

RIVERSIDE LAWYER

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MAGAZINE

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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), Riverside Legal Aid, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Mock Trial, State Bar Conference of Delegates, Bridging the Gap, and the RCBA - Riverside Superior Court New Attorney Academy.

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, 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.

The 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 the Riverside Lawyer.

The material printed in the 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

JUNE

- 11 Estate Planning, Probate & Elder Law Section**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
Speaker: Matthew Strickroth, Deputy District Attorney, Riverside County
Topic: “Fraud? Theft? Elder Abuse? How to Respond When Your Client Wants to ‘Press Charges?’”
MCLE
- 12 Civil Litigation Section**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
- 13 Criminal Law Section**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
Speaker: Virginia Blumenthal
Topic: “Criminal Justice Ethics: What Every Attorney Should Know”
MCLE – Ethics – 1 hour
- 15 General Membership Meeting**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
Speaker: Professor Charles Doskow, University of La Verne College of Law
Topic: “A Look at Recent Interesting Cases From our California Supreme Court”
MCLE
- 27 CLE Brown Bag**
Noon – 1:15 p.m.
RCBA Gabbert Gallery
Speakers: Thomas Mills, Investigator, Office of Enforcement, State Bar of California
Anthony Garcia, Supervising Trial Counsel, State Bar of California
Topic: “Stories (and Lessons) from a State Bar Investigator”
MCLE – Ethics – 1 hour

EVENTS SUBJECT TO CHANGE.

For the latest calendar information please visit the RCBA's website at riversidecountybar.com.



ON THE COVER: Photo taken at the RCBA Past Presidents' Dinner held on May 24, 2018 at the Victoria Club.

Back row, (l-r) – Judge Dallas Holmes (Ret.) – 1982, Harry Histén – 2009, Geoffrey Hopper – 1994, Judge John Vineyard – 1999, David Moore – 1984, Judge Chad Firetag – 2014, Riverside County Public Defender Steven Harmon – 1995, James Heiting – 1996 (and State Bar of California President – 2005), Daniel Hantman – 2007, Brian Percy – 2002.

Front row, (l-r) – Alexandra Fong – 2017, Judge Stephen Cunnison (Ret.) – 1981, Arthur Littleworth – 1971, Justice Barton Gaut (Ret.) – 1979, Judge Kira Klatchko – 2015, Sandra Leer – 1991, Theresa Savage – 2005, Diane Roth – 1998, Jean-Simon Serrano – 2016, Robyn Lewis – 2011, Jacqueline Carey-Wilson – 2013.

photo courtesy of Jacqueline Carey-Wilson



by L. Alexandra Fong

This month's issue of *Riverside Lawyer* focuses on the solo and small firm practitioner. Since becoming licensed to practice law in the State of California in late 2000, I have practiced at two law firms, Lewis Brisbois Bisgaard & Smith LLP (formerly known as Lewis D'Amato Brisbois & Bisgaard LLP) and the Office of Riverside County Counsel.

As such, I have no idea how much work and time it takes to start one's own practice. There are great articles in this edition of *Riverside Lawyer*, but I will discuss the basics.

- Attracting clients
- Entity type
- Firm's name
- Malpractice insurance
- Other insurance
- Business licenses
- Bank account(s)
- Office location
- Employees
- "Catchy" phone number

Attracting Clients

So, you've decided to open your own practice and the first thing that comes to mind is how to get clients, other than your friends and family, who have been anxiously waiting for you to graduate from law school and pass the bar exam. You can obtain clients by advertising and marketing yourself, both online and in print. There are various attorney websites where you can "claim" your profile and expand on the public information. In order to make contacts, you should attend events, such as ones that include other attorneys and ones which include people working in the field in which you practice.

You should also consider joining the Leo A. Deegan Inn of Court, which is the RCBA's chapter of the American Inns of Court. Membership applications are accepted until July 20, 2018, and decisions are made in August. The cost of membership varies, depending on your level of experience, but is a maximum of \$550 in membership dues and dinners (8 dinners). You are required to be a RCBA member for two years (2018 and 2019) as the Inn's fiscal year runs from June 1 to May 31. Scholarships are available.

Entity Type

In California, a solo attorney can be a sole proprietorship or a professional corporation. If you are starting the firm with another attorney, you also have the option of being a limited liability partnership. You should consult a professional to assist you.

Firm's Name

Many attorneys name their firms after themselves, for example "The Law Offices of John Smith" or "John Smith & Associates." If you're practicing a specific area of law such as criminal defense or personal injury, you might want to consider a name that incorporates that area of practice, so that when a potential client searches for attorneys in that field on the internet, your firm will be one of the first ones that show up.

Malpractice Insurance

Prices can vary depending on what your policy limits are and levels of risk, but expect to pay anywhere from \$500 to \$3000 per year for malpractice insurance. There are many different providers for malpractice insurance, including one of our advertisers, Lawyers Mutual Insurance Company (LMIC) and the State Bar of California's sponsored insurers, Mercer.

Other Insurance

Wait, you need more insurance? Other insurance concerns may arise, regardless of whether you have a home office or an office outside the home and whether you have employees. This would include general liability, property damage, worker's compensation, as well as a few others. Be sure to speak with an insurance agent for more details.

Business Licenses

Regardless of whether you have a home office or one outside the home, you will need to obtain a business license from the city where your office is located. If you have a home office, you should verify that the zoning of your residence allows for home-based businesses to operate.

Bank Accounts

Attorneys often handle their clients' money, settlement checks, for example, or advance payments for court costs or other expenses. Any lawyer who handles client funds that are too small in amount or held too briefly to earn interest for the client must participate in the Interest on Lawyers' Trust Account (IOLTA) program. Such IOLTA accounts can only be kept at approved financial institutions.¹

¹ <http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Client-Trust-Accounting-IOLTA>.
<http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Client-Trust-Accounting-IOLTA/Financial-Institutions/Eligible-Institutions>.

Office Location

If you're not sure whether you want to practice out of your home, consider getting a post office box at the local post office or a private mail box at a local UPS Store that you can register with the State Bar.

Employees

Should you hire an employee or two when you set up your office? When first setting up your office, you might consider utilizing the services of a virtual receptionist that can professionally answer any calls made to your office.

"Catchy" Phone Number

I admit that I listen to radio advertisements on the way to work. One in particular, for a personal injury law firm, caught my attention with the "catchy" jingle and telephone number. A couple of months later, a similar jingle came up with a slightly different phone number and slightly different firm name. After researching the issue on the internet, I realized that the law firm had dissolved and one of the named partners remained in practice. But the jingle and the easy-to-remember telephone number stuck in my mind and that is something new attorneys should think about.

I believe those are all the topics that came to mind when I thought about this issue. RCBA has a Solo and Small Firm Section, which is co-chaired by Andrew "Drew"

Gilliland and Taylor Bristol Warner, both owners of their own small firms. Additional information about Drew can be found in the March 2018 issue of *Riverside Lawyer*. This past year, the Solo and Small Firm Section held three CLEs. It is anticipated that additional CLEs will be offered when the section starts again in the fall.

L. Alexandra Fong is a deputy county counsel for the County of Riverside, practicing in the field of juvenile dependency law, and is president-elect of the Leo A. Deegan Inn of Court.






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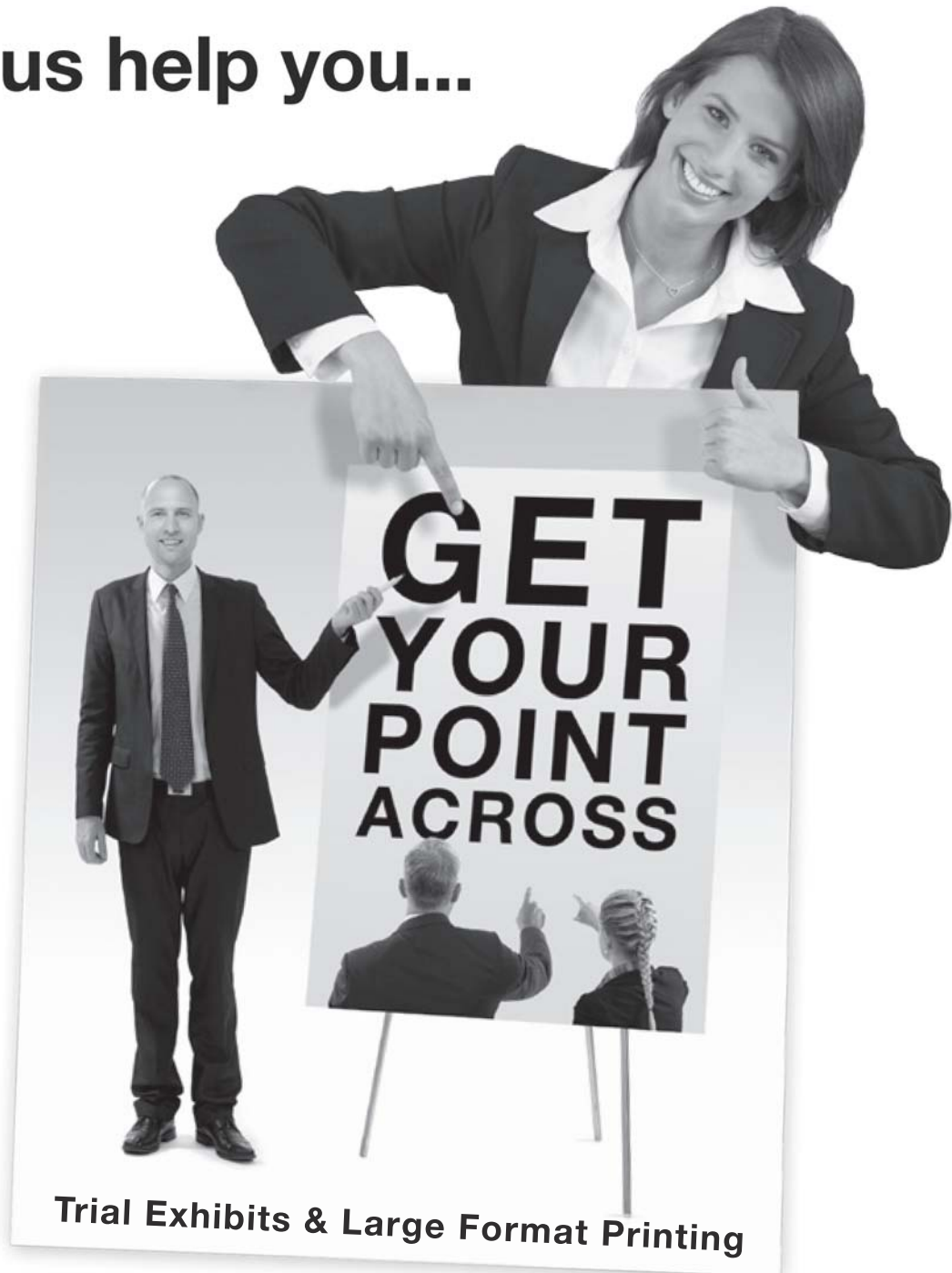
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BARRISTERS PRESIDENT'S MESSAGE

