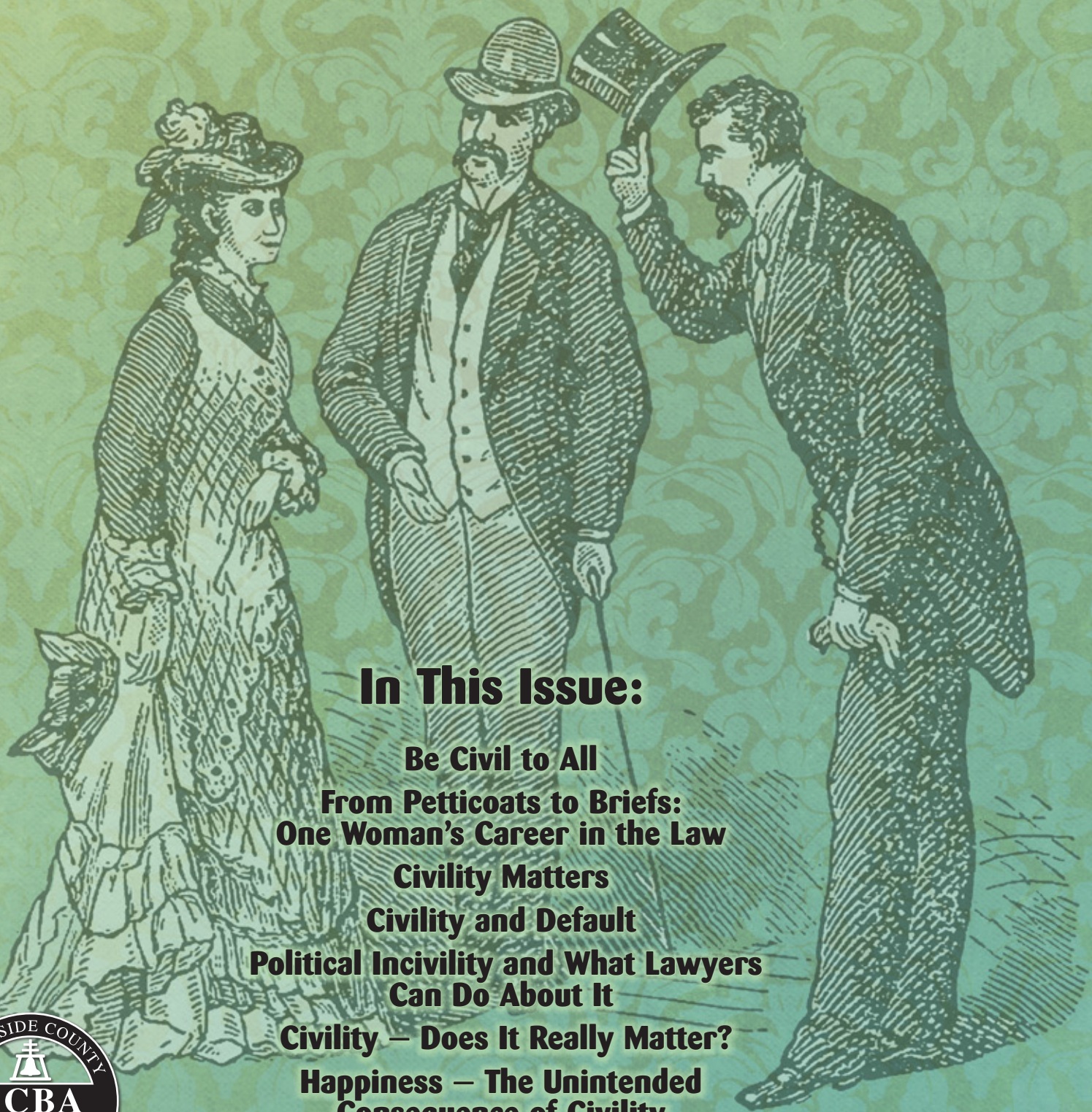
RIVERSIDE LAWYER

April 2014 • Volume 64 Number 4 MAGAZINE



In This Issue:

The official publication of the Riverside County Bar Association

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

Telephone
951-682-1015

Facsimile
951-682-0106

Internet
www.riversidecountybar.com

E-mail
rcba@riversidecountybar.com

RIVERSIDE LAWYER MAGAZINE

CONTENTS

Columns:

COVER STORY:

Features:

Departments:

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), Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Inland Empire Chapter of the Federal Bar Association, Mock Trial, State Bar Conference of Delegates, and Bridging the Gap.

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

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

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

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

MBNA Platinum Plus MasterCard, and optional insurance programs.

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

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

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

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

Calendar

APRIL

14 **Civil Litigation Section**
Topic: "Social Media for Attorneys"
Speaker: Dustin Rage
RCBA Gabbert Gallery – Noon
MCLE

15 **Family Law Section Meeting**
Topic: "How to Fully Utilize XSpouse"
Speaker: Shaun Hanson, Esq.
RCBA Gabbert Gallery - Noon
MCLE

16 **Estate Planning, Probate & Elder Law Section**
Topic: "Regional Center Conservatorship Evaluations"
Speakers: Kevin Urtz & Jennifer Cummings
Lunch provided courtesy of the Law Office of Craig M. Parker, PC
RCBA Gabbert Gallery – Noon
MCLE

17 **Solo/Small Firm Section Meeting**
Topic: "Practical Insurance: Tips & Tricks for the Small Law Firm"
Speaker: Michael Davidson
RCBA Gabbert Gallery – Noon
MCLE

18 **General Membership Meeting**
Topic: "State of the Court of Appeal"
Speaker: Presiding Justice Manuel Ramirez
RCBA Gabbert Gallery – Noon
MCLE

22 **Business Law Section Meeting**
Topic: "Be a Hero: Help make your client (and possibly yourself) more profitable through property tax assessments and workplace incentives"
Speaker: Larry Mandell
RCBA Gabbert Gallery – Noon
MCLE

23 **Appellate Law Section Meeting**
Topic: "Electronic Briefs & Records in the Digital Age"
Speakers: James Azadian, Esq. & Kira Klatchko, Esq.
RCBA Gabbert Gallery – Noon
MCLE

24 **CLE Event**
Civil Procedure Before Trial
Topic: "Client Intake, including Drafting the Complaint"
Speaker: Ben Eilenberg, Esq.
RCBA Gabbert Gallery – Noon
MCLE

25 **Immigration Law Section**
Topic: "Deportation"
RCBA Gabbert Gallery - Noon

MAY

2 **Special Event for Riverside County DA Race**
Debate between District Attorney Paul Zellerbach and Deputy District Attorney Michael Hestrin
RCBA Gabbert Gallery - Noon

President's Message

by Jacqueline Carey-Wilson

Over the last several years, the courts in the Inland Empire have been severely impacted by the dramatic cuts in the judicial branch. The State General Fund support for the judicial branch had been reduced from 56 percent of the total branch budget in 2008-2009, to just 25 percent in 2013-2014. Over the last five years, the Superior Courts have had to increase fines and user fees to make up for the lost revenue and to prevent debilitating impacts on public access to justice. This includes $1.7 million for courthouse construction that the State diverted to court operations or the State's General Fund. These cuts have unfairly affected the most disadvantaged in our communities.

In Riverside County, the court funding in 2008-2009 was $133,269,042. In 2013-2014, the budgeted revenue was $124,993,538. This is a five-year revenue reduction of $8,275,504. The estimated deficit due to ongoing reductions is $15,000,000. This loss of revenue has cost the County a reduction in public services. Riverside closed three courthouses and 12 courtrooms. Riverside also had to reduce public service hours and cease answering traffic-related questions at the public counter. Riverside County's population is 2,227,577. It has 76 judicial officers to process a caseload that requires 136 judges, which is a deficit of 60 judges.

In San Bernardino County, the court funding in 2008-2009 was $111,711,058. In 2013-2014, the budgeted revenue was $97,378,436. This was a five-year revenue reduction of $14,332,622. In 2009, there were 1000 filled staff positions. In 2013-2014, there are 877, which is a deficit of 123 staff positions. The current population in San Bernardino County is 2,081,313 and the current assessed staff need is 1,512, which is 635 below the need to appropriately staff the courts. There are 86 funded judicial positions and the assessed need in the county is 156. In the 2011-2012 fiscal year, there were 2,208 filings per judicial officer.

Judge Harold Hopp, James Heiting, Chief Justice Tani G. Cantil-Sakauye, James Latting, and Jacqueline Carey-Wilson. The photo was taken on March 17, 2014, at a reception in Sacramento following the Chief Justice's annual address to the legislature on the state of the court. Earlier that day, Judge Hopp and the attorneys were lobbying the Inland Empire legislators for passage of SB 1190 and additional court funding.

This figure excludes infractions. San Bernardino has been forced to close seven courthouses and 18 courtrooms. That means, for example, that a victim of domestic violence living in Needles must drive several hundred miles to reach the courthouse to obtain a necessary and possibly life-saving restraining order. The court has also reduced hours of service, which has resulted in many litigants being turned away when the clerk's window closes at 3:00 p.m.

These court closures and limiting of services have resulted in a loss of access to justice to the residents of the Inland Empire. In the current budget introduced by Governor Brown, the judicial branch was apportioned $105 million dollars. According to Chief Justice Tani G. Cantil-Sakauye, the $105 million is not enough to avoid additional service reductions next year. The amount of funding necessary to simply maintain the current year service levels is approximately $266 million. However, this would be just treading water. The courts need $612 million to sustain a fully functioning judicial system.

We can make a difference if we work together and the time to act is now. Budget hearings on court funding are taking place in Sacramento from April 9-10. I am attending the budget hearings next week and will speak at the public comment portion about the impact this loss of court funding has had in the Inland Empire. I encourage you to contact me and share your stories of how the court closures and reduced services have affected your clients and/or your community. Please send that information to rcba@riversidecounty-bar.com.

Senate Bill 1190, introduced by Senator Jackson (D-Santa Barbara) would fund 50 of the trial court judgeships allocated under AB 159 in 2007 (Stats. 2007, ch. 722). This legislation would provide nine additional judges to both Riverside and San Bernardino Superior Courts, along with the accompanying

allocation of staff to support them. In addition, the legislation would fund an additional two justices in the Court of Appeal, Fourth District, Division Two, which hears appeals from the Superior Courts in Riverside, San Bernardino, and Inyo counties. Funding these judgeships is one step to providing access to justice to all residents in the Inland Empire.

