister-in-law, RCBA, will share registration information when it becomes available. You definitely do not want to miss this event!

Krystal N. Lyons is the general counsel and director of legal services for the Superior Court of California, County of San Bernardino, and current president of the Federal Bar Association, Inland Empire Chapter. The views expressed in this article do not necessarily represent the views of the San Bernardino County Superior Court or the Judicial Council of California.



¹ See judicial profile of the Honorable John W. Holcomb on page 23 of this issue.



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JUDICIAL PROFILE: UNITED STATES DISTRICT COURT JUDGE JOHN HOLCOMB

by Betty Fracisco

The United States District Court, Central District of California, Eastern Division in Riverside welcomed a new judge during the pandemic: John Holcomb, who received his judicial commission on September 18, 2020. As you will see, Riverside now has a judge for all seasons.

Judge John Holcomb grew up in northwest Pennsylvania, the third of four children in a blue-collar family. By the time he completed high school, he knew he wanted to be an engineer, and he was fortunate to be awarded a Navy ROTC scholarship to attend MIT. While at MIT, he became the commanding officer of the 150 NROTC battalion, played football for two years, and was active in his fraternity. After graduating

with a degree in Civil Engineering in 1984, he attended the U.S. Navy Surface Officer School in Coronado, after which he served a three-year tour on the battleship USS New Jersey, based in Long Beach. During this time, he met his wife Monica at the wedding of a friend, and in a well-planned adventure in 1987, they married so they could move together to his new duty station in Washington DC, where he served as a naval analyst for the Joint Chiefs of Staff at the Pentagon. After five exemplary years and many commendations, it was a “tough decision” to leave the Navy.

In 1989, Judge Holcomb entered Harvard Business School, supported by wife Monica who was a flight attendant. After a few months, he also entered Harvard Law School where he participated in their joint program. He was the editor of the *Harvard Journal of Law and Technology* and was also the research assistant to Senator Elizabeth Warren, who had not yet been elected to the United States Senate and was a visiting professor at the time.¹

In 1993, Judge Holcomb graduated from Harvard cum laude with a law degree and an MBA. Senator Warren recommended him for a clerkship with the Honorable Ronald Barriant of the United States Bankruptcy Court for the Northern District of Illinois. Before he started his clerkship, Judge Holcomb worked as a summer associate for Kirkland & Ellis in Chicago while he studied for the Illinois State Bar. After the clerkship, he sat for the Pennsylvania State Bar in February 1994, thinking that he would practice in his home state. However, his wife wanted to return to her home in California, so he had the pleasure of taking the California State Bar exam in July 1994. Following the bar exam, he accepted an associate position with Irell & Manella in Los Angeles/Newport Beach, where he had worked while in law school. He started with a general civil litigation practice,



Hon. John Holcomb

but in time moved into a primarily bankruptcy practice.

In 1997, Judge Holcomb joined Knobbe, Martens, Olson & Bear in Newport Beach as an associate and litigated intellectual property cases for both plaintiffs and defendants, including patent, copyright, trademark, and trade secret matters. Based on his bankruptcy experience, he also consulted with the partners on bankruptcy, secured transactions, and commercial law issues. He made partner in 2002, and shortly thereafter became the litigation partner at their new Riverside office, to serve this growth area. He became active in the Inland Empire Chapter of the Federal Bar Association, holding every officer position,

including president and serving as a speaker, panelist, or presenter on numerous occasions. He was also active in the RCBA, chairing both the Civil Litigation and Business Law Sections and even writing a couple articles for the *Riverside Lawyer* magazine. In 2012, Knobbe Martens closed their Riverside office, so he returned to litigate in their new Irvine office. After 21 years, he retired from Knobbe Martens in late 2018.

Somehow retiring from a challenging career with a prestigious firm seemed out of character, but Judge Holcomb explained he had already submitted his judicial application and he had been anticipating an appointment as general counsel to a pharmaceutical company (which had been postponed). So, he did something he had probably never foreseen in his future: in January 2019 he became a sole practitioner in Rancho Santa Margarita, near his home.

