

RIVERSIDE LAWYER

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MAGAZINE

GIVING BACK

PUBLIC SERVICE LAW CORPORATION

Inland Empire Latino
Lawyers Association

VIP Mentors

RIVERSIDE PROBATION DEPARTMENT

*Junior League
of Riverside*

Volunteer Center
of Riverside County

TEMPORARY JUDGES FOR

RIVERSIDE COUNTY SUPERIOR COURT

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Editors Michael Bazzo
Jacqueline Carey-Wilson

Design and Production PIP Printing Riverside

Cover Design PIP Printing Riverside

Officers of the Bar Association

President

David T. Bristow
(951) 682-1771
dbristow@rhlaw.com

President-Elect

Daniel Hantman
(951) 784-4400
dh4mjg@earthlink.net

Vice President

E. Aurora Hughes
(909) 483-6700
hughesa@cwllaw.com

Chief Financial Officer

Harry J. Histen, III
(951) 682-4121
harry@histenlaw.com

Secretary

Harlan B. Kistler
(951) 686-8848
hbkistler@pacbell.net

Past President

Theresa Han Savage
(951) 248-0328
theresa.savage@jud.ca.gov

Directors-at-Large

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

Daniel E. Katz
(951) 682-1771
dkatz@rhlaw.com

Richard A. Kennedy
(951) 715-5000
richardakennedy@sbcglobal.net

Robyn A. Lewis
(951) 686-8848
rlewislaw@yahoo.com

Executive Director

Charlotte A. Butt
(951) 682-1015
charlotte@riversidecountybar.com

Officers of the Barristers Association

President

John D. Higginbotham
(951) 686-1450
john.higginbotham@bbkllaw.com

Treasurer

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Secretary

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Vice President

Charles P. Boylston

Member-at-Large

Jerry C. Yang

Riverside County Bar Association
4129 Main Street, Suite 100
Riverside, California 92501

Telephone
951-682-1015

Facsimile
951-682-0106

Internet
www.riversidecountybar.com

E-mail
rcba@riversidecountybar.com

RIVERSIDE LAWYER

MAGAZINE

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MISSION STATEMENT

Established in 1894

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

RCBA Mission Statement

The mission of the Riverside County Bar Association is to:

Serve its members, and indirectly their clients, by implementing programs that will enhance the professional capabilities and satisfaction of each of its members.

Serve its community by implementing programs that will provide opportunities for its members to contribute their unique talents to enhance the quality of life in the community.

Serve the legal system by implementing programs that will improve access to legal services and the judicial system, and will promote the fair and efficient administration of justice.

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Public Service Law Corporation (PSLC), Tel-Law, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Inland Empire Chapter of the Federal Bar Association, Mock Trial, State Bar Conference of Delegates, and Bridging the Gap.

Membership meetings monthly (except July and August) with keynote speakers, and participation in the many committees and sections.

Eleven issues of Riverside Lawyer published each year to update you on State Bar matters, ABA issues, local court rules, open forum for communication and timely business matters.

Social gatherings throughout the year: Installation of RCBA and Barristers Officers dinner, Annual Joint Barristers and Riverside Legal Secretaries dinner, Law Day activities, Good Citizenship Award ceremony for Riverside County high schools, and other special activities.

Continuing Legal Education brown bag lunches and section workshops. RCBA is a certified provider for MCLE programs.

MBNA Platinum Plus MasterCard, and optional insurance programs.

Discounted personal disability income and business overhead protection for the attorney and long-term care coverage for the attorney and his or her family.

Riverside Lawyer is published 11 times per year by the Riverside County Bar Association (RCBA) and is distributed to RCBA members, Riverside County judges and administrative officers of the court, community leaders and others interested in the advancement of law and justice. Advertising and announcements are due by the 6th day of the month preceding publications (e.g., October 6 for the November issue). Articles are due no later than 45 days preceding publication. All articles are subject to editing. RCBA members receive a subscription automatically. Annual subscriptions are \$25.00 and single copies are \$3.50.

Submission of articles and photographs to Riverside Lawyer will be deemed to be authorization and license by the author to publish the material in Riverside Lawyer.

The material printed in Riverside Lawyer does not necessarily reflect the opinions of the RCBA, the editorial staff, the Publication Committee, or other columnists. Legal issues are not discussed for the purpose of answering specific questions. Independent research of all issues is strongly encouraged.

CALENDAR

NOVEMBER

23-24 HOLIDAYS

- 30 RCBA General Membership Meeting**
RCBA Bldg., 3rd Floor – Noon
(MCLE)

DECEMBER

- 4 Bar Admissions Ceremony**
Historic Courthouse, Dept. 1 – 10:00 a.m.
- 5 Environmental Law Section**
RCBA Bldg., 3rd Floor – Noon
(MCLE)
- 6 Bar Publications Committee**
RCBA – Noon
- 12 Family Law Section**
RCBA Bldg., 3rd Floor – Noon
(MCLE)
- PSLC Board**
RCBA – Noon
- 13 Mock Trial Steering Committee**
RCBA – Noon
- Estate Planning, Probate & Trust Law Section**
BBK - Noon
(MCLE)
- Barristers**
Cask 'n Cleaver, 1333 University Ave.,
Riverside
6:00 p.m.
(MCLE)
- 14 Holiday Social**
Historic Court House
5:30 pm – 7:30 pm
- 15 Annual Joint RCBA/SBCBA General Membership Meeting**
Speaker: State Bar President, Sheldon Sloan
Clarion Hotel, 295 N. "E" St., San Bernardino - Noon
(MCLE)
- 21 Business Law Section**
RCBA Bldg., 3rd Floor – Noon
(MCLE)
- 25 HOLIDAY**





by David T. Bristow

As promised, this month I return to the topic of our underfunded Riverside County court system. As I have previously mentioned, I believe the nature and magnitude of this issue demand nothing short of our complete and single-minded attention, on two fronts: One, we must educate our fellow citizens – and, in particular, their elected representatives; and, two, we must work towards a permanent solution to this problem so that the future of our judicial system in this county is preserved for our successors. Due to the nature of the problem, it falls below the radar of most county residents, until they are directly impacted by our lack of judicial resources when their own trial, divorce, probate or adoption is delayed. We, on the other hand, have an intimate knowledge of the problem, as we are confronted with it on a daily basis. And, of course, it directly impacts how we make our collective living. Aside and apart from its practical impact, our faltering judicial system in this county deprives us of our basic constitutional right to the judicial branch of government.

Our problem arises from the population explosion in this county, and the fact that the judicial resources we receive from the state have not kept pace with our burgeoning need. As the population in Riverside County has increased, we have not received a commensurate number of judicial officers. To address this problem, there should be a mechanism, tied to population, for the automatic creation of new judicial positions. It's certainly a goal we should strive for to correct this problem on a statewide basis. In the interim, here are some facts and statistics to discuss with your fellow Riverside County residents to better inform them of our problem:

- Riverside County is the fastest-growing large county in California.
- Riverside County's population has tripled in the last 25 years, from 683,600 in 1981 to over 2,000,000. In that same period, we've added just 17 judges (a 53% increase). Since 1989, only three judges have been added, while the population increased by over 55%
- We have 3.53 judges per 100,000 in population – the state average is 5.15 per 100,000.
- In the 2004-2005 fiscal year, Riverside County had more filings per judicial officer than Los Angeles, Alameda, San Francisco, Orange, Santa Clara and Sacramento Counties. Only our equally hard-pressed neighbors in San Bernardino County had more filings per judicial officer.
- In that same period (2004-2005), judicial officers in Riverside County disposed of more cases than those in Los Angeles, San Francisco, Santa Clara or Sacramento Counties (no stats for Orange, San Diego or Alameda). Also during this period, Riverside County judicial officers presided over more jury trials than their counterparts in Los Angeles, San Francisco, Santa Clara or San Bernardino Counties (again, no stats for Orange and San Diego).
- While the numbers for 2005-2006 are not yet available, the statistics will undoubtedly worsen, as our population explosion shows little sign of abating.
- Added to this, the number of felonies pending trial in Riverside County has doubled since the first civil moratorium in 2004, from roughly 400 to roughly 800. Thus, the civil courthouse will continue to sink beneath the swelling criminal filings and trials, making resolution of commercial and civil disputes more and more difficult.
- According to a study by the Judicial Council in 2004, Riverside County needed 121 judicial officers to adequately serve its population. That was two years ago. The number is undoubtedly higher in 2006, yet we have only 69 judicial officers.
- The recent addition of seven judicial positions for Riverside County certainly helps and is a step in the right direction. However, because of our critical shortage, Riverside County has, on any given day, seven to ten retired jurists specially assigned to the county by the Judicial Council in order to provide some relief for our shortage of judges. Those judges sitting by assignment can be removed at any given time, and, should they be, we would be right back where we are presently. Thus, both the short-term and long-term solution to the problem is for additional permanent judicial positions to be created for Riverside County.