Appropriate and stable funding for the judicial branch is imperative to our system of government. As John Adams stated in his "Thoughts on Government" papers: "The dignity and stability of government in all its branches, the morals of the people, and every blessing of society depend so much upon an upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislative and executive, and independent upon both, that so it may be a check upon both, and both should be checks upon that." Accordingly, I encourage you to contact your elected representatives in Sacramento and let your voices be heard.

Riverside County:

Anderson, Joel (R-SD36) - Temecula
Linder, Eric (R-AD60) - Corona
Medina, Jose (D-AD61) - Riverside
Melendez, Melissa (R-AD67) - Murrieta
Nestande, Brian (R-AD42) - Hemet
Pérez, V. Manuel (D-AD56) - Indio
Roth, Richard (D-SD31) - Riverside

San Bernardino County:

Brown, Cheryl (D-AD47) - San Bernardino/ Fontana
Donnelly, Tim (R-AD-33) - Hesperia
Knight, Steve (R-SD 21) - Victorville
Linder, Eric (R-AD60) - Corona
Morrell, Mike (R-SD23) - Redlands
Rodriguez, Freddie (D-AD52) - Chino

Below are the links to information about the members:

http://assembly.ca.gov/assemblymembers
http://senate.ca.gov/senators

Please join us at the RCBA General Membership meeting on April 18, at noon when Presiding Justice Manuel Ramirez is going to speak on the State of the Court of Appeal.

Jacqueline Carey-Wilson is a deputy county counsel with San Bernardino County, editor of the Riverside Lawyer, and past president of the Federal Bar Association, Inland Empire Chapter.

State Mock Trial

by the Honorable Helios J. Hernandez

San Jose, California – The 33rd Annual California State High School Mock Trial Competition was held in San Jose, California from March 21-23, 2014. Thirty-four high schools from throughout the State competed. This year's Champion was Menlo High School of San Mateo County. Second was La Reina High School of Ventura County. And, third was Poly High School of Riverside County. Poly's only loss was a narrow one to La Reina in the third round. Poly is coached by Carlos Monagas with Josh Hanks and Steve Wahlin. At State, there are four regular rounds and then the top two teams compete for the Championship in round five.

The Championship round was a vigorously fought battle. Each school had complete command of the facts. Both schools also had a thorough knowledge of the rules. Presiding Judge Patricia Bamattre Manoukian, who is a Justice on the Sixth District Court of Appeals, was well engaged by the teams. Among the scorers for the Championship Round were former Riverside Deputy District Attorney Linda Dunn, who is now with the San Luis Obispo District Attorney's Office, and me.

The National Competition will be held in Madison, Wisconsin from May 9-11. Next year's State Competition will be in Riverside, March 20-22, 2015.

Riverside County Law Library National Law Day Luncheon

Riverside County Law Library Invites You To Its National Law Day Luncheon With Guest Speaker Judge Jackson Lucky

In celebration of National Law Day, May 1, 2014, Riverside County Law Library is pleased to invite the legal community and the general public to hear its featured speaker the Honorable Jackson Lucky of the Riverside Superior Court.

This year's theme, chosen by The American Bar Association, is *American Democracy and the Rule of Law: Why Every Vote Matters*. The intent of the program, as the ABA suggests, "is to emphasize how the law and legal process impacts our rights and the role that the courts play in ensuring these fundamental rights guaranteed to us by our Constitution."

This special program will be held on Thursday, May 1, from 12:00 p.m. to 1:30 p.m. in the reading room of the Victor Miceli Law Library located at 3989 Lemon Street in downtown Riverside. Refreshments will be served. Please call (951) 368-0368 to RSVP.

Barristers President's Message

by Kelly A. Moran

April marks the start of one of my favorite times of the year, baseball season! As a lifelong Angels fan, I have, on many occasions, known the heartbreak and despair that a truly terrible season brings. Whether the losses stem from poor hitting, too many errors, or as may likely be the case this season for our local team, lack of solid pitching, one thing remains true, losing seasons are rough! However, the benefit of baseball is that come April, last season's failures are wiped clean. On Opening Day every team starts fresh and the losses of prior years cannot count against the team anymore.

Unfortunately, in life we do not usually get an annual "Opening Day." Sure, there is the traditional New Year's resolution, which if you are anything like me you resolved to finally give up making because you break them about four weeks into the New Year. Or, for many of us, there is the Lenten season, where you may give something up or commit to doing something extra for the following 40 days. However, we just do not get the opportunity to start completely fresh with a changed outlook and a renewed hope for the future every year. In life and in the legal profession, "last season's" losses or errors never completely go away. As such, it is up to us to seize the chance to change our "lineup" and our "game plan" before the score gets away from us.

Last month, I was fortunate enough to attend the Association of Southern California Defense Counsel Annual Seminar in Los Angeles. For two days, attendees were given the opportunity to attend panel discussions on various topics affecting defense counsel. I listened to MCLE presentations focusing on mediation, 998 offers, and tips for young attorneys seeking to build up a client base. Keynote speaker and former White House Press Secretary, Dana Perino, provided an interesting look into the lives of those working with the President, while offering suggestions for handling life's difficult situations with dignity and class.

Yet, of all the interesting speakers that were on hand during the Annual Seminar, the Honorable William W. Bedsworth, Associate Justice, 4th District Court of Appeal, Division Three, gave what was likely the most memorable presentation of the event. Justice Bedsworth, who up until recently served as a National Hockey League goal judge for the Anaheim Ducks in his spare time, spent his hour presentation encouraging a room full of busy lawyers to put down our cell phones, step away from our research, and truly enjoy life. His presentation, titled "Taking Care of Yourself to Better Practice Law and Life," told of his own story, wherein he faced two life threatening conditions within a short time span in the 1980's. Since recovering from a brain aneurysm in 1988, Justice Bedsworth has changed his lifestyle, taking time to focus on his family, his relationships, and his impact in the community, all of which have helped to shape him professionally as a better lawyer and judge.

Justice Bedsworth reminded his audience that there is no annual "Opening Day" in life. We do not get a fresh start every year and we can never predict how many days will be left in our "season." In order to be the best professionals that we can be, he encourages us all to take inventory of our lives and to make work a part of the whole, not the entirety of who we are.

This month, our Barristers event will focus on individuals who do not rely on the hope of an annual "Opening Day" to refresh their lives, but instead have made and adhered to significant lifestyle changes after facing adversity. Young attorneys are often faced with the difficult struggle between growing professionally and maintaining a personal life. I strongly believe that the lessons of our speakers and Justice Bedsworth about shifting the focus of your life in order to better yourself personally and professionally will be an invaluable resource for all.

Additional information concerning our April 10, 2014 event, and all future meetings, can be found on our website (www.riversidebarristers.org) or by adding us on Facebook ("Riverside County Barristers Association"). I look forwarding to seeing you at our upcoming event and, in the spirit of April, happy baseball season to you all!

Kelly Moran, the 2013-2014 President of Barristers, is an associate at Thompson & Colegate, where she practices in the areas of public agency representation, personal injury defense, and probate litigation.

Happiness – The Unintended Consequence of Civility

by Terry Bridges

I am happy to contribute to this month's civility-themed edition of *The Riverside Lawyer*.

I would like to approach the topic from my observation and belief as a retried trial lawyer and current mediator, that the most effective and civil advocates are generally very happy persons.

As I have gradually transitioned from the courtroom to the mediation conference room, I have had the opportunity to feel the joy of being blessed with an extraordinarily happy professional career and thought about what factors have contributed to that happiness. I would like to share with you some of my mistakes made, lessons learned, practices attempted to be adopted and observations made in many courtrooms which have made my practice such a happy one.

- I have learned so much from others. Consider taking advantage of the unique collegiality of our Bar Association by seeking out a person you respect and ask him or her to serve as your mentor. You will be surprised at the receptivity to your request. Once your invitation has been accepted, take the responsibility for maintaining and cultivating the relationship. Too shy with this approach? Try sitting through a law and motion calendar each month and noting what common aspects of civility are practiced by the most effective attorneys.
- Is there someone in our profession you particularly admire and respect? If so, tell them in person how much they have inspired you in your practice.
- As a profession, we are a pretty boring lot. We often become enmeshed in the law to the exclusion of other interests and relationships. Don't allow yourself to become another one dimensional attorney. There is and should be life beyond the law. To combat this tendency, develop and nurture friends and interests outside the legal field.
- From time to time, take a break from being a lawyer. At your next social engagement, try to make it through the entire evening by not talking about the law. You'll find the experience to be both refreshing and stimulating.
- Incivility and stress are often the byproducts our Type A, controlling and emotional personality traits. We must work to protect our reputation and professional life from being lessened by them. While it will be a continuing battle, if we learn to control and eliminate these negative traits, we will have traveled a long way to a happier practice and retaining a reputation for civility.
- If we can't be open to laughter, we can't be happy. Keep a sense of humor, including the ability to laugh at yourself.
- Don't waste time and energy on non-productive and draining issues. If factual or legal developments dictate that you are attempting to defend the indefensible, put your ego on hold, admit that you have been wrong and gracefully concede the point.
- If you owe someone an apology, give it promptly and gracefully. This applies particularly to opposing counsel and parties, witnesses and judges.
- We're such control freaks! Try to do what is often genetically impossible for an attorney. Listen patiently and carefully to your client, opposing counsel, opposing parties, witnesses and judges. You'll be surprised at how much knowledge you will gain.
- I learned early in my practice that there are no such things as a "dead bang winner." I have also experienced the painful realization that sometimes there are "dead bang losers." To avoid that traumatic experience, remember there are two sides to every story. Be constantly open to that reality and adjust accordingly.
- Did you ever try to back a client down from your original opinion of the value of a case? The opinion is often tragically given at the conclusion of a brief initial conference and blissfully unencumbered with the reality of knowing the facts or reviewing the documents from the other side. Don't put yourself in this difficult and embarrassing position by overselling your client's position in the early stages of the case. Instead, be honest, objective and share the risks of the case with your client as the case develops throughout the litigation process.

