

RIVERSIDE LAWYER

July/August 2014 • Volume 64 Number 7

MAGAZINE



Departing To	Sched Airline
Atlanta	8:30A US
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Austin	6:20A Ala
Boise	6:30A Ho
Boise	8:30A S
Boise	11:50A H
Boston	7:25A A
Burbank	9:05A
Chicago O'Hare	10:10A
	7:00A



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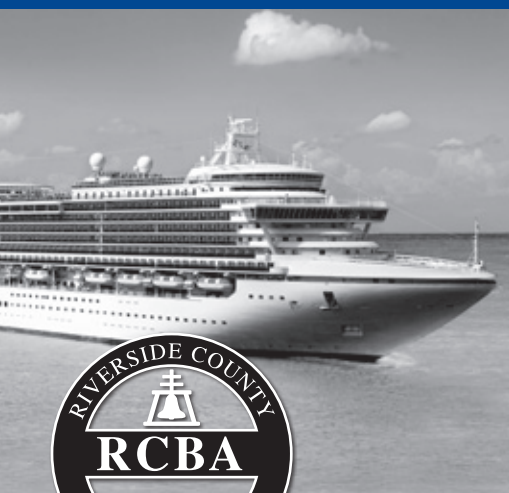
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One Lawyer's Journey

Traveler Beware – Tourism and Torts

Deductibility of Travel by Cruise Ship

Passport Denial Program (PDP): Enforcing Child Support



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RIVERSIDE LAWYER

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MISSION STATEMENT

Established in 1894

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

RCBA Mission Statement

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

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Public Service Law Corporation (PSLC), 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

August

13 CLE Event

Civil Procedure Before Trial Series
Topic: "How to Conduct a Comprehensive Online California Legislative Intent Search (in 7 easy to follow steps)"
Speaker: Bret Christensen,
Riverside County Law Library
Lunch will be provided, courtesy of Esquire Deposition Solutions
RCBA Gabbert Gallery – Noon
RSVP to rcba@riversidecountybar.com
MCLE

18 CLE Committee & the Criminal Law Section

Topic: Criminal Law Update
Speaker: Professor Michael O'Connor,
University of La Verne College of Law
Lunch will be provided to the first 30 people who RSVP by August 14.
Lunch is sponsored by The Bail Depot Bail Bonds
RCBA Gabbert Gallery – Noon
RSVP to rcba@riversidecountybar.com
MCLE

27 Appellate Law Section

RCBA Gabbert Gallery - Noon

September

18 RCBA Annual Installation of Officers Dinner

Mission Inn, Music Room
Social Hour – 5:30 p.m., Glenwood Tavern
Dinner – 6:30 p.m., Music Room

23 CLE Event

Civil Procedure Before Trial
Topic: Law & Motion
Speaker: Honorable John Vineyard
Lunch courtesy of Esquire Deposition Solutions
RCBA Gabbert Gallery – Noon
RSVP to rcba@riversidecountybar.com
MCLE





by *Jacqueline Carey-Wilson*

Forty-five years ago, my parents, John and Dorothy Carey, travelled with three of my sisters and me to San Francisco to visit relatives and tour the city. On July 20, 1969, at 7:56 p.m., we were not sightseeing. Instead, we were all glued to the black and white television to watch the astronauts land on the moon. I was five at the time and remember watching the images in the living room of my aunt and uncle's home. Millions of others were also watching Neil Alden Armstrong and Air Force Col. Edwin E. "Buzz" Aldrin Jr., walk on the moon and then salute the American flag they had planted on the surface. I do not remember much from this trip except for watching this historical event unfold on the television. However, the landing on the moon left a lasting impact on me. If men could walk on the moon, then anything was possible.

In many ways 1969 seems like yesterday. Time passes so fast and it seems as I get older, time passes faster. On August 31, my year as president of the RCBA will be finished. When I became a member of the RCBA in January 1995, Steve Harmon was president. His leadership of the RCBA was impressive and effective. At that time, being president of the bar for me was unimaginable. Later, being president was not a goal that I set for myself, but developed over years of service with the RCBA. When Judge Craig Riemer was president in 2000, I interviewed him for a profile in the *Riverside Lawyer*. Judge Riemer volunteered with the RCBA because he believes it is important to give service to the legal community in which one works. His words stayed with me since that time and I have also

come to believe that we attorneys have an obligation to give back to the legal community.

I came on the RCBA board in September 2005 for the first time. I ran for a director-at-large position on the board, but did not win. Aurora Hughes, who was president, appointed me to fill Chris Harmon's position. Chris had just been elected secretary on the board, which left his director-at-large position vacant, with one year remaining. Chris was following the same path as his father, Steve Harmon. I was honored to be selected by Aurora to fill that position. At the time, I did not know Chris well, but I had known his father since I became a member of the bar. I have come to understand that with Chris, the apple does not fall far from the tree.

Chris Harmon is ending his time as the immediate past president. I have worked with Chris for almost 10 years and have come to appreciate his leadership, judgment, courage, and compassion on the many issues that have confronted the members of the board. These skills, along with his legal ability in the court room, are why Governor Jerry Brown appointed Chris to the Riverside County Superior Court. Chris will be sworn in by Judge Helios Hernandez, on August 4, at 8 a.m. in the Historic Courthouse. The RCBA congratulates Chris on this success.

Chris is one in a long line of RCBA past presidents to be appointed to the bench. Charlene Nelson was kind enough to prepare the following list of the past presidents of the RCBA who later became judges:

<i>Name</i>	<i>Year of Presidency</i>
Russell Waite	1945
John Neblett	1947
Wallace Rouse	1948
John Gabbert	1949
Leo Deegan	1959
John McFarland	1961
J.D. Hennigan	1966
William H. Sullivan	1968
James Ward	1973
Robert Garst	1978
Barton Gaut	1979

NOTICE

Notice is hereby given that the RCBA Board of Directors has scheduled a "business meeting" to allow members an opportunity to address the proposed budget for 2015. If you would like a copy of the budget, please go to the members section of the RCBA website, which is located at riversidecountybar.com or a copy will be available at the RCBA office.

**Monday, August 18, 2014
at 5:15 p.m. in RCBA Board Room**

RSVP by August 15 to: (951) 682-1015 or
charlene@riversidecountybar.com

Stephen Cunnison	1981
Dallas Holmes	1982
Irma Asberry	1997
John Vineyard	1999
Craig Riemer	2000
David Bristow	2006
Chris Harmon	2012

I am also very pleased to include members of the RCBA board who later became judges or commissioners in Riverside County:

Howard Dabney	1976
Tom Hollenhorst	1980
Jim Bishop	1981
Sharon Waters	1994
Tom Cahraman	2000

The RCBA is very fortunate to have had these distinguished jurists at the helm of the organization.

I wish to thank the current board of directors for their hard work, enthusiasm and support. We made a wonderful team. Many will be returning to continue their service.

Speaking of which, I am very pleased to announce the following members who have been elected to serve on the 2014-2015 RCBA board: Chad Firetag, president; Kira Klatchko, president-elect; Jean-Simon Serrano, vice president; Alexandra Fong, chief financial officer; Jeff Van Wagenen, secretary; Neil Okazaki, Jack Clarke, Brian Unitt, and Sophia Choi will be the directors-at-large; and Scott Talkov, president of Barristers. The RCBA will be in very good hands next year!

Many thanks go to Diana Renteria, who was a director-at-large for the past two years, and Kelly Moran, the 2013-2014 president of barristers. We are grateful to both for their service to the RCBA.

The new board will be sworn in on September 18, 5:30 p.m. at the Mission Inn. During the dinner, the E. Aurora Hughes award will be presented to Brian Percy for his outstanding dedication to the RCBA. Please join us in September to congratulate Brian and the members of the 2014-2015 RCBA board.

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.



THE GEORGE BROWN LEGACY PROJECT

by Kiry K. Gray



[L-R]: Judge Harvey A. Silberman; Marta Brown; Jacqueline Carey-Wilson; and Hans Johnson

The Fourth Annual Reception for the George Brown Legacy Project was held on Sunday, May 18, 2014, in the courtyard of the George E. Brown, Jr. Federal Courthouse. The keynote speakers were Jacqueline Carey-Wilson, President, Riverside County Bar Association; Harvey A. Silberman, Los Angeles County Superior Court Judge; and Hans Johnson, Director, George Brown Legacy Project.

