

RIVERSIDE LAWYER

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MAGAZINE



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The Old Bailey

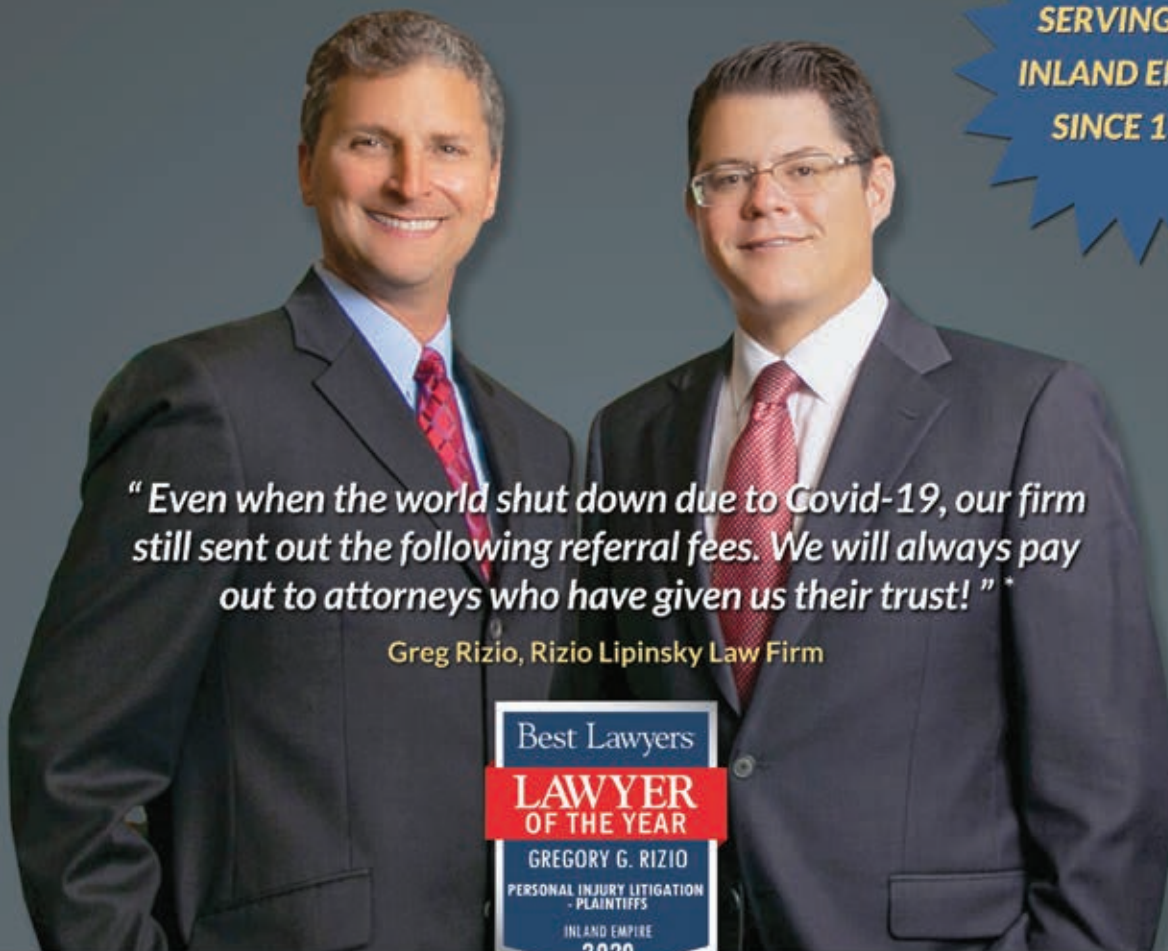


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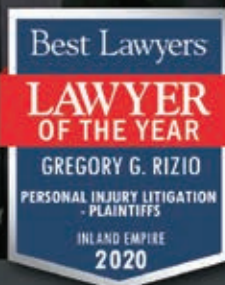
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RIVERSIDE LAWYER

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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 \$30.00 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

- 6 Civil Litigation Roundtable with Hon. Craig Riemer**
Noon - Zoom and RCBA Boardroom
MCLE
- 9 Barristers Networking Mixer**
Noon - RCBA Gabbert Gallery
For more information please see Barristers column on page 4.
- 13 Criminal Law Section**
Noon - Zoom
Speaker: Jacqueline Goodman
Topic: "Defense of Child Sex Abuse Charges 101"
This program is for Criminal Defense Attorneys ONLY
MCLE
- 14 Civil Litigation Section**
Noon - Zoom
Speaker: Greg Rizio
Topic: "Navigating the New Laws That Deal with a Plaintiff's Death During Litigation"
MCLE
- 17 General Membership Meeting**
Noon
Program TBA
- 23 Juvenile Law Section**
12:15 - Zoom
Joint Meeting with the Public Defender's Office
Speaker: Devin Tracey McComber
Topic: "Intro to Juvenile Justice Court"
MCLE

July

- 7 Appellate Law Section**
Noon - Zoom
Speaker: Chief Justice Tani G. Cantil-Sakauye, California Supreme Court
Topic: "Preparing Your Case Before the California Supreme Court"
MCLE

EVENTS SUBJECT TO CHANGE.

