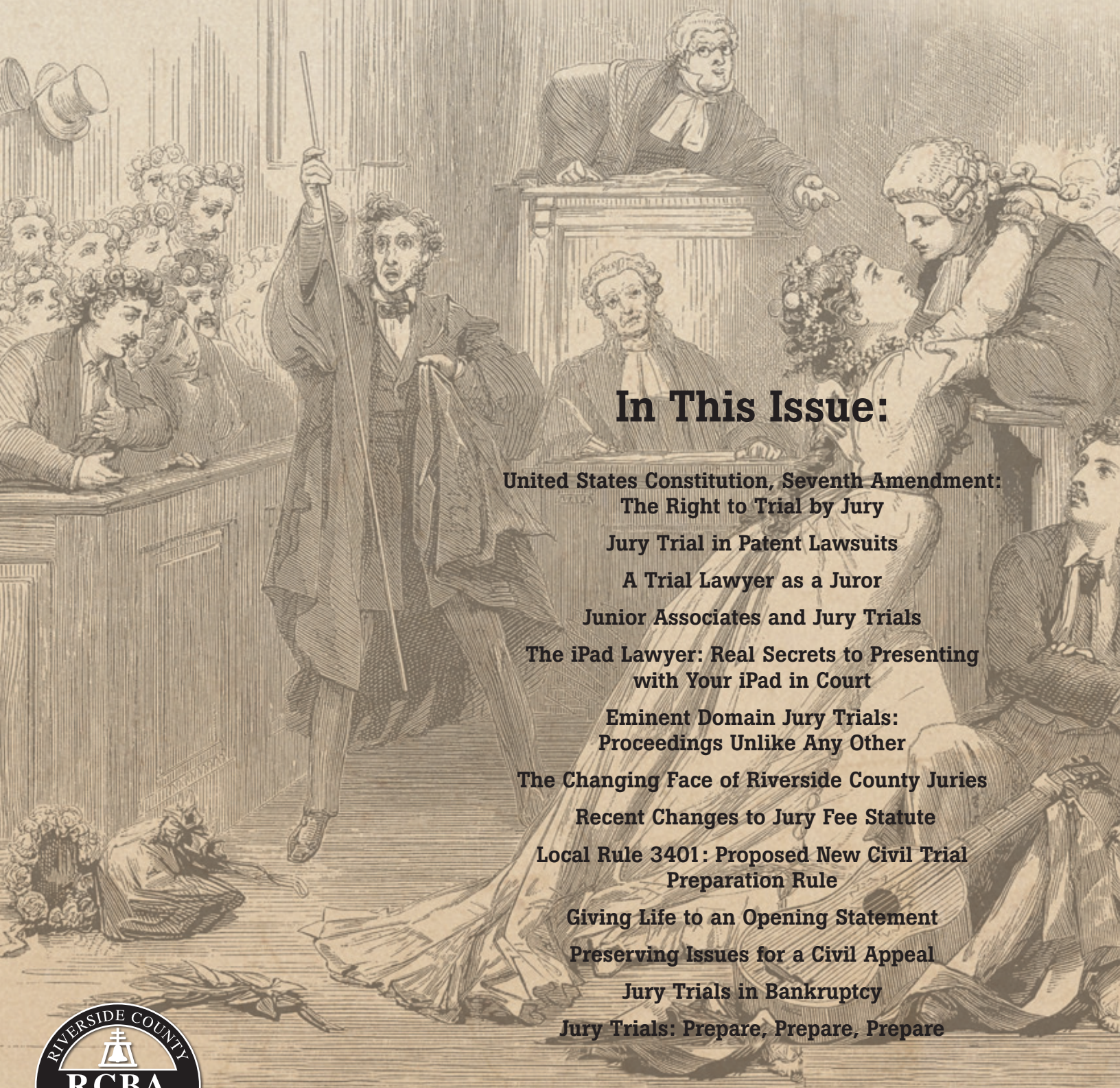


RIVERSIDE LAWYER

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MAGAZINE



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Giving Life to an Opening Statement

Preserving Issues for a Civil Appeal

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Jury Trials: Prepare, Prepare, Prepare



The official publication of the Riverside County Bar Association

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RIVERSIDE LAWYER

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MISSION STATEMENT

Established in 1894

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

RCBA Mission Statement

The mission of the Riverside County Bar Association is:
To serve our members, our communities, and our legal system.

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), 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

JANUARY

- 8 Civil Litigation Section**
RCBA Gabbert Gallery – Noon
Speaker: Sherri Carter, Court Executive Officer
“Riverside Superior Court’s New Civil E-filing System”
MCLE
- 11 Bridging the Gap**
RCBA Gabbert Gallery – 8:00 a.m. – 5:00 p.m.
Program for new admittees only – Free
(MCLE: 5.75 General and .50 Legal Ethics)
- 14 Mentoring Program Meeting**
RCBA Gabbert Gallery - Noon
Speaker: L. Alexandra Fong & Michael Gouveia
Topic: “How to Get and Give the Mentoring You Need”
- 15 Family Law Section Meeting**
RCBA Gabbert Gallery - Noon
- 16 Estate Planning, Probate & Elder Law Section**
RCBA Gabbert Gallery – Noon
Speakers: Deborah Young, Claudia Smith & Audrey Owens
- 17 CLE Event - Ethics**
RCBA Gabbert Gallery - 11:00 a.m. – 1:15 p.m.
Speaker: Cynthia Hrabac
Topic: “Professional Ethics for California”
Presented by Lexis Nexis
MCLE – 2 hr Ethics
- 21 Martin Luther King, Jr. Holiday**
- 22 Mock Trial Scoring Orientation Meeting**
RCBA Gabbert Gallery – Noon
Speaker: Judge Jackson Lucky
- 25 General Membership Meeting**
RCBA Gabbert Gallery – Noon
Speaker: Riverside County District Attorney Paul Zellerbach
- 29 CLE Event**
RCBA Gabbert Gallery – Noon
Speaker: Dr. Jamie Rotnofsky
Topic: “Understanding People Who Use Substances”
MCLE – 1 hour Substance Abuse

FEBRUARY

- 7 Federal Bar Association, Inland Empire Chapter**
Annual Judges’ Appreciation Night and Installation of Officers/Directors
Mission Inn, Riverside
Social Hour: 5:00 – 6:00 in the Glenwood Tavern
Dinner 6:00 in the Music Room
Questions: Julius Nam 951-328-2245





President's Message

by Christopher B. Harmon

Happy New Year! It is just amazing that 2012 has come and gone so quickly and we are now into 2013. The new year is always a time to refocus our goals and examine and adjust our priorities. We reflect during this time on just where it is we have been and where we want to go – both personally and professionally. Have we taken a quick detour? Are we far off the path we had set for ourselves? Many of us may even be on a path we had never envisioned, and that can be good or bad. Sometimes the best paths in life are those that you are diverted down and never planned on taking.

Unfortunately our courts have been taken down a particularly difficult and arduous path in these last few months. Unprecedented cuts to judicial budgets will continue to provide further challenges to the administration of justice, and there is no clear end in sight to these funding issues. This month's issue is dedicated to jury trials, and it is hard to think about trials these days without wondering just how severe budget cuts and court closures will affect the way jury trials are conducted. On December 6, State Bar President Patrick Kelly gave a "State of the State Bar" address to a joint meeting of the RCBA and SBCBA. Not surprisingly, his remarks were directed at judicial branch funding cuts and the crisis our courts are in. Mr. Kelly spent a good deal of time explaining the current situation and discussed how his home county of Los Angeles alone has scheduled the closing of some ten court facilities and laid off many employees. Mr. Kelly pledged that the State Bar will continue to do all that it can to advocate for adequate court funding and



Christopher Harmon, President of the RCBA; Patrick Kelly, President of the State Bar, and Kevin Bevins, President of the SBCBA



Julie Hill, Justice Carol D. Codrington, Vicki Broach, and Mary Anne Forrest



Patrick Kelly, David Horspool and Karin Horspool

promised that he will make this issue a top priority for his term as president.

The RCBA is also committed to help and support our local court in any way that we can. The RCBA has established several standing committees to deal with court funding issues. In these very difficult times, our legal community can be of tremendous assistance to our overburdened justice system in a number of ways. Even as resources diminish, those needing the services of our courts do not decrease, and we must all continue to find ways to do more with less. Yet the challenge is that we must somehow do this without sacrificing the quality of those services.

I would urge all of you to consider writing your legislators and apprising them of exactly what it means to you, your clients, and, in turn, their constituents when court resources are cut to the extent they have been. Many legislators these days are not lawyers and have very little involvement with the legal system. As a result, many do not realize the necessity of a well-funded judicial branch of government. If lawmakers can hear our concerns and understand the human toll such cuts will exact, maybe we stand a chance in the fight to keep our courtrooms open.

Chris Harmon is a partner in the Riverside firm of Harmon & Harmon, where he practices exclusively in the area of criminal trial defense, representing both private and indigent clients.



Noreen Fontaine and Joan Nelms



Daniel Sanchez, Field Representative from Senator Bill Emmerson, Elaine Rosen, and Larry Meyer, Executive Director of San Bernardino County Law Library

photos courtesy of Jacqueline Carey-Wilson

BARRISTERS PRESIDENT'S MESSAGE

by Amanda E. Schneider



Happy New Year! I would like to start this message by thanking Irene Morales, John Vega, and Jason Ackerman, the three speakers at our Giving Back to the Community event and social last month. Also, special thanks to Reina Canale for organizing the event. It was fascinating to learn about the origins of the Inland Empire Latino Lawyers Association and about all of the services that organization provides to the community, as well as the number of ways that Barristers can get involved. We were also able to collect a number of donations for the RCBA Elves Program.

Thank you to everyone who donated for your generosity!