This gala event showcased George Brown's Legacy. During nearly 30 years representing the area in Congress, Brown championed science education and civil rights. Today, 15 years after Brown's death in 1999, his determination in asking "why not?" to overcome social and scientific challenges is regaining momentum. Recently U.S. senators held an all-night debate on actions needed to avert catastrophic climate change, on which Brown held the first-ever congressional hearing in 1977. From Capitol Hill to Southern California, immigration activist are pressuring House leaders to pass comprehensive immigration legislation, modeled on reforms that Brown pushed through in 1965 and 1986, allowing millions of Americans to legalize their status.

Monuments to George Brown's public service include: the federal courthouse in Riverside; the research center of the National Academy of Sciences in Washington, D.C.; an elementary school in San Bernardino; the salinity lab at the University of California, Riverside; and a designated section of the 210 freeway.

If you would like more information about preserving George E. Brown, Jr.'s legacy, please contact Hans Johnson at <http://library.ucr.edu/view/georgebrown>.

Kiry K. Gray is the Deputy in Charge of the United States District Court, Eastern Division.

Photo courtesy of Dominic Estrada.



BARRISTERS PRESIDENT'S MESSAGE

by Kelly A. Moran



As my term as the Barristers President comes to a close, I would like to take a moment to thank those individuals that have helped to make this year such a success. First and foremost, thank you to Thompson & Colegate for your continued support and assistance. Without the encouragement and help of the partners, the associates and the staff, I would never have had the time or energy to get through this year. I have been so fortunate

to work in a firm that always encourages me to become involved in the community and to grow in my professional and personal endeavors. Please know how much I appreciate all that you have done for me.

As I have said several times throughout the year, the Riverside legal community is absolutely amazing and has constantly come forward to help educate the young attorneys of Barristers. Despite their busy calendars and other volunteer commitments, I am fortunate to say that the top attorneys and judges in this community always made time to speak at our events and provide assistance to our members, often seeking us out to become involved even before I could approach them to ask for their time. I speak for the entire Barristers Board and the organization as a whole when I say that you are an inspiration to the young attorneys in this community. You have shown us how we should act, how we should give back, and how we should present ourselves to those around us. Thank you for the education that you provided to us this year. You have enriched both our legal careers and our personal lives, making a difference for years to come.

The 2013-2014 Barristers Board worked diligently to present new and exciting MCLE events which reflected the personal interests and practice areas of the organization as a whole. In addition to our regular events, we have fostered a community partnership with Esquire Deposition Solutions, who has been a faithful sponsor and supporter of our organization throughout this year. I am excited to announce that our work with and support from local corporations will be growing in the coming year, as we will also be partnering with JAMS to present a networking event and MCLE presentation inviting young attorneys throughout San Bernardino and Riverside counties to kick-off "Mediation Week". Please look for additional information about this great event to be posted on our website (www.riversidebarristers.org) and Facebook page ("Riverside County Barristers Association") later in the summer. Finally, the Barristers Board will be hard at work this summer putting the finishing touches on the RCBA's new

"Adopt a High School" program. Headed by the Honorable Bernard J. Schwartz, this program will allow local judges, attorneys, court reporters, sheriffs, and other legal professionals to partner with 12th grade Government classes at Arlington High School in an effort to showcase the careers available in the legal field. With the help of all who are able within the Riverside legal community, we look forward to launching this new venture in the fall and are hopeful that it will grow to several local high schools in the future.

Over the past year, I was honored to have served with a wonderful and dedicated Board. I am certain that the 2014-2015 Board will only further the good efforts advanced by those involved in the Barristers' programs of the past and I look forward to serving with these individuals as I take on the role of Past President. It is with great pride that I introduce you to the 2014-2015 Barristers Board:

President

Scott Talkov

Vice President

Arlene Cordoba Dashkovitz

Treasurer

Sara Morgan

Secretary

Chris Buechler Marin

Members-at-Large

Erica Alfaro

Ben Heston

Eli Underwood

In closing, thank you to the RCBA, Charlene, Lisa, and all who have been involved in aiding the Barristers program

throughout the past year. Your interest, assistance, support, and encouragement have helped this program to maintain and uphold the fine reputation that was set in place by the hard work and dedication of attorneys who came long before us. This organization succeeds and grows as a result of the efforts of its members, old and new. I am so grateful for the chance to have experienced such interaction firsthand.

In my first article as Barristers President, I explained that I joined the Riverside County Barristers Association at the urging of a friend who said “Come out. Meet other young attorneys in town. You will have a great time.” Over the last five years, and specifically throughout my last two years on the Board, I have had a wonderful time. I thank you all for this opportunity and for making my journey through

my young attorney years so much more educational, enriching, and entertaining than I could have ever imagined. Involvement in the RCBA and the Barristers program has been a wonderful part of my career and while I look forward to growth in my active membership in the future, I encourage all young attorneys to experience the benefits of the Barristers organization. I know that with active involvement, you will find your time in this organization to be as fulfilling and enriching as I have.

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.



ABROAD BUT NOT ALONE

by Kelly S. O'Reilly

Twice a year, I travel overseas with my family. I appreciate the value of my children experiencing other cultures and other countries. But I also understand that once you leave the United States and enter a foreign land, regardless of which country, you are entering a place with its own laws, customs, and potential dangers.

Smart travelers pack well and plan well. They bring coats for cold weather, sunscreen for island vacations, and keep their money safe. But even the most prepared tourist can experience unforeseen emergencies or inconveniences while traveling. Being truly prepared also means knowing where to find and how to contact your U.S. consulate abroad.

You may be remembering your favorite episodes of *Locked Up Abroad* and thinking to yourself that this advice does not apply to the typical tourist. This applies to you even if you are NOT a drug smuggler! It is true that the consulate helps U.S. citizens who are arrested in foreign countries. The consulate representative will meet with the detained individual to ensure that due process of law (according to the foreign country) is maintained. Sadly, there is not much else they can do for the accused. They will not provide legal counsel, they will not bail you out of jail, and they typically cannot do much to make your stay in a Bangladeshi prison more comfortable.

Beyond the help they provide to U.S. citizens who have been charged with a crime, the U.S. consulate provides many additional services to citizens traveling abroad. Perhaps you are not traveling to Peru to smuggle drugs back into the United States – which is a good call and as an attorney, I would strongly advise against it – but this alone does not make you exempt from being in need of assistance from your consulate. You may lose your travel documents and money at an Irish pub. You may become injured running from the bulls in

Spain. Or you may become violently ill from drinking the water in Tijuana. Your consulate can help.

First, the consulate can issue emergency travel documents in the case that you have lost your United States passport. They can also assist you with contacting your family if you need money to help you repatriate.

Second, if you have been injured or have fallen ill, the consulate will help you find a hospital. On the consulate's website, you will find an easily-accessible list of hospitals in the country where you are traveling. This list can also be obtained in person from your consulate office.

Third, if you have made the brave decision to travel late in your pregnancy, you can report the birth of your child abroad at the consulate.

And finally, the consulate can help you report a crime if you have been robbed, assaulted or otherwise harmed.

In addition to non-emergency services listed above, the U.S. consulate provides emergency services in extreme situations. All consulates have after-hours contact information in the case of an extreme emergency, such as a natural disaster. Perhaps most importantly, in the event of a *coup d'état*, war, terrorist attack, uprising, etc. the consulate can offer protection and assist in evacuation.

Regardless of where you plan to visit, take a couple of minutes to write down the location and the phone number of the U.S. consulate where you are traveling. Be safe, be smart and above all, relax! Now you know that if things take a turn for the worst, the consulate has got your back. Happy travels.

Kelly S. O'Reilly is a founding partner of Wilner & O'Reilly APLC, and is a former District Adjudications Officer for the U.S. Immigration and Naturalization Service in Los Angeles and Orange County. He presently serves as the Chair of the Immigration Law Section of the Riverside County Bar Association. More at www.wilneroreilly.com



TRAVEL INSURANCE — DON'T LEAVE HOME WITHOUT IT?

by Bernie Donahue

You have been looking forward to this trip to Europe for years with just a week to go, and then, *sacré bleu!*, you trip in the parking lot at Tyler Galleria, injure your knee, and now require surgery! What now? The trip is paid in full, including airfare, transfer fees and excursions. Without protection, these costs will likely be forfeited; however, if you have travel insurance, you'll likely be fully reimbursed for your out-of-pocket losses. This is not an extreme example. Last year we booked six couples on a Scotland-Ireland tour, one couple had to cancel when the husband has a severe kidney stone attack two days before departure. The wife of the other couple required hip surgery three weeks before departure. Fortunately, both couples had travel insurance, and were fully reimbursed for their monetary losses.

