

# RIVERSIDE LAWYER

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MAGAZINE

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Constellations of Consciousness

What Does Not Kill Me Makes Me Stronger

September 11, 2001 – We Remember

Remembrance and Reflections of 9/11  
from Ground Zero

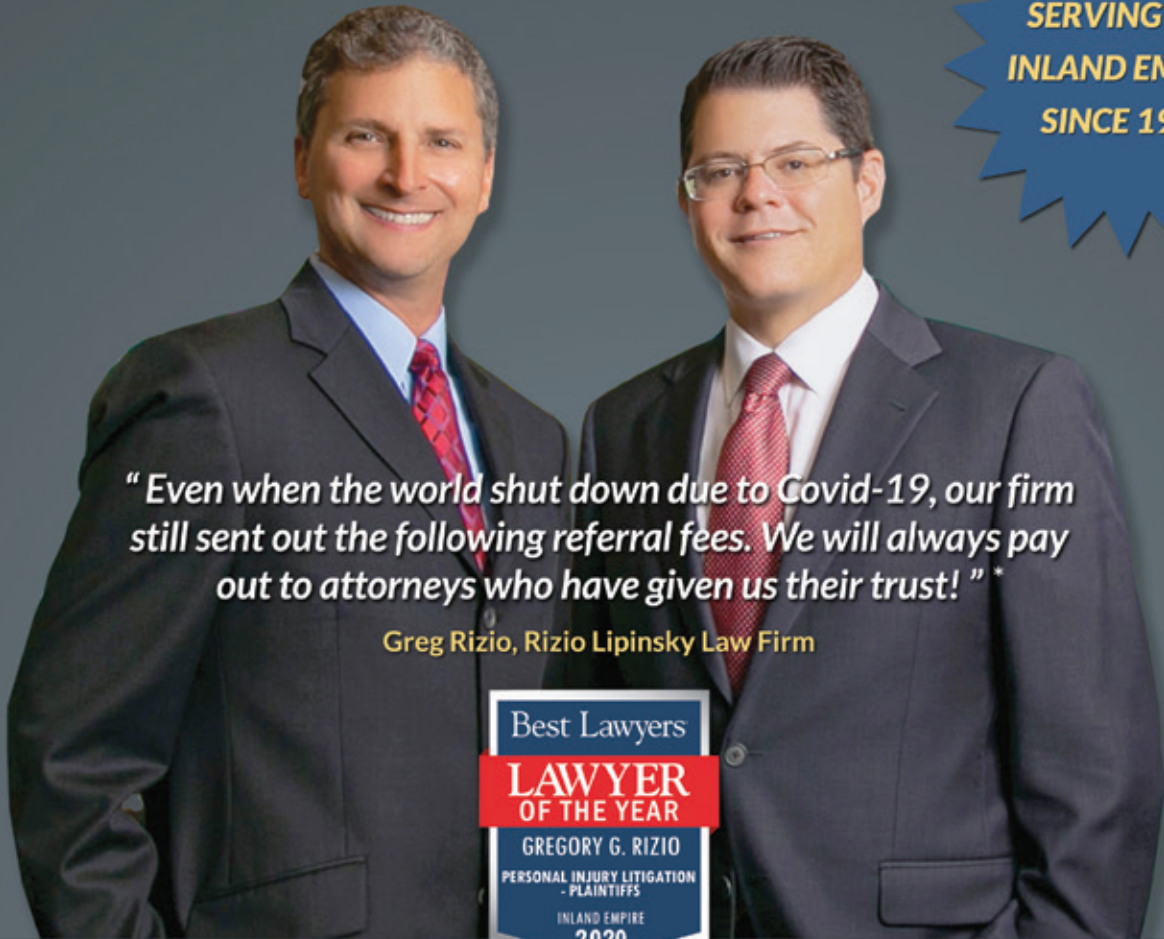


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**Cover Design** ..... The photo is by Jacqueline Carey-Wilson of the September 11 Memorial, which is a large pool of water that cascades down in the center as a waterfall and is surrounded by bronze panels which are inscribed with the names of the victims of the September 11 attacks, as well as the names of the six people who died as a result of the bombing of the World Trade Center in 1993.

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# RIVERSIDE LAWYER

MAGAZINE

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# MISSION STATEMENT

## Established in 1894

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

## RCBA Mission Statement

The mission of the Riverside County Bar Association is:  
To serve 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.

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*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

## October

- 18 Civil Litigation Section**  
Zoom  
Noon  
Speakers: Judge Carol Greene & Judge Marie Wood  
Topic: Meet Our 2 Newest Civil Judges: Transitioning from Lawyers to Judges”  
MCLE
- 19 Family Law Section**  
RCBA Gabbert Gallery  
Noon  
Speaker: Kevin Mooney  
Topic: “Evaluating The Use of Web-based Technologies and Other Electronically Created Evidence in Family Law Matters “  
MCLE
- 20 Estate Planning, Probate & Elder Law**  
RCBA Gabbert Gallery  
Noon  
Speaker: Andrew Gilliland  
Topic: “Who’s Your Client and Why this is Important”  
MCLE
- 21 Inland Counties Judicial Mentorship Program**  
Presented by Judge Michael Sachs & Judge Jacqueline Jackson  
Noon  
Zoom

## November

- 1 Civil Litigation Roundtable with Hon. Craig Riemer**  
Noon  
Zoom  
MCLE
- 2 Juvenile Law Section**  
Noon  
Zoom

*Please see the calendar on the RCBA website (riversidecountybar.com) for information on how to access the Zoom meetings.*

### EVENTS SUBJECT TO CHANGE.

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





by Neil Okazaki

I have the opportunity to provide legal support to Urban Search and Rescue Task Force 6, a group of firefighters, medics and other support personnel from various Riverside County agencies who are activated by FEMA for disasters like Hurricane Katrina. On September 11, 2001, the task force was summoned to duty within an hour of the attack on the Twin Towers. All 64 members were dispatched to Ground Zero. Today at Fire Station 1 in Downtown Riverside, a roughly 5-foot-long twisted steel beam from one of the World Trade Center towers is on display.

Last month's twentieth anniversary commemoration made us reflect upon the heroes of 9/11, including those who performed the search and rescue efforts. Twenty survivors were pulled from the rubble. Genelle Guzman-McMillan, for example, was rescued 27 hours after the collapse of the North Tower. Additionally, we as a nation also remembered the men and women who were tragically lost on that fateful day.

Jason Dahl was the Captain of United Airlines Flight 93, which was hijacked on 9/11. The plane subsequently crashed in a field near Shanksville, Pennsylvania instead of its intended target -- the U.S. Capitol Building -- due to the heroics of passengers and crew members. Jason's widow, Sandy Dahl, eloquently stated in 2002: "If we learn nothing else from this tragedy, we learn that life is short and there is no time for hate."

Unfortunately, Ms. Dahl's pleas have not been heard by all. Many Americans of

South Asian, Sikh, Muslim, Arab, and Middle Eastern descent have been the target of hate crimes and discrimination since 9/11. Places of worship have been vandalized and attacked, including the Sikh temple in Oak Creek, Wisconsin where a white supremacist fatally shot six people and wounded four others in 2012. Recent images of turbaned Taliban leaders in Afghanistan have raised concerns that more people will view turbans as symbols of extremism. More can be done to build a more inclusive nation and some of that starts locally.

The Civil Rights Institute of Inland Southern California will be a place for our community to collaborate and coordinate activities to explore our common past and work together in the present to build a better future. At our installation of the RCBA Board of Directors on September 23, the generosity of our members during the live and silent auctions made it possible for the RCBA to raise over \$15,000 for the Civil Rights Institute. It was also a heartwarming night to honor civil rights heroes United States District Judge Virginia A. Phillips, California Court of Appeal Justice Richard T. Fields, and former Riverside Assistant City Attorney Carolyn Confer. Although he was unable to attend in person, we also paid tribute to Art Littleworth. All four individuals have been named as Civil Rights Heroes by the Institute and will be permanently honored at the building when it opens. I want to thank all those in attendance for supporting this worthwhile cause and making it an evening to remember.

The Captain Jason Dahl Scholarship Fund was established to provide deserving aviation students scholarship grants in Jason's name to attend accredited commercial flight training schools. The Civil Rights Institute of Inland Southern California will be a place of action and conversation around civil rights in the Inland Empire. Both are IRS recognized 501(c)3 non-profit charities supported through corporate and individual donations alike.

We will never forget.

