

RIVERSIDE LAWYER

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MAGAZINE



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The Official Publication of the Riverside County Bar Association

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MAY 20-21 | SEMINAR

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RIVERSIDE LAWYER

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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

April

11 Civil Litigation Roundtable with

Hon. Craig Riemer

Noon - Zoom

MCLE

12 Civil Litigation Section

Noon - Zoom

Speaker: Doug Smith

Topic: "35 Years in the Trenches - What They Don't Teach You in Law School"

MCLE

15 General Membership Meeting

Noon - Zoom and In-Person

Speakers: Terry Fillman R.N., M.B.A., C.C.H.P. Joseph Jones, Private Investigator and Michael Wakshull, Forensic Document Examiner

Topic: "What Your Expert Wishes You Would Have Done -

A Guide to the Do's and Don'ts from the Expert's Perspective"

MCLE

21, 22, 28, 29, 30

RCBA Dispute Resolution Service

Mediation Continuing Education Training

8:00 am - 5:00 pm

RCBA Gabbert Gallery

Speakers: Straus Institute for Dispute Resolution,

Pepperdine University Caruso School of Law

Peter Robinson, Stephanie Blondell, Darryl

Darden, Denise Madigan, Sukhsimran

Singh, Honorable Mitch Goldbert (Ret.)

For more information contact

951.682.2132

or drs@riversidecountybar.com

26 Juvenile Law Section

12:15 - Zoom

Joint Meeting with the Public Defender's Office

Speakers: Karen Prosek and Susan McPhee

Topic: "Minor's Counsel's Role in Dependency Proceedings"

MCLE

EVENTS SUBJECT TO CHANGE.

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





President's Message

by Neil Okazaki

“April hath put a spirit of youth in everything.” — William Shakespeare (Sonnet XCVIII)

One of the most famous historical figures to be born in April was William Shakespeare. He was born in Stratford-upon-Avon, England in April of 1564. It seems appropriate to recognize him in a publication since he is considered by many to be the greatest writer of all time. He is the world's best-selling playwright with over four billion copies of his plays and poetry having been sold.

Much is made about one of his characters stating “Let's kill all the lawyers.” That is sometimes used as a way of saying that Shakespeare did not like lawyers. But this line has been misinterpreted and should, in fact, be taken as a compliment to the attorneys who do good work. The line is spoken by Dick the Butcher, a follower of anarchist Jack Cade, who sought to overthrow the government. In *Walters v. Nat'l Ass'n of Radiation Survivors*, Supreme Court Justice John Paul Stevens pointed out that it was made by “a rebel, not a friend of liberty.”¹ Justice Stevens concluded “as a careful reading of that text will reveal, Shakespeare insightfully realized that disposing of lawyers is a step in the direction of a totalitarian form of government.”²

Perhaps the good work we do matters more because of the world we live in today. Our clients need us more than ever because of the pandemic. Many are working more to help clients navigate the uncharted legal waters brought upon by COVID-19.

At the same time, we need to look out for ourselves. The 2021 ABA Profile of the Legal Profession is a 140-page compilation of sta-

tistics and trends involving the legal profession.³ This report has some eye-opening information:

- One-third of lawyers ages 62 and older changed their retirement plans because of the pandemic.
- Three times as many female lawyers took on additional child-care responsibilities during the pandemic as male lawyers. And that likely explains why more women than men reported experiencing stress about work during the pandemic (52% vs. 34%) and feeling overwhelmed (60% vs. 38%).
- A majority of law firms reported that they worried more about pay cuts than they did the year before. Many also worried about layoffs and furloughs.

I am pleased that the RCBA provides many programs to provide a good balance between the challenges in the practice of law and demands of one's personal life. As an organization, the RCBA is much more than a MCLE provider. We do work that improves our profession and impacts of community. Each year, the Douglas E. Weathers Memorial Scholarship Fund provides scholarships to outstanding students who participate in the annual Riverside County Mock Trial Competition. This year, we honored the following superlative students who excelled in the competition:

- Outstanding Defense Pretrial Motion Attorney: Erika Salcedo, Murrieta Valley High School
- Outstanding Prosecution Pretrial Motion Attorney: James Fagan, Riverside Poly High School
- Outstanding Prosecution Attorney: Noah Gilman-Morgan, John W. North High School
- Outstanding Defense Attorney: Estera Boca, Riverside Poly High School

This memorial scholarship fund is only possible due to the generosity of our members. This scholarship program not only helps deserving high school students (and possibly future attorneys) but also ensures that Judge Weathers' legacy of professionalism and civility will continue forever. Judge Weathers was one of



Theresa Weathers and Judge Douglas Weathers

the kindest attorneys and judges that I have ever known. He related to everyone and knew how to make people feel special. We are all better off from his service to our legal community. If you can help fund this scholarship program, please consider contributing. Any amount – however large or small – makes a difference. The RCBA accepts donations by mail (please designate “Judge Weathers Scholarship Fund on the memo line of the check”) or online on our website.

Neil Okazaki is an assistant city attorney for the City of Riverside.



1 *Walters v. Nat'l Ass'n of Radiation Survivors*, 473 U.S. 305, 371 n. 24 (1985) (J. Stevens dissenting).
 2 *Id.*

3 Found online at https://www.americanbar.org/news/reporter_resources/profile-of-profession.

BARRISTERS PRESIDENT'S MESSAGE

by Michael Ortiz



Another successful Barristers Disney Day in the books!

On Sunday, March 13, the RCBA Barristers had our second Barristers Disney Day. What began in 2020 just weeks before the Covid-19 pandemic, we continued two years later with a day filled with fun, excitement, and friendship at the happiest place on earth. See

some photos of our trip, below.



We want you!

... to serve your fellow Barristers by joining the Barristers Board of Officers! As a Barristers officer, you have the opportunity to create lasting impacts on fellow new and young lawyers. I will attest that the first Barristers event I attended positively changed my life and experience as a lawyer. Now, I continue to gain joy and fulfillment from my involvement with this organization.

Nomination applications will open in May and elections will be held in June. To be eligible you must be a dues paying RCBA member and either be under 37 years of age or have



been licensed for 7 years or less. In addition, to run for nomination and to vote in the election you must have attended at least 2 Barristers events in the previous 12 months.

If you have any questions about elections, email me at Mike@MikeOrtizLaw.com. Keep an eye out for future announcements.

Upcoming Barristers Events:

The best way to stay up to date on future Barristers events is by following our Instagram and Facebook accounts.

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

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

Finally, I am always available to answer questions, provide help, and generally be a resource to fellow Barristers (and non-Barristers). Email me with questions about the Barristers, future events, sponsorships, collaborations, or even if you just need someone to talk to. Serving on the Barristers Board means serving all of you. You can also email the Barristers Gmail account at RCBABarristers@gmail.com. I hope to meet you all at future events.

Michael Ortiz practices estate planning and administration at Ortiz Law. email: Mike@MikeOrtizLaw.com



AN UNEXPECTED OPPORTUNITY TAKES ME ON AN INCREDIBLE LIFE JOURNEY

by Lyssandra Erwin

I am a non-attorney and my role with Project Graduate is as an educational rights holder and mentor for each foster youth assigned to me.

My journey with Project Graduate began in 2015. My attorney-friend and mentor approached me and a fellow colleague with an unexpected opportunity and suggested we look into a volunteering opportunity with an organization that would be “right up my alley.” After doing some research and having numerous conversations with my ride or die colleague, I figured, why not? Let’s add one more thing to my plate because working full time as a paralegal in family law, being a full-time mom to two beautiful daughters, and being a wife aren’t enough commitments to tackle each day. After careful consideration, two thoughts came to mind. What was I thinking? And, could I really commit to one more thing? The answer was a simple, yes.

Volunteering with Project Graduate has provided me with a unique opportunity to mentor and support our local foster youth as their court appointed educational rights holder. Collectively, we help them figure out their own pathway to graduate from high school with the support of the Riverside juvenile court system.

Over the last six years, I have come to realize that Project Graduate is so much more than just helping our foster youth graduate from high school. It is a real opportunity to help our foster youth start their next chapter in life with the strongest foundation possible.