by Shumika T. R. Sookdeo



Judicial Reception

Barristers proudly presented its second annual Judicial Reception on May 9, 2018. Similar to the inaugural event held last year, this year's event was held at Grier Pavilion, located on the rooftop of Riverside City Hall. The weather, views, and hosted refreshments were enjoyed by all. On behalf of Barristers, I express my gratitude to the beautifully diverse panel of judicial officers, which included Hon.

Becky Dugan, Hon. Irma Poole Asberry, Hon. Jackson Lucky, Hon.



Back (l-r) Kristopher Daams, Megan Demshki, Braden Holly, Erica Alfaro, Shumika T. R. Sookdeo, Breanne Wesche, Paul L. Lin.
Front (l-r) Hon. Becky Dugan, Hon. Jackson Lucky, Hon. Sunshine Sykes, Hon. Irma Poole Asberry, Hon. Jonathan Cannon.



(l-r) Paul L. Lin, Erica Alfaro, Priscilla George, Megan Demshki, Shumika T. R. Sookdeo, Breanne Wesche, Nesa Targhibi, Braden Holly, Kristopher Daams



(l-r) Jean Serrano, Arlene Dashkovitz, Kristopher Daams, Kelly A. Moran, S. Alfonso Smith, Brian Shapiro



(l-r) Sarah Bernes, Jason Sanchez, Will Mullins, Aaron Hicks, Tim Scanlan

Sunshine Sykes and Hon. Jonathan Cannon (Ret.). This year's theme was "Work-Life Balance on the Road to the Bench." The panelists offered an array of useful tips and insightful reflections regarding overcoming challenges in life as one pursues a career leading to the bench.

This event was made possible from the tremendous support from the following sponsors: Aitken Aitken Cohn, Rizio Law Firm, Blumenthal Law Offices, Reid & Hellyer, Appleby & Co., Dennis M. Sandoval, P.L.C., Exum Law Offices, First Legal, JAMS, Law Offices of Shauna M. Albright, RCBA, and University of La Verne College of Law. If you are interested in sponsoring future Barristers' events, kindly contact RCBABarristers@gmail.com

Announcement

Barristers regret to say farewell to our committed and energetic board member, Breanne Wesche. Breanne would have been the Barrister's 2018-2019 president. However, one of life's greatest blessings presents Breanne with a new journey. We are happy for the joyous adventure that awaits her, but sad to see her leave. Thank you, Breanne! We will miss you!

Upcoming Events

On June 20, we are having our annual officer elections for the 2018-2019 term.

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Elections will be held during happy hour at Heroes Restaurant Patio, from 6:00 to 7:30 p.m. Only Barristers members who have attended at least two Barristers events may vote. The candidates are as follows:

President: Megan Demshki
President-Elect: Paul L. Lin
Treasurer: David Hamilton
Secretary: Rabia Chaudhry
Members-at-Large:

Alex Barazza	Braden Holly
Carisa Barnes	Chris Kiernan
Rabia Chaudhry	Paul L. Lin
Kristopher Daams	Patricia Mejia
Taylor DeRosa	Michael Ortiz
Goushia Farook	Holland Stewart
David Hamilton	

Finally, please stay informed about Barrister events by joining our mailing list at www.riversidebarristers.org or follow Riverside County Barristers Association on Facebook.

Shumika T.R. Sookdeo, managing attorney of Robinson Sookdeo Law, is a past president of the Richard T. Fields Bar Association, a commissioner on the California Commission on Access to Justice and a board member of John M. Langston Bar Association and the California Association of Black Lawyers.



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. can register for events, make payments and donations, and much more.



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EVERY LAWYER'S GOAL: CREDIBILITY

by Judge Craig Riemer

A lawyer appearing in court on behalf of a client is there for one purpose: To advocate that client's position.

In a jury trial, the lawyer's advocacy regarding the facts is directed to the jury. But in every other situation, the advocacy is directed to the judge. In a court trial, in a hearing on a motion, at a case management conference, at a settlement conference, and on legal issues during a jury trial, the advocate's audience — the person who is to be persuaded that the client's position on the facts and the law is the correct position — is the judge.

A lawyer's presentation can be persuasive because of the strength of the evidence he/she offers or of the legal authorities that she has marshalled. But an argument can also be persuasive solely because of the credibility of the lawyer delivering that argument. A credible advocate is an effective advocate. Credibility should be the goal of every advocate.

Why is credibility important for an advocate? Because no judge knows the answer to every factual or legal issue that the judge must decide, and no judge has the time to research the answer to every issue about which the judge is uncertain. When presented with motions in limine, evidentiary objections during trial, or case management conferences, the judge has to make a decision quickly, often instantly. There is simply no time to look up the answer. Instead of conducting any legal or factual research, the circumstances will often force the judge to accept the legal or factual representations of counsel. And whose representations is the judge likely to accept, to rely upon? Those made by the more credible advocate. You want the judge to consider you to be the most credible person at counsel table.

Like Rome, credibility is not built in a day. It is the result of small things that, collectively, demonstrate to the judge that you are someone who can be trusted. What are those small things?

- **Diligence:** Do you serve your defendants promptly, or does the court have to routinely nudge you into action with OSCs threatening sanctions for the failure to serve? Do you promptly serve the discovery that you need, or are you always scrambling to complete it right before trial?
- **Timeliness:** Can you be trusted to file your documents — replies, proposed judgments, case management statements, whatever — in a timely fashion, or do you cause continuances because

your filings are late? Do you arrive at hearings on time, or are you calling to ask that your matter be put on second call? At trial, do you and your client return from lunch on time, or do you keep the jury — and the judge — waiting?

- **Focus:** When arguing, do you address the issue directly, or do you try to distract the judge with ad hominin attacks or strawman arguments? When the judge asks a question, does your response seem like an attempt to clarify, or to obfuscate? Do you stipulate to facts or legal propositions that cannot be reasonably disputed, or do you force the other side to prove that the sun rises in the east?
- **Courtesy:** Do you treat opposing counsel like the professional colleague that he or she is, or as an enemy? If opposing counsel calls you names or denigrates your integrity, do you remain above the fray, or get down into the same gutter? Do you treat court staff with respect, or as anonymous underlings?
- **Preparation:** At case management conferences, have you thoughtfully completed the entire case management statement? Have you anticipated the questions the court is likely to ask, and come prepared to answer them? Are the factual representations in your motions supported by declarations? Are the declarations properly executed under penalty of perjury? Do they demonstrate the personal knowledge of the declarant? At trial, have you fully complied with local rule 3401? Do you do your best, or just enough to get by?
- **Candor:** When the authorities on an issue are split, do you acknowledge the adverse authorities and explain why they are distinguishable or otherwise not persuasive? Or do you ignore them, citing only the cases favorable to your position?
- **Attention to detail:** Do your documents suggest that you did not read them before signing them? When your declaration refers to an attached exhibit, is the exhibit actually attached? Do you proofread, or merely spellcheck? Are all your citations accurate, and do they include pinpoint cites?
- **Responsibility:** When you make a mistake, do you admit it? Or is it somehow always the fault

of someone else: your secretary, opposing counsel, the court clerk?

Each of these – each timely appearance, each candid admission, each acceptance of responsibility – is a small thing. In isolation, none of them are likely to turn a decision in your favor. But each is an example of conduct that engenders trust. Each suggests that you are a person who is prepared, truthful, professional, careful, and trustworthy. When the judge has to shoot from the hip, has to rely on the representation of counsel, that judge is going to consider which of the attorneys standing in front of the bench is more trustworthy, more credible, than the other. If you have repeatedly demonstrated your credibility in these small ways, the judge will be inclined to give you the benefit of the doubt when it counts.

Start building your credibility today.

Judge Craig Riemer hears complex civil cases in Department 5 of the Historic Courthouse, and is a past president of the RCBA.