- Never inflate billings! This unethical act will grow, in time become addictive and lead to the cutting of other ethical and civil corners in your practice.
- Take a vacation day once a week from emails. Try the phone. You'll be surprised how much you can accomplish in a civil personal conversation.
- Remember that our highest duty is to resolve the disputes of our clients, not profit from them. Don't consider an invitation to discuss settlement a sign of weakness. Instead, characterize it as an attribute of good lawyering.
- And finally, and perhaps the most difficult point to learn, accept, practice and embrace, "Take the high road – no matter what."

I hope that some of the above lessons I have learned will help to add happiness to your professional practice.

Thank you for the honor of sharing my thoughts with you, Terry.

Terry Bridges is a past president of the RCBA and a founding member and former president of the Leo A. Deegan Inn of Court. Terry describes himself as a recovering trial attorney and a happy mediator. He can be reached through his website at www.tbridgeslaw.com.

Be Civil to All

by Dawn Saenz

"Be civil to all, sociable to many, familiar with few, friend to one, enemy to none."
–Benjamin Franklin

One morning, I sat in Department 402, waiting for my matter to be called. Two well-known attorneys, with reputations for excellence in the legal community, were in a heated battle over asset distribution.

The first attorney began yelling a list of opposing counsel's errors and obstructive behavior that he claimed had occurred. Opposing counsel, not to be outdone, started yelling the similar accusations at his learned opponent. The first attorney turned to face the other attorney, placed his elbow on his knee, and began staring and breathing heavily. It was both strange and shocking to see.

Still facing forward and addressing the court, the second attorney calmly stated, "And for the record I would like to state the opposing counsel is mad-dogging me and I can feel his spit and hot breath upon the arm of my jacket!" In his wisdom, the judge sent the attorneys outside for a "recess" until they could conduct themselves accordingly in his courtroom.

The terms "civility" and "family law" seem, at first blush, to be polar opposites.

Indeed, for many who have roamed the halls of the Family Law building, civility among the participants often appears dead on arrival. Even worse, for many of the attorneys civility has long since been replaced with acrimony.

Quite often, the parties have evolved into a bitter scorched-earth approach to litigation. It is not enough to simply decide that one person is leaving the marriage . . . there is the need to destroy the other party emotionally and financially. In these high-conflict cases children become pawns and bargaining chips in litigation. It is a cruel way to end what once started with two people declaring their love and loyalty for each other.

When attorneys enter these high-conflict cases, things are supposed to change for the better. The expectation is that with seasoned counsel the bitterness and back-biting will be kept at bay and the case will move forward toward a final resolution. That is the hope. In truth, some attorneys appear to become personal advocates for their clients, forgetting their duties as officers to the court.

> "As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution." (*California Attorney Guidelines of Civility and Professionalism.*)

When an attorney is able to maintain a professional distance from the emotional battle, that is now the landscape of the client's life, they are not only maintaining the professionalism that we all swore to maintain, but they are also better able to serve their clients. Clients are often surrounded by family and friends who are there to "ramp them up." To the contrary, the attorney is the one who must be the voice of reason, forgoing the urge to win at all costs. This is the utmost practice of civility in our courts.

At the heart of the divorce proceedings there is pain, desperation, and fear. These emotions are easily encouraged by third parties, including attorneys who forget their place and incite litigation. Overly contentious divorces, fueled by litigators with an unyielding desire to win, often results in utter destruction of the family. It simply doesn't have to be this way.

> "Civility and courtesy . . . are expected and not to be equated with weakness." (*Santa Clara County Bar's Code of Professionalism.*)

As I started my own practice, I was cautioned by many seasoned attorneys to make sure that I practice professionalism and civility at every turn. I cannot tell you how many times I have heard, "Riverside is a small legal community." I try to mirror these ideals, and often I find that I fall short.

We are human. We forget that while we are representing our clients, they are actually living the proceedings day in and day out. They spend their nights mentally rehashing the unsettled matters of their lives. Often, in the hustle and bustle of our day, we forget these things as we move on to the next hearing, the next case, and the next consultation.

Civility is not weakness. Settling matters long before the hearing date, via a stipulated agreement, is not weak-

ness. Likewise, opposing counsel is not your enemy. Within the legal community we are repeatedly reminded to be civil to the court and civil to each other, but we often forget to be "civil" to our own clients in how we choose to litigate the case.

Anything that we can do to effectuate compromises, diffuse tensions, and minimize the bitterness and hatred that are prevalent during most divorces is the utmost act of civility towards our clients. It starts and ends with each one of us. When we are civil, it is at that moment that we show strength.

Dawn Saenz is a member of the RCBA Bar Publications Committee and practices at the Law Offices of Saenz and Buchanan. More information can be found at www.dawntaylorlawoffice.com.

Poly High Retains Mock Trial Title

by John Wahlin

The 32nd Riverside County mock trial competition found 26 teams from Riverside County high schools arguing the guilt or innocence of a high school student accused of second degree murder. In the fictitious case, *People v. Concha*, prosecution teams had the burden of proving that the defendant, with malice aforethought, caused the victim's death by the sale of a controlled substance to him or her. In the pre-trial motion the defense teams argued that the police had conducted an illegal search in violation of the defendant's Fourth Amendment rights. The prosecution's argument was that the evidence in question was obtained without a search warrant under the "plain view" exception.

The 26 teams competed through four rounds of competition with the top eight moving on to the Elite 8 competition. The Elite 8 included teams from high schools throughout the County: Murrieta Valley, Temecula Valley, Great Oak and Hemet from the Southwest region and King, North, Poly, and Woodcrest Christian from Riverside. Poly, King, Great Oak, and Hemet survived the first round and Poly and King defeated Hemet and Great Oak, respectively, in the semifinal round.

The championship round between Poly and King was a rematch of last year's final and, in an exceedingly close match, Poly prevailed. Federal District Judge Virginia Phillips again presided with Riverside Superior Court Presiding Judge Mark Cope, Judge Gloria Trask, District Attorney Paul Zellerbach, Public Defender Steve Harmon, and RCBA President Jacqueline Carey-Wilson serving as scoring attorneys.

The mock trial program continues to retain its vitality after 32 years and is regarded as one of the outstanding programs in the state. The Riverside County Office of Education and the RCBA steering committee coordinate the program, but it is the support of volunteer Superior Court judges and practicing attorneys that drive its success. If mock trial is to continue at this level for the years to come, newer members of the Bar will need to step forward to continue the tradition. In particular, there is always a need for attorney coaches but all teams are not always able to recruit them. Those that want to make this meaningful contribution to the youth of their community should contact the RCBA.

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

photos courtesy of Craig Petinak

Riverside Poly High School
2014 Riverside County Mock Trial Champions

King High School
2nd Place - 2014 Riverside County Mock Trials

Great Oak High School
3rd Place - 2014 Riverside County Mock Trials

Hemet High School
3rd Place - 2014 Riverside County Mock Trials

Riverside Yearly Journal

APRIL, 2014
VOL. 64 NO. 4

© 2010 ...is anybody willing to take responsibility for this? — SINCE 1950 — OFFICIAL PUBLICATION OF LEGAL PROFESSIONALS WITH NOTHING BETTER TO DO

www.riversidecountybar.com 4129 Main Street, Suite 100, Riverside, California 92501 (951) 682-1015 $priceless

Man Bites Dog and Dog Sues Man

On April 1, 2014, at 12:15 p.m., in the heart of downtown Riverside, California, a woman and a shih-tzu were involved in an altercation. The woman is 50 year old Jane Doe and the shih-tzu is known by the moniker of Boo Bear. The fracas arose after Boo Bear allegedly attempted to steal Ms. Doe's hot dog. Ms. Doe works for the Public Defender's Office and was stopping to have a bite outside of the courthouse after a morning of handling her misdemeanor caseload. She reports that she had not eaten breakfast.

"Out from nowhere comes a little black and white shih-tzu running around the area on his small furry legs," said Jane Doe. "He was so cute that I bent down to pet him and the dog snapped its teeth at the hot dog I was carrying by my side and carried it away. The worst part is that I had already smothered it in yellow mustard, onions and relish."

Ms. Doe elaborated that, "As the shih-tzu scurried away with my hot dog, I ran after him and I was so hungry that I bit him on his shoulder. The dog dropped the hot dog still covered in its foil wrapper. Only a little bite was missing and I picked it up and I thought the situation was resolved. Two weeks later, the darn shih-tzu sues me in civil court. And yes, I still ate the hot dog."[1]

Boo Bear filed the civil matter with help of an attorney who is well versed in helping his furry friends. The amount of civil damages that Boo Bear is seeking is unspecified but the court filing makes clear that Boo Bear got very ill after his encounter with the attorney. It is not clear whether the illness was brought on by his nibble of the hot dog or from the bite of the attorney but regardless, this looks to be a case of epic precedent making proportions. A group that calls themselves "The Justice for Boo Bear Coalition" is planning a march in support of Boo Bear next week and welcomes all attendees. For information contact Weloveshihtzus@fakeemail.com.

Boo Bear now has his own Facebook page and is looking for agent representation for those celebrity agent/attorneys out there. His owner could not be reached for comment.

— Juanita E. Mantz

1 This quote has been edited to be reader friendly as public defenders are known for their salty language at times.

Jail Plans Production of West Side Story to Build Starbucks

On April 1, 2014, the Jason Priestly Detention Center ("Jail") in Riverside, California announced a production of West Side Story. Deputies will play all of the leading roles of the Sharks and the Jets with the supporting and extra roles being open to attorneys in the Riverside area. Tryouts start next week. Attorneys are advised to take off their attorney hat and put on an acting one. "We are looking for real drama queens," said an undercover source. "The criminal bar is our best bet we think."

The theater production was instigated as an attempt to raise money to build a Starbucks in the Jail. The Jail has not decided whether the Starbucks station will be open to visiting attorneys. The AB109 Realignment law, which moved many in-custodies from state prisons to county jails, has left funds depleted. The Jail is struggling to make its yearly budget said an undercover source. "There is simply no money for a coffee shop."

