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MAGAZINE

2006 Mock TRIAL WINNERS



WOODCREST CHRISTIAN HIGH SCHOOL 1ST PLACE

The official publication of the Riverside County Bar Association

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RIVERSIDE LAWYER

MAGAZINE

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MISSION STATEMENT

Established in 1894

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

RCBA Mission Statement

The mission of the Riverside County Bar Association is to:

Serve 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

APRIL

- 4 RCBA/SBCBA Environmental Law Sec.**
"The Riverside Co. Multi-Species Habitat Conservation Plan"
RCBA Bldg., 3rd Floor – Noon
MCLE
- 11 PSLC Board**
RCBA – Noon

RCBA/SBCBA Landlord/Ten. Law Sec.
"Fair Housing Procedures"
RCBA Bldg., 3rd Floor – Noon
MCLE
- 12 Barristers Meeting**
"Environmental Law"
Speaker: Steve Anderson, Esq.
Cask 'n Cleaver – 6:00 p.m.
MCLE
- 14 RCBA/RLPA Gen. Membership Mtg.**
"Judging an Iraqi Book by Its Cover"
Speaker: Justice James Ward (Ret.).
RCBA Bldg., 3rd Floor – Noon
MCLE
- 18 Family Law Section**
"Domestic Violence: From Notice to Order"
Speaker: Judge Becky Dugan
RCBA Bldg., 3rd Floor – Noon
MCLE
- 20 Business Law Section**
"How Law Firms Can Work With In-House Counsel to Improve Service to the Client"
Speaker: Michael Oswald, Esq.
RCBA Bldg., 3rd Floor – Noon
MCLE
- 24 RCBA GOLF TOURNAMENT**
Canyon Crest Country Club
8:00 am – 4:00 pm

MAY

- 2 RCBA/SBCBA Environmental Law Sec.**
Gresham Savage et al, S.B. – Noon
MCLE
- 3 Bar Publications Committee**
RCBA – Noon
- 5 Joint RCBA/SBCBA/Fed Bar General Membership Meeting**
San Bernardino Hilton – Noon
Speaker: Irwin Chemerisky, Esq.





President's Message

by Theresa Han Savage

This year, I had the privilege of scoring several rounds of the Riverside County Mock Trial Competition, including the final round on March 4th. I was impressed with the students' well-prepared and composed performance. Many of them had practiced their roles so thoroughly that they hardly had to refer to their notes during the entire trial. They knew the fact scenario inside and out. They demonstrated that they were quite familiar with the Evidence Code by making countless objections. They also responded to the judges' questioning with ease and confidence. It was obvious that the students had invested an incredible amount of time in preparing for this competition. I want to congratulate *all* of the participants for their effort and performance. I also want to congratulate the first-place winners, Woodcrest Christian High School, for a well-earned victory.

Although the main effort was made by the students, the mock trial program could not be a success without the support of our legal community – from attorney coaches (who invest countless hours to help prepare the students), members of the Mock Trial Steering Committee, judicial officers who judge the mock trials, attorney scorers, and courtroom facilitators (legal secretaries, paralegals and support staff). On behalf of the RCBA, I would like to thank each volunteer for giving up his or her free time to give students an opportunity to participate in the mock trial program.

The mock trial program is but one example how we can make a difference in the lives of people in our community. How else can you

make a difference? We have made it easy for you – you can make a big difference in a child's life, with very little effort, by signing up to participate in our "Day of Reading and Giving" at Pachappa Elementary School on Friday, June 9th, from 9 a.m. to 11 a.m. We are hoping that a minimum of 30 attorneys will sign up to help us read to every single class at the school. However, it would be great if the participation could top 60 attorneys, to ensure that each class can have at least two attorneys there to read, talk about our profession, and answer any questions the students may have. The Bar will also be seeking donations of books or money (so we can purchase books). Our goal is to send each student home with one book that day. We are still in the planning stages, so please, if you have any comments or suggestions, please contact either Charlotte (our executive director) or me. I am looking forward to seeing many of you at this event.

In closing, I hope to see you at our April general meeting. Justice James D. Ward, retired, will be speaking about his travel to Jordan to teach Iraqis about the U.S. legal system and Constitution.

Theresa Han Savage, president of the Riverside County Bar Association, is a research attorney at the Court of Appeal, Fourth Appellate District, Division Two.



BARRISTERS

By Robyn Beilin-Lewis, Barristers President

This past month was a very exciting time for Barristers. We were invited to join members of ABOTA (the American Board of Trial Advocates) for a joint session with that organization. Members of ABOTA presented a panel discussion on “Civility and Ethical Considerations of Trial Advocacy.” We are so grateful to John Evans, Terry Bridges, and other esteemed members of ABOTA for including us in their meeting and are pleased that the event was a success.

This month, we will resume our regular schedule when we are joined by Steve Anderson, a partner with Best Best & Krieger, who be leading a discussion on “Environmental Law.” Steve is also the current president of IELLA (Inland Empire Latino Lawyers Association), which is an organization whose purpose is to deliver legal services to indigent individuals via legal aid clinics staffed by volunteer attorneys in Riverside and San Bernardino Counties. That meeting will be on April 12, 2006 at 6 p.m. at the Cask ‘n Cleaver on University in Riverside.

On May 10, 2006, we will be joined by Inga McElyea, Executive Officer/Clerk of the Riverside Superior Court for “A Practice Guide to Filing Documents with the Court.” We are also pleased to announce that William Shapiro of San Bernardino, a well-known and well-respected trial attorney, will be joining us for our June meeting, which will be on June 14, 2006. He will be leading a discussion on “Trial Techniques.”

For those of you unfamiliar with Barristers, it is an organization designed for newer attorneys in our legal community to have the opportunity to meet other new attorneys and to sit in on MCLE lectures from esteemed members of our local judiciary and bar association, who give practice tips and pointers that are of special interest to less seasoned associates. We encourage all new attorneys to join us, no matter where you may practice – not just civil litigators, but also new deputy district attorneys, deputy public defenders, other criminal defense attorneys, and deputies from the City Attorney’s office. We also

welcome any member of the Riverside County Bar Association, regardless of how long you have been in practice.

If you would like more information regarding Barristers, you can contact me at (951) 686-8848 or at beilinro@yahoo.com.

Robyn Beilin-Lewis, President of Barristers and a member of the Bar Publications Committee, is with the Law Offices of Harlan B. Kistler.



by Mark Mellor

Time requirements for anti-SLAPP motion may be waived. The anti-SLAPP statute (Code Civ. Proc., § 425.16) requires that the hearing date on a special motion to strike must be “not more than 30 days after service unless the docket conditions of the court require a later hearing.” (Code Civ. Proc., § 425.16, subd. (f).) Where plaintiff agreed to a hearing date beyond the 30 days, it waived this requirement. (*Greka Integrated, Inc. v. Lowrey* (2005) 133 Cal.App.4th 1572 [35 Cal.Rptr.3d 684, 2005 DJDAR 13341] [Second Dist., Div. Six].)

Note: The opinion in *Greka* seems to assume that the motion must be *heard* within 30 days after service. At all times relevant in *Greka*, the statute required that the motion must “be *noticed* for hearing” within 30 days. It was amended, effective October 5, 2005, to require that the motion must “be *scheduled by the clerk of the court* for a hearing” within 30 days.

Spousal support may not be terminated without spouse being given an opportunity to become self-supporting. Although public policy has changed from one which “entitled some women to lifelong alimony as a condition of the marital contract of support to one that entitles either spouse to postdissolution support for only so long as necessary to become self-supporting” (*In re Marriage of Pendleton & Fireman* (2000) 24 Cal.4th 39, 53 [99 Cal.Rptr.2d 278, 5 P.3d 839]), a spouse “must be given fair notice of the expectation of self-sufficiency and a reasonable opportunity to achieve such goal.” (*In re Marriage of Schmir* (2005) 134 Cal.App.4th 43 [35 Cal.Rptr.3d 716, 2005 DJDAR 13376] [Second Dist., Div. Seven].) The *Schmir* case held that it was an abuse of discretion to terminate spousal support abruptly, after 15 years, without having given the supported spouse notice that she was required to become self-supporting.

An order denying leave to amend a complaint is not appealable. The Court of Appeal dismissed an appeal from an order denying leave to amend a complaint so as to convert a cause of action to a class action. Such an order may be appealed only after a final judgment has been rendered. (*Figueroa v. Northridge Hosp. Medical Center* (2005) 134 Cal.App.4th 10 [35 Cal.Rptr.3d 677, 2005 DJDAR 13371] [Second Dist., Div. Two].)

Note: Such an order might be reviewable on a petition for a writ of mandate. The inability to assert the

class action might be of sufficient importance as to justify the issuance of an extraordinary writ.

Is it okay now to import kangaroos into California? Penal Code section 653 bans the importation of kangaroo products into California. An earlier federal law imposing similar restrictions was repealed after the Australian government agreed to adopt conservation measures protecting kangaroos. In *Viva! Intern. Voice for Animals v. Adidas Promotional Retail Operations, Inc.* (2005) 134 Cal.App.4th 133 [36 Cal.Rptr.3d 19, 2005 DJDAR 13495] [First Dist., Div. One], the Court of Appeal held that the California statute impinges on Congress’s purpose in negotiating the conservation measures with the government of Australia and is therefore preempted by federal law. However, the California Supreme Court has granted review (Jan. 4, 2006, S140064). Any kangaroo steak lovers among our readers?

Beware of frivolous appeals; they may be expensive. In *Evans v. CenterStone Development Co.* (2005) 134 Cal.App.4th 151 [35 Cal.Rptr.3d 745, 2005 DJDAR 13504] [Fourth Dist., Div. Three], appellants violated numerous rules pertaining to appeals and, in seeking to have an arbitration award set aside, made many arguments that the court found to be frivolous. The agreement between the parties allowed the prevailing party to recover its attorney fees. The Court of Appeal ordered the trial court to use the amount of fees incurred by respondents on appeal, to which they were entitled under the agreement, as a lodestar and to award sanctions to respondents in an equal amount. The sanction order ran against both appellants and their lawyers jointly and was ordered to be reported to the State Bar.

Setting aside summary judgment redux. In the January edition of the *Riverside Lawyer*, we reported that a summary judgment could not be set aside under Code of Civil Procedure section 473, subdivision (b), even though the losing party’s lawyer had failed to oppose the motion. We failed to cite the case so holding. It is *Prieto v. Loyola Marymount University* (2005) 132 Cal.App.4th 290 [33 Cal.Rptr.3d 639, 2005 DJDAR 10682] [Second Dist., Div. Eight].

New SLAPP-back statute limits special motions to strike. A SLAPP-back motion is defined in newly enacted Code of Civil Procedure section 425.18, subdivision (b)(1) as an anti-SLAPP motion filed against “any cause of action for malicious prosecution or abuse of process arising from

the filing or maintenance of a prior cause of action that has been dismissed pursuant to a special motion to strike under Section 425.16.” Such motions are subject to specified limitations; the time deadlines are different, the denial is not appealable, and the filing of an appeal does not stay discovery. There also are mandatory sanctions against a defendant who files such a motion frivolously or for the purpose of delay.

Sunset clause deleted from Code Civ. Proc., § 128.7. Code of Civil Procedure section 128.7 specifies criteria and procedures for the imposition of sanctions. The statute contained a clause providing it would sunset on January 1, 2006. The Legislature has amended the statute by removing this clause.