It is incumbent upon us to advocate for a strong and efficient judicial system in our county. In order to do this, we must educate the citizenry about the nature and magnitude of this problem, and work with our elected officials towards a solution. I would encourage all of the RCBA members to discuss these statistics – and the fact that we don't enjoy the same judicial resources as our neighboring counties to the west and south – with your neighbors, your service clubs, your clients and your firms. This issue is a concern for all of Riverside County, not just its attorneys.

David T. Bristow, President of the Riverside County Bar Association, is a Senior Partner with Reid & Hellyer in Riverside.



BARRISTERS

by John D. Higginbotham

The 2006-2007 Barristers season kicked off with a bang on October 11. We had record attendance, including many first-timers. Mark Lester from Lobb & Cliff gave a great presentation on legal malpractice and malicious prosecution. Mark is one of the premier defense attorneys in this field in Southern California, and everyone in attendance benefited from his considerable expertise.

For any of you who may be on the fence about whether to come to Barristers, or for you former Barristers who aren't encouraging your associates to follow in your footsteps, let me explain why you should give it a try. I have been attending Barristers regularly for the past several years, and it has been a great experience. The speakers at Barristers are carefully selected from the best lawyers and judges in the Inland Empire, and they all do a terrific job. I have learned so many valuable lessons that, but for Barristers, I probably would have learned the hard way. The lineup of judicial officers and practitioners who will be speaking this season will not disappoint.

Barristers is also a great opportunity for young and/or newer attorneys to network and expand their sources of referrals. At the firm where

I work, we get requests for referrals on a daily basis, and I refer almost exclusively to people I know from Barristers. Some of our presenters over the past few years, who attended Barristers themselves as young attorneys, have spoken of receiving dozens, if not hundreds, of referrals resulting from friendships and associations they made at Barristers early in their careers.

Finally, Barristers is a great way to get MCLE credit, for free. Just coming to Barristers for our eight meetings every year will satisfy nearly your entire MCLE obligation. We even offer hard-to-get credits, like ethics and substance abuse. The food at the Cask 'n Cleaver is pretty good, too.

Barristers is not just for civil practitioners, and it is certainly not just for litigators. While there is a litigation focus to some of the presentations, most of the topics should benefit just about everyone. Over the past few years, we have had great presentations on many areas of the law, including estate planning, employment law, family law, criminal law, and bankruptcy.

We look forward to meeting you at our next meeting.



by Mark A. Mellor

No jury trial to determine apportionment of settlement between heirs. After three heirs settled their wrongful death suit, they disagreed on the apportionment of the settlement proceeds amongst them. Over the objection of one of the heirs, who claimed entitlement to a jury trial, the trial court decided the allocation issue in a bench trial. The court of appeal affirmed; Code of Civil Procedure section 377.61 provides that “the court shall determine the respective rights in an award [for wrongful death] of the persons entitled to assert the cause of action,” and since the proceedings are equitable, there is no right to a jury trial. (*Kim v. Yi* (2006) 139 Cal.App.4th 543 [42 Cal. Rptr.3d 841, 2006 DJDAR 5835] [Second Dist., Div. Five].)

Time for filing government claim for sexual abuse is not extended. Code of Civil Procedure section 340.1 extends the statute of limitations for childhood sexual abuse for a period beyond the victim’s attaining the age of majority. But this does not extend the time to file a claim against a governmental agency for such abuse. (*V.C. v. Los Angeles Unified School Dist.* (2006) 139 Cal.App.4th 499 [43 Cal.Rptr.3d 103, 2006 DJDAR 5843] [Second Dist., Div. Two].)

State Bar Court rejects “retainer” theory where lawyer failed to provide services. The State Bar Review Department ordered David Brockway suspended for two years after he retained fees without performing any services. The Review Department rejected Brockway’s theory that he was paid a “true retainer.” A true retainer fee is paid to secure a lawyer’s availability, and not for services rendered or to be rendered. Construing ambiguities in the retainer contract against the lawyer, the Department concluded that the agreement contemplated the performance of services. (*In re Brockway* (Review Dept. 2006) ___ Cal. State Bar Ct. Rptr. ___ [2006 WL 1360438, 2006 DJDAR 5933].)

Strict product liability claim not barred by doctrine of primary assumption of risk. In *Knight v. Jewett* (1992) 3 Cal.4th 296 [11 Cal.Rptr.2d 2, 834 P.2d 696], the California Supreme Court adopted the doctrine of primary assumption of risk, which, as applied in many subsequent cases, absolves a defendant from liability where an injury occurs during a sporting event when the risk of such an injury is inherent in the sport. In *Ford v. Polaroid Industries, Inc.* (2006) 139 Cal.App.4th 755 [43 Cal.Rptr.3d

215, 2006 DJDAR 6081] [First Dist., Div. Four], plaintiff sustained severe injuries after she fell from a jet ski. The jet-powered nozzle propelled a high-pressure stream of water into her rectum, tearing apart her internal organs. Although the risk of falling off the jet ski is inherent in the sport, the court held that the risk of being injured because of the defective design of the watercraft is not. It therefore affirmed judgment for plaintiff in this product liability case.

Sanctions orders in limited civil cases are immediately appealable. Although prejudgment orders generally are not appealable, an exception applies to a “collateral order,” i.e., an order that is, in effect, a final judgment against a party growing out of a matter collateral to the main proceeding. (See *Sjoberg v. Hastorf* (1948) 33 Cal.2d 116, 119 [199 P.2d 668].) Until 1989, this meant that sanctions orders were immediately appealable. In that year, the Legislature amended Code of Civil Procedure section 904.1 by providing that sanctions orders issued by the superior courts were immediately appealable only if they exceeded \$750. In 1993, the section was further amended to raise the amount to \$5,000.

But section 904.1 does not apply to limited civil cases. Therefore, when a sanctions order is made in such a case, it is immediately appealable, and failure to file a timely appeal from such an order deprives the appellate division of jurisdiction to hear the appeal. (*Drum v. Superior Court* (2006) 139 Cal.App.4th 845 [43 Cal.Rptr.3d 279, 2006 DJDAR 6109] [Fourth Dist., Div. Two].)

No interlocutory appeal from sanctions order in federal court. As noted above, Code of Civil Procedure section 904.1, subdivision (a)(12) permits an immediate appeal from an order for monetary sanctions in excess of \$5,000. Appeals from sanctions orders in smaller amounts in general jurisdiction cases are permitted only after final judgment. But the rule is different in federal court. Regardless of the amount of sanctions, the circuit courts lack jurisdiction to hear appeals from sanctions orders until a final decision of the case wherein the sanctions order was issued. (*Stanley v. Woodford* (9th Cir. 2006) 449 F.3d 1060 [2006 DJDAR 7035].)

Court retains jurisdiction to review arbitrator’s discovery order directed to a party not subject to the arbitration agreement. Code of Civil Procedure sections

1283.05 and 1283.1 give arbitrators authority to enforce discovery subpoenas against nonparties in certain types of cases. The court of appeal held that, although section 1283.05, subdivision (c) limits judicial review of an arbitrator's discovery orders, the court retains "vestigial jurisdiction" to review such orders directed at persons or entities that are not parties to the arbitration agreement. (*Berglund v. Arthroscopic & Laser Surgery Ctr.* (2006) 139 Cal.App.4th 904 [43 Cal.Rptr.3d 456, 2006 DJDAR 6233] [Fourth Dist., Div. One].)

On August 23, 2006, however, the California Supreme Court granted review in *Berglund*. (Case No. S144813.)

Mere creation of a dangerous condition does not render agency liable. In *Metcalf v. County of San Joaquin* (2006) 139 Cal.App.4th 969 [43 Cal.Rptr.3d 522, 2006 DJDAR 6279] [Third Dist.], the jury found that the location of a stop sign created a dangerous condition. Nevertheless, the court of appeal affirmed a judgment for defendant, holding that the agency is not strictly liable for the creation of a dangerous condition; under Government Code section 835, plaintiff must also prove the agency acted negligently or wrongfully.

On September 20, 2006, however, the California Supreme Court granted review in *Metcalf*. (Case No. S144831.)