This month, on January 9, 2013, the Barristers will be looking to answer a number of commonly asked questions. As new attorneys, many of us are called upon to assist family and friends or to answer some of their legal questions. Our panel of speakers will address frequently asked probate, family law, and criminal questions, among others. In addition to providing basic information on these topics, Barristers also provides a great way to meet other attorneys in varying practice areas, and it can be a great source for referrals.

The Lawyer Referral Service (LRS) offered by the RCBA is another excellent resource in instances where you cannot take a particular case. Attorneys

involved in the LRS have experience in almost every area of law, and initial consultations are free in personal injury, social security, and worker's compensation cases. Senior citizens with income within approved minimum standards also receive free initial consultations.

Next month, just in time for Valentine's Day, we will host a family law panel, teaching our members the basics, from the prenuptial agreement through dissolution. We hope to see you all on Wednesday, February 13! Stay tuned for more information via email and the Barristers Facebook page.

Amanda Schneider is the 2012-2013 President of Barristers, as well as an associate attorney at Gresham Savage Nolan & Tilden, where she practices in the areas of land use and mining and natural resources.



UNITED STATES CONSTITUTION, SEVENTH AMENDMENT: THE RIGHT TO TRIAL BY JURY

by James Otto Heiting

“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.” (U.S. Const., Amend. VII.)

How did the Seventh Amendment arise? When America was still a colony of England, judges were often influenced by the royal family and other “important interests,” and they would often rule accordingly. The Seventh Amendment was enacted to prevent oppression by a biased or corrupt court. It was meant as a guarantee that the personal interests or prejudices of certain judges would not serve to defeat the rights and responsibilities of citizens before the courts. To prevent corruption, the Seventh Amendment was written to guarantee a trial by our peers.

The Seventh Amendment has been interpreted to give people the right to a jury trial in many civil matters in federal court, but, seemingly contrary to the wording of the Amendment, not all. For example, lawsuits against the government and admiralty matters do not give rise to the right to have a jury decide the case. Rights to sue created by statute (versus the common law, or law created by court decision), including the ability to sue the United States government, have jury rights created by statute and not the Seventh Amendment, according to the courts.

In addition to the thought that parties are always entitled to a jury

trial,¹ another common misunderstanding is that juries are always made up of 12 jurors. Typically, juries are portrayed as having 12 jurors; but sometimes, the number of jurors is limited by legislative enactment. Our U.S. Supreme Court has upheld such legislation by deciding that juries of six or more are sufficient to facilitate group deliberation and are likely to represent a cross-section of the community, thus not violating the Seventh Amendment right to an effective trial by jury. (*Colgrove v. Battin* (1973) 413 U.S. 149.) States continue to recognize that capital punishment cases, however, still require a jury of 12, a fact that implicitly suggests the value of the larger group in deciding this most serious type of case.

Federal medical facilities and medical practitioners subject to the Federal Tort Claims Act are totally exempt from a jury trial. The decision to prevent jury trials in matters such as these was criticized by Supreme Court Justice Hugo Black in his dissenting opinion in a case decided in 1943, wherein he pointed out “a continuation of the gradual process of judicial erosion which in one hundred fifty years has slowly worn away a major portion of the essential guarantee of the Seventh Amendment.” (*Galloway v. United States* (1943) 319 U.S. 372, 397.)

It is a real concern that, with the current backlog of cases, the ongoing financial crisis in our courts, and the skepticism of the public and legislators as to the effectiveness of the jury system, legislation may be passed further

limiting the size of juries (or eliminating juries entirely) in more legal matters in the name of “saving time and money.” The idea of smaller juries to shorten trial length and save money may sound acceptable, but an abundant amount of studies on this subject have found, among other negatives, that smaller juries can be less likely to have effective group deliberations, important pieces of evidence or argument may not be remembered, and influence from a single person has a greater effect. This often leads to inaccurate fact-finding and verdicts. With judge-only decisions, although straying from ethical and moral concerns is rare, the same concerns that existed at the time the Seventh Amendment came into being will always haunt the administration of justice.

Saving time at the cost of justice should always be unacceptable. Our Seventh Amendment right to a jury trial, originally created by our founding fathers to protect those in America from injustice, is a right to be vigorously protected.

James Otto Heiting is a former California State Bar President and a past president of the RCBA.



1 Article 1, section 16 of the California Constitution makes trial by jury “an inviolate right” that “shall be secured to all” in state cases, unless waived.

JURY TRIAL IN PATENT LAWSUITS

by Ceyda A. Maisami

In August 2012, Apple won a decisive victory in a lawsuit against Samsung after a month-long trial when the jury ordered Samsung to hand Apple \$1.05 billion for violating Apple's patents.¹ The patents at issue included both design and utility patents, and the jury had the duty to decide if any of about three dozen devices made by either Apple or Samsung infringed on patents owned by the other company. The jury returned the verdict after just three days of deliberations, during which it answered more than 700 questions on highly technical matters.²

Inevitably, many legal scholars and practitioners have begun to speculate as to whether juries are competent to hear patent infringement cases and whether the decision in the *Apple v. Samsung* case was reasonable.

Even though only about 3% of all patent cases are actually tried by juries, considering the fact that very few patent matters go to trial and due to the effective use of settlements and pretrial court judgments, much is at stake in terms of innovation. Accordingly, setting a consistent precedent is very important. Therefore, the role of juries in patent cases is a significant issue to be addressed.

In contrast to the rest of the world's practices, the U.S. courts allow juries to decide patent cases. The U.S. Constitution's Seventh Amendment states: "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved . . ." Moreover, under Rule 38 of the Federal Rules of Civil Procedure: "Any party may demand a trial by jury . . ."

Accordingly, a party may demand a trial by jury in a patent case, which results in a jury deciding on infringement, invalidity, and damages related to the patents at issue in that specific case. This trial system requires jurors to comprehend the technical evidence presented to them and the legal concepts they must apply to that evidence.

Starting with an infringement analysis, the jurors are expected to decide whether an accused product or device infringes the claims of the patent at issue. That is, the jurors must decide whether every element, or its equivalent, recited in the claims of the patent is found in the accused product. Then, the jurors have to assess invalidity – whether the patents were valid or invalid. Finally, if there is a finding of liability, they have to go to each one of the asserted products and determine the level of damages incurred.

A crucial step toward doing all of the above analyses is to comprehend both the patent claim elements as well as the elements of the accused products. Even if the court is in charge of interpreting the claim language and the attorneys and expert witnesses are in charge of explaining what that interpretation means, the jurors must be able to comprehend these explanations. Accordingly, the jury system relies on the assumption that jurors will understand concepts such as claims, prior art, conception, reduction to practice, enablement, best mode, anticipation, obviousness, and equivalents. Yet do jurors really understand these concepts, or are they forced to respond to questions beyond their capacity? If they understand these patent concepts, can they really apply them to the highly technical facts of a patent infringement matter? These questions make us wonder whether jurors should have place in the patent system.

One side may argue that when asked to decide a patent case, juries are likely to go with emotion over evidence, which may mean that they tend to decide a case based on brand loyalty rather than the law and facts. Moreover, juries are easily swayed by a "copycat" argument. For example, during the trial of the *Apple-Samsung* case, Apple offered an easy-to-follow narrative that is familiar to anyone with any background or education level: "That's my idea. He took it and pretended it was his."³ Samsung, on the other hand, had to explain why it was not infringing Apple's patents and that Apple's patents were not actually valid patents. Therefore, Samsung had to use technical language to educate the jury on highly technical aspects of various Samsung and Apple products.

Moreover, it is very likely that some jurors may have a hard time admitting that they do not understand the technology at issue. As far as they are concerned, it may be that the plaintiff's attorney was more persuasive than the defendant's, and therefore they conclude the deliberations by finding the plaintiff's patents valid, enforceable, and willfully infringed, even though they had no understanding of the technology or patent.

Turning to the other side of the argument, we can list a few possible reasons for one party to prefer a jury trial. For example, juries tend to favor patentees, at least with respect to the validity of patents. In situations where one party is a U.S. company, while the other is foreign,

1 mashable.com/2012/08/24/apple-samsung-verdict.

2 npr.org/2012/08/22/159679099/jury-to-decide-apple-s-patent-case-against-samsung.

3 gigaom.com/2012/08/27/3-reasons-juries-have-no-place-in-the-patent-system.

the jury may side with the U.S. company. If the party's case is factually weak but involves complex technical questions or if the party's case is legally weak but morally strong, a jury might get confused enough to even out the odds.

To address these concerns, many legal scholars have proposed a "complexity exception" to the Seventh Amendment that would result in the denial of a jury trial when the jury is unable to perform its task properly because of either the length of the trial or the complexity of the facts or the underlying legal issues.⁴ Regardless of such a proposal being acceptable or not, it seems apparent that some restructuring needs to occur in order to increase uniformity in patent infringement cases and to alter the future of technology with accurate verdicts. Maybe another patent reform is on the horizon.

Ceyda Maisami is a freelance attorney with Montage Legal Group. She practices patent law with a focus on patent prosecution, litigation and opinion work.



⁴ scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1108&context=dltr.

KRIEGER AWARD NOMINATIONS SOUGHT

by Judge John Vineyard

In 1974, the RCBA established a Meritorious Service Award to recognize those lawyers or judges who have, over their lifetimes, accumulated outstanding records of community service. The award, later named for James H. Krieger, has since been presented to James Wortz, Eugene Best, Arthur Swarner, Arthur Littleworth, Justice James Ward, Fred Ryneal, John Babbage, Patrick Maloy, Ray Sullivan, Justice John Gabbert, Jane Carney, Judge Victor Miceli, Justice Manuel Ramirez, Kathleen Gonzales, Terry Bridges, Jim Heiting and Jack Clarke.