Bite your tongue before accusing the court of dishonesty. Lawyer Debra Koven filed a petition for rehearing after the Court of Appeal ruled against her client. In the petition, she accused it of what the court characterized as “deliberate judicial dishonesty.” Apparently this was true to form, because she had similarly impugned the integrity of the trial judge, opposing counsel, and counsel’s expert witness. The Court of Appeal was not amused and held her in criminal contempt. The court imposed a fine and reported her to the State Bar for appropriate disciplinary action. But the court noted that Ms. Koven avoided jail time only because she had apologized for her conduct. (*In*

re Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917, 2005 DJDAR 13550] [Second Dist., Div. Six].)

Coastal Commission’s convoluted procedures explained. Although the case may not be cited because it was filed as an unpublished opinion, anyone having business before the California Coastal Commission would do well to read *Butterfield v. California Coastal Com’n* (Oct. 19, 2005, G034143) [2005 WL 2660428] [Fourth Dist., Div. Three]. In supporting the position of the Commission, the opinion attempts to reconcile the procedures actually employed by the Commission with its own regulations and the applicable statutes. The dissenting opinion argues that these cannot be reconciled. Michael Berger titled his article on the case in the Los Angeles Daily Journal of December 2, 2005, “‘Yes’ means ‘no’ in Coastal Commission realm.”

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



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IMAGINE... AN ADVOCATE'S PERSPECTIVE ON CALIFORNIA'S WORKERS' COMPENSATION "REFORM" LEGISLATION

by Richard H. Irwin

IMAGINE THAT . . .

You are playing in the biggest game of your life – the seventh and deciding game of the World Series. It's been over 40 years since your city's team has had a World Championship. You're at bat, with the bases loaded, and there are no outs. And, as fortune would have it, you are up against a pitcher against whom you have batted .500 in your 15 years in the major leagues.

THEN, without warning, the Commissioner of Baseball, who has an early speaking engagement the next morning, decides to "call the game" and award the championship to the team leading at the end of the last inning – in this case, the other team.

OR . . .

Six games into the series, the rules of the game are changed such that the home team only needs to get two defensive outs to end an inning.

Unfair . . . yes!

Wrong . . . yes!

Unjust . . . yes!

IMAGINE THAT . . .

You are an NFL quarterback, making ten million dollars per year, and the owners and the players' union have agreed that, if you have a career-ending injury, you will receive two million dollars per year for five years. During the fifth year of an eight-year contract, you have an injury that prevents you from ever playing football again.

The first year that you are unable to play (i.e. out of work), you are paid two million dollars; then, without your consent and without any

advance notice, the NFL governing body reduces your yearly disability to \$100,000 per year. No consideration is given to the fact that you are married, have four children and have, in the last five years, become accustomed to a certain lifestyle. You will have to sell your house and one of your cars and take your children out of private school, among many other sacrifices. Hopefully, your marriage will not be the ultimate sacrifice.

FINALLY, IMAGINE THAT . . .

You are a single mother who, since your husband's death a little over five years ago, has been the sole bread winner for your two teenage children. Fortunately, you have been a nurse for the same hospital for the last 20 years, doing your usual and customary job, which includes lifting patients in and out of wheelchairs and bed, assisting them with personal hygiene, etc.

Then one day, while assisting a doctor with a patient, you severely injure your lower back. After you have been out of work for a little over a year, and after major back surgery, it is likely that you will not be able to return to your work at the hospital. Your attorney and the employer's insurance carrier's attorney decide to agree on a physician (i.e., an Agreed Medical Examiner) to decide certain issues, including your level of disability. After your appointment with this physician, but before his report is received, the law is changed. As a result the settlement that you obtained from an on-the-job injury almost 30 years ago now must be deducted from the permanent disability settlement you are about to

receive as a result of the physician's report you are waiting for – even if it means that you receive nothing.

Welcome to my world . . . the new "reformed world" of workers' compensation law in the State of California.

Can you imagine changing the rules in the middle of the game, as in the first example above?

That, in my opinion, is the biggest travesty of the Governor's "reform" legislation, which was signed into law on April 19, 2004. Much of this legislation applies "regardless of the date of injury," meaning that the new changes – sweeping changes – apply to cases that have already commenced. The result of this is that the value of many cases already filed and in which the injured worker has been receiving medical treatment for several months, and sometimes years, has declined drastically.

Can you imagine engaging in active negotiations for months, having a \$150,000 offer "on the table," and, based upon existing law, advising your client to hold out a little longer because you believe the opposing party will offer even more money on your case? Then, in the week after the new legislation is passed, the offer is withdrawn and the new offer is only \$75,000. Apparently, this is exactly what did happen to an attorney and his client in Orange County.

Can you imagine the dilemma for the attorney? More importantly, what about the injured worker, who has been out of work for several months, has been told by competent counsel to expect a settlement of his matter within a certain range, and plans his

future and that of his wife and kids based on the course of his case over the last several months?

Unfair . . . yes!

Wrong . . . yes!

Unjust . . . yes!

For nearly 25 years, during the time that I have been representing injured workers, the significant legislative changes that were made almost always, without exception, became effective for injuries that were to occur after some future date. In that manner, the rules impacting the injured worker and his or her rights and benefits remained the same from the commencement of the case through to its conclusion. In this manner, from beginning to end, with the advice and assistance of counsel, or, for that matter, without counsel, an injured worker knew what the system had to offer and what benefits the system had to provide, and, based thereon, could begin to plan his or her choices and his or her future accordingly.

The Governor and the State Legislature, by passing S.B. 899 on April 19, 2004, turned this upside-down. The Governor and certain lawmakers apparently wanted to show that they could make an immediate impact once the then-new Governor took office. He wanted to show that he was a man of action (pun intended).

He picked an “easy” target – a system where the ever-popular attorney represents the injured worker, a system plagued in recent years by significant increases in insurance premiums, a system often publicized (in a one-sided manner) as being rampant with fraud. The accuracy of these portrayals and assumptions was unimportant. Immediate change could be made, and the Governor would be able to show that he could bring about immediate impact. This was, however, done without regard to the impact on the already injured

worker, not to mention the literally millions of injured workers in this state who risk their health, well-being and financial livelihood while performing services for the benefit of their respective employers.

Unfair . . . yes!

Wrong . . . yes!

Unjust . . . yes!

Rather than reiterate the majority of the provisions of S.B. 899, as was done competently by an attorney in an earlier article for this publication, let me just point out a few of the most critical changes that impact injured workers to the greatest extent because they apply “without regard to date of injury.”

Consider my second example above, dealing with the NFL player.

One of the most significant changes has to do with how an injured worker is compensated for his or her permanent disability. Specifically, for an injury that is declared permanent and stationary for the first time (among possible other criteria) after January 1, 2005, the injured employee’s disability is to be decided using the American Medical Association Guides. Estimates are that this will reduce the amount that a worker receives for his or her injury by, in many cases, 40% to 70% or more! And this applies (as in the hypothetical example) to existing circumstances – existing cases.

The obvious problem is that, for example, at the time the employee was injured, his or her permanent disability may have had a value of, say, \$50,000, but after the passage of S.B. 899 and before his or her case settles, that figure is reduced to, let’s say, \$20,000, possibly less. And it is believed by many that this type of injustice will be across the board.

Again, as with the attorney and his client from Orange County above, can you imagine the impact on the attorney’s representation and, more importantly, the financial future

of the injured worker when, while the case is pending, its value is cut in half, or more, without warning? The impact on him or her and his or her family would be devastating. Whatever future financial planning had already taken place or had already been initiated by the family would have been wiped out. Whatever recommendations regarding settlement had been made by the employee’s attorney would now be moot. How can the rules be changed in the middle of the game – in the middle of the case?

Unfair . . . yes!

Wrong . . . yes!

Unjust . . . yes!

This is again, just one of the significant changes that S.B. 899 has forced upon the injured workers of this state. There are other changes that drastically impact the issue of “apportionment” of permanent disability – that is, what portion of disability is to be attributed to this latest claimed injury, as opposed to that portion that is to be attributed to another case, for which the injured worker will not be compensated. As permanent disability often represents the largest monetary portion of a workers’ compensation claim settlement, the changes in apportionment, which drastically cut into and reduce the amount of permanent disability and, therefore, settlement, have had an overwhelming impact on an injured worker and an injured worker’s family.

Consider the following scenario, similar to my third example above:

An injured worker (whom we will call “Lucky”) sustained a severe lower-back injury while on the job over 17 years ago. As a result of the injury, Lucky had two back surgeries and was out of work for a little over two years. While out of work, he settled his work injury claim, leav-

ing open his rights to future medical care, and he received a financial settlement of approximately \$40,000, payable over a period exceeding five years. With the help of directed medical care, including approximately four months of physical therapy, a conscientious at-home exercise program by Lucky (who is determined to return to work and provide for his family) and a bit of good fortune, Lucky slowly rehabilitates himself to the point that he is able to return to the only type of work he has known, heavy construction work. In fact, he has now been working again in this industry for approximately 14 years, and during the last 10 years has not had any medical treatment whatsoever for his old lower-back injury.

Two years before the passage of S.B. 899, Lucky, who had been working for his latest employer for over five years and who had recently been able to purchase a new home, sustained a new serious lower-back injury, which his treating doctor has indicated will preclude him from ever returning to his usual and customary work. Lucky consults with his attorney, who informs him that, given the fact that immediately before this last back injury, he did not have any evidence of any labor-disabling back injury, he had effectively rehabilitated himself, and he had been able to do all aspects of his job without restrictions (imposed either by himself or by any physician) for over 15 years, he would be able to obtain full value of and for his permanent disability attributable to his latest serious back injury. The doctor whom both parties selected (i.e., the Agreed Medical Examiner) has evaluated Lucky's disability and has provided work restrictions that result in a permanent disability of 60 percent, which for this last date of injury is \$64,056.25. This amount is payable at only \$185 per

week, if Lucky leaves open his right to have his future medical care being provided by the workers' compensation insurance carrier.

Fortunately, Lucky's wife, Hope, has excellent family medical benefits through her own long-term employment. Based on this, and on the fact that Lucky and Hope determine that they will not be able to keep their new home if they accept a settlement in payments, they tell their attorney to negotiate for a lump-sum settlement over and above his disability percentage so that they will be able to adjust their personal finances and keep their home. Their attorney begins negotiations with the carrier based upon both his recommendations to his client and their instructions to him. In the midst of the negotiations, S.B. 899 is passed, and it contains many unexpected and unanticipated provisions, including those relating to apportionment. As a result of a very significant provision, the dollar amount attributed to Lucky's first back injury, now almost 20 years old, must be deducted from his current claim.

IMAGINE the impact on Lucky and Hope. For nearly the past 20 years, they have been able to rely on Lucky's income – now they cannot. They were financially secure and had peace of mind, knowing that they could handle their bills and had adequately planned for their future needs. Now, with Lucky's disability, not only is this security gone, not only is Lucky in severe pain and discomfort because of the injury itself, and not only does Lucky fear that he may never be able to return to work, but now, literally overnight, Lucky is being told that a new law has reduced the value of his case by approximately \$40,000, with the result that he most likely will have to sell many of his possessions, give

up his home and his new car, etc. He will be "lucky" if he can keep Hope, his loving wife.

CAN YOU IMAGINE?

Unfair . . . yes!

Wrong . . . yes!

Unjust . . . yes!

Believe me, these are but a few examples of the very real impact of the "reform" legislation, S.B. 899. There are, in fact, several changes (see the earlier article done by one of my colleagues) that impact, in a very negative sense, injured employees and their families. As I have also stated above, one of the most significant injustices is that many of these changes that will drastically reduce, not increase, the value of an injured worker's case apply to pending cases. The Governor and the State Legislature have literally changed the rules in the middle of the game, without regard to the impact on those employees who have become disabled – furthering the interest of their employers and the State of California.