No Proposition 51 apportionment for intentional tortfeasors. Proposition 51 (Code Civ. Proc., §§ 1431-1431.5) provides for apportionment of noneconomic damages among tortfeasors. In *Thomas v. Duggins Const. Co., Inc.* (2006) 139 Cal.App.4th 1105 [44 Cal.Rptr.3d 66, 2006 DJDAR 6396] [Fourth Dist., Div. One], one defendant was found liable for an intentional tort (intentional misrepresentation) and the trial court denied its request that noneconomic damages be apportioned between it and other defendants. The court of appeal affirmed; Proposition 51 does not apply to intentional torts.

Utah court split on whether Lawrence v. Texas permits polygamous marriages. In the landmark U.S. Supreme Court case

Lawrence v. Texas (2003) 539 U.S. 558 [123 S.Ct. 2472, 156 L.Ed.2d 508], the Supreme Court held that constitutional privacy rights precluded criminal prosecution for sex between persons of the same gender. The defendant in *State v. Holm* (2006) 2006 Utah 31 [137 P.3d 726] was convicted of polygamy. The court affirmed the conviction. But Chief Justice Durham dissented, expressing the opinion that the bigamy conviction should be overturned. Under *Lawrence*, she wrote, the due process clause of the U.S. Constitution's 14th Amendment provides protection to private sexual relationships between consenting adults.

No section 170.6 challenge where case remanded for preparation of statement of decision. Code of Civil Procedure section 170.6, subdivision (a)(2) provides that an affidavit of prejudice may be filed against a judge whose judgment is reversed on appeal, "if the trial judge in the prior proceeding is assigned to conduct a new trial on the matter." Where the court of appeal reversed a judgment because the trial court had failed to prepare a statement of decision and remanded the case to the trial court, ordering that a statement of decision be prepared, the statute did not apply. On remand, the trial court is reinvested with jurisdiction only to the extent it is defined in the remittitur. The trial court therefore lacked jurisdiction to grant the motion under section 170.6. (*Karlsen v. Superior Court* (2006) 139 Cal.App.4th 1526 [43 Cal. Rptr.3d 738, 2006 DJDAR 6690] [Second Dist., Div. Four].)

Note: Although the court of appeal decided the case on the basis that the trial court lacked jurisdiction to do anything but follow the dictates of the remand, it seems that an alternative ground would also provide the basis for the same result. The statute is limited to situations where the appellate reversal requires a new trial. No such new trial was ordered here. Furthermore, if a party were permitted to disqualify the trial judge after a remand to prepare a statement of decision, a new trial would be inevitable. If the trial judge is incapacitated before filing a statement of decision, a new trial is mandatory. (*Raville v. Singh* (1994) 25 Cal.App.4th 1127 [31 Cal.Rptr.2d 58].)

Mark A. Mellor, Esq., is a partner of The Mellor Law Firm specializing in Real Estate and Business Litigation in the Inland Empire.



by Richard Brent Reed

Shuttle Sharia

Islam considers dogs to be unclean animals. Islam has, obviously, never frequented Rodeo Drive or Beverly Hills. Nevertheless, a Muslim who touches something unclean – be it a dog, a piece of pork, or a post-PMS woman – has defiled himself. The Muslim so defiled may require himself to perform the ghusl: a ritual bath with a complete body-shave. Not a service offered at your local day spa.

In October 2006, Muslim cab drivers in Australia and England decided to refuse to carry dogs in their cabs – even seeing-eye dogs. The British blind fail to see the justice of this. Shortly thereafter, Muslim cabbies in Minneapolis refused to carry anyone carrying alcohol: no intoxicants in their taxis. Minneapolis is now requiring those cabs to sport an emblem warning the guy with the bottle of wine that he has to wait for an infidel to pick him up.

What if Muslim cab drivers in, say, New York refuse service to women who are not wearing a veil? Not the chic face-net fifties fashion statement, but the burka, the abaya, the chador, or at least a scarf that hides the neck and covers the head and face? (My guess is that they will cut attractive ladies some slack, but aesthetically challenged women will have no chance of getting a ride.)

In most states, taxis operate under a special permit granted by the city and are regarded as common carriers. The legal questions, then, are these:

1. Does the Muslim cab driver have a First Amendment religious right to discriminate?
2. Do women have a right to get a cab?
3. Does a city have the right to require a cab driver not to refuse service?

In *Church of Lukumi Babalu Aye, Inc. v. Hialeah* (1993) 508 U.S. 520 [113 S.Ct. 2217, 124 L.Ed.2d 472], a Florida city tried to outlaw the ritual sacrifice of chickens by practitioners of the Caribbean religion Santeria.

The city lost. The court ruled that the law must be neutral and of general applicability. Will Minneapolis or New York be barred by the courts from forcing Muslim cab drivers to set aside their religious sensibilities, or will the courts decide that Muslim cab drivers must deny service to uncovered men as well? It may be that the state or even a municipality has the right to require individuals who serve the public to set their religious sensibilities aside in the execution of their duties and that society has a right to assert its social norms. Once that is determined, we may yet see the return of civility to public conduct and the acknowledgment that this country – as much as France, or Japan, or Denmark – has a national character worth preserving.

Jurisdiction and Interdiction

We all learned the definition in law school: “Jurisdiction is power.” That principle was illustrated by the interdiction of a plane full of missiles headed from Iran to Lebanon via Syria to supply the embattled Hezbollah during that political faction’s recent altercation with Israel. The airplane never, in fact, left Iranian airspace.

U.S. intelligence identified the plane’s deadly cargo before it left Iran by profiling the shipping crates, using satellite photographs. The State Department then contacted, not the Syrian government, but Turkey and Iraq, asking those two countries not to allow the jet to enter their airspace. When the Persian flight planner radioed ahead, access to airspace was denied. In other words [translated from both the Turkish and the Arabic]: If you fly over, we’ll shoot you down. The flight was cancelled.

Had the missiles reached their immediate destination in Syria, their intermediate destination in Lebanon, and their ultimate destinations in Israel, the Israelis would have responded in kind against Hezbollah strongholds in Lebanon and the fighting would, no doubt, still be going on. One can hardly imagine Saddam Hussein would have cooperated in such a crisis.

Richard Reed, a member of the Bar Publications Committee, is a sole practitioner in Riverside.



PUBLIC SERVICE LAW CORPORATION

by Paulette Sandler

Are you giving back? When was the last time you volunteered and gave some legal advice to someone at the Public Service Law Corporation? Or Latino Lawyers? Or Inland Counties Legal Services? Or any legal services organization, for that matter?

The holiday season has always been closely associated with “giving back” to the community. I for one am greatly appreciative that I am fortunate enough to practice in a close-knit legal community, where many of my professional colleagues are also people I consider my friends. We also impact our clients’ lives on a daily basis through our practice of law. Unfortunately, the Inland Empire has a tremendous number of persons who cannot afford to pay for legal services but who have the greatest need for legal services.

The Public Service Law Corporation (PSLC) of the Riverside County Bar Association provides legal services to the community free of charge. We are currently looking for attorneys who are willing to give back to the community and volunteer on a Tuesday or Thursday night. We are also looking for civil attorneys who can volunteer their legal services on their schedule. Instead of thinking of reasons why we just cannot seem to fit one more item into our busy schedules, start thinking of how we can fit this invaluable hour or two a month into our lives.

We simply do not have enough attorney volunteers to meet the demand for legal services. Volunteering one or two evenings a month can make a tremendous



The Public Service Law Corporation, the RCBA's pro bono program, recently recognized volunteer attorneys who have donated 50 hours or more assisting low-income clients over the past year. The State Bar of California's Wiley Manuel Award was given to (left to right): Paulette Sandler, Jeffrey Bertram, Ralph Hekman, Greg Tuss, Katie Greene and Diana Renteria.

difference in a person’s life. I think each one of us can relate from our own personal experiences a situation where we made a significant and lasting experience on our client’s life. Those are perhaps the most cherished of experiences in our practice of law.

We are all spread too thin – business, family, etc. However, we all strive to better ourselves and to improve the community that we live in. I don’t believe that you can make a greater impact on the community in which you live than by giving back to those among us who cannot afford to pay for legal services. As practicing attorneys know, the legal system can be a complicated and an unfriendly environment. People completely unfamiliar with the legal system can feel simply lost. They are also at greater risk, because the most vulnerable among us often cannot afford legal representation.

In this season of need, I am asking that you volunteer some of your time and experience in exchange for the satisfaction of making a difference in another person’s life. Thank you!

Paulette Sandler is a member of the PSLC Board of Directors.



INLAND EMPIRE LATINO LAWYERS ASSOCIATION

by Rina Gonzales

The Inland Empire Latino Lawyers Association (“IELLA”) is a legal aid project that started in the late 1970s. The founding members of IELLA wanted to give back to their community by providing legal aid to indigent residents. For the past 28 years, the founders’ primary goal – providing access to the judicial system through a pro bono attorney panel – has been realized on a weekly basis.