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





President's Message

by Neil Okazaki

I wrote my first column in September as we started the fall season. Time flies by, and it's already the start of summer. In the fall, we had Thanksgiving. But we are not required to only be thankful in November. The RCBA is filled with a plethora of amazing people, so I cannot spotlight every deserving person or else the entire magazine would be this column. But I do want to acknowledge a select few who have been so important in our RCBA programs.

Brian Percy has left behind one of the greatest legacies of a RCBA president. In 2002, he started the Elves Program because he wanted to do something that would help reach three goals: (1) to show that attorneys were givers not takers as the community perceived us; (2) give RCBA members something that they could feel good about in terms of the community; and (3) create a program that going forward, the Bar would be able to utilize as a mechanism to foster good will and camaraderie within the Bar membership. Thanks to Brian, we have helped so many in Riverside County by supporting local needy families that would otherwise be unable to provide gifts for their children during the holiday season.

Robyn Lewis and Greg Rizio have been instrumental in creating and spearheading the RCBA New Attorney Academy. This program provides professional guidance and counsel to assist newly admitted attorneys in acquiring the practical skills, judgment, and professional values necessary to effectively practice law. They also ensure that the curriculum encourages sensitivity to ethical and professional values that represent the traditions and standards of our legal community. I have been impressed with the legal skills of many Academy graduates that have benefited from this program.

Brian Unitt did so much to make Project Graduate what it is today in his ten years of leading the program's steering committee. This program helps foster youth in the courts decrease their risk of homelessness, incarceration, sexual exploitation, and unemployment. During Brian's years at the helm, 36 youth completed high school and went on to a community college, four-year university, or trade school. Alexandra Fong is now guiding the program towards expansion.

Jacqueline Carey-Wilson and Juanita Mantz serve as editors of this magazine. With the support of a dedicated Publications Committee, they produce a monthly magazine that provides insight from across the legal spectrum. The *Riverside Lawyer* updates our membership with legal developments and bar activities. If you do not realize how special this magazine is, keep reading beyond this page.

Chris Jensen has headed RCBA Dispute Resolution Service (DRS) since 2006. Under his leadership, DRS has a tremendous pool of mediators. In addition to serving the courts, DRS keeps its rates for private mediations and arbitrations affordable without sacrificing its service. In addition, his latest labor of love is the RCBA History Committee to preserve and highlight the rich history of this organization. Chris is also a great guy, which is unsurprising as a fellow Jungle Cruise skipper alum.

Charlene Nelson came to the RCBA in 1977. She was taking a course at Riverside Community College and the instructor wanted everyone to do a volunteer assignment. She called the RCBA and began as a volunteer. After Charlene obtained a bachelor's degree in psychology and a teaching credential at UC Riverside, RCBA Executive Director William Cunningham called on her to help develop the pro bono program for the RCBA. She became Executive Director of the Public Service Law Corporation (PSLC) of the RCBA. In 2009, Charlene transitioned to becoming RCBA Executive Director. In this role, she serves as the chief administrative officer, responsible for leading, managing, and executing the affairs of the RCBA consistent with the Board's strategic direction. Charlene's devotion to this organization is unsurpassed, and we are indebted to her for her accomplished years of dedicated service.

The founder and CEO Emeritus of VISA Dee Hock once said: "An organization, no matter how well designed, is only as good as the people who live and work in it." All of the people I have mentioned have done so much to make the signature programs of the RCBA possible. For the countless hours and their labor of love, I cannot be more appreciative of their contributions. The many things that they have done have made a difference. I know each of them and they have shown kindness in ways that have had a ripple effect on us all.

We can all find inspiration from this group to get more involved in the many activities of the RCBA. Be a mentor. Attend a Barristers event. Help with Mock Trial. Join a Committee. Run for a Board position. Meet some new people at a General Membership Meeting. In whatever way.

To everyone who makes a difference in ways that are large and small -- thank you for doing what you do for our legal community. You are appreciated.

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



BARRISTERS PRESIDENT'S MESSAGE

by Michael Ortiz



As we enter the summer months when most of us take our vacations and travel, the Barristers will be slowing down and

transitioning from current board members to the next.