Even worse, such events can occur while you are actually on your trip. What then? Many medical insurance plans, including Medicare, do not cover out-of-country expenses. How do you find a reputable doctor? What if you require hospitalization in a foreign country? If necessary, how will you be medically evacuated back to "the States?" Do you forfeit the remainder of your trip costs? How about the increased airfare for the trip back home?

Travel insurance companies have personnel available 24/7 to handle your inquiries and requests for assistance. Your travel policy will provide instructions on how to make a telephone connection from locations around the world.

Other urgent problems they can help with include lost or damaged baggage and missed connections or departures due to air travel complications. What if the trip or cruise departs and you're not there yet?

Many of these issues can be assuaged if you have purchased travel insurance for your vacation. The question though is whether trip insurance is worth the cost. Well, it's always a good deal for the travel agent because commissions are paid, but is it a good deal for you?

As with most things involving insurance, it's a matter of balancing the risks against the costs. Principal factors affecting premiums include state of residence, total trip cost and the ages of the travelers. For a couple in their

50s, decent coverage for a 10-day trip can be roughly \$350 per couple, while for a couple in their late 60s-early 70s coverage for a 10-day trip can be approximately \$540 per couple.

Other issues are involved. For example, does the policy cover preexisting conditions? *Travel Guard*, one of the major players, provides coverage for preexisting conditions if the policy is purchased within 15 days of booking the trip or cruise. What if you just want to cancel for no reason other than you changed your mind? Such "cancellation for any reason" coverage is available, but for a substantial premium, typically up to 50%. Does the coverage apply to both spouses, even if only one had the trip-cancelling condition? In almost every case, the answer is "yes." In fact, such coverage can include cohabitating unmarried opposite-sex and same-sex couples.

How about that insurance coverage offered by the cruise line or tour company? Why not just buy it? Well, in many cases, insurance from the trip provider is more focused on covering the providers' exposure than yours, and doesn't cover everything. For example, if you booked your own airline tickets, you may not be covered for that expense.

For questions not fully answered by reading the policy, your travel agent will arrange a conference call with the travel insurance company, since the California Department of Insurance generally proscribes travel agents from interpreting these policies for their clients.

How complicated is the claim process? Well, it varies according to who sold you the policy. For medical causes, it will require a declaration from a physician. In our experience, our clients were very pleased with their experience with *Travel Guard*, but we can't speak for the experience of others. The ability to use email and scanned documents greatly facilitated the process.

Where can you find more information regarding trip insurance? Here is a link to a video from CBS News: <http://www.cbsnews.com/news/travel-insurance-everything-you-need-to-know/>. Renowned travel advisor Rick Steeves addresses travel insurance at <http://www.ricksteeves.com/travel-tips/trip-planning/travel-insurance>. A

Fodor's article on the subject can be found at: http://www.fodors.com/news/story_4477.html.

Bottom line: Should you get trip insurance? If you are over age 50, it is recommended; if you are over age 65 it is *strongly* recommended. If you do not think that you can afford it, you might wish to reconsider whether you can afford to take that trip right now.

Bernie Donahue is a retired attorney who practiced law in Riverside for 20 years after retiring as an Air Force Judge Advocate in 1992. He is a RCBA member. Bernie operates a home-based travel business in Riverside focusing on the travel needs of "friends-and-family" and is affiliated with Montrose Travel, a major travel agency in Los Angeles. Bernie can be contacted at Bernie@DonahueTravel.com or on his website www.DonahueTravel.com. He sells travel under California Seller of Travel License No. 1018299-10.



SAVE THE DATE

The Riverside County Bar Association
requests the pleasure of your company at the

Annual Installation Dinner

honoring President Chad W. Firetag,
the Officers of the RCBA and Barristers for 2014-2015

Special Presentation to Brian C. Pearcy,
recipient of the E. Aurora Hughes
Meritorious Award for Service

Thursday, September 18, 2104
Social Hour 5:30 p.m.; Dinner 6:30 p.m.

Mission Inn, Music Room
3649 Mission Inn Avenue, Riverside

INTERNATIONAL SERVICE OF PROCESS: OLYMPIC FEATS

by Abram S. Feuerstein

In the spring of 1991, my client, Frederick S. Wyle, had been appointed as the Chapter 11 trustee of a San Francisco-based payroll processing company, Hamilton Taft & Company. The business handled approximately \$4 billion in payroll taxes for such companies as Federal Express, Scott Paper, and Payless Shoes (aka Volume Shoes). Based on one-page contracts, these clients would send payroll tax money to Hamilton Taft, and Hamilton Taft in turn promised to transmit the payments to government tax agencies.

But creditors forced the company into bankruptcy after a whistle-blower alerted creditors that \$100 million in funds they had forked over to pay payroll taxes had been diverted by Hamilton Taft's principal into various purported "investments." These investments included a personal \$8 million Tyler, Texas hobby ranch, several Texas Stadium boxes, an interest in the Mesquite Rodeo, oil wells in a field way past its production peak, and a helicopter.¹ Ultimately, the District Court sentenced the principal to eight years in prison with three years supervised release, a fine, and a restitution judgment in the amount of \$62,750,000.

In the bankruptcy framework, Fred Wyle, the Chapter 11 trustee, was trying to fill the "hole" created by this remarkable Ponzi scheme.² And part of the money trail led to an approximately \$10 million investment made by Hamilton Taft in several Ritz Carlton Hotels, including one under construction in Aspen, Colorado financed by a Saudi sheikh. Hamilton Taft's principal had been wined and dined by the developer, and pitched large returns in exchange for making cash infusions into the Ritz Carltons. But the investment soured when the developer and his Saudi sheikh partner became embroiled in bitter litigation.

Locating the Defendant

My client instructed me to file a lawsuit against the hotel developer to recover the \$10 million Ritz Carlton investment. There was one problem, however. In those pre-internet days, we did not have reliable address informa-

tion for the developer and worried that we would be unable to serve him with the lawsuit.

One day I walked into my client's office, and he said, "Here's your guy," handing me a copy of a newspaper article freshly cut out from *The New York Times*.³

The New York Times had printed an article about the upcoming 1992 Winter Olympic Games to be held in Albertville, France. According to the article, our defendant, at age 43, intended to compete on behalf of Jordan in speed skiing, an Olympic demonstration sport that year. Indeed, notwithstanding his dual American citizenship, he would be the only athlete representing Jordan at the Olympic Games. Armed with that information snippet, we researched whether -- and how -- we could serve the defendant either at the Olympic village or on the Albertville ski slopes.

The Hague Service Convention

Years ago most middle to large-sized law firms had hard copies of the multi-volume Martindale-Hubbell books. Our firm owned a set. The books were pricey, and provided skimpy biographical information about other lawyers. At the back of the books, maybe in the "Z" section or the indices, Martindale-Hubbell reprinted the text of the Hague Service Convention, or the "Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters."

The Convention, which was ratified by both France and the United States, provides that each contracting State shall designate a Central Authority that will undertake to receive requests for service coming from other contracting states.⁴ The gist of the Convention is that this designated Central Authority will either effect service of the document or will arrange to have it served by an appropriate agency using the methods described by the internal law of State, or a method requested by the party provided that the method is not incompatible with the law of the State addressed. Among other things, the Convention discusses document translation requirements, and the ability of parties to take default judgments against a person served under the Convention.

1 "Was the Big Spender Just Spending Money Firms Owed to IRS?: Texan 'Chip' Armstrong Ran Scheme Processing Funds, Former Employee Alleges," *Wall Street Journal*, March 15, 1991.

2 The Ponzi involved using new payroll tax money transmitted by clients to Hamilton Taft, to pay old payroll tax obligations for other Hamilton Taft clients that Hamilton Taft failed to pay upon diverting the original funds. As a result of penalties and interest assessed by the tax authorities, the "hole" became larger over time.

3 M. Janofsky, "Olympics; Construction was Slow, So . . .," <http://www.nytimes.com/1991/12/20/sports/olympics-construction-was-slow-so.html>.