*Neil Okazaki is an assistant city attorney for the City of Riverside.*



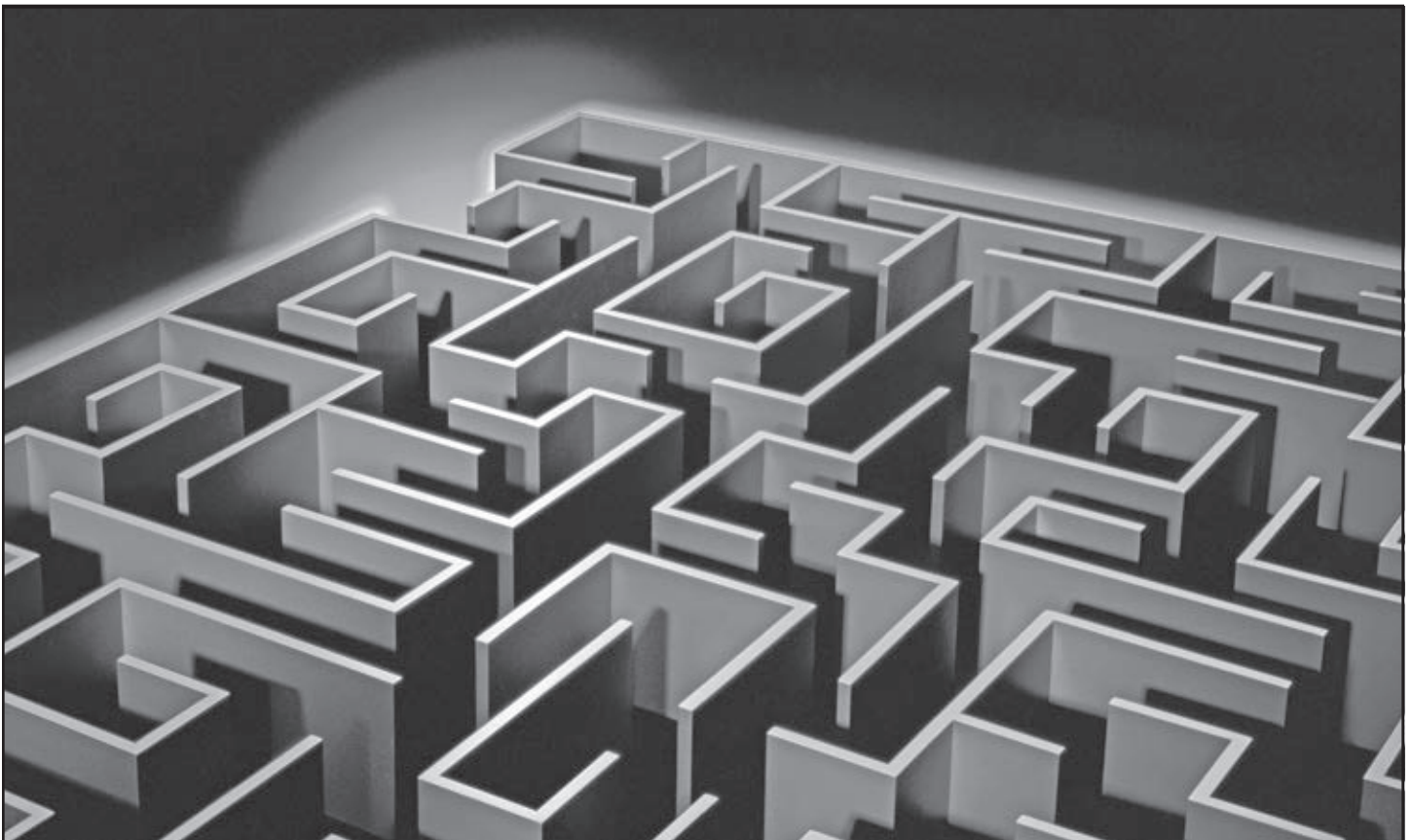
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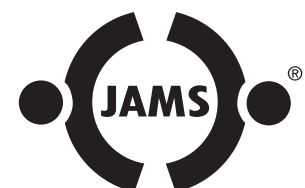


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# BARRISTERS PRESIDENT'S MESSAGE

by Michael Ortiz



I will never forget September 11, 2001. I was a freshman in high school and knew little about global politics. I knew nothing of middle eastern conflicts, nor threats of terrorism in the United States. That morning, however, these topics came to the forefront of every conversation I had.

In the ensuing days and weeks, the nation collectively mourned lost loved ones and worried about missing friends and family. New York first responders and civilian volunteers tirelessly searched the World Trade Center rubble for survivors. There was a palpable sense of not only shared sorrow, but community and solidarity within the nation.

Ultimately, it led to war. We invaded Iraq. Then Afghanistan. And some of my friends and I joined the military, which I directly attribute as a result of September 11, 2001. I wanted to serve and protect my country. Once in the military, I wanted to protect my brothers and sisters in arms. "Service" took on a different meaning to me from my military experience.

It is ironic that 20 years after September 11, 2001 – and many years since I completed my service – we can finally say America's war in the Middle East is over. Whether or not it was a success is not a clear. Many veterans I have heard from are understandably confused as to how to feel about the situation. Ultimately, in my opinion, the result is positive.

As we recognize the 20-year anniversary of the September 11, 2021, not only do I make it a point to remember the lives lost, but to remember the positive results from it as well. It brought many Americans closer. It taught us that tomorrow is never guaranteed. It showed us that empathy among the nation is possible. And, it inspired in me a desire to serve.

Now, as an attorney, I often find myself thinking of my time in the military. As a new attorney, I would remind myself, "If you can make it through boot camp, you can make it through this," when work seemed overwhelming. Over time, I began to recognize a lot of similarities between military service and practicing law.

Of course, as attorneys we are spared many of the difficulties of life in the military. However, it is clear to me that the same reasons I joined the military underlie my choice to become a lawyer. I, like many attorneys, was drawn to the law out of desire to serve others.

In addition, practicing law requires a great deal of personal sacrifice. Initially, we sacrifice time. Commonly, we sacrifice relationships to spend more time working. Whether we like it or not, we might even sacrifice our own health. All these sacrifices are made from a sense of duty to our clients.

We are also forced to face some of life's most difficult realities. We see the worst in people, sometimes more often than the best. People rarely seek our services unless something has gone very wrong. We deal with the most stressful situations in life. Our clients sometimes look at us like we are their only hope, and sometimes we really are.

This is heavy burden for any person to bear. No amount of altruism or passion can grant immunity from the emotional toll of our profession. Admittedly, I have asked myself, "Why am I doing this?" In the military, the answer to that question was easy. As a young attorney, it wasn't quite as clear. That is, until I joined the RCBA Barristers.

We Barristers joke that we are "happy hour specialists," but in reality, we are here to serve new and young RCBA-member attorneys. Our happy hours are more than just sharing drinks, they are an opportunity to connect, vent, and make friends with other lawyers. What was most important, for me, was the opportunity to serve again by joining the Barristers Executive Board. The Barristers helped me stay sane and healthy in this demanding profession, and we are here for any other lawyer, Barrister or older, who needs the same.

## Announcements and Upcoming Events:

We welcome our newly installed executive board members:

Goushia Farook, Lauren Vogt, David Rivera, Alejandro Barraza, Ankit Bhakta, Alfonso Smith, Braden Holly, Brigitte Wilcox, and Kevin Collins.

Upcoming Events: Happy Hour @ Lake Alice, 10/28/21 @ 5:15 p.m.; Happy Hour @ Location TBD, 11/19/21 @ 5:15p.m.

## Follow Us!

For upcoming events and updates:

Website: [RiversideBarristers.org](http://RiversideBarristers.org)

Facebook: [Facebook.com/RCBABarristers/](https://www.facebook.com/RCBABarristers/)

Instagram: [@RCBABarristers](https://www.instagram.com/RCBABarristers)

If you would like to sponsor any Barristers events, request MCLE topics or community outreach events, or for any other matter, feel free to email me directly at [Mike@MikeOrtizLaw.com](mailto:Mike@MikeOrtizLaw.com).

*Michael Ortiz is an attorney at Ortiz Law, where he practices primarily estate planning and administration. He can be reached at [Mike@MikeOrtizLaw.com](mailto:Mike@MikeOrtizLaw.com).*



# PRACTICING RESPONSIBLY AND ETHICALLY

## ARTICLE 10 – STATE BAR RULES ON DISCRIMINATION

*by David Cantrell*

In September, we acknowledge the twentieth anniversary of September 11, 2001. There is probably no event, at least not in my life, that has had such a significant impact on the lens through which we view the world. The world saw the loss of nearly 3,000 American lives that morning. It took only a matter of days before our entire country was united and charging ahead to fight a war on terror. Well-meaning people quickly adopted a “never again” or “not on my watch” attitude in the hope of thwarting further attacks. “If you see something, say something” became a way that everyone could pitch in and try to prevent another attack. An unfortunate byproduct was that it became almost commonplace to witness groups of people being treated differently due to the color of their skin, their national origin, and/or their religious beliefs.

As we reflect on 9/11, I thought this would be a good time to address the rules prohibiting discrimination in the practice of law. The California Rules of Professional Conduct (“CRPC”) were updated in 2018, including the rules applicable to discrimination – or allegations of discrimination – related to the practice of law. In CRPC 8.4.1 the State Bar explicitly stated that in representing a client (including terminating a relationship or refusing to accept representation), a lawyer is prohibited from unlawfully harassing or unlawfully discriminating against a person based on any “protected characteristic.” (CRPC 8.4.1(a)(1)-(2).) The term “protected characteristic” is defined broadly to include “race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, military and veteran status, or other category of discrimination prohibited by applicable law, whether the category is actual or perceived.” (CRPC 8.4.1(c)(1).) While the list of protected characteristics has changed over the years, the clear message remains that people should be treated equally.