This same confidential source stated, "We wanted to think outside of the box and with the new Riverside Fox Theater doing so well, the jail management figured we should throw our hats into the performance arena. We need that Starbucks really bad. When you work a long shift a double expresso hits the spot and opens the eyes. Plus, some of our deputies are really talented actors and singers. Why not capitalize on the talent we have?"

It is rumored that a famous Hollywood director has taken an interest in directing the production.

The production will occur on the steps of the Jail this summer. Tickets are thirty dollars for a matinee and fifty dollars for an evening performance. Bring a chair and some shade.

STATE OF MICHIGAN

Reply to:
GRAND RAPIDS DISTRICT OFFICE
STATE OFFICE BUILDING 6TH FLOOR
350 OTTAWA NW
GRAND RAPIDS MI 49503-2341

JOHN ENGLER, Governor
DEPARTMENT OF ENVIRONMENTAL QUALITY
HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973
INTERNET: http://www.deq.state.mi us
RUSSELL J. HARDING, Director

December 17, 1997

CERTIFIED

Mr. Ryan DeVries
2088 Dagget
Pierson, MI 49339

Dear Mr. DeVries:

SUBJECT: DEQ File No. 97-59-0023-1 T11N, R10W, Sec. 20, Montcalm Count-,),

It has come to the attention of the Department of Environmental Quality that there has been recent unauthorized activity on the above referenced parcel of property. You have been certified as the legal landowner and/or contractor who did the following unauthorized activity: Construction and maintenance of two wood debris dams across the outlet stream of Spring Pond.

A permit must be issued prior to the start of this type of activity. A review of the Department's files show that no permits have been issued. Therefore, the Department has determined that this activity is in violation of Part 301, Inland Lakes and Streams, of the Natural Resource and Environmental Protection Act, Act 451 of the Public Acts of 1994, being sections 324.30101 to 324.30113 of the Michigan Compiled Laws annotated.

The Department has been informed that one or both of the dams partially, failed during a recent rain event, causing debris dams and flooding at downstream locations. We find that dams of this nature are inherently hazardous and cannot be permitted. The Department therefore orders you to cease and desist all unauthorized activities at this location, and to restore the stream to a free-flow condition by removing all wood and brush forming the dams from the strewn channel. All restoration work shall be completed no later than January 31, 1998. Please notify this office when the restoration has been completed so that a follow-up site inspection may be scheduled by our staff.

Failure to comply with this request, or any further unauthorized activity on the site, may result in this case being referred for elevated enforcement action.

We anticipate and would appreciate your full cooperation in this matter. Please feel free to contact me at this office if you have any questions.

Sincerely,

David L. Price
District Representative
Land and Water Management Division
616-356-0269

dlp:bjc
cc: LWMD, Lansing
MontcaImCEA
Pierson Township
Lieutenant Mary C. Sherzer, DNR LED

Reply:

Stephen and Rosalind Tvedten
2530 Hayes Street
Marne, MI 49435-9751
616-677-1261
616-677-1262 Fax
steve@getipm.com

January 6, 1998

David L. Price
District Representative
Land and Water Management Division
Grand Rapids District Office
State Office Bldg., 6th Floor
350 Ottawa, N.W.
Grand Rapids, MI 49503-2341

Dear Mr. Price:

Re: DEQ File No. 97-59-0023; T11N, R10W, Sec 20; Montcalm County

Your certified letter dated 12/17/97 has been handed to me to respond to. You sent out a great deal of carbon copies to a lot of people, but you neglected to include their addresses. You will, therefore, have to send them a copy of my response.

First of all, Mr. Ryan DeVries is not the legal landowner and/or contractor at 2088 Dagget, Pierson, Michigan - I am the legal owner and a couple of beavers are in the (State unauthorized) process of constructing and maintaining two wood "debris" dams across the outlet stream of my Spring Pond. While I did not pay for, nor authorize their dam project, I think they would be highly offended you call their skillful use of natural building materials "debris". I would like to challenge you to attempt to emulate their dam project any dam time and/or any dam place you choose. I believe I can safely state there is no dam way you could ever match their dam skills, their dam resourcefulness, their dam ingenuity, their dam persistence, their dam determination and/or their dam work ethic.

As to your dam request the beavers first must fill out a dam permit prior to the start of this type of dam activity, my first dam question to you is: are you trying to discriminate against my Spring Pond Beavers or do you require all dam beavers throughout this State to conform to said dam request? If you are not discriminating against these particular beavers, please send me completed copies of all those other applicable beaver dam permits. Perhaps we will see if there really is a dam violation of Part 301, Inland Lakes and Streams, of the Natural Resource and Environmental Protection Act, Act 451 of the Public Acts of 1994, being sections 324.30101 to 324.30113 of the Michigan Compiled Laws annotated. My first concern is - aren't the dam beavers entitled to dam legal representation? The Spring Pond Beavers are financially destitute and are unable to pay for said dam representation - so the State will have to provide them with a dam lawyer.

The Department's dam concern that either one or both of the dams failed during a recent rain event causing dam flooding is proof we should leave the dam Spring Pond Beavers alone rather than harassing them and calling their dam names. If you want the dam stream "restored" to a dam free-flow condition - contact the dam beavers - but if you are going to arrest them (they obviously did not pay any dam attention to your dam letter -- being unable to read English) - be sure you read them their dam Miranda first. As for me, I am not going to cause more dam flooding or dam debris jams by interfering with these dam builders. If you want to hurt these dam beavers - be aware I am sending a copy of your dam letter and this response to PETA. If your dam Department seriously finds all dams of this nature inherently hazardous and truly will not permit their existence in this dam State - I seriously hope you are not selectively enforcing this dam policy - or once again both I and the Spring Pond Beavers will scream prejudice!

In my humble opinion, the Spring Pond Beavers have a right to build their dam unauthorized dams as long as the sky is blue, the grass is green and water flows downstream. They have more dam right than I to live and enjoy Spring Pond. So, as far as I and the beavers are concerned, this dam case can be referred for more dam elevated enforcement action now. Why wait until 1/31/98? The Spring Pond Beavers may be under the dam ice then, and there will be no dam way for you or your dam staff to contact/harass them then.

In conclusion, I would like to bring to your attention a real environmental quality (health) problem; bears are actually defecating in our woods. I definitely believe you should be persecuting the defecating bears and leave the dam beavers alone. If you are going to investigate the beaver dam, watch your step! (The bears are not careful where they dump!)

Being unable to comply with your dam request, and being unable to contact you on your dam answering machine, I am sending this response to your dam office.

Sincerely,

Stephen L.Tvedten

xc: PETA

Letters to the Editor

Dear Editor:

My understanding has always been that our citizens have a constitutional right to watch jury trials for free. Thus, I was somewhat stunned to learn that the Riverside County Superior Court has decided to initiate a program of charging a $5 fee to enter a courtroom to watch a trial unfold. At first, I was dismayed when I learned about this circumstance. The more I thought about it, however, I now feel that it will be an excellent way for our underfunded judicial system to potentially obtain more much needed judges here in Riverside. I would even go so far as to suggest that the court implement a "frequent court watcher" program through which a person can purchase an annual pass at a reduced rate. I just hope that they will be serving coffee and donuts as part of this new program..

P. Mason
Hemet

Dear Editor:

It appears that our "friendly" neighbor to the north is again trying to perform some one upsmanship on Riverside. Rumor has it that San Bernardino is on the verge of completing a new courthouse which some legal pundits have called "The Jewel of the Inland Empire." Well, we can't let these ne'er do wells pull this on us. Our suggestion is that we raze that broken down "historic" courthouse in downtown Riverside and construct one which will be taller and more architecturally pleasing than that ugly casino building in Cabazon. Our judiciary will then be able to "stand tall" knowing that they will working in the tallest building in the IE and will be able to look down at our neighbor to the north.

Friends of the Late (and Great) Victor Miceli

Dear Editor:

I would like to thank the judges in Riverside County who have had the courage to institute the new ban on cell phones in the courthouse buildings which will soon be going into effect. As I understand the new program, anyone—including attorneys—will now be required to check their cell phones in with a security guard posted at each entrance to the building. The phone will then be returned when the person exits the courthouse. Apparently, the judges have become frustrated with the increasing number of situations when cell phones are ringing in open court. There is also the issues of loud talking—even shouting and yelling—by people using their cell phones in the hallways of the courthouse. While this policy will not make everyone happy, it will certainly result in a quieter and more civilized courthouse experience.

A. G. Bell
Temecula

Dear Editor:

I am a local attorney and I am also a frustrated Dodger fan because Time Warner Cable does not service my geographical area and, thus, I do not have access to Dodger television broadcasts. Fortunately, I have just learned that the second floor attorney lounge in Riverside's historic courthouse does indeed have television access to the games. I have further been advised that the local judges, in their infinite kindness and wisdom, are going to make this lounge available for nightly access to Dodger games by keeping the courthouse open beyond regular business hours. All an attorney has to do is to show his/her active bar card to door security and they will be admitted to after-hour access to the lounge. I have been further informed that some of the local water holes will be providing free food and drinks to the guests during the broadcasts (Dodger dogs perhaps?). I would like to thank the judiciary for kindly providing this fringe benefit as I am certain that it will provide solace to forlorn members of the local legal profession who bleed Dodger blue.

Burleigh Grimes

Dear Editor:

This will be the final "Letters to the Editor" section in this magazine. In fact, as many of you have already heard, this April edition will be the last issue of the Riverside Lawyer magazine. Due to budgetary cuts, political upheaval, staff insurrection and the fact that our printing press was demolished when a large truck crashed through the building and reduced it to smithereens, the magazine can no longer go forward. We would like to thank our writers, columnists, editors and staff for their many years of service and hard work. Most of all, we would like to thank you—the reader—for allowing us to serve you and we hope that you have enjoyed the many years of this magazine. You will now be on your own to traverse the slippery slopes of California law without our guidance.

Your Friends—April "Fools" All—at The Riverside Lawyer Magazine.

Opposing Counsel: Melissa R. Cushman

by Sophia Choi

Melissa R. Cushman

I have known Melissa R. Cushman for some time now, and I have yet to see her without a smile on her face. Interviewing her was a great opportunity to get to know her even better.