Judge Holcomb's practice consisted primarily of drafting contracts and providing advice regarding intellectual property issues, although he conducted a mediation as a panel member of the Alternative Dispute Resolution Program for the U.S. District Court, Central District of California. By September 2019, he had returned to his traditional role as law firm partner, litigating intellectual property cases for Greenberg Gross, which he found to be great fun, doing all litigation with close friends who were terrific trial attorneys. But as he was litigating, the wheels were churning on his becoming a judge, a goal he had set when he started law school.

On September 20, 2019, President Donald Trump announced his intent to nominate Holcomb to serve as a U.S. District Judge of the U.S. District Court for the Central District of California. On June 17, 2020, a hearing on his nomination was held before the Senate Judiciary Committee. On September 15, 2020, his nomination was confirmed by a vote of 83-12. He received his judicial commission on September 18, 2020.

So how does a man who has succeeded in everything he's ever attempted, won innumerable awards and honors, served his profession and many legal organizations, feel about being a

¹ Senator Elizabeth Warren was first elected to serve in the United States Senate on November 6, 2012, by the people of Massachusetts, and was reelected to a second term on November 6, 2018 (<https://www.warren.senate.gov/about/about-elizabeth6>).

judge? In Judge Holcomb's words, "It's the best job ever!" He's working harder, but sleeping better. There is the stress of trying to get it right in a timely manner, but it's satisfying stress. He has just finished the first bench trial of his career as a judge and it was such a great experience for him to listen to, absorb, and enjoy the advocacy and skill of counsel who appeared in his court.

As you have seen, Judge John Holcomb is a multi-faceted individual. During his considerable legal career, he has remained true to his roots, serving in alumni clubs of both Harvard and MIT and in two engineering honor societies, and he has been an elder in his church since 2012. The most significant aspect of his life, other than his legal career, is his family. Judge Holcomb and his wife, Monica (30 plus years), are the proud parents of four high achieving children. The oldest son is an Army doctor in Hawaii, the second a Navy fighter pilot who followed his Dad's path through MIT and Navy ROTC, the third and only daughter is a registered dietician who just received her master's from the University of Michigan, and the fourth a recent graduate of Boston College in computer science management who is headed to the Army's Cyber Warfare Branch by way of Army ROTC.

Judge Holcomb spent ten years practicing in Riverside with Knobbe Martens and had many cases in the George E. Brown, Jr. Federal Courthouse. He has been active in the Riverside legal community and can count many Riverside lawyers as friends. Riverside is lucky to have a new judicial officer with such great credentials and a long history of service. All we can say is "Welcome back, Judge Holcomb!"

Betty Fracisco is an attorney at Garrett & Jensen in Riverside and a member of the RCBA Publications Committee.



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NOTICE

Notice is hereby given that the RCBA Board of Directors has scheduled a "business meeting" to allow members an opportunity to address the proposed budget for 2022. The budget will be available after August 6. If you would like a copy of the budget, please go to the members section of the RCBA website, which is located at riversidecountybar.com or a copy will be available at the RCBA office.

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CIVIL RIGHTS INSTITUTE OF INLAND SOUTHERN CALIFORNIA

by Neil Okazaki

Downtown Riverside is constantly evolving and it is now home to a brand new four-story central library with panoramic views, vibrant colors, and an outdoor terrace to enjoy a good book. But the new library will have a new next-door neighbor in 2022. The Civil Rights Institute of Inland Southern California has broken ground and will include a museum that will display exhibits and artifacts about remarkable people that have advanced civil rights in the Inland Empire. Outside the building along Mission Inn Avenue will be a walk of fame style set of pavers honoring those civil rights pioneers. That paver walk is envisioned to one day lead all the way to the historic courthouse.

The Civil Rights Institute's list of honorees will include several people from the Riverside County legal community who have positively impacted civil rights:

- John W. North, a founder of Riverside in 1870, was an abolitionist who sought to build a city of equal opportunity.
- Arthur L. Littleworth, senior partner at Best Best & Krieger, led the Riverside Unified School District to be the first in the nation to integrate its schools without a court order.
- Justice Richard T. Fields became the first African-American jurist in the history of Riverside County.
- Carolyn Confer, as assistant city attorney of the City of Riverside, defended a lawsuit that sought to force the City to put a discriminatory measure against gays and persons with AIDS on the ballot.
- United States District Judge Virginia A. Phillips granted an immediate worldwide injunction prohibiting the Department of Defense from enforcing the "Don't Ask Don't Tell" policy.