This is an abuse of the legal system and the legislative system that, at least within the workers' compensation system, is unparalleled. Keep in mind that everyone in the state is either an injured worker, a friend or a family member of an injured worker, or a potential injured worker or their friend or family member! In that regard, it has been estimated, at least by one source, that there are over 17 million workers within the State of California. If this figure is correct, that is at least 17 million people who have been betrayed by the legal system governing the workers' compensation system as well as by the State Legislature and the Governor.

Certainly, as with any system in which benefits (money) are involved,

(continued on page 32)

MY PRIVATE PARADISE

by Amanda Owen

I have a confession. I live in a homeowners association, and I *like* it. What's more, I represent homeowners associations and property owners associations exclusively, and I find it an honorable and gratifying thing to do.

Why is this a confession? It may shock you, but many people do not like homeowners associations. They think them inherently bad, or at least bad more often than not. They think association board members are petty, power-hungry busybodies; otherwise, they wouldn't care when people, say, paint their house Laurel Green instead of Winter Bisque. I have heard this bias against associations expressed in countless places, even in the pages of this publication. Thus, I am officially coming out of the closet as an unrepentant association lover.

Let me give you some background. I live in Moreno Valley, which, when they are trying to be nice, people say is okay if you live north of the freeway. Well, I live south of the freeway. *Way* south. Driving through MoVal to my neighborhood, one sees miles of dirt-lined sidewalks and dilapidated fences. But then you get to my neighborhood and see trees! And grass! You see a nice entry monument, and a graffiti-free perimeter wall.

Which brings me to (some of) the reasons I love my association:

1) Quality of life. My street is lined with earth-toned homes, most painted at least during the second Bush administration. The homes have landscaping and are generally tidy. Contrast this to the neighborhood next to mine. That neighborhood has no association, but has plenty of other things, like parked big rigs, cement front yards, foil-covered windows, and Christmas lights all year long. The difference in maintenance (and property values) is substantial. I drive through my neighborhood and describe it as "nice." I drive through the adjacent neighborhood and keep driving as fast as I can to get out of there. I go back to my neighborhood, maybe to my association's pool, spa or gym (amenities I have access to only by virtue of my association membership), and try to forget about the covenant-free horror I have seen.

2) Affordable Dignity and Ownership: If not for my association, my only choices would be to own in a spotty neighborhood, or not to own at all. Being saddled with mortgage-size student loan debt, I had a very limited bud-

get when I shopped for a house. Living in an association means my neighbors and I have to maintain our properties, even when we lose our jobs, fall ill, or buy cars we can't afford. By keeping this promise to each other, we all live better, even if the prices we paid for our houses would normally put us in marginal neighborhoods. Many other people with limited budgets may find it impossible to afford a single-family house, but very manageable to own a condominium or apartment conversion. These forms of ownership could not exist without homeowners associations.

3) Private Contracting: For associations to work, everyone must follow the rules. It is no excuse that "no one reads the CC&Rs." If a buyer does not take the same amount of time to investigate his community's covenants that he takes to figure out his TiVo, I have little sympathy. The person who doesn't comply frustrates the other owners' expectations. Yes, I bristle when I get a letter saying I need to repaint my fence. However, I do it, because I bargained to live in a neighborhood where people have to paint their fences. CC&Rs are not contracts of adhesion. You can shop around for the community that fits your needs. Are you a horse owner? Senior citizen? Nudist? There is an association that is right for you. There are also many that aren't, and it is your responsibility to figure out the difference. You could also simply move into a community with no association.

4) Democracy: I love that I live in a mini-democracy. My neighbors and I are in charge of our own destinies, and we can largely change the rules we live by. So many complaints I hear about associations come from people who never voted in their association elections, never ran for the board and never volunteered for a committee. By opting out of the process, they give up their voice. To me, it is no different than democracy at any level. People who throw away the privilege of self-governance by failing to exercise any of their inherent rights and responsibilities should not complain.

My feelings about associations are reinforced in my representation of associations. My clients' boards are made up of volunteers who give their time because they want to participate in and improve their communities. They view volunteering for their boards as a socially responsible thing to do, like volunteering to tutor kids or clean up a beach.

Like all clients, association boards occasionally get ill-conceived ideas. (My grandmother's board in Florida asked their lawyer if they could sandbag the residents into the bingo hall during a hurricane so the elderly folks could avoid the trauma of evacuating.) However, in my experience, boards have good motives and try to do the right thing. They seek out and rely on advice from experts, such as ethical counsel, to guide them in their decision-making.

There is not enough room here to explain how the enforcement of CC&Rs is fair to both owners and associations. I will gladly discuss this with anyone who wants to approach me at a bar meeting or other meeting around town.

I'll be the one standing off on my own with the scarlet "H.O.A." on my suit jacket.

Amanda Owen is with the law firm of Fiore, Racobs & Powers in Riverside.



THE EXPERIENCE OF MOCK TRIAL

by Najia Sabir

We tried our hardest. We did our best. We didn't win – wait, yes, we did. The things we have learned, the people we have met and the friends we have made will last us a lifetime. Those who cannot see this are truly the losers. So what if we didn't place first or even second? We beat some 20 teams to get here (third). Our teachers hate us, our parents don't remember what we look like and we are feared by half of Riverside County. We are the Mock Trial Team from Santiago High School.

The friends, the experience, the laughter, the tears, the stress, the cramming, the all-nighters, the suffering grades, the arguing with parents and significant others; the list goes on. In the end, it was worth it all. It made us the Santiago Mock Trial Team.

I joined Mock Trial last year. Actually, I blame my history teacher for placing the stress of winning the County Mock Trial Competitions on me. It is all her fault! She was the one who suggested I join the club. I am still not sure why I did it, but I did, nevertheless. The result was amazing. These past two years have been some of the most rewarding of my entire life (granted, I am still a senior in high school, so that is not saying much; but still, it is enough for me).

I walked into a classroom after school, not knowing what was to come. The room was about half full, and soon, more students came. They sat down and started talking to their friends. I knew no one, having moved to the state only a few months earlier. It was awkward at first, and I felt like an outsider not knowing what people were talking about. Then I got into it.

I knew that I wanted to be a witness from the start – nothing against the attorney role, but taking a full class load that year, with seven advanced placement classes, I knew that I did not have the time to dedicate myself to such a position.

Last year, I was the defendant, Darian Kendall, and it was fun. I had the opportunity to learn how court really worked. The entire trial only helped to build up my anxiety for the final decision – was I guilty or not? I knew the verdict didn't matter, but that didn't stop me from digging my nails into my palms. Even though I was the defendant, I got a chance to work with one of the pretrial attorneys and even helped her out with a few of her arguments.

For me, Mock Trial wasn't just about coming to practice twice a week to learn how to object or how to add character. It was about walking into a room of friends and accomplishing one common goal, and that was to do our best. I remember one time when our teacher-coach told us to stop playing around in the classroom and to go into the hallway, so as to not



Najia Sabir

disturb those who truly needed to work. So that's what we did; we played soccer in the hallway. That lasted about four minutes before we got caught. It was these types of memories and the promise of more to come that made the endless nights of Mock Trial bearable.

I know that everyone on the team made a lot of sacrifices, myself included. Personally, I lived at the school. I slept there from the hours of 3 to 6 in the afternoon. I ate there during the 15 minutes after 6, and I even worked there until about 9 to 9:30 some nights. But if one were to ask all of us if we would go back and change our choice, we wouldn't.

Our drive to win made us take Mock Trial practices outside the classroom and into Starbucks, senior ditch day and even sleeping over at one another's homes. Several of our members would stay over at each other's houses, spending the night working on anything and everything related to Mock Trial. The day of the Elite Eight competitions, we were excused from all our classes and spent the day working on more Mock Trial. Finally, the night before the semifinals was spent frantically cutting questions and working out any last-minute changes; my entire character was redone. The result of all this hard work was placing third in the county, which was a disappointment, having placed second to Poly last year. But for most of us, these will be the times of our lives!

Najia Sabir is an honors student at Santiago High School and is a senior this year. She joined the Santiago Mock Trial team in 2004. This year, she portrayed witness Stevie Ricco in the case of People v. Markson.



Civil Matters to be Heard by Former Justice

Bush endorses innovative program

As part of Riverside County's ongoing strategy to address the inability of its Superior Court departments to hear civil cases because of their burgeoning criminal backlogs, the Board of Supervisors has decided that all civil matters will now be heard by retired Superior Court Judge and Court of Appeal Justice James D. Ward. Ward, known statewide as the current record holder for the most contributions to *California Lawyer* magazine's In Pro Per feature, has formed a new company, FIAT (Final Irrevocable Arbitrary Termination), to contract with the county to hear the cases.

Ward stressed that, even though the contract will be between the county and FIAT, he will hear and decide all cases personally. "In each case, I will review the file, have lunch with the attorneys at the establishment of their choice at their expense, and thereafter render a decision," Ward explained.

Asked whether the elimination of civil jury trials would pose constitutional problems, Ward said he had been assured by United States Attorney-General Alberto Gonzales that the legal staff at the Department of Justice had determined that there would be no such problems. According to Ward, Gonzales said that the executive power granted the President in Article II, section 1 of the Constitution prevailed over the right to a jury trial under the Seventh Amendment.

"If you look at the language of the two provisions, the word 'Power' in Article II, section 1 is capitalized, while the word 'jury' in the Seventh Amendment is not," Ward said. "The Justice Department interprets this as a clear indication that the Founding Fathers intended the president to have the Power to override the jury trial clause. And President Bush has formally approved our program as part of his national tort reform agenda."

Judicial Council Unveils New Selection Procedure

Governor applauds innovative plan

At the "strong urging" of Governor Arnold Schwarzenegger, the Judicial Council has adopted a new procedure for the selection of state court judges and justices that it hopes will speed up the process of filling the state's numerous vacant judicial positions. Instead of the current procedure, entailing review by the Judicial Nominees Evaluation (JNE) Commission, applicants will participate in a one-day bodybuilding competition conducted personally by Schwarzenegger.

"Not being an attorney, Governor Schwarzenegger has found it difficult to assess JNE Commission reports in a meaningful

way," said Chief Justice Ronald M. George, Chair of the Judicial Council. "He made it clear that, if the Council wanted faster appointments, we would have to come up with a procedure that is more user-friendly for him. His bodybuilding background makes the new plan an ideal fit."

In a phone interview, Schwarzenegger agreed. "Ja, I don't like those Jeannie reports so much. I believe a good judge must take care of the body as well as the mind. These competitions will quickly show me who is in serious shape and who is just a girly-man hoping to wear one of those robes."

Schwarzenegger was quick to point out that,

since the competitions will feature a variety of performance categories, qualified candidates who happen to be weak in some areas will not necessarily be excluded. "Of course, I realize not everyone can have perfect muscle definition and skin tone, especially some of the more senior candidates. That is why the competitions will also include pure performance events, such as the clean and jerk. On the other hand, some of the women will probably be able to get appointed based on appearance alone. It all depends on the individual."

The first competition will be held next month at the Circus Circus Hotel in Las Vegas.

Under the new system, parties will retain the right to file appeals, which will also be decided by Ward for an additional fee. Ward commented, "Since I don't make mistakes in deciding cases, I am confident that I will be able to dispose expeditiously of any appeals from my rulings. For example, I wrote most of the CACI instructions, so I know they correctly state the law. As long as I give myself those instructions before I decide a case, there will be no problem with legal errors that might lead to appeals."