The committee that adopted the most recent version of the rule prohibiting discrimination explained the importance of the rule: “Conduct that violates this rule undermines confidence in the legal profession and our legal system and is contrary to the fundamental principle that all people are created equal.” This remains

true whether the country is under attack or during any other crisis.

Rule 8.4.1 goes beyond the attorney-client relationship and touches on workplace issues. For instance, the rule makes it unlawful for a lawyer to “knowingly permit” the unlawful harassment of an employee, applicant, unpaid intern, or volunteer. When it comes to allegations of workplace harassment, this is the equivalent of “if you see something, say something.” Failing to correct harassment by or among your staff could lead to inadvertent consequences with your law license.

So, how does Rule 8.4.1 differ from the long line of similar laws (FEHA, various civil rights acts, etc.) that prohibit discrimination? Rule 8.4.1 provides the State Bar a basis to discipline lawyers for violations. If a lawyer finds herself subject to a disciplinary proceeding under Rule 8.4.1, there can be consequences unrelated to her state bar license. For instance, Rule 8.4.1(e) requires any lawyer who has been issued a notice of disciplinary charge under the rule to self-report the charge to various agencies (including the California Department of Fair Employment and Housing, the United States Department of Justice and/or the United States Equal Employment Opportunity Commission.)

In the months and years following 9/11, the aphorism “If you see something, say something” became a call to protect America against terrorism. But it also tended to promote racial and religious profiling, which undoubtedly undermined some Americans’ confidence in their country’s advertised ideals of equality and tolerance. In today’s legal practice, “If you see something, say something” can have the opposite effect. In addition to promoting confidence in the legal profession and ensuring that your law practice isn’t subject to discipline, it can also raise public confidence in what the rules commission called “the fundamental principle that all people are created equal.”

So, if you see something, say something.

*David Cantrell is a partner with the firm Lester, Cantrell & Kraus, LLP. His practice focuses on legal malpractice and professional responsibility issues. David is certified by the California State Bar’s Board of Legal Specialization as a specialist in legal malpractice law.*





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# “ONLY TIME” – MY LESSON FROM 9/11

by Andrew Gilliland

Enya Patricia Brennan better known by the singular name of “Enya” created a masterfully emotive song “Only Time” that was released on her fifth studio album *A Day Without Rain* in 2000. Having consumed her four prior studio albums, *A Day Without Rain* satisfied my expectations considering Enya’s four previous studio releases. However, because *A Day Without Rain* was similar to Enya’s previous releases, it languished near the bottom of my Enya playlist. None of the individual songs stood out or were connective enough to replace the Enya songs I had developed strong bonds with especially during law school, when I would fall asleep listening to Enya each night. In the aftermath of the 9/11 Attacks, “Only Time” became inseparably connected to the tragic events on that day. To this date, I along with many others cannot hear this song without the images of the burning World Trade Center towers and footage of the individuals jumping to their alternative death. “Only Time” became the anthem for our nations mourning so much so that it climbed to the number one spot on the *Billboard* adult contemporary chart in the aftermath.

On September 11, 2001, I was a second-year associate at the then largest law firm in Nevada working out of its Las Vegas office. Our clients included most of the major casinos and resorts in Nevada, including one that was in the process of a major expansion and debt restructuring. The enormity of this transaction required the creation of a multiple page contact guide containing the various names of the firms, their respective locations, the departments, the attorneys, and their contact information. Several of these firms were in New York City. Over the months of working with the New York attorneys involved, I was reminded of my interview at a multinational firm with its main office in New York and discovering how isolated these attorneys were from each other. I would often get a call to ask a question that an attorney in another department at their law firm easily could have answered. I used to joke that even with a three-hour time difference, I could call at any time and find one of my New York colleagues in the office. The New York law offices always seemed to be bristling with legal activity. On September 11, 2001, that all changed.

On that morning, my routine was very much the same as it had been since signing on as an associate at my law firm. I should note that my routine does not include watching or listening to local or national news.

My decision to avoid watching or listening to the news was and remains entirely based on a study I read early in college that those who disconnected from the news were more optimistic and feel safer in their community. Thus, I got ready for work and traveled the 19 miles down I515 underneath the familiar stream of airplanes landing at McCarren International Airport to my office on the 16th floor of the Bank of America building totally oblivious to anything taking place in New York and around the United States. The only hint that I had that something tragic happened occurred when I got in the elevator with a seasoned attorney that I worked with who was a native New Yorker. When we made eye contact in the crowded elevator, she let out an exasperated sound and shook her suddenly downturned head. I honestly had no idea at the time why she did this. I exited the elevator and went to my office without any interactions and began working.

A short time later, I was walking around the rectangular shaped office design and noticed a few attorneys huddled around a television in one of the corner offices of one of the senior partners in the law firm. As they turned to acknowledge my presence, I saw for the first time the footage of the 9/11 attacks and unknowingly asked what was going on. Almost immediately and in unison they emotionally told me what had happened. Stunned by the horror, they had abandoned their typical grind on their law practices. At that moment, no one seemed to care about billables or really about being an attorney. Everyone was focused on the humanity of what was being played on the television screen before them. After several silent and stunned minutes fixated on the television screen, I backed out of the corner office and headed to another corner office where the partner I had been working with on our major transaction was located. We briefly discussed the status of our transaction and decided that we would wait until we heard from our New York colleagues. We heard nothing all that day. The busy New York law offices were silent. Since this transaction was principally what I was working on at the time, I left early that day and resumed my 19 miles down I515 to my home.

As I drove home, I noticed the emptiness of the skies. There were no planes going in and out of McCarren. At that moment, I became all too aware of the day’s tragedy. The absence of something so familiar that I barely-

# CONSTELLATIONS OF CONSCIOUSNESS

by Juanita E. Mantz

Early this morning, I stepped outside to look up at the dark sky contrasting against the stars. The constellations twinkled. I blinked.

I blinked again. The air conditioner hummed. Back inside, I made an espresso and drank a glass of water. My dogs growled. I opened up the back door and let them out.

Time to give the dogs their meds. My feet felt swollen. Everything feels swollen. My heart. My head. My eyes.

I think back to the day the Twin Towers fell. My dad was still alive. My dad called me as I watched the news coverage in my high-rise apartment in LA, tears pooling in my eyes. I was in law school at USC and lived on 4th Street and Spring.

My dad said, "Are you watching Jenny?"

I can almost hear his voice in my head. If there's one silver piece of memory I want to remember from that awful day, it's his gentle voice. Checking on me. Making sure I was okay. Telling me to come home. So I did.

But I would leave later, in 2002, to go "be" a corporate lawyer, spending time at big firms in Houston and San Francisco. Eventually, I would come full circle and end up right back at home. And once home, I would find myself, and my calling, as a deputy public defender here in Riverside.

It's the twentieth anniversary of 9/11, that awful day. The one that lives in our collective consciousness. Like the Twin Towers, my dad is gone. Memories have taken the place of his form. A stunning memorial sits where the Twin Towers once stood.

We are still in the midst of a pandemic. New York was hit hard by it, stores were shuttered, and the streets were empty, Broadway closed.

*"ONLY TIME" from page 9*

noticed became the catalyst for my personal connection to the events that took place. When tragic events take place somewhere else and there is no personal loss, there can be a natural tendency to disconnect because the tragedy did not affect you in any meaningful way. My natural defenses would be to minimize the effects of the event because there was no personal impact on my day-to-day life. However, the 9/11 attacks taught me a better way that I still apply today. Even though the 9/11 attacks occurred in places that I was not familiar with at the time and I did not suffer a loss or really know anyone personally who suffered a loss (all my New York colleagues were okay), I learned that I am connected to those beyond who I know or interact with on a regular basis. The 9/11 attacks taught me to "see through a

Yet, the intersection between the two events is the resilience of the city. Of every city. Of every man and woman. We see stories, pictures and narratives of people making it through and again, the heroes and heroines are the first responders.

Here in California, I sit in my office at the public defender's office, in another high rise on the 5th floor, finishing this story, looking out the window thinking of that day. There is so much uncertainty and fear right now, just like back then.

It's been a hard couple of years. Everything is still hard. A tough going. But we shall make it through. The job for all of us is to do it with grace and protect those that are the least fortunate. There are so many suffering during this pandemic, especially those incarcerated.

I feel the weight of the world on my shoulders sometimes, as all deputy public defenders and private defense attorneys, do. It's a lot of sadness to witness. There is so much collective trauma to take in.

But again, what comforts me and keeps me going is my dad's voice, more imagined than real this time (but who's to say), saying, "Jenny, it will be okay."