The award is not presented every year. Instead, it is given only when the extraordinary accomplishments of particularly deserving individuals come to the attention of the award committee.

The award committee is now soliciting nominations for the award. Those eligible to be considered for the award must be (1) lawyers, inactive lawyers, judicial officers, or former judicial officers (2) who are currently practicing or sitting in Riverside County, or have in the past practiced or sat in Riverside County, and (3) who, over their lifetime, have accumulated an outstanding record of community service or community achievement. That service may be limited to the legal community, but must not be limited to the RCBA.

Current members of the RCBA Board of Directors are not eligible. Nor are the current members of the award committee.

If you would like to nominate a candidate for this most prestigious of RCBA awards, please submit a nomination to the RCBA office not later than March 16, 2013. The nomination should be in writing and should contain, at a minimum, the name of the nominee and a description of his or her record of community service and other accomplishments. The identities of both the nominees and their nominators shall remain strictly confidential.

Judge John Vineyard is the chair of the Krieger Meritorious Service Award Committee and a past president of the RCBA.



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A TRIAL LAWYER AS A JUROR

by David G. Moore

I was recently selected as a juror in a criminal case. Also, I served as a juror in a murder case in approximately 1993 and as an alternate in another criminal jury trial in which now-Judge John Molloy was the prosecutor. Personally, I would not have a lawyer on a jury if I were trying the case, but that is from my personal perspective. My recent experience closely tracked the experience I had in 1993. My fellow jurors were attentive, and they followed the law as applied to the evidence presented in open court. They were able to set aside their suspicions as to the possible or probable guilt of the defendant and to arrive at a verdict consistent with the proof. On reflection, I thought it might be worthwhile to resurrect the article I wrote back in 1993 and update it with some current thoughts about the jury system and the trial of civil cases. Because of alternative dispute resolution and clients' understandable reluctance to do battle in the courtroom, fewer cases are going to trial, and young lawyers find it difficult to get jury experience outside a district attorney or public defender's office. While the technology of trying cases has changed dramatically, these concepts still ring true.

Due Diligence: Know your judge. Be sure of your facts. Review the jury instructions, particularly in the area of recoverable damages in a civil case.

Early Dispute Resolution: A lawsuit is not like fine wine; it does not get better with age. 95% of all cases are resolved sooner or later; why not make it sooner?

Communications: Be concise and try your case efficiently.

And now, here's how I saw the jury system from the other side of the bar in 1993 and again this year . . . and the sentiments still apply.

I groaned when I saw my Notice to Appear. One more annoyance that needed to be handled. I'd never be selected. No attorney in his or her right mind would allow another attorney – let alone a trial attorney – to sit on a jury. I figured that I'd work something out . . . call in from my office or even make a brief appearance each morning and go on to my office. It was December; the holidays were approaching, with their usual slowdown in litigation matters; I could afford the time to walk down to court every day. Although I recognized fully my duty to serve as a juror, I viewed the time as wasted, as I knew I would not be picked to serve.

Three weeks later, as we 12 jurors sat in the corridor waiting for the judge to call us in to deliver our verdict, I

thought back to my initial reaction to jury duty. I was still amazed that I was part of a jury asked to decide the innocence or guilt of an alleged murderer, and I was amused at how, after all my protests, the jury had elected me foreman, but I had changed my mind about one thing: this experience had not been a waste of time. I had learned a lot about the judicial process from this side of the bar and I had gained a new respect for my fellow jurors. I was impressed with the way the jurors approached their task and how they analyzed the evidence and articulated their own opinions. We had a diverse jury consisting of eight men and four women from all walks of life and different ethnic backgrounds. They rationally and logically argued their opinions, were conscientious about reviewing the evidence and had a very good recollection of the oral testimony given during the trial. Since I am a chronic note-taker during trial, I was struck by how accurate some of the recollections of my fellow jurors were as to the testimony, despite their own lack of notes. My experience renewed my faith in the jury system. For me, it demonstrated that the collective consciousness, life experiences and abilities of a group of people as jurors is superior to the recollection, life experiences and judgment of the individual.

While it is difficult to convey all the positive feelings I experienced during my term as a juror, it is possible to share some reminders for trial attorneys that I noted from my seat in the jury box.

1. Be certain your expert witnesses explain to the jury the meaning of all technical terms.
2. Carefully explain to the jury how the facts fit the legal elements that you need to prove to establish your case.
3. Use visual aids whenever possible and make sure all diagrams and pictures to which a witness refers are large enough and in a position where they can be seen by all jurors.
4. Enunciate clearly and ask direct questions to avoid confusing the witnesses.
5. Keep it as simple as you can, but do not be afraid to go into complicated concepts, when necessary. The jury will understand.

I thank the jurors in my 2012 trial for sharing their thoughts and experiences with me.

David G. Moore is a partner in the law firm of Reid & Hellyer and served as president of the Riverside County Bar Association in 1984.



JUNIOR ASSOCIATES AND JURY TRIALS

by Erin Stagg

Despite the growing emphasis on incorporating practical skills training into the required law school curriculum, many junior associates begin their legal careers lacking any experience with the day-to-day practice of law. And it is unlikely that they learned in law school how to do many of the projects assigned in the first few years of practice, such as constructing a privilege log, preparing a motion in limine, responding to special interrogatories, or drafting a meet-and-confer letter. While there will always be some level of on-the-job training needed for junior attorneys to develop practical lawyering skills, it is a disservice to junior attorneys, supervising attorneys, and most importantly, clients when such training fails to teach how to identify, develop, and meaningfully articulate a case theme.

An effective civil litigator has honed the critical skill of identifying, developing, and maintaining the case theme through all phases of litigation, facts permitting. Indeed, California Practice Guide: Civil Trials & Evidence (The Rutter Group 2012) notes that experienced litigators begin to develop their case themes shortly after an initial client consult. Doing so allows them to have a consistent approach to discovery, effectively frame the issues for settlement discussions, and finally, if necessary, marshal the evidence to tell the client's story at trial. An effective theme offers the most plausible explanation of the facts in a concise, straightforward, and engaging manner and should guide civil litigators through initial pleadings and responses, discovery, settlement discussions, and dispositive motions.

Law students intending to be litigators may have taken advantage of opportunities to draft and deliver a closing argument in moot court, assist with witness preparation through a law school clinic, or observe trial attorneys during a summer internship or externship. However, having spent the better part of my first year of practice as a member of a trial team for an extended state court jury trial, I learned that nothing compares to involvement with a jury trial to train a junior attorney as a more effective advocate.

My jury trial experience significantly influenced my approach to discovery, dispositive motions, and handling client expectations, among other things. For example, having senior partners include me in trial strategy sessions taught me not only to identify the case theme, but also how to marshal the evidence to best support the theme. Assisting with direct and cross-examination

outlines and analyzing possible issues for impeachment shaped my approach to depositions. And my time spent reviewing form jury instructions and drafting special instructions informed my approach to considering, in discovery, how to prove all of the elements of a claim or affirmative defense. Jury trial participation undoubtedly teaches one about trial procedures, verdict forms, voir dire, witness examination, and the importance of good team members and a steady supply of coffee. And the procedures and mechanics of trial practice are an essential part of effective advocacy. However, that procedural knowledge is most helpful within the context of a developed case theme, case strategy, and overall understanding of the case.

Based on my observations as well as anecdotal evidence from friends and colleagues, junior attorneys are often given very discrete assignments, rarely see how those assignments fit into the overall case strategy, and lack a clear understanding of the variety of ways matters may resolve, because they are not taken to mediations, settlement conferences, or trial. This limits the opportunities for junior associates to learn the importance of case theme early in their practice. In my experience, junior attorneys gain a much better understanding of overall case strategy as well as how their discrete projects fit into the strategy by observing and being a part of a trial team. Junior associates will, and should, continue to do document review, draft and respond to discovery requests, and conduct research and analysis on issues in the case. Such tasks are an essential part of practicing civil litigation. Early exposure to and involvement with a jury trial will help them better perform these tasks.

It is worth the initial investment and potential billable hour write-offs to include junior associates on jury trial teams, despite the document review or discovery responses they could undoubtedly be doing on other matters. Taking the time to train your junior associates to recognize the importance of the case theme, to understand how evidence is admitted, and to identify the evidence that will be most effective to tell the story will strengthen their skills in all phases of litigation and add value for your practice and clients.

Erin Stagg is an experienced freelance attorney with Montage Legal. She specializes in insurance recovery, public entity representation, and commercial litigation.



THE IPAD LAWYER: REAL SECRETS TO PRESENTING WITH YOUR IPAD IN COURT

by Scott Grossberg

How would your trial, arbitration, and mediation appearances be different if you could present everything directly from your iPad? Now imagine you're able to walk about the courtroom or conference room, hand your iPad to experts and witnesses, and even show items during a sidebar, without any wires. This is the type of freedom you crave! And it looks almost magical.

Recently, I was presenting in a courtroom. I used my own projector, accessories, and wi-fi setup in order to handle the iPad wirelessly from anywhere in the department. When I was finished, the judge asked me to walk him through my configuration and equipment so that he could see if his courtroom was technologically outfitted to accommodate anyone who might show up for trial with an iPad. When you're wielding such magical storytelling tools, this is not an unusual inquiry. While this particular trial department was well-equipped, with its own screen, projector, and visual capture device, it did not have its own secure wi-fi network, nor was it Apple TV capable, yet. (Although I did hear the judge exclaim, as I strode out of sight, "I will talk to the techies and get this done right." Okay, it's the holiday season, I couldn't resist!)