Ward explained that, since he will be devoting all of his time to FIAT, he will sever his existing relationship with the competing dispute-resolution firm JELLIES (Jurists Enjoying Lucrative Livelihoods in Extravagant Surroundings). "Yes, I took a pay cut, but this is a higher calling," Ward commented.

Appeal Court to Help out on Criminal Trials

New "one-stop" procedure will entail building remodeling, staff relocation

In an effort to assist in the campaign to address the choking backlog of criminal matters in the Riverside Superior Court, the Fourth District Court of Appeal, Division Two, has announced it will devote three out of four weeks each month to hearing criminal cases from the trial courts.

The program will utilize the appellate court's existing courtroom, which will be retrofitted with a jury box to accommodate defendants who insist on jury trials. Other modifications to the court's building, located at Twelfth and Lime in

(See **Appeal** on page 17)

CYA Team Wins Mock Trial Competition

In a surprising upset, the wards of the California Youth Authority ousted perennial winner Poly High School to take first place at the county's Mock Trial Competition. As part of a pilot project to increase troubled teens' understanding of and respect for the judicial system, high-school-age wards of the CYA were invited to participate in this year's Mock Trial Competition sponsored by the Riverside County Bar Association.

The CYA team defended the case against Poly's prosecution. The case, *People v. Joseph T.*, involved the murder of a high school student who had knowledge of academic cheating that was required to be reported under the school's honor system. The defendant, the alleged cheater, was brilliantly played by David G., who claimed innocence based on his low test score.

The lead defense attorney, Peter S., cross-examined each of the prosecution's witnesses. His performance could only be compared to that of Thomas Mesereau, Jr.

When asked about his skills, Peter replied, "I don't know. It comes naturally. Maybe I have learned a lot from all the times I was sitting in the defendant's chair, listening to my attorney attack the witnesses against me."

Sitting next to Peter was Virginia B. Virginia is the recipient of the Defense Trial Attorney Internship Award. She credits her style to the late Johnnie Cochran. "I enjoy watching tapes of the O.J. Simpson trial. Mr. Cochran is my hero and my idol. But I admit that I have also experienced at first hand the need for credible testimony. Learning from my own case, I prepared my witnesses to say what needed to be said and no more." It was Virginia who was responsible for the Cochran-like phrase: "If the score is low, you must vote no!"

Using that phrase, Steve H. gave a closing argument that can only be described as a seductive riddle leading to only one answer: not guilty. Steve was charismatic,

warm, charming, and soft-spoken. It was hard to believe that he could have committed any crime that would warrant being made a ward of CYA. Nonetheless, Steve, like the rest of his teammates, insisted that their success must be attributed to Frank P., who was in charge of investigation and witness preparation. Frank, a former gang member, was unusually effective in dealing with potentially hostile prosecution witnesses. Attorney Coach Leonard Valadez commented, "I plan to incorporate some of Frank's techniques into my own witness preparation."

Bar President Theresa Han Savage commented: "We're very happy for these kids! These are kids who have not had an easy life. Winning today shows them that they have many options. They don't have to rely on a life of crime."

Congratulations, CYA team, and good luck next month at the state competition in Sacramento!

Clown Violence

A Danish cartoonist was taken into protective custody Friday after publishing a cartoon depicting Bozo the Clown wearing a bomb on his head. Clown violence immediately erupted around the country: At a rally in Chicago, SWAT teams were repelled by heavy streams of seltzer from bottle-wielding protestors; on the Berkeley campus of the University of California, student demonstrators pelted campus police with rubber chickens; in Minneapolis, the tour bus of the Minnesota Vikings was overturned; and pie fights have broken out at bakeries in several major cities. One baker, yielding to pressure, has agreed to rename his fruit-filled pastries "Prune Bozos." Already, Ecco Shoes has discontinued its inventory of size 18 shoes.

Tonight, Solvang is a city under siege. There, citizen militia groups have established checkpoints at every entrance to the town. "The influx of clowns into our community has been a growing problem," said Osric Gunnderrsson, spokesman for one of the citizen groups. "It's time we protected our borders."

In California, fear of clown violence has threatened commerce across the state. Shopping malls are on heightened alert



CARTOON WITHELD FROM PUBLICATION

for roving gangs of clowns, and the theme park Legoland has banned anyone wearing clown colors. The state Attorney-General commented: "The presence of clowns in California has been problematic for years. They constitute an undesirable element in our society. You have only to go to a circus to see the increase of clown-on-clown violence. It was only a matter of time before they took out their aggressive tendencies on the rest of us."

Civil rights advocates have expressed solidarity with the pro-clown movement, claiming that America has always been clown-phobic. "Clowns have been persecuted in this country for centuries," said a spokesman for the ACLU. "Just because

you dress and act differently doesn't mean you're not entitled to dignity." A spokesman for the Dalai Lama was also critical of the Bozo caricature: "No group should be subjected to this sort of ridicule. Clowns are people too, even though everybody knows they're evil."

A White House press liaison yesterday repudiated the unrest: "The cartoon was clearly aimed at Congress, but you don't see them rioting." Responding to questions at a recent press conference, he added, "The recent violence underscores one issue: Stem-cell research must never be used for human clowning."

Militant clown organizations are demanding that Washington denounce the defamatory cartoon and are calling upon all Americans to boycott Tuborg beer, free-hand tobacco pipes, and Havarti cheese. In retaliation for the clown caricature, a clown cell has produced digitally altered video footage of Victor Borge playing a grand piano with a bomb in it.

A Million-Clown March is to be staged in the nation's capital later this week. A delegation of 500 clowns left California today to join the protest. They will be arriving in Washington on Wednesday in three cars.

Cameras In The Courtroom

Rules Revision Proposed

Judge Sharon Waters, Presiding Judge of the Riverside Superior Court, announced today that the Executive Council of the Court will be considering adoption of a proposed local rule relating to the use of cameras in the courtroom. Currently, California Rules of Court, rule 980, provides that “[p]hotographing, recording, and broadcasting of courtroom proceedings may be permitted as circumscribed in this rule if executed in a manner that ensures that the fairness and dignity of the proceedings are not adversely affected.” The rule specifies certain factors for the trial court to take into account in deciding whether to allow photography or recording devices to be used in any particular case.

According to Judge Waters, the various trial judges in Riverside County may have been applying this rule, and the specified factors, inconsistently. It appears that a new local rule may be desirable to clarify application of rule 980 in Riverside County, and possibly to expand the uses of courtroom cameras in the superior courts.

In connection with the review of the proposed local rule, the court has coincidentally received a proposal from Nester Traffic Systems, a manufacturer of automated red light enforcement systems, to install a modified version of their traffic control system in selected local courtrooms. Under the traffic control system, cameras are installed at specific intersections, such as the intersection of Waterman Avenue and Hospitality Lane in San Bernardino, and citations are generated automatically by the system, no matter how minimal the violation. Tapes of the alleged violation are reviewed by a traffic officer, and photographs of the alleged violation are sent to the offender with a citation notice. Citations may be challenged in court in the usual manner. These procedures are

set forth in, and authorized by, Vehicle Code section 21455.5.

Under the proposed courtroom system, cameras will be installed in a test courtroom along with appropriate signs warning that camera enforcement is being implemented. The first installation would probably be in a civil law and motion department. Tapes of each day’s proceedings will be examined by a commissioner for specified violations. These will include attorney violations such as unpermitted movements or gestures in the courtroom, ethical lapses, perjury, frivolous arguments and overly argumentative behavior. Judicial violations would include snoring, lack of comprehension of otherwise brilliant arguments, rudeness, and unpresented robes. Violators will be sent a notice of violation and citation in the form used for traffic violations, including a photograph of the offender and a recording of the specific violation. Citations will, of course, be reviewable by the Council on Judicial Performance, the State Bar ethics panel, or the local district attorney, depending on the nature of the violation.

Under a variation of this scheme, a three-strikes rule will be applied and offenders will be disbarred after three citations are upheld. Proponents argue that since the three strikes law is applicable to criminal offenders, it ought to be applicable to those who represent and judge them.

Although application of these rules may lead to disbarment of a significant number of local attorneys and removal of local judges, proponents argue that this is not necessarily a bad thing, as it will create jobs and judicial vacancies for the ever-increasing numbers of recent admittees who would otherwise be waiting tables or writing screenplays. Other persons urging adoption of the Nester proposal will be April Fools.

Appeal (continued from page 15)

downtown Riverside, will also be necessary.

“Most of the remainder of the building will be converted into an annex of the County Jail, to facilitate defendants’ attendance at their trials and to relieve some of the congestion at the Hall of Justice,” said Manuel Ramirez, Presiding Justice of the Court of Appeal. Asked whether housing criminal defendants in close proximity to the justices might create potential security risks, Ramirez explained, “We have housed our court personnel in these quarters for a number of years, and we have experienced only a handful of incidents of violence by staff against justices, none of them resulting in serious injury. We believe the building is and will remain a safe place to work.”

The clerk’s office, currently housed on the ground floor, will be moved to Inyo County. “This is a win-win,” Ramirez said. “Inyo County is part of this court’s appellate jurisdiction, yet we currently have no Court of Appeal facilities in that county. Relocating the clerk’s office to Inyo will further our community outreach efforts, and should result in a significant decline in the number of pro per parties from San Bernardino and Riverside Counties appearing at the filing window, a persistent problem for our clerks at the current location.”

An added bonus of the program, Ramirez said, was that the court could handle criminal appeals on an expedited basis. “At the end of the case, if the defendant thinks there was an error, we can have the justice who tried the case confer with three of his or her colleagues, who can decide the issue then and there,” Ramirez explained. “This will eliminate the need for appointed counsel and briefing, one of our most significant delay factors.” Asked whether he thought defendants and their trial counsel might feel uncomfortable having the same court hear both the trial and the appeal, Ramirez said, “No.”

The program goes into effect on April 1.

CLASSIFIED ADS

EMPLOYMENT OPPORTUNITIES

In-House Defense Counsel

Regional office of major casualty insurer in process of rebuilding in-house litigation defense department, eliminated four years ago to save money by outsourcing litigation, seeks experienced civil defense attorneys. Recent increases in outside counsel fees and new general counsel, hired to bring fresh approach to legal department, make in-house litigation once again an attractive option. Position entails high-volume defense of garden-variety tort actions and settlements on first day of trial for amount of plaintiff's original claim before filing suit. Opportunity to work closely with in-house team of medical and technical experts who conduct IME's and prepare reports finding malingering and/or no proximate causation. Salary comparable to legal secretary in outside firm, plus generous benefit package after five years. Plain-vanilla Ford or Chevy company car that looks like Hertz rental provided for travel to five-minute court appearances in wide geographical area throughout Southern California. Position will last approx. four years or until hiring of next new general counsel with new fresh approach to legal department, at which time position will be outsourced to outside firm and incumbent will have opportunity to go work for that firm for less money and no benefits on a contract basis. Secure your future now by applying today.