*Juanita E. Mantz is a writer and a Riverside County deputy public defender practicing in mental health court in incompetency, Probate Code section 1368 proceedings. Her book, Portrait of a Deputy Public Defender, or How I Became a Punk Rock Lawyer, was released by Bamboo Dart Press in August of this year. Her young adult memoir is forthcoming by Los Nietos Press.*



looking glass" clearly at our connectivity and marvel at our common humanity in the face of tragedy. I can almost say that similar to the Grinch, my heart grew on that day for humanity as a whole. The first verse of "Only Time" sums up my experience when I woke up on that day and what I learned:

"Who can say where the road goes  
Where the day flows  
Only time  
And who can say if your love grows  
As your heart chose  
Only time"

*Andrew Gilliland is a solo practitioner and the owner of Gilliland Law with its office in Riverside. Andrew is the Chair of Estate Planning, Probate, and Elder Law Section and a member of the RCBA's Publications Committee.*



# “WHAT DOES NOT KILL ME MAKES ME STRONGER”<sup>1</sup>

by *Boyd F. Jensen II and McLloyd Jensen*

On Tuesday September 11, 2001, 19 al-Qaeda terrorists hijacked four American commercial flights and intentionally crashed them: American Airlines Flight 11 struck New York City’s World Trade Center North Tower at 8:46 am; and United Airlines Flight 175 the South Tower at 9:03 am, resulting in the collapse of both towers. A third plane, American Airlines Flight 77, crashed into the Pentagon at 9:37 am, and the final plane, United Airlines Flight 93, crashed in a field in Shanksville, Pennsylvania, at 10:03 am, after passengers stormed the cockpit to subdue the hijackers.

What follows is the true story of a survivor –

## September 11, 2001 – I was there... as recalled by McLloyd Jensen

“Clear visibility. Blue skies. Crisp coastal air – seemingly and appreciatively inhaled into every pore. A noticeably beautiful day near the Atlantic Ocean, Hudson River and New York Harbor. I did not take my normal route to work, which was public boat transportation from Hoboken, New Jersey to Pier 11 on the South Eastern tip of Lower Manhattan, near my office at 2 Old Slip New York, New



York. My life may have been spared, because that day, I drove the route over the Hudson on the George Washington Bridge (GWB), which stretches between New Jersey and New York. I turned south to Lower Manhattan past the two imposing World Trade

Center (‘WTC’) towers. I felt good – a feeling I mostly felt, inspired by my view of the Statute of Liberty and just being in the so called center of the world – hailing from one high school town in Utah – the high school from which my brothers, sisters, uncles, aunts, and parents also graduated.

I was on my way to work – my employer, the Societe Generale (‘SocGen’), one of the largest banks in the world, with its home office in Paris, France, had offices minutes away from the WTC. My profession was investment banking and I worked in the financial, investment and securities divisions.

I drove that day because I had a scheduled meeting with hedge fund executives in Mount Kisko, New York. Following morning meetings at SocGen, my plan was to leave early. Thus, I had my car parked at the front of the garage. Again, that decision may have saved my life. At a minimum, it saved me from the squall of debris that descended and enveloped the streets of Lower Manhattan, suffocating everything, including movement.

I worked on the 27th floor. We were holding our morning meeting when our building shook as if something heavy had crushed the floor above. Someone noted that the floor above was being remodeled. ‘They must have dropped something massive.’ We shrugged it off and proceeded with the meeting until shortly thereafter, we noticed out the conference room window cataclysmic and smoldering debris dumping into the Hudson River – obscuring our view of Lady Liberty.

Almost simultaneously someone interrupted the meeting saying ‘There is a news report that a Cessna crashed into the World Trade Center.’ Quickly we left the Board Room and went to the nearest TV.

While others watched the horror, a voice prompted me to immediately leave. Whether to Mount Kisko or safety, I moved with alacrity to the elevators. (A month earlier one of my friends who was working in the WTC during the 1994 bombing, related he was stuck in the WTC stairwell for days.) However, the fire marshal stopped me and others telling us to ‘take the stairs.’ He asked if he could use my cell phone ‘as a backup,’ and I tossed it to him, as I commenced my 27 floor stairwell exit.

Others had been similarly prompted, and the stairwell became more and more crowded. It was however peaceful, as everyone seemed on their best behavior, concentrating on safety. In retrospect, I am pleased that it was not ‘every man for himself.’ The opposite was true. Everyone was patient, kind and accommodating. It was an efficient 27 floor walk, except for the reverberation from – what we found out later – was the second plane crashing into the WTC. Thusly uninformed, we remained concentrated on getting to the bottom floor, to the exit and the street.

<sup>1</sup> Friedrich Nietzsche’s Maxims and Arrows aphorism number 8.

At the second floor, a representative from a competitor, Goldman Sachs, offered me the use of his cell phone, so that I could call home and mitigate the concerns of my wife, who was watching the tragedies of the day unfold on TV, and who knew more about these events at that time, than I did.

I also phoned my California lawyer ‘big brother’ to ask him to inform family I was ok, and because I believed if I were unable to find a way to get home, he would find me and bring me home. (The author in attempting to maintain the obdurate image of ‘California Lawyers’ had taken his little brother up 4000 meter mountains, down rivers, and into great reservoirs and very remote locations.)

I exited the building and upon reaching the street, I saw the parking garage closing their doors. I caught them just in time and they let me take my car because, thankfully, it was parked in front.

Normally, I would exit the city from the west side of Manhattan, but knowing that the WTC to the west would be jammed, I departed from the east side. As I headed north, I noticed all traffic heading south had stopped, and near Houston Street there were craters sprouting shredded metal. I was sick and angry and scared and hurt.

To keep informed, my car radio was set to AM 1010. It was an ominous reporting day for those reporters. Some reporters died reporting these events. As one of the towers collapsed or was incapacitated, a reporter would go silent and a frantic reporter would try to take over. A female reporter, whom I always appreciated hearing, I never heard again. As I drove on, I mourned for her, and the abrupt and awkward silence, which reminded me of all the others who were similarly situated and unable to leave in time. I will never forget those thoughts. They were peers of mine – people from NYC or New Jersey or from small towns thousands of miles away – who were appreciating the beautiful day working at their normal jobs, especially in fire and protective services. As time has passed they have become more than peers. They are my brothers and sisters, and we are part of each other. We are family. We are Americans and survivors, having experienced the awful specter of that day.

After passing Houston Street, I collected my thoughts and looked down at my speedometer. I was traveling 100 MPH. I raced over the GWB to NJ, and in my rear view mirror, noticed that the bridge was closing down. Due to a providential conversation with a victim of the 1994 bombing and a planned, but never attended meeting in Mount Kisko, I escaped the physical calamities of the 9-11 attack.

I arrived home in record time – less than 30 minutes from Lower Manhattan. As the second tower collapsed following my call to my wife, she was exceedingly concerned. She greeted me with happy tears, explaining that she was consoled by our then 4-year-old daughter, Anna. Noticing her mother’s tears, Anna said ‘Mommy, why are you cry-

ing?’ ‘I’m worried about your Dad...’ Anna responded ‘Mommy don’t worry about Daddy. If he falls down he gets right back up and keeps on going.’

I could not go to work for the next two weeks. I remained at home and tried to work and tried to act ‘normal.’ It was surreal. When I did return, I painfully and angrily and humbly watched the daily rejuvenation of Lower Manhattan and over time the erecting of monuments and remembrances to my brothers and sisters, those who stood to post and gave the last full measure of devotion – for their own families and for others whom they did not know, but served with fidelity. I have followed and tried to absorb the response to this tragedy – those with generosity for the injured and maimed; those seeking justice and revenge; those who use these events for self-promotion or personal aggrandizement; and those who perhaps imperfectly, seek to do the right thing for us all, toiling to build a better world. I know this – I never got my cell phone back from the Fire Marshall, as he and the dozen or so of his peers working at my building that day did not survive its consequences – because they stayed to serve – even me. I don’t have words.”

## Consequences of September 11, 2001

In less than 90 minutes, the world changed. 3,000 people were killed and thousands more forever affected. THE 9/11 COMMISSION REPORT published in July of 2004 is over 500 pages long, documenting an extraordinary history of the faux justifications of terrorism, its world-wide tentacles, the details of the day and its aftermath. One learns that California was chosen as “the convenient point of entry” for the pilot murderers. (Commission Report p 215 et. seq.) The United States responded killing the architects and entangling itself in the political labyrinth of the Middle East. At a cost exceeding \$8 trillion and the loss of precious life, the global response to terrorism expanded, raising new and challenging questions about security, privacy, the treatment of “war” prisoners, civil rights (particularly Muslims), law enforcement, as airline travel and U.S. immigration policy were totally reshaped – while the victims and their families 20 years later still seek compensatory justice.

September 11 will always be with me – for many reasons – particularly as a lawyer bound to seek justice, but also because of an unexpected cell call from my brother. The ramifications of what occurred that day, I am sure, we will all continue to labor to honorably respond and effectively improve. Twenty years later, we should sense and believe we have lived true to Anna’s faithful and encouraging words “to get right back up and keep going!”