4 The full text of the Convention is available at: http://www.hcch.net/index_en.php?act=conventions.text&cid=17.

And luckily, by its express terms, the Convention does “not apply where the address of the person to be served with the document is not known.”⁵

After researching the matter and concluding that the Convention did not apply to our case, I volunteered to travel to Albertville – approximately 300 miles from Paris, in Eastern France, near the Swiss border – to serve the defendant. However, I did not speak French, and Fred Wyle saw through my ploy. Instead, Fred knew several French attorneys from his days when he had served as a Deputy Assistant Secretary of Defense in the McNamara Pentagon. He hired one to serve the documents.

In short order, the French attorney reported to us that he had traveled to the ski slopes and located the defendant in the lobby of a luxurious hotel. While the defendant was having cocktails around a fireplace surrounded by beautiful women, the attorney asked the defendant if he was, in fact, the defendant. The attorney reported that the defendant seemed flattered at being recognized. At that point, the attorney gave him copies of the summons and complaint and told him that he had been served. To his credit, the defendant put the envelope off to the side and continued with his drinks and conversation.


Although I do not know how the defendant performed at the Olympics, I do know that we obtained a default judgment of approximately \$10 million against him in the Bankruptcy Court. He tried to set aside the judgment based on defective service, but the Court refused and determined that service had been appropriate. In a subsequent settlement meeting, Fred Wyle and I met with the defendant, who agreed to pay a substantial amount to settle the judgment. I recall that Fred had been upset that the French attorney charged approximately \$8,000 to \$10,000 to travel from Paris to Albertville to effect service, but the money had been well spent.

I had not considered the events surrounding the Albertville Olympics service of the Hamilton Taft summons and complaint

for a lengthy period of time. Then a couple of years ago the defendant surfaced as a Beverly Hills socialite on a Bravo television program. He was hosting a lavish wedding reception at his \$50 million or so Beverly Hills mansion. I remember briefly thinking that the program might be more interesting if it showed the socialite being served with a lawsuit during the festivities.

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.





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5 See Hague Service Convention, Article I.

THE DEFENSE PERSPECTIVE: THE PERILS OF SUBPOENAS FOR OUT OF STATE WITNESSES IN CRIMINAL ACTIONS

by Juanita E. Mantz

This article will address the perils of securing the appearance of an out of state witness in a criminal action. The statute that governs in California is Penal Code section 1334 et seq. and specifically, PC section 1334.2 provides the following in pertinent part,

§ 1334.2. Procedure upon presentation of certificate of foreign court; Issuance of subpoena

“If a judge of a court of record in any state, which by its laws provides for commanding persons within that state to attend and testify in this state, issues a certificate under the seal of the court that there is a criminal prosecution pending in the court . . . that a person within this state is a material witness in that prosecution . . . and that his or her presence will be required for a specified number of days, then, upon presentation of the certificate to a judge of a court of record in the county in which the person is, a time and place for a hearing shall be fixed by the judge and he or she shall make an order directing the witness to appear at the hearing.”

What this means is two-fold. First, the judge in the California superior court must issue an order certifying that the witness is a material witness in a criminal prosecution. Second, a judge in the other state and county at issue must also make such an order. To further complicate matters, the witness is entitled to a hardship hearing under the statute which provides that the out of state judge must determine that, “the witness is material and necessary, [and] that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution.”

It is important to make sure that the declaration you submit with your motion to the court addresses the witness’ materiality (i.e., the witness is your star alibi witness) as well as the dates of attendance and specific number of days required for the witness’ attendance at trial. Thus, a firm trial date is a must. Furthermore, the declaration should also detail the costs of travel and accommodations and state that these expenses, as well as other statutory reimbursement expenses, will be provided to the witness

as required by the statute. The declaration must also state whether or not you are asking for the witness to be taken into custody as the statute does allow a judicial officer to remand the witness. See Penal Code section 1334.2 for a further discussion. However, a request for remand should only be made in the most compelling circumstances because a hardship would almost surely result.

One must first ask themselves whether the subpoena is even necessary. This is not an easy decision. On the contrary, the decision whether to use the subpoena power for an out of state witness is a thorny issue for a number of reasons. First of all, if the witness is cooperative, the subpoena may frighten the witness, potentially rendering them uncooperative. Also, the subpoena process for an out of state witness can be a time consuming process, one that may make a time waiver necessary. And, finally, as one quickly finds out, the procedure can be expensive because the process may require hiring of out of state counsel and a process server to assist with the process.

Along with this analysis, ask yourself one question, how important is the witness? If the witness is a crucial one, an out of state subpoena is probably a necessary evil. For example, what if you decide not to subpoena the out of state witness and they fail to get on the plane the day of trial? What is your recourse? And even more importantly, do you have a good basis for a continuance if you failed to serve an out of state subpoena on the witness at issue? The question could hinge on the presiding judge, but it is always a good idea to have the ability to show the judicial officer that you served a subpoena on the witness. Once service is effectuated, of course, there are no guarantees the witness will show, but at the very least you have judicial recourse if the witness fails to appear.

In sum, a subpoena for an out of state witness is usually a tedious and time consuming process, but if the witness is a necessary one, then the subpoena is necessary as well.

Please see the profile of Juanita Mantz on page 22.



ONE LAWYER'S JOURNEY

by Magdalena Cohen

There was a ladder, well really more a collection of sticks that seemed to be tied together with some kind of twine that might kindly be called rope. It was picturesque, a perfect symbol of a people who had not yet abandoned their connection to the land and still made everyday items by hand.

In the land around the ladder even the ground moss seemed to come in a variety of colors reminiscent of living coral. Huge centipedes, jet black with tiny little red legs scrambled over the nearby rocks and flowers bloomed in pinks, purples and a yellow so intense it made the sky bluer. We had been hiking for hours, well really for days.

The day before, after a three-day hike, up the Inca Trail, and I say up because up seemed to be the only direction we walked, we had reached the Sun Gate. It was only fitting that the Inca Trail ended in a near vertical climb, reminiscent of a rock wall without the padding at the bottom. I looked back at our assistant guide with a look that said, how am I supposed to get up that? Marco just shrugged, smiled and gestured to the top. So I climbed, figuring if I had not fallen off the side of a cliff, or slid off the many steps I had already walked the fates seemed to favor the completion of this trek. As I reached the top, one of my group members offered me a hand so I could step up. I wondered what was next.

I stumbled forward and got my first glimpse of Machu Picchu. Standing above the iconic, ancient stone site I expected an enormous swell of emotion. After all, less than twelve hours later I would turn 30, and I had been anxious and emotional about my birthday for months. But, as I stood there with my walking sticks, the sun barely above the horizon, I felt nothing.

It was not the hopeless, sad, impossible kind of nothing, but rather an absence of anxiety, a deep encompassing sense of peace, which made sense. At the beginning of the trail our guide, Wilfredo, had told us that in ancient times the Inca trail with its many "steepy ups" was meant to purify pilgrims on the way to the holy site. Perhaps, what I felt standing there, encompassed in my own personal moment of silence, in that first moment of contemplation, with the glow of accomplishment just beginning, was purified.

It was a feeling I found myself trying to recapture twelve hours later while contemplating the ladder that was tragically a part of the path I had so wisely chosen up on Huayna Picchu, the mountain that overlooks Machu Picchu.

I looked at Jen, who was getting ready to climb down the ladder and continue on our adventure to the Gran

Caverna and beyond, and then I looked at Cassi, who had gone a bit pale and I laughed.

I looked again at the ladder, and thought about the trail we had been trekking down for the last couple of hours. Just to be clear, if the ladder had been going up I would have happily climbed it, it was finding a way to step out on to the ladder and turn around that was giving me pause. I looked again at Cassi, and at Jen, and in Marco like fashion I shrugged and smiled.

Jen began to climb down, followed by Cassi. Finally, I closed my eyes and began my descent. In that moment before my foot found the first rung of the ladder there was panic, but in the days of hiking that had preceded this one I had been reminded over and over again that the only way to go was forward, and so down I climbed into the abyss of wildflowers and on to the stone cave ahead.

In the coming days I would see much more of Peru. I would lunch on the man-made Islands of Uros. I would walk through the silent corridors of the nunnery in Arequipa and watch the condors soar over Colca Canyon.