We have our speed networking event on Thursday, June 9 at noon in the RCBA Gabbert Gallery. This event piggy backs on the mentorship topic of the May RCBA Membership meeting and we hope that some senior attorneys can attend. It is a brown bag (bring your own lunch) event, but we will also have coffee and donuts for your lunch-time sugar fix.

We also have Barristers elections and a happy hour on Thursday, June 23, at 5:15 p.m. at the Presidential Lounge inside the Mission Inn. In-person portions of the elections will be held at 5:30 p.m. and then we will simply vibe among photos of past U.S. presidents. Election candidate statements can be read beforehand at RCBABarristers.com.



Goushia Farook and Alex Barraza enjoying an arcade game at the Barristers social.



The Barristers hosted a graduation social at the Riverside Food Lab for members of the New Attorney Academy.

Our final happy hour will be on July 28, at 5:15 p.m. at Kalaveras Cantina Urbana, a new restaurant located on Spruce and Chicago just a few miles from downtown.

I also want to mention the New Attorney Academy Graduation Social, which was held on May 13, at the Riverside Food Lab and Game Lab. We had about 25 people attend

and all had a great time. It was great to see fellow Barristers and friends competing in ski ball and other games. Included here are a few photos of the social event.

I look forward to our future events and seeing both new and familiar faces attend. Stay up to date on future Barristers events by following our Instagram and Facebook accounts or visiting our website RCBABarristers.com.

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

Instagram: @RCBABarristers

Finally, I am always available to answer questions. You can email me directly or the Barristers Gmail account at RCBABarristers@gmail.com.

Michael Ortiz practices estate planning and administration at Ortiz Law.
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PRACTICING RESPONSIBLY AND ETHICALLY YOU DESERVE A VACATION; YOUR CLIENTS DESERVE COMPETENT COUNSEL

by David Cantrell

The past 2 ½ years have been a blur. Our lives were turned upside down when we were told to go home, stay inside, and figure out how to maintain our law practices. The process was full of fear, anxiety, and some sleepless nights. We were able to push through by figuring out new ways to take work home, work outside of our traditional business hours, and even make court appearances and take depositions remotely.

But what did we miss while we were re-learning how to practice law in the new world? One thing I missed, as did many of you, was a vacation. For many of us (myself included), we would have to dig up the 2019 calendar to locate our last vacation. I have heard others speak of being tired and burned out after being caught in a COVID based version of the movie Groundhog's Day.

My suspicion is that the lack of vacation time has seriously impacted lawyer competence over the past 2 ½ years. I expect that we will soon see a higher frequency of claims against lawyers arising from basic errors or omissions caused by lawyer burnout. This article isn't designed to tackle issues of mental health; however, I suspect that many lawyers have experienced an uptick in stress, anxiety, and even depression during the COVID years. It occurs to me that while dealing with more pressing matters in our practices, many of us have not taken the necessary time away to recharge our batteries.

It has been some time since many of us have stepped away from the practice for a vacation, so I thought I would provide a few pointers on how to fulfill duties owed to your clients while you are away. Most of this is common sense and can be addressed with a small amount of foresight beginning a few weeks before your vacation.

Diligence. Rule of Professional Conduct 1.3 requires lawyers to act with reasonable diligence when representing a client. This requires that a lawyer does not "neglect or disregard, or unduly delay a legal matter entrusted to the lawyer." (Rule 1.3(b).) In planning for a vacation, it is important that the lawyer anticipate deadlines that will arise in the case. In the simplest terms, we look at pending discovery and motion deadlines. However, more complicated issues arise when, for example, a litigator goes on

vacation 30 or 60 days before a trial. While you may not be missing an important hearing, it is important to plan for dealing with expert exchange, last-minute depositions the other side is sure to set, expert discovery, and other important and time-sensitive items that will not necessarily be marked on the calendar. If you are a solo practitioner, you may want to consider associating in counsel to assist while you are away to keep the case moving.

Communication. Rule of Professional Conduct 1.4 requires a lawyer to, among other things, "keep the client reasonably informed about significant developments relating to the representation..." Depending on the circumstances of the client's matter, this may include telling the client you will be away from the office on vacation at times. For instance, in the earlier example of a lawyer going away during some of the expert phase of the case, we should recognize that the client is entitled to receive communications about (and may need to consent to) expert engagement and likely opinions. Even apart from those issues, there should be someone in the office who can be responsible for screening client inquiries, providing updates to clients on documents received, etc.