Megafirm Associates

L.A. office of huge international law factory representing biggest, richest corporations we can find seeks associates from top-ten law schools with outstanding academic credentials and 1-3 years big firm experience who can work without training or supervision at outrageous billing rates but won't come up for partner for five or more years. Extravagant compensation exceeding income of most judges, with annual bonus based on number of billable hours in excess of 2,300. Travel required on short notice, with possibility of sudden involuntary transfer to geographically distant office as needed, especially if you own a home and/or have children in school. No interpersonal skills needed, as you will spend most of your time going through documents. No business development skills needed until eighth year of employment, at which time, if you have lasted that long without offending anyone important, you will be considered for partnership and will be expected to have developed, in your spare time, book of business sufficient to employ yourself and two associates full-time at our regular hourly rates. If not offered partnership, may continue employment under euphemistic job title like "Of Counsel" or "Special Counsel," with decent pay but no profit-sharing or voting rights, until next recession, when you will be replaced by 1-3 year associate to cut costs. Interested candidates may contact Judy Davis, Manager of Human Resources Development, a glorified personnel clerk with good teeth and hair, tasteful jewelry and makeup, a power suit, and no understanding whatsoever of law practice, who will screen your résumé and, if you went to the

right law school, refer your file to a member of recruitment committee who will wait to see if anyone better comes along and, if not, take you to lunch with other committee members at high-priced restaurant with fawning waiters and live harp music serving dishes with no discernible taste from a kitchen that doesn't even smell like food. Alternatively, wait for one of our headhunters to call you out of Martindale-Hubbell.

Lateral Partner

Law firm seeks lateral partner. Must be able to transfer minimum \$1 million in business from current firm. We are seeking a proven team player with a strong sense of institutional loyalty.

Rainmaker wanted for large, well-established firm. Must play golf with 6 handicap or less. No legal experience necessary. Box A.

Wanted: 2-5 year associate. Hard work, long hours, low pay, but the chance to work with superstar Ivy League winner and bask in my reflected glory. Box B.

Need lawyer with clients to share. Will provide office space (a used desk) in return for a large share of the profits. Box C.

Real estate attorney wanted. Must favor use of eminent domain for any property in the way of your client's plans. Must be willing to endure the results of the development you facilitate. Box D.

Seeking 100 assistant district attorneys. Will train by giving you immediate responsibility for 500 felony cases. Punitive assignment to Blythe possible. Box E.

CLASSIFIED ADS

One deputy public defender wanted. Close client contact possible, in jail or in your home. Defenders needed to get best plea bargains for mostly guilty clients; seekers of justice need not apply. Box F.

Family law attorney wanted. Must be skilled in divorce law, including paternity and child custody litigation, tax law, immigration law, litigation, mediation, and client billing. Prefer attorney with extensive experience in dividing teapots. Must supply own Kevlar vest. Box G.

Environmental attorney sought. Must be willing to tilt at windmills when every federal law, regulation, and interpretative ruling favors despoliation. Democrats preferred, but true Republicans will be considered. Box H.

Insurance defense attorney needed. Large caseload of procedural objections to any complaint; requires extensive Southern California driving for meaningless court appearances, with token mileage reimbursement. Must be familiar with sharp tactics for increasing costs of litigation to suffering widows and orphans. Box I.

Corporate counsel wanted. 2-5 years corporate experience in keeping the masses in line. Good pay, benefits, if successful in maintaining the increasingly wide gap between management and peons. Box J.

Plaintiff's personal injury attorney wanted. Five to ten years experience in PI litigation, including expertise in blaming others for your client's stupidity and failure to take responsibility for his or her own actions. Lack of corporate experience a must. Box K.

Large corporation seeks general counsel. Must be able to protect corporate officers from consequences of their own lack of ethics and greed. Fat compensation and benefits plus stock options contingent on keeping officers out of jail. Must be willing to travel with lobbyists and Congressmen to exotic resorts and must be able to justify bribery of foreign and domestic governmental officials. Successful candidate must never appear in handcuffs in newspaper photograph. Box L.

Worker's compensation defense counsel needed for large caseload of injured employees. Must be skilled in presenting cases without preparation and negotiating settlements without explaining all those formulas to clients. Box M.

Dependency law attorney. Deputy county counsel needed for unnamed but usually uncorrupt county. Must be able to ignore politicians to do job of protecting abused children. Social worker genes preferred but genetic testing not yet required. Box N.

(Paid advertisement)

Juror Backgrounds Affect Outlook, Decisions

Attorneys frequently ask prospective jurors during voir dire whether they can put their personal backgrounds and experiences aside and decide the case impartially. Most say they can. But the majority of attorneys do not realize that this is not always true.

Our staff psychologists have over five years of combined experience correlating jurors' backgrounds and viewpoints, using sophisticated testing techniques. Our studies have yielded some surprising, and fascinating, results, such as: Jurors who are married to police officers tend to be strong jurors for the prosecution in criminal cases in which the defendant is charged with a violent assault on a law enforcement officer. On the other hand, jurors with prior convictions for resisting arrest who have brought civil rights lawsuits alleging police misconduct tend to be strong jurors for the defense in such cases.

Using our services, the Riverside County District Attorney's office has achieved convictions in almost 50 percent of its jury trials. We can deliver the same results for you. Contact us today for a free consultation.

Jury Shrinks, L.L.P.

Frank L. Sturm, Ph.D.

Judith N. Drang, Ph.D.

MCLE SELF-ASSESSMENT TEST: *Language of the Law*

Measure your knowledge of legal terms by taking this self-assessment test. Match each definition with a legal term from the list below.

DEFINITIONS

1. A few friends, a case of beer, and a U-haul truck.
2. Educational cable TV subscription.
3. Items that can be purchased by credit card.
4. Janitor whose hobby is collecting old musical recordings.
5. A judge's manner of speaking.
6. A judge's manner of speaking to different ethnic groups.
7. Checking out the retail establishments during a trip to the Inglewood area.
8. Police officer's order to freeze.
9. Organization of athletes who compete for money (Brit. pronunciation).
10. No breath mints allowed in court.
11. Confiscation of breath mints by bailiff.
12. Appellant forgets to zip fly after visiting men's room.
13. Media coverage of Bush's college grades.
14. Your spouse/significant other walks out on you during a fight.
15. Request for jewelry made from low-calorie beer cans.
16. Possession of a controlled substance.
17. Comedienne Ellen's version of an Asian-American dish.
18. Attractive member of opposite sex who is under age of consent.
19. Attractive member of opposite sex who asks you a lot of questions.
20. Woman's social outing with male companion.
21. Right of consortium.

LEGAL TERMS

- a. Sui generis
- b. Cert. denied
- c. Arguendo
- d. Pro tem
- e. Interlocutory appeal
- f. Diversity jurisdiction
- g. Moving party
- h. Decertification
- i. Mandate
- j. Discovery order
- k. Jurisdiction
- l. Depublication
- m. Joint custody
- n. Custodian of records
- o. Spousal privilege
- p. Pendente lite order
- q. Motion denied
- r. Premature appeal
- s. Discoverable matter
- t. Forum shopping
- u. Appellant's opening brief

ANSWERS

1-g. 2-j. 3-s. 4-n. 5-k. 6-f. 7-t. 8-q. 9-d. 10-b. 11-h. 12-u. 13-l. 14-c. 15-p. 16-m. 17-a. 18-r. 19-e. 20-i. 21-o.

SCORING

15 or more correct: Excellent. You may qualify as a legal writing consultant.

10-14 correct: Good. You have an adequate understanding of legal nomenclature for everyday law practice.

Fewer than 10 correct: Fair. You need to brush up. Try Court TV or Judge Judy.

MCLE CREDIT

One-quarter hour MCLE credit is available by taking this self-assessment test. Mail your completed test with a money order for \$100 (no checks or stamps, please) to: Riverside County Bar Association Continuing Education/Cruise Planning Programs, P.O. Box 4106, Riverside, CA 94106.

Legal Briefing

DAILY APPELLATE REPORT SUMMARIES AND FULL TEXTS APPEAR IN SUPPLEMENT

CIVIL LAW

Health & Safety: In the interest of public safety, the town of Calabasas has outlawed peanut butter and all peanut products within the city limits. City officials and the citizens' group People Eating Nothing Unpleasant to Them claim that the ban is necessary to protect those with certain food allergies and acne. The state of Georgia is bringing suit against

Calabasas under the North American Free Trade Agreement, claiming that the ban is an unlawful restraint on trade and importation. *Georgia v. Calabasas*, C.A. 4th.

Health & Safety: In the interest of public safety, Disney has banned strollers from all of its theme parks. In a retaliatory action filed against Disney, plaintiffs' attorneys argue that parents who have more kids than hands qualify for special protection under the Americans with Disabilities Act. The ACLU is attempting to have pushy, inconsiderate theme-park-goers certified as a class. *Parents Under Stress and Harassment v. Disney*, C.A. 4th.

Health & Safety: In the interest of public safety, the California Legislature has passed a bill prohibiting the issuance

of hunting licenses to federal elected officials. The White House is challenging the law. *Cheney v. State Bar of California*, C.A. 2nd.

CRIMINAL LAW

Criminal Law and Procedure: A three-judge panel of special magistrates has been convened to adjudicate the validity of California's Medical Marijuana Law. In order for the statute to stand in the face of federal regulation, its scientific soundness must be determined. Last week, the three justices required *Drugs Under Despotism Encroachment*, the law's proponents, to provide them with samples so that the sufficiency of the evidence could be tested. The parties await findings from the high court. *U.S. v. D.U.D.E.*, C.A. 6th.

Coffee Crisis

Sacramento —

The world supply of coffee has been threatened by global unrest and, some say, artificial shortages. The U.N. subsidizes the growing of coffee in Southeast Asia. These economically anemic countries then dump low-grade roaster beans on the market. Starbucks makes its brew by triple-roasting the beans until they taste like charcoal and selling it as coffee. This crowds gourmet beans off the market, putting growers in Africa and South America out of business and driving up the cost of coffee.

According to Starbucks, however, the real problem is the shortage of coffee refineries. Joe Fix, head of the Coffee Over-Producing Economic Cartel, claims that the shortages are caused by global unrest and insomnia: "People are sucking up too much coffee. They need to put down their cups, turn off their laptops, and go to bed." When asked about shortages, Fix said, "We import from everywhere, but there aren't enough light-sweet crude beans to go around. Because Californians require a higher caffeine content, it's not economically feasible to develop domestic sources of high-sulfur beans. Also, there are not enough coffee refineries, especially here on the west coast, due to the high cost of building because of stringent environmental regulations."

"Continued dependence on foreign coffee could have a devastating impact on the

U.S. economy," predicted a spokesman for the Department of Commerce. "If there is a real shortage that drives the price of a cup of coffee up to \$3, the cost of goods and services could triple. If our supply of foreign coffee is ever cut off, trucks will pile up at motels and roadside stops, goods will take weeks to move across the country, service at county and state agencies will be even slower than it is, productivity will drop to nothing, and the economy will grind to a halt."

Even so, there is hope, according to Stretch Braighk, CEO of Biofee, Inc.: "We need to develop domestic sources of coffee or coffee equivalents. If we began planting now, we could be caffeine-independent by the year 2010."

The California legislature is proposing to require that all coffee sold in the state be at least ten percent chicory. Starbucks coffee will be exempt, since it is cleaner-burning, due to its high carbon content. The Starbucks-friendly legislation has prompted charges of bribery and collusion from the Justice Department. "Starbucks has cornered the low-grade coffee market by putting a low-grade coffee market on every corner," observed a Department spokesman. "That has got to leave a bad taste in your mouth." The charge that Starbucks manufactured the current coffee shortage has been dropped due to insufficient grounds.