Currently, IELLA operates clinics every week in Riverside and Colton. Monthly clinics are held in Ontario and Victorville. Any individual who meets IELLA’s eligibility criteria is provided with counsel, advice, and the preparation of necessary legal documents; all of these services are provided free of charge. IELLA assists clients in family law, landlord-tenant,

and limited civil cases (e.g., collections, identity theft).

The volunteer attorney panel includes attorneys from the Riverside and San Bernardino County Bar Associations. A large number of attorneys on the panel volunteer once a month, for approximately two to three hours. The clinic staff and seasoned attorney volunteers welcome any new attorneys wanting to become part of the volunteer panel. Many IELLA clients are Spanish-speakers, but this should not discourage potential volunteers – IELLA has translators available at every clinic to assist non-Spanish-speaking attorneys.

IELLA’s clinics are held at the following times and locations:

Mondays – 5 p.m. to 8:30 p.m.
Lawrence Hutton Community Center
660 Colton Av., Colton

Wednesdays – 5 p.m. to 8:30 p.m.
César Chávez Community Center
2060 University Av., Suite 113,
Riverside

Second Thursday of each month
– 4:30 p.m. to 7:30 p.m.
De Anza Community Center
1405 S. Fern Av., Ontario

Third Saturday of each month – 11
a.m. to 1:30 p.m.
Victor Valley Domestic Violence
Center
14114 Hesperia Rd., Victorville

We would like to thank the following members of the Riverside County Bar Association who have donated their time and skills to IELLA:

Luis Aguilar
Steve Anderson
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Mark Parsons
Rene Pimentel
Diana Renteria
Rosa Elena Sahagun
Charity Schiller
A. Haviva Shane
Minh Tran
John Vineyard

If you are interested in joining IELLA's volunteer attorney panel, you can expect to be welcomed by many, including the staff, IELLA Board Members and volunteer attorneys. You can call Maribel Ortiz at (951) 369-5846 to schedule a date to begin volunteering for IELLA.

Rina Gonzales is a deputy city attorney for the City of Riverside and President of the Board of Directors of IELLA.



THE GIFT OF JUSTICE

by Judge Craig G. Riemer

Anyone who practices in Riverside County knows that our court has no spare judicial resources. When one judge or commissioner is sick or on vacation or at a class, there is no other bench officer who has the spare time to step in and hear the absent colleague's cases. Instead, we turn to the bar, and ask its members to volunteer their

time, talents, and experience by serving as temporary judges.

And the bar has answered the call. So far during this calendar year, 166 different attorneys have donated a total of 686.63 days of service as temporary judges. As amazing as that number is, those statistics cover only two-thirds of the year, from January through August! That is an average of more than four full days per attorney. (Some served far more than that average.) Even at a modest hourly rate of \$180, that constitutes an average gift by each of those attorneys of over \$5,760 in billable time.

The value to the Court, however, is far more. Without these generous individuals, hundreds of cases would have had to have been either continued (again) or crammed onto the calendars of other bench officers who already had more cases than they could properly handle. In the latter event, decisions would have been made — the cases would have “processed” — but the quality of those decisions would have been doubtful. In other words, justice would probably have been either delayed or denied. Instead, those cases were able to be decided in a timely and deliberate way by temporary judges, all because of the generosity of the lawyers of this county.

They say that donating blood is the gift of life. Giving your time as a temporary judge is a gift of justice. On behalf of the judges and commissioners of the Riverside Superior Court, and on behalf of all attorneys and litigants who have appeared before you, I thank each of the temporary judges who have so freely and so frequently made that precious gift.

The Honorable Craig G. Riemer, a past president of the RCBA, is Chair of the Riverside Superior Court Temporary Judges Committee.



THE MANY ROLES OF A PROBATION OFFICER

by Patricia Taylor

Many in the judicial system, as well as in the community, know little about the role of the deputy probation officer. Even I, who began my career as a group counselor at Juvenile Hall with the Riverside Probation Department, had no idea of what a probation officer actually did until I was promoted to the position.

My life as a probation officer began in the Adult Division. It was then that I quickly realized that the Probation Department supervised juveniles and adult offenders. I was accustomed to working with minors in a detention setting and now would be supervising adults in the community. I was nervous about leaving the structured walls of Juvenile Hall and venturing out into the field, but I knew I had to spread my wings.

After meeting several probation officers, I learned each had the true desire to positively impact others. A probation officer plays many different roles: from giving a victim a voice, to helping a drug addict get clean, to recommending that a repeat domestic violence offender serve jail time. There were so many different facets to probation that I decided to stick around and find out what probation work was all about.

Five years later, I have learned a lot about the role of the deputy probation officer, so allow me to give you a brief synopsis. After a defendant has been convicted of a crime, usually a felony offense, and sentenced to formal probation, deputies are mandated by law to supervise the defendant for a period of time determined by the court. The typical term of probation is three years, but it can be longer if the court sees fit. The court also orders a variety of terms and conditions. They can range from attending a residential drug treatment program to completing an anger management program, or even to taking medications as prescribed by a psychiatrist. The terms and conditions are based on a number of factors, such as the type of crime, the defendant's history, and, of course, the law. The probation officer's first obligation is to ensure the court-ordered terms and conditions of probation are being met.

In monitoring defendants, probation officers meet with them at the probation office on a regular basis or at their home, to confirm that they remain in compliance. We may also meet with the families and victims in

hopes of getting a clearer view of the probationers' needs and issues. We often refer probationers to appropriate community resources for counseling or substance abuse issues, to assist them in completing probation successfully. Yes, this sounds like the job description of a social worker.

Not only do we wear the hat of a social worker; but we also work as law enforcement. We conduct searches, serve warrants, and arrest probationers for failing to follow court orders. Some probation officers get the opportunity to work on specialized task forces, such as the Gang Task Force, PACT (Police and Corrections Team), Sex Offender Task Force, and the Computer Crimes Task Force, to name a few. Probation officers work with many different law enforcement agencies, such as deputy district attorneys, police, sheriff, parole, INS, and even the FBI.

Probation officers are also assigned to prepare reports for the court. These are the investigating deputies. Prior to sentencing, the court can order the probation officer to write a report, including the circumstances of the offense, the severity of the crime, and the defendant's criminal and social history. The defendants are interviewed to determine their remorsefulness and ability to comply with probation. The investigator rifles through sometimes hundreds of pages of police reports and summarizes it all into one neat little package for the court. Investigating probation officers make a sentencing recommendation to the court, which can range from weekend custody to the death penalty, in adult matters. Sentencing issues are quite complicated and are forever changing. The parole board will also review the report if the defendant is sentenced to state prison.

Prior to making a sentencing recommendation to the court, the investigator will contact the victim or victims to determine how the offense has affected their lives. They are also asked what type of punishment the defendant should receive, and the impact section of the report allows them an opportunity to express their feelings and concerns. The investigator informs victims of their rights and provides information regarding the recovery of losses they may have suffered. The investigator also informs victims of the resources available to them through the Victim Witness Program, offered by the Office of the District Attorney. It takes a truly dedicated and conscientious deputy to complete these reports.

Probation officers also enjoy the benefits of doing community service. For example, the Adult Division organizes the annual Christmas charity run by the Alternatives to Domestic Violence (ADV) program and obtains donations from each of the outlying probation offices. Among the items requested are small kitchen appliances, beauty supplies, and, of course, toys.

A few generous probation officers give up their day to drive around collecting the gifts and delivering them. ADV organizes the items, and then the women and children in shelters can pick out presents for each other. Most of these brave women leave their abusers with nothing more than their children and the clothes on their backs. If you are interested in donating to this program, please call ADV at (951) 683 0829.

The cycle of violence affects generations of families, which in turn can result in an increase in criminal

activity. Probation officers believe it is very important to support victims in their quest to better themselves and their children's lives. Many times, we see generations of families come through our doors. We see the damage violence and drugs can cause. This is just one example of the many acts of community service our department does.

The deputy probation officer receives little recognition or publicity. You will not see us on the news or in the papers, but we are perpetually present in the community and in the judicial system. Whether participating in community service, supervising probationers, or preparing reports for the court, we are there.

Patricia Taylor is a senior probation officer with the County of Riverside.



HOLIDAY GIVING: MAKE THIS BE THE YEAR THAT YOU TRULY MAKE A DIFFERENCE

There are many ways to give during this holiday season. Throughout Riverside County, organizations are meeting the needs of families by:

- (1) Providing food, so that families can prepare their own Thanksgiving and Christmas dinners;
- (2) Providing meals, so that families can enjoy a hot meal on Thanksgiving and Christmas;
- (3) Providing gifts, so that needy children will have a present to open on Christmas morning.