Civility. While I typically focus on your relationship with clients and courts in these articles, it is important to consider what your vacation means to opposing lawyers. Nobody likes to be blindsided at key points in the case with a notice that suggests their opponent is taking a vacation and they will seek sanctions if you dare to work on the case while they are gone. Again, referring to the the example I gave above, you will be surprised how many lawyers will work with your schedule if you pick up the phone and explain the situation. We are in this together and most lawyers who practice with some level of civility will appreciate that you are being upfront and including them in the planning.

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.



THE INVISIBLE WALL

by Andrea J. Garcia

Sixty-year-old Gloria, a noncitizen, built a life cleaning houses for twenty years as a legal immigrant under Temporary Protected Status (“TPS”). In 2016, she found herself prohibited from boarding her return flight back to the United States (U.S.) after a trip to visit her sister in El Salvador.¹ She traveled without “advance parole”, special permission certain noncitizens with status like TPS or Deferred Action for Childhood Arrivals (“DACA”) are required to obtain prior to traveling.² Gloria built her life in the U.S. with her TPS status, even though she initially entered unauthorized, she unintentionally self-deported via vacation gone wrong. She now faced an invisible wall: a ten-year bar to re-entry.

Travel is a human right that encompasses the ability to not only travel within a country, but to leave a country and return to it.³ However, noncitizens are denied this right or subject to heavy conditions on travel akin to an invisible wall. Conditions on whether a noncitizen can travel through this wall depend on the person’s government assigned immigration status, such as undocumented, lawful permanent resident (“LPR”) or “other,” such as TPS.

The undocumented have the most limited right to travel due to the three and ten-year unlawful presence bars (“3/10 bars”). Congress created the institution of 3/10 bars to curb migration primarily by those who travel via land such as Mexicans and Central Americans, through the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) in the 1990s.⁴ Instead of curbing migration, IIRIRA created a subclass of humans with virtually no right to travel, with two choices: stay trapped in the U.S. or self deport.

Judith, a U.S. trained lawyer and an undocumented Mexican who passed the California Bar, faces a ten-year bar to lawful status due to IIRIRA. Most undocumented humans are required to consular process abroad to obtain lawful status, which entails leaving and having their application granted or denied by a U.S. State Department Officer. Departure triggers the invisible wall of the three or ten-year ban on legally returning to the U.S., depending on if they were present unlawfully for six months or over a year.⁵ Unlawful presence does not start to accrue until the person turns eighteen years old. Having a U.S. citizen child is not enough to overcome these unlawful presence bars.⁶ This is why many parents of

U.S. citizens are not able to legalize their status or travel to consular process.

Judith, found love with a U.S. citizen after law school, faces a dream deferred due to the IIRIRA: eligible to practice law in California, but not legally authorized to accept a job. Consular processing will take six years through her spouse, and once she departs her fate is in the hands of a consular official.

Moreover, multiple exits and entries by an undocumented human post IIRIRA create an even bigger problem caused by travel, an unwaivable ten-year ban.⁷ The only way to overcome this ban is by leaving and remaining outside the U.S. borders for ten years, and then if otherwise admissible, apply for entry. For example, in 2000, Maria, undocumented who had been living in the U.S. for over a year, traveled to Mexico to see her dying mother, and returned without authorization. In 2005, now married to a U.S. citizen engineer with whom she had a child, she consular processed. The U.S. consulate denied her lawful residence due to her 2000 trip, exiling her for the next ten years. There was no physical wall, but an invisible legal wall to her legal re-entry to the U.S.

The permanent bar is difficult to overcome realistically by living abroad in exile for ten years for those with deep roots and family ties in the U.S.⁸ The permanent bar applies for exits and entries even for such travel as a child, unlike the 3/10-year bar. Maria’s U.S. citizen husband crossed the border back and forth every other week for ten years to be with her for a decade until the invisible wall she faced washed away and she was allowed to ask for permission to re-enter the U.S.

Gloria was able to return to the U.S., albeit without traveling first from El Salvador to the San Ysidro Old Port of Entry where Custom Border Patrol ultimately granted her the right to return via humanitarian parole.⁹ Even those with a semblance of legal status like Gloria held, have limited travel rights. IIRIRA created an unrealistic system for the over eleven million undocumented persons to “come the right way.” If legalizing one’s status was possible, millions would reach for lawful status instead of remaining trapped as a permanent subclass surrounded by the invisible wall IIRIRA created.

Andrea J. Garcia is the Immigration Public Defender at the Riverside County Public Defender, a certified specialist in Immigration & Nationality Law by the State Bar of California. She serves on the board of the National Immigration Project based in Washington, D.C. and the Federal Bar Association of the Inland Empire. She has practiced immigration law for 15 years focusing on the intersection of criminal and immigration law.



1 INA §244; <https://www.uscis.gov/humanitarian/temporary-protected-status>.

2 8 CFR §§244.15.