Melissa R. Cushman is an associate attorney at Best Best & Krieger in the Environmental Law and Natural Resources practice group. Having family ties to Riverside since 1913, it is no surprise that Melissa practices in the County of Riverside. Melissa's great-grandparents moved to Riverside in 1913, and both she and her father were born in Riverside. Due to her dad's work, her family moved to Nashville, Tennessee, where she grew up. Melissa moved back to the Riverside County area for college, graduating *magna cum laude* from Pomona College with a B.A. in Anthropology. She was yet undecided what career path to take and did not know at that time she would become an attorney.

Melissa met her husband Eddy through friends in college. Eddy was also from Riverside. Melissa noted laughingly that she and her husband first met in Apartment 666, a typically undesirable number that the group of male college students who lived there did desire. As friends had gathered there, Melissa met her husband for the first time. In the year 2000, Melissa and Eddy got married. Eddy, who was in the Air Force, got transferred multiple times to different geographical locations, which gave Melissa, a lover of travel, a chance to live in different parts of the world and immerse in various cultures. After college, Melissa moved to Argentina, where she taught English as a second language and took Spanish classes. Melissa and Eddy later moved to Italy, where Melissa also taught English as a second language.

Eventually, Melissa and Eddy moved back to California. Melissa worked in the legal department of a bank after moving back. It was then that she chose her career path. Her experience in the legal department instilled within her a desire to become an attorney. She graduated from the University of Southern California Gould School of Law, where she earned her Juris Doctor. While in law school, she was a production editor on the *Review of Law and Women's Studies*. Melissa also externed with the Honorable Robert J. Timlin, who was a United States District Judge for the Central District of California.

Having commuted to USC law school from Riverside, she was pleased to participate in on campus interviews with a number of Inland Empire law firms, including Best Best & Krieger. Melissa was most interested in establishing her career at a law firm, doing transactional legal work. She had the perfect opportunity at Best Best & Krieger, where she became a summer associate. Having passed the California State Bar Examination in 2006, she returned to Best Best & Krieger and discovered that the excitement of litigation was worth the stress. Since then, she has diligently been working at the firm, advising clients on various projects and reviewing documents under the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA"). She further litigates actions brought under CEQA, NEPA, various land use laws, the Endangered Species Act ("ESA"), and the California Endangered Species Act ("CESA").

However, her contribution does not stop there. Melissa has taught classes at California State University, San Bernardino; University of California, Riverside; and La Verne Law School on her areas of expertise. She is also a contributing writer for the *Eastern Water Law and Policy Reporter* and the Riverside County Bar Association's *Riverside Lawyer*. Melissa is also an active member of the Leo A. Deegan American Inn of Court and a member of—and treasurer for—the Inland Empire Association of Environmental Professionals.

In her "free" time, Melissa is busy taking care of her three-and-a-half year old daughter, Alexie at her beautiful 1911 Craftsman house. She enjoys going up to the mountains with her family on the weekends, where they own a cabin in Big Bear. Melissa loves cats, tea, and reading books. One of her favorite things to do is to read a book while drinking tea (with one of her cats on her lap, if possible). It comes as no surprise that she helped found a Riverside attorneys' book club, which started in 2007, and which I, too, am a part of. It started out as a way for Best Best & Krieger's female attorneys to socialize together. It is now attended by several other Riverside female attorneys and friends.

Melissa R. Cushman is someone who is easy to get along with as she is calm and positive. She is able to get things done on time and handles emergencies well. She is definitely an asset to her firm, as well as to the Riverside legal community.

Sophia Choi, a member of the Bar Publications Committee, is a deputy county counsel with the County of Riverside. She is presently serving as President of the Asian Pacific American Lawyers of the Inland Empire.

From Petticoats to Briefs: One Woman's Career in the Law

by Virginia M. Blumenthal

The year was 1975. Overseas, the Vietnam War was ending. The last overcrowded helicopter lifted off from the rooftop of the American embassy in Saigon. Back home, Nixon presidential advisors John Erlichman and H.R. Haldeman, along with Attorney General John Mitchell, were convicted for their roles in the Watergate scandal. Lynette "Squeaky" Fromme of Charles Manson notoriety was convicted for attempting to assassinate President Gerald Ford. Newspaper heiress turned revolutionary-radical Patty Hearst was finally apprehended and prosecuted for her role in several crimes committed by members of the Symbianese Liberation Army. Broadway's "The Chorus Line" and "Saturday Night Live" premiered, as did the movie "Jaws." And Teamster's president Jimmy Hoffa disappeared.

That was the year I began practicing law. What a year! I was a woman and I was an attorney. There were very, very, very few of us.

I applied with the Riverside County District Attorney's Office. "No thank you", I was told. Same with the Public Defender's Office. I applied with all the big name law firms in Riverside but the results were the same. One hiring partner, while declining me a position with that firm, told me none of their clients would want a "woman attorney" representing them. I decided then that I would start my own law firm. I was the only one who would hire me.

I quickly discovered there were many people, men and women, who would hire a "woman attorney" to represent them. Indeed, in my first couple years, I was retained by defendants in several very serious, high profile cases.

Now, 39 years later, I look back and marvel at the strides that women have made in the legal profession. I am also impressed with the many "men attorneys" who willingly, if not always promptly, adapted to the presence of women in the courtroom. But it wasn't always that way nor that easy. As a young attorney appearing in a courtroom for the first time, I often encountered courtroom clerks who assumed because of my gender that I was a legal secretary. They were often hesitant to accept my legal motions or believe me when I insisted that I represented a particular client . . . even after I produced my ID and State Bar card. More than once, I heard others refer to me as "that girl attorney." These were often difficult times for me.

If I were to identify a defining moment in my life, however, it would be when I almost drowned as an 11-year old. I was caught in a powerful high tide off Okinawa where my military father was stationed. As I struggled in the strong current to get to shore, my dad called off the lifeguard and swam alongside me. I can still hear my dad urging me, "You can do it, kid. You can do it." My dad wanted to teach me that I could do anything I wanted to do. Throughout my life, especially during difficult times, I have often thought back to that time, and to the lesson I learned from my dad.

I tried a very serious case to a jury early in my career as an attorney. I was pregnant, very pregnant, with my son. Pregnant women were not a common occurrence in the courtroom. It was almost unheard of. Judge Gerald Schulte, a very somber, formal bench officer, presided over the trial. The prosecutor was concerned that my condition might generate unwarranted sympathy from jurors, so during jury selection, he commented to a prospective juror that I was pregnant and inquired what he thought about that. The juror raised his arms and emphatically responded that he had nothing to do with my pregnancy. I thought Judge Schulte would never stop laughing.

I was not concerned that my pregnancy would be a distraction, and it wasn't, at least until I stood and began presenting my closing argument to the jury. I literally went into labor as I delivered the closing argument. Being pregnant and practicing law at the same time was difficult. Raising a young family and practicing law was difficult. But when times were tough, I would think back to my dad's words, "You can do it, kid. You can do it." And I would then do it.

In 1980, Ralph Evan Brown had been elected the Riverside County Bar Association president for the year 1980-1981. He was to be formally installed at a bar association banquet which, in past years, had always been very elegant and held at the Mission Inn. To encourage attendance, a renowned speaker from outside the Riverside area was always asked to be the keynote speaker. That year, the keynote speaker was California's Secretary of State, March Fong Eu. She was the first woman ever invited to be the keynote speaker. Just days before the banquet, however, Ms. Eu had to cancel her attendance as the keynote speaker. For reasons I will never understand, Mr. Brown came to my office to speak with me. He asked if I would be the keynote speaker at his installation banquet. To suggest I was surprised is a gross understatement. "Why me," I thought.

Not only had I been an attorney for less than five years, but I was a local attorney. And my experience in the law paled in comparison with the prominent attorneys and judges who would be attending. Who would come to hear me talk? What could I possibly say that would be of benefit to them? Besides, many of my legal colleagues condescendingly referred to me as a "girl attorney." Not an attorney, but a "girl attorney." My confidence began fleeing.

Then I heard my dad's words, "You can do it, kid. You can do it." And I thought, "Yes, I can do it. And I will have something to say that will benefit that esteemed audience." I wasn't quite sure what I would say, but I knew I could do it. I accepted the invitation.

As I thought about what to say, I realized, "The audience will be practically all men. And I am a woman." I figured if there was one thing I knew more about than they did, it was being a woman in the law and the need for women in the law. I would talk about the need for diversity in the law. Diversity generates balance. And the practice of law needs balance. My confidence began reasserting itself.

Shortly thereafter, the banquet committee contacted me. They were preparing the program for printing and they needed to know the title of my keynote speech. I still didn't know what I was going to say, much less what the title should be. Without a lot of thought, I said half-jokingly, "From Petticoats to Briefs." The publicity quickly spread, and the controversy just as quickly began. Needless to say, the Riverside County Bar Association's Installation Banquet that year sold out quickly.

I don't recall everything I said at the installation banquet. It's been a while. I do recall saying that the law needs balance, that the courtroom needs balance, that a female juror's work-related issues were just as real and important as a male juror's work related problems. These were not givens at that time. The practice of law at the time was the domain of men. I said a woman attorney's mere presence in the courtroom will be a constant reminder to the court and counsel that issues women raise – whether they are witnesses, jurors or members of the public – should be treated with the same consideration as issues raised by their male counterparts, that they are just as real and just as important. I told the audience that as the only female criminal defense attorney in the county, I understood what minorities meant when they said they felt invisible when others were talking around them.

I love being a woman. I love being an attorney. I love seeing women embrace the practice of law. The law is a better place because of our presence. In my life I have gone from petticoats to briefs, and I have loved every moment of it.

Virginia Blumenthal is the founder of Blumenthal Law Offices in Riverside.

Civility Matters

Reported by Abram S. Feuerstein

"You may not be able to outsmart all the other lawyers in town, but you can out-nice them," San Bernardino Superior Court Judge Bryan Foster told bar members attending the February RCBA general membership meeting.