My time working with our foster youth has become one of the most fulfilling yet challenging things I have committed to be a part as a volunteer with Project Graduate. Each student I have had the pleasure of working with has had their own difficulties and personal struggles making education less of a priority for them. Each foster youth has come to our program with their own unique backgrounds and various obstacles preventing them from enjoying a traditional education that many of us have been able to experience. With Project Graduate, we are able to provide educational support in

the specific ways each foster youth needs to be successful within their own rights.

Let me be clear, this journey has not been an easy one. I have walked next to my students in hearing after hearing as they have learned to share their successes and failures to complete strangers. In fact, not all of my students have made it to the finish line as life often gets in the way. But those that did, accomplished something that they never thought would happen for them and we honored them proudly.

No matter what has happened, I have committed myself to each student’s educational journey and by doing so, I have developed lifetime connections which have been that much-needed lifeline to many of our foster youth.

As I commit to take this life journey with each student year after year, I am constantly reminded at how precious our foster youth really are and how much they actually have to contribute and give back to our society. If we commit to walking their educational path with them by providing guidance and support, they will figure out how to be successful in their own rights.

This year, I am excited to be an educational rights holder to two different students on separate pathways to graduate this upcoming 2021-2022 school year. For the years to come, I would encourage each one of you within our legal community to consider this incredible opportunity with Project Graduate to make a difference in the lives of our foster youth. It may be that next unexpected opportunity to begin a life journey with a very special person.

Lyssandra Erwin is a senior paralegal with the Law Offices of Schwartz, Godbey & Ovanezova. She has been working as a paralegal since 2005 in the legal areas of family law, juvenile defense, and criminal defense. She has been a volunteer and educational rights holder with Project Graduate of the Riverside County Bar Association Foundation since 2015 and has held the position of the program’s treasurer since 2020.



OBJECTIVE COVERAGE OF LEGAL MATTERS IN SAN BERNARDINO AND RIVERSIDE COUNTIES



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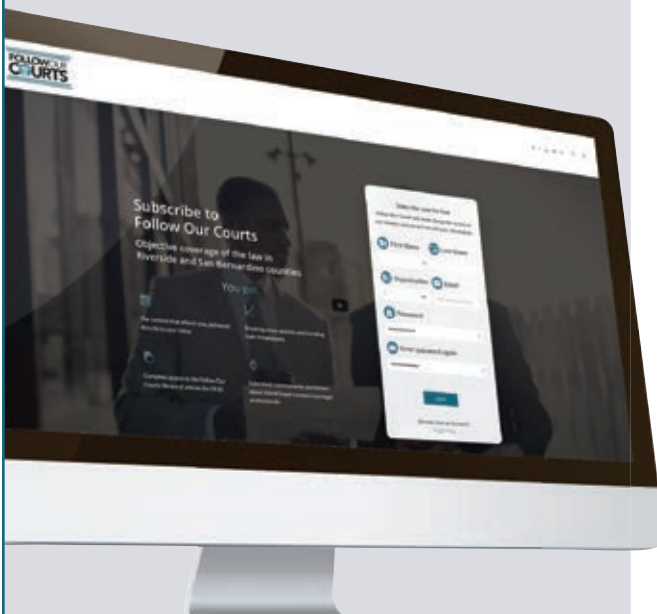
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PROJECT GRADUATE COMPLETES A DECADE OF TURNING DIPLOMAS INTO DREAMS

by Angela Maria Naso

Legal Professionals Volunteer to Help at-Risk Foster Youth Realize their Potential

Riverside County Superior Court Judge Mark Singerton believes in second chances. A second chance can be the stepping-stone for an at-risk teen to realize their potential, says Judge Singerton, who's been helping to mentor at-risk youth in foster care for the past decade through a special program called Project Graduate.

Project Graduate was created in 2011 by the Riverside County Bar Association (RCBA) as a way for attorneys and professionals in the courts to offer academic mentorship and support to at-risk foster youth so they can graduate from high school and plan for a successful future.

As it is, advocates say youth in foster care are at higher risk of homelessness, substance abuse, incarceration, human trafficking, unemployment, and poverty. Statewide, only about half of all foster students graduate high school, less often than any other student group.

"This is an immediate need that requires our attention," says Judge Singerton, a former prosecutor who was appointed to the bench in July 2021. He continues to serve on the Project Graduate Steering Committee. "You're preventing a struggling youth from dropping out of high school, winding up on the streets, in jail, or worse."

During his time with the program, Judge Singerton has mentored two youth who graduated from high school. Mentoring at-risk teens on the cusp of adulthood can be challenging, but Judge Singerton says seeing a young person change the direction of their life is worth the investment of time, heart and energy.

Multiple phone calls and text messages might be needed before getting a response. Judge Singerton has



Nevaeh is a recent graduate and said the program encouraged her to want to finish high school and go on to become a cosmetologist. Photo credit: Kurt Miller.

jumped in his car to check on his students and deliver holiday gifts. "The stakes are high," said Judge Singerton. "Whatever it takes to show these kids that you care, that's what you must do."

An annual luncheon is held in honor of the graduates each June and each graduate receives a cash gift totaling the number of points they earned throughout the program, and a laptop. Court volunteers work closely with social workers from the Riverside County Department of Public Social Services (DPSS) to promote success.

"We do not do this work alone, but with strong support from our many community partners," says Sayori Baldwin, director of DPSS and assistant county executive officer of human services. "Mentors matter and we are extremely grateful for our mentors from Project Graduate."

One recently minted graduate last June said her mentors in the courts inspired her to finish high school and to become a cosmetologist. "They kept encouraging me to graduate and that made me want to do it," she said.

Judge Singerton says Project Graduate makes a positive difference in young lives by providing youth with opportunities to be engaged in their own education and to focus on their future.

"The most important part," Judge Singerton says, "is that they see for themselves that they can do it."

Angela Maria Naso is a public information specialist for Riverside County Department of Public Social Services.



PROJECT GRADUATE

is hosting its

"All Aboard the Orient Express"

fundraiser on May 12, 2022.

To be a patron of the event, learn more about Project Graduate, and/or be an educational representative, please visit

riversidecountybar.com/foundation/project-graduate,
call (951) 682-1015, or email to
RCBF.ProjectGraduate@gmail.com.



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FREEDOM OF RELIGION

by Boyd F. Jensen II



I stood at the unmarked graves of Anna B. Harmon, age 48; Appleton Harmon, 10 months; and Sophronia Harmon age 22, among many others. These were progenitors of mine who died in January of 1847 suffering the consequences of persecution, being driven from their homes by mobs seeking to expel them from the State of Illinois. They were members of the Church of Jesus Christ of Latter-day Saints “Mormons,” living in a city almost as populated as Chicago, which they had built after earlier being expelled from Missouri, the result of an executive “Extermination Order” directing their “extermination or being driven from the State of Missouri.”¹

As I stood by that unmarked gravesite in Eastern Nebraska, I was not thinking about religious freedom or obvious injustice. Rather, I was just humbled and lamented that no one would remember them or appreciate what they endured. I thought of the countless others, who themselves, their relatives and friends had struggled with our efforts to advance the freedom of religion. It is fundamental to us as Americans. We lawyers, judges, civil leaders, and academics are privileged to stand as guardians.

United States

Religious intolerance extends to the founding of our nation. Mary Dyer was hanged in Boston, Massachusetts in 1660 as a non-compliant Quaker, banned under Puritan law as many new burgeoning states struggled with religious toleration. The Pilgrims disapproved of Christmas and it remained largely uncelebrated until the mid 1800s.² The Maryland Toleration Act (1634) was perhaps the first state effort to legislate religious toleration, followed by efforts in Rhode Island (1636), Connecticut (1636), New Jersey (1682), and Pennsylvania (1682).