Whether you're presenting for a judge, jury, mediator, or arbitrator, you'll want to be prepared for any type of setting, configuration, and technology limits you encounter. Naturally, as I travel about presenting my "iPad Lawyer" seminar to groups in various places, I run into all types of location-specific technology capabilities and shortcomings. It really doesn't serve me well to show up to a venue, only to find that I can't show off the spectacular applications that are available for attorneys. So, after receiving many requests, here are my secrets for being able to give a stellar presentation nearly anytime and anywhere.

Look, Ma, No Wires (Well, Almost)

As I wrote, nothing looks more wondrous than using your iPad to show off exhibits, videos, slides, etc., without it being "hooked up" to anything. Obviously, this is my preferred way of presenting.

For those using an iPad 2 or later version and running at least iOS 5, here are the techniques and tools I currently use to create my wireless storytelling. I say "currently," because technology is always changing and I'm an early adopter of anything that will make me more productive.

1. Verizon MiFi Hotspot/iPhone Personal Hotspot

Nowadays, public wi-fi is prevalent. My experience, however, is that it can be painfully slow. More troubling is the fact that it might not be secure. As lawyers, oath-driven and entrusted with our clients' secrets, we have an obligation to be reasonable in the use of public wi-fi settings. If there have been claims of concern about sitting in a coffee house and doing mighty lawyerly things over that public wi-fi network, I'm certainly not sold on using even the court's otherwise trusty public wi-fi for trial work.

By bringing my own hotspot to a venue, I have a reasonable assurance of sustained stability, privacy, and lickety-split connectivity.

Once at your location, turn on your password-protected hotspot. If you've practiced with your iPad and presentation equipment beforehand, your iPad will have remembered your hotspot's password, so you shouldn't have to worry about login protocols.

Now let me digress for a moment. I've been asked by a judge, "Mr. Grossberg, how do you plan to share this technology with the other side? You do have a duty to do so." My response is simply, "Your Honor – with all due respect – I have no challenge with letting my friendly adversary use my projector, but I cannot share my hotspot technology with them. While they are free to hook up to the projector, I have confidential information that is being passed through my hotspot, and if I allow them access to the hotspot, they can kick me off during my presentation at any time." That argument seems to do the trick.

2. Apple TV and AirPlay

Apple TV is a pack-of-cards-sized awe-maker. In order to use it, you will be enabling AirPlay. The Apple TV will be wirelessly accessing your mobile hotspot, because the Apple TV and your iPad must be operating on the same wi-fi network. Apple TV will also be connected to your projector by means of an HDMI cable.

Once hooked up, you will enable Airplay mirroring on your iPad. You can do this easily by pressing the iPad's home button (the depressed round button at the bottom of your iPad) twice. Once the menu appears at the bottom of the screen, slide the menu all the way to the right. You will see the AirPlay option button. Tap that button, then tap the name of the device you're using for mirroring (in my case, Apple TV), and set "Mirroring" to "On."

3. Projectors

I've been using the Epson MegaPlex MG-850HD projector for quite some time, and I love it! I wouldn't travel the skyways with it, however, as it is quite heavy, at just over 8.5 pounds. That being said, this powerhouse boasts 720p of resolution and 2800 lumens of brightness. (I've used this from counsel table on a very large screen, and the projected image was large enough to be seen from around the courtroom.) Also, the projector has two built-in 10-watt speakers (very important when you're playing back a videotaped deposition or accident reenactment) and a mic input.

In addition to the iPad/iPhone dock, my projector has HDMI, component, and composite video inputs, so you can connect in any way that you might need.

Voila! You can now dazzle people!

The Hardwired Option (For Those Times When You've Been Grounded)

When you don't have access to a projector that has an HDMI connection, or when your hotspot signal just isn't stable or readily accessible, you can still be ready to impress easily. The only difference will be that you're tethered, thereby cutting back on your ability to freely walk around the room.

1. Connectors/Adapters

The following discussion is applicable to versions 2 through 4 of the iPad. Please note that if you use the 4th generation iPad, you'll have to take into account the new lightning connection port, as opposed to the 10-pin connection port found on earlier models.

I carry a connection toolkit with me at all times. Among other accessories, it includes:

- a. Apple digital AV adapter (for devices with HDMI inputs)
- b. Apple VGA adapter (for devices with VGA inputs)

I don't use any other type of connector. For the sake of completeness, however, you should be aware that there are the lesser-resolution-providing Apple component AV and Apple composite AV cables.

2. Projectors

I mentioned earlier that I use the Epson MegaPlex MG-850HD projector because of

its connection versatility. If you're not going to present wirelessly using Apple TV (or a similar configuration), you don't need such a projector. In fact, you can use any device that will take either of the two adapters listed above.

And in Conclusion

I would be remiss if I didn't mention that you really can tell the difference between a VGA and an HDMI connection. In my opinion, it is well worth the added effort to go the HDMI route whenever possible.

Finally, for you overachievers who want even more options, check out these two desktop/laptop applications that run on both the PC and Mac:

- a. Reflector: reflectorapp.com
- b. AirServer: airserverapp.com

Both of these programs allow you to mirror your iPad to your desktop or laptop PC or Mac. With either program running, you use AirPlay on your iPad just as you would with the Apple TV. As long as you have a connection between your desktop or laptop and a projector, you're in business. I've tried both programs and, for the moment, have chosen to go with AirServer.

Happy presenting in court . . . and beyond!

Mr. Grossberg is a founding partner of the AV-rated, Southern California law firm of Cihigoyenette, Grossberg & Clouse. His practice focuses on litigation and technology matters in addition to having a busy public speaking career.



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EMINENT DOMAIN JURY TRIALS: PROCEEDINGS UNLIKE ANY OTHER

by Mark A. Easter

Eminent domain jury trials are unique in a number of respects. They are the only type of trial in which the defendant (the property owner) is being paid money (just compensation) by the plaintiff (the condemning agency). As a result of that anomaly, several components of the trial are different.

First, some of the logistics are different. For example, the defendant property owner – not the plaintiff – and its attorney sit closest to the jury. In addition, the condemning agency generally pays all jury fees and court reporter fees, since the defendant is automatically entitled by statute to recover those costs, regardless of the verdict at trial.

Second, the order of proceedings is different. The defendant goes first in voir dire and opening statements. The defendant also goes first, and has the right of rebuttal, in closing arguments. In addition, the defendant puts on its evidence on the issue of just compensation first, not the plaintiff.

Finally, perhaps the most fascinating way in which eminent domain jury trials are different is with respect to the strategy and approach, by both parties, regarding jury selection. A good friend of mine once told me that, because he was in the insurance business, had one brother who was a doctor, and another brother who was a police officer, he “would never be picked” to sit on a jury. I told him I disagreed – that he could very easily be selected (or not “bounced”) in an eminent domain jury trial, because the factors considered are so different.

Eminent domain trials are not about crime and punishment or injury and fault. No crime or tort is involved. Instead, what is *primarily* at issue is the value of property. As a result, the considerations in picking jurors usually include:

- How comfortable will the juror be with numbers and mathematical concepts?
- Does the juror have any biases for or against wealth, property ownership, or individuals who make a profit on their business or real estate holdings?
- Does the juror have any biases for or against real estate agents or appraisers?
- Is the juror a business or real property owner?
- Does the juror have any biases for or against the property or project location involved in the case at hand?

- The *secondary* or backdrop issue in eminent domain jury trials is the role of government in acquiring private property for public projects. This issue is secondary because the jury phase of an eminent domain trial does not involve “right to take” questions – jurors are not asked to analyze whether the plaintiff agency *should* be building a project or *should* be taking that property for the project. However, the “taking” by the government often is still the elephant in the room, so it is nevertheless important to inquire of jurors on issues such as:
 - Has the juror ever had property taken by a public agency?
 - Has the juror (or a friend or family member) ever been displaced by a public project?
 - Has the juror ever been in a lawsuit against a public agency?
 - Has the juror ever lost property in a foreclosure?
 - Does the juror have any negative feelings toward the idea of a public agency using its eminent domain power?

Taking all of these considerations into account does not always give rise to a clear-cut profile of who would make an ideal juror for one side or the other in an eminent domain jury trial. The social worker or union laborer could be sympathetic to the “little guy,” but might also support a government program such as a new school, roadway, or water reservoir. A conservative businessman or woman could be supportive of the private property owner, but might also resist the idea of tax dollars going toward a large just-compensation award. A juror who works in firefighting or law enforcement could sympathize with an “innocent” defendant, but might also favor a transportation project that enhances traffic circulation and safety.

The bottom line is that, whether you are representing the public agency or the property owner in an eminent domain jury trial, there is no cookie-cutter prototype juror. And that is why, when my insurance-business friend asked me if I would want him on one of my juries, all I could say was, “Well, that depends . . . pour me another drink and I’ll think about it.”

Mr. Easter is a partner at the Riverside office of Best Best & Krieger LLP, where he has been specializing in eminent domain law for over 20 years.



THE CHANGING FACE OF RIVERSIDE COUNTY JURIES

by Dr. David Cannon

The faces of jurors across Riverside County are changing, and it is important to take these changes into account during voir dire and jury selection. Just what should you expect when you try your next case in Riverside? How are the changing demographics of Riverside County reflected in the venire?

Times Are Changing

Riverside County now has over 2.2 million residents, up from 1.5 million people in 2000. In the last 10 years, the population of the county is up approximately 42%. Because the census was recently conducted and published, we now know exactly how the county looks. Riverside is now a minority-majority county, just like many other California counties. The largest ethnic group is Hispanics, who make up close to half of the county's population. Caucasians make up approximately 39% of the population. African-Americans and Asians each represent approximately 7% of the county. The ethnic and racial breakdown in Riverside County now closely mirrors that of the entire state, on the average, with the one exception that the Asian population is approximately half of the state's average.