John Lowenthal, Judge Bryan Foster and William Shapiro

Judge Foster was the moderator and one of three speakers at a program entitled, "Civility Matters: Being Civil in an Uncivil World." Seasoned trial attorneys John Lowenthal, a partner at Lewis Brisbois Bisgaard & Smith LLP in San Bernardino, California, and William Shapiro, of Robinson Calcagnie Robinson Shapiro of San Bernardino, California, joined Judge Foster in presenting the program.

"I tell the litigants who appear before me that I have three rules," Judge Foster said. He noted with humor that he developed the rules from a prior job experience when he served as a playground director. "Don't talk too loud; share your toys; and be nice to everyone."

Similarly, Shapiro said that the rule that mattered most to him is "the old golden rule." Regretting that we now have civility rules imposed from the outside, Shapiro recalled a time when civility was "part of our essence" as practicing lawyers. As a young attorney observing "old pros" in San Bernardino, Shapiro quickly learned that he possessed "a white sheet of paper" – his reputation. He noted: "Every business dealing I had was a mark on that paper; I wanted to make sure that I had more plusses than minuses on the sheet of paper."

Being Civil is Good Business

The speakers addressed why they believed civility matters. Lowenthal stated that for an hourly biller, being civil with the other side is "good for the bottom line." "I tell my clients that if they want a fight, their litigation costs will go up 50 percent."

Judge Foster agreed: "If you are uncivil, you are making litigation more expensive, and you are poisoning the well now and in the future."

Shapiro added his thoughts: "All you are doing is creating an enemy who is going to go out of his or her way and spend midnight oil to go after you. And you are creating a lifelong enemy, too."

Managing Clients

A persistent problem noted by all of the speakers was the client who equated civility with weakness or "giving in" to the other side. "I have to disabuse (clients) of that notion," Lowenthal said. He tells his clients that they will spend less money if the parties maintain civil and professional relationships.

Shapiro said that he would not take on clients who told him that they wanted Shapiro "to tear off another person's head." "There are all kinds of battles in the world and you don't need to be part of all of them."

Judge Foster commented on partners who instructed junior attorneys to behave inappropriately in response to client desires. "There has to be a good fit between the attorney and client," he noted. "You have to be yourself. Some firms may be the type to ask their associates to do this; but the associate simply may need to tell the partner that he is not the right lawyer for the case."

Videos and Videotaping Depositions

The speakers spent a large part of the program showing actual videos of litigants and their attorneys acting abusively during depositions. In one example, a client cursed nonstop at his opponents. In another, the attorneys nearly came to blows.

"You can never let it get to that point," Lowenthal noted. He advised that as an attorney, "you cannot let (the parties' emotions) escalate, and don't let your clients lose control." Judge Foster counseled that attorneys at depositions "have to be ultra-calm" and cannot react to the other person with a similar level of incivility. "Ask yourself if you want (what you are doing) to be part of the permanent record," Judge Foster said.

"Our obligation is to recognize that these things can happen," added Shapiro. Shapiro said that it was important to evaluate the client and let him know that abusive behavior is self-destructive. Shapiro also cautioned parties that videos "can go viral in a matter of seconds." According to Shapiro and the other speakers, it is a good idea to use practice videos to let clients know what their behavior looks like, and that videotaping is a good tool to control the parties' behavior in the deposition room.

Uncivil Judges

The speakers also had some ideas for practitioners when they encountered incivility from the bench and, specifically, guidance for lawyers when they confront the drowsy or sleepy judge. Judge Foster told the audience that judges take all kinds of classes as to how to act and behave. But he acknowledged that judges had difficulty maintaining concentration when, say, they are sitting through yet another low impact accident case.

When feeling a little drowsy himself, Judge Foster said that he takes more frequent breaks and uses a trick – he bends a paper clip so that the point is exposed and then he squeezes his hand with the paperclip point to remain alert. "Judges are human," Judge Foster said.

All of the speakers recommended "off-the-record" discussions with the sleepy judge in dealing with the problem before taking more formal action.

By contrast, instead of blaming the judge, Shapiro observed that if a judge fell asleep while Shapiro was the examining lawyer, Shapiro would ask himself why he was so boring. "There is theater to our art," and you have to "move around or do something else to make your presentation more interesting," he said.

Abram S. Feuerstein is employed by the United States Department of Justice as an Assistant United States Trustee. In that capacity, he supervises the Riverside District Office of the Office of the United States Trustee. The views expressed in this article, if any, do not represent the views of the United States Department of Justice, the Office of the United States Trustee, or the United States Trustee, but are solely those of the author.

Civility and Default

by Jason K. Schrader

Custom and practice dictate that attorneys warn their opponents before requesting their default.[1] The ABA has exhorted attorneys to observe such customs and practices, even in the absence of a rule or requirement;[2] however, California, like most jurisdictions, does not *require* attorneys to follow those norms.[3] Although the State Bar of California adopted the California Attorney Guidelines of Civility and Professionalism (the "California Guidelines") on July 20, 2007, the California Guidelines are not mandatory.

The California Guidelines admonish attorneys to refrain from taking "the default of an opposing party known to be represented by counsel without giving the party advance warning."[4] Similarly, the Central District of California has issued its own Civility and Professionalism Guidelines (the "CACD Guidelines"), which provide that attorneys "will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know his or her identity."[5] Although not otherwise mandatory, several District Court judges for the Central District of California have issued standing orders, trial orders or Rule 26 orders, which require counsel to adhere to the CACD Guidelines.[6]

In the absence of a civility requirement, courts routinely have criticized attorneys for seeking default without warning their adversaries.[7] Although "decrying [the] lack of professional courtesy," California courts have not gone so far as to set aside a defendant's default merely because of a plaintiff's uncivil behavior.[8] Rather, the State of California's courts weigh an unannounced default as a factor tending to show excusable neglect under Code of Civil Procedure § 473(a)(1).[9] Even though an unannounced default weighs in favor of setting a default aside, courts have declined to set aside such a default with some frequency.[10]

Federal courts also have criticized "secret" defaults.[11] One leading treatise warns that an unannounced default "will almost certainly be set aside by the court, resulting in delay and complicating future dealing with defendants' counsel."[12] In fact, some District Courts in the Ninth Circuit have sanctioned plaintiffs for requesting entry of default without warning, reasoning that such plaintiffs

1 *See, e.g. Passarella v. Hilton Int'l Co.*, 810 F.2d 674, 677 (7th Cir. 1987).

2 ABA Canons of Professional Ethics, Canon 25 (1908).

3 Only South Carolina, Florida, Arizona, Michigan, and the Northern District of Texas have required attorneys to behave civilly.

4 California Guidelines, *supra*, at p. 12.

5 http://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines. Last visited March 6, 2014.

6 The Central District of California's website makes available form orders and standing orders for several judges for the District Court of the Central District of California, which require attorneys to comply with the CACD Guidelines. Those judges include: the Hon.Valerie Baker Fairbank, the Hon. Gary A. Feess, the Hon. Dale S. Fischer, the Hon. Michael W. Fitzgerald, the Hon. Phillip S. Gutierrez, the Hon. R. Gary Klausner, the Hon. John A. Kronstadt, the Hon. Beverly Reid O'Connell, the Hon. Fernando M. Olguin, the Hon. James V. Selna, and the Hon. Alicemarie H. Stotler. Other judges may impose similar requirements.

7 *Fasuyi v. Permatex, Inc.*, 167 Cal. App. 4th 681, 701 (2008) [stating there "is *at least* an ethical obligation of counsel" to warn a party before requesting entry of default (emphasis in original)]; *Belim v. Bellia* 150 Cal.App.3d 1036, 1038 (1984) ["as a matter of professional courtesy counsel should have given notice of the impending default, and we decry this lack of professional courtesy"]; *Sanchez v. Mazaheri*, 2009 Cal.App. Unpub. LEXIS 7531, 12-13 (2009); see also *In re Marriage of Davenport*, 194 Cal. App.4th 1507, 1536-1537 (2011) [criticizing counsel for behavior contrary to the California Guidelines].

8 *Turner v. Allen*, 189 Cal.App.2d 753, 758 (1961) [there is no requirement that one party warn the other before requesting entry of default]; *Nicholson v. Rose*, 106 Cal.App.3d 457, 463 (1980) ["although plaintiff's counsel was not legally obligated to contact opposing counsel when the latter failed to appear for trial, custom and professional courtesy dictate that he should"); see also, *Belim v. Bellia, supra*, 150 Cal.App.3d at p.1038.

9 *Nelson v. Southerland*, 187 Cal.App.2d 140 (1960) ["there is no statutory or rule requirement that the plaintiff's attorney notify the defendant's attorney (if known) that he intends to take a default[, b]ut failure to do so will usually be a sufficient ground of setting the default aside], citing 2 Witkin on California Procedure, 1694; *Pearson v. Continental Airlines*, 11 Cal.App.3d 613, 619-620 (1970) [when an a party requests his adversary's default without advance notice, "the applicant acts at his own risk"]; *Carrasco v. Craft*, 164 Cal.App.3d 796, 807 (1985) [a court can consider "the quiet speed 'with which [a] default was taken . . . in determining whether or not to set aside the default"].

10 *See e.g., Iott v. Franklin*, 206 Cal.App.3d 521, 531 (1988) ["it would be absurd to encourage unilateral, self-created extensions of time," when an attorney presumes the mere request for an extension protects him from default]; *Carrasco v. Craft, supra*, 164 Cal.App.3d at p. 807; *Belim v. Bellia, supra*, 150 Cal. App. 3d at p. 1038; see also *Swoope v. Gary Cmty. Sch. Corp.*, 2012 U.S. Dist. LEXIS 22233, 6-7 (N.D. Ind. 2012) [reasoning that the plaintiff's failure to provide the defendant with prior notice was not good cause for default].

11 *Bateman v. United States Postal Serv.*, 231 F.3d 1220, 1223 (9th Cir. 2000) [criticizing the plaintiff for scheduling a summary judgment motion so as to prevail by default while plaintiff's attorney was absent]; *Hayek v. Big Brothers/Big Sisters of Am.*, 198 F.R.D. 518 (N.D. Iowa 2001) [stating that a request for entry of default made without notice, after the purported expiration of an extension, smacked of an attempt to blindside the defendant).