*Boyd F Jensen II, a member of the RCBA Publication Committee is with the firm of Garrett & Jensen in Riverside; and McLloyd Jensen of Mann Jensen Partners LP in New York City.*



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# SEPTEMBER 11, 2001 — WE REMEMBER

by Jacqueline Carey-Wilson

Photos by Jacqueline Carey-Wilson



*Come from Away* is a musical that my family and I saw on July 3, 2017, the night before we toured the September 11 Memorial and Museum. This play is set in the week following the September 11 attacks and musically imparts the true story of what took place when 38 planes were ordered to land in the small town of Gander in the province of Newfoundland and Labrador, Canada. The characters in the musical depict the real Gander residents and some of the 7000 travelers that were stranded on September 11. This is a heartwarming story that was released on Apple + on September 10, 2021, to commemorate the 20 anniversary of September 11.

Seventy years ago, the Riverside County Bar published the first edition of the *Bar Bulletin*. In October 1951, the members of the bar were individuals who could vividly recall where they were on December 7, 1941, when they first heard the news that the Japanese had bombed Pearl Harbor. The majority of the current members of the bar are able to recall exactly where they were and what they were doing on September 11, 2001, when they first heard the news that terrorists hijacked four commercial airplanes; flew two into the twin towers of the World Trade Center in New York City, collapsing them; flew one into the Pentagon; and crashed the fourth in Shanksville, Pennsylvania.

The attack on Pearl Harbor left 2,403 Americans dead. In the attacks on September 11, 2,750 people died in New York, 184 at the Pentagon, and 40 in Pennsylvania; all 19 terrorists also died. Included in the total in New York City are more than 400 police officers and firefighters who lost their lives after rushing to the scene and into the towers.

In response to the hijackings, the Federal Aviation Administration closed all airports and ordered all planes to land at the nearest airport. The American Stock Exchange, the New York Stock Exchange, and the National Association of Security Dealers Automated Quotations (NASDAQ) ceased trading. Across the nation, high-rise office buildings were evacuated, and major league baseball games, concerts, and theatrical performances were all canceled. The major attractions in the Southland, including Disneyland, Knotts Berry Farm, Magic Mountain, Lego Land, Sea World, and Universal Studios were all closed. Even Starbucks closed its chain of coffee houses for security reasons. In Riverside, federal and state buildings were closed, including the State Court of Appeal, the Federal District Court, and the Bankruptcy Court. Although the Riverside Superior Court remained open, the mood was somber. This was not a normal business day. Flags flew at half-staff and people stood in line for hours to donate blood.

Even though I was miles away, I felt very connected to this tragedy. I heard immediately from my mother that my cousin, Richard

(Rick) Pearce, was at a conference in New York and had not yet connected with family. Rick was in New York for training with the U.S. Attorney's Office and was staying at the Marriott at the World Trade Center. Fortunately, Rick was able to find safety quickly, but he witnessed some harrowing events that day which he shares with us in this issue on page 18.

Richard (Rich) Barber, a good friend of my brother-in-law, Thomas Kieran, was on the 64th floor of the South Tower when the plane struck the North Tower. Rich had been training new recruits for his company, Morgan Stanley. After the plane struck the North Tower, loudspeakers went off to advise that there was no danger in the South Tower and to stay in place until further notice. However, Rich felt that he could not place the new recruits in danger and made the decision to evacuate and ordered everyone to leave the building. They could not take the elevators, so they started the long decent down the many flights of stairs. Rich and the others in his office were able to escape the building and flee to safety. As they escaped the building, they heard loud sounds of impact around them. It was then that they saw victims in the North Tower falling to the ground. Not long after, the South Tower was struck close to the floor where Rich had been working. Soon after the South Tower collapsed.

My sister, Sheila Ricioli and her husband, Robert (Bob) Ricioli, attended the same parish as Thomas Burnett who died in Shanksville, Pennsylvania. Sheila shared with



me that on the morning of 9/11, Tom Burnett called his wife to inform her that hijackers had taken over the flight. However, he told her not to worry because he was going to do something - that he and the other passengers were going to take back the plane. His wife, Deena, had not watched any news as her hands were filled caring for their four-year-old twin daughters. After the phone call with her husband, Mrs. Burnett called their parish pastor, Father Cardelli. Fr. Cardelli officiated at Tom Burnett's funeral at St. Isidore's Church. Bob Ricioli attended Tom's service. When his wife was asked what she would want Tom remembered for, she said, "I would like him to be remembered as a man of faith and integrity. A man who was unafraid to lead, who was unafraid to stand up and right a wrong, and a person who lived every day of his life trying to be a good citizen."

There are now memorials built to honor those lives lost on September 11 at the Pentagon in Washington, D.C., in Shanksville, Pennsylvania, and in New York City. I had the opportunity to visit the National September 11 Memorial and Museum in New York City in 2017, which were completed in 2011 and 2014. Included in this article are some of my photos from the visit.

Special thanks to Sheila and Robert Ricioli and Rebecca and Thomas Kieran who contributed to this article.

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



*One World Trade Center, visible from a distance in the Manhattan skyline, was built on the grounds where the Twin Towers once stood and next to the September 11 Memorial.*



*Upon entry to the museum, you are struck by two 80-foot trident-shaped steel columns that were part of the facade of the North Tower.*



*After you enter the September 11 Museum, a long escalator takes you down to ground zero and as you descend, your eyes are transfixed on some of the concrete remains of the Twin Towers.*



Box column remnants

Steel columns, known as box columns for their rectangular shape and hollow center, provided structural support for the Twin Towers and created their distinctive facades. At the end of the recovery period following 9/11, what remained of these columns was cut to a level elevation, leaving the remnants visible here. The North Tower footprint was outlined by 84 columns, but the South Tower footprint had only 73 columns, since preexisting train tracks passed across its footprint.

Some relatives of 9/11 victims joined with landmark preservationists to advocate that the cutoff columns be designated as historic remnants of the World Trade Center site.

*The intensity of the heat bent and melted the steel beams in the Towers.*



*The Last Column is a 36 foot steel beam that had remained standing in the South Tower's inner core. After the Last Column was uncovered, workers, fire fighters and others posted messages during the cleanup operations.*



*Approximately 1200 feet above where this photo was taken in the museum is where Flight 11 crashed into the North Tower. Your heart is very heavy visiting the museum and standing here takes your breath away by the enormity of what happened at this exact location.*



*Photos posted in New York by families in search of loved ones after the Twin Towers collapsed on September 11.*



*"No day shall erase you from the memory of time" is a quote from Virgil's Aeneid and adorns memorial hall, which is a room with 2,983 tiles, which represents the victims of the attacks on the World Trade Center in Sept 2001 and February 1993. The blue tiles are meant to depict the color of the sky on September 11.*



*The September 11 Memorial is a large pool of water which cascades down in the center as a waterfall and is surrounded by bronze panels which are inscribed with the names of the victims of the September 11 attacks, as well as the names of the six people who died as a result of the bombing of the World Trade Center in 1993.*



*There are still many remains of those lives lost on September 11. Forensic specialists continue to try to identify the remains.*



*A 19.8 foot piece of the antenna from the North Tower, which was originally 360 feet tall.*



*Jacqueline Carey-Wilson, along with her husband, Douglas Wilson and daughters, Grace and Katie, visiting the September 11 Memorial Pool on July 4, 2017.*

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# REMEMBRANCE AND REFLECTIONS OF 9/11 FROM GROUND ZERO

by Richard T. Hamilton, Jr.

When my cousin, Jackie Carey-Wilson, asked me to share my reflections on my experience at Ground Zero on 9/11 for the October edition of the *Riverside Lawyer*, I was reluctant to do so. Feelings are deeply personal. But Jackie is very persuasive.

The fact is, after all these years, I am still sussing it out. The story of my 9/11 experience actually started on 9/10. All lawyers hate to lose arguments - any kind of argument. But the argument I lost on 9/10 saved my life. That's a cold hard fact. And it's unnerving.

On 9/10, I traveled to New York City (NYC) to participate in the Senior Litigation program my then-employer, the U.S. Department of Justice Antitrust Division, was holding. After landing in NYC, my colleagues from Cleveland (Jon and Kimberly) and I enjoyed some quick sightseeing. This included stopping at the Empire State Building to purchase tickets for the observation deck, which we planned to visit on 9/11. I still have this ticket. I carried it in my wallet for 10 years before putting it in a more secure place.

Later that evening, we headed to Broadway to enjoy the play *Chicago*, which was outstanding. Afterward, we had a relaxing dinner in Greenwich Village. There I suggested to my colleagues that we skip the early morning part of the conference. I had a better idea: I argued we should enjoy breakfast at the renowned Windows restaurant near the top of one of the Twin Towers and arrive at the conference a bit late. I had heard nothing but great things about this restaurant and wanted to experience it. I had been to several Senior Litigation conferences, so missing the first part of Day 1 meant nothing to me. But after much discussion and argument, I was outvoted. My breakfast idea defeated, I grumpily agreed to meet my colleagues at 8:30 a.m. the next morning in the lobby of the Marriott Hotel where we were staying, which happened to be the Tower 7 Building that was part of the World Trade Center complex situated at Ground Zero.