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A NEW TEST FOR INDEPENDENT CONTRACTORS DEMANDS IMMEDIATE REEVALUATION BY BUSINESSES OF THEIR INDEPENDENT CONTRACTORS

by Jamie E. Wrage

On April 30, 2018, the California Supreme Court decided the long-awaited case of *Dynamex Operations West, Inc. v. Superior Court* (S222732). In doing so, it pronounced a new legal standard for independent contractors that will make it much more difficult for businesses to properly classify workers as independent contractors. The decision is admittedly very pro-employee, the opinion arguing that the state Wage Orders should be the basis for the analysis both for the benefit of “law-abiding businesses” and to protect workers who “generally possess less bargaining power than a hiring business.” The Court expressed great concern for the significant “risk that workers who should be treated as employees may be improperly classified as independent contractors” given that there are “significant economic incentives” for employers that misclassify employees.

The effects of *Dynamex* will be wide ranging and companies in the gig economy, such as Uber and Lyft, may be particularly hard hit. Given the confirmation of the correct test under the Wage Orders, every California employer must candidly analyze all workers they consider independent contractors immediately, making corrections as soon as possible if they cannot meet the new standard. Misclassification can mean very expensive wage and hour violations for employers, in addition to increasing the risk of class action lawsuits.

The test that the Supreme Court pronounced for determining whether a company “employs” or is the “employer” of a worker for purposes of the California Wage Orders is called the “ABC” test. Under the ABC test, a worker is considered an employee under the Wage Orders unless the hiring entity establishes all three of the following elements:

1. “[T]he worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact”;
2. “[T]he worker performs work that is outside the usual course of the hiring entity’s business”; and
3. “[T]he worker is customarily engaged in an independently established trade, occupation, or busi-

ness of the same nature as the work performed for the hiring entity.”

The employer has an affirmative duty under this test to prove independent contractors are properly classified. While the test has some of the same characteristics of prior tests employed in California, considered thoughtfully it is a much more difficult test to satisfy.

Many employers prefer to use independent contractors when they can because doing so avoids expenses, such as providing workers’ compensation insurance, withholding taxes from wages, and complying with wage and hour laws. Many workers also prefer the title for tax reasons and will ask to be so classified. The line for determining the difference between an employee and an independent contractor has often been difficult to find under the 1989 test in *S.G. Borello & Sons, Inc. v. Dept. of Industrial Relations* (1989) 48 Cal.3d 341 (*Borello*), which is something the California Supreme Court sought to cure by applying this new and stricter test based upon the definitions of “employ,” “employer,” and “employee” in the California Wage Orders.

In *Dynamex*, two delivery drivers who were classified as independent contractors filed suit alleging they performed the same tasks as contractors that they had performed when they were classified as employees, arguing that the reclassification was misclassification. The plaintiffs sought to represent approximately 1,800 drivers the company engaged as independent contractors. After almost two decades in the court system, the case arrived before the California Supreme Court, which decided to adopt a test used by other jurisdictions (the “ABC” test) that would have broad application to effectuate the purpose and objectives of the Wage Orders.

In coming to its decision, the Supreme Court considered the more flexible *Borello* test and an alternative “economic realities” standard used by some federal jurisdictions. Instead, the Court turned to the “suffer or permit” standard in the Wage Orders to interpret state law, placing the burden on the hiring entity to establish that a worker is an independent contractor and to establish each of the three factors embodied in the “ABC” test above.

The first prong of the test (“A” prong) is like the prior common law control standard. A worker who is, either by contract or by practice, subject to the type and degree

of control a business typically exercises over employees should likewise be considered an employee. Thus, employers must be able to establish that a worker who is an independent contractor is free of such control. This does not mean just micromanagement. An employer must not control the manner and means used to do the job. Prong “A” is where the similarities end.

The second prong (“B” prong) means that employers cannot hire independent contractors to do the same tasks employees normally do for the type of business in question. Thus, this prong expands those within the definition of employee to include almost any worker who engages in the same business as the hiring entity. The example provided by the Supreme Court was of a retailer hiring a plumber or electrician to perform maintenance on their premises. These jobs are outside of the company’s business and would meet the test to allow independent contractor status. In contrast, if a clothing manufacturer hires a work-at-home seamstress, this prong would fail. The Court noted that this prong not only protects employees, but also serves the purpose of protecting companies that comply with the Wage Orders from having to compete with those that do not.

Finally, the third prong (“C” prong) seeks to avoid businesses from forcing workers to accept contracts as independent contractors by making certain that the

worker does not work solely for the employer. Thus, the test seeks to identify those workers that have taken steps on their own to create their independent business and regularly engage in that business for others. Instead, if the worker is “simply designated as an independent contractor by the unilateral action of a hiring entity,” then they will not meet this standard. That said, an employer does not necessarily have to prove that the worker incorporated, obtained a license, advertised, or the like to meet this prong, although those facts would be favorable. However, it is also not enough that the company does not prohibit or prevent the worker from engaging in an independent business. To be safe, there should be some factual evidence that the independent contractor is in business for himself or herself, such as actually providing services of the same type to other clients, having a business license, etc.

While it will be some time before anyone will know exactly how this test will be applied, business owners should take note now and a serious review of anyone designated as an independent contractor and err on the side of compliance.

Jamie E. Wrage is a shareholder with Stream Kim Hicks Wrage & Alfaro, PC in Riverside and specializes in employment counseling, employment litigation, and complex business litigation.



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TEN TIPS FOR NEW ATTORNEYS JUMPING INTO THE RIVERSIDE LEGAL COMMUNITY

by Megan G. Demshki

After growing up in Riverside, I thought I knew just about everything there was to know about my hometown. Little did I know that upon passing the bar exam, a new sub-community within Riverside would become yet another place to call home.

After spending the last several years logging many hours on Main Street, I can attest to the welcoming and nurturing nature of the Riverside legal community. This legal community adds to my list of reasons why I love Riverside. Here are my tips for new attorneys on getting involved in our legal community:

1. Get Involved with the RCBA Barristers.

Upon getting sworn in, or even before, the Barristers is a great place to meet other newer attorneys and build comradery among your peers. From social events, like “Motion to Strike” bowling night or happy hours, to MCLE educational opportunities and community service, the Barristers have at least one event going on per month geared toward newer attorneys. Included with your RCBA membership, all attorneys in practice less than 7 years or less than 37 years of age are automatically a member of Barristers! Come join in on the fun and build relationships that will last for the rest of your career.

2. Apply for the New Attorney Academy.

The New Attorney Academy is an incredible opportunity to get acquainted with the legal community, make new friends and learn tons of valuable information along the way. Limited to attorneys in practice 5 years or less, this academy meets one Friday a month for a day-long course. The courses are taught by judges and noted attorneys in the community. The academy goes over basics, like how to check in for a case management conference and more advanced topics like expert depositions and mediation techniques. As a graduate of this academy, I highly recommend jumping on this opportunity! By the time the program concludes, you will have an excellent understanding and overview of the Riverside legal community.

3. Attend a Section Meeting.

Also included with your RCBA membership, are monthly lunchtime section meetings. Many of the section meetings are educational and offer MCLE credit. Some of the sections include: appellate law; business law; civil litigation; criminal law; environment & land use; estate planning, probate & elder law; family law; human rights; immigration law; landlord & tenant law; and solo & small firm. No matter your practice area or your interests, there is a section for everyone. Check out riversidecountybar.com for upcoming section meetings.

4. Attend an RCBA General Membership Meeting.

The RCBA general membership meetings are also once a month, lunchtime MCLE meetings. These meetings are normally held on Friday. Frequently in attendance are active members of the RCBA like board members and section chairs, judicial officers and attorneys from a variety of different practice areas. This is a great way to meet members of the legal community over a meal while obtaining some MCLE credit and learning about the happenings of the RCBA.

5. Judge Mock Trial.

A fun way to meet other attorneys and see our local talent in action is to simply sign up to judge a round of mock trial. Don't worry if you never participated in mock trial in high school, you will be given lots of instruction along the way. You will be amazed at the skill and poise of Riverside's high school students!

6. Grab Some Coffee.

Simply invite a fellow attorney for a cup of coffee at Augie's after the morning calendar or before the workday gets underway. Stepping away from the hustle and bustle of our workloads to build relationships with our peers strengthens the collegiality of our community and fosters collaboration. (I highly recommend the honey cinnamon latte!)

7. Join an Inn of Court.

The Leo A. Deegan Inn of Court is the local Riverside chapter of the American Inns of Court.

This is a professional organization comprised of attorneys and judges that meet for dinner monthly with the goal of improving the skills and professionalism of the bench and bar. One part I love about the Deegan Inn of Court is that the group is broken up into several teams for the year. Each team is tasked with one month's presentation. In preparing for the presentation, deeper relationships are fostered among team members. Watch for the applications to be considered for the Inn this summer! *(Please see article on page 22.)*

8. Find a Mentor (or two or three...).

Mentorship is vital to success and growth in the law. Whether you have a procedural question or need some life guidance, having mentors in the legal community is priceless. Many potential mentors are involved with the activities listed above. Finding someone that knows more about the Riverside legal community is a great way to learn about opportunities that match your unique area of practice and interests. To help find a mentor, please complete the "Protégé Application" found under "Members" at <http://www.riverside-countybar.com/> and the bar will match you with a more experienced attorney in your area of practice.

9. Guard your Reputation.

One of my favorite parts about the Riverside legal community is the tightknit nature of the community. Given that tightknit nature, building and maintaining your reputation is vital. Take pride in your work, your professionalism, and be responsible. Your reputation matters.