The Volunteer Center of Riverside County has a list of the organizations in Riverside County that are providing these very important services during the holidays. Please consider contacting the Volunteer Center to

donate to one of the organizations or to find out what organizations need assistance. If you are calling within the County of Riverside, simply dial 211. If you are calling from outside the county, please dial (800) 464 1123. Your generosity will touch many lives.



THE JUNIOR LEAGUE BALL: EAT, DRINK, DANCE, GIVE!

The Junior League movement started in New York City in 1901, when young women bonded together to establish an organization dedicated to effective community service. In Riverside, the Junior Aid organization, founded in 1928, focused on projects such as benefits for the Riverside Hospital Auxiliary.

The original Junior Aid's decision to join the Association of Junior Leagues International, Inc. in 1962 allowed for the diversification and expansion of its goals. The original Junior Aid evolved to become the Junior League of Riverside, and JLR's focus expanded to social, health and educational issues that affect the Riverside community. Throughout the decades, JLR has established and invested in many of Riverside's community projects and organizations.

The Junior League of Riverside has a history of determining the needs of the community and creating projects to address those needs. JLR seeks to initiate projects where the need is great and where the participation of its members can be effectively utilized. JLR provides administrative guidance, trained volunteers and financial support. Once a project has been successfully established, JLR often turns it over to an appropriate agency or aids in establishing the project as an independent agency.

Throughout the years, JLR has put on fundraisers such as bazaars, dinner dances, teas and fashion shows to maintain its support of worthy causes such as the Visiting Nurses Association, the Volunteer Center, the YWCA and the Red Cross. JLR also seeks collaborative relationships to maximize community impact. Past partnerships with CASA, Family-to-Family, the Riverside Arts Council and innumerable others have successfully shown that more can be done collectively than achieved alone.

Now, as JLR reflects on nearly 80 years of service to the greater Riverside community,

it is hosting the 51st Annual Charity Ball on Saturday, December 2, 2006. The Charity Ball, a Riverside tradition of over 50 years, is an elegant and festive gala held annually on the first Saturday of December. Key components of the JLR's major fundraiser include gourmet food, entertainment, a festive atmosphere and interesting guests.

The 2006 Charity Ball is a black-tie event with the theme *The Sky's the Limit*, held at the Riverside Municipal Airport at a private hangar sponsored by Zenith Flight Support. Guests will mingle during cocktails and hors d'oeuvres, then partake in a seated dinner with wine pairings prepared by Taste by City Cuisine. During dessert, the live auction will commence, hosted by special guest Martha Green. A special feature of the live auction is a Giant Orange from the Art Alliance's Orange ArtVenture, donated by Johnson Machinery. The live and silent auctions will be followed by dancing to music by Boogie Fever. The evening also includes an opportunity drawing featuring a stunning diamond bracelet donated by K. Norris Jeweler.

The 2006 Charity Ball has been generously underwritten by Windor Heights Electric, ARB Inc., Johnson Machinery Company, Barney Northcote Inc., the Law Offices of Jeffrey A. Van Wageningen, Lonsdale Trucking, Seven Hills West, K. Norris Jeweler, and Zenith Flight Support. For more information about Junior League's Charity Ball, please call (951) 683-0622.



BECOME A MENTOR — SAVE A LIFE

by Judy Davis

I am going to ask you to volunteer three to five hours of your time each month to help someone get his or her life back on track. It may well turn out to be one of your most unforgettable experiences.

VIP Mentors is a unique mentoring organization. Founded by California attorneys in 1972, the VIP program provides mentors to men and women on parole from state prison. The program began in Riverside County in 2000. VIP is the only program in California that recruits attorneys, and *only* attorneys, to be guides, advisors, friends and role models for parolees as they struggle to turn their lives around. We have 14 mentoring programs throughout California. Over the years, VIP volunteers have helped thousands of former offenders begin new lives that are self-respecting, self-supporting, and crime-free.

For many individuals caught up in the criminal justice system, recidivism becomes a way of life. Mentees tell us that their mentor is the first person who ever truly believed in them: "I figured he'd be this stuffy old white guy. But on our second or third meeting, he says to me, 'If you ever get in trouble, I'll stick with you. If you go back to jail, you can still call.' Nobody had ever said that before. It meant a lot." Research shows that having a VIP mentor more than doubles a parolee's chances for success!

While mentors never provide their mentees with legal representation, their professional status often means a great deal to their mentees. Explains one VIP mentor, "They are proud that a professional person is taking the time to be their friend and it gives them someone positive to identify with."

Mentoring works magic for both the parolee and the mentor. As San Bernardino attorney Ramona Petersen has learned, "I joined VIP to help others and ended up being the one who was helped. Being a mentor has taught me compassion, tolerance, and what it means to be a real friend."

The high point of the VIP year is the Annual Awards Luncheon, when attorneys, judges, parolees, criminal justice personnel and public officials gather to honor the year's outstanding mentors and mentees.

Our most recent luncheon was on April 7, 2006 at the Mission Inn. The master of ceremonies was the Honorable Stephen G. Larson, Judge of the United States District Court and member of the VIP Mentors Advisory Committee. Honored guests included Erin Sasse, Senior

Field Representative for the California State Governor's office; James O. Heiting, California State Bar President; the Honorable Nancy Hart, Riverside City Council member; and Alfred Martinez, Deputy Administrator, Adult Parole Operations, Region IV of the California Department of Corrections and Rehabilitation.

Albert Johnson received the outstanding mentor of the year award. He mentored two parolees, participated in community outreach, and helped to raise awareness about VIP Mentors through the local media. Albert accepted his award for all of the mentors who participated and gave their time. He emphasized that "Mentor relationships lead to lasting friendships for life."

Mary Ellen Daniels, Albert's wife and Past President of the Riverside County Bar Association, received the outstanding co-mentor of the year award. Mary Ellen partnered with Albert in mentoring and was a positive role model, advisor, and friend to her husband's mentee.

Attorney Ramona Petersen and her mentee Raylene received the award for outstanding match of the year. Attorney Yoginee Braslaw received a "Partners in Success" award for outstanding program support.

Three VIP mentees earned TOPS (Targeting Obstacles to Personal Success) scholarships to help them continue to make progress in reaching goals. Attorneys and supporters whose gifts made the TOPS program possible were: Yoginee Braslaw, Vicki Broach, Jacqueline Carey-Wilson, Judy Davis, Jody Isenberg, Pam Jackson, Lynn Mawhorter, Dave Philips, Kieran Philips, the Honorable Craig Riemer, Victoria Seitz, Ph.D., John Vineyard, and Jeff Van Wagenen.

In the words of an experienced VIP mentor: "As I watch my mentees continue to overcome obstacles, the value of my small contribution to their betterment seems insignificant. All I did was share some time, eat a few meals, listen and be a friend. It's wonderful to be a part of someone's success – to be present when miracles happen. Mentoring has the potential to touch many lives! One of those lives has been my own."

To become a mentor or to get more information about VIP Mentors in Riverside County, please contact Judy Davis, Program Director, at (951) 782-4479, ext. 242, or at vip-riverside@vipmentors.org. Visit our website at www.vipmentors.org!





Partners in Success award winner Yoginee Braslaw (left) with VIP Program Director Judy Davis and Master of Ceremonies Judge Stephen Larson



Outstanding Mentor of the Year award winners – attorneys Albert Johnson (right) and Mary Ellen Daniels



Judge Larson presenting the Outstanding Match of the Year award to attorney Ramona Petersen and Raylene Bonner

JUDICIAL PROFILE: COMMISSIONER CAROL D. CODRINGTON

by Donna Johnson Thierbach

I am now convinced that Riverside County has some of the most interesting and diversified judges and commissioners on the bench. Commissioner Codrington's parents initially lived in Belize, but moved to Los Angeles when her older brother (who was 18 months old at the time) contracted polio. There were no treatment facilities in Central America, so her parents brought the family to Los Angeles, seeking treatment at the Rancho Los Amigos Hospital in Downey, California. The disease required years of treatment, so her parents applied for naturalization and the family remained in Los Angeles. Commissioner Codrington is the second youngest of five siblings (all the rest are brothers!) and was the first in her family to be born in the United States.

Commissioner Codrington's father worked for RCA Records, in the factory, pressing records, and later had a business as an importer/exporter. Her mother is a gifted seamstress and clothing designer who has her own business designing and making wedding gowns and bridal party dresses. So how did Commissioner Codrington become interested in law? She said she knew she wanted to be an attorney at age 12, when she went on a field trip to the Los Angeles County Superior Court on Hill Street. She liked the proceedings and the interaction and knew then that she wanted to be a litigator.