Where are Riverside County's new residents coming from? 22% of Riverside County's population is foreign-born, which is closing in on the state's average of 27%. Over 60% of those who were born outside of the United States came from Mexico. However, residents are coming not only from Mexico, but literally from all over the world. Filipinos represent about 5% of the new arrivals, and Canadians represent another 3%. Others are coming from Central American countries. This has led to many languages, Spanish in particular, being spoken in homes throughout the county. Currently, nearly 40% of Riverside County's residents speak a language other than English while at home.

What about people who are moving to Riverside County from within the United States? Many are coming from neighboring Southern California counties. Those counties are larger, more urban, and more expensive to live in. Many people are coming to Riverside for lifestyle reasons. They are often in search of a more affordable place to live. The average home in Riverside County costs \$280,000, compared to the state average of \$420,000.

Jury Considerations

Just how is this playing out in the courtroom? Whom should you expect in the venire?

- Don't expect the venire to exactly match census data. The population of the county is changing faster than the face of the venire.
- The census counts everyone who lives in the county when it's conducted, whether they are jury-eligible or not. For instance, the census counts people regardless of their citizenship or language limitations. Unlike New Mexico, which allows citizens who speak only Spanish to serve on

juries with the aid of a translator, jurors here must speak and understand English to serve. Of those who speak a language other than English in their homes, it is estimated that approximately 30% do not speak and understand English. Therefore, Caucasians are often overrepresented and Hispanics are often underrepresented in the venire relative to the numbers you would expect based on the census.

- Riverside County's high unemployment rate has an impact on who gets excused for hardship. Although Riverside County's unemployment rate has improved, it is still 12%. Younger individuals and those without college educations are more likely to be unemployed during this recession. Therefore, those individuals are more apt to be among the people who are excused for hardship due to unemployment.
- About one in five residents has a college education or greater. Riverside is becoming more educated, but it still lags behind the state significantly in college-educated residents. The percentage of adults with a college education has increased from 17% to 20% over the last decade, but the state's average is 30%.

What should you take into account during jury selection?

- For those who were born outside of the country, how acculturated are they? What are their thoughts about the legal system and jury service? I have noticed in case research, such as mock trials, that people who were born outside of the country may have a different perspective on a case than those who were born in the United States. Sometimes place of birth is a predictor of being defense or plaintiff-leaning, depending on the case.
- Experiences and attitudes are always better predictors of bias than demographics. What experiences and attitudes are central to your case? Those are more important considerations than demographics. Demographics are a consideration because people with shared demographic backgrounds sometimes have similar experiences or may have some attitudes in common. However, don't just assume common experiences or attitudes; screen for experiences and attitudes during voir dire.

Expect more change in the jury box over the coming years. Riverside County is still growing at a rate that is almost double the state's growth rate as of last year. While births are the largest contributor to the state's growth rate, Riverside is still seeing an increase due to some new faces moving into the county.

Dr. David Cannon is a jury consultant based in the Los Angeles area who consults in trials throughout the country.



RECENT CHANGES TO JURY FEE STATUTE

by Jean-Simon Serrano

In California, if you demand a jury trial, you are required to pay a deposit for exercising that right. In recent years, prior to June 27, 2012, Code of Civil Procedure section 631, subdivision (b) read:

“Each party demanding a jury trial shall deposit advance jury fees with the clerk or judge. The total amount of the advance jury fees *may not exceed one hundred fifty dollars (\$150)* for each party. The deposit shall be made at least *25 calendar days before* the date initially set for *trial . . .*” (Italics added.)

Earlier this year, Code of Civil Procedure section 631, subdivision (b) was amended to read:

“*Each party* demanding a jury trial shall deposit advance jury fees with the clerk or judge. The total amount of the advance jury fees shall be one hundred fifty dollars (\$150) for each party.”

In addition, Code of Civil Procedure section 631, subdivision (c) was amended to read:

“The advance jury fee deposit *shall be made on or before* the date scheduled for *the initial case management conference* in the action. If no case management conference is scheduled in a civil action, the advance jury deposit shall be made no later than 365 calendar days after the filing of the initial complaint. If the party has not appeared before the initial case management conference or has appeared more than 365 calendar days after the filing of the initial complaint, the deposit shall be made as provided in subdivision (d).” (Italics added.)

There are three things to note: (1) the “fee” is non-refundable; (2) each party is responsible for depositing the fee; and (3) the fee must be paid at or before the first case management conference or within one year of the filing of the action.

Under the amendment, every plaintiff is required to pay \$150, in addition to the filing fee (\$450 in Riverside

County), simply for bringing a civil action. This could amount to many hundreds of dollars in nonrefundable fees being paid in a case with multiple injured plaintiffs.

Additionally, because the vast majority of personal injury cases in California settle before trial (indeed, many statutes are engineered to promote the goal of settlement), this nonrefundable fee usually gets paid to the court; it is never used to pay for the plaintiff’s nonexistent jury and never returned to him or her. Previously, when the jury fees only had to be paid 25 calendar days before the initial trial date, in many cases, an action would settle before such fees were deposited. Now, the fees must be paid very early in litigation, often before any meaningful attempts to settle can be made.

As a result of much discontent regarding the amendment, Assembly Bill 1481 was introduced, passed, and signed into law on September 17, 2012, to take effect immediately. Code of Civil Procedure section 631, subdivision (b) now reads:

“*At least one party* demanding a jury on each side of a civil case shall pay a nonrefundable fee of one hundred fifty dollars (\$150), unless the fee has been paid by another party on the same side of the case. The fee shall offset the costs to the state of providing juries in civil cases. If there are more than two parties to the case, for purposes of this section only, all plaintiffs shall be considered one side of the case, and all other parties shall be considered the other side of the case.” (Italics added.)

The language of the section now requires only one party per side to pay the jury deposit fee. Unfortunately, the requirement that these fees be deposited on or before the date of the first case management conference remains. (A few narrow exceptions are listed in

Code of Civil Procedure section 631, subdivision (c).)

It seems clear that the recent changes to these rules were designed to provide the courts with more funding. It is also clear that, given the requirement for depositing such nonrefundable fees early, this is another nonrecoverable cost that must be incurred by a plaintiff in bringing an action for damages. What is less clear is the implication of these rules for the Constitutional right to a jury trial and whether we will see further outrage like that which resulted in AB 1481.

Jean-Simon Serrano, a member of the RCBA Publications Committee, is with the firm of Heiting & Irwin.



LOCAL RULE 3401: PROPOSED NEW CIVIL TRIAL PREPARATION RULE

by Judge Craig Riemer and Judge Sharon Waters

As some of you know, the civil bench in Riverside has developed – but not yet adopted – a new comprehensive trial preparation rule for trials assigned out from the master calendar and is currently soliciting the bar’s comments on the proposal. Ordinarily, a proposed rule is tentatively adopted by the bench, circulated for public comment, and then formally adopted after consideration of any comments received during the public comment period. But, cognizant of that fact that this proposed rule, if adopted in its present form, will have a significant impact on how some lawyers prepare for trial in Riverside’s master calendar system, the bench would like to hear from you now.

The rule is intended to provide certainty, consistency, efficiency and enforceability. Let us explain.

Certainty: In a master calendar system, the parties do not know before trial who the trial judge will be; therefore, the parties cannot consult with that judge’s clerk to learn what that particular judge expects from the parties. A local rule that describes the expectations of all judges receiving cases from the master calendar advises the parties in advance of what their trial judge will expect – long before they know who the trial judge will be.

Consistency: A local rule adopted by the local judges as a whole will foster consistency between the actual practices in the various

courtrooms. Thus, the parties can be confident in the knowledge that the preparations required for the next trial are going to be of the same type as the preparations required for the last trial, even though the parties are in front of a different judge. No more worrying about compliance with a judge’s “local local” rules.

Efficiency: By eliminating preparation of and discussion with the judge about undisputed motions in limine, by eliminating time spent proving undisputed facts, and by minimizing disputes over undisclosed witnesses and exhibits, together we can shorten the length of a trial. This reduces the expenses to the parties and allows more civil trials to be heard by the same limited number of civil judges. More trials in the same or less time is better for the public.

Enforceability: Through a properly adopted rule that both specifies what must be filed on the first day of trial and also gives fair warning of the possible consequences to a party who has not complied, judges are more likely to address noncompliance issues. This prevents a party who has complied with the rule from being surprised or otherwise prejudiced by the opposing party’s failure to comply.

If you are interested in reviewing the proposed rule, you can find it on the court’s website at riverside.courts.ca.gov/localrules/localrules.shtml. If you have any comments, concerns or questions, send an email to David.Gutknecht@riverside.courts.ca.gov.



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GIVING LIFE TO AN OPENING STATEMENT

by Victor C. Marshall

“An opening statement is an overview or outline of the evidence the attorney believes will be introduced in this trial.” This is the generic or routine announcement given by the judge during most jury trials. It is devoid of emotion, disconnected, and cataclysmic to human interest. Consequently, it is safe. Unfortunately, “safe” does not give its listeners its intended effect. Just as a reader is immersed in a book or a moviegoer is captivated by the story, so equally a juror should be engrossed by the story told by the lawyer. The greatest American trial lawyers like Clarence Darrow and Gerry Spence never limited themselves to what is safe in opening statements. Instead, they gave their opening statements life.

Henceforth, we delve into the distinctiveness of a “living” opening statement. A living opening statement must accomplish its desired effect through a process most commonly known as story-telling. As it happens, a majority of trial lawyers express that such a deviation from what is safe may warrant objections or reprimands, which they fear may lead to embarrassment. However, the truth is that many judges truly appreciate a well-prepared and detailed opening statement that commands the attention of the jurors and the judge. The key is to know your case, as you will demonstrate, display, and denote your assertions in the opening through the evidence during the trial. After working with writers, directors and actors, I learned that every story has a common goal when presented to its readers and viewers, and that goal is to move those people emotionally.