3 United Nations Universal Declaration of Human Rights, Article 13.

4 A Decade of Radical Change in Immigration Law: An Inside Perspective, 16 Stan. L. & Pol’y Rev. 349.

5 INA §212(a)(9)(B).

6 INA §212(a)(9)(B)(v) [If the person is a noncitizen spouse, son or daughter of a USC or LPR (but not the parent) and he/she can show extreme hardship to one of those qualifying relatives, the unlawful presence ground of inadmissibility may be waived].

7 INA §212(a)(9)(C)(i).

8 9 FAM 302.11-4(D)(1). The bar is permanent, although the person may seek a waiver only after being physically present outside the U.S. for a period of ten years.

9 INA §212(d)(5)(A)






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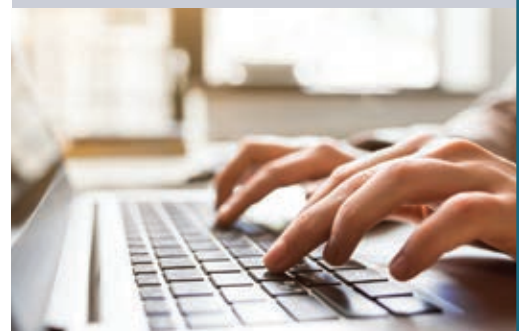


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TRAVELING ABROAD AS A LAWFUL PERMANENT RESIDENT OR NON-IMMIGRANT VISA HOLDER: THINGS TO KNOW

by Michelle Williams

The rules for traveling abroad are roughly the same for all. Whether a U.S. citizen, lawful permanent resident (LPR), or a non-immigrant visa holder, you must have a valid passport from your native country. Depending on the country of destination, there might be other requirements such as obtaining a visa.

Leaving the United States is not usually the problem. Rather it is re-entering the United States where the situation can become more complex for an LPR or a non-immigrant visa holder.

Lawful Permanent Residents

To reenter the U.S., an LPR must present an unexpired green card and another form of identification (passport, foreign national I.D., or a U.S. driver's license). Although LPRs are allowed to travel abroad, trips lasting longer than six months could jeopardize their LPR status.

Under section 101(a)(13)(ii) of the Immigration Nationality Act (I.N.A.), an LPR who has been absent for a continuous period of more than 180 days may be considered an applicant for admission. Under section 101(a)(13)(i), an LPR may also be treated as an applicant for admission if he or she has abandoned or relinquished his or her LPR status.

An applicant for admission means that the United States government will presume that the LPR has abandoned their lawful permanent residency if they are outside of the country for too long. The general guide is whether the LPR has been absent for more than a year. However, abandonment of residency can be found in trips less than a year. The immigration officer will look at certain factors to determine whether an LPR may have abandoned their status. Such factors include:

- Whether the intention to visit was temporary;
- Whether the LPR has maintained community ties;
- Whether the LPR has U.S. employment;
- Whether the LPR has paid U.S. income taxes as a Resident; and
- Whether the LPR maintains a U.S. mailing address.

For LPRs who are planning to be gone for a year, it is advised that they apply for a Re-Entry Permit (Form I-131) prior to departure. The absence of six months or more may also disrupt the continuous residency status for naturalization.

An LPR does not just need the proper documentation to re-enter, but also needs to be admissible upon entry. Those with a criminal history need to take extra precautions and seek an experienced immigration attorney before departing the United States.

Non-Immigrant Visa Holders

For non-immigrant visas such as visitor, employment, study, or religious visas, the holder must present the following documents:

- A valid, unexpired passport that does not expire for at least six months into the future;
- Immigration document that is valid and beyond the date of return and signed by the appropriate official;
- A copy of the approval notice; and
- The most recent I-94; and
- A valid unexpired visa stamp.

The immigration official may require the visa holder to demonstrate that they have enough financial means to support them for the remainder of their stay in the United States.

Problems can occur if the non-immigrant has a pending application to become a permanent resident. Section 214(b) of the Immigration and Nationality Act (I.N.A.) or 8 U.S.C. § 1184(b) states:

Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for admission, that he is entitled to a non-immigrant status...

If there is a pending application to become a lawful permanent resident or the visa holder is married to a U.S. citizen, the visa holder must be cautious and consult with an experienced immigration attorney prior to travel. Failure to do so may result in a denied entry based on the assumption that the visa holder has an immigrant intent to remain in the United States.

Immigration laws are complex and confusing. As the Second Circuit correctly described it, immigration laws bear a "striking resemblance ...[to] King Minos's labyrinth in ancient Crete." *Lok v. INS*, 548 F.2d 37 (2d Cir. 1977). Knowing your rights and obligations before traveling can save you money, time, and peace of mind after a long flight home.