At the mouth of the Amazon, I would watch enthralled as tiny monkeys played, and larger monkeys yelled at one another. In near pitch blackness, I would wade-knee deep in mud laughing at the sucking sound that kept trying to divest me of my wellies, and later I would curl up in a hammock and listen to the rain while reading by flashlight.

A tarantula with tiny pink toes, and the world's largest rodent, the capybara, would become part of my journey and a canceled flight would lead to an unexpected tour of the many colorful squares of Lima by a wizened cab driver who spoke no English but conveyed his love for his city, and the kindness of people without language.

In the two years since, I have clung to memories of Peru, to coffee shops filled with small talk in a variety of tongues, and an Irish Pub twelve thousand feet above sea level where I watched the Final Four. It is the courage and perhaps the purification I found up on the trail that has allowed me to remain centered when work got too hard or too sad. It is the small moments of inner silence and humanity that keep me traveling around the world and through life.

Magdalena Cohen was raised in Torrance, California before heading to Portland, Oregon to earn her bachelor's degree in both English and Psychology. She returned home and earned a JD in 2006 at Southwestern School of Law in Los Angeles, California. In March of 2007, Magdalena accepted a job with Riverside County Public Defender's Office, where she continues to work today.



TRAVELER BEWARE – TOURISM AND TORTS

by Marc “MC” Tran

Tips for traveling abroad: pack light, take more pictures (selfies will suffice), and do not get injured. Should you find yourself on the receiving end of a tort while in another country, grab some ibuprofen for the accompanying procedural headache. To begin, there is no uniformity regarding how to resolve forum disputes when an American citizen falls victim to a tort while in a foreign country. With that said, let us dive in.

Bringing a Claim in an American Court: Lack of Personal Jurisdiction Over Foreign Defendants

Assuming that subject-matter jurisdiction exists, an American plaintiff must establish that the American court also has personal jurisdiction over the parties before it. Personal jurisdiction is not likely to be met under the minimum contacts test because a foreign defendant is likely based abroad and probably has not had sufficient contact with the American forum. Consequently, an American plaintiff will be denied access to the American court. If, on the other hand, personal jurisdiction does exist, there are additional hurdles to navigate. Moving right along.

Forum Non Conveniens

Even where a court has jurisdiction to review a case, it may transfer your case down the street or across a body of water to a different venue. Once notified of your claim, a foreign defendant may file a forum non conveniens motion to eject the claim because the forum is not convenient.¹ Dismissal under forum non conveniens is a discretionary matter, so a court may choose to hang onto a case instead. Nevertheless, there is no guarantee that a court will keep a particular case, especially where another forum could provide an appropriate remedy for a successful plaintiff while limiting hardship for a defendant. Indeed, in *Piper Aircraft Co. v. Reyno*,² the Supreme Court stated that the relevant inquiry was whether a remedy was available elsewhere, not whether the remedy would be sufficient.

Next, even where a court denies a foreign defendant's forum non conveniens motion and demands that the parties trek to the U.S. to be judged for the torts (allegedly) committed against you, you might have some difficulty obtaining and presenting evidence because of the limits

of an American court's subpoena power. Rule 45 of the Federal Rules of Civil Procedure recognizes two possible limits: (1) a concrete 100-mile area near the person's residence or business and (2) a vague “avoid imposing undue burden or expense” requirement that could shrink the area further. If possible, live along the border and get injured in Canada or Mexico.

Contractual Limitations: Forum Selection, Choice of Law, and Assumption of Risk Clauses

Like many American companies, companies abroad also have their favorite forums. Whether those contractual clauses will be enforced will depend heavily on which country you are in.

Also, companies abroad will likely have a provision subjecting you and your claims to the laws of their country rather than American laws. Short of major violations that are recognized by transnational treaties (e.g., torture), American laws typically stop at our borders.

Assumption of risk is another oft-inserted clause. Unlike day-to-day assumption of risk, this affirmative defense carries more weight in this context because of the nature of travel. People travel because they want an escape from the familiar. Your reason for taking the trip of a lifetime just became opposing counsel's rebuttal: you were aware of and actively sought out the risk that led to your tort.

Issue Preclusion

If you are stuck in a court abroad, be aware that you might be stuck with any judgment that court hands out also, i.e., disallowed from having an American court hear the matter after a court abroad has rendered a decision. Under *Hilton v. Guyot*,³ an American court is likely to confer legitimacy on foreign judgments that (1) have jurisdiction to hear the matter at hand, (2) have fair proceedings that provide an opportunity to present evidence, and (3) provide notice. Sans egregious bias or corruption, an American court may be unwilling to set aside a foreign court's determination.

The Difficulty With Damages

Assuming that your suit was filed without issue and you emerged victorious, there may be some difficulty with calculating and collecting damages. For example, the

¹ 28 U.S.C. § 1404.

² 454 U.S. 235, 254-55 (1981).

³ 159 U.S. 113, 167 (1895).

cost and quality of medical care varies wildly around the globe. Surgery in some countries may be much cheaper than surgery in the U.S., but this raises the question of whether you would want to have surgery in a country that cuts costs by having less regulation and oversight (however, many Americans seek out these countries precisely because of the lower cost of medical services).

As this tour comes to a close, I present you with a final obstacle: translating an award of damages into money in your pocket. There is evidence to suggest that U.S. courts are very likely to recognize foreign judgments (some suggest too eager, causing a rise in “tort tourism” —international forum shopping for softer courts). The opposite is true for many foreign countries.

Now that you know all of this, clear your brain’s cache and enjoy your trip! Safe miles.

Marc “MC” Tran is a third-year law student at UC Hastings and a 2014 Best Best & Krieger summer clerk. Before law school, he graduated with honors from UC Riverside with a B.A. in Political Science. He also boasts failed careers in comic-book illustration, food service, and forklift operation.



BENCH TO BAR



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June 30, 2014

Court Announces Intention to Reduce Self-Help Services to the Public

Due to limited staffing resources, a reduction of Self-Help legal services provided to the public will take affect later this summer. Effective Friday, August 29, 2014, legal services provided by the Family Law Facilitators, Paralegals and Small Claims Advisors will no longer be available on the last Friday of each month.

Self-Help services are provided in the Self-Help/Family Law Assistance Centers at four Riverside Superior Courthouses: the Larson Justice Center in Indio, the Southwest Justice Center in Murrieta, the Hemet Court, and the Riverside Self-Help Center located in downtown Riverside. It should be noted that the suspension of services does not include clerical staff working at these locations in the Self-Help/Family Law Assistance Centers. The reduction only pertains to legal assistance provided by the above referenced self-help employees. As a result, with the exception of the Riverside Self-Help Center, which is staffed entirely by Family Law Facilitators and Paralegals, all court locations will remain open to the public.

Please note that self-help computers, form packets, written educational materials and other resources will remain available at all court facilities in the Self-Help/Family Law Assistance Centers.

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DEDUCTIBILITY OF TRAVEL BY CRUISE SHIP

by Orlando Gotay

As both a former U.S. Deputy Maritime Administrator and Navy officer, I love to write about things maritime. Today, I write about a particular kind of income tax deduction: cruise ship travel.

Whether you can deduct travel depends on its main purpose and how it is conducted. Therefore, proper prior planning is critical.

Find CLE programs aboard a ship, pack up and go, right? Does that aloha shirt fit? Mahalo for not wearing that snug one from last year. Read on!

Domestic cruise ship travel:

You can deduct up to \$2,000 per year of your expenses of attending conventions, seminars, or similar meetings *held on cruise ships*. All ships that sail are considered cruise ships. You can deduct these expenses *only if all* of the following requirements are met:

1. The convention, seminar, or meeting is directly related to your trade or business. (Not a tax comment, but California CLE rules may allow us to take CLE from other jurisdictions so long as it is done outside California borders.)
2. The cruise ship is a vessel registered in the United States. Ever see that tiny print in cruise brochures “SHIPS OF [COUNTRY X] REGISTRY”? If the vessel does not fly the U.S. flag, the ship does not meet the requirement. The entire U.S. cruise ship fleet is composed of one vessel, the *Pride of America*. Another U.S. flagged vessel that could work, such as the *MS American Queen*, sails on the Mississippi River. Ever want to pretend you were Huckleberry Finn? Here’s your chance.
3. All of the cruise ship’s ports of call must be in the United States or in possessions of the United States. Self-explanatory. Anyway, the *Pride of America* only sails around the Hawaiian Islands.
4. You must attach to your return *two written* statements: one signed by you that includes information about:
 - Total days of the trip (not including the days of transportation to and from the cruise ship port), number of hours each day that you devoted to scheduled business activities, and a program of the scheduled business activities of the meeting.
 - Another, signed by an officer of the organization or group sponsoring the meeting that includes a schedule of the business activities of each day of the

meeting, and the number of hours you attended the scheduled business activities.