The First Amendment of our United States Constitution was developed as the result of these civic “religious freedom experiments,” and of the Virginia Statute for Religious Freedom which was written by Thomas Jefferson in 1779 and provides, *[N]o man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened*

in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

Those expressive sentiments found their permanent place in our First and Fourteenth Amendments. The First Amendment provides, *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...* While the First Amendment secures the free exercise of religion, section one of the Fourteenth Amendment guarantees religious civil rights and prohibits discrimination, including on the basis of religion, *No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.* This magnificent and inspirational benchmark was much later the basis for international neighbors agreeing to The International Religious Freedom Act of 1998.

California

There have been numerous important freedom of religion cases from many courts, including the United States Supreme Court. Last year closer to home, the Court struck down California’s requirement that charities and nonprofits operating in the state provide the state Attorney General’s office their tax Form 990 Schedule B, the names and addresses of their largest donors. The 6-3 ruling in *Americans for Prosperity Foundation v. Bonta* 594 U.S. ____ (2021) was a major victory for the two nonprofit challengers, which had argued that the rule violates the First Amendment by deterring their donors from making contributions. As discussed in the written decision of the justices, this ruling will have an effect far beyond the nonprofit and charitable spheres, such as with religious organizations.³

Inland Empire

While Protestants are the largest U.S. “religious affiliation,” Catholics follow and then Jewish, Mormons, Muslim, Jehovah’s Witness, Buddhist and Hindus. However, of interest is that those “unaffiliated” with any religious organization exceed all others except the Catholics and, of course, the Protestants, if you consider all of those into one category.⁴ Our effort at the freedom of religion – and irreligion – therefore, have been successful in spite of the challenges. Proof is our Inland Empire community.

1 See <https://www.sos.mo.gov/archives/resources/findingaids/miscMormonRecords/eo>

2 *Merry Christmas! Celebrating America’s Greatest Holiday*, by Karal Ann Marling, Harvard University Press. p. 44 (2000) found in Wikipedia

3 *Americans for Prosperity Foundation v. Bonta*, 594 U.S. ____ (2021) (Slip Opinion p.p. 2,6 & 11.)

4 Pew Research Center, *Religious Landscape Study* www.pewforum.org/religious-landscape-study.

Our Inland Empire has extraordinary examples of religious “free exercise.” The Southern Baptist Convention, including Riverside’s Sandals Church and Harvest Christian Fellowship, are among the largest congregations in the United States. Riverside’s California Baptist College with 103 bachelor’s, 40 master’s, 7 doctoral programs with almost 12,000 students;⁵ and Riverside’s La Sierra University with 2,000 students; and Loma Linda University with another 5,000 students offer well over a hundred bachelor programs including over 40 doctoral programs, all on behalf of the Seventh Day Adventists, who also support 385 students serving missions in 40 countries!⁶

We have the Islamic Center of Riverside, and several Mosques including the Masjid Alrahma in Moreno Valley; the Hindu Society of Inland Empire with their main Temple Shri Lakshmi Narayan Mandir; over 10 Buddhist Temples throughout the Inland Empire; and among many other churches since 1891 the Universalist Unitarian Church of Riverside, which accepts congregants of many and varied backgrounds and beliefs.

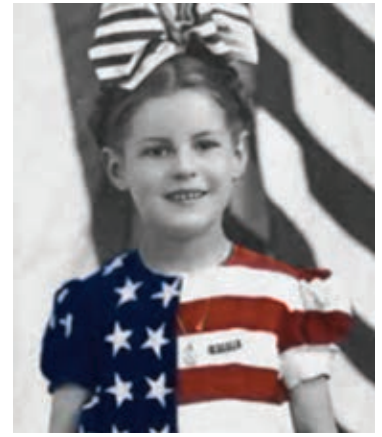
Freedom Has Never Been Free

The Girl Who Wore Freedom, pictured herein, depicts a young French girl, whose mother stitched for her this outfit from U.S. Flag remnants, obtained while living in Normandy, France during the invasion of 1944. It was a gesture of

5 See calbaptist.edu.

6 See home.llu.edu and adventistcolleges.org.

gratitude, pride, love, and hope, for what those colors at that time represented to her – a time of danger, fear, extraordinary risk, and horror.⁷ Sometimes we need to stand for something, and sometimes it will be costly – more than we ever expected or deserved. But like this little girl’s mother, if it is virtuous, lovely of good report, or praise worthy – like freedom – we will find a way to seek after it, and endure, and pay the price.⁸



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



- 7 See the movie *The Girl Who Wore Freedom* on Apple iTunes and at thegirlwhoworefrees.com.
- 8 Text taken largely from Joseph Smith letter to *Chicago Democrat* newspaper in 1842, Article 13 of Church of Jesus Christ of Latter-day Saints: “We believe in being honest, true, chaste, benevolent, virtuous and in doing good to all men. Indeed we may say we follow the admonition of Paul: we believe all things, we hope all things, we have endured many things and hope to endure all things. If there is anything virtuous, lovely or of good report or praiseworthy, we seek after these things.”



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SPIRITUALITY AND THE LAW

by Margot Hover

I feel that I should in all honesty begin with a disclaimer here. I am not a lawyer, and may not even think like one, however that is. I spent my career in academic medical centers, where I used a clinical model in the teaching of the art of spiritual care. I thought outside the box... A lot. But I am not a lawyer. Still, here we are, and so I proceed.

I fell in love with Susan Glaspell's 1917 short story, *A Jury of Her Peers* the first time I read it.¹ I was teaching high school American literature and the March cold that seeps through every crevice in the story sounded so much like the North Dakota of my mother's descriptions of her childhood there that I could feel it, too. The story begins as the sheriff and county attorney are going to an isolated homestead to investigate a murder. Mrs. Minnie Foster, the dead man's wife, is being held in jail, and both men bring their wives along to gather a few things she might need. Minnie claims not to know anything about the strangulation, although she and her husband had presumably shared the bedstead where his body was found. Mystified, the men enter the house and climb the stairs to look for clues that might lead to a conviction. Meanwhile, the women notice the stark emptiness of the kitchen, and shared their regret that they hadn't reached out to Minnie in the past. They notice "things begun — and not finished," the table half wiped clean, the unfilled sugar bowl, the uneven stitching of one quilt square in a sewing basket. The men share a laugh "for the ways of women," then continue their search in the barn. Meanwhile, the women speculate about Mrs. Foster's mood, reflected in the ragged stitching of the quilt piece. They discover a birdcage with a broken door, as though it had been roughly pulled apart, and then, in the quilt square, the body of a canary, its neck broken. Without a word, they hide "the thing that would make certain the conviction of the other woman."

Before her marriage to John Wright, Minnie had been sparkling and vibrant. Her husband was taciturn, severe, and controlling. Today, he would be called emotionally abusive. Throughout the story, the men have little patience for the world of their wives and their "trifles." Still, the men have the official authority; in 1917, women could not vote, run for office or sit on juries. Further, where the women mull over how life might have felt for Minnie, the men cut them short in their own emphasis on tangible clues. The details the women notice — the rickety rocking chair, the broken stove — are given short shrift by the men, who have "a laugh for the ways of women." "Nothing here but kitchen things," says Sheriff Peters, "with a little laugh for the insignificance of kitchen things," before they move briskly "right out to the barn and get that cleared up." Conversely, the women notice the emotional temperature of the kitchen, and so discover the clue on which the story turns.

Several years before the publication of the story, journalist Glaspell covered the trial of a woman who had murdered her husband. This story, however, is about much more than a murder. For starters, it is a story about the nature of justice and about who gets to judge. Who are the "peers" in the story? The women, who

are able to explore and grasp the many layers of the crime(s) committed, or the men, who focus on the letter of the law? It is also a story about community and empathy. The two women begin to understand the toll that abject loneliness has taken on a woman formerly known for her joyful personality, and to deeply regret their own role in that isolation. And while they may not approve of Minnie's violent action, they are far closer to understanding it than the men, whose paternalism blinds them to the first, precipitating, death in the case as well as to clues that would explain the murder. The first death, of course, is the death of Minnie's soul following her marriage.

This story also raises questions that we continue to struggle with today. What are the distinctions between law and justice? Glaspell would probably argue that law is an abstraction, while justice considers the flesh, the nuances around the situation. We may have gotten used to arguing the reverse. And how does community figure in the application of the law, as well as a fuller understanding of what justice would be in a particular situation?