Michelle Williams is an associate attorney for the Boise, Idaho office of Wilner & O'Reilly, APLC, and the Vice-Chair of the American Immigration Lawyers Association, Idaho Chapter.



MEETING IMMIGRANT FAMILY NEEDS AND THE INTERNATIONAL LIAISON UNIT (ILU)

by Larisa Reithmeier-McKenna

Policy leaders and immigration advocates have had ongoing concerns regarding how U.S. and California immigration policy impacts the unity of immigrant families. Such policies have gone through several fluctuations in recent years. Between July 1, 2010 and September 31, 2012, nearly 23 percent of all deportations (204,810 deportations) were issued for parents with U.S. citizen children.¹ As of 2011, there were at least 5,100 children living in foster care as a result of detained or deported parents. (*Id.*) Essentially, where federal immigration authorities detained parents, children would be released to the child welfare system. Thereafter, the parents' detention and/or deportation resulted in limited parental participation in the reunification process, disrupting the possibility of regaining custody.

In response to the circumstances in 2012, the California legislature enacted Senate Bill 1064 (SB 1064), known as the Reuniting Immigrant Families Act (The Act), which revised California law to eliminate or reduce family reunification barriers for immigrant families by creating uniformity across state and county policies and practices.² The Act includes the following main components:

1. **Removing Barriers to Reunification:**
 - a. Court has discretion to extend the family reunification period if parent is detained or deported.
 - b. Court must consider barriers faced by detained or deported parents when assessing whether reasonable efforts were provided.
2. **Relative placements:** Relatives may not be disqualified based on immigration status alone, and must be informed of permanency options.
3. **Foreign Consulates:** The California Department of Social Services (CDSS) must provide agencies guidance regarding immigration relief options for minors, and engaging in Memoranda of Understanding (MOU) with foreign consulates for juvenile court cases in which a parent has been arrested and issued an immigration hold, or has been detained or deported. (Welf. & Inst. Code §§ 10609.95 and 10609.97)

Removing Barriers to Reunification

The Act requires the court to consider barriers to reunification for detained or deported parents, and autho-

rizes the court to continue reunification efforts due to barriers imposed by immigration detention or deportation.³ Reunification services must be provided for detained parents unless evidence is presented that services would be detrimental to the child.⁴ Services may include counseling or other treatment services unless the facility does not provide access to the services, or such services are not accessible to the deported parent in the country of origin.⁵

Reunification services provided to deported parents must include efforts made to identify services in their home country and acceptance reports from foreign child welfare authorities regarding parental progress.⁶ These services are required to meet the standard for provision of reasonable services for deported parents. If the services included in the initial dispositional order or other reasonable efforts have not been provided by the subsequent review periods, the court may extend the reunification period.⁷ Other agency service efforts include phone calls between parents and children, visitation, transportation, and services for family members who could care for the child.⁸ Noncustodial/nonoffending parents are entitled to placement or reunification services regardless of their citizenship status or foreign residency.⁹

Additionally, although the Welfare and Institutions Code provides that any party may move to terminate reunification services before the six or 12-month review hearings, the Act requires that the court consider any barriers imposed by deportation or detention to visiting or completing case plan goals when hearing a motion to terminate services.¹⁰

The court may extend reunification services past the 12-month review hearing if there is a substantial probability that the child will be returned during that time period. The Act provides that the court may consider any immigration-related barriers to completing the case plan as well as good faith efforts the parent made to maintain

3 Welf. & Inst. Code § 361.5 subd. (a)(3) & (4); 366.21 subd. (g)(2), 366.22 subd. (b).

4 Welf. & Inst. Code § 361.5 subd. (e)(1); see also ACL 14-21.

5 Welf. & Inst. Code § 361.5 subd. (a)(3); see also ACL 14-21.

6 Welf. & Inst. Code § 361.5 (e)(1)(E).

7 The ABA Child Welfare and Immigration Project, The Immigrant Legal Resource Center, March 2015, 34 No. 3 Child L. Prac. 45

8 Welf. & Inst. Code § 361.5 subd. (e)(1).

9 The ABA Child Welfare and Immigration Project, The Immigrant Legal Resource Center, March 2015, 34 No. 2 Child L. Prac. 29; Welf. & Inst. Code § 361.2

10 Welf. & Inst. Code § 388 sub. (c).

1 ACL 14-21; see also *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*, Nov. 2011; Wessler, Seth.

2 The Reuniting Immigrant Families Act (SB 1064, Ch. 845, Statutes of 2013).

contact with the child.¹¹ Additionally, the court may extend services past the 18-month review if the parent was recently discharged from detention or has been deported, is making significant and consistent progress, and there is a substantial probability the child will be returned during the extended period. (Welf. & Inst. Code § 366.22 subd. (b).)