Is it worth it? Suppose you are in the 28% bracket: $\$2000 \times .28 = \560 . Really? You would think CLE cruise ship organizers would know of deductibility requirements? Some seem not to understand the rules. I found several examples that would not qualify for a deduction under these rules. Just because they have CLE onboard does not mean you can deduct the trip (you could deduct the CLE expense itself in any event).

International travel and the cruise ship deduction:

How much of your international travel expenses you can deduct depends in part upon how much of your trip outside the United States was business related. If it is all business related, or if the trip is *considered to be* primarily for business, it would also be deductible. There are various “safe harbors.” Among them: If your business travel outside the U.S. is no longer than a week, or if you spend no more than 25% of your time in non-business activities, you meet the test. The 25% refers to your regular workday, not 24 hour periods.

You can attend events or conventions in the “North American area” including U.S.A., Puerto Rico, Canada, Mexico, Costa Rica, Bermuda, U.S. Virgin Islands and nearly two dozen other destinations. Should you travel *to them by ship*, water travel to the land based activity would be deductible, subject to a maximum daily amount. For December 2013 that was up to \$748 per day. Cruise travel that breaks out the cost for meals incur a limitation of 50% of the cost of those meals. As travel to a business activity, those days you spend on a cruise ship count automatically as business days. That water travel is free of the onerous reporting requirements for domestic ship travel, and could be done on ships of any flag.

You can bring family along, but their travel is, of course, generally nondeductible.

Careful prior planning can ensure that you could lawfully take and substantiate a deduction. . . . for a business trip that could be pleasurable as well. Consult IRS Publication 463 for all the details and check with your own tax advisor.

Orlando Gotay is a tax attorney with a private practice in Palm Springs. He was the 17th U.S. Deputy Maritime Administrator, and a 1987 graduate of the U.S. Naval Academy. More fine print: this brief article is meant solely as an overview, and does not purport to be tax advice or opinion, under IRS Circular 230.



PASSPORT DENIAL PROGRAM (PDP): ENFORCING CHILD SUPPORT

by Christopher Marin

As attorneys, we frequently have to spell out to our clients the difference between *getting or having* an order and *enforcing* an order. In some cases, that lesson starts before a court case ever begins, where a potential opposing party is what we refer to as “judgment-proof.” Family law attorneys have an especially tough time disabusing our clients of the notion that judges have special *fiat* powers that ensure that Mom or Dad will drop the children off from visitation at the appointed time, or that the child support check will arrive promptly on the first of the month. Instead, we have to introduce them to the Code of Civil Procedure (and related sections of the Family Code) and the wonderful world of Remedies.

Remedies in family law teach us a valuable lesson: the law cannot make people responsible -- it can only hold them accountable. And in many family law cases, clients find a wonderful support agency designed primarily for ensuring that people are held accountable when it comes to orders for child support: the Local Child Support Agency (LCSA). The LCSAs’ powers and duties are set forth in Family Code §§ 17000, et seq., and they are awesome. An LCSA can garnish wages without a court order, report to DMV to have a delinquent obligor’s license suspended, report any amounts owing to the IRS to have any tax refunds redirected, and all that is in addition to remedies that any party can pursue on their own (i.e. property lien, writ of execution, judgment debtor exam, etc.).

Another enforcement tool in the LCSA arsenal is the Passport Denial Program. This does not come from the Family Code, but rather from federal statute, specifically 42 U.S.C. § 652, subdivision (k). For those concerned with federalism issues with the federal government dictating how states enforce child support, just look at it as one of the strings attached to states receiving federal welfare dollars. Part of the welfare system requires beneficiaries to assign child support rights to the LCSA, and the LCSA in turn pursues non-custodial parents for the support that the government is now providing for their children. But the LCSA also provides services to non-welfare recipients, albeit for a nominal fee, and without the assignment of child support rights.

Anyhow, under 42 U.S.C. § 652, subdivision (k), state agencies are required to report to the Secretary of Health and Human Services (HHS) any child support obligor who owes more than \$2,500 in past-due child support. HHS, in turn, notifies the State Department of these individuals and then the State Department is required to refuse to issue a passport to these individuals, and may further take steps to revoke,

restrict or limit a passport already issued. The refusal to issue applies to both initial applications and passport renewals.

Once a passport is restricted, the local courts have little power to remedy the situation, because all of the reporting to HHS is done through the state agency and not the LCSA. However, California has two routine criteria an obligor can meet to start the passport release process. First, pay all outstanding child support arrears down to zero (even though the threshold delinquency trigger is \$2,500). Second, contact the LCSA within 90 days of receiving notice of Child Support Delinquency and prove that the outstanding arrears never rose above \$2,500.

In certain emergency situations, the LCSA can also act to lift or temporarily stay the restriction. First, if there is a life-threatening illness or death among an obligor’s immediate relatives that necessitates travel outside of the country. Second, where the HHS mistakenly enters an individual’s information, that individual can apply for relief from the LCSA. And finally, cases where the LCSA submits an individual’s information that was provided by some other obligor.

These criteria, though, show the painful bureaucratic process that is dealing with the LCSA. The LCSA’s power is only limited to *reporting* delinquencies to outside agencies, who then act upon that information; the LCSA never suspends passports or licenses, nor garnishes tax refunds itself. Any remedy of the situation that triggered enforcement would have to come through a later report to those same agencies. Imagine a game of telephone that follows LCSA, California Department of Social Services, U.S. Department of HHS, and U.S. State Department, only the same information regarding the same obligor has to be transmitted through that line twice.

Of course, the best solution is to not get caught in this mess in the first place. As the procedure for the Passport Denial Program shows, enforcing an order can get very unpleasant, especially to delinquent child support obligors who like to travel internationally - or even drive a car legally. And it is not just a matter of living with the consequences of an enforcement remedy, it is also going through the process of un-enforcement once an obligor catches up in compliance with the legal obligation to support his or her children.

Christopher Marin, a member of the bar publications committee, is a sole practitioner based in Riverside with a focus on family law. He is also Secretary for the RCBA Barristers 2014-15 Board of Directors. He can be reached at christopher@riversidecafamilylaw.com.



OPPOSING COUNSEL: JUANITA MANTZ

by Melissa Cushman

Juanita Mantz's education and career took a few detours over the years, but defense attorney Juanita Mantz is happy she finally found her calling in the Riverside Public Defenders' Office.

A native of Great Falls, Montana, Juanita relocated to the Inland Empire with her parents, twin sister Jacqueline, and little sister Annette when she was a child, to return to her mother's hometown state. Although she was a high school swimmer and GATE student, her further education got off to a rocky start when she dropped out of high school with only five credits to go after sleeping her way through her senior year.

Soon afterward, Juanita got her GED and waitressed her way through Mount San Antonio College, where she was the editor-in-chief of *The Mountaineer*, the college newspaper. While her advisor encouraged her to apply to transfer to New York University to pursue a journalism degree, Juanita decided to stay local and instead transferred to UCR. She graduated *magna cum laude* with a Bachelor of Arts in Literature in 1999, and, although she intended to ultimately pursue a PhD in English, she applied to law school on a whim and ended up attending USC Gould School of Law. She graduated in the top 20 percentile and wrote her note on the "legal other" in Joyce's *Ulysses*, Conrad's *Heart of Darkness* and Hawthorne's *The Scarlet Letter* citing no case law.

Like many law students in the pre-recession days, Juanita had multiple job offers. She decided to take the one that paid the most and ended up moving to Houston, Texas to work at Vinson & Elkins, LLP, defending pharmaceutical companies in toxic tort litigation. However, Juanita soon realized she had made a mistake. In Houston, she found, old oil money rules, and people's opinions of you are based in large part on which local high school you attended — they had never heard of Juanita's high school, UCR, or USC. While it is generally a liberal city in a conservative state, Juanita also found that the judges still expected female attorneys to wear skirt suits and frequently assumed Juanita was a paralegal or interpreter, not an attorney. However, Juanita



Juanita Mantz

made the best of it, made friends, and was mentored by a wonderful attorney at her firm, David H. Brown, who showed her the ropes.