Other nominees include Santos Manuel, Eliza Tibbets, Dosan Ahn Chang Ho, Jukichi and Ken Harada, Rupert Costo, Mine Okubo, Jack Clarke, Sr., Barnett and Jean Grier, Dalip Singh Saund, Lulamae Clemons, César Chávez, John Sotelo, Robert Bland, Edna Milan, Tim Hays, Tomàs Rivera, Richard Milanovich, Kay Berryhill Smith, and Juan Felipe Herrera.

When I think about the great civil rights achievements in our local history, many people and events come to mind. To share a few... Eliza Tibbets, a founder of Riverside best known for planting Riverside's parent navel orange tree, was a leading suffragist, marching with Frederick Douglass to Washington in 1871. In the case of Jukichi Harada, a Japanese immigrant who bought a home in his children's names, Riverside Superior Court Judge Hugh Craig ruled that American born children of immigrant parents were entitled all the constitutional guarantees of citizenship under the 14th Amendment. Jack Clarke, Sr. was the first elected African American elected to the Riverside County Office of Education and Riverside City Council, paving the way for other people of color to serve as elected officials. Art Littleworth held together a city in crisis after the burning of Lowell School and led the Riverside Unified School District into voluntarily integrating its public schools in the mid-1960s.

But this will be more than just a museum. The Civil Rights Institute will be a centerpiece for community discussions on

how to better our community. Rose Mayes, the Institute's vice president, has expressed her excitement about the RCBA being a part of those greater community discussions. She serves on the Institute's board with many other important local leaders including former Mayor Ronald Loveridge and former RCBA President Jane Carney.

As this month's *Riverside Lawyer* focuses on constitutional law, it is timely to remember our organization's commitment to ensuring equal justice for all through the rule of law while remembering the lasting contributions of diverse membership. The legal community has a vital role to play in ensuring a more perfect union. Our Constitution is a legal document and 32 of our framers were lawyers. Today, we all still play a vital role in protecting the constitutional rights of all and striving to increase access to justice.

To forward that aim of justice and equality, the Board of Directors of the Riverside County Bar Association and the Riverside County Bar Foundation have announced that 100% of the proceeds from a silent and live auction at this year's installation dinner on September 23, 2021 (SAVE THE DATE!) will be donated to the Civil Rights Institute of Inland Southern California. This will be a fun and exciting evening where we can safely meet and interact in person while supporting a good cause. We have set a goal of raising \$10,000 for this important endeavor.

The success of the auction is dependent on the generosity of our members and friends. We can only reach our goals with your support. If you would like to donate an item or experience to our 501(c)(3) charity foundation for the silent auction, please contact our Executive Director Charlene Nelson at charlene@riversidecountybar.com or (951) 682-1015, with information on the donation and its estimated value to inform starting bids. Also, if you are able to put us in touch with any businesses that would support this worthy effort, please contact Charlene. Any item or experience – big or small – would be most appreciated and help us support a worthy cause. We need your help.

The auction promises to be a fun night. I hope to see you on the evening of September 23, 2021, at the RCBA installation and charity auction.

Neil Okazaki is an assistant city attorney for the City of Riverside and the RCBA incoming president.



Rendering of Civil Rights Institute

RCBA-RIVERSIDE SUPERIOR COURT-ABOTA NEW ATTORNEY ACADEMY

by Robyn A. Lewis

The Riverside County Bar Association, the Riverside Superior Court and the American Board of Trial Advocates of the Inland Empire (ABOTA) are pleased to announce that the New Attorney Academy will begin on an in-person basis and is currently accepting applications for its eighth year.