The morning of 9/11 started as planned. I met up with my two colleagues (Jon and Kimberly), we left the Marriott Hotel lobby, stopped at a fruit stand on the street, and headed around the back of the Twin Towers to embark on our short walk to the federal building where our conference was being held. We were right on time. Then everything changed. The whole world changed.

A moment after leaving the Marriott Hotel lobby and getting outside, I recall looking up at the sky and commenting to Jon at how beautiful the sky was. It was the

most brilliant blue sky one could ever imagine. And totally cloudless. At the time, we were no more than 100 feet or so from the North Tower. Boom! At approximately 8:46 a.m., we heard a tremendous explosion and, snapping our heads to look overhead, watched in disbelief as a fireball shot out of the side of the North Tower and dark black smoke followed immediately. Strangely, paper cascaded from the sky as if a ticker tape parade was in process. We looked at each other and asked: What the hell just happened? Though we were so close to the building itself, we were walking on the back side of the North Tower and were blocked from seeing the plane crash into it.

What followed was chaos. It was stunning. Like me, I am sure everyone standing at Ground Zero felt like an extra on a movie set. It was a surreal feeling. I turned to Jon and asked: How are the people working above the entry point of the explosion going to get out? One could immediately see the situation was perilous as the fire and flames quickly raged and the smoke grew blacker. Jon replied, "They won't." Those may be the two most sobering words I ever heard.

We stood around as hundreds and hundreds of people did watching the unwatchable. In a short amount of time, we watched in horror as building occupants began jumping to their death. First in isolation. Then more and more. In real time, I had a hard time processing what I was even watching. Sirens screamed. People screamed. Police and fire and emergency vehicles flooded the streets. All were headed to the North Tower. I observed that if you were not careful, you stood the chance of being run over or stamped.

Then, approximately 17 minutes later, another Boom! This sound was much louder and even more intense. This one caused a larger fireball shooting out the side of the South Tower than the first one from the North Tower. This one caused even more black smoke filling the air. You could feel the heat. You could smell the smoke, and you could also smell what we later learned was diesel fuel filling the air. And again, paper was falling from the sky like snow.

As if it were even possible, this second explosion somehow took away from the first one. Our heads swiveled from one building to the other. Amazingly, because we were now positioned about 250 to 300 feet behind the South Tower, having moved up the street a bit from the North Tower, but still standing directly behind it, we were still blocked from seeing the plane crash into the South

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Tower. I remember asking someone on the street coming from a different direction what happened. She told me planes had crashed into both Twin Towers. I remember telling that person, "You're crazy, we were standing right here. The explosions came from inside." From the growing chatter on the street, however, we came to realize that planes indeed had crashed into both Twin Towers. In real time, I had a hard time processing this reality. Even now, when I see video footage of the planes crashing into the Twin Towers, I cannot believe we were literally standing right there at Ground Zero, viewing in real time the contemporaneous after-effects of the collisions, without ever actually witnessing the planes colliding into the Twin Towers. Amazing.

In a short amount of time, the situation grew more chaotic and horrifying. People trapped at the office levels above the impact points of the collisions began jumping with more frequency. Some plunged to their death with open arms, as if they had made peace with their reality. Others plunged to their death like spinning out-of-control tops. All falling quickly. I often tell my kids and others when they think they have a difficult choice the following, "You don't have a difficult choice. You simply have a choice to make. A difficult choice was faced by those in the Twin Towers who had to choose whether to jump to their certain death or wait to burn to their certain death. That's a difficult choice that many made and I observed many who chose the former over the latter. So just make a decision." It's heavy. But I have no patience for those that over-dramatize having to decide. Make it, own it, move on.

As the situation worsened, my colleague, Kimberly, looked at Jon and me and, holding back tears, said she could not watch any more. We agreed. Though you couldn't take your eyes off what was happening, we had to do just that.

While heading uptown a block from the Twin Towers, I had a compelling need to call my wife, Amy, and let her know that I was safe. I knew she would be worried. There was no cell service to accommodate my flip phone. I stood in a long line at a pay phone waiting to make a quick call. After 20 to 30 minutes, I called and left a message, a very short one so that I did not tie up the line, which had grown considerably longer. I told her I was safe, that I love her, that "we aren't going to be doing [anything] today," and that I would call her later when I got the chance. It's a voice message that she saved for many years until inadvertently deleted.

We proceeded to walk further uptown. As we reached the cusp of Chinatown, just above Canal Street, we holed up in a Hilton Hotel lobby. By sheer happenstance, we ran into 20 or so of our Antitrust Division colleagues from around the country. They had migrated to the Hilton Hotel and were holed up in the lobby after being evacuated from federal building located nearby. There, we watched on TV what was continuing to unfold only a few blocks away from where we sat. One of my colleagues from Washington, D.C.

(Lisa) watched very intently, as her husband was working at the Pentagon, which had also been the target of this coordinated terroristic attack. Together, we all watched in horror and disbelief as the Twin Towers collapsed and disintegrated blocks from us. We could hear the rumble.

After talking again with Amy, assuring her I was safe, and then talking briefly with my mom and dad to assure them first-hand that I was safe, a colleague back in Cleveland (K.C.) arranged for me and whoever wanted to do so, to stay the evening at the Electric Lady studio in Greenwich Village. It was Jimmy Hendrix's old studio and my colleague's sister just happened to be its curator. I was told that Hendrix was a safety nut and that the walls of his studio were 10 feet thick and impervious to after-shocks. I have no idea if this is true, but it sounded good. And it seemed to be a better option than staying put or walking over the Brooklyn Bridge and trying to find lodging, which was becoming scarce. With nowhere else to go, I and another Cleveland colleague (Kimberly) started walking that way.

While headed to the Electric Lady studio three things stood out. First, U.S. military planes buzzed overhead protecting the air space of a major metropolitan area. I never thought I would see that in my lifetime. Second, we passed a firehouse that had stacks and stacks of what looked like rubber wet suits sitting on its property. I asked a fireman what they were. He said body bags. They were stacked more than 10 feet high. Later that night, I learned from Mayor Rudy Giuliani on TV that there was no need for blood donations because there were no bodies. Pondering this in real time was sobering. This explained the stacks of body bags, all of which went unused. Third, I stopped a police officer and asked if the subways and ferries were running. He said yes. I asked if that was dangerous given the day's events and the uncertainty of additional unexpected attacks directed at masses of people. He replied the decision had been made "to move people off of the Island," and that the greater danger was not getting people out. That, too, was a sobering thought. It did, however, make me feel better about our decision to move "uptown" as far away from Ground Zero as we could.

Before reaching the Electric Lady studio, we ate dinner at a diner (meatloaf and mashed potatoes). After arriving at the studio, we were heartedly greeted by our host, given a quick tour (pretty cool), and then watched the day's events on TV before crashing on the couches. I will never forget Mayor Giuliani's press conference, masterfully handled amidst a horrific day.

Early the next morning, Kimberly and I thanked our Electric Lady host and headed to Penn Station to hook up with two other Cleveland colleagues. Somehow, our spouses and significant others back home had coordinated the logistics that allowed us to meet up and travel together back to Cleveland. The four of us met at Penn Station and took the train to New Haven, Connecticut, where we had to travel to pick up a super-scarce rental car. As the train

circled out of Manhattan, we could see gray billowing smoke still smoldering and wafting upward where the Twin Towers once stood. This void was shocking and difficult to process.

After picking up our rental car, we turned and burned and started heading back to Cleveland. Cleveland was 500-plus miles away. During our journey, most of which involved heading west on Interstate 90, the four of us spoke very little. The events of 9/11 were too fresh and nothing else seemed particularly meaningful to discuss. I'm sure we were still trying to process what we saw and come to grips with our emotions. At one point, shortly before crossing into Ohio, we stopped the car to stretch our legs. We looked at the sky above, which was filled with stars, stars that seemed to be extraordinarily brighter than usual. For 15 to 20 minutes, we looked upward, drinking it in, without saying much, no doubt sharing collective but deeply individual feelings.

When I arrived home, my front yard was adorned with dozens of yellow Smiley-faced signs and a poster saying, "Welcome Home Dad." Amy and my three children greeted me as our car pulled into my driveway. It brought tears to my eyes then as it does now when I think of it. The need to be with my family and hug them - one and all - was overpowering. It had been building up from my short pay-phone call the day before a block from Ground Zero until I landed home. My homecoming is etched in my mind forever. Priceless.

For each of the last 20 years, on 9/11 I think and reflect on the things I saw, heard, and felt. To me, it will always be a day of pure evil, chaos, and horrifying events. It is also a day to remember the unmatched courage of so many, unspeakable courage that cost people their lives. I cannot think of 9/11 without being overcome with the profound loss suffered by the thousands who died and the impact of their loss on their families and friends. The World Trade Center monument, which I held off on visiting for many years, is a stoic and fitting

monument to all that died and all that suffered loss on 9/11.

Had I persuaded my colleagues from Cleveland to delay our attending at the Senior Litigation Conference on the morning of 9/11 and instead gone to breakfast at the renowned Windows restaurant, I would be dead. Had I prevailed, I would have missed my life. This is something I think of not only on 9/11, but often.