12 Schwarzer, Tashima, and Wagstaffe, *California Practice Guide: Federal Civil Procedure Before Trial,* 6.19, pp. 6-4 (2013).

are vexatious litigants within the meaning of 28 U.S.C. § 1927.[13] *Cox v. Nasche*[14] analyzes the appropriateness of such sanctions. In that case, a plaintiff initiated an action in the Superior Court of Fairbanks, Alaska against defendants residing in Texas and New York. The defendants appeared through their Alaska counsel, and then removed the action to the District Court, also located in Fairbanks. Simultaneously, the defendants' Alaska counsel requested that their out of state counsel be admitted *pro hac vice*. Nine days later, and 23 days after service by mail of the original complaint, the Plaintiff obtained entry of default. The plaintiff's attorney did not first alert the defendants' counsel. The Court recognized that the plaintiff had no legal obligation to notify the defendants' counsel before seeking default, but reasoned that requesting default under these facts constituted "vexatious motion practice without hope of success."[15] The Court held that "no reasonable attorney, acting in good faith, could have believed that the time spent pursuing a FRCP 55 action in this case would result in any benefit to [the plaintiff]." [16] The court set aside the defendants' default, and issued an order to show cause why sanctions should not be imposed against the plaintiff's counsel pursuant to 28 U.S.C § 1927.

Unfortunately, neither statutes, nor case law, nor mandatory rules standardize the steps a party *must* take before requesting entry of default. Besides the scorn of the Court (and the possibility of sanctions before a federal court), little prevents an aggressive or unscrupulous attorney from requesting default without warning. Furthermore, the case law provides several examples of lower courts refusing to set aside such defaults, and appellate courts refusing to find that the lower courts abused their discretion. Certainly, defense counsel cannot presume a plaintiff's attorney will provide advanced notice of default, or that a court will set aside such a default.

13 *See, e.g. Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1362 (9th Cir. 1990) (*en banc*) [affirming sanctions under 28 U.S.C. § 1927 when the plaintiff's counsel obtained entry of default without warning the defendant's counsel].

14 *Cox v. Nasche* 149 F.R.D. 190 (D. Alaska 1993).

15 *Id*. at p. 194.

16 *Id*. at p. 194.

From a plaintiff's perspective, it is not always clear when the duty to warn of an impending default applies. The California Guidelines, CACD Guidelines, and case law in general, admonish attorneys to warn opposing parties before requesting default, but only if the plaintiff's attorney knows the opposing counsel's identity. On the other hand, at least one court has found a duty to warn when the identity of the defendant's counsel was uncertain.[17] Indeed an attorney may be required to give *written* warning and then wait a reasonable time before requesting entry of default.[18] Given the courts' collective propensity to set aside defaults entered against unsuspecting parties, and given the possibility of sanctions when before a federal court, a plaintiff's attorney would be wise to err on the side of caution.

Jason K. Schrader is employed by the United States Department of Justice as a trial attorney for the United States Trustee Program ("USTP"). The USTP's mission is to protect the integrity of the nation's bankruptcy system. The views expressed in this article belong solely to the author and do not represent the views of the USTP, the United States Trustee, or the United States Department of Justice.

17 *Fasuyi v. Permatex, Inc., supra*, 167 Cal. App. 4th at p. 701 [finding a duty to warn when a defendant's general counsel transmitted the plaintiff's complaint to its insurer, but the insurer had not yet appointed panel counsel].

18 *Id*. at p. 702, citing Weil and Brown, *California Practice Guide: Civil Procedure Before Trial*, ¶¶ 5:68 to 5:71, pp. 5-16 to 5-17 (rev. No. 1, 2007).

Political Incivility and What Lawyers Can Do About It

by Abram S. Feuerstein

Jean Cocteau, the French writer and filmmaker, once observed that tact consists in knowing how far we may go too far.[1]

Have our politics and our politicians in fact gone too far? A seeming industry has developed – of books, articles, and academic studies –which give the impression that American politics has evolved into shouting matches acted out on Capitol Hill during the day; politically conservative radio programs during rush-hour commute times; and dueling cable television news stations at night.[2] It has become cliché that incivility and political polarization have led to legislative "gridlock" which, in turn, prevents our nation from solving its, well, insolvable problems.

The purpose of this essay is not to measure the amount of mud in today's mudslinging. Historians and political scientists are better qualified and positioned to assess whether civility is on the wane. Yet surely the battles between the Federalists and anti-Federalists and, later, the Jeffersonians, seem more heated than the stiff and lifeless encounters on today's Congressional floor given air-time on C-Span; and the debates between abolitionists and those defending a slavery status quo make Bill O'Reilly's visits with *The View*[3] women seem like a park picnic. And even GOP Congressman Joe Wilson's shout, "You Lie!," rudely interrupting a health care speech by the President to a joint congressional session in September 2009,[4] almost seems tame compared with goings on in legislative bodies of other democracies – including the spirited Prime Minister's Questions on Wednesdays in the British House of Commons, or the characteristic noisy sessions of the Israeli Knesset.

The degree of First Amendment cross-fire that a society can or should tolerate necessarily depends on its prevailing sensibilities, on how public opinion defines the boundaries of decency. And because the standards for civility change over time and vary by nation, civility or the lack of civility should not be judged by historical yardsticks or standards imported from other nations. In short, telling a person that they are full of tobacco juice[5] is only insulting when people hold a common or shared negative impression of tobacco juice.

Instead, this essay will focus on a troubling aspect of modern political discourse that, to me, seems to get little attention, and whether there is something in our training as lawyers that can put a brake on it.

Acceptable Debate or McCarthyism

If political issues boil down to disputes over fundamental assertions and a clash in value systems – and they do -- political viewpoints inevitably will collide and result in disagreement. And depending on the issue, the disagreement may be intense.

But what is toxic to civility, and poisonous to political discourse, are attempts to demonize one's adversary and assign evil motives to their political positions. A story from the early 1960s illustrates the point. Conservative opinion leader William F. Buckley, Jr., was attempting to eradicate the far right John Birch Society from the movement to support Arizona Senator Barry Goldwater for president. Buckley observed that the Birchers may have correctly diagnosed that the United States had lost ground to communist countries, but embraced the fallacy that the individuals making policy for the United States must be communists.[6]

Not too long ago there was a label applied to this type of demonization: McCarthyism. Yet when it arises in other contexts today, few notice. For instance, we hear an accusation that a person who opposes increased federal funding for public schools must be against children. Or a person who advocates against public funding of birth control products is engaged in a "war" against women. An individual who opposes an increase in the minimum wage

1 *Le Coq et l'Arlequin* (1918).

2 For instance, on March 1, 2014, the Harvard Negotiation Law Review held a symposium entitled, "Political Dialogue and Civility in an Age of Polarization." See *www.hnlr.org*. Another organization, Civil Politics, whose website is *www.civilpolitics.org*, states that its mission is to "provide evidence-based support to groups working to promote inter group civility and mutual understanding."

3 *The View* is a day-time television talk show airing on ABC. Well known television personality Barbara Walters is one of five female co-hosts of the program. *See http://en.wikipedia.org/wiki/The_View_(U.S._TV_series).*

4 *http://www.cnn.com/2009/POLITICS/09/10/obama.heckled.speech/.*

5 In the James Thurber fable, "The Turtle Who Conquered Time," a squirrel tells a grasshopper: "You are full of tobacco juice, and your friend the frog is full of lightning bugs." James Thurber, *Further Fables for Our Time* (1956).

6 William F. Buckley, Jr., "Goldwater, the John Birch Society, and Me," *Commentary Magazine*, October 2008, available at: *www.commentarymagazine.com/article/goldwater-the-john-birch-society-an-me/.*

is accused of being in bed with corporate interests, and wanting to starve workers and deprive them of a living wage. Those who want to reduce or withdraw an American military presence in Iraq or Afghanistan, or reduce the military budget, are accused of being in favor of terrorism. People in favor of drilling for oil off-shore or in a national park clearly must favor contaminating the environment. Those proposing increased penalties for certain types of criminal behavior are racists. The list goes on and on.

Rather than assuming that political adversaries are people of good will armed with different concepts of what is in the public interest, in all of these examples the modern-day McCarthyites have accused their opponents, essentially, of lacking morality. Incredibly, they then wonder where bipartisanship has gone and why consensus increasingly is difficult to achieve.

A Role for Lawyers?

Lawyers always have played a unique role in American politics. Of the 56 representatives who gathered in Philadelphia to consider a declaration of independence, half were lawyers.[7] Although 37 percent of today's senators are lawyers, in 1971 and 1972 that number was as high as 51 percent.[8]

Perhaps lawyers can play a unique role today in preserving *civility* in politics, even as they wrestle with a perceived loss of civility in the profession. First, lawyers can be role models. Lawyers are trained to make arguments in a civil manner. The focus is on the strengths and weaknesses of a position; and not on personalities. Arguments are restrained by precedent, and constrained by evidence. In court, we address the court, and not our adversaries. Behavior that disrupts court proceedings is penalized; respectful listening is expected. Courts quickly dismiss accusations of evil or base motivations attributed to another party or his or her lawyer. And those who engage in unfair tactics are ostracized.

But more significantly, lawyers are analytical by training if not by nature. We can contribute to civility in politics not only by exhibiting good manners in our profession, but by identifying baseless assertions made by politicians about another person's motives. If something smells of McCarthyism – whether the smell is coming from the left or from the right – we should say so, instead of merely holding our noses. Ultimately, by using our skills to criticize improper argumentation, we can help elevate political discourse above the *ad hominem*, expose demagoguery, and promote compromise.

Abram S. Feuerstein is employed by the United States Department of Justice as an Assistant United States Trustee in the United States Trustee Program (USTP). The mission of the USTP is to protect the integrity of the nation's bankruptcy system and laws. The views expressed in the article belong solely to the author, and do not represent in any way the views of the United States Trustee, the USTP, or the United States Department of Justice.

7 http://www.constitutionfacts.com/us-declaration-of-independence/about-the-signers/.

8 C. Rampell, "First Thing We Do, Let's Elect All the Lawyers," *The New York Times*, February 23, 2012. See http://economix.blogs.nytimes.com/2012/02/23/first-thing-we-do-lets-elect-all-the-lawyers/?_php=true&_type=blogs&_php=true&_type=blogs&_r=1.