It seems that once Commissioner Codrington made up her mind, there was no dilly-dallying! She received her Bachelor's Degree from Loyola Marymount University, and her Juris Doctorate four years later from Loyola Law School. Although she initially attended law school during the day, she switched to night classes because she was also working full-time. She said she had the typical college-student-type jobs and she worked at the law library for a time. She added that, while in law school, she also had the good fortune to clerk for the California Court of Appeal and Bet Tzedek Legal Services.

Commissioner Codrington initially practiced general civil litigation and then specialized in liability defense for municipalities, insurance companies and corporations. She then accepted a position as Director of Litigation for the Western Law Center for Disability Rights at Loyola Law School (now the Disability Rights Legal Center) and as Adjunct Professor at Loyola Law School, where she taught



Commissioner Carol D. Codrington

Disability Rights Law and supervised the Civil Rights Litigation Project and its staff. Commissioner Codrington said this was one of her most rewarding experiences. She has a personal interest in disability law, in that two of her brothers require a wheelchair to get around. She also enjoyed teaching law, and she received a lot of satisfaction from representing people with disabilities in a myriad of complex, high-impact class action cases in state and federal court.

Commissioner Codrington is married and has a son and four adult stepchildren. She found that providing legal services at no cost to clients was extremely satisfying and fulfilling. However, it also requires significant personal and economic sacrifices. She recognized that, with the prospect of her son attending a college looming closer, she needed increased opportunities for advancement, so she went to work for the Los Angeles City Attorney's Office. The work was interesting, especially since she joined the Police Litigation Unit in the midst of the Rampart scandal. There she handled all aspects of litigation and complex case management in civil rights and employment litigation and class actions in both state and federal court. Her next stop was to serve as Associate General Counsel for the Los Angeles Unified School District, where her focus was on special education and civil litigation. From there, she went into private practice, where she represented municipalities and school districts, as well as private clients in a variety of civil and criminal matters. She also provided consultations in the area of law practice management.

Naturally, I had to ask Commissioner Codrington how a Los Angeles native found herself in Riverside County. She explained that her husband, who is a detective with the Inglewood Police Department, was born and raised in Riverside County. They decided that, when she went into private practice, they would move to Riverside County to be closer to family and to her son's university.

Commissioner Codrington served as a Judge Pro Tem in Los Angeles, starting in 1995. From those experiences, she knew she wanted to be a bench officer, so, after relocating to Riverside County, with some prompting from several judges and colleagues, she applied to become a commissioner. As commissioner, she has been assigned to the Moreno Valley courthouse, handling small claims, traffic and unlawful

detainers. She said she has busy calendars and a lot of paperwork, but finds it very rewarding. She said that, as a commissioner, she tries to treat people the way she wanted to be treated when she appeared in court. Commissioner Codrington finds it important to treat litigants with patience, dignity and respect.

So what does Commissioner Codrington like to do in her free time? I guess I should mention she has served on the Business Development Committee of the Women Lawyers Association of Los Angeles, on the Board of Directors of the Century City Bar Association, as Chair of the Ethnic Minority Relations Committee of the California State Bar and as President and Treasurer of the Black Women Lawyers Association of Los Angeles. She has been an active member of several professional associations. She was appointed as a member of the Los Angeles Citizen's Commission on U.S. Drug Policy, a project of the Institute for Policy Studies. Her interests also include community service in the area of educating the public about the court system, issues faced by the homeless population and outreach to at-risk children. Her favorite bar activities included "Lawyer in the Classroom," "Citizen's Law Day" and various other mentoring activities. Commissioner Codrington has also been a featured speaker and presenter at numerous professional education seminars on a variety of legal topics.

Commissioner Codrington does make time for some other interests. She said she is a real movie buff and has read several books on what goes on behind the scenes in filmmaking. She likes everything from science fiction to the old classics. She especially likes to read about the darker side of Hollywood, including the Black Dahlia and George Reeves mysteries, which are the subjects of two new feature films. She also loves to write poetry, and is currently working on a mentoring-type book on how to successfully navigate through the challenges of one's career. She said that she was very lucky to have some good mentors who helped her achieve her career goals, and she hopes to continue to be a mentor to others. She would like to join Commissioner Nagby in participating in Career Day programs at local schools. Commissioner Codrington would also like to arrange for local school children to visit the courthouse, since that is how she became interested in the legal profession.

Commissioner Codrington said Riverside has been a wonderful experience. She said several judicial officers had been extremely helpful in her transition. Her staff is absolutely marvelous. She especially likes the small-town community atmo-

sphere of Riverside County. She noted that Riverside has a very close-knit legal community; everybody seems to know one another. She is extremely impressed with the superb level of professionalism exhibited by her court staff, the mediators and the attorneys who appear in her courtroom. It has been an especially valuable experience to meet and interact with members of the community from all walks of life. Commissioner Codrington says it is an honor and a privilege to serve as a bench officer in Riverside County. The judicial officers are among the most wonderful and supportive people she has ever met in her career!

Donna Johnson Thierbach was formerly a Deputy Public Defender for Riverside County and is currently the Assistant Director of the Adult Division of the Riverside County Probation Department.



RCBA INSTALLATION DINNER

Photographs by Michael Elderman

David T. Bristow was installed as the president of the Riverside County Bar Association on Thursday, September 28, 2006. The event was held at the historic Mission Inn in downtown Riverside.



Judge Jeffrey Prevost and Michael Donner



Sherise and Harry Histén



Bill and Ann DeWolfe



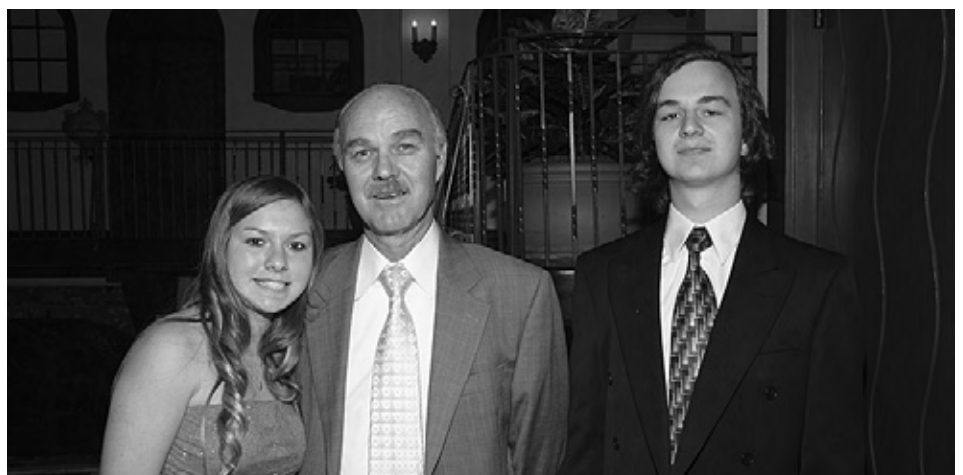
Leslie and Commissioner Robert Nagby



(l to r) Judge Stephen Larson, Terry Bridges, David Bristow, Jim Manning



Presiding Judge Sharon Waters and Judge Tom Cahraman



Richard Kennedy with his daughter Akmicqui and son Richard, Jr.



Justice Betty Richli and Roxanne Orrock



Rod and Rebecca Pacheco



David Moore (Master of Ceremonies) and David Bristow



Jacqueline Carey-Wilson and Doug Wilson



Judge Stephen and Liz Cunnison



Theresa Han Savage (immediate past president) and David Bristow (current president)



Theresa and Judge Doug Weathers, and Judge Jean Leonard (right)



Barristers officers being sworn-in by Judge Gloria Trask



David Bristow and his wife Kristen



(l to r) Andy Roth, Judge Joe Hernandez, Judge Craig Riemer, Diane Roth and Bill Weathers

GIVING BACK – THE RCBA ELVES PROGRAM

by Brian C. Percy

Are you interested in helping out a local family in need by doing more than just writing a check, but you don't know how? Would you like to experience the true joy of giving during the holiday season? Come join your fellow members of the RCBA and their families in a highly rewarding program and participate in the RCBA Elves Program for the holiday season.

As we enter the fourth year of the Elves Program, this is your opportunity to become one of Santa's Elves and directly adopt and support a local family that would otherwise be unable to provide gifts for their children during the holiday season.

In past years, the RCBA Elves Program has assisted families who, due to their financial circumstances, are having a difficult time providing anything more than the bare essentials to their children. The program's goal is to give several families a Christmas they could only dream about.