In addition to being blessed with a lost argument, I was doubly blessed that my wife, Amy, did not make a "surprise" visit to NYC, which she had talked about doing. Alas, she could not find a babysitter to join me. Had she done so, she would have been staying at the Tower 7 building where I was staying. That, too, could have been calamitous. I would have been running back into the hot zone moments after the North Tower was struck or she may have been directly in harm's way. As it was, the Marriott Hotel was structurally comprised from the explosions and ultimately collapsed.

The funny thing is, we took a family vacation to NYC that summer. We have a family picture dated 8/11. Exactly one month earlier. Amy, I, and our three children were on a boat heading back from Ellis Island. The Twin Towers are prominent as a backdrop in this photo. Super prominent. The date, the Towers, the picture, all eerie.

So what is my takeaway and lasting reflection from my life's experience on 9/11? It's a simple one, but a giant one. Whether events are the result of random fate or part of God's larger plan, love your family with all your heart and make the best of each day. As our Bible teaches, no one knows the hour and time. But whether random fate or free will guides us, my takeaway applies to both.

One other takeaway: The next time you lose an argument, remember, it may turn out to be life changing in ways you can never imagine. Only time will tell.

*Richard T. Hamilton, Jr. is a partner with Ulmer & Berne LLP in their office in Cleveland, Ohio.*



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# HE DIED WITH HIS BOOTS ON<sup>1</sup> THE THIRD RIVERSIDE COUNTY DEPUTY SHERIFF KILLED IN THE LINE OF DUTY

by Chris Jensen

Leroy Hopkins Tripp was born sometime in June of 1891 in the rugged wilderness of the Anza Valley, also known as the Hamilton Plain. Roy, as he wanted to be called as an adult, was one of eight siblings born to William and Alice Tripp.

William Tripp homesteaded in the Anza Valley adjacent to his father's small cattle ranch. William became a very successful stockman and raised his son Roy to be the same. The Tripp ranch was one of the larger establishments in the area. It was located in the high desert at over 4,000 feet in elevation surrounded by the San Jacinto and Palomar mountains. Water was a precious resource, but snow fed springs and slow growth pine forests around the valley floor allowed for an intelligently managed ranch and agriculture setting. The ranch was adjacent to the relatively new Cahuilla Indian Reservation in what was then San Diego County.

Neighbors to the Tripp family was the Henry Hamilton family. Henry's father was Joseph Hamilton, considered the first black man in the area,<sup>2</sup> and Henry's mother was a Luceno Indian. Henry's younger brother, Frank, was gunned down in 1893 in a shootout in San Jacinto. Frank is now considered to be the first Riverside County Sheriff Deputy killed in the line of duty. Henry Hamilton's nephew, Augustine, and Augustine's family resided on the Cahuilla Reservation. Roy grew up with the Hamiltons. He was apparently oblivious to the Hamilton's racial makeup even though the Hamiltons were regularly called out in a derogatory manner as to their being black or Indian or both. For the most part, the ranchers in the area were a small close-knit group who looked out for each other.

The Tripps and Hamiltons were the area's last vestiges of the Old West. The old timers, such as W. B. and Henry, experienced the early years of the area when cattle rustling was a regular occurrence. Roy was probably regaled with stories of cowboys and Indians in the Anza Valley as well as with the gunfight that took the life of Henry's brother, Frank. To Roy,



Leroy Hopkins Tripp

the known world was cowboys, cattle, and ranching.

In the winter of 1915/16, ranchers in the Anza area had been complaining about livestock and personal property being stolen. The terrain in the valley, just below the tree line, was perfect for rustlers to hide out. Scrub oak, manzanita and a variety of other significantly tall, thick shrubs, made it easy for one to hide. A formal complaint about the thefts was made to the Hemet Justice of the Peace resulting in a John Doe warrant being issued for the arrest of the thief or thieves.

W.B. Tripp, being one of the area's successful stock broker and astute businessmen, was also a political force to be reckoned with in the up and coming town of Hemet. As such, when the Justice of the Peace required a peace officer to carry out the warrant, W.B. was looked to for advice resulting in Roy being deputized for the task. Roy, in turn, solicited the assistance of Henry Hamilton, Fred Clark, and Ben Johnson as his posse or, as one newspaper reported, Roy gained the assistance of Indians in the search.

Albert E. Heller was born in Pennsylvania in 1866. For most of his life up to the turn of the century, Albert was a farmer. At some point, Albert found a niche in horse training and after years of working for others, acquired his own race horses. Albert was married to Luella Bradeluen with whom they had two children. Sadly, they lost their 2-year-old daughter in 1896. Over the next couple years, Luella's health deteriorated. By the turn of the century, Albert was too busy with his new-found lust for horse racing. He effectively abandoned Luella with her health issues and their child, to Luella's father. Luella died shortly after.

Albert immersed himself in horse racing. Albert had acquired a horse named Hal McKinney who became quite the champion. Albert raced Hal McKinney all over Canada and the United States. Albert's horse set many track records and apparently made Albert quite a bit of money sufficient to become the owner of the Riverside race track.

Not until 1907 did Albert remarry to Anna Wirth. They had a son born in 1909, but one wonders how much involvement Albert may have had with either of them.

1 The title is derived from the headline in the Calexico Chronicle, Volume XII, Number 188, 13 Apr 1916 - "Popular Young officer Dies with Boots On".

2 Hamilton family lore recalls Joseph being a runaway slave of the Mormon Battalion of San Bernardino.





As always, all good things come to an end, including Albert's success at the track. Money must have been short around 1914 as Albert and Hal McKinney were no longer to be found as a topic in the sporting newspapers. Around 1915, Albert was arrested and jailed for writing bad checks. Albert's father purportedly sent money sufficient to cover the bad checks, otherwise Albert would have been prosecuted. The debts were made good and Albert was released. Hal McKinney was reported to be owned by others although no sale was reported. Shortly thereafter Albert disappeared.

Albert had been known to have rights in a mine in the San Jacinto mountains. It was thought Albert secreted himself to his claim.

By April of 1916, not knowing the whereabouts of Albert and believing she and the children were abandoned, Anna was prepared to leave Riverside to return to her family in the east.

Although by 1916 automobiles could be found in the county, on April 10, Roy and his posse commenced to carry out the warrant. They climbed on their horses and started out up the hill along the old wagon road to the Anza Valley. Most likely Roy thought the noisy automobile would be a detriment to stealth. The old method of tracking a rustler on horseback would serve him best.

By mid-morning, the small posse had reached the valley, in the area where the ranchers had experienced their losses.

After meandering around for signs of activity, a make shift camp was spotted in a rather overgrown area. Roy directed his companions to wait back a bit as Roy slowly approached what appeared to be some type of enclosure. The enclosure was not much more than a ragged tent covered with branches and brush juxtaposed in such a way to lead someone like Roy to think someone did not necessarily want to be found. Gingerly, inching closer, gun in hand, Roy barked out to any unknown occupant to come out. With no indication of stirring, wondering if the tent was unoccupied, Roy moved within about 40 feet of the enclosure when suddenly a single shot rang out. Roy was hit. He was killed instantly.

Henry Hamilton instinctively reacted firing back at the tent from where he believed the shot derived. Hearing a violent cough from within the tent, Henry suspected he hit Roy's assailant.

The men were unsure of whom or how many were in the tent so they rapidly withdrew for assistance. Still close to the scene, the men heard a new, muffled shot. Were they still being fired upon? Was this man a marksman with a rifle? Were there more than one? Assistance was needed.

It was nearly a 20-mile ride to the nearest telephone in Aguanga from where the call was made to Riverside Sheriff Wilson.

Word was out fast, Roy was killed.

In Hemet, Roy's now grieving father, had no problem instantly organizing upwards of 50 cowboys. The order went out to gather guns and horses to track down the murderer. Instructions were given to get Roy's slayer, dead or alive - preferably dead. An additional group loaded into 6 automobiles, each man carrying a rifle and a brace of six-shooters, prepared for a four-day trip into the mountains to find the killer. The cowboys were led by Roy's father and Roy's brother. The automobile posse was led by Sheriff Wilson.

The first of the new posse returned to the scene about 3 hours after the call was made. Who had the nerve to first approach the tent is not known. What was found, however, was Albert Heller, dead inside, with a cryptic note appended to him, Al Heller, tell my wife.

Heller had two bullet holes, one between his shoulder and lung and the other at his temple. By all appearances, Hamilton's shot was enough to cause Heller to decide all was lost. The later shot heard by Hamilton, Clark and Johnson was concluded, by the posse, to be Heller deciding he would rather end his own life than be captured by the posse. A suicide was declared.

Leroy Hopkins Trip, age 24, was buried a few days after he died in the San Jacinto Valley Cemetery. He was eulogized as a cattleman, friend to all and a hero.

Albert Heller was buried in Olivewood Cemetery, Riverside, the burial speculated to be organized by the Riverside Odd Fellows, a group within which Albert was a member.