10. Give me a Call or Email!

I will be the first to admit that going to that initial Barristers event or section meeting can be intimidating, especially when you can't find a friend to bring along. If you are interested in getting more involved with the RCBA, give me a call or shoot me an email. I would love to go with you to an upcoming event and introduce you to some of my friends in the RCBA. Being involved in our legal community truly makes each day of my career more fulfilling and I am confident you will find the same to be true if you take the plunge!

Megan G. Demshki is an associate attorney at Aitken Aitken Cohn in Riverside and is a member-at-large of the Barristers. Megan can be reached at megan@aitkenlaw.com or (951) 534-4006.



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GOING SOLO – LESSONS FROM THE GUY WHO MADE THE KESSELL RUN IN LESS THAN 12 PARSECS

by Andrew Gilliland

The most famous fictional intergalactic solo entrepreneur has to be Han Solo.¹ Han loved working for himself and taking orders from no one. He worked lean with one major asset (the Millennium Falcon) and only one support staff (Chewbacca). Han looked out for himself and loved the freedom associated with working outside of the Empire/Rebellion system. Unfortunately, for Han he made some bad business decisions, such as working for Jabba the Hut and ditching Jabba's cargo that resulted in a bounty being placed on his head. Moreover, in spite of all his efforts to remain independent, Han made the mistake of taking on a client (Obi-Wan and Luke) that resulted in his being aligned with the Rebellion and introducing him to Princess Leia, who further motivated him to join the Rebellion. Han's journey had successes and failures both at the business level and personally that are applicable to the decision to go solo, remain solo, and carry out your business ideas successfully.

“Let's get one thing straight. I take orders from just one person: me.”

Han Solo, *A New Hope*

We have all heard the horror stories of working long hours for a law firm controlled by the “partners” who can ruin your night or weekend with a simple phone call, text, or e-mail.² Back when I was interviewing for positions in law school, I visited one law firm where the rather pasty looking associates who took me to lunch (and did not know each other) complained about having to work on weekends and the last minute piling on of work. At one firm, the associate was so buried in work and afraid to communicate with others that he did not even know the name of the associate attorney in the office next to him who was next on my interview schedule. Later on as a lateral, I was being courted by a law firm who basically referred to the work flow as a dump truck backing up and dumping piles into my office. Sometimes it can seem that the practice of law for an associate at a firm consists in part of your ability to dodge internal phone calls and keep your door shut to avoid partners doing “walk by” work assignments. The allure of being your own boss and taking

orders only from yourself is the jump you want to make to get away from the lack of control you feel at the law firm. This type is referred to as solo by escape.

For some, the allure of being your own boss comes from a sense of wanting to create and run your own business as an entrepreneur. Like Han, some individuals want to be able to determine what jobs to take, what clients to work with, what prices to charge, and what process will be followed to get the job completed. Even though working for a law firm provides them with a steady income, structure, training, shared expenses, joint marketing, and existing clients that simply is not enough to challenge these individuals. Some need the high risk/high reward matrix in their lives to feel alive or validated. This type is referred to as solo by choice.

Finally, for others, the choice of going solo is made for them by the market. For whatever reason, they cannot find employment or a partner to work with and are left alone to support themselves through a solo law practice. Thrust out on their own, they must make the most of the situation. This type is referred to as solo by default.

No matter your reasons for going solo, practicing law on your own can be emotionally and financially rewarding. There can be a strong sense of accomplishment that your firm is your firm, your clients are your clients, and your fees are your fees.

“Never tell me the odds.”

Han Solo, *Empire Strikes Back*

Going solo requires financial, personal, and career risk. Many solo practitioners cannot handle the pressure of being the sole decision maker and having to live with the results of those decisions. Others struggle through lean financial years and determine that the risk outweighs the reward and race back to the safety of the steady paycheck. Key to dealing with the struggles of going solo is your personality type and your goals for starting your own practice. Over the course of Han Solo's journey, we the audience were able to see and understand his personality type and why being his own boss meant so much to him.

Analyzing your strengths, weaknesses, opportunities, and threats (SWOT) can help you understand why going solo might be the right choice for you as it was for Han. This assessment must be honest for it to provide a benefit

1 This article was written before the release of *Solo: A Star Wars Story*. All references to Han Solo are based on the author's pre-*Solo* knowledge.

2 The author's personal experience is based on working at a private firm.

for you. At a minimum, your SWOT assessment should be based on the following type of questions:

- Why do you want to go solo?
- Do you have the skills to competently practice your area of law?
- Do you have a good reputation in the legal community?
- Is your area of law needed in your desired community?
- Do you enjoy meeting others?
- Can you sell yourself?
- Are you willing to struggle financially?
- Can you live with the unknown or does it stress you out?
- Do you need daily interaction with peers?
- Do you like making all the decisions?
- Do you have strength and confidence?
- Can you hire and fire clients?
- What will prevent you from being successful?

The answers to the above questions should guide you rather than scare you off. Any weaknesses that you may have could potentially be made stronger through education or training. Just be honest with yourself and your reasoning. Keep in mind the ethical obligation of competently representing clients and use malpractice insurance to mitigate your personal risk. There are also resources that can help you through the process of going solo such as the Riverside County Bar Association's Mentoring Program should you feel you need help in your area of law and would like to have a guidance from a helpful mentor.

Of course, there is still going to be risk, a whole lot of risk, but there is also a whole lot of reward. However, through proper planning, you can minimize the risks associated with making the jump to a solo practice and increase your odds of being successful. There are three basic plans that you should consider for your solo practice. Each plan should be reviewed on a regular basis and modified as needed based on what is working or not working as discovered during the review process.

The Business Plan

“Look, I ain’t in this for your revolution, and I’m not in it for your princess. I expect to be well paid. I’m in it for the money.”

Han Solo, *A New Hope*

A business plan is where all good businesses should start because it provides the foundation for what you are going to accomplish. Some experts recommend starting with the reason why you want to start your business. Are

you seeking freedom, more money, or have you found a unique market opportunity? Your business plan should reflect your vision for how you want to practice law and your reason why going solo is the best way for you to implement your vision. Understanding why you want to create your solo practice is critical to crafting the rest of your business plan. Han knew he was in it for the money, at least initially, and left when he was paid. His vision was later modified in the cinematic moment when he returns to protect and save Luke during the final run on the Death Star, but his return shows that flexibility and adaptation to circumstances are important to the success of any business plan.

On the technical side, a business plan will consist of an executive summary where you declare who you are and what your solo practice will consist of. There should be section describing the services that you will provide and how you will provide them. Do you want to have a virtual practice or do you need a brick and mortar establishment? Will you focus on a specific area or sub area of law or will you focus on several areas? The answer to this question will often depend not only on your expertise, but also on your market area. Clearly, the more focused your practice is the easier it is to understand and put in place marketing, but in smaller areas it may be necessary (and can be enjoyable) to offer related type services in other areas of law. For instance, estate planning and probate can be compatible or tax and business planning. If you want to spend most of your time in court, there is family and criminal law. Your decision, however, should be based on the analysis of your market data section of your business plan. Research what other lawyers are doing in the geographic and practice area where you want to open your solo practice. Contact other attorneys in the area and ask questions about the market. Your market analysis will also help you set the pricing for your services. Finally, and most importantly, your business plan should include your financial plan and financial projections. Like Han, you are in this to make money and the numbers should run your practice. The level of detail in your business plan will depend on your style, but at least go through the exercise of thinking through the details of each section.

If you are struggling to create a business plan, there are plenty of books and systems that are available to guide you through the creation of a business plan and there are success stories for each system. Just pick one that makes sense to you and matches your personality so that you end up with a business plan that you buy into rather than a business plan that is only a paper document rather than an action plan. Your business plan should reflect your vision as you are the boss.

The Marketing Plan

“You never heard of the Millennium Falcon?”

Han Solo, *A New Hope*

Once you know what you want to achieve with your solo practice, you will need to determine how to get clients that will help you achieve your vision. Clients will only hire you when they know who you are, what you do, and how good you are at it. The first step is to identify your target audience for your services and then determine where you would likely be able to encounter your target audience. This encounter could take place in many forms such as in person or virtually through internet ads or other online contact. Targeted marketing beats a shotgun approach to marketing almost every time and can save you time and money in your approach. If you do not understand your demographic, hire an expert to help you rather than flounder around trying to figure it out. Some areas of law rely almost entirely on personal contact and referrals (such as business and estate planning), whereas other areas of law survive on mass marketing (personal injury, criminal, and divorce). Your vision should dictate your target audience. Han was an excellent marketer and made sure that all knew that the Millennium Falcon made the Kessel run in less than 12 parsecs.

Finding the right clients for you is critical to your happiness and your success. Remember that Han's troubles all stemmed from taking on the wrong types of clients, which can be avoided by you if you know the type of client you are looking for.

The Technology Plan

“Hokey religious and ancient weapons are no match for a good blaster at your side, kid.”

Han Solo, *A New Hope*

Good technology can level the playing field for the solo practitioner and can increase output, which leads to client satisfaction and more fees. A technology plan should consider the lifecycle of a client from inquiry to completion of tasks for the client and provide a map of the process. Integrated into this plan will be marketing considerations, as well as practice management considerations and how technology fits into each component. The American Bar Association has a Legal Technology Resource Center that is a helpful resource containing reviews, webinars, and a Legal Technology Buyers Guide that provides an introduction to various aspects of the type of technology you might consider for your solo practice. By clicking on the links you can find information regarding the types of the various products and vendors that are out there. Of course you can contact these vendors directly, but be ready for the e-mails and phone calls from their sales representatives.