Civility – Does It Really Matter?

by the Honorable Sharon Waters and Stefanie G. Field

Yes, civility matters. But before we can discuss why civility matters, we have to understand what "civility" means. Is it just being nice or polite? Is it having good manners? Or is it something more?

The Merriam-Webster Dictionary informs us that "civility" means "civilized conduct." Hmmm . . . not quite a solid foundation for discussion. Further investigation of the dictionary, however, yields the following definition for "civilized," "marked by well-organized laws and rules about how people behave with each other," "polite, reasonable, and respectful," and "pleasant and comfortable." Thus, when these definitions are taken together, "civility" can be seen as behaving in a polite, reasonable, and respectful manner, in accordance with the rules of our society.

While this precept could provide a foundation for the discussion of civility and its presence in, or absence from, the practice of law, this precept lacks the essence or soul of what civility should be to a litigator. An attorney could practice his or entire career being polite, respectful and reasonable to opposing counsel, following proper etiquette, without fully engaging in civilized conduct.

As posited by the Institute for Civility in Government:

> "Civility is about more than just politeness, although politeness is a necessary first step. It is about disagreeing without disrespect, seeking common ground as a starting point for dialogue about differences, listening past one's preconceptions, and teaching others to do the same. Civility is the hard work of staying present even with those with whom we have deep-rooted and fierce disagreements."

When regarded from this vantage, you can begin to see how the polite attorney, while engaging in laudable behavior, may not have been hitting the "civility" bullseye.

In the context of litigation, civility starts with the opening of a dialogue. In times gone by, when the population was smaller, and transportation was more time-consuming, attorneys lived where they practiced law. Writing was a time-consuming and laborious effort, making direct communication more desirable. Opposing counsel was someone they knew and against whom they would likely litigate many cases throughout their career. Opposing counsel was also someone with whom the attorney would socialize. That sort of proximity and intertwining of social and professional lives fostered a type of civility that extended beyond politeness and common courtesy.

Technological advancements and population growth have altered the fundamentals of how attorneys practice law and socialize. Attorneys do not necessarily live in the city in which they work, nor do they necessarily socialize with their adversaries. Likewise, it is not uncommon to litigate against counsel whom an attorney has never before encountered or whose offices are in a distant location. And, communication by telephone and email has replaced the in-person meeting. While these changes come with many advantages, they also come with the disadvantage of the loss of a personal connection. Without a personal connection it becomes easier to forget to be civil.[1] As a consequence of these societal changes, civility must become a conscious and deliberate practice, rather than the natural or instinctive behavior of the earlier era.

Why does it matter? Because the lack of civility harms everyone: the client, opposing counsel, the court, the public, and even the attorney.

First, let us look at the client. The client comes to an attorney because there is a problem that he or she needs to have resolved. The fact that there is a problem means that the client is already suffering, financially, physically, and/or emotionally. That suffering is only compounded by an attorney who fails to practice civility. For example, an expedient resolution may be lost when the attorney rushes to file a lawsuit, rather than calling the opposing party to see if a resolution can be reached. During a lawsuit, working cooperatively with opposing counsel, rather than filing motions that may be unnecessary or writing lengthy, unproductive meet and confer letters, can help to save the client money on fees, making the client ultimately more satisfied with the attorney's representation. Likewise, establishing a good rapport with opposing counsel can also lead to earlier settlements. Thus, in a sense, civility can be seen as trying to work with opposing counsel in a manner that will minimize the time and effort the attorney spends on a case, in order to gain the maximum benefit possible to the client.

1 The potential impact of reality television on societal perceptions of proper etiquette and manners and what behavior is, and is not, acceptable is beyond the scope of this article. While the entertainment industry may also be having an impact on civility in society, that is a topic beyond the authors' expertise.

Next, let us look at opposing counsel. Dealing with an attorney who fails to practice civility causes much stress to an opposing counsel. That counsel will have to expend time and resources engaging in unnecessary battles that take the focus off the key issues to be litigated in a case. Their patience is tested, which in turn impacts their behavior in the litigation. It also results in their client having to spend excess fees in the litigation, which can impact the opposing party's reasonableness. The resulting escalation of aggression, stemming from the lack of civility, benefits no one.

Where do the courts fit into this discussion? Lack of civility results in unnecessary court filings, e.g., ex-parte applications that could have been resolved through a stipulation and order and motions to which there is little or no opposition. The result is a congested calendar and a waste of judicial resources. The court's docket gets filled sooner and hearing dates get pushed further out. This also means that less time is available to the court to give attention to cases that need judicial intervention.

Likewise, a lack of civility harms the public. When attorneys advocate their client's positions in a civil manner, they foster the public's trust and confidence in our judicial system. A jury hearing evidence at trial should be able to focus on the evidence, and not be distracted by battles being waged between the attorneys. By focusing on these issues, the jury is assured that justice is founded upon the merits of a case, and not who has the bigger bully as an attorney. Furthermore, if the attorneys save their adversarial tactics for issues that truly matter, the trial will move more expediently, which the jury will greatly appreciate.

Last, but certainly not least, practicing civility benefits the attorney. Litigation is time consuming and expensive. When an attorney lacks civility, the costs to the attorney's time and the client's wallet increases. The result is an overwhelmed attorney and an unhappy client. Avoiding unnecessary battles, by practicing civility, allows the attorney to focus on the issues that matter. A side benefit is a lower stress level, which is better for the attorney's health and his or her attitude.

Although some attorneys seem to have the perception that engaging in civility is a sign of weakness or is somehow detrimental to their clients, the reality is that an attorney can effectively and vigorously advocate a client's position while still being civil to the opposing counsel. Obstreperousness gains nothing in return but ill-will and enmity. Ultimately, it increases the cost of litigation and uses resources (time and money) that could best be spent elsewhere. In contrast, civility fosters resolution and focuses litigation on the true issues in dispute.

So, what then is civility? Civility is treating opposing counsel with politeness, respect, and courtesy. Civility is also zealously advocating for the client, while making the effort to reach out to opposing counsel to discuss the issues and attempt to work out resolutions, even if only partial, without the need to seek court intervention. It is focusing time and attention on the issues that matter, rather than getting bogged down with inanities. The result is efficient litigation geared towards maximizing the benefit for the client. Thus, practicing civility, through attempts to resolve issues through conversations and agreements benefits everyone. Civility matters.

The Honorable Sharon Waters is a judge with the Riverside Superior Court.

Stefanie G. Field, a member of the Bar Publications Committee, is a Senior Counsel with the law firm of Gresham Savage Nolan & Tilden.

Membership

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective April 30, 2014.

Peter James Carlson – Sole Practitioner, Riverside

Aaron L. Chandler (S) – Chandler & Associates, Riverside

Corey G. Lee – Office of the U.S. Attoreny, Riverside

Jennifer L. Martinez – Martinez & Schill LLP, Riverside

Carlos Mathus – Holstrom Sissung Marks & Anderson APLC, Corona

Asal Nadjarzadeh Shiraz – Shiraz Law Group, Mira Loma

Sandra B. Norman – Law Offices of Sandra B. Norman, Riverside

Amy M. Oadken – Walker Trial Lawyers LLP, Canyon Lake

James S. Sohn – Clayson Mann Yaeger & Hansen, Corona

Michelle S. Stevens – Law Offices of Richard K. Isles, Riverside

Albert Bates Wenzell, Jr – The Wenzell Law Group Inc., Temecula

(S) = Designates Law Student

Interested in writing?
Seeing your name in print?
Advancing your career?
Addressing your interests?
Being published?
Expressing your viewpoint?

Join the Riverside Lawyer staff NOW and be a part of our publication.

Contact Charlene or Lisa at the RCBA office (951) 682-1015 or lisa@riversidecountybar.com

Classified Ads

Office Space – Grand Terrace
Halfway between SB Central & Downtown Riverside. 565 to 1130 sq ft., $1.10/sq ft. No cams, ready to move in. Ask for Barry, (951) 689-9644

Office Building For Sale/Lease – Riverside
12th and Almond Streets - west of Market Street. Two blocks, walking distance of Courthouses. Approximately 2700 sq. ft. Older, two-story, historically-designated house, converted into six offices, kitchen, conference, and reception areas. Handicap accessible with parking available. Contact John at 951-682-1700.

Office Space – Riverside
2,700+ sq. ft., $2,450/month + utilities and trash, no cams, 7 large offices/conference rooms, reception area, large copy room, full kitchen and patio pre-wired for phone, internet and alarms. Call Kathi at 951-682-7334

Paralegal Position/Work Wanted
Twelve years experience in civil litigation & family law, complaints, demurrers, motions, discovery. (951) 544-7234

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

Request For Proposals - Juvenile Court Delinquency Conflict-Level Representation
The County of San Bernardino anticipates releasing during April 2014 a Request for Proposals (RFP) for Juvenile Court delinquency conflict-level appointed representation services. The RFP will be posted on the San Bernardino County Purchasing Department website, under the heading "Request for Proposals."
http://www.sbcounty.gov/purchasing/main/default.aspx
Information about the status of release of the RFP can be obtained by calling (909) 708-8779.

Office Space – Downtown Riverside
Riverside Legal & Professional Center. Downtown Riverside walking distance to Courthouse. Private Executive Suite offices, virtual offices and conference rooms rental available. We offer a state of the art phone system, professional receptionist and free parking for tenants and clients. Accessible from the 91, 60 and 215 freeways. (951) 782-8089.

Office Space – Downtown Riverside
Prime downtown Riverside office space for lease. Quaint historic house renovated into offices. Ideal for a CPA, Insurance or Legal Office. Approximately 1430 sq ft. Price per sf is negotiable from $1.50 net lease. Free parking. Walking distance to all courts. Great freeway access. Please email: lmcclure@tclaw.net and reference House Lease.

Riverside County LAWYER

Riverside County Bar Association
4129 Main St., Ste. 100, Riverside, CA 92501
RCBA 951-682-1015 LRS 951-682-7520
www.riversidecountybar.com rcba@riversidecountybar.com