Whereas Roy is honored to this day, being considered the third Riverside County Deputy Sheriff killed in the line of duty, Albert is all but forgotten. In fact, modern genealogy resources do not reflect any part of Albert's successful horse racing days, family abandonment or financial setbacks; and most assuredly there is no reference to the events of his criminal demise.

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*Chris Jensen, partner in the firm of Reynolds, Jensen, Swan & Pershing, is president of Dispute Resolution Service, Inc. Board of Directors and chair of the RCBA History Committee.*



# EXECUTIVE POWER AND THE DREAMERS: UPDATE

by Charles S. Doskow

In the July/August of the *Riverside Lawyer*, I wrote about presidential power and focused on the Dreamers, minors brought to this country unlawfully. ("The Executive Power of the President of the United States." pp 11-12) That article addressed the institution of DACA (Deferred Action for Childhood Arrivals) by executive action of the Obama administration, the attempted termination of the program by the Trump administration, and the litigation that has accompanied these actions.

When the article was written, a case by the state of Texas and others that had the program ruled unlawful had been brought in a district court in Texas. Summary judgment motions by the parties had been pending for some time. In the *Riverside Lawyer*, I wrote accurately that the case "resides back in the district court..."

Within a day of publication, the United States District Court for the Southern District of Texas (Brownsville Division) ruled that DACA had been unlawfully created and was invalid in its entirety. The underlying issue was whether the executive branch had the power to immunize individuals from deportation from this country when they were deportable under governing immigration statutes.

Plaintiffs had argued that the Department of Homeland Security, which issued the order creating the program, had

not followed the procedures mandated by the Administrative Procedures Act for actions of this nature. Those procedures require the governmental agency taking certain types of actions to publish requests for public input and collect and publish all relevant information before acting. (This is referred to as "Notice and Comment Rulemaking.")

Because these procedures were not followed, DACA "never gained status as a legally binding policy that could impose duties and obligations." (Ironically, this is the same legal basis on which the Supreme Court earlier found that the Trump administration's attempt to kill DACA was unlawful.)

In its conclusion, the court acknowledged that "hundreds of thousands" of DACA recipients and others have relied on DACA's existence. It temporarily stayed its order pending court of appeals review, allowed DHS to accept new applications and renewals, but prevented the agency from approving any of the new applications. There is thus, in the present posture, no immediate threat of deportation action by INS.

The court's opinion is 77 pages long and addresses many other aspects of the case. And of course the case will be appealed.

The DACA story is far from over. Stay tuned.

*Charles Doskow is Dean Emeritus and Professor of Law at the University of La Verne College of Law.*



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# TO ANACREON IN HEAVEN

*by Michael L. Bazzo*

It was a dark and stormy night. Seriously, it really was. A fierce battle raged in the port harbor of one of America's largest cities and once again, a young nation found itself under attack by a foreign invader. It wasn't a terrorist attack, suicide bomber, or cloak and dagger spies working under cover of darkness. Rather, it was the battle for Fort McHenry, more commonly known as the War of 1812. Shortly before the night of September 14, 1814, a flag was commissioned to be flown from the ramparts and made large enough for all to see from the surrounding countryside, a rallying point beneath which young men would give their lives in defense of the fort, freedom, and an infant nation; a scene that would be played out many times in the two centuries to follow. The British miserably failed in their attempt to bring the fledgling country and its small band of defenders to their knees after a 25-hour engagement. In the midst of it all, a young lawyer heeded a patriotic call and was so moved by the defense of his homeland that he put his pen to paper, indelibly inscribing on a nation's hearts the theme of patriotism.

In 1812, the British were looking to both take revenge for the Paris Peace Treaty of 1783, which com-

elled recognition of the 13 colonies and put a halt to a newly thriving American shipping commerce. The British hatched a plan to march on Washington, D.C. and then move upriver to Baltimore, a thriving city of 40,000. Poised on the banks of the Patapsco River, Fort McHenry guarded the entrance to Baltimore Harbor and was the nation's last stronghold. After capturing and burning Washington, D.C., the British set their sights on Baltimore and on the morning of September 14, 1814, began hurling high-trajectory shells toward Fort McHenry. The bombardment continued throughout the night.

Meanwhile, a prominent local attorney was sent by President James Madison at the request of the local townsfolk to negotiate the release of an elderly and respected physician, Dr. William Beanes who had been arrested for "unfriendly acts toward British soldiers." The 34-year-old lawyer was Francis Scott Key. The townspeople were very fond of Dr. Beanes and feared that Dr. Beanes would be hanged. They sought the help of the one person they knew could negotiate Dr. Beanes' freedom and asked President Madison to permit Key to intercede. President Madison agreed, and that night Key was given safe passage to the commander's ship waiting in the harbor.

In the darkness, the exact size of the British flotilla would be unknown from the shore, but as his tiny transport grew closer, Key must have been in awe of the sheer number of the British forces. The air was heavy with rumors of war and Key must have known that an attack on Baltimore was imminent. It was what he heard and not so much what he said during the meeting with British officers that got him into trouble because, following successful negotiations over dinner to secure Beanes' release, the British decided to detain Beanes and Key offshore, as they were about to attack Baltimore and feared that the two patriots would prematurely leak word of the imminent attack which they had overheard. In a two-pronged attack, the British sent a ground force and a naval contingent to destroy the port city while Beanes and Key helplessly awaited the outcome from a ship 8 miles upriver.

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For 25 hours the British bombarded the city with an aerial assault of 1500 “Congreve” rockets that left wobbly red trails of flame across the night sky, while Key and Beanes watched the spectacular display from their ship. The British also employed the use of bombs with burning fuses, intended to explode on the target but more often they burst in mid air. The next morning, the British realized they could not take the city and withdrew. Unaware of the outcome, Key and Beanes waited nervously in the predawn darkness for some sign to indicate that Fort McHenry defiantly stood and at dawn’s first light they were rewarded: the flag was still there!

During the bombardment, Key was inspired to write a poem to commemorate the battle and scribbled his stanzas on the back of an old letter, finishing it at the Indian Queen Hotel once he was permitted to go ashore. The poem was originally entitled, *Defence of Fort M’Henry*, written to the meter of an old English song called *To Anacreon in Heaven*, the theme song of a club of wealthy amateur musicians founded in 1766. (Anacreon was a classical Greek poet who wrote of love and wine). The poem was first distributed as a political handbill. Then, two Baltimore newspapers ran the poem and within a few short months, it was appearing in newspapers around the country under its new title, *The Star Spangled Banner*.

The song grew in favor during the Civil War and during World War I became so popular that Congress finally made it the National Anthem in 1931. It’s sporting debut came when officials had considered canceling the 1918 world series because of the war until they learned that American doughboys looked forward to hearing the results of the series. At the seventh inning stretch of the first game of the series it was played as spectators proudly stood and removed their hats and patriotically sang.

A copy of the poem that Francis Scott Key wrote in his hotel survives and can be seen at the Maryland Historical Society. As this country’s most famous amateur poet, Key is also known for other hymns including *Before the Lord We Bow and Lord With Glowing Heart I’d Praise Thee*. He was a patriot and a lawyer. When he could not fight for the defense of his homeland, he took up his pen as a sword and wrote the words that would inspire a nation.

## The Defence of Fort McHenry

by Francis Scott Key

September 20, 1814

Oh, say can you see, by the dawn’s early light,  
What so proudly we hailed at the twilight’s last gleaming?  
Whose broad stripes and bright stars, through the perilous  
fight,  
O’er the ramparts we watched, were so gallantly streaming?  
And the rockets’ red glare, the bombs bursting in air,  
Gave proof through the night that our flag was still there.  
O say, does that star-spangled banner yet wave  
O’er the land of the free and the home of the brave?

On the shore, dimly seen through the mists of the deep,  
Where the foe’s haughty host in dread silence reposes,  
What is that which the breeze, o’er the towering steep,  
As it fitfully blows, now conceals, now discloses?  
Now it catches the gleam of the morning’s first beam,  
In full glory reflected now shines on the stream:  
‘Tis the star-spangled banner! O long may it wave  
O’er the land of the free and the home of the brave.

And where is that band who so vauntingly swore  
That the havoc of war and the battle’s confusion  
A home and a country should leave us no more?  
Their blood has wiped out their foul footsteps’ pollution.  
No refuge could save the hireling and slave  
From the terror of flight, or the gloom of the grave:  
And the star-spangled banner in triumph doth wave  
O’er the land of the free and the home of the brave.

Oh! Thus be it ever, when freemen shall stand  
Between their loved homes and the war’s desolation!  
Blest with victory and peace, may the heaven-rescued land  
Praise the Power that hath made and preserved us a nation.  
Then conquer we must, for our cause it is just,  
And this be our motto: “In God is our trust.”  
And the star-spangled banner forever shall wave  
O’er the land of the free and the home of the brave!

---

*Michael L. Bazzo, Esq. is a managing shareholder of the Riverside branch office of LaFollette, Johnson, DeHaas, Fesler & Ames and chair of the Riverside County Bar Association Delegation to the California Conference of Bar Associations. Reprinted from the Riverside Lawyer 2002.*



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