The International Liaison Unit (ILU) provides extensive support to the Department of Social Service Children's Services Division (DPSS-CSD) in accessing supportive services for reunification of dependent children and immigrant families in Riverside County. When a petition is filed with the Riverside County Juvenile Court that involves an immigrant parent and/or child, the ILU notifies the corresponding foreign consulate. The ILU also liaises with foreign consulates to help locate missing parents and link parents with services outlined in their case plan if they are residing in their country of origin. Through the provision of services and home studies, reunification can be made possible through the repatriation process. The ILU also coordinates border visits at the Calexico and San Ysidro borders, in addition to coordinating any extended visits and international travel. However, the border visits remain on hold due to the COVID-19 pandemic.

Relative Placements

An identification card from a foreign consulate or a foreign passport is a valid form of identification for persons that are required to have a criminal record check for relative or NREFM placement approval under Welfare and Institutions Code section 309 subdivision (d)(1) or 361.4 subdivision (b). However, this does not apply to the licensing of foster family homes. The criminal background check process for licensed foster family homes remains unchanged.¹²

Regardless of immigration status, relative caregivers must be provided with information about guardianship and adoption prior to establishment of legal guardianship or the pursuit of adoption. (Welf. & Inst. Code §§ 361.5 subd. (g)(2)(B), 366.21 (i)(2)(B), and 366.25 subd. (b)(2)(B).)

Requirements for an MOU Between a County and Foreign Consulate

The Act does not require counties to enter into MOUs with foreign consulates. However, a county that chooses to enter into an MOU with a foreign consulate must meet certain requirements.

Welfare and Institutions Code section 10609.95 subdivision (b), provides that any MOU with a foreign consulate must include, but not be limited to, procedure for the following:

1. Contacting a foreign consulate at the onset of a juvenile court case;
2. Accessing documentation for the child;
3. Locating a detained parent;
4. Facilitating family reunification once a parent has been deported to his or her country of origin;
5. Aiding the safe transfer of a child to the parent's country of origin;

¹¹ Welf. & Inst. Code §§ 361.5 subd. (a)(3) and 366.21 subd. (g).

¹² ACL 14-21.

6. Communicating with relevant departments and services in the parent's country of origin, including, when appropriate, allowing reports from the foreign child welfare authorities documenting the parent's living situation and the parent's participating in service plans in the country of origin that are in compliance with the case plan requirements.

The ILU continues to communicate with various Consulates to ensure they are notified of their nationals' involvement with the DPSS-CSD. For parents residing in their country of origin, the ILU provides support with person locator requests, service requests, and home study requests. The ILU also assists with any other court requests that involve Consular involvement such as verification of documents and obtaining passports for foreign national children.

New Immigration Laws 2022

Although Welfare and Institutions Code section 317 subdivision (e) provides that the child's attorney is to investigate and ensure a dependent child's interests are adequately represented in other administrative or judicial proceedings, DPSS-CSD now shares the burden in some of that responsibility. Assembly Bill 829, effective January 1, 2022, provides that "a county shall make its best efforts to provide an undocumented minor or nonminor dependent in foster care under the jurisdiction of the juvenile court with access to immigration legal services. This access may be provided by the child welfare agency through outside legal service providers."¹³ Additionally, Welfare and Institutions Code section 16010.6 subdivision (d) now requires the agency to notify the child's counsel within five days of learning that a dependent child or NMD is an undocumented immigrant.

Historically, the ILU had completed Special Immigrant Juvenile Status (SIJS) applications on behalf of dependent children. However in 2020, the ILU established a program to connect dependents and nonminor dependents with pro bono legal representation on immigration matters. As such, DPSS-CSD is already compliant with the new legal obligations in 2022. These immigration legal services include filing for SIJS petitions, as well as representation in removal proceedings and deportation orders. Additionally, given that Probate Code section 2104.1 now indefinitely allows continuing non-profit assistance with SIJS matters, the ILU continues to research and connect with nonprofit organizations in the region that can continue to meet the immigration needs of DPSS-CSD dependents.

Larisa Reithmeier-McKenna is a Child Welfare Law Specialist and a supervising deputy at the County Counsel's Office in Riverside. She has been with the Riverside County Counsel's Office for over 15 years and has worked in dependency litigation for over 10 years. She currently works in the Research, Training, and Appeals Unit, and advises the Immigration Liaisons Unit, which supports immigrant dependents and families. Larisa is a graduate of the University of California, Hastings, College of the Law.



¹³ Welf. & Inst. Code § 13310.

LONDON JOURNAL: THE OLD BAILEY

by Abram S. Feuerstein



Lady Justice stands atop The Old Bailey. The sculptor depicted her without a blindfold.