At a minimum, your technology needs will include a computer, printer, scanner, copier, website, communication system, and access to Cloud-based technology. The quality of these items will depend on your budget, but good quality equipment can prevent frustration and provide better services to your clients, which again could lead to higher fees. For Cloud-based storage, there are vendors such as Dropbox, Box, and Microsoft's One Drive as well as others. Your technology plan should include proper security measures for passwords and access, so that you do not create ethical violations for yourself. Case management systems are also very helpful to managing the workflow and avoiding missing deadlines or failing to communicate regularly with your clients (the number one complaint clients have with lawyers). Case management systems all provide for a free trial period so you can try them out and see which one fits your style. Depending on your practice area, there are document production systems that allow for automation of most drafting needs. For the solo practitioner, these systems can free up limited time for marketing and other important activities.

Other Considerations

“I know.”

Han Solo, *Empire Strike Back*

Going solo means that you are a business that is run by you and for you. You will need to know all the required areas for a business such as the federal and state tax implications of running your business (or hire an accountant that does), making sure that your business bank account and trust account are properly set up maintained, and having the required permits to operate your business. Making sure all of this runs smoothly takes your time. Experts recommend that you set a side specific time each week to work on your business, rather than stress about each aspect of your business each day.

Finally, while going solo does make you your own boss, it can also make each of your clients your own boss. Finding balance between the demands of clients, running a solo practice, and your personal life requires a system and structure that allows you be able to step away from your practice. When you are at work do your work. When you are at home, be at home. Han's personal life was a mess. He was estranged from Leia and lost his son. One question you should constantly be asking yourself is what good is creating a great solo practice when you have no one to enjoy it with?

Andrew Gilliland is a solo practitioner and the owner of Andrew W. Gilliland Attorney-at-Law with offices in Riverside and Temecula. Andrew is the co-chair of the RCBA's Solo & Small Firm Section and a member of the RCBA's Publications Committee.



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LITIGATION PRACTICE FOR NEW LAWYERS

by Boyd Jensen

Respectfully, but without reservation, litigation rests at the apex of the practice of law. In the processes of litigation, in our most singular goal of seeking justice, almost all aspects of the legal landscape, are engaged. Law school subjects explained in casebooks, for example, contracts, yet not a compilation of contracts; property, yet not a compilation of deeds or leases; or even taxation, nary a 1040 form to be found, each being explained through the adversary analysis of words...relationships...perceptions, and public policy arising from the consequences of litigation. And recorded in decisions researched by litigators, and those judicial/regulatory/administrative public servants with whom they serve.

The vast majority of litigation is found within the civil case world. As an example, the *United States Courts Statistical Reports* in 2016 report 59,064 criminal cases filed in the United States District Court, compared to 291,851 filed civil cases.¹ One would expect a larger percentage of criminal cases filed locally to more evenly balance the caseload. On the prosecuting side of litigation in the criminal world, almost all litigators are public employees, whilst on the defense side, litigators are both public employees and private attorneys. In the family law and civil worlds, plaintiffs are represented mainly by independent litigators working for individuals or businesses to whom they turn for justice. There are few institutional plaintiff organizations, such as the ACLU. On the defense side the opposite is true. Insurance companies providing defenses in tort, real property and business, besides worker's compensation, and other quasi-administrative environments, carry the heaviest load.

Other perhaps narrower specialties, such as bankruptcy, environmental, Social Security disability, taxation, admiralty, in some cases landlord/tenant, and particularly at the present time immigration law, are niche litigation practices, with special courts or administrative bodies, following particular rules of evidence and presentation.²

New Lawyers as Criminal Defense, Civil, and Family Law Practitioners

Thus, the new lawyer, not employed by government agencies, or determined to work within a niche litigation specialty, yet seeking to litigate as their legal career, have essentially four broad options: criminal defense, civil plaintiff, civil defense supported by private institutional employment, for example, insurance companies and domestic relations or family law. Family law practitioners also "litigate," but due to the nature of what is being "litigated" have specialized and sectionalized courts, like the Riverside County Family Law Court, which cater to the members of the public being served, including rules and procedures not normally ending up in conventional jury trials in criminal and civil departments.

Beyond the New Attorney Academy (application deadline August 31, 2018), a wonderful mentoring program of the RCBA and other general support for members, the RCBA sponsors the criminal law, family law, and civil litigation sections, devoted to regular meetings and hosting interactive events with local bar members, similarly specialized. The State Bar of California and *Rules of Court, rule 9.35* serve as the basis for the creation of legal specialization programs, including criminal law, criminal law trial advocacy, civil trial advocacy, and family law trial advocacy. While the specialization certification requires years (normally 3 to 5) of work, the written exam and 25% (or "substantial") practice time, such commitments are achievable and, in this author's opinion an outstanding roadmap for a new lawyer to follow right out of law school, leading to a respected and publicly acknowledged position of expertise within one of these major litigation practice specialties!

Advertising vs. Solicitation: "Are you fishing or are you chumming?"

For some, the world changed for new practitioners seeking to advertise. In the case of *Bates v. State Bar*

1 USCourts.gov, Table 4.8 for United States District Court *civil* filings...through 2016; and Table 5.2 for US District Court *criminal* filings...through 2016.

2 Although this author has some experience in a few of these more narrow litigation specialties, the space requirements of

this article, limit their discussion to acknowledgement only. In fairness, as discussed above, the State Bar, Department of Legal Specialization, includes juvenile law, social security disability, probate, taxation, admiralty, worker's compensation, and business bankruptcy law; and the RCBA also has sections in probate, immigration, landlord/tenant. and environmental/land use.

of Arizona, the United States Supreme Court ruled that certain lawyer advertising was protected by the First Amendment and lawyers were not above the “trade” in advertising fees and services.³ The evolution which followed has been dramatic, not just in terms of the textual breadth allowed in advertisements, but with our new digital world, their universal reach.

To determine what is considered “acceptable advertising,” in the absence of being able to study the rules of professional conduct in every state, both the ABA Model Rules and California Rules of Professional Conduct (Rule 1-400 *Advertising and Solicitation*) should be reviewed. In brief, and similar to the California Rules, the ABA Model Rules (Rule 7.1) state: *A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services ... contain(ing) a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.* Rule 7.3 states concerning solicitation (a) *A lawyer shall not by in person, live telephone or real-time electronic contact solicit*

³ *Bates v. State Bar of Arizona* (1977) 433 U.S. 350, pp. 368-372.

professional employment when a significant motive for the lawyer’s doing so is the lawyer’s pecuniary gain, unless the person contacted: (1) is a lawyer; or (2) has a family, close personal, or prior professional relationship with the lawyer.

Different than on lakes and streams, it is far more palatable in the law’s aquatic world, to “chum” rather than “bait and hook” prospective clients. New lawyers should be wary of the incessant “solicitations” of advertisers promising extraordinary leads, though it seemingly promotes the fastest and easiest route into the world of litigation.⁴

Boyd Jensen, a member of the Bar Publications Committee, is with the firm of Jensen & Garrett in Riverside.



⁴ A comment should be made about attorney job services such as USAJobs.gov. A recent search found litigation related positions in aviation, immigration, and customs enforcement, U.S. Attorney, and specified “trial attorney” positions being sought in civil rights disputes.

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IS THE LAW STILL A NOBLE PROFESSION? THREE LOCAL LEADING LAWYERS WEIGH IN

by *Melissa R. Cushman*

While the legal profession has been the butt of jokes since at least Shakespeare's time ("[t]he first thing we do, let's kill all the lawyers"), the legal profession's reputation currently seems to be in particular disrepute. While many people once looked up to lawyers, Jack B. Clarke, Jr. observed in opening the February 2018 Riverside County Bar Association General Membership Meeting, now many see sleaze and many lawyers flee the profession as unsatisfying and immoral. To investigate whether the law was still considered a noble profession, Clarke moderated a panel of three noteworthy local lawyers and asked them to weigh in. Steve M. Anderson, a partner at Best Best & Krieger LLP, David T. Bristow, a former U.S. magistrate judge, and Riverside County Public Defender Steven L. Harmon, discussed the issue for the length of the meeting, with each agreeing that the answer was a resounding "yes!"

Bristow began by not only answering "yes," but by also contending that, in some ways, the profession is more noble today than it was previously, when the profession was limited to property-holding white males and was rarely encountered by the populace unless one broke the law or happened to need a contract. Today, many more people use lawyers and need lawyers, and a much wider range of people can become lawyers. Harmon noted that the definition of the word "noble" signifies someone who is willing to help someone else in trouble and to fight a fight worth fighting. Because the legal profession is about prosecuting the guilty, keeping people safe, making sure victims are helped, resolving disputes, making sure heirs receive what they are entitled to, and protecting people from harassment and discrimination, the law fits this definition of "noble" very well.

Anderson also pointed out that ethics and professional responsibility are ingrained in lawyers since law school and that a lawyer reflects his or her profession at all times, not just in court, but also in neighbor and family interactions. People think first of the bad among the lawyers and that brings the rest of the profession down. Clarke raised some factors that may have contributed to the legal profession's slide in public opinion: lawyers playing the race card, lynch mobs evading justice, OJ Simpson being found not guilty in spite of the evidence. Harmon gave the caveat that, while the profession is noble, we lawyers are not always noble. It reflects on the profession when lawyers lie, cheat, are sleazy, are uncivil, when lawyers chase the dollar and put winning in front of honor. But in almost all instances, there are two sides to every story, and where there are two sides, there can be a dispute and a struggle over which side will prevail. To maintain a noble profession, the question is how to keep that "fight" in the realm of decency and civility? And lawyers

sometimes fail to do so. The challenge is not to lose your nobility when you are confronted with an opponent who is not noble and to prevent discouragement from dealing with those who are not noble.