The day after she closed on a house just outside of Houston, her long-time boyfriend (now husband) Adrian Pelaez, got accepted to the University of California, San Francisco Dental School. Juanita and Adrian moved to the Bay Area, and Juanita found work as a contract attorney at Thelen Reid & Priest LLP, where she did

insurance litigation and represented oil companies and automobile manufacturers in toxic tort cases. Thelen Reid required her to travel frequently to Texas, which, after a few months, left her looking for a less exhausting job. She accepted a job at Rogers Joseph O'Donnell and switched to professional liability and business litigation. However, about a year later, her father passed away, and Juanita moved back to the Inland Empire to be with her family. She then went to work at Best Best & Krieger LLP doing commercial litigation.

Feeling burnt out and unfulfilled, Juanita decided to apply to become a deputy public defender. Unlike the other types of law she had practiced, Juanita immediately loved public defender work and wished she had done this type of work from the very beginning of her legal career. She loves being an advocate for the indigent, mentally ill, and disabled; being in court for much of the day; seeing numerous clients daily; doing legal "triage"; and being continually busy with interesting, meaningful work. She has had the opportunity to work in several different specialties within the office of the public defender: first, she started out in the misdemeanor court and took 11 cases to trial her first year, obtaining not guilty verdicts in four of those cases. From there she went to the drug court calendar for two years and served as the office's representative at the Riverside Opportunity Center. She was then switched to the Mental Health Court, where she handled a caseload of 250 plus cases. Now she defends felonies.

Outside of her work, Juanita's twin passions are writing and music. She has a blog called "Life of JEM, My Life

in the Inland Empire,” which she describes as “a blog about the zany childhood and adult adventures of a girl from the Inland Empire who moved out of the Inland Empire only to end up back in the Inland Empire.” She has had short stories published in literary journals and magazines and writes for the *Riverside Lawyer*. She has honed her writing skills as a four-time participant in UC Berkeley’s VONA summer writing workshop where she studied under David Mura, Andrew X. Pham and Faith Adiele. Given the opportunity to do it all over again, Juanita admits that she probably should have pursued her passion to become a writer, but she loves writing on the side. Her other solace is music, particularly 80’s punk rock. Belying the usual stuffiness of the legal profession, Juanita decorates her office with posters of Siouxsie and the Banshees and The Smiths and attends rock shows almost every weekend. Her marriage even ultimately resulted due to her love of music — she and Adrian met at Club Flamingo Hills on goth night two decades ago, and they’ve been together — and attending concerts together — ever since.

Melissa Cushman is an associate at Best Best & Krieger LLP’s Riverside office, where she and Juanita met and became friends. For more information about Juanita and tales of her life and adventures, check out her blog at <http://www.lifeofjem.com-jemmantz.blogspot.com/>.



Superior Court of California County of Riverside

MEDIA ADVISORY

June 30, 2014

Contact: Mark A. Cope, Presiding Judge

(951) 777-3162

electronic version available at: <http://riverside.courts.ca.gov/media/media.shtml>

BILL TO PROVIDE INLAND EMPIRE WITH MORE JUDGES DIES IN COMMITTEE

RIVERSIDE COUNTY:

An important bill, introduced by Senator Hannah-Beth Jackson of the 19th District, which would have provided the Inland Empire with additional judges, died in committee last month.

Senate Bill 1190 (SB 1190) would have provided funding for 50 judges statewide, judges that were allocated in 2007 but never funded so those additional resources were never provided to the state courts. Once funded, the bill would have provided nine additional judges each to the Riverside and San Bernardino Superior Court benches.

Lastly, the bill would have authorized an additional 50 judges statewide, dependent on future funding. The judges would be allocated to the various superior courts pursuant to uniform criteria approved by the Judicial Council, the governing body of the state courts, and based on current workload measures – a significantly important component of allocation.

According to the Judicial Council’s 2012 update of the Judicial Needs Assessment, Riverside County Superior Court has a verified need for 138 judges. With only 76 judicial officers, the court needs an additional 62 judges to provide appropriate access to justice for Riverside County residents.

Riverside County has seen a 44 percent increase in its population since 2000. Its population more than doubled between 1989 and 2012. During that same time, the number of judicial positions has increased by only 31 percent. Riverside’s ratio of judicial positions per 100,000 of population is 3.5, statewide the average is 5.2. In addition, a recent study shows that the Inland Empire is on track to be the fourth fastest growing economy in the nation.

The much needed judges provided for in SB 1190 would have been a significant factor in the restoration of critical court services for Inland Empire citizens. Because of a lack of judgeships, the court in Riverside County has been forced to delay hearings, continue cases, limit hours, increase wait times, and reduce overall public services. These reductions affect all residents, but are especially critical in cases involving children, families, and the elderly.

“It is disappointing that Californians in the Inland Empire continue to receive fewer state resources per capita than people in other areas of the state. This inequality must be addressed if all Californians are to find equal access to justice.” remarked Presiding Judge Mark A. Cope.



PROFILE OF A DRS MEDIATOR: CHRISTINE A. GREER

by Krista Goodman

Editor's Note: We at DRS want the members of the RCBA to know the mediators on our panel who dedicate their time and services to help us run our programs for the benefit of the public of Riverside County. We hope you enjoy the opportunity to read more about this mediator's personal and professional history. We are truly grateful to have Christine A. Greer and her expertise on our panel.



Christine A. Greer

In the practice of mediation, attorney Christine A. Greer believes in placing all parties in the same room to work out the various matters of their dispute. Mediation style can vary greatly from case to case and from attorney to attorney.

"I believe you need to have everyone sit together in a room and get everything on the table. Sometimes people need to have the opportunity to vent their frustration about their issues. . . After they get all of that out, you can usually get down to the real issues."

On the first and third Fridays of every month, Greer appears at the Family Law Court in Riverside to volunteer her time and legal services for the Voluntary Settlement Conference program. The parties selected for the program have the opportunity to settle their Family Law cases within a day.

"The parties in these cases are nice people normally that are sometimes just in really bad situations," Greer said. "As a mediator, I am kind of the Band-Aid."

Last year, Greer settled every case she mediated for the VSC program — affirmation that her mediation style is not only effective, but helps parties resolve their cases and move on with their lives.

"The greatest reward is when you do a good job and they [the parties] get through the system. . ." Greer said. "When I am able to help resolve the case, I always sit in the courtroom and watch them settle their case with the judge and congratulate them afterward."

Greer's extensive background in both real estate and childcare lend to her skill as a family law mediator.

After she completed her undergraduate degree in Communications/Pre-Law at Chico State University

in 1978, she decided to get her real estate license. It proved to be a lucrative life-long career move. Her 30 years of experience as a real estate broker is a great asset in cases where there are property division issues. She has participated in real estate continuing education on issues of 1031 exchanges, tax law, mortgages/consumer credit, short sales and real estate owned property.

Greer went back to law school in 1991, completing her Juris Doctor at Western State Fullerton and passing the California State Bar in 1994.

Her background in childcare started from a personal need. Like many working parents, out of necessity she once sought a reputable daycare facility for her young children during business hours. When there were no such facilities available, Greer decided to start her own. Eventually, she was the owner of the largest daycare facility in Riverside County, actively serving as many as 300 families at a time. She owned the business for 25 years.

Now her five children are fully grown, ranging from ages 24 to 34. She has six grandchildren.

Greer and her husband currently own and operate the Law Offices of Beck & Greer, located in Canyon Lake, California. Her primary areas of practice are family law, juvenile law, and real estate.

Their offices were recently rebuilt. Just four years ago, a fire lit by an arsonist in a nearby bar took nine buildings (their offices among them) in its wake. She explained that it was fortunate that she and her husband owned the building, but the fire was devastating to the operation of their practice as none of their business was conducted digitally (via email) during that period.

"The first day my husband went to court, he brought a picture of our office burned to the ground and asked for a continuance," she remembered with a laugh.

"It was interesting. I didn't know who my clients were or where we were supposed to be," she said. "There was a group of attorneys who made special appearances

LETTER TO THE EDITOR

for us during that first few weeks as we tried to piece our calendar back together.”

Still, she explained that some good did come from the experience. She has appeared at various speaking engagements to share knowledge and experience with others about what’s necessary to be prepared for a fire, or similar crisis — including keeping back-up systems and maintaining the necessary insurance.