Thus, a story cannot be told merely by reciting facts. It is essential that the facts attach emotions to give them meaning. To wit, it would be extremely unreasonable to suppose that a moviegoer can experience a gripping tale simply by listening to actors reading a script in a drab, dull monotone. It must be accompanied by credible dialogue, modulation, and action that trigger the senses of the audience. The emotions of the juror should ignite. Although there are many as eight, anger, fear, sadness, and joy are the four dominant emotions experienced by jurors in trials. The trial lawyer must be committed to learning the story through its characters. Story development is a long and arduous process that involves facts gathered through the discovery process and deep analysis of the relationships of and between the characters; this analysis can uncover stories within stories. The trial lawyer must determine the most advantageous way to convey the story to the jurors so as to benefit the case.

For example, two characters within the story may have their own motives for testifying in a case. The trial lawyer ought to tell the emotional story of these characters and tie it into the premise of the case.

Once you have fashioned the story, the courtroom becomes your stage. You become the director of a well-developed screenplay designed to motivate the members of your audience to the point where they are inspired. The trial lawyer must keep in mind that he or she will be expected to demonstrate, display and denote each detail as the trial progresses.

Although there are many ways to do it, the first stage of opening statement is to create your scene. The second stage is introducing your characters into your play. The third is to describe the action in the premise of the case. Then the trial lawyer should complete the play with the request by the lawyer to have the jury take action.

Construction of the scene or scenes gives the audience/jury the present sense of the place the action will occur. Careful attention to detail is important, because the characters will be introduced in this setting. The jurors should feel as though they are in the scene itself in order to bond with the story. Therefore, voice modulation and emphasis will be a major factor. At the very least, the audience/jury should have an accurate impression of the scene.

Introducing the characters in the play involves more descriptive detail along with an additional factor: presenting the emotion you want jurors to feel toward each character. This means one of the four primary emotions felt by jurors will occur. If the story-teller wants the jurors to like and feel joy for a character, he or she must focus on each positive aspect portrayed in the story itself. Avoid the temptation to be overly encomiastic for each positive character to prevent an incredulous response by the audience. The opposite holds true for the characters the story-teller wants the jurors to dislike and feel anger toward (again avoiding discounting). The trial attorney is not limited in the lively adjectives that illustrate a character’s nature. Yet one must be careful to beware of superfluous terms and colloquialisms that are sure to pummel the jurors into dismay. Furthermore, the relationships each character has that connect with the story should be promulgated to the jurors.

With the creation of the scene and character development, the story must be told. Here, innovation and creativity are paramount to story-telling, such as the

use of dynamic terminology to describe emotion and action. Each character should have some specific action that develops the premise. The trial lawyer may also use audio-visual aids to awaken the senses of the jurors. If the previous stages were successful, the audience should be locked in and engaged as the trial lawyer connects common emotions jurors contain to the story. One example is to determine how to relate the story to each jury member based on life experiences designed to move them. It may take hours or even days to construct; however, the results are well worth it. Once the crescendo of the story is reached, the audience will be receptive to the final stage.

Lastly, the trial lawyer will encourage the jury to reach an acclamatory decision. After a Tony-award-worthy

performance, the trial lawyer will have created a supportive jury. The jurors must believe that they can now do their part in giving this story its judicial ending. They must know the importance of how this ending is correct along with all of its salient reasons. If done correctly, the emotion(s) the story-teller wanted to achieve will give him or her the pursued result. Jurors remember the emotion far better than the spoken word.

Now, let your journey begin!

Victor C. Marshall is the owner and sole proprietor of the Law Office of Victor Marshall and specializes in criminal defense.



RCBA/SBCBA/IECFBA HOLIDAY MIXER

photos by Jacqueline Carey-Wilson

On November 29, the Riverside County Bar Association, the San Bernardino County Bar Association, and the Inland Empire Chapter of the Federal Bar Association, held a Holiday Mixer for the Inland Empire Legal Community.

The event was held at the Mexicali Bar and Grill in Riverside. There was a nice turnout for the Mixer and a few dollars were raised to help those in need during this holiday season.



L-R—Stevan Rich and Judge Elwood "Woody" Rich



L-R—Scott Talkov and Jean-Simon Serrano



L-R--Christopher Harmon, President of the RCBA; Judge Sheri Pym, President of the Federal Bar Association; and Kevin Bevins, President of the San Bernardino County Bar Association



L-R--Andrea and Scott Van Soye

PRESERVING ISSUES FOR A CIVIL APPEAL

by Mary A. Lehman

Trial attorneys are rightly concerned with obtaining a “win” for their client at trial. However, a good trial attorney also anticipates an appeal. Such an attorney will, accordingly, do his or her best to preserve issues and make a record so the client will also win in the appellate court. This article provides some general guidelines for preserving issues for appeal.

Preserving Evidentiary Claims: One of the most frequent mistakes is failing to preserve evidentiary issues for appeal. This includes a claim that the trial court improperly admitted certain evidence or, conversely, that evidence was wrongly excluded. (See Evid. Code, § 353, subd. (a).)

Waiver/Estoppel: Waiver occurs when a party fails to object on the record to improper evidence. (*Telles Transport, Inc. v. Workers’ Comp. App. Bd.* (2001) 92 Cal.App.4th 1159, 1167.) A similar rule is estoppel; a party may be estopped from claiming evidence was wrongly admitted if that party “invited” the error. (*Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 403.) This occurs, for example, when an attorney agrees to improper evidence in the hope it will “open the door” to other evidence the attorney wants admitted. In this situation, make your objection to the evidence on the record but, if the court overrules your objection, explain you contend the door is open and your rebuttal evidence should be allowed. (See, e.g., *Warner Const. Corp. v. City of Los Angeles* (1970) 2 Cal.3d 285, 299-300.)

On the Record: In the court of appeal, nothing exists if it is not in the appellate record. (See *Protect Our Water v. Merced County* (2003) 110 Cal.App.4th 362, 364.) This generally means your objection to the admission or exclusion of evidence must be transcribed by the reporter. Problems occur when counsel argues in chambers or at side-bar, where a reporter is not always present. If this happens, make it a point to reiterate on the record, perhaps at the end of the day or when the jury takes a break, your stated objection and the court’s ruling.

In Limine Not Enough: An in limine ruling is sometimes not considered a final ruling on evidentiary issues. (See *People v. Yarbrough* (1991) 227 Cal.App.3d 1650, 1655.) Trial judges often like to see how the case and the evidence play out at trial before they make a final ruling on the admissibility of evidence. Accordingly, even if the in limine ruling is against you pretrial, be sure also to raise the issue during trial.

Get a Ruling: Trial courts will often postpone ruling on an evidentiary issue, sometimes indefinitely. Be sure you obtain a final evidentiary ruling from the court; otherwise the issue may be deemed waived. (See *Ford v. Carew & English* (1948) 8 Cal.App.2d 199, 208.)

Be Specific: If you want to assert on appeal that your evidence was wrongly excluded, you must make an offer of proof. (See Evid. Code, § 354.) You must describe what your evidence is and how it pertains to the issues in the case. If you want to claim on appeal that certain evidence was wrongly admitted, you must have specifically stated during trial the

grounds for excluding it. (See Evid. Code, § 353, subd. (a).) Although most courts dislike “speaking objections,” counsel can and should state the basis in one or two words. Finally, if the evidence involves an exhibit, make sure the exhibit is marked for the record (whether offered, excluded or admitted) and is safely retained after trial for the appeal.

Jury Instructions: An appeal based on an erroneous jury instruction is one of best ways to obtain a reversal or a new trial. This is because the appellate court gives no deference to the trial court’s ruling on the correctness of jury instructions. (See *Cristler v. Express Messenger Systems, Inc.* (2009) 171 Cal.App.4th 72, 82.) The pressure cooker of a trial, however, often rushes the process of selecting and ruling on instructions. Arguments and rulings on instructions often happen late in the afternoon without a reporter. In this scenario, make sure you keep notes and later state your objections and the court’s rulings on the record. Alternatively, ask the court if you can file a supplemental brief detailing the arguments and the court’s rulings. The Code of Civil Procedure provides that erroneous jury instructions are “deemed excepted to.” (Code Civ. Proc., § 647.) However, this rule has myriad ambiguities and exceptions.

These same pitfalls also apply to special verdict forms. In sum, take time to think about and prepare your instructions and verdict form pretrial, and make sure during trial you make an adequate record of objections and rulings on all parties’ instructions.

Post-Trial Motions: Post-trial motions are a crucial tool in preserving issues for appeal. First, certain post-trial motions are a legal prerequisite to arguing a point on appeal. A claim of excessive or inadequate damages, for example, must first be raised in a motion for new trial. (See Code Civ. Proc., § 657, subd. 5; *Christiansen v. Roddy* (1986) 186 Cal.App.3d 780, 789.) Second, some issues, such as juror misconduct during deliberations, must be raised in post-trial motions as a practical matter. Finally, post-trial motions provide the last opportunity to “clean up” the record. Declarations about sidebar discussions that were not reported may be filed at this time, and legal arguments that were perhaps not very well articulated during trial may be restated in post-trial motions. (See *American Modern Home Ins. Co. v. Fahmian* (2011) 194 Cal.App.4th 162, 170.) If you have not yet consulted with an appellate specialist, the post-trial motion stage is where an appellate attorney’s advice is invaluable.

In sum, although it can be difficult, an accomplished trial attorney must also preserve issues and evidentiary claims for a possible future appeal.

Mary A. Lehman has specialized in civil appeals and writes for over 20 years. She has been certified as a Certified Appellate Specialist by the State Bar of California Board of Legal Specialization. She has offices in Palm Desert and Coronado, California.