When Clarke expressed the concern that law seems to be for the benefit of the affluent, Anderson pointed out free legal programs such as the Inland Empire Latino Lawyers Association (IELLA), for which he has volunteered for 20 years. All lawyers have the opportunity to secure justice for those who do not have the ability to do so on their own, he noted. Public service and pro bono work allow lawyers to make an enormous difference and validate the nobility of the profession.

It is easy to say "be noble," but how does an attorney stay noble in the face of bills, poorly behaved opposing counsel, and screaming clients? Bristow pointed out that lawyers swore an oath to uphold the constitution of California and of the United States, to uphold the laws, and to be honorable before the court as an officer to the court. Every day is a constant decision tree where you have to decide how to deal with something, but lawyers' professional reputation is based on how they respond. There are rules on how depositions and other interactions are conducted. Make your record and act in such a way that, when you go to court, you are shown to be the person who upholds the law. The nobility of the law is that you protect your client and every client can have a noble cause no matter who that client is. When lawyers put their interests ahead of clients, that is when the law loses its nobility.

The panel reflected on lawyers that had mentored them and that they knew upheld the standards for nobility in the profession. They pointed to the Honorable Vic Micelli, Justice John Gabbert, and Art Littleworth as attorneys and mentors who accomplished great things and demonstrated both how to practice the profession nobly and how to represent the profession in the community.

The issue of the nobility of the legal profession remains an important one to the bar. For this reason, the Riverside County Bar Association continued to explore the issue at other meetings, including the May 18, 2018 general membership meeting, at which District Attorney Michael Hestrin hosted a panel discussion on "The Law as a Noble Profession: The Ethical, and Other, Responsibilities of the Prosecution in a Criminal Matter."

Melissa Cushman is a deputy county counsel with the County of Riverside and a member of the Publications Committee.



RCBA-RIVERSIDE SUPERIOR COURT-ABOTA NEW ATTORNEY ACADEMY

by Robyn A. Lewis

The Riverside County Bar Association, the Riverside Superior Court and the American Board of Trial Advocates of the Inland Empire (ABOTA) are pleased to announce that the fourth class of the New Attorney Academy has graduated on May 18, 2018.

The purpose of the New Attorney Academy (hereafter “the Academy”) is to provide professional guidance and counsel to assist newly admitted attorneys in acquiring the practical skills, judgment and professional values necessary to practice law in a highly competent manner and to encourage sensitivity to ethical and professional values that represent the traditions and standards of the Inland Empire legal community.

Specifically, the Academy is made up of a series of classes, which take place once a month. The curriculum is taught by judges and noted attorneys in the community, many of whom are ABOTA members. Topics to be taught include, but are not limited to, an introduction to the legal community, a practical and intensive primer on depositions and discovery, including expert depositions, an introduction to practicing in court (court appearances, legal writing and research, pet peeves of the bench, etc.), transition into practice (dealing with clients, how to successfully participate in ADR, relations with other attorneys, case management, etc.), an introduction to appellate law and an introduction to law practice management. The emphasis of these classes are for a civil practitioner although anyone who has an interest in participating in the program is invited to apply.

At every session, the class attends the monthly RCBA General Membership meeting for that month so as to promote membership in that organization and to allow for class members to participate in their legal community. The only cost for attending the Academy is for the lunches provided at the RCBA General Membership meetings. Applicants must be under five years of practice or awaiting their bar results and must be a member of the RCBA.

This year’s graduates are as follows: Nicollette Alvarado, Wais Azami, Kathleen Castro, Holly Marie Chandler, Taylor DeRosa, Ryan Fender, Michael Fey, Stacy Gholson, Tiffany Hibbard, Richard Jacobs, Rosa Marquez, Ronald Newton, Michael Ortiz, Melissa Rivera, Daniel Schwarz, Wes Stanfield, Ben White and Courtney Writer.

If you are interested in applying for the 2018-2019 program, please contact Charlene Nelson at the Riverside County Bar Association at 951.682.1015 or contact Robyn Lewis at robynlewis@jlewislaw.com for further information.

Robyn Lewis is with the firm of J. Lewis and Associates, APLC. She is the chair of the New Attorney Academy and a past president of the RCBA.



*The Academy students at the Court of Appeal.
Back row, (l-r) – Ron Newton, Wes Stanfield, Ryan Fender, Richard Jacobs, Daniel Schwarz.
Front row, (l-r) – Michael Ortiz, Courtney Writer, Tiffany Hibbard, Ben White, Melissa Rivera, Kathleen Castro, Stacy Gholson, Nicollette Alvarado, Wais Azami.*



*Back row – Judge John Vineyard, Tiffany Hibbard, Ryan Fender, Ben White, Michael Ortiz, Richard Jacobs, Ron Newton, Daniel Schwarz and Wes Stanfield.
Front row – Wais Azami, Rosa Marquez, Nicollette Alvarado, Kathleen Castro, Melissa Rivera, Courtney Writer and Stacy Gholson.
Graduates not pictured: Holly Marie Chandler, Taylor DeRosa and Michael Fey.*

MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective June 30, 2018.

Matthew C. Anderson – Bonnie R. Moss & Associates, Riverside

Candice A. Garcia-Rodrigo – Rodrigo Law Firm, Ontario

Jonathan James Grisham – Smith Law Offices, Riverside

Emily B. Lerner – Horspool & Horspool, Redlands

Christopher M. Moffitt – Best Best & Krieger, Riverside

Tarik T. Muhtaseb – Cal-Lawyer PLC, Riverside



THE LEO A. DEEGAN INN OF COURT

by L. Alexandra Fong

The Leo A. Deegan Inn of Court (Deegan Inn) is a professional organization comprised of attorneys and judicial officers and organized under the American Inns of Court. The Deegan Inn was founded by Judge Sharon Waters, Judge Robert J. Timlin, Stanley Orrock, James Heiting, and Terry Bridges in 1991. The organization focuses on improving the skills and professionalism of the bench and the bar. Each month, the Inn holds a dinner meeting, during which a team of members presents a program that focuses on matters of ethics, skills, and professionalism.

The Deegan Inn was named for the Honorable Leo A. Deegan, a legend in the Riverside legal community. Judge Deegan first began practicing in Riverside in 1946 as a member of the District Attorney's office and then with Riverside County Counsel. He became Riverside's City Attorney in 1958. A year later, Governor Edmund Brown appointed him to the Riverside County Superior Court. He served on the court until his retirement in 1975. In the late 1980s, he served for 14 months on the California Court of Appeal, Third Appellate District, in Sacramento.

For the 2017-2018 program year, the theme is the First Amendment of the United States Constitution. Each team was named for a signer of the Declaration of Independence that was either an attorney or judicial officer. Team Samuel Chase, led by Judicial Master Kenneth Fernandez, began team presentations with a discussion on freedom of religion on October 25, 2017. Guest speakers, Glenn Wenzel and Kristi Smith, who is a supervising deputy city attorney for the City of Riverside, spoke about the history of the Mount Rubidoux cross and the litigation that threatened it.

Team Francis Hopkinson, led by Judicial Master Irma Asberry, presented on freedom of speech in December 2017. The audience was enlightened with a game of Jeopardy, with Barrister Jean-Simon Serrano portraying Alex Trebek, complete with salt-and-pepper hair and a moustache that appeared to be falling off. The remaining five teams squared off in this game to win the grand prize of Starbucks gift cards.

Team George Read, led by Judicial Master Eric Isaac, presented on freedom of the press in January 2018. Details about historical cases involving this issue were provided to the audience. Attorney Master Mary Anne Forrest regaled the audience with her tribute to George Read.

Celebrating its 25th Anniversary, the Deegan Inn was proud to host the Joint Inn Meeting of the Inland Empire Chapters of the American Inns of Court at the California

Citrus State Historic Park, Sunkist Center, in Riverside on February 21, 2018. Carl E. Douglas, an attorney who specializes in police misconduct cases and is best known for being a member of O.J. Simpson's "Dream Team" in the early 1990s, was the keynote speaker.

Team Matthew Thornton, led by Judicial Master Bambi Moyer, presented on the right to peaceably assemble in March 2018. The team began their presentation with a "call for justice for Matt." During the presentation, they were served with a gang injunction by a deputy district attorney and, at the end of their presentation, were "arrested" for violating the injunction.

As many Deegan Inn members wanted to become more involved with the community, two community service teams were formed and their presentations occurred at the last two Inn meetings of the year.

The first community service team, led by United States Magistrate Judge Sheri Pym, discussed Human Trafficking in the Inland Empire. Their presentation occurred on April 25, 2018, and opened with a presentation about their team namesake, John Morton. My Country, 'Tis of Thee (America) was the background music, utilized from a recording of the Boston Pops Orchestra conducted by Arthur Fiedler, circa 1938. Following this brief presentation, a slide show was shown during dinner, which highlighted the community service, which the team had undertaken throughout the Inn year. The slide show was set to George Gershwin's "Summertime" as performed by Simon Gale and the Vienna Symphonic Rock Orchestra, circa 2011. Four guest speakers, Nancy Aguirre (Riverside County Sheriff's Department), Opal Singleton (Million Kids), Debbie Martis (Rebirth Homes), and a survivor of human trafficking spoke in depth about this topic.