In our first year, 2002, we were able to assist six families living in some of the poorest areas of Riverside County, including 17 children, aged 1 through 13, and 7 adults. Last Christmas, we more than doubled the number of families served (16) and nearly tripled the number of individuals served (53 kids and 16 adults). We touched a greater number of communities in the county (a total of eight: Corona, Hemet, Lake Elsinore, Mead Valley, Moreno Valley, Perris, Riverside, and San Jacinto), and the feedback from the Elves and the families served was overwhelmingly positive. This year, our goal is to assist 20 to 30 families.

Depending upon your time, talents, and interests, we have four Elf categories for you to participate in:

A) Shopping Elves: On a designated day/time in early December, you and a group of your fellow Shopping Elves will meet at the Kmart on Alessandro Blvd., where you will be provided with a "wish list" from the children of the families we adopt. Your job will be simple – fill your basket with as many gifts as possible within the pre-designated dollar amount you have been assigned to spend.

While some of the requests in the past have been very specific, many of the kids indicated that they wanted gifts from general categories, such as clothes, educational toys, and music.

To be a good shopper, you should have a good working knowledge of kids and what kinds of gifts and clothing sizes and styles are age-appropriate. In the past years, our Shopping Elves have made this a family affair. The families not only learned the joy of giving to the less fortunate, they were of great assistance in helping to determine what would be "cool" gifts.

B) Wrapping Elves: The Wrapping Elves will meet at the RCBA's boardroom in the week of December 11 and wrap all the gifts. Organizational and wrapping skills are welcome, since Wrapping Elves must ensure that all the gifts are tagged and assembled by family for easy pick-up and distribution by the Delivery Elves. Our motto is: The more the merrier!

C) Delivery Elves: Depending on the total number of families we are able to support, teams of two to four Delivery Elves will personally deliver the wrapped gifts to our adopted families. The deliveries will be made over the course of a few days during the week of December 18. To accommodate the Elves' schedules, while efficiently distributing the gifts to the varied households we are supporting, you may be assigned to deliver to more than one family in your personal sleigh.

Although potentially time-consuming, delivering gifts to the families is by far one of the most rewarding Elf tasks, since you get to meet the adopted families. (Looking for a warm holiday glow inside and out? This is it!) When signing up, please tell us if you will be willing to drive and, if so, the type of vehicle you have. This will allow us to match the number and size of gifts to the storage area available in your vehicle.

D) Money Elves: We need you! These Elves really make things happen! Because of the Money Elves, we are able to shop, wrap and deliver to the many families we are hoping to assist. Please help us by being generous with your donation. The sooner you send in your donation, the more it helps us to coordinate shopping – sending in your

check by December 1 will help us determine how much we can budget per family. Obviously, the more money raised, the greater the number of families we can help, and the greater the number of items on our families' wish lists our Shopping Elves can fill.

Last year, our Money Elves really came through. In fact, due to the large amount of last-minute donations, we were able to have a second shopping and wrapping session! Please make your checks payable to RCBA and put the words *Elves Program* in the memo section of the check. We thank you in advance for your generosity.

Needless to say, putting this program together is no small undertaking. The sooner we can identify the Elves and the task(s) they would each like to accomplish, as well as the amount of money we have to shop with, the easier it will be for us to make it happen smoothly. So if you are interested in helping local families in need this holiday

season, and you wish to experience the joy of giving back to your community, join your fellow RCBA members and their families by participating in the Elves Program.

To become a Shopping, Wrapping, Delivery or Money Elf, please phone the RCBA at (951) 682-1015 or email your name, contact info and desired Elf designation(s) to rcba@riversidecountybar.com, or to my assistant, Veronica Reynoso, at vreynoso@bpearcyllaw.com. Contacting us via email will enable us to notify and update each group via email on a timely basis.

I would like to thank those who have participated in the past years for their graciousness and support. Again, "Thank you," and "Don't forget to tell a friend!"

Brian C. Percy, president of the RCBA in 2002, is chair of the RCBA Elves Program.



OPPOSING COUNSEL: DAVID T. BRISTOW

by *Cosmos E. Eubany*

I met the new president of the Riverside County Bar Association at a local restaurant in the downtown Riverside area. He was born and raised in Riverside and attended La Sierra High School. He later attended college at California State University, San Bernardino from 1980 to 1985, obtaining a Bachelor of Arts degree in History with a minor in Economics. After graduating, Mr. Bristow worked as a sports writer for the San Bernardino County Sun, where he remained for about three years. He was always interested in law, and left the Sun to begin his legal training at the University of the Pacific, McGeorge School of Law in Sacramento.

After graduating, Mr. Bristow returned to the Riverside area, where he had contacts in the legal field, and took a job at a law firm then known as Fidler, Bell, Orrock & Watase, working in the area of insurance defense. He knew two attorneys in Riverside, one of whom was his former high school history teacher, who had become a criminal defense attorney. His other contact was a colleague he had attended high school with who worked for Fidler, Bell, Orrock, & Watase. After a short stint at the firm, he took a position at the San Bernardino District Attorney's office. It was there that he faced his first moral dilemma.

Mr. Bristow began what would become an ephemeral career in criminal law as most deputy district attorneys do. That is, he started as a misdemeanor prosecutor and worked his way up to conducting felony preliminary hearings and then to trying felony cases. However, he reached a crossroads in his career when he was faced with his first felony trial. In that case, the accused was charged with possession of 1/10 of a gram of cocaine, which was discovered in the ash tray of the vehicle he was driving. The accused was on probation at the time of his arrest and, because this charge constituted his third strike, was facing 25 years to life in prison. In order to underscore the point, Mr. Bristow looks around the dining table, locates a packet of Sweet 'n Low, picks it up, shakes it and states that the accused had less than "this" amount of cocaine in the vehicle and was facing a minimum of 20 years in prison.

At the time, he recalls, the San Bernardino District's Attorney's office had a strict policy that its prosecutors did not plea bargain three-strikes cases. This, coupled with the



David T. Bristow

fact that the law, as written then, did not give discretion to judges, meant that he would have to try the matter.

He returned to his office to consult with the senior deputies and was told that he could elect not to try the case, but doing so would mean a demotion to misdemeanors. However, when he explained his position to the district attorney, he was told to try the matter or resign his position. He opted for the latter. Unbeknownst to Mr. Bristow at the time, he was the first deputy district attorney to lose his job for refusing to

try a matter. Needless to say, the matter became highly politicized and attracted much political fanfare. As for the accused, he was eventually acquitted of the charges against him.

When I asked Mr. Bristow whether he felt his stance was necessary in light of the fact that the accused was acquitted, he responded with a resounding yes. "The three strikes law is bad law," he vociferously argues. One cannot analogize the criminal justice system to a baseball game; it is a mockery of the entire legal system, he opines. A person convicted for mere possession can face 20 years of incarceration, and the state would have to pay the cost to support the convict in prison. This, he posits, adds to the overcrowding of prisons and diverts funds from other more useful programs.

Upon leaving the District Attorney's office, he was promptly offered a position with the San Bernardino Public Defender's office. He remained there for a year and comments that it was one of the best jobs he has held in his career.

Today, Mr. Bristow is a senior associate at Reid & Hellyer and practices in the area of business litigation, business transactions and real estate.

As president of the Riverside County Bar Association, Mr. Bristow hopes to lead the effort to address the issues facing the judicial system in the county. As many civil attorneys in the Riverside area are aware, there was a moratorium on trying civil cases due to an influx of criminal cases and the lack of judges. Mr. Bristow attributes this influx to the fact that the county is growing at an exponential rate. The fact that more and more people are making their home in Riverside County places tremendous

pressure on the legal system, both civil and criminal. This pressure is exacerbated by the fact that the number of judges has not increased to keep pace with the population growth. The stark result is a justice system in which trial dates are set far in advance and are subject to change, depending on availability of judges and courtrooms. Mr. Bristow believes the problem is due in part to the politics of Sacramento and people's negative perceptions of Riverside County.

Mr. Bristow believes that the attorneys of this county, through organizations like the Riverside County Bar Association, are best suited to address this problem. He notes that most citizens do not appreciate this problem until they are faced with a civil dispute. However, it is the citizens who must suffer as a result. In the federal district court, for example, Mr. Bristow points out, although the Eastern Division is headquartered in Riverside, it services a lot of areas with very few judges. As the number of cases filed reaches a certain point, the cases are automatically filed in Los Angeles. This, according to Mr. Bristow, defeats the purpose of having an Eastern Division.