JURY TRIALS IN BANKRUPTCY

by Everett L. Green

The Seventh Amendment preserves the right to trial by jury.¹ Yet, in bankruptcy courts, jury trials are virtually non-existent. This is because a bankruptcy court's authority to conduct a jury trial is not derived from the Seventh Amendment. Rather, bankruptcy courts are courts of equity, whose ability to conduct a jury trial is determined by equitable principles and the federal statutory scheme.²

Because in bankruptcy the right to a jury trial is dependent on a court's interpretation of statutes and case law, the right to a jury trial is not absolute. The right may be waived or relinquished.³

To determine whether a party has a right to a jury trial, bankruptcy courts and practitioners typically looked to three Supreme Court cases: *Katchen*, *Granfinanciera*, and *Langenkamp*.⁴ Those cases held that, in matters involving preference and fraudulent conveyance claims, a creditor's request to the bankruptcy court to collect on its debt – in the form of a proof of claim – results in the forfeiture of any right to a trial by jury. By filing a proof claim, the creditor acquiesces to the bankruptcy court's jurisdiction and its equitable process of adjudicating claims.⁵

Over the years, many bankruptcy practitioners attempted to extend the Supreme Court's reasoning. They asserted that by filing a proof of claim, a creditor automatically waives his or her right to a jury trial on *all* matters – even matters that have been historically decided by jury trials.⁶

The Supreme Court in *Stern v. Marshall* recently cast doubt on the validity of these arguments.⁷ *Stern* addressed

whether a bankruptcy court held the authority to enter judgment in litigation between a debtor and a creditor involving defamation and tortious interference claims. The creditor filed a proof of claim to recover damages. In overturning the bankruptcy court's judgment, *Stern* held that the act of filing a proof of claim is not tantamount to conferring jurisdiction on the bankruptcy court. Resolution of the claims involved state law, and the creditor's right to recovery was not dependent on any rights created by bankruptcy law.⁸ Although *Stern* emphasized that its holding was narrow, it appears to limit the holdings of *Katchen*, *Granfinanciera*, and *Langenkamp*.

In the future, bankruptcy practitioners will need to adopt a different analysis to determine if the right to trial by jury applies. The exact contours of that analysis will be subject to continued debate and litigation.

Everett L. Green is a trial attorney for the United States Department of Justice and represents the United States Trustee for Region 16. The United States Trustee Program is responsible for protecting the integrity of the bankruptcy system. Mr. Green is a graduate of Stanford Law School and served as a law clerk to the Honorable Jack B. Schmetterer, United States Bankruptcy Judge for the Northern District of Illinois. The views expressed in this article do not necessarily represent the views of the United States Department of Justice, the United States Trustee, or the United States Trustee Program.



1 The Seventh Amendment states: "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law." The purpose of the amendment was to preserve the right to jury trial as it existed in 1791. *Granfinanciera v. Nordberg*, 492 U.S. 33, 42 (1989).

2 See, e.g., 28 U.S.C. §§ 157, 1334; see also Bianchi, A. & S. Fitzmaurice, *Jury Trials in Bankruptcy Court: Are There Any Constitutional, Statutory or Practical Limitations?*, Journal of Civil Rights and Economic Development, Volume 5, Issue 2 (1990).

3 By their conduct, litigants may give implied consent to the bankruptcy court to hear their claims and forfeit their right to a trial by jury. See, e.g., *Executive Benefits Insurance Agency v. Arkison, Chapter 7 Trustee (In re Bellingham Insurance Agency, Inc.)*, ___ F.3d ___ [2012 WL 6013836] (9th Cir. Dec. 4, 2012).

4 *Katchen v. Landy*, 382 U.S. 323 (1966); *Granfinanciera*, supra, 492 U.S. 33; *Langenkamp v. Culp*, 498 U.S. 42 (1990) (per curiam).

5 See, e.g., *Hong Kong & Shanghai Banking Corp., Ltd. v. Simon (In re Simon)*, 153 F.3d 991, 997 (9th Cir. 1998).

6 See, e.g., *Stewart v. JPMorgan Chase Bank, N.A. (In re Stewart)*, 473 B.R. 612, 627-28 (Bankr. W.D. Pa. 2012).

7 *Stern v. Marshall*, ___ U.S. ___ [131 S.Ct. 2594] (2011).

8 Id. at 2614 (characterizing the claims as "created under state common law between two private parties. It does not depend on the will of congress . . . Congress has nothing to do with it).

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JURY TRIALS: PREPARE, PREPARE, PREPARE

by John D. Higginbotham and Elizabeth A. James

Unlike in the world portrayed by action-packed television shows like *The Good Wife* and the classic *Perry Mason*, civil jury trials are few and far between. Even more rare is the opportunity to litigate a 20-day jury trial, with surprise witnesses, press in the gallery, two NFL players supporting the plaintiff, and an extremely attentive and inquisitive jury. Those are just a few of the things that made the case of *Rulon v. City of Colton* so special. It was a hard-fought trial, with legal battles every day. We, along with Mark Lovell, represented the City of Colton, and we came out of that experience with a few things to share.

But first, some background. The City of Colton terminated its police chief, Kenneth Rulon, an at-will employee, in 2007, after all four lieutenants and 83 of the 89 employees in the police department voted no-confidence in his leadership. Rulon argued that he was fired in retaliation for reporting corruption to the district attorney; the alleged corruption involved a city councilman using his city-issued credit card to pay for hotel rooms in which he carried on an affair with another man and used drugs. Rulon also claimed that, subsequent to his termination, then-City Manager Daryl Parrish defamed him by calling him a “psychotic megalomaniac” in the press. We deflated those theories through the testimony of nearly 20 rank-and-file officers and Rulon’s former secretary, several key documents, and a healthy dose of common sense. The defamation and intentional infliction of emotional distress claims were nonsuited during the trial, and the jury found that Rulon’s termination was not caused by the purported reporting of corruption.

Motions in Limine: We knew from the beginning that it would be a long and intense trial, in part because we were going up against famed civil rights attorney Dan Stormer, who was representing Rulon. We stipulated to a briefing schedule for motions in limine to allow for written oppositions and replies. Prior to trial, we brought 11 motions in limine and responded to the plaintiff’s 8 motions in limine. Although the motions were time-consuming, they were extremely helpful. The judge, who had just been assigned to that department more than four years into the case, read each motion, becoming more familiar with the case before trial. We were able to successfully exclude some prejudicial and irrelevant evidence. We also were able to present the testimony of nearly 20 rank-and-file officers, over the plaintiff’s objections. One thing we quickly learned is that, regardless of pretrial rulings,

motions in limine may be reargued during trial, and the rulings may change. In this case, the plaintiff constantly objected to the police officers’ testimony on the grounds that it was cumulative and time-consuming. We had to argue to the judge nearly each day, and sometimes two or three times a day, that the testimony was vitally relevant and unique to each officer, who had his or her own reasons for voting no-confidence in Rulon’s leadership. No matter the original ruling, we were prepared to reargue the motions at a moment’s notice. We also continued to draft motions in limine throughout the trial, for a total of 24 written motions.

Jury Selection: It may seem obvious, but picking a jury is one of the most important facets of a jury trial. We knew there would be extensive testimony regarding Rulon’s vulgar language and his sexually charged, and often derogatory, comments about women. Additionally, unlike the typical employment case, this time the plaintiff was a high-level manager. We wanted jurors sympathetic to rank-and-file officers who had been abused by a bad boss. We got the jury we wanted. There were three men on the jury and nine women, including the lead juror, and several were members of unions, just like the officers who testified against Rulon. The jury was extremely attentive during the entire six-week jury trial. We received about a dozen questions from the jury during deliberations. After the verdict was read, we had the opportunity to speak with a few of the jurors (which is an absolute must, win or lose). It confirmed our intuitions.

Surprise Witnesses: No matter how many hours you spend preparing, there is usually at least one big surprise in any jury trial. Our surprise was the testimony of former Councilmember Ramon Hernandez. While on the Colton City Council, Hernandez had used his city-issued credit card to pay for hotel rooms so he could carry on a homosexual affair with his lover and use methamphetamine. His corrupt actions were the basis for Rulon’s retaliation theory. But never in a million years did we think Hernandez would testify. He had recently served time in jail for a 24-count felony conviction and is one of the most disgraced politicians in San Bernardino County. He took the stand anyway, testifying that he was a recovering addict in a 12-step program, and, as part of that process, he needed to be honest and admit his misdeeds. He provided lurid details of the affair and his involvement with drugs, and the jurors appeared to be on the edges

of their seats. He boldly accused the mayor at the time of encouraging him to use campaign funds to reimburse Colton for the personal charges he made to his city-issued credit card, and he accused the former city manager of telling him to ask a local business owner to pay the bill. We later proved that the business owner in question had made significant donations to a community outreach program sponsored by Rulon, apparently in exchange for favorable treatment by Rulon, while a competing business that declined to donate was quickly terminated by Rulon.

There was no break between Hernandez's direct and the cross. We had limited time to prepare, and despite the nearly 20 depositions taken, we had never had the chance to question Hernandez. Our strategy was to keep the cross short and sweet. There was little need to impeach him with his misconduct, because he had admitted to so much already. We focused on his relationship with Rulon, who knew of his misconduct nearly a year before he reported it; on the fact that he had no proof of his claims that the former mayor or city manager encouraged corruption; and on the fact that he never once made any of those allegations in his criminal prosecution. In our closing, we highlighted the fact that his story was uncorroborated and that Rulon's attorneys conveniently did not ask the other witnesses about these allegations, nor did they ask Hernandez to identify the business owner. At the end of the day, we think the only damage Hernandez's testimony did was to his own reputation.

Based on our experience, our advice to you is this: Prepare, prepare, prepare. Even if you win a motion in limine, be ready to reargue the point throughout the trial. Select your jury wisely. And be warned that, no matter how diligently you prepare, you will always be surprised at trial and will need to think on your feet.