The second community service team, Team Robert Paine, led by Judge Jacqueline C. Jackson, presented on May 23, 2018. Team Robert Paine engaged in a mentorship program at Mira Loma Middle School. The desire for the kids to interact with positive role models was strong and the faculty advisor was torn between having the teamwork with youth who had a history of trouble and those who were excelling. The team decided to run programs for both groups of students, meeting bi-weekly with each group. For youth in the personal social responsibility program, the team answered questions about their education, backgrounds, and professions, provided an overview of the legal system, and advised of the consequences of making poor

choices. For the other students, the team created a mock trial club that was open to all students and helped them prepare a mock trial presentation based on *Goldilocks and the Three Bears*. Both groups of students toured the courts and were able to experience an actual trial. They learned about the history of the Historic Courthouse from Judge John Vineyard and asked questions of the courtroom personnel about their jobs.

At this final meeting of the 2017-2018 year, the Deegan Inn presented awards to members of the legal community for their professional accomplishments and contributions to the legal community. The Elwood Rich Award, which honors an outstanding jurist, was presented to the Honorable L. Jackson "Jack" Lucky IV. The Terry Bridges Award, which honors an outstanding attorney, was presented to Paul Grech of Grech and Packer. The Deegan Inn also recognized two outstanding younger attorneys for their professionalism and dedication to the legal community with the Biddle Book Award. The Biddle Book Award

was presented to Aaron Chandler, deputy city attorney for the City of Riverside, and Megan Demshki, an associate at Aitken Aitken Cohn.

The Deegan Inn's fiscal year runs from June 1 to May 31 of every year. The Inn is now accepting applications for 2018-2019. Membership is by invitation only and members are required to be active members of RCBA. Inn applications are due on July 20, 2018 and decision will be made in August. There are scholarships available to assist in covering the dues. For more information or to obtain an application, please go to www.deeganinnofcourt.org or contact Executive Director Sherri Gomez at (951) 689-1910 or SherriGomez4@gmail.com.

L. Alexandra Fong is a deputy county counsel with the County of Riverside, specializing in juvenile dependency law. Ms. Fong is currently the president of the Riverside County Bar Association and president-elect of the Leo A. Deegan Inn of Court.



RICHARD T. FIELDS BAR ASSOCIATION

by Jennifer Small

This month's theme of the magazine is practical advice for new attorneys. One fun way to become involved and make contacts is to join a bar association. As president-elect, I want to invite you to join the Richard T. Fields Bar Association.

The Richard T. Fields Bar Association (RTFBA) was founded in 2010. The mission of RTFBA is to represent the interest of African American attorneys in the Inland Empire (IE), but the membership is inclusive of all. Moreover, in addition to representing the interest of African American attorneys, the RTFBA promotes pipeline initiatives to increase the number of youth of color in the IE to pursue careers in the legal profession and to promote justice for communities of color in the IE. The founding members of RTFBA were Charlene Usher, Willie W. Williams, Commissioner Eric V. Isaac, and Daniel Alexander II. The RTFBA is an affiliate member of the California Association of Black Lawyers.

While focusing on education, community service, and mentorship, the RTFBA also raises money to support initiatives such as, back-to-school backpack drive, Thanksgiving baskets program, the holiday gift-card drive (which donates gift cards to foster children through CASA) and finally, the RTFBA's annual scholarships. In addition, RTFBA provides MCLE covering a broad range of topics.

The RTFBA annual scholarships referenced above are awarded each year at the annual gala for the following categories: 1) a high school student entering into undergraduate programs; 2) a first year law student; and 3) a general scholarship.

At the annual gala, the RTFBA also honors a jurist of the year, an attorney of the year, and a community member. Last year, the jurist of the year was Judge Helios Hernandez (now retired) and the attorney of the year was Krystal Lyons, senior director for operations and budget at University of La Verne College of Law. The community service award was presented to Sergeant Major Gregory Coker, founder of Reaching New Heights Foundation, whose mission is "serving those who served."

This year's recipients will be announced shortly for this year's annual gala, which will be held on July 7, 2018 at the Ontario Doubletree Hotel. Tickets cost \$85. Full tables and sponsorship advertisements are also available for purchase.

To join the RTFBA, please visit www.rtfIELDSbar.org. You can also find us on Facebook or email RTFieldsBA@gmail.com to be added to the mailing list.

Jennifer Small is the president-elect of the RTFBA and an attorney with the Law Offices of the Riverside County Public Defender and practices in the civil division of the Mental Health Unit.



OPPOSING COUNSEL: TAYLOR BRISTOL WARNER

by Betty Fracisco

It is wonderful to meet a person who has set a number of personal goals and is achieving them through years of hard work and focus. Such a person is Taylor Bristol Warner, a bright face on the Riverside legal scene who is currently serving as co-chair of the solo and small firm section of RCBA.

Warner was born in South Lake Tahoe, but from the age of four, she lived in Temecula, which at the time was rural. She graduated from Temecula Valley High School where she not only excelled at varsity soccer, but also was able to be a cheerleader during football season and participate in ASB. She began traveling during her summers, with the support of her parents, Jim and Laurie Lindlan Bristol (Dad built custom homes and Mom was a teacher). She took a school-sponsored summer trip to Paris, Rome, and Florence, and two soccer trips, one to Spain and one to Costa Rica. Did she have any thoughts of being a lawyer at this point in her life? No, she had aspirations of being a school principal, someone in charge.

Warner chose to attend college at Point Loma Nazarene University in San Diego for several reasons. She had decided she wanted to attend a smaller school in a great location AND they offered her a soccer scholarship. She ended her playing career after one year due to an injury, but she loved the school and without the commitment to soccer was able to continue her travel adventures, this time to China, Thailand, and Bangladesh. However, two of these trips were school-related and involved a certain amount of house building. She graduated with a degree in political science, as well as a boyfriend, Bill Warner, who, much later, would become her husband.

Warner decided to work for a year after she graduated to decide her next step in life. Fortunately, she started interning for Bob Gough, a partner in Gough & DeWolfe in the Point Loma area, who taught both constitutional and business law. Bob also chaired Rescue International, an organization that rescued girls from sex trafficking. This exposure was the reason she decided to attend law school. She chose the University of La Verne College of Law because she wanted a smaller school at which she could earn a Masters in Public Administration. La Verne had a program in which one could earn the masters and a law degree simultaneously. She enjoyed and excelled in



Taylor Bristol Warner

law school, serving as chief managing editor of the law review and a founding member of the Public Interest Law Foundation, which encouraged students to work in public interest law.

During law school, Warner wanted to determine what type of law she would practice, so she tried several different disciplines. She interned at the San Bernardino County District Attorney's Office and later worked for James Kenney in his family law office in Rancho Cucamonga. She was fortunate that Kenney's office was across from

the courthouse, which afforded her random opportunities to stop in and watch attorneys in action. This would be her advice to law students and new attorneys: watch attorneys in court, critique their performances, note their demeanors (good and bad), see how they behave. For Warner, this observing made her feel that, "I can do this"... "I just need to know the law."

On a personal level, Warner always knew she wanted to work for herself, to be in charge. In her last year of law school, she never sent out resumes or interviewed with law firms. This was actually a good thing, because she graduated from law school in 2011, a very bad year for new lawyers. After taking the California bar exam she did what she could, editing, writing motions, and other contract work. She passed the bar and opened her solo practice in Rancho Cucamonga on December 1, 2011.

Since then, Warner has been the architect of her own destiny. She practices criminal, family, and elder law in four counties. She spent one year in Rancho Cucamonga, then moved her office to Upland for three years and has been in her present office in Ontario for the past two years. She has been a member of RCBA since she finished law school and finds it a very welcoming organization where it is easy to get involved. In addition to her solo/small firm group, she is a member of the Leo Deegan Inn of Court and the family law section. She also attends San Bernardino West County events and is a member of the East West Family Law Council. She belongs to many more practice-related groups and attends MCLEs in most of them, because there is always an aspect of the law in which to expand one's knowledge.

So you might be wondering what happened to that college boyfriend? After graduation, he returned to Glendora

where he eventually took over his dad's health insurance business. Once she decided to attend law school, Warner said she could not get married until after she passed the bar exam. The night Warner received her results was the night of their engagement and they married the next summer. Now Warner and her husband have a home in Glendora and three children, a four-year-old daughter and two sons, ages three and one. A second daughter is due in July. Warner admits that as a solo, she has never had a maternity leave. However, she does have a supportive extended family and is very organized.

Warner is still very involved with the University of La Verne College of Law, active in the alumni association, and a member of the Board of Advisors. Her Public Interest Law Foundation is still alive and doing well. She mentors its members and always hires interns from La Verne. She is in the process of establishing a leadership scholarship for a deserving student.

So this is what can happen to a person who sets, then changes goals, but who is always moving toward their fulfillment...she can be a successful attorney, wife, mother, devoted family member, active member of the RCBA and other bar groups, and friend to many. Meet Taylor Bristol Warner.

Betty Fracisco is an attorney at Garrett & Jensen in Riverside and a member of the Bar Publications Committee.



by Donald B. Cripe

A short while back, I had a medical adventure for which I was hospitalized. While I received many well wishes from friends and colleagues, one person stands out. More than 25 years ago while I was working with a defense firm in Riverside, I encountered an opposing attorney who planted a thorn firmly in my side. He was demanding and, though not terribly difficult to work with, just wouldn't see the case my way (go figure). We struggled along for a few months until we settled. I thought he was a real pain in the butt.

A short while later, I started my own solo practice and since defense files can be difficult to attract by a solo, I took all comers. To better prepare myself for the unknown, I contacted colleagues with whom I had worked, on both sides of the "v" for advice and assistance. My pain in the butt was among them. To my pleasant surprise, he was considerate and helpful. Eventually we referred the occasional case back and forth. Over the 25 years after reconnecting, a friendship and (I hope) mutual admiration grew.