Finally, it is noteworthy that Minnie and her husband — and the canary — are all physically absent in the story. It is the women's intuition and imagination that provide the detail necessary for a full and accurate understanding of what happened. This leads me to reflect on the role of the artistic imagination, the spiritual, in the organization and operation of our society. It is interesting that when a country is overtaken by a repressive regime, graphic artists, writers, musicians are the first to suffer persecution, censorship, and worse. I think of an older book, *Reading Lolita in Tehran: A Memoir in Books* (Azar Nafisi. New York: Random House. 2003), describing the lengths to which a group of eight women went in defiance of radical Islam in order to explore forbidden fiction during the takeover by the ayatollahs. I think of the operas of John Adams and Philip Glass that employ stories from ancient and modern history to raise questions about current politics and social values. Black visual artists like Mark Bradford and Kara Walker challenge our preconceptions about our racial geography. Who are the writers that can help us understand and deal with the politicization of our legal systems? In a happy coincidence as I was wending my way through these ideas, I listened to an interview with Laura Coates, author of *Just Pursuit: A Black Prosecutor's Fight for Fairness* (New York: Simon and Schuster. 2022). Dr. Coates describes the moral dilemmas she faced in applying the law in situations where she thought she could not make allowance for nuance, where she found no "wiggle room." That raises more interesting questions. What is the role of intuition and imagination in the healing of our democracy that seems so fragile today? Can justice and law coexist? If not, what is next?

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¹ *A Jury of Her Peers* is available from a variety of sources online.



A CALL TO SERVE

by Wilfrid C. Lemann

Martin Luther King, Jr., said one of life's most persistent and urgent questions is, "What are you doing for others?" The foundation I received through a Catholic education has remained important to me all of my life. I am a proud graduate of Holy Rosary Academy and Aquinas High School, and the love I have for my community comes from my time at those revered institutions. Although I later completed my undergraduate studies at the University of Santa Clara in 1973 and earned my law degree at Loyola University in New Orleans in 1977, my soul lies in my earliest roots. I carry a great deal of pride and love and affection for the people of San Bernardino and the Inland Empire as a whole, so I was honored to become General Counsel to the Diocese of San Bernardino serving the counties of Riverside and San Bernardino shortly after its establish-

ment and in the same year, I joined in partnership with the late great Robert V. Fullerton in 1978.

I was brought up on an oral tradition of storytelling, listening to my grandparents and family relay tales about their childhood. Sometimes they were funny stories. Sometimes they were horrifying. Sometimes they were slightly inappropriate, but they were always worth listening to. What is important about telling and hearing a story though is that it un.masks us in a way and defines us as human beings. Sharing a story about ourselves helps us to understand who we are and helps those listening navigate their own lives as well. When sharing a story it's okay to let people in, to be generous, and to show ourselves as imperfect human beings. As listeners, we relish a story—its magic that draws us in—hearing about the good and the bad and the funny and the devastating and the things that make us all human. I am privileged to share my story with you here.

I believe that we must be fully engaged in the story of our lives. We don't let life simply lead us as it will. We live life, soak up every experience, invest in every friendship, consider every sorrow and joy, and, when possible, bring our faith into every experience. A life with eyes wide open, fully engaged, with the Spirit guiding you is the only life worth living. It's the life we are all capable of living. My legal practice involves business law, real estate, for-profit and not-for-profit corporations, estate planning, and probate. But it was my passion for education and furthering Catholic education in this region that was the driving force in helping me to develop and secure funding for Saint Junipero Serra House of Formation, which currently serves the largest number of seminarians the Diocese of San Bernardino has ever had in formation.

I believe you can never forget where you came from, no matter how hard you may try for whatever reasons you want to leave it behind. My earliest years ground me and give me something to feel good about. As we become successful in life, the challenge is to give back to the place that established our foundation. There have been and continue to be difficult times, successful times, challenging times, fun times, and sad times, but I always stay connected.

Aristotle once said, "Where the needs of the world and your talents cross, there lies your vocation." The needs of the world are demanding, and serving the people and projects of Riverside and San Bernardino counties, and beyond, is not only demanding, but rewarding. I have a great love and respect for the elderly that goes beyond merely serving their legal needs. I am proud to say that many clients regard me as a friend, and I consider them my friends as

Editor's Note:

On October 11, 2011, the Red Mass Committee of the Inland Empire selected Wilfred Lemann as the recipient of the Saint Thomas More Award in gratitude for his extraordinary service and devotion to church, community, and justice. Below are some photos from the event.



Wilfred Lemann with his wife, Dr. Janice Lemann.



Judge John Pacheco presented the award to Wilfred Lemann.



Most Reverend Gerald Richard Barnes, the Bishop Emeritus of the San Bernardino Diocese, and Wildred Lemann at the Red Mass following the presentation of the Saint Thomas More Award.

well. I believe that it is important to take time to listen and give encouragement no matter how busy the calendar looks for the day. Additionally, access to justice is also very important to me, and my work with the Legal Aid Society of San Bernardino has given me great satisfaction and allows me to serve those needing but not able to afford legal services.

I don't claim to have all the answers to life, and as Byron said, "...I envy no one the certainty of his self-approved wisdom." I must also say that I continue to be humbled by those I serve in my role as General Counsel to the local San Bernardino Diocese, which serves the Catholic community in the counties of Riverside and San Bernardino. I have watched ordinary men and women build great church buildings worthy of worship for the faithful, and create a beautiful Catholic cemetery for this region known as Our Lady Queen of Peace Cemetery in Colton. I have been honored to walk the halls at various institutions with religious sisters to accompany them in their ministry and given the task of vesting of priests whom I have served in their vestments in preparation for their burial, some of them my earliest teachers. In my role as counsel, I have witnessed the generosity of others who believe in giving back to their community as well. They have proven we do not act alone and more things can happen when two or more collaborate to achieve a greater goal.

Like Saint Paul, we must fight the good fight, finish the race and stay the course. As I walk beside the religious

men and women I serve, I recognize the challenge they are facing today to live out the path that society and the Catholic Church has placed before them in these tumultuous times. Their ministries have been a model to me of humility and service. They are the real heroes, examples of self-less giving and compassion.

Some may say it's a charmed life when you can live a life that incorporates faith and action in the work that you do, and I would not disagree. I have had the opportunity to maintain a life-long connection to the principles and morals instilled in me in my earliest years through the privilege of my Catholic education. I have been given a chance to maintain life-long relationships with bishops, priests, and religious sisters in the ministry of consultation and advice that benefits the Diocese of San Bernardino, which makes up a geography of more than one-half of southern California. It is a blessing to live a life that allows me to walk the path God has set before me and given me opportunities to serve in unimaginable ways.

I remain a very lucky guy.

Wilfrid C. Lemann is a partner with Fullerton, Lemann, Schaefer & Dominick, LLP, and represents clients in business law, real estate, for-profit and not-for-profit corporations, estate planning, and probate.



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FAITH OF THE FOUNDERS: A COMMENTARY

by Abram S. Feuerstein

Well into the Constitutional Convention proceedings during the summer of 1787, an 81-year-old Benjamin Franklin wondered why the delegates had not opened their daily meetings with a prayer. “How has it happened that we have not, hitherto once thought of humbly applying to the Father of Lights to illuminate our Understandings?”¹

Franklin explained: “I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth – that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid.”² So, Franklin brought a motion to begin convention sessions with prayers. It failed. Miserably. “The Convention except three of four Persons, thought Prayers unnecessary,” he recorded in his notes.³

Over two hundred years later, Franklin’s comments in trying to persuade his fellow delegates to open their sessions with prayers seem strange. Uniquely in our nation’s collective imagination, it is Franklin who sits on reason’s throne – possibly wearing his bifocals while winking at an attractive, older woman; his lightning rod, a scepter of sorts, held in one hand; a table nearby, with a copy of *Poor Richard’s Almanac* on it; the room heated by his stove, and other Franklin inventions strewn about the floor.