The purpose of the New Attorney Academy (hereafter “the Academy”) is to provide professional guidance and counsel to assist newly admitted attorneys in acquiring the practical skills, judgment and professional values necessary to practice law in a highly competent manner and to encourage sensitivity to ethical and professional values that represent the traditions and standards of the Inland Empire legal community.

Specifically, the Academy is made up of a series of classes, which take place once a month. The curriculum is taught by judges and noted attorneys in the community, many of whom are ABOTA members. Topics to be taught include, but are not limited to, an introduction to the legal community, a practical and intensive primer on depositions and discovery, including expert depositions, an introduction to practicing in court (court appearances, legal writing and research, pet peeves of the bench, etc.), transition into practice (dealing with clients, how to successfully participate in ADR, relations with other attorneys, case management, etc.), an introduction to appellate law and an

introduction to law practice management. The emphasis of these classes are for a civil practitioner although anyone who has an interest in participating in the program is invited to apply.

At every session, the class attends the monthly RCBA General Membership meeting for that month so as to promote membership in that organization and to allow for class members to participate in their legal community. The only cost for attending the Academy is for the lunches provided at the RCBA General Membership meetings. Applicants must be under five years of practice or awaiting their bar results and must be a member of the RCBA.

Due to COVID-19 pandemic, the New Attorney Academy class of 2019-2020 was not able to complete the program and qualify for graduation. Any members of that class that wish to audit any of this year’s classes and complete the course are welcome to do so. Please contact Charlene Nelson or Robyn Lewis if you are a member of that class and are interested in participating in the upcoming 2021-2022 New Attorney Academy program.

If you are interested in applying for the 2021-2022 program, please contact Charlene Nelson at the Riverside County Bar Association at 951.682.1015 or contact Robyn Lewis at robynlewis@jlewislaw.com for further information.

“Lawyers in the Library”

A Call for Volunteers

The Riverside County Law Library (RCLL), in partnership with the Riverside County Library System (RCLS) through a grant, Project Connect NOW!, is seeking volunteer attorneys to participate in a “Lawyers in the Library” program. This program will start in September and continue through June 2022 and will be held at the following library branches: Louis Robidoux, Sun City, Perris, and Home Gardens. Volunteers are needed to dedicate two hours per week providing free 20-minute legal consultations via Zoom.

The goal of Project Connect NOW! is to offer services outside the typical library services that RCLS delivers to meet the needs of marginalized and underserved populations. RCLS is partnering with RCLL to assemble a team of 2 – 4 attorneys, with 2 alternates to serve as back-up. Time commitments can be broken down to 3-month increments.

If you are interested and/or have questions, contact Jenna Pontious at jenna.pontious@rclawlibrary.org or call 951-368-0365.

SAVE THE DATE RCBA Blood Drive

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CA PI 23796

OPPOSING COUNSEL: ANGELA VIRAMONTES

by Goushia Farook

Growing up, my grandmother used to tell me if you want to get to know someone share a meal with them and take the time to listen. I have cherished this advice and had the privilege of sitting down over a meal with Angela Viramontes and learning what an inspiring woman she is.

Angela is the Branch Chief of the Eastern Division of the Federal Public Defender's Office for the Central District of California (FPDCDCA). She has served as a deputy in this office for eleven years. She is married and has two children. Angela grew up in the Bay Area and moved to Southern California after meeting her husband. Angela has one sister who works in public health. As a child, she was a member of 4-H and while she has no time for it now, she knows how to knit and crochet. She has two dogs, a Pitbull/Doxie mix and an Alaskan Malamute. Angela certainly has her hands full between being a fierce litigator, mother, wife, and dog mom!

Angela attended U.C. Berkeley Law School and graduated in 2002. During law school, Angela believed she wanted to practice as an international human rights attorney. At that time, she did not know she would ultimately become a criminal defense attorney. After law school, Angela worked as an associate attorney at a law firm in San Francisco practicing general civil litigation. She then met her husband and moved to Southern California where she worked for the Center for Human Rights and Constitutional Law, a non-profit organization. There, Angela assisted clients with immigration law issues. She enjoyed immigration law because it was satisfying to get immediate results for clients after filing petitions to assist them. Angela then transitioned into private practice where she practiced employment law for two years and then returned to her non-profit work.