Second-Hand Mocha

Seattle —

Will Jones, a Seattle resident, is suing Starbucks for battery, intentional infliction of emotional distress, and loss of consortium. "They knew what they were doing when they spiked the caffeine content. After a while, I couldn't sleep. I've been mugged eight times in the last year because I'm always taking long walks at night. When it rains, I'm up all night on the computer. I have watched all 520 cable channels. My pay-per-view bill is through the roof. I talk a mile a minute, everything takes too long, and my wife is leaving me. I tried committing suicide with a bottle of sleeping pills. Didn't faze me. It began as social coffee drinking, but now I'm hooked. All I can think about is the next cup. I tried joining C.A., but I can't sit through the meetings. I used to enjoy coffee. Now, thanks to Starbucks, I've forgotten what it tastes like. I hate coffee and I hate Starbucks. And if you want to know how I got started," said Jones, "just go over to that girl standing behind the counter. She'll tell you."

Letters to the Editor

Dear Editor:

I am shocked – utterly shocked – by the recent (and somewhat mysterious) State Bar proposal that will require all practicing California attorneys to take (and pass) the bar exam every five years.

While this proposal is being made under the guise of making all attorneys more competent and proficient, it sounds to me to actually be a money-making venture that is also being financially supported by, among others, companies that make their money by providing bar review courses.

For those not interested in having to pass a bar exam every five years, I would suggest that they contact the powers that be within the State Bar to strongly voice their opinion against this proposal.

Signed,

Not Interested in More Testing

Dear Editor:

Imagine my surprise to learn of the upcoming closure of the Riverside County (Victor Miceli) Law Library. As I understand it, the operators of the library have made the unfortunate decision that lawyers no longer need “hard copies” of law books and that they can do all of their legal research online from their respective law offices. I was further shocked to learn of the upcoming merger of Best Best & Krieger with Thompson & Colegate and that, together, they are going to take up residency within the library building. I am sure that those two bastions of the local legal community will provide an office library with hardbound books for their young associates. Meanwhile, the rest of us will surely suffer.

Signed,

I Want My Hardbound Books

Dear Editor:

What is it with our politicians? Why can't our money ever be managed properly? We always have to pay more, more, more! Now we are being told that there will be a \$1 fee for entering any of the courts within Riverside County. I hear that this surcharge is being used to offset the cost of metal detectors and security personnel. For attorneys, I guess that this now means that we will need to carry the proper change (or \$1 bills) to insure a prompt entrance into the courthouse. If we only have a \$20 bill, we will now be delayed while the security officer takes the time to return the proper change to us. If the 10 people in line in front of us also do not have the exact amount, the security lines could become interminably long while correct change is being disbursed. As to those poor souls who have forgotten their wallets, I guess that they will be barred from making it into the courtroom in time to oppose that motion for summary judgment that might terminate their client's case.

Signed,

Hey Buddy Can You Spare a Dime

Vice-President to Visit Golden State

Vice-President Dick Cheney has decided to take his next hunting trip to California. “I understand that there are over 200,000 attorneys in California,” observed the Vice-President. “I intend to bag my limit.”



Relief is here:
VIAGRALAX
*Gets you coming
and going*
from
Upjohn

2006 Mock TRIAL COMPETITION

by John Wahlin

Photos courtesy of Riverside County Office of Education

Riverside's Woodcrest Christian School is the new Riverside County mock trial champion. It succeeds Poly High School, which had won the county title for the last four years. This was Woodcrest's second championship, as it won previously in 1999. In winning this year, Woodcrest built on its third-place finish in 2005.

This year's competition took place over three weeks in February and March, with 22 teams from throughout the county competing. Each team competed in the first four rounds in courtrooms in the Riverside Hall of Justice, the Southwest Justice Center in Murrieta, and the Indio Courthouse. In accordance with the county mock trial rules, each team's prosecution and defense competed twice during the initial rounds. Under the same format as has been used for the last three years, the eight teams with the best won-lost records and the most points moved on to the "Elite Eight." These teams competed in a single-elimination tournament on March 1 and 4.

The first round of the Elite Eight tournament pitted Corona High School against Hemet High School, Poly High School against Woodcrest, Santiago High School against Temecula Valley High School, and North High School against Temescal Canyon High School. Of these schools, Hemet, Woodcrest, Santiago and North prevailed and moved on to the semifinals. The judges presiding over

the Elite Eight round included Judges Helios Hernandez, Gary Tranbarger, Elizabeth Sichel and Douglas Weathers.

In the next round, Woodcrest's defense defeated North's prosecution in a very close and competitive round. In a similarly competitive round, Hemet was the winner over Santiago, last year's second-place team. Judges Richard Fields and Michelle Levine presided.

Justice Thomas Hollenhorst once again presided over the championship round. The distinguished panel of scorers included Presiding Judge Sharon Waters, Judge Gloria Trask, Public Defender Gary Windom, Deputy District Attorney Steve Counelis, and RCBA President Theresa Han Savage. The case, *People v. Markson*, involved a charge of first-degree murder against Jes Markson for the death of his/her spouse.

The pretrial motion involved the Fourth Amendment issue of unreasonable search and seizure. The question was whether a police search went beyond the scope of the consent given for the search. After hearing the arguments, Justice Hollenhorst granted the defense motion to exclude certain evidence presented by the prosecution that had been obtained in the search.

In the trial, strong presentations were made by both sides, and Justice Hollenhorst found the defendant guilty as charged. The verdict, of course, is irrelevant to the scoring of the round, and the scorers gave the edge to Woodcrest.

The four finalists received their awards in a ceremony following the trial in Department 1 of the Historic



Rod Pacheco, on behalf of the District Attorney's Office, presents Samy Harmoush of Chaparral High School with the summer internship award for Outstanding Prosecution Trial Attorney



Bryant Villagran, of the Public Defender's Office, presents Brittany Boothby of Poly High School with the summer internship award for Outstanding Defense Trial Attorney

Courthouse. The other semifinalists, North and Santiago, were presented third-place medals by the Mock Trial Steering Committee. Dr. David Long, Riverside County Superintendent of Schools, presented the second-place award to Hemet, which made it to the championship after only three years of participation in the competition. Theresa Han Savage, RCBA President, presented the Championship Award to Woodcrest, along with a stipend of \$500 to defray expenses in the state competition.

Woodcrest moved on to compete for the state title. The competition this year was to be held in Riverside again, under the direction of the Constitutional Rights Foundation. CRF selected Judge Helios Hernandez as one of the scorers for the championship round, to be held on March 19 at the Historic Courthouse. Once again, CRF has recognized that Riverside is the best venue in the state for the state competition.

This year's competition reflected the continued growth of Riverside County and the geographic dispersion of the competing schools. In the first three rounds, which are held at regional locations, ten of the schools were based in Riverside, four in Indio and eight in Southwest. Of the final eight teams, four were based in Riverside and four in Southwest, with the championship having one team from each of these two regions represented.

As usual, many thanks to the judges, attorneys, legal secretaries, RCBA staff, the staff of the Riverside County Office of Education, the Superior Court staff, and all others who assisted in making the 2006 competition a success.

John Wahlin, Chair of the RCBA Mock Trial Steering Committee, is with the law firm of Best, Best & Krieger, LLP.



Woodcrest High School - First Place



Hemet High School - Second Place



North High School - Third Place (tied)



Santiago High School - Third Place (tied)

TO COACH OR NOT TO COACH, THAT IS THE QUESTION

by Robyn Beilin-Lewis

For three years now, my husband, Jonathan Lewis, and I have had the privilege of coaching the Santiago High School Mock Trial Team. Santiago High School, for those of you unfamiliar with the name, is located in Corona.

For us, every September means catching up with our teacher-coach, Paulla Tilton, and awaiting the day that the Constitutional Rights Foundation will release the year's fact pattern. October is devoted to try-outs and trying to figure out who our student attorneys will be and who will be the best for each individual witness role. From that point on, our weeks are filled with practice in preparation for competition, which doesn't begin until February. State competition begins in March, with nationals beginning in May.

I am sure that most of you are familiar with the mock trial program and that many of you reading this article have participated in mock trial as scoring attorneys. But there are not too many attorneys who have coached a mock trial team and who therefore know how much time and effort goes into being a coach. It is an incredible commitment and certainly not for the faint of heart.

To start with, the season in Riverside County begins in September and ends, at the earliest, in February. While friends and family are busy planning their Thanksgiving holiday dinners or are Christmas shopping, mock trial attorney-coaches are busy going to a minimum of two practices a week. At one point, Jon and I calculated that we were adding another full work day to our week in order to attend our team's practices. With practices ending around 8:30 p.m., we often did not get home until close to 10:00 p.m.,

which made mock trial consume our personal lives as well.

Even when we were not at practice, we spent most of our free time planning, refining, and working on mock trial. Our house became cluttered with mock trial fact patterns, while evidence books were a staple of the contents of our car for the better half of the last year. We emailed our students daily, consulted with our teacher-coaches, and held practices in our office to supplement the already busy practice schedule.

During mock trial practices, we were confronted with the task of teaching our students evidence and basic trial techniques. Our lectures on objections and evidentiary issues were prepared as if we were teaching a law school class. We became drama coaches, emphasizing the importance of character and the nuances of being a mock trial witness to our students. We became oratory coaches, critiquing our students on proper diction and demanding that they speak clearly, slowly and loudly. We became stylists, emphasizing the need for a profes-

sional appearance and the importance of proper attire to our attorneys and witnesses (much to the chagrin of some of our students). We were cheerleaders, financiers, fund-raisers, and even became the employers of some of our team members.

Jon and I have no children who attend Santiago High School. We were not paid to participate in the program. We did not receive any special prize or medal or even MCLE credit for our efforts. We spent hours with high school students, and quickly realized how much older we really were than these young kids. At times, we would become frustrated and felt as if we were underappreciated. So I am sure you are wondering, why did we coach? Why did we go through all of that?

I can honestly say that being a coach is one of the most rewarding experiences that I have had since becoming an attorney. It is exhausting, nerve-wracking, seemingly never-ending, and sometimes thankless. But there is nothing like watching a kid like Ben Laguna, whom I met as a sophomore, grow over a three-year



Waiting for semi-final round results



Santiago team in front of historic courthouse

time span and become an attorney I would be proud to see in a courtroom. It is amazing to watch a student like John Jefferson argue a pretrial motion with the poise and insight that you would expect to see from an experienced practitioner. I was so proud when one of our students, Brittney Relerford, delivered what I thought was one of the best closing arguments in the mock trial competition this year and won an award as one of the three best defense attorneys in the county. Patty Cho, one of our prosecutors, delivered and argued objections that would make a law school professor proud. And Sneha Patel was so convincing as an expert witness that I almost wanted to hire her for one of my own cases.

All of the students this year – Ben, Cliff, Patty, Brittney, Josh, John, Christian, Sneha, Jaylene, Najia, Alexis, Kayla, Christina, Mike, Eric V., Christopher, Margaret, Eric H., and Sarmad – have impressed us with their dedication, intelligence, and team spir-

it. Many of them will be graduating this year and moving on to the next stage in their lives. And even though some may not go on to become attorneys as a career, I hope that they all can take with them the professionalism and work ethic that we tried to instill in them. My wish for them all is that they look back on mock trial as an experience that they will never forget and are forever grateful that they had. And the experiences that we have had coaching the Santiago High School Mock Trial Team will be worth it if we know that we made a difference in just one of their lives.

To all of our students, and to the students who participated in Mock Trial countywide, we congratulate you on your incredible accomplishments. To Ms. Tilton and Ms. Peterson, Santiago's teacher-coaches, and to all of the teacher-coaches involved in mock trial, we thank you all for your hard work and devotion.

To all of the judges who participated in mock trial this year, we don't

often get the opportunity to thank you, but we appreciate you donating your time and providing your invaluable comments to our students. Your presence in the courtroom makes this program an even more treasured experience for these high school students.