Yet, notwithstanding his focus on the Almighty at a critical time of the Convention, hadn’t Franklin years earlier in his autobiography described himself as a “thorough deist,” rejecting the Puritan dogma of his parents?⁴ Didn’t Franklin tell people that the only “ism” that bothered him was “rheumatism.”⁵ And while we are on the subject, what was the role of faith not just in Franklin’s thinking about the structure of the new government, but other Framers, too? After all, the product of their work, the Constitution, barely mentions religion.⁶ Did the Founders intend to create a faith-based, Christian state, or – in Jefferson’s

famous words -- to erect an “eternal” wall separating the church from the state? And, if a wall, how high or impenetrable?

These types of questions – which will not be answered here -- tend to arise whenever the Supreme Court is faced with deciding a difficult religious liberty case, as it will do shortly in the case of *Carson v. Makin* involving a Maine statute that prohibits parents from using funds from a student-aid program to send their children to sectarian schools. Without doubt, lawyers before the Court and commenting public intellectuals will try to locate quotations from various Founders to bolster their arguments concerning the original meaning and intent of the First Amendment’s free exercise and establishment clauses. Liberals will locate a Jefferson or Madison quote evidencing an intent to create a secular state; by contrast, conservatives might locate an Adams or Washington phrase appearing to express State support for religion.

But picking and choosing among quotations from a favorite Founder is hardly synonymous with achieving an understanding of the role that faith and religion had in America’s founding, or of the intellectual traditions upon which the Founders relied in putting together their Philadelphia “miracle.”

There are numerous historians that have turned their attention to understanding the religious origins of our country. Luckily, the task of digging into that history was made easier by a local resource -- the late Edwin S. Gaustad, a Professor of History and Religious Studies at the University of California, Riverside. In several books, Gaustad, who passed away in 2011, explored America’s religious history, including his focus on the Framers’ understanding of the relationship between church and state in the short *Faith of the Founders: Religion and the New Nation 1776-1826*. He revealed a rich and complex history, in which there was no uniformity of opinion or self-evident course to be charted as to the proper direction that religious liberty should take in the new nation. Yet, the Founders were able to set in motion a framework that would enable a new nation to set the terms of religious life for centuries to come.

The Colonial Period

A large part of Gaustad’s emphasis is America’s colonial period. He notes it is easy to forget that the American colonies had nearly 200 years of history prior to the adop-

1 Thomas S. Kidd, *The Complicated Religious Life of Ben Franklin*, Baylor Magazine, Fall 2017, retrieved at <https://www.baylor.edu/alumni/magazine/1601/index.php?id=944746>.

2 Benjamin Franklin, Speech to Constitution Convention, June 28, 1787, referenced by History – Essays, Lehman Institute, <https://lehrmaninstitute.org/history/the-founders-faith.html>, fn. 265.

3 Kidd, *The Complicated Religious Life of Ben Franklin*.

4 *Id.*

5 Edward S. Gaustad, *Faith of the Founders: Religion and the New Nation 1776-1826* (Baylor University Press 2011) (hereafter, *Faith*), p. 51.

6 Of note, the only specific reference to God is found in the date of the Constitution: “in the Year of our Lord 1787.”

tion of the Constitution and George Washington's taking office – a period nearly as long as the period that stretches in the other direction to the present.⁷ What emerges from Gaustad's review is that although in John Winthrop's words America became a religious "refuge," the 13 colonies in some ways had "at least 13 different opinions" about the dimensions religious liberty.⁸

To be sure the colonies were overwhelmingly Protestant (95% or more?), and if there was one book on any shelf it would be the King James Bible. Congregationalism in New England, and in the South the Anglican Church dominated civic life.⁹ Even the more tolerant middle colonies, such as Quaker Pennsylvania, Dutch-influenced New York and New Jersey, or the Catholic-populated Maryland, had various forms of establishment such as requiring officeholders to be Christians.¹⁰ With time, however, dissent among the descendants of the early settlers combined with immigration patterns from Europe meant that by 1776 the landscape was marked by a variety of beliefs and churchly institutions such that no single denomination enjoyed the majority support of the states.¹¹

For example, Gaustad notes that eventually Pennsylvania, which would be the site of the 1776 and 1787 conventions, contained "an unbelievable hodgepodge of religious groups: there were Catholics, Protestants, Jews, but that hardly began to exhaust a list that included Anglicans, Baptists, Presbyterians, Methodists, Lutherans, Moravians, Mennonites, Brethren, Schwenkfelders, and more."¹² Hard to have an established church under those circumstances.

Principles of liberty of conscience, too, typified in the writings of John Locke, and planted in the colonies by individuals such as Roger Williams in Rhode Island and William Penn in Pennsylvania, began to root. Williams secured a charter for Rhode Island in 1663 which protected its citizens for "any difference of opinion in matters of religion" and guaranteed they would "freely and fully have and enjoy . . . their own judgments and consciences."¹³

Similarly, William Penn's first set of laws for the newly founded Pennsylvania colony in 1682 provided that "all

persons living in this province who confess and acknowledge the one almighty and eternal God to be the creator, upholder, and rule of the world. . . shall in no ways be molested or prejudiced for their religious persuasion or practice in matters of faith and worship, nor shall they be compelled at any time to frequent or maintain any religious worship, place, or ministry whatever."¹⁴

After the revolution against England, the Anglican church's influence in Virginia declined and Jefferson and Madison were able to team up and secure passage in 1786 of Jefferson's Statute for Establishing Religious Freedom. The passage of the Virginia statute in the year prior to the 1787 convention was well publicized, and strongly reaffirmed religious freedom principles. It provided in part that "no man shall be compelled to frequent or support any religious worship, place, or ministry" nor shall he be "enforced, restrained, molested, or burthened in his body or good, nor shall otherwise suffer on account of his religious opinions or belief."¹⁵ Clearly, the Statute embodied Jefferson's Lockean/enlightenment views, typified by his writing elsewhere: "The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say that there are twenty gods or no God. It neither picks my pocket nor breaks my leg."¹⁶ Jefferson considered the Virginia Statute his greatest accomplishment along with his authorship of the Declaration of Independence, leaving instructions that only these deeds should be inscribed on his tombstone.¹⁷

The Founders

In addition to its focus on the religious and intellectual trends during the founding period, Gaustad's *Faith* sheds light on the individual views of leading Founders and, particularly, the Big 5: Jefferson, Madison, Franklin, Washington and Adams. Gaustad's survey reveals more than a Betsy Ross' thimbleful of religious thought diversity among the Founders; but also important uniformity. Here are a few observations.

1. Religion was one of several significant influences on the Founders, and they believed that in Framing a new constitution they were guided by a Providential hand. Religious opinions among the Founders varied widely, but they clearly believed in one God, a Creator, who governed the World by his Providence and should be worshipped.¹⁸ Deuteronomy crops up more in their writings than Montesquieu.¹⁹ They differed in their thoughts about

7 *Faith*, p. 11.

8 *Faith*, p. 5.

9 *Faith*, p. 12.

10 Mark David Hall, Report, Political Process, Did America Have a Christian Founding, June 7, 2011 (The Heritage Foundation, retrieved at <https://www.heritage.org/political-process/report/did-america-have-christian-founding> (hereafter, "Hall Report"). Hall notes that although Rhode Island, Pennsylvania, Delaware and New Jersey did not have established churches, the other 9 colonies did, with select counties in New York having establishments.

11 See Edmund S. Morgan, *Roger Williams: The Church and the State*, p. X (Norton 2006).

12 *Faith*, p. 23.

13 *Faith*, p. 21.

14 *Faith*, p. 23.

15 *Faith*, p. 35.

16 *Faith*, p. 36.

17 *Faith*, p. 36.