At this time, Angela was ready for change, and she knew she wanted more courtroom experience. Her work experience exposed her to children and families who were part of the criminal justice system and she found that some of her clients' loved ones did not belong in the criminal system. This sparked an interest in helping her clients and finding out what she could do to help.

Angela applied for the FPDCDCA and she knew from the initial interview this was the right fit for her. She learned more about the work and was excited when she was offered a position. The Riverside office was appealing to her because of the small legal community we have. Angela's office covers the San Bernardino and Riverside counties.

The FPDCDCA handles a variety of cases including drug distribution cases, felony firearm possession charges, illegal reentry, and fraud. New members of the office start by handling illegal reentry and felony possession of firearm cases. The complexity of cases increases as time passes.

Angela's current cases range between mail theft to murder. She also represents individuals charged with misdemeanors that occur on military bases. Angela's favorite type of cases to handle are drug cases because they involve physical evidence and she can engage in motion practice litigation, all while helping her sympathetic clients.

Angela's average active case load is twenty cases at any given time and the average time for one case is six months to one year. Angela explained that the pace of federal cases is generally slower because it takes longer to resolve a case due to sentences in federal court being high. Angela works between eight to ten hours a day and will work in the evenings after the kids are asleep. Her work allows her to travel out of state depending on which prison the client is housed in. Angela successfully represented a Guantanamo client and traveled there four times in one year and assisted her client in being released.

Angela enjoys being a trial lawyer and her favorite part of trial is opening and closing statements because she enjoys the storytelling aspect. Angela described how in federal court there is a lot of written work including written motion in limine and written motions to suppress. The FPDCDCA helped Angela meet her goal of learning more about being in a courtroom, from direct examination to cross examination. However, and most importantly, the most rewarding aspect of her job is when her clients are happy with the results of the case. Her clients are what she enjoys the most about her job.

Angela spoke highly of the Riverside office. She particularly enjoys how the attorneys at the office mentor newer attorneys. She indicated that while there is a structured mentor program at the Los Angeles office, the Riverside office has a natural mentorship element due to how helpful the attorneys are to each other. Angela extended her appreciation of the Riverside County Department of Public Health for prioritizing her office in receiving vaccines. This allowed the office to move cases forward in an efficient manner. Angela spoke highly of the federal bench. She likes that we have a diverse group of federal judges on the bench. She finds them all to be very fair, committed, and incredibly intelligent.

No conversation is complete without asking how work was impacted by COVID-19. Angela described the adaptation that was needed as things slowed down. For a period of time, she was able to go visit clients at the jail due to not knowing the number of inmates impacted by COVID-19 and what precautions were being taken. This presented a challenge in being able to build a rapport with clients as speaking to them on the phone did not lend to building trust and being able to speak to them frequently. Angela complimented the courts in handling the transition to virtual hearings. While a substantial backlog has been created due to no trials taking place in over a year, trials commenced in-person as of June 2021.

Angela is clearly a busy woman who is dedicated to her profession, but she is not all work. She is a first-year member of the Leo A. Deegan Inn of Court, and I had the privilege of having Angela on my team last year. She joined the Inn because she wanted to meet likeminded attorneys who promote the legal culture in Riverside.

She enjoys traveling and her favorite place she has visited is the Namib Desert where she traveled to in 1999. She found the Namib Desert to be absolutely beautiful due to the contrast between the red desert and the bright blue

sky. Her top bucket list destination is to visit Antarctica because of the wildness of it! She enjoys watching movies with her children. Her favorite food is Mexican food and while she does not consider herself a foodie, she is open to trying different types of food. Unless it is asparagus, which she absolutely hates because she ate too much of it as a child and as an adult, she can make her own choices!

I am certainly glad that Angela made the choice of practicing in Riverside and being a part of our community. I learned a great deal from her, but my biggest takeaway from the interview is that she is a great litigator and has mastered the art of balancing work and life.

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@brfamilylaw.com



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

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Shannon A. Popovich – Law Student, Lake Elsinore

Samantha K. Pruett – Holstrom Block & Parke APLC, Corona

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