When my friend learned of my situation, he contacted me daily to see how I was doing. Then, one evening when I returned to my room from X-ray, he was waiting. Jim Heiting, who is well known and mostly revered in the Riverside Community, had become and has proven to be, a reliable and concerned friend. Over the years, Jim has been steadfastly supportive of me in personal and professional matters, but his appearance in my hospital room (aside from my family, the only other visitor I enjoyed was my former associate and friend, Jason Oei), I realized, and my wife suggested, Jim is more than just a casual friend.

I write this because such a friendship is rare and greatly appreciated. In any community, particularly a relatively small population and professional community, such friends are very valuable.

Thank you, Jim, for your loyal friendship. I know I am not the only one who enjoys your friendship and attention. But you can still be a pain in the butt!

Donald B. Cripe is an arbitrator, mediator and co-founder of California Arbitration & Mediation Services (C.A.M.S.)



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DEDICATION OF DISPLAY CASE IN HISTORIC COURTHOUSE TO JUDGE GLORIA TRASK, RETIRED

by Robyn A. Lewis

On April 13, 2018, the Riverside County Bar Association surprised Judge Gloria Connor Trask with a display case in her honor, which was installed at the Historic Courthouse.

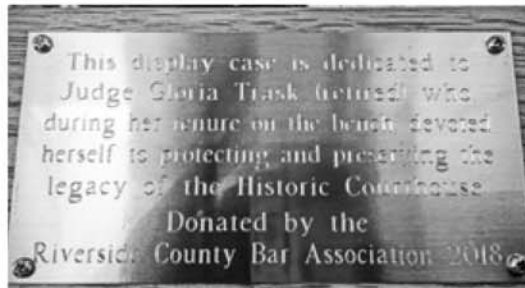
The Historic Courthouse is one of the most beautiful courthouses in the state of California and is a cherished landmark in the Inland Empire. At the time of its completion in 1904, the Historic Courthouse was considered to be one of the most important architectural structures of its day. It was modeled after the Grand Palais and the Petit Palais, which were built for the 1900 Paris Expedition.

Unfortunately, the Historic Courthouse sustained substantial damage in the 1994 Northridge earthquake and the building was forced to be vacated. It was through the vision, efforts, and direction of Judge Victor Miceli that the Historic Courthouse underwent a major renovation. Many have heard the story of Judge Miceli and his discovery in Department One. He had discovered a stained-glass dome hidden above a ceiling. With cobwebs in his hair, he coaxed colleagues up a ladder with a flashlight to see that dome, which convinced them the courthouse was worth restoring. During the renovation, Judge Miceli was there everyday in a hard hat to ensure that the work on the courthouse was done according to his plans.

The Historic Courthouse was restored to its original splendor and re-dedicated in 1998. The courthouse became Judge Miceli's "house" and he guarded and cared for it like it was his own.

When Judge Miceli retired, he turned the keys, so to speak, to the Historic Courthouse to Judge Gloria Trask. The courthouse then became her house and, while it was in her hands, Judge Trask made sure that it was cared for and safe.

At the time of her retirement in late 2017, the Riverside County Bar Association wished to do something for Judge Trask to honor her for all of her efforts and contributions to



Dedication plaque on the display case.



Judge Trask viewing the display case for the first time.



*Back Row – Judge John Monterosso, Judge Gary Tranbarger, Judge Daniel Ottolia
Front row - Judge Steven Counselis, Judge Sharon Waters, Judge Sunshine Sykes, Judge Gloria Trask, Judge Craig Riemer, Judge Irma Asberry*

the legal community. After she was consulted, Judge Sharon Waters had the perfect idea.

At the Historic Courthouse, there already existed two display cases that shared relics and artifacts from the original construction of the Historic Courthouse. Judge Miceli had bestowed the responsibility to Judge Trask of preserving and maintaining additional historical items from the renovation of the courthouse. Judge Waters recommended that a third display case be instituted so that the public could see and learn about the history of the renovation of the Historic Courthouse.

In finding someone to build the new display case, it was learned that Judge Miceli had actually crafted the existing display cases himself. Locating a craftsman who had a workshop where Judge Miceli liked to work, the Riverside County Bar Association paid to have a third display case built as a replica of the other two. It was installed across from Department One and to the right of Department Five. Judge Waters added historical documents, photographs, and Judge Miceli's well-known hard hat.

A plaque was placed on the new display case, which reads:

"This display case is dedicated to Judge Gloria Trask (retired) who, during her tenure on the bench, devoted herself to protecting and preserving the legacy of the Historic Courthouse. Donated by the Riverside County Bar Association."

The addition of the new display case is a testament to the dedication and devotion of Judge Trask, Judge Miceli, and all those who cherish the Historic Courthouse as the heart of our legal community.

Robyn Lewis is with the firm of J. Lewis and Associates, APLC. She is the chair of the New Attorney Academy and a past president of the RCBA.



JUDICIAL PROFILE: JUDGE RANDALL STAMEN

by Robert A. McCarty, Jr.

It is with pleasure that I write an article about my friend, Honorable Randy Stamen. Randy and I knew each other prior to us being attorneys as we both grew up in Riverside. I had the pleasure of sharing office space with Randy in excess of twenty years. Randy and I were further connected as both our daughters are water polo players and were on the same club team for several years. Randy's daughter is an exceptional water polo player and recently received a scholarship to play for one of the big four water polo schools.

Randy's son is in college, and I question his intellect. He is purportedly planning on being an attorney.

Randy has deep roots in the community. His dad worked for University of California, Riverside and his mother for the County of Riverside, purchasing the property for the Hall of Justice, Southwest Justice Center, and Larson Justice Center. Randy and his brother and sister all grew up in Riverside and attended school here. During high school, Randy served as a Page in the House of Representatives.

Prior to taking the bench, Randy was a civil litigator. Randy was also a certified arborist and was the preeminent "tree lawyer" in the state. He was interviewed on television, in newspapers and magazines, and published a book, *California Arboriculture Law*. Randy's practice was not limited to "tree law." Randy had a diverse civil practice in real estate, construction, and personal injury cases, representing both plaintiffs and defendants. Randy also represented many small businesses, public entities, and amusement parks and hotels, performed some transactional work, and was involved in many eminent domain and inverse condemnation cases. He also litigated several contested probate matters shortly before being appointed to the bench. In addition to Randy's traditional law practice, Randy often lectured on risk management, insurance coverage, and other topics related to trees and the law. He traveled throughout the country and sometimes internationally for these presentations.



Judge Randall Stamen being sworn in by Judge John Vineyard

Judge Stamen is wearing the robe worn by his grandfather when he was sworn in as a Superior Court judge in Massachusetts in 1952.

Randy attended University of California, Irvine and then the University of San Diego School of Law. The highlight of his law school days was serving as a judicial extern for Justice Gilbert Nares in the Fourth District Court of Appeal in San Diego. Randy and Justice Nares grew to be friends and Justice Nares ultimately performed Randy's wedding ceremony when he married his wife, Teri. Teri grew up in a small farming community in Central California. At the time they met, Teri was teaching elementary school

in Central California. Randy initially tried to practice out of two offices, one in Riverside and one in Central California. Randy eventually persuaded Teri to move to Riverside because "it was too cold and foggy" for him in Central California. They purchased their first house in Riverside and almost immediately started a family.

Randy applied to be a Riverside Superior Court Judge in 2016. His application was widely supported by the local bench and bar.

Shortly after putting his application in, Randy was told that the diabetes he had since he was eight years old was catching up with him. Randy was advised by his doctor that he should try to get listed for not only a kidney transplant, but also for a pancreas transplant. A new pancreas would completely cure his diabetes. For months, Randy went through test after test after test. As many of you know, Randy is fanatical about keeping in shape and this clearly was instrumental in passing the tests and getting on "the list."

Randy got "the call" while at the gym, the night before his son's going off to college party. He was in surgery two hours later. The double organ transplant was a complete success. Randy says that he had the easy part. Teri waited for him to come out of the eight-hour, two surgical team surgery, and recover for a few hours. She then drove home, helped host their son's party, and then drove back to the hospital to be with Randy.

Randy received the call to interview with the JNE Commission while he was still in the hospital. He could

not take it because the tubes in his throat prevented him from speaking. Randy and his doctors explained to Governor Brown, Joshua Groban, Governor Brown's senior advisor for judicial appointments, and the JNE Commission, that Randy was quickly and successfully recovering from organ transplant surgery and that he would be healthy again very soon.

After the surgery, Randy returned to his practice and to working out fanatically. Randy talks about how much the transplant surgery, recovery process, and interview process humbled him and made him a more compassionate person. He remembers that, because he was so weak, he would have to take a break halfway up his driveway each day as he and Teri walked to speed his recovery.

On December 7, 2017, Randy took the bench and was assigned to hear civil matters in Department 7 of the Historic Courthouse. He insisted that I include that he is truly grateful for the support that he received during his legal career, the organ transplant process, and the journey to the bench from his family, friends, medical team, the County's judges, attorneys, political representatives, the RCBA, Josh Groban, and Governor Brown. Randy was an outstanding attorney, is a great friend, and will be an excellent judge.

Rob McCarty has been practicing family law exclusively in Riverside for the last 25 years, and is a certified family law specialist and a Fellow in the American Academy of Matrimonial Lawyer.



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New Office Address – Robert A.

McCarty Jr., Esq.

Effective June 1, 2018 our new address is: The Law Offices of Robert A. McCarty Jr., 3963 11th Street, Riverside, CA 92501; Telephone 951-686-1583, Fax 951-686-4730, www.robertmccartylaw.com.



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