18 See generally, *Faith*, p. 54.

19 See Donald S. Lutz, *The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought*, *American Political Science Review*, Vol. 78 (March 1984), pp. 189-

Christ's divinity but less so about his ethical teachings. Clearly, George Washington was a devout, church-going Anglican. But even Jefferson, the Founder who more than any other believed in a strict separation of Church and State, certainly was a pious man. Indeed, if he had rejected Christianity as a young man--by the 1790s, he began to fashion for himself a faith based on "getting back to the plain and unsophisticated precepts of Christ."²⁰ In later years he even pasted together his own version of the New Testament, *Life and Morals of Jesus*.²¹ It focused on Jesus, the teacher, albeit it ignored stories of miracles, the resurrection, and claims of divinity.²²

2. The Founders uniformly believed that religion was indispensable to morality and virtue, which in turn were necessary conditions for self-government. For example, in 1749 in his "Necessity of a Publick Religion," Franklin had written about religion's usefulness to society,²³ while several months before his death, he wrote about good works as the best way to render service to God.²⁴ Alexis de Tocqueville, America's most famous foreign visitor, writing in the 1830s in *Democracy in America*, observed: "I do not know whether all Americans have a sincere faith in their religion – for who can search the human heart? – but I am certain that they hold it to be indispensable to the maintenance of republican institutions."²⁵ The near universal idea that religion was the means of achieving virtue and thus good government makes it highly unlikely that the Founders intended to remove religion from the Public Square.

3. Most of the delegates at the 1787 Constitution Convention believed that religion was a matter best left to the states.²⁶ In other words, other than the inclusion of a line in Article VI which reads "no religious Test shall be required as a Qualification to any Office or public Trust under the United States," the delegates felt they could side-step faith questions. Even the subsequent adoption of the First Amendment in the first Congress did not necessarily evidence a founding intent to elevate individual religious liberty given that its religion provisions were not incorporated by the Supreme Court until 1947.²⁷ So, unshackling the human mind from the dictates of religion might be important, but it did not need to be included in the Constitution.

4. George Washington, as always, remains impressive. By 1787, he and Franklin were national heroes if not icons. With little exaggeration, Gaustad asserts that

if Americans did not have a national church they at least had these two men as symbols of unity and at the center of a civic religion.²⁸ But Franklin was a "genius and mediator," while Washington was the "creator and Father" of the new nation.²⁹ During the revolutionary war, Washington traveled beyond Virginia and had been exposed to men with diverse religious beliefs.³⁰ He brought them together. Maybe these were formative experiences that enabled him later as a leader to use faith language without endorsing any particular faith. In his public addresses, he could speak of a "Grand Architect," a "Governor of the Universe," or a "Higher Cause," and the "Great Ruler of Events," "All Wise Creator" and the "Supreme Dispense of all Good."³¹

Once the Constitution had been adopted, Washington received correspondence from members of minority faiths asking for reassurances about religious liberty. He wrote to a Virginia Baptist Congregation in 1789 that "no one would be more zealous than myself to establish effective barriers against the horrors of spiritual tyranny, and every species of religious persecution," and emphasized his belief that "every good citizen, and being accountable to God alone for his religious opinions, ought to be protected in worshipping the Deity according to the dictates of his own conscience." To the Jewish congregation of Newport, Rhode Island, Washington wrote in 1790 that "(f)or happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance requires only that they who live under its protection should demean themselves as good citizens"³²

Studying the Founders may not yield direct answers to the difficult church state questions typically decided by the Supreme Court. But a review of the history of the founding period evidences that the religious liberty principles possessed by the Founders enabled religion to flourish in the new nation. And, in Gaustad's words, the Founders accomplished that result without resort to a guillotine or a Tower in London.³³

Abram S. Feuerstein is employed as an Assistant United States Trustee by the Department of Justice. The mission of the United States Trustee Program is to help protect the integrity of the bankruptcy system for all its constituents. The views, if any, expressed in the article belong solely to the author and do not represent in any way the views of the United States Trustee, the United States Trustee Program, or the US Department of Justice.



197, referenced in Hall Report.

20 *Faith*, pp. 81-83.

21 *Faith*, p. 84.

22 *Faith*, p. 84-85.

23 *Faith*, p. 59.

24 *Faith*, p. 54.

25 *Faith*, p. 108.

26 *Faith*, p. 37.

27 See *Everson v. Board of Education*, 330 U.S. 1 (1947).

28 *Faith*, pp. 49-69.

29 *Faith*, p. 59.

30 See generally, <https://www.mountvernon.org/george-washington/religion/religious-freedom/>.

31 *Faith*, p. 63.

32 See <https://www.mountvernon.org/george-washington/religion/religious-freedom/>.

33 *Faith*, p. 3.

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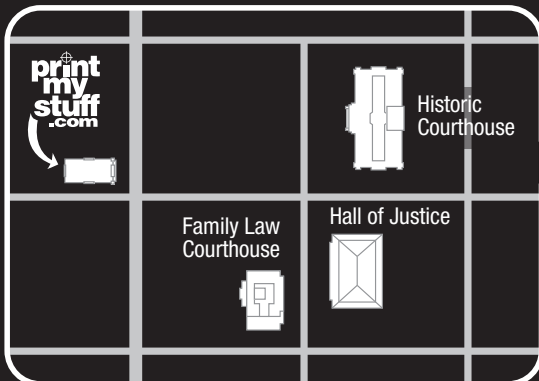
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PUBLIC FUNDING OF RELIGIOUS EDUCATION IS BEFORE THE UNITED STATES SUPREME COURT

by Charles S. Doskow

The new six-to-three majority lineup of the United States Supreme Court has had and will continue to have a major impact on First Amendment religion cases. Currently awaiting decision by the court is a case from the backwoods of Maine that calls into question basic First Amendment doctrine, particularly as it relates to government financial support of religious entities. Two recent cases decided by the Supreme Court have upended existing case law and, in so doing, have caused a great deal of trepidation and comment.

The State of Maine has many school districts that do not have sufficient population or resources to support a high school. To ensure a secondary education to the students in these districts (Maine calls them School Administrative Units, or SAU's), state law provides that they must either contract with a public secondary school or pay the tuition at a private school of the parents' choice.

The law provides that if the funds may only go to a private school if it is a "nonsectarian school in accordance with the First Amendment of the United States Constitution." Three sets of parents who have chosen religious education for their children have challenged the law as a denial of their free exercise right. Their case has been sustained by the state courts, and, having been argued on December 8, now awaits Supreme Court decision.

The question of public funds being used to support religious education has been litigated in the federal courts for many years, and a substantial body of law has developed. In the past twenty or so years that doctrine has trended toward allowing such funding over the dissents of the liberal justices, who have opined, often in dissent, for stricter separation of church and state.

The Maine law is in that sense out-of-date, although it has survived First Amendment court attacks several times in recent years, including in October 2020, when the most recent attempt by parents to invalidate the law denying state funds for their children's religious education was rejected by a federal court, the First Circuit Court of Appeals. That case (*Carson v Makin*) is the case awaiting decision by the Supreme Court.

Two recent high court cases have now occupied this area. The opinions in these cases leave little doubt the aid sought by these plaintiffs will not be held to violate the Constitution and will have to be recognized by state funding programs.

The fundamental question of law argued in the recent cases is this: Is the religious entity being disqualified from the receipt of funds simply because it is a religious institution or is the denial because of the religious use to which it will put the funds? Excluding religious institutions from a government funding simply because it is religious has been held to violate the Free Exercise Clause of the First Amendment.

In *Trinity Lutheran Church v Comer*, a program of the state of Missouri provided funds to schools for pour-in-place rubber surfaces in playgrounds. These surfaces will presumably make the playgrounds more child-friendly--think skinned knees and the like. The Missouri Department of Natural Resources accepted applications for these funds and ranked the applicants. Trinity Lutheran clearly qualified for a grant, but was deemed as a religious institution, thus ineligible to receive the grant.

The church brought the lawsuit, asserting a violation of its free exercise rights under the First Amendment. The lower federal courts denied its claim.

The United States Supreme Court reversed, finding that the state policy discriminated against the church and otherwise eligible entities "solely because of their religious character." "In this case, there is no dispute that Trinity Lutheran *is* [Court's italics] put to the choice between being a church and receiving a government benefit. The rule is simple: No churches need apply."

The second case, which is closer on its facts to the Maine case, is a challenge to a program of the State of Montana that encouraged contributions for scholarships for private school tuition. The benefit was in the form of an income tax credit to taxpayers who made such contributions. No funds contributed to religious schools could qualify.