Greer has sat on 19 different benches as a judge pro tempore, including family law, juvenile, small claims, dependency and delinquency. She also serves on the Riverside Superior Court’s civil and probate mediation panels. Additionally, she has served on the Board of Fee Arbitration for the California State Bar.

Greer has received mediation training from both the Pepperdine University Straus Institute for Dispute Resolution and the Center for Understanding in Conflict.

Today, Greer and her husband proudly own a winery located in Temecula Valley. Curry Vineyards was founded by Charlie Curry, who originally sought to create the “best Reds in the region” when he relocated to Temecula Valley from the Northern California coast; the first vintage was produced in 2004.

Greer explained that many of her colleagues frequent the winery. Curry Vineyards is open from Thursday through Sunday, with live music featured on Friday and Saturday nights. More information is available at curryvineyards.com.

For more information about RCBA Dispute Resolution Service, Inc., visit rcbadrs.org or call (951) 682-2132.

Krista Goodman is the public relations coordinator for RCBA Dispute Resolution Service, Inc. She recently graduated with a Master of Arts in Strategic Public Relations from the University of Southern California.



Re: Farewell to Professor James E. Hogan.

Thank you for the tribute to Professor Hogan in the June 2014 issue. The authors did an excellent job of capturing his greatness as a teacher and as a luminary of the California legal community. It was a privilege to be Jim Hogan’s student in Civil Procedure and Evidence in 1980 and 1981 at King Hall. Turning to teaching after a successful career as a trial lawyer, he dedicated himself to constantly improving his new craft. As a result, he was the best practitioner of the Socratic method I had encountered in law school. He knew exactly what he wanted to convey in each class session, and accomplished it with wit and style. We also benefited from the practical courtroom wisdom he shared with us. His two Distinguished Teaching Awards, and his citation for distinguished teaching from the Academic Senate, were fitting acknowledgments of his unique talent.

Beyond his passion for teaching, his scholarship benefited countless lawyers and judges over the years. Like the authors of your article, I have relied on the Hogan treatise on discovery countless times in my career. In addition, his law review article “California’s Unique Doe Defendant Practice: A Fiction Stranger Than Truth,” 30 *Stan. L. Rev.* 51 (1977), was an essential starting point for briefing the first appeal I worked on as a lawyer. That definitive article has been cited by at least ten published opinions in California.

He was a genuinely kind person who truly cared about his students. We were lucky to know him.

Brian

Brian C. Unitt

Holstein, Taylor and Unitt



ATTENTION RCBA MEMBERS

If you are not getting email updates/notices from the RCBA and would like to be on our mailing list, visit our website at www.riversidecountybar.com to submit your email address or send an email to lisa@riversidecountybar.com

The website includes bar events calendar, legal research, office tools, and law links. You can register for events, make payments and donations, and much more.



JUDICIAL PROFILE: HON. DEAN BENJAMINI

by Mary Gilstrap

Ask Judge Dean Benjamini how he likes being a judge, and he'll tell you, "I love it – it's awesome."

Appointed by Governor Jerry Brown in December of 2013, Judge Benjamini, 47, was formally enrobed in early February of 2014 at the Larson Justice Center in Indio. He is currently sitting in Department 2K in Indio, presiding over the misdemeanor calendar – an assignment that meshes well with his background as a criminal defense attorney for both the Public Defender's office and his own criminal defense firm.

In some respects, the hoped-for call from the Governor's office came at a most inopportune time. While Judge Benjamini's application for a judicial appointment was pending, he was approached by Steve Harmon, the newly hired Public Defender, about re-joining the office as Assistant Public Defender to run the Indio office. Judge Benjamini had only been on the job for three weeks or so when the JNE Commission informed him that his name had been submitted to the Governor's office for evaluation. Four months later, he got the call from the Governor's office that he had been appointed to the bench.

"My whole world was shaken upside down," he recalled. "I was driving and I almost crashed my car. I was running late for a surprise party and I couldn't even take Emily aside to tell her!" Emily Benjamini is Judge Benjamini's wife and former law partner. They founded their law firm Benjamini & Benjamini in 2005 after both of them left the Public Defender's office where they had both worked for years.

The fact that Judge Benjamini had to give notice about leaving only a few months after starting with the Public Defender was not a surprise to Harmon, although perhaps a personal disappointment. When Harmon first talked to Judge Benjamini about taking over the administration of the Indio office, Judge Benjamini was forthright about the fact that his judicial application was pending but he had not heard anything for a long time.




Judge Dean Benjamini

Harmon remembers thinking, "I'll take the chance." He told Judge Benjamini, "Even if I can only have you for a couple of months, that would be important to me." Harmon describes Judge Benjamini as very smart and tough, as well as compassionate and understanding. "Everyone respects him and knows his good heart," Harmon said.

Judge Benjamini received his law degree from the University of San Diego Law School and his Bachelor of Science degree from California State University, Sacramento. He has two children: a daughter Stephanie who is a student at UCLA and a son, Daniel, who is a student at Xavier College Preparatory High School. Emily Benjamini remains in private practice in her own firm in Palm Desert, where the Benjamini family lives. Judge Benjamini, a Democrat, fills a vacancy created by the conversion of a court commissioner position in January of 2013.

Mary E. Gilstrap is a former president of the Desert Bar Association. She is a partner of Roemer & Harnik LLP in Indian Wells.



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TELL THE STORY OF THE MISSION INN

Do you like telling stories that educate and entertain? Does the history of Riverside and the Mission Inn fascinate you? If so, then you might be a great candidate to be a docent at the Mission Inn. The Mission Inn Foundation is recruiting students for the 2014-2015 docent training class that starts in September.

The Mission Inn Foundation is the not-for-profit organization founded in 1976 that gives tours of the historic Mission Inn Hotel and runs the Mission Inn Museum. Their charter is embodied in their mission statement, "to preserve, promote and share the history and legacy" of this National Historic Landmark hotel. The hotel's history is intertwined with the history of Riverside, from the founding of the Glenwood cottages in 1876 to present day. Docents provide a glimpse into this captivating history as they lead groups through the fascinating and eclectic 4 Diamond hotel.

In class you will learn about, among other things Frank A. Miller, the driving and creative force behind the creation of the hotel, visits by ten different U.S. Presidents, the many famous people married in the Saint Francis of Assisi Chapel, the hundreds of historic artifacts on display in the hotel, and how the hotel was instrumental in both the growth and revitalization of Riverside.

Applications to join the 2014-2015 class will be accepted from now until September 5. Classes are one night a week from mid-September through April. The docents come from many backgrounds and education, including retirees and people still active in the workforce. What they have in common is an interest in the Mission Inn and Riverside, the passion to share that history with others and the willingness and ability to commit their time and energy.

While a docent's primary duty is to lead tours, a docent can also participate in other activities, including quarterly educational forums, visits to other historic sites in Southern California, and staying at the hotel at a reduced rate at the annual Docent Sleepover. If you have always been fascinated by the Mission Inn, and enjoy sharing that fascination with others, then this is your opportunity.

Applications are available at the Mission Inn Museum, can be requested by mail from the Mission Inn Foundation office at 3696 Main street, or can be downloaded from the Foundation web site (www.missioninnmuseum.com). Those interested are encouraged to submit their application soon, as the class size is limited.



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MEMBERSHIP

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

- Mona Amini** – Kazerouni Law Group, Costa Mesa
Justin B. Bechen – Floyd Skeren & Kelly, Riverside
Jaime Leanne Bourns – U.S. District Court Central District, Riverside
John Frank Bryant – Sole Practitioner, Palm Desert
Donna L. Connally – Law Office of Donna L. Connally, Rancho Cucamonga
Lawrence M. Daugherty – Lawrence M. Daugherty APC, Hemet
Ruben D. Escalante – Sheppard Mullin Richter & Hampton, Costa Mesa
Mary Ann Galante (R) – Retired Attorney, Ladera Ranch
Sandy S. Garcia – Garcia & Miller, Ontario
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Sally Ann Griepsma – Sole Practitioner, Chino
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Kian Mottahedeh – SM Law Group APC, Riverside
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Angelina L. Nessinger – Sole Practitioner, Indio
Jenece S. Pritchard – U.S. District Court Central District, Riverside
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Monica Kaur Sandhu – Sole Practitioner, Riverside
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