To those of you who are considering becoming mock trial coaches, I would urge you to become involved – I think you will find that you will be not only a better attorney but a better person for it. And to all of our colleagues, I ask that you consider taking time out of your busy schedules to come and judge at least one round of mock trial competition next year. The program desperately needs volunteers to score these rounds, and I promise you that you will not be disappointed.

So to coach or not to coach...I would say that there is no question.



JUDICIAL PROFILE: COMMISSIONER PAULETTE BARKLEY

by Donna Thierbach

Not being a very creative person, I continue to have the same two burning questions when I meet local attorneys, commissioners and judges: (1) Why did they decide to become attorneys, and (2) how did they come to practice in Riverside County? What I have found is that we have some amazing people in our judiciary!

Commissioner Paulette Durand Barkley was born and raised in Albuquerque, New Mexico. Her father owned a tractor sales business, and she began working around the office when she was six years old. By the time she was 12, she was balancing the accounts and demonstrating tractors to customers. To me, this seems like a pretty clever sales technique – “Why, even a 12-year-old can operate this tractor.” (I wonder, are tractors like iPods?) After watching attorneys involved in reviewing contracts for her father’s business, Commissioner Barkley knew that she wanted to be an attorney.

Commissioner Barkley attended the University of New Mexico with a full scholarship and earned a degree in business. After graduating, she was not sure which law school she wanted to attend, but knew she wanted to go to one in California. After visiting several California campuses, she chose the University of San Diego because she liked the camaraderie of the school. After graduation, she received a job offer from a large commercial real estate law firm in Las Vegas. She always loved property and real estate law, and in law school, her friends teasingly referred to her as the “dirt lawyer.” (Alas, someone who understands the Rule Against Perpetuities.) So she accepted the offer, moved to Las Vegas, and passed the Nevada bar. Working for the firm was a wonderful learning experience, but after a year she decided she wanted to work for a smaller firm and “get a life.”



Commissioner Paulette Barkley

Commissioner Barkley returned to San Diego and took the California bar. (Taking a second bar examination would send me to a bar of a different nature!) While waiting for the bar results, she clerked for attorney David Rowley. He had a private practice emphasizing planning (he called it preventive law). When she received word that she had passed the bar, they became partners. Their most memorable case was a patent infringement case for Bell Helmets against a Japanese company. Commissioner Barkley said it was an incredible learning experience, because the defendant company was overseas. That lawsuit lasted eight months and had very favorable results.

In 1989, Commissioner Barkley decided it was time she returned to her home town, Albuquerque. You guessed it; she took (and passed) the New Mexico bar. She accepted a position in a small New Mexico labor law firm; however, after about four to six months she began to miss California and came back.

When she had previously worked in San Diego, Commissioner Barkley had met (unbeknownst to her at the time) her future husband through work. They began dating when she returned to San Diego and, after dating four months, were married. She had a small private practice at the time, and they were living in the small community of Rainbow, near Fallbrook. However, her husband worked in Ontario, and they did not feel Rainbow would be a good place to raise children. So in 1991, Commissioner Barkley accepted a civil research position with Riverside County, and they made their home in Canyon Lake. They were then ready to start a family and adopted an 18-month-old girl in Romania. As things often turn out, when they were in the process of finalizing the adoption, Commissioner Barkley learned she was pregnant with their son. She related that it was quite a challenge having two toddlers in the home.

Commissioner Barkley continued her duties as a research attorney for Riverside County and in 1999 became the Supervising Probate Attorney. In September 2003, she became a commissioner. She was first assigned to small claims and unlawful detainers, but in May 2005, she found herself back in probate. Commissioner Barkley said she enjoys the probate and mental health calendar. There are many fascinating issues that arise in probate, and she often reflects on how any family potentially could face similar situations.

Commissioner Barkley said the judges in Riverside County are like a big family. The civil judges meet each Monday informally for lunch, and they genuinely care about each other. She is serving on the Probate Mental Health Advisory Committee, which is currently reviewing private professional issues. She related that, in addition to communicating to the committee the issues brought to her, she has received great ideas from other committee members.

When asked about hobbies, Commissioner Barkley said everything is centered on their children. Both children participate in Tae Kwon Do and have each earned their yellow belts. Her son loves music and trains, and her daughter is involved in scouting and physical activities. I thought perhaps Commissioner Barkley's hobby was taking bar examinations, but she assured me that she enjoys playing the piano and her husband enjoys hunting.

Donna Thierbach is formally a deputy public defender with Riverside County and is currently the assistance director of the adult division of the Riverside County Probation Department.



UNIVERSITY OF LA VERNE COLLEGE OF LAW BECOMES ABA-ACCREDITED

Ontario, Calif., February 15, 2006 – Dean Donald J. Dunn is pleased to announce that the American Bar Association has granted provisional accreditation to the University of La Verne College of Law, making it the only ABA-accredited law school in Inland Southern California, the fastest growing metropolitan region in the United States.

“Great expectation has led to great achievement,” said Dean Dunn. “ULV has always provided an exceptional legal education, as evidenced by the 35 College of Law alumni currently on the bench. Provisional accreditation will allow us to offer our graduates the same rights and privileges other high-caliber students receive when they attend ABA-accredited institutions.”

The announcement comes at a time when San Bernardino and Riverside County courts are reporting a severe shortage of judicial officers and Inland Southern California’s population is significantly underrepresented by legal professionals when compared to neighboring metropolitan regions. Currently, Inland Southern California’s resident-to-attorney ratio is 840:1, in comparison to 217:1, 223:1, 232:1 and 341:1 for Los Angeles, Orange, San Diego and Ventura counties, respectively.

Third year ULV law student Dan Messner is encouraged by the ABA’s decision to grant accreditation to ULV College of Law. “It’s a victory for the student. Accreditation opens up a whole new world of opportunity.”

“The courts are excited about having an ABA law school in the Inland Empire that produces the caliber of quality legal representation important for this region,” said Riverside Superior Court Judge Jean Leonard. “Having an ABA-accredited institution nearby will allow the legal community to retain individuals committed to serving the needs of this area.”

ULV President Stephen Morgan predicts accreditation will only increase the College of Law’s already diverse applicant pool.

“The College of Law has always provided a progressive environment focusing on the success of each student through small classes, greater emphasis on the individual and personalized career development. Now that it is accredited, students will not need to leave Inland Southern California to attend an ABA-accredited law school.”

Dean Dunn notes that over 65% of College of Law graduates already remain in Inland Southern California to practice in their chosen legal specialties, making the

law school a valuable resource to the Inland legal community.

On a larger scale, many Inland legal professionals believe the growth of the College of Law mirrors the development of the region.

“ABA accreditation is another sign of the maturation of our region in general and of ULV College of Law in particular,” said George Reyes, a partner at Best Best & Krieger, the Inland Empire’s oldest and largest law firm.

Economist John Husing added, “Building a high-end economy is one of Inland Southern California’s regional goals, and top-notch professional schools are vital to meeting this goal. Ontario has taken a key leadership role in the drive to developing a well-educated workforce.”

About the ABA Accreditation Process

The College of Law’s quest for accreditation began with its application to the ABA in Fall 2005. After an extensive self-study and a positive site visit in September 2005, administrative representatives from the law school and ULV’s main campus appeared before the ABA’s 19-member Accreditation Committee to present the law school’s credentials for accreditation.

On January 23, the Accreditation Committee recommended the law school for provisional ABA approval. The process continued on February 11, when the College of Law’s representatives appeared in Chicago before the Council of the Section of Legal Education and Admissions to the Bar. When the Council concurred with the Accreditation Committee’s recommendation, ULV’s representatives made a final appearance before the ABA’s House of Delegates on February 13, when final provisional approval was granted to the 36-year-old law school. A law school must remain in provisional status for a minimum of two years before becoming eligible for consideration for full approval.

About the University of La Verne College of Law

Located in Ontario, California, the University of La Verne College of Law serves over 3.8 million people as the only accredited law school in Inland Southern California and an additional 2.2 million people in San Gabriel Valley and Eastern Los Angeles County. It is accredited by the American Bar Association and the State Bar of California.

(continued on page 32)

University of La Verne
(continued from page 30)

Established in 1970, the College of Law adheres to the ideals and vision of the University of La Verne and is recognized as a progressive school, integrating time-honored methods of teaching the law with the most advanced technology available. Known for its emphasis on advocacy, the law school offers small classes that feature a traditional curriculum and practical skills taught by respected, practice-proven faculty focused on individual students' needs and a prominent and supportive alumni network, both grounded in a commitment to ethics and service.

For more information about the University of La Verne College of Law, please call (909) 460-2001 or visit the Web at <http://law.ulv.edu>. For more information about the ABA's accreditation process, visit <http://www.abanet.org/legaled/accreditation/acinfo.html>.

Imagine...
(continued from page 11)

there are those who will take advantage – whether it be unscrupulous and disreputable employees, medical providers or, yes, attorneys. The target of reform should be these individuals, not the workers who actually did sustain injuries and often permanent and life-long disabilities as a result of their work to benefit their employers within this state. This system was created for the benefit of injured workers; now it is harming not only these workers, but also their families.

Fair . . . No.

Right . . . No.

Just . . . No.

Finally, taking an idea from the movie "A Time to Kill," please read this article again and for each sentence where I have referred to the injured worker and his or her family, substitute your brother, your sister, your son or daughter, and their families . . . or, better yet, you and your family.

CAN YOU IMAGINE?

Richard H. Irwin is a partner in the Law Offices of Heiting & Irwin in Riverside.



16TH ANNUAL RED MASS



Tuesday, May 2, 2006, at 6:30 p.m.

**SAINT CATHERINE OF ALEXANDRIA
CATHOLIC CHURCH
7050 Brockton Avenue, Riverside**



The entire legal community and persons of all faiths are invited to attend the 16th Annual Red Mass on Tuesday, May 2, 2006, at 6:30 p.m., at Saint Catherine of Alexandria Catholic Church, located at 7050 Brockton Avenue, at the corner of Brockton and Arlington Avenues in the city of Riverside. The chief celebrant and homilist will be the Most Reverend Rutilio del Riego, the Auxiliary Bishop of the Diocese of San Bernardino. A dinner reception in the parish hall hosted by the Steering Committee will follow the Mass.

The Red Mass is an opportunity for members of the legal community and their families to invoke God's blessing and guidance in the administration of justice. All who are involved in the judicial system, including lawyers, judges, court personnel, court reporters, court security officers, and peace officers, are encouraged to attend the Red Mass.

Jane Carney Will Be Honored at the Reception

During the reception, the Honorable Victor Miceli will present Jane Carney with the Saint Thomas More Award for her extraordinary service and devotion to church, community, and justice. The Saint Thomas More Award is given to an attorney in the community whose professional life is a reflection of his or her faith, who gives hope to those in need, who is kind and generous in spirit, and who is an overall exemplary human being.

The Tradition of the Red Mass

The Red Mass has a rich history. The name "Red Mass" is derived from the liturgical color used in the vestments worn at the Mass, symbolizing the gifts of the Holy Spirit bestowed through tongues of fire. The Red Mass is a Solemn Votive Mass of the Holy Spirit – the word "votive" indicating that the Mass is offered for the special intention of those present.

The first recorded Red Mass was celebrated in Europe in 1245. In the United States, the tradition of the Red Mass was inaugurated in 1928 in New York, where a Guild of Catholic Lawyers met with judges and members of law faculties in old Saint Andrew's Church in the courthouse district. The Red Mass is celebrated each year in Washington, D.C., where Supreme Court justices, members of Congress, and the President attend at the National Shrine of the Immaculate Conception. Since 1991, the Red Mass has been offered in the Diocese of San Bernardino, which covers both Riverside and San Bernardino Counties.