The state was following the mandate of the Montana Constitution, which expressly provides that "no-aid" can be given to sectarian schools. (This is the "Blaine Amendment," which is part of the state constitutions of numerous states, because Congress required it as a condition of the state's admission to the union during the latter half of the Nineteenth Century.) The Montana Supreme Court, faced with a program that was invalid under the state Constitution, invalidated it in its entirety.

The United States Supreme Court found that the Montana Supreme Court had invalidated the program under a state law "that expressly discriminates on the basis of religious status." When it did so, it failed to follow federal law. Since the no-aid provision excluded religious schools from the program, it was misapplying the First Amendment. The Supremacy Clause, said a majority of the Court, should have caused the Montana court to ignore the no-aid provision, and uphold the plaintiffs' contention of discrimination.

Montana attempted to argue that *Trinity Lutheran* did not apply because the use of the funds in that case was based on their use for religious education (religious use, not status), contrasting the playground surfacing in the earlier case. The Supreme Court found that Montana's exclusion of religious schools from a benefit available to other schools was clearly

status-based discrimination. It answered Montana's contention that as a benefit to education, the discrimination was essentially to religious use, saying, "Status-based discrimination remains status based even if one of its goals or effects is preventing religious organizations from putting aid to religious use."

It should be noted that both cases were argued and decided on the basis of the Free Exercise Clause. In neither was it contended that the payments of financial benefits violated the Establishment Clause. And both cases attracted dissents along the usual lines.

Taking the two cases together, it appears that the door is now open for government funding of schools that teach

an expressly religious curriculum.

Reporting on the oral argument of the Maine case in the Supreme Court on December 8, this was the headline on the story of one astute observer of the Supreme Court (Amy Howe, writing for Scotusblog): "Conservative Justices scoff at Maine's exclusion of religious schools from tuition-assistance programs."

Scoff they no doubt will, probably by a 6-3 vote.

Charles Doskow is Dean Emeritus and Professor of Law at the University of La Verne.



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JUDICIAL PROFILE: HONORABLE SEAN CRANDELL - MAKING A DIFFERENCE

by L. Alexandra Fong

Judge Sean P. Crandell grew up in Southern California, the son of an electrical-engineer father and a homemaker mother. While in high school, he was in the speech and debate club and also participated in Mock Trial, which started his interest in the law. After graduating from high school, he attended the University of California, San Diego (UCSD), majoring in psychology. While at the university, he interned for Alex Landon, a highly respected and prominent criminal defense lawyer in San Diego. The internship cemented his interest in the law and led to his enrollment at the UCSD School of Law with a plan to practice in the field of criminal law.

While a law student, he was a member of the UCSD Law Review. After graduating from law school in 1998, he was hired as a deputy district attorney at the Riverside County District Attorney's (DA) Office. He was assigned to the Indio office for 6 years before transferring to the Southwest (Murrieta) office, where he spent the remainder of his 23-year career, with brief periods in Riverside (one year) and Banning (one year). At the DA's office, he handled various cases, including homicides, sexual assault, and child abuse.

Judge Crandell considers himself fortunate to have spent part of his career at the DA's office in juvenile delinquency. His assignment with the juvenile cases changed his perspective of criminal law when he saw that the norm for the youth in the juvenile justice system was that they came from problematic backgrounds. While practicing in this area, he saw an opportunity to make a difference in the lives of the youth he encountered on the "other side" of the table. He empathized with the youth and understood why they were before the court, which was often due to the unfortunate circumstances in their lives.

Judge Crandell, and his wife, began a yearly event called "Kids, Coffee, and Cars." This event brings together youth that are wards of the court pursuant to Welfare & Institutions Code section 602 et seq., youth that are part of



Hon. Sean Crandell and family

the Youth Accountability Team (YAT) in Riverside County, members of the Boys and Girls Club of Riverside County, and car enthusiasts in the Inland Empire. The youth have the opportunity to sit in all types of cars and the car enthusiasts get to show off their prized cars, which the owners had obtained through years of sacrifice and adversity. The owners shared personal stories about their lives and how they overcame their own adversity. They also shared that sacrifice and hard work led them to their success which gave the youth goals for the future.

After making calls to multiple car clubs in Riverside, the Inland Empire Branch of The Porsche Club of America agreed to be involved in "Kids, Coffee, and Cars" and have been involved every year since 2016. The first event was held in 2016 at the Riverside Police Department in Downtown Riverside. Walter's Automotive Group (Porsche) in Riverside also participated.

Car enthusiasts showed off their cars to the youth, who had many questions about them, and how the owners were able to acquire them. Those conversations led the owners, who held a wide variety of professions, to describe their positive life choices and career pathways. This allowed the young people to realize there were many possible pathways to achieve their own dreams. The event was a success and subsequent annual events were planned.

The second "Kids, Coffee, and Cars" event was held at Palm Desert Station of the Riverside Sheriff's Department in 2017. Indigo Automotive Group in the desert participated. Their general managers and mechanics came to talk.

The third event was held in 2018 in the Southwestern portion of Riverside County, at the Murrieta Police Department's parking lot.

The fourth event was held at the Alan M. Crogan Youth Treatment and Education Center in Riverside, near the Juvenile Division of Riverside Superior Court in

2019. Unfortunately, due to COVID-19, the past two years' events have been canceled.

In late 2021, he was appointed to serve as a judge in the Riverside County Superior Court. His transition from an advocate to neutral was natural and he credits all Riverside County judicial officers for a seamless transition. He currently sits in Department 61 at the Hall of Justice in downtown Riverside. This department is the felony vertical calendar department, where cases begin and are assigned out to trial departments.

Judge Crandell is proud to call Riverside County home with his wife and three children. His wife has taken over "Kids, Coffee, and Cars" which is now a 501(c)(3) non-profit organization. The fifth "Kids, Coffee, and Cars" is expected to take place in spring 2022 in the desert region. The members of the Desert Valley Region of The Porsche Club of America will participate in this event.

L. Alexandra Fong is a deputy county counsel for the Riverside County Counsel's Office in its Child Welfare Division. She is a past-president of the Riverside County Bar Association and Leo A. Deegan Inn of Court. She is the co-chair of the Juvenile Law Section of RCBA, a member of the Bar Publications Committee, and a member of the Continuing Legal Education Committee.



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NOTRE DAME HIGH WINS FIRST MOCK TRIAL CHAMPIONSHIP

by John Wahlin



Notre Dame High School 2022 Riverside County Mock Trial Champions.

Left to right: Kristine Borgia (Attorney Coach), Kelly Moran (Attorney Coach), Hon. Erin Alexander (Attorney Coach), Nadia Guzman, Ainsley Anderson, Madelyn Worthington, Carter Worthington, Xaris Legaspi, Gretchen Reyes, Ayanna Grunwald, Stephanie Stahovich, Joshua Neira, Emma Mermilliod, Brooklyn Benson, Ashley DeGennaro, Aubrey Hernandez, Nathan Hott, Brianna Ruiz (Attorney Coach), Brigitte Zapata (Teacher Coach), Hon. Eric Keen (Attorney Coach)

Riverside Notre Dame High School won its first County Championship in a virtual match against a perennial finalist, Riverside Poly High School. Notre Dame and Poly survived 6 rigorous rounds of competition in order to earn the opportunity to compete for the Championship. Once again, COVID made it necessary to hold the competition in a virtual format using ZOOM technology.

Students from 22 high schools throughout the County practiced and competed from their homes or other separate locations. As a result, no separate regional rounds were conducted and the competition continued in the same format that has been used for the last several years. All participating schools competed in the first 4 rounds. The competition then continued with the top 8 teams competing in an “Elite 8” single elimination tournament.

The pairing of the Elite 8 teams included Riverside Poly High School vs. North High School; Martin Luther King, Jr. High School vs. Indio High School; Notre Dame High School vs. Chaparral High School; and Murrieta Valley High School vs. Patriot High School. In the “Final Four” semifinal rounds, Poly High School defeated Martin Luther King High School and Notre Dame High School defeated Murrieta Valley High School.