John D. Higginbotham is a partner at Best Best & Krieger LLP in Riverside. He practices exclusively in the area of litigation, with an emphasis on employment, tort, and civil rights litigation. He was recently named one of the Top 25 Municipal Lawyers in California for 2012 by the Daily Journal.

Elizabeth A. James is an associate in the Labor and Employment Law practice group of Best Best & Krieger LLP in Riverside. She represents private and public sector employers in various employment-related claims, including discrimination, wrongful termination, FEHA, Title VII, and ADA litigation.



BENCH TO BAR

County of Riverside Superior Court of California

PUBLIC NOTICE

Pursuant to California Rule of Court 2.507(b)(3), effective January 1, 2013, the court will be removing the minutes of hearings from the registers of action on the court's web-site.

Over the next several months, the Riverside Superior Court will be making additional modifications to the public registers of action in accordance with California Rule of Court 2.507(b)(3) to contain the following information:

- (A) Date case commenced;
- (B) Case number;
- (C) Case type;
- (D) Case title (unless confidential by law);
- (E) Party names (unless confidential by law);
- (F) Party type;
- (G) Date of each activity; and
- (H) Description of each activity.

The court's registers of action are meant to be a summary of proceedings, such as the filing of a motion or the entry of an order. The registers of actions will not contain information beyond the scope of a proceeding, such as minutes, the text of orders, or the contents of papers filed with the court.

SHERRI R. CARTER
Court Executive Officer
and Clerk of Court

JUDICIAL PROFILE: HONORABLE MARK COPE

by Donna Thierbach



*Honorable Mark Cope
Presiding Judge, Superior Court
of California, Riverside County*

is amazing is how little I knew about a judicial officer I appeared in front of daily for almost a year! So here is all the information I never knew:

Judge Cope grew up in Las Vegas, Nevada. His father was a dentist and his mother a homemaker. After graduation, he served a two-year mission for the LDS Church in Germany. He then attended Brigham Young University (BYU) in Provo, Utah. He enjoyed political science and government classes, so initially, he thought he would pursue a career as a teacher in those subjects. However, he also knew he wanted a large family and quickly figured out that might be difficult on a teacher's salary, so he decided a career in the legal profession would better suit his goals. After graduation from BYU, he attended J. Reuben Clark Law School at BYU in Provo and graduated in 1986. He became a member of the California bar later that year and of the Nevada bar in 1988.

So how did Judge Cope find his way to Riverside? Easy, the Riverside district attorney's office recruited at his school. Of course, the recruiters are clever – they bring the recruits to Riverside during the time of the year when the weather is great and the smog is absent. He wanted to be a prosecutor and live in Southern California, so it was a perfect fit. He served as a deputy district attorney in Riverside County for four years. He then returned to Las Vegas for a year, where he was a prosecutor for Clark County, Nevada, and then a partner in the law firm of Bell & Davidson, focusing on criminal defense and domestic law. Luckily for us, he returned to the Riverside County district attorney's office in 1991, where he remained until his appointment to the bench in 1995. He enjoyed his time at the district attorney's office, but he has found he prefers the nonadversary nature of the bench.

I had the privilege of working in the old Perris court when Judge Mark Cope was presiding over preliminary hearings and trials there. It's hard to believe that was over 15 years ago! The public defender's office in Perris was small, so we were like family, and it was one of the most enjoyable experiences of my career. Judge Cope was knowledgeable and very patient with all of us new and fairly inexperienced attorneys. What



The Cope Family: From left to right, Rachel, Stephen, Aaron, Rebekah, Benjamin, Daniel, Laura, and Judge Mark Cope.

Judge Cope was so young when he was appointed to the bench that, although he has served for 18 years, he still has another 10 years to go until retirement. Since his appointment to the bench, he has handled every type of case except probate. This includes both trials and calendars in criminal, civil, family law, juvenile delinquency, unlawful detainers and small claims. He will begin a two-year term as presiding judge on January 1, 2013. Since the court is facing a 20% budget reduction, this is a pretty challenging time to serve as presiding judge. I think I would have passed on these duties, but this is just the culmination of a long list of administrative assignments Judge Cope has taken on, including assistant supervising judge, supervising judge, and assistant presiding judge. Judge Cope has also been active in the education of judges, both statewide and in Riverside County, and has served as the chair of the Juvenile Law Curriculum Committee, the judicial oversight group for the construction of the Southwest Justice Center, the Court Facilities Transitional Task Force, and the Banning Justice Center Project Advisory Group. As presiding judge, his goal is to try to continue to maintain services for the community in spite of the budget reductions.

Whew! Let's talk about free time. Well, what free time? Judge Cope has been married for 23 years; he and his wife have six children, ages 14 to 23. So you guessed it, when he is not on the bench, he is involved in family activities. Just to mention a few, these include scouting, soccer, karate, band, and chorus. His wife is from Riverside, and they met here in Riverside through their church. While Judge Cope claims to have no sense of rhythm, his wife is an accomplished piano player and vocalist, and their children seem to have inherited her musical talent. So far, only one of their children seems interested in pursuing a career in law.

Donna Thierbach, a member of the Bar Publications Committee, is retired Chief Deputy of the Riverside County Probation Department.



OPPOSING COUNSEL: STEVE HARMON

by *Connie Younger*

Inspiration to Wannabe Trial Attorneys

Steve Harmon's reputation always precedes him. For instance, when I was in law school, I took Trial Practice from Bill Mitchell of the Riverside County D.A.'s office. Mr. Mitchell told us many times that, if we ever wanted to see the best of trial attorneys, we should go watch Steve Harmon in action. We were told that Steve could do cross-examination with the adeptness of a knife cutting silk. We didn't

even know what cross-examination was at the time, but we were in awe, and when told, "Steve Harmon's coming down the hall to speak to us," there was a hushed reverence. Now that I have come to know Mr. Harmon as my friend, I know this was not just hype.

A California native, Steve began his professional career in Riverside with Mike Clepper, who hired him right out of Loyola Law School in 1972 for \$800 a month before he even passed the bar, and \$1,000 a month after he passed. He felt like a rich man and didn't know what he'd do with that extra \$200. Steve has been married to his wife Bonnie for 33 years, and their son Chris and his wife Kim have blessed them with two little granddaughters.

As for accomplishments, Steve has practiced criminal law now for 40 years. He has tried cases at all levels in the criminal courts, including death penalty cases, and is a member of the prestigious College of Trial Lawyers. He is a Martindale-Hubbell AV-rated attorney, having been featured many times in the publication, "Best Lawyers in America." He has been named one of the "Super Lawyers" in California for many years. Time magazine even named him as one of the "Top Attorneys" in Southern California.

But these awards, although impressive, do not capture the essence of this man. He is not only exceptionally skilled at what he does, he is the epitome of professional and personal ethics – a Leo A. Deegan Inn of Court "Trial Master" and recipient of the first Terry Bridges "Outstanding Attorney Award." Most importantly, at least for me, he is a very nice and charming man. Now, how many attorneys do you know who are like that?

And where did he get those ethics? He attributes them to his parents, who were school teachers and taught him the value of hard work and respect for others. Like many of us, Perry Mason and Atticus Finch inspired him to be a



Bonnie and Steve Harmon

lawyer to help people in trouble. And also like many of us, he was fearful and anxious about being a trial attorney, but he still aspired to be one. In fact, he humbly admits that, even after doing over 300 jury trials, he's still scared.

His advice to new trial attorneys? "The only way to move on from your fear is to prepare as thoroughly and as completely as you can. Then after that, there is really no magical answer but to just 'go in there and do it.' You have to force yourself out of your comfort

zone. You have to just do it. Try not to show your fears and insecurities, but don't be afraid to admit you have them (because I still do). I can't tell you how many times before trial I have said over and over to myself, 'I just can't do this.' But you must do it and so you just do it!"

When asked what skills are required for a good trial attorney, Mr. Harmon lists, in order:

1. Being able to communicate complicated ideas in very simple, clear, and understandable ways
2. Empathy and understanding of what each participant in the trial is feeling
3. Patience
4. Persistence
5. Humility
6. Being fearless but not foolish
7. Resilience
8. Humor
9. Belief in yourself
10. Loss of memory when you lose

As for advice to new trial lawyers: "On voir dire, treat the prospective juror as you would want a lawyer to treat your mother."

Steve Harmon partners with his son Chris – current president of the RCBA – at the Law Office of Harmon & Harmon, located in the Germania Building at 7095 Indiana Avenue, Suite 200, Riverside, CA 92506; his phone number is (951) 787-6800.

Connie Younger, a member of the RCBA Publications Committee, is a sole practitioner in Riverside.



MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective January 30, 2013.

Eric Aguirre – Sole Practitioner, Riverside

Erica M. Alfaro – Sole Practitioner, Mira Loma

Carisa Barnes (S) – Law Student, Moreno Valley

Anthony L. Beaumon – Office of the City Attorney, Riverside

Jolina A. Chavez – Sole Practitioner, Beaumont

Sandra J. Coleman – Coleman & Associates, Santa Ana

Aaron M. Daniels – Higgins Harris Sherman & Rohr, Palm Desert

Dwight M. Kealy – Sole Practitioner, Temecula

Tyneia G. Merritt – Merritt Law Inc., Rancho Cucamonga

Gareit F. Newstrom – Gareit Newstrom Law Inc., Riverside

David T. Seto – Sole Practitioner, Riverside

Stephen J. Simoni – Law Offices of Stephen Simoni, Palm Springs

Gary Wenkle Smith – Law Office of Gary Wenkle Smith, San Bernardino

Nicholas L. Tavaglione (A) – NL Tavaglione Consulting, Riverside

Britney N. Torres – Lobb & Cliff LLP, Riverside

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