(continued on page 32)

by Richard Brent Reed

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

— Amendment XIV, § 1, United States Constitution

In 1997, Elvira Arellano entered the United States from Mexico, illegally. She was deported. A few days later, she was back. She made her way to Chicago, where she got a job cleaning O'Hare Airport. Somewhere along the way, she gave birth to her son Saul and became president of the lobbying organization, United Latino Family. In 2002, she was arrested for working under a false Social Security number. Four years later, she was ordered to surrender to federal authorities, on August 15, 2006, for her second deportation. That day, instead of reporting, she took refuge with Reverend Walter Coleman in Adalberto United Methodist Church.

Rev. Coleman promptly filed a lawsuit against the government on her behalf, claiming that deportation of Elvira would be a de facto deportation of her seven-year-old son Saul, who is, according to the current application of Amendment XIV, section 1, a U.S. citizen by birth.

The case came before U.S. District Judge Amy St. Eve. The government argued that Saul's rights would not be violated and that his mother would be granted an extra benefit if she were permitted to remain in the country. "Put differently," wrote Judge St. Eve, "the pending removal order does not prevent Saul from exercising his rights of citizenship. This is not to say that Saul will not suffer a hardship; undoubtedly, he will."

Judge St. Eve framed the gravamen of the case thusly: "The question before the court is whether that hardship is of constitutional magnitude." She went on to find that "under any construction of the alleged facts, it is not." Citing precedent, the judge explained that "a removal order does not impinge on constitutional rights because a citizen child remains free to exercise his right to live in the United States." Since the removal order does not prevent him from exercising his rights of citizenship, "Saul will not suffer any injury to his constitutional right to remain in the United States." Judge St. Eve dismissed the case: "The court concludes that, because the pending removal order does not have any legal effect on Saul's right to remain in the United States, Saul will not suffer an injury to his constitutional rights when that order is executed."

The facts – sparse as they are – raise several questions:

1. How did the government notice the phony Social Security number? Was it, possibly, due to the use of that number to apply for benefits or in a worker's compensation claim?

2. Since Arellano was known to be in the country illegally for four years, what does that do to United Latino Family's legitimacy, its lobbying capacity, and its tax status?

3. What is O'Hare Airport's criminal liability for hiring her?

4. What is the criminal liability of Rev. Coleman and his church for harboring her?

Rev. Coleman has yet to hand over Elvira Arellano. In Victor Hugo's novel, the hunchback Quasimodo sought the sanctuary of Notre Dame Cathedral to keep the beautiful gypsy girl out of the hands of law. But Hugo's heroine had been falsely convicted of a crime that she didn't commit. In the present case, the crime is admitted and the government seeks, not to punish Arellano, but to return her to her country of origin. Her son is free to enjoy the benefits of American citizenship or to go with his mother and return to the States later. Some wring their hands over the separation of parent and child: Why punish the innocent child? But the law does that everyday when someone's dad or mom is imprisoned. That deprives the child of a parent.

A child that is born in this country to one or more parents who are here illegally are known as "anchor babies," under the theory that a foreign-born parent cannot be separated from that parent's American-born child by deportation. There are, by some estimates, about three million anchor babies in the United States. By ruling as she did, Judge St. Eve sent a signal to all who would enter the United States illegally that, if they decide to remain here by having an "anchor baby," they may, ultimately, have an even more difficult decision to make.



by Sylvia Chernick, Temporary Judge Program Administrator

Training Requirements for Temporary Judges

New California Rules of Court, rules 243.10 through 243.15, require that all attorneys wishing to serve as a temporary judge on or after January 1, 2007, must first complete specified courses in judicial ethics and judicial demeanor, as well as courses regarding the procedural and substantive law of their particular assignments. The Riverside Superior Court will be providing courses prior to the deadline.

In addition to the courses offered by the Superior Court, the Administrative Office of the Courts ("AOC") will be providing online courses for the ethics requirement and for each of the substantive areas of law that are required by the new rules. The AOC website address for temporary judge education is www2.courtinfo.ca.gov/cjer/pro_tem.htm. These online courses will provide you with a certificate of completion, as well as MCLE credits.

The requirements for temporary judges presiding over small claims cases are the most immediate. The Legislature amended Code of Civil Procedure section 116.240, subdivision (b), to state that, prior to serving as a temporary judge in small claims court on and after July 1, 2006, and at least every three years thereafter, each temporary judge shall take the course of study offered by the courts on both ethics and the substantive law arising in small claims cases, including debt collection, landlord-tenant, and other aspects of consumer law. Those classes are also available from the AOC's website.

California Rules of Court, rule 243.34, requires each temporary judge to submit a new application form. This must be completed by all attorneys serving as temporary judges after January 1, 2007, even if:

- You have previously submitted the former Riverside Superior Court application form;
- Your application has previously been approved; and
- You have already been serving as a temporary judge.

To obtain an application form (or for additional information concerning the temporary judge program), please visit the Superior Court's website at www.courts.co.riverside.ca.us; select the tab for "Attorneys/Litigants," then select the link for "Temporary Judge Information and Education." Please submit your completed application form, together with your course completion certificates, to:

Sylvia Chernick
Temporary Judge Program Administrator
Superior Court of California
46200 Oasis Street, Room 314
Indio, CA 92201

You may also contact Sylvia Chernick at Sylvia.chernick@riverside.courts.ca.gov.



by Richard Brent Reed

The Mile-High Clubhouse

It happened in the air space above Canada on August 31, 2006: A pilot got locked out of his cockpit in mid-flight. How could this happen? The coverage in the Canadian press merely relates that, 20 minutes before landing, 50 passengers flying from Ottawa to Winnipeg saw the pilot attempting to regain entry to the plane's cockpit after a restroom break; he knocked, wrestled with the latch, and cajoled the co-pilot in the cockpit via intercom for ten minutes. Finally, he had the door removed.

The anemic coverage of this curious event raises several questions:

Why did the pilot wait until 20 minutes before landing to take a potty break?

Why didn't he take care of that before he left the airport?

Was it even the pilot's idea to take a break?

Why didn't the co-pilot let him back in?

Article after article focuses on the breakdown in security. There was no breakdown; security worked perfectly, except for the fact that the crew was able to get the door off the hinges. Not one news service or newspaper drew the very self-evident conclusion that the pilot couldn't get the co-pilot to let him back in because the co-pilot was busy. Air Canada Jazz officials assured the 50 bewildered passengers that the co-pilot was trained to land the plane on his own. The problem was, he was not on his own. He had a flight attendant in the cockpit with him. The conclusion is inescapable: While the pilot answered nature's call, the co-pilot and the stewardess had ideas of their own and didn't want to be interrupted by the returning pilot, so they locked the door. Journalists, nowadays, are too delicate to suggest the bleeding obvious.



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Conference rooms, small offices and the third floor meeting room at the RCBA building are available for rent on a half-day or full-day basis. Please call for pricing information, and reserve rooms in advance by contacting Charlotte at the RCBA, (951) 682-1015 or charlotte@riversidecountybar.com.



MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective November 30, 2006.

Tammy L. Andrews – Andrews Law & Mediation Offices, Santa Monica

Brent M. Berman – Sole Practitioner, Palm Desert

Peter A. Bohan – Sole Practitioner, Palm Desert

Kimberly E. Carter – Best Best & Krieger, LLP, Riverside

Thomas E. Cummings – Your California Attorney, Riverside

Keith A. Davidson – Baker & Hostetler, LLP, Costa Mesa

James R. Fox – Sole Practitioner, Murrieta

Nathan W. Fransen – Fransen & Molinaro, LLP, Corona

Douglas C. Frost – University of La Verne, Ontario

Jason C. Gless – Wood Smith Henning & Berman, Riverside

Aneeta Devdat Maheshwari – Sole Practitioner, Upland

James M. McKanna – Law & Mediation Offices of James M. McKanna, Newport Beach

Edward J. Miller – Law Offices of Dennis F. Fabozzi, Temecula

John M. Monterosso – Office of the District Attorney, Murrieta

Philip O. Osula – Sole Practitioner, Los Angeles

Jay Nabil Razzouk (S) – Law Student, Loma Linda

Nancy I. Sidoruk – Epstein Grinnell & Howell, APC, Murrieta

Craig M. Sturm – The Kavinoky Law Firm, Woodland Hills

Lawrence J. Szabo – Sole Practitioner, La Quinta

Pamela Young Valencia – Sole Practitioner, Riverside



Opposing Counsel: David T. Bristow (continued from page 27)

Mr. Bristow understands that the problem cannot be resolved during his tenure as president of the Riverside County Bar Association; however, he hopes to be able to address the issue and open a dialogue to make more people aware of the problem and begin to think of solutions. On behalf of the Riverside Lawyer and the Riverside County Bar Association, we welcome and congratulate our new president.

Cosmos E. Eubany is an associate at the law firm of Graves & King, LLP, and is a member of the RCBA Publications Committee.