Notre Dame and Poly faced each other in the championship round with Notre Dame winning in a very competitive final round. Superior Court Judge Kenneth Fernandez presided over the County Final. Scoring the final were District Attorney Michael Hestrin, Presiding Judge of the Superior Court John Monterosso, Public Defender Steve Harmon, and attorneys Lori Myers and Paul Grech.

Individual awards for outstanding performances were announced at a “virtual” awards ceremony. First, second, and third place awards were presented in attorney and witness categories. In addition, internships with the District Attorney and Public Defender were awarded to the top prosecution and defense attorneys.

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

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



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OPPOSING COUNSEL: MICHAEL RAZO - OVERCOMING BARRIERS AND RAISING THE BAR

by Goushia Farook

When I first met Michael Razo, partner at Bratton & Razo, I knew him as opposing counsel. In the sea of successful counsel, Michael immediately stood out. I recognized he was prepared, knowledgeable, civil, highly intelligent, and vested in securing a fair and equitable resolution to a case while maintaining a professional relationship with counsel.

I now have the privilege and honor of knowing Michael as a coworker, friend, mentor, and a part of my work family. While coming to know him, my profound respect for him has increased exponentially.

Michael is an Inland Empire native, having grown up in Ontario, California. He has a younger brother, and his family is still local to Riverside. Growing up, Michael played soccer, including playing while in high school and college. He completed his undergraduate studies at the University of California, Berkeley, with a Bachelor of Arts in Political Science in 2005. He attended law school at the University of La Verne College of Law and obtained his Juris Doctorate in 2010. During law school, he worked as a law clerk and paralegal at a family law firm. Ironically, at that time he swore he would never practice family law.

Upon graduating from law school, he accepted an associate attorney position at a firm in Riverside practicing primarily business litigation. In 2013, he transitioned to solo practice where he undertook various types of cases including criminal, civil, bankruptcy, and family law. In 2014, he started practicing exclusively in the area of family law and joined a firm in Riverside. In 2016, he joined William Bratton and Pamela Bratton as partner. Michael feels privileged and honored to learn from, work with, and have the unrivaled mentorship of William Bratton and Pamela Bratton.

For Michael, family law is both challenging and rewarding. As with other aspects of his life, practicing family law was not what Michael set out to do. Making the decision to practice exclusively in family law was based upon his prior experiences representing clients in business litigation, criminal defense, and other areas of law. Michael enjoys what he believes is a unique combination of being able to be in the courtroom regularly



Michael Razo

while handling cases involving complex yet intertwined issues.

In observing Michael practice, for me, part of what makes him a fierce advocate and an exceptional person, is his genuine care for his clients, the rapport he has with colleagues and the respect afforded to all involved in the courtroom. Family law is fulfilling to Michael because he appreciates the privilege to be able to practice law, to assist clients with understanding their rights and obligations, and hopefully, help individuals and families during perhaps the most difficult time of their life. Michael strives to assist clients by understanding the nuances of their case and their expecta-

tions, and to manage those difficulties that arise when life does not go as planned.

This insight and perspective stems from facing and overcoming his own personal challenges on his path to success. Maya Angelou said, "You may not control all the events that happen to you, but you can decide not to be reduced by them." Michael has not only faced adversity, but has overcome it, leading to his passion for helping others facing the same challenges.

In college and continuing as a young attorney, Michael embraced a "work hard, play hard" lifestyle, using alcohol to decompress and unwind. Although he did not intend to develop a lifestyle in which alcohol became a coping mechanism, Michael's drinking progressed to a point in his life where his drinking was adversely affecting nearly every area in his life. Michael reached a point where he knew he had to make a change.

Fortunately, he discovered the Other Bar, which is a non-profit organization comprised of judges, attorneys, and law students focused on assisting those in the legal profession seeking help with alcohol and substance abuse issues. The Other Bar offers meetings throughout the state, many of which are available via Zoom. These meetings, and the incredible people Michael has met in the Other Bar, have provided a network of legal professionals dedicated to the well-being of individuals in the legal profession.

Michael feels very fortunate to currently serve as president of the Other Bar after several years of service on the

board of directors. Michael is grateful to one of his mentors, James Heiting, for the example set and path created by Mr. Heiting. As many of you may know, Mr. Heiting is a past president of the Riverside County Bar Association and a past president of the State Bar of California. He is also a past president of the Other Bar, having worked tirelessly to develop resources for law students and attorneys struggling with alcohol and substance abuse issues.

With Jim Heiting, Michael has had the privilege of presenting to numerous bar associations and organizations throughout the state on the topic of competence (formerly known as substance abuse). Michael understands personally the importance of this topic and recognizes the need for this topic in light of the studies showing that the attorney population has significantly higher rates of problem drinking, depression, and anxiety. There is a significant amount of stress associated with being an attorney: the stress of meeting client's expectations; the stress in the adversarial nature of the practice of law and the threat of malpractice; the stress of running a business and the impact on financial well-being; and perhaps the greatest stressor of all, the enmeshment of our identity with being an attorney and the expectations we have of ourselves. Michael has seen firsthand how unhealthy coping mechanisms in response to these stressors can affect law students and attorneys, and the lives of those closest to them. However, Michael has also seen the improved focus on the health and wellness of law students and attorneys. It is a privilege for Michael to serve on behalf of the Other Bar and contribute to the incredible impact the organization has had, in his life and for so many countless others.

While Michael never thought he would find himself practicing family law or needing to seek help from the Other Bar, he is thoroughly convinced that his prior experience in other areas of law and the path of recovery has led him to a space where he is grateful for what he is able to do as an attorney and who he is able to practice with. In 2020, Michael was certified as a specialist in family law. Michael enjoys his practice, not just because of the work he does, but the people he works with, as his work family creates an incredibly special place for him to work. I can attest without hesitation that our workplace is special because of Michael as well.

Family is the most valuable part of Michael's life. In particular, Michael's two adorable young sons hold a special place in his heart. The quality time he spends with them brings indescribable joy to his life, reminding him that the best "work hard, play hard" balance is being able to coach their T-Ball team and now their soccer team. Coaching his sons is a special part of Michael's life, as he has had a lifelong passion for soccer that he shares with his brother, and still plays himself to this day. His hobbies include collecting sports memorabilia, playing fantasy football, and playing soccer with his friends. He is also a first-time uncle to a baby nephew and looks forward to being able to kick the soccer ball around with him soon.

Michael sets a stellar professional example, and in doing so, has shown me how to be a better attorney. He

has an open-door policy to discuss cases and strategies and is never too busy to give of his time. He challenges the way I think while valuing my opinion and I am beyond fortunate to have his positive influence in my life.

Michael is a *Star Wars* fan and in putting this piece together I am reminded of a quote from Master Yoda, "To be Jedi is to face the truth and choose. Give off light, or darkness, Padawan. Be a candle or the night, Padawan, but choose." Michael has certainly chosen to be a light for all in his life and this Padawan has much to learn from him.

Goushia Farook is an attorney at Bratton & Razo 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), Riverside County Bar Association and a member of the Leo A. Deegan Inn of Court. Goushia can be reached at goushia@brattonrazo.com.



MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective April 30, 2022.

Angela Corcoran (A) – Corcoran Legal Nurse Consulting & Associates, Beaumont

Robert L. Denebeim – Solo Practitioner, Cathedral City

Ciji Gomez (A) – Sandoval Legacy Group, Riverside

Jared A. Haringsma – Office of the District Attorney, Riverside

Taylor D. Holstrom – Sandoval Legacy Group, Riverside

Kamran Michael Khodadadi – Law Offices of Karen J. La Madrid, Riverside

Jeff W. LeBlanc – Anderson & LeBlanc APLC, Upland

Sean B. Murphy – Office of the City Attorney, Riverside

Francisco J. Navarro – Office of the District Attorney, Riverside

Kathleen M. Peach – Solo Practitioner, Riverside

Giselle M. Quintana – Legacy Counselors at Law PC, Riverside

Eric M. Rice – Rice Rice & Oran, Riverside

Amy R. Rotman – Wirtz Law APC, San Diego

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