For further information about this event, please contact Jacqueline Carey-Wilson at (909) 387-4334 or Mitchell Norton at (909) 387-5444.

DISPATCH FROM FORT IRWIN

by Major Eric M. Strong

Interstate 15 heading to Las Vegas has a turn-off a few miles north of Barstow. The off-ramp leads into a desolate, 40-mile cul de sac. For over a year, I've worked at the end of this lonely trail. Fort Irwin is home to the U.S. Army's National Training Center. It's the proud location of the most remote Inland Empire law firm you've never heard of. A dozen or so military attorneys here train Army lawyers, conduct criminal defense, prosecute, do environmental work, and more.

In August 2004, my military career went from one weekend a month, plus two weeks a year, to a full-time gig. The Army individually mobilized me out of my reserve unit to help replace part of the "Office of the Staff Judge Advocate" (OSJA) deployed to Iraq in support of Fort Irwin's 11th Armored Cavalry Regiment. The transition from civilian law practice was jarring.

Naturally, given my background in civil and probate litigation, the Army in its wisdom made me the post labor attorney and part-time military magistrate. Having no experience in labor and employment wasn't too bad, as it turned out, because the realm of federal labor practice bears little resemblance to other areas of employment law, anyhow.

However, becoming the guy who decides whether bad soldiers get locked up before trial or whether probable cause exists for law enforcement searches raised my heart rate. The closest I'd previously come to criminal law was waiting for a traffic docket to finish before the civil calendar started. Suddenly, I was adjudicating the military equivalent of bail hearings. I read the owners' manual in a cold sweat when I started that car, if you get my meaning.

Eventually, in a sign of how desperate the Army's become, I was elevated to my current position as the Deputy Staff Judge Advocate: basically, the number-two lawyer on the installation. In this job, I am more a manager. While the Staff Judge Advocate looks outside the OSJA, advising the Commanding General and senior staff, the Deputy (with the Chief Legal NCO and warrant officer) tries to keep things smooth internally.

Even though being the Deputy removed me as magistrate, criminal law became more central to my life. I

now had to supervise two prosecutors. "Supervise" is a stretch, when both have more experience than you do. However, litigation is litigation, I learned much (the Army is great at flying you to relevant education), and now, even though I'm still playing catch-up, I actually relish helping keep good order and discipline. Military justice is the primary and essential reason Army lawyers were created in the first place.

What does any of this have to do with this month's theme of religion? Well, plenty from one perspective.

Being here at Fort Irwin, away from my colleagues in Riverside, puts me nearer the war in Iraq. While no closer geographically, I regularly talk to soldiers who've been there, some more than once.

Days serving in Iraq are not like days in other wars. We hear about violence through the media on a daily basis, but keep in mind, these are highlights from across a nation of 25 million people. For most U.S. soldiers, an average day is thankfully free of shots fired in anger.

Instead of prolonged combat, many soldiers get a window on the culture through their day-to-day missions. Whether they're combat soldiers patrolling neighborhoods, legal soldiers administering local claims, or engineers building infrastructure, American servicemen and women enjoy contact with Iraqi citizens in various contexts.

One theme this familiarity has driven home to me is that Iraqi culture is literally defined by religion. The recently ratified constitution says Islam is a "source" of the nation's law. But in everyday situations, the presence of religion has a far greater effect. Being Sunni, Shiite or Christian has a profound influence on status, depending on where you are and whom you deal with. This is less true in urban areas, but the more poor and rural the location, the more likely that religion, and more specifically Islam, dominates.

Of course, Iraq sits beside the theocracy of Iran, where conservative Shiite clerics control public life. Throughout this part of the world, a visceral distrust of Jews and, to a lesser degree, Christians is pervasive. Additionally, although it is less well publicized here in the United States, Hindus are an object of suspicion. Many of these fears translate into policy and horrible conflict. Soldiers are asked by ordinary Iraqis without a trace of

irony why as Christians they fight for causes which everyone knows are ultimately directed by some non-specific Jewish cabal.

Hearing about these things makes me think about our national relationship with religion and government. We have generally adopted a vision of church and state separation. Even when a president talks about his faith, it makes many of us squeamish. In the context of the Middle East, our approach is completely alien.

It reminds me of a book I loved as a kid called "MiG Pilot." It was an autobiographical account of a Soviet fighter pilot who got fed up and flew his high-performance fighter jet to a base in Japan. After his defection, he thought the first ordinary supermarket he visited in the U.S. was some sort of Potemkin-village trick. He simply could not believe there was a system where people could just stroll in and purchase high-quality food anywhere in the country. In Communist Russia, shortage and privation were a way of life. It made me realize how lucky we have it.

Similarly, our system of church-state separation is a sweet deal compared to the rest of the world. Ironically, the state checking out of the religion business appears to make all forms of spirituality more accessible. While religion is a constant in Iraq, and even more so Iran, how truly free is an individual's relationship with his faith, and indeed his god, if the state is interfering?

Faith is more personal, charitable and free in a place like the U.S. Iran bases its government on the Shiite Islamic faith. While I am not a scholar of that religion, I imagine the narrow, medieval version promulgated by the cadre of powerful mullahs at the top of the food chain is not shared by every follower, to say nothing of those Iranians who worship outside that faith entirely. A true embrace of individual spirituality can be enjoyed by only a small part of the populace, despite government and religion being synonymous in Iran.

This is what I've learned about religion lately. When it comes to free worship and

the separation of church and state, to paraphrase a certain Kansan, there's no place like home! Speaking of home, I look forward to seeing all of you when the Army ends my military odyssey, which it claims will be around mid-2006.

Major Eric M. Strong is on military leave from Arias Aaen in Riverside.



by Gayle Webb

65 and Going Strong!

It's official – we'll be 65 years old on Friday, April 28! No, not the staff – the Law Library will have been open to the judiciary, state and county officials, members of the state and local bar and all residents of the county since 1941.

We've come a long way since our origins in the chambers of Department 1 of the Superior Court. The few hundred books we started with were moved to the County Probation Office in 1947, in the historic Courthouse. Grand Jury reports in the 60s indicated that book space was "barely adequate" and study space was "definitely inadequate." This seems to have spurred on a joint powers agreement/bond issue, which resulted in the 3535 Tenth Street shared-use building in 1970. As we outgrew our space, the Law Library invested in an addition in 1992, moving our entrance to 3989 Lemon Street. We now have a collection of more than 96,000 volumes.

I hope some of you noticed the wealth of tax resources we displayed during our March celebration, along with free federal and state tax forms. Our Law Library now appears to be the only place in Riverside where these free forms are available. We also began what I hope will be a long-term arrangement with IRS-certified AARP-TCE volunteers, who offered free assistance to low/moderate-income taxpayers, giving preference to senior citizens, from 10 a.m. to 2 p.m. on Mondays, March 6, 13, 20, 27 and April 10.

Now we'd like you to help us celebrate our 65th anniversary by coming to a Special Reception in honor of Associate Justice of the California Supreme Court, Carol A. Corrigan. This reception will be on Friday, April 21 at the Victor Miceli Law Library, 3989 Lemon Street, from 5:30-6:30 p.m., and will be open to the public. We promise brief speeches and refreshments as well as the chance to meet the newest appointee

to the state's Supreme Court (appointed December 2005; confirmed January 4, 2006).

Justice Corrigan began her law career as a deputy district attorney in Alameda County after graduating from Hastings College of Law (1975). She served as a judge in Alameda County from 1987-1994, after which she was an Associate Justice at the Court of Appeal, First Appellate District, Division Three from 1994-2006. You have probably seen her name on the new Judicial Council Criminal Jury Instructions, along with that of our own Justice James D. Ward, as Chair and Vice-Chair, respectively, of the Task Force on Criminal Jury Instructions. These revised and "plain English" jury instructions were just released in 2006 and are available at both of our law libraries.

We do hope you will join us on Friday, April 21 from 5:30-6:30 p.m. for our 65th anniversary celebration and reception. We're 65 and going strong!

Gayle Webb is the County Law Library Director.



CLASSIFIED ADS

Looking for Attorney Who Drafted Will

Looking for lawyer who may have drafted Last Will & Testament for well-known race car driver EDWIN DUNCAN EMMONS, SR., last residing in Rancho Mirage, Riverside County, California. Please contact Mary E. Gilstrap, Roemer Harnik & Nethery at (760) 360-2400 or mgilstrap@rhnlaw.com.

Attorney

Established Corona firm seeks Civil Litigation (Business) Attorney with minimum 5 years experience. Please fax resume/salary history to: 951-734-8832 or email sherri@coronalaw.com.

Paralegal – Part Time

Part time paralegal needed for growing business, real estate and civil litigation practice. Experience preferred. Strong organizational skills required. Flexible schedule. Please fax or email resume to: John Vineyard, (fax) 951-774-1970 (email) jvineyard@vineyardlaw.com

Conference Rooms Available

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

Office of Inspector General Position

Special Assistant Inspector General, \$8,798 - \$9,515 per month

The California State Office of the Inspector General, Bureau of Independent Review (BIR) is seeking a highly experienced & highly motivated attorney to join the southern regional BIR office in the city of Rancho Cucamonga, CA. Active membership in the State Bar of California is required. The BIR provides oversight of the internal affairs process for the state correctional agencies.

The ideal candidate will have a minimum of 5 years experience in CA public employment law, criminal prosecution or defense, or civil rights enforcement. Experience conducting or directly supervising complex investigations and/or litigation is a plus. We are seeking applicants with unimpeachable integrity, excellent references and strong written and oral communication skills.

For further information including salary ranges, duty descriptions, and filing instructions, please visit our website at www.oig.ca.gov.

The State of California is an equal opportunity employer to all regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, age, or sexual orientation.



State Bar of California MCLE "Regular" Requirement

Total hours required every three years: **25 hours**

- Maximum "self-study" hours: **12.5 hours**
- Members must fulfill at least one-half of their MCLE requirement with activities approved for "participatory" MCLE credit.
- Special Requirements within the total hours **required** (may be taken as participatory or self-study):
 - Legal Ethics: **4 hours**
 - Detection/Prevention of Substance Abuse: **1 hour**
 - Elimination of Bias in the Legal Profession: **1 hour**

GROUP 1 (A-G)	GROUP 2 (H-M)	GROUP 3 (N-Z)
Period: 2/1/04 - 1/31/07	Period: 2/1/03 - 1/31/06	Period: 2/1/05 - 1/31/08
Deadline: 2/1/2007	Deadline: 2/1/2006	Deadline: 2/1/2008

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, 2006.

- Jeffrey A. Aaron** – Blumenthal Law Offices, Riverside
- Jason Ackerman** – Best Best & Krieger, Riverside
- Edward E. Dollar** – Cary & Dollar, Brea
- Erik Friis** – Sole Practitioner, Riverside
- Joseph T. Hahn** – Kramer DeBoer Endelicato & Keane, Indian Wells
- Arnold Hernandez** – Sole Practitioner, Cathedral City
- Gerald A. Maggio** – The Maggio Law Firm, Irvine
- Valerie L. Murphy** – Edgar & Gorian, Riverside
- Mark Parsons** – Office of the City Attorney, Riverside
- Nguyet M. Tran** – Sole Practitioner, Moreno Valley
- David L. Wilkerson** – Wilkerson & Associates, Rancho Mirage