Lawyers travel. Big deal. So does everyone else. The grand tour, and the not so grand two-week vacation, hardly require a law license.

Like all members of trades, lawyers do possess a natural curiosity to learn how their counterparts in other places go about earning their weekly envelopes. But when traveling to England, it is more than that. In Lawrence M. Friedman's great volume, *A History of American Law*, he details the way in which the colonies "borrowed"

from English law both before and after the Revolution but is unequivocal that the "most important immediate ancestor" to the American legal system was England's.¹ So when journeying to Great Britain, many American attorneys feel both an obligation if not the desire to pay a respectful visit to "family" by adding a law-related POI to the itinerary. I did, the Old Bailey.

Landing in London in mid-November 2015, I made quick work of the big ticket items on the list – Parliament, the Tower of London, the V&A and British Museums (odd, Yiddish is not on the Rosetta Stone), Harrod's and Selfridges department stores, the National Gallery, National Portrait Gallery and Tate Modern, the theater (brag - Book of Mormon mid-orchestra seats for about \$35) and 221B Baker Street (Mrs. Hudson said that Holmes and Watson were not at home). Oh, and St. Paul's Cathedral and the War Rooms. A daytrip to Bath and Stonehenge followed. Then off to Scotland's great cities of Glasgow and Edinburgh, with York on the way back to London, where I enjoyed a Thanksgiving feast with ex-pat relatives at a restaurant located in, where else, Chinatown.

No doubt, reader, you must be breathless. This whirlwind tour could give Stendhal a syndrome. But apart from Apple iPhone-stored pictures, I keep no travel diaries, and smaller highlights that I know you would want to know about are trapped in memory. Oh, I just remembered. The swans at St. James Park look like pterodactyls; and speakers' corner in Hyde Park is interesting, but I expected more communists and Brownshirts.

But with a day or two remaining in London, there was still time for last-minute site-seeing and a trek to the Old Bailey, the Central Criminal Court in London. What we call

today the Old Bailey is really the "new" Old Bailey, built in 1907 on a site where it adjoined Newgate Prison at the corner of Newgate and Old Bailey Streets.² For centuries, the jail housed condemned prisoners. The good news is that torture at Newgate apparently ceased in 1640.³ By the 18th Century, Newgate Prison and an adjacent court, known as Sessions House, became generally known as the Old Bailey.

In a pre-TV age, trials at the Old Bailey attracted large, paying crowds.⁴ But the largest crowds gathered on execution days. For the best views, the affluent rented windows at nearby houses for as much as ten pounds.⁵ Dignities hosted "hanging" breakfasts attended by the city's elite, who then took their reserved seats on the gallows. Sumptuous feasts followed the executions.⁶ These bloodthirsty spectacles had an impact on Charles Dickens, who wrote to *The Times* after observing an execution of a woman charged with killing her lover: "I believe that a sight so inconceivably awful as the wickedness and levity of the crowd collected at the execution this morning, could be imagined by no man, and could be presented in no heathen land under the sun."⁷

The New Old Bailey

Today's new Old Bailey is a stately building of Edwardian Baroque architecture, characterized by monumental staircases, grand hallways, stained glass windows, and allegorical mosaic arches.⁸ Its main old courtroom, Court Number One, is paneled in Austrian oak.⁹ Some of the building's design elements seem targeted at injustices taking place during the Old Bailey's storied past. A carved admonition, "Defend the Children of the Poor and Punish the Wrongdoer," appears over the doorway; a sculpture of the Recording Angel supported by the figures of Fortitude and Truth, are depicted over the main entrance portico; and a twelve-foot-high bronze Lady Justice statue stands atop the building's copper dome, perched 200 feet above the streets where the stone and rotten fruit-throwing crowds used to gather for executions. Although its sculptor, F.W. Pomeroy, designed Lady Justice with her usual scales in one hand and a sword in the other, unusually she has no blindfold -- possibly to make the point that justice should not

2 Thomas Grant, *Court No. 1 The Old Bailey: The Trials and Scandals that Shocked Modern Britain* (John Murray Publisher 2019), p. 377 (hereinafter, "Grant"). Grant's volume is focused less on the history of the Old Bailey and more on famous 20th Century trials occurring within its walls

3 Theresa Murphy, *The Old Bailey: Eight Centuries of Crime, Cruelty and Corruption* (Mainstream Publishing 1999) (hereinafter, "Murphy"), p. 10. The Murphy volume is readable but not well-documented.

4 Murphy, pp. 12-13.

5 Murphy, pp. 8-9.

6 Murphy, pp. 8-9, 13-14.

7 Murphy, p. 19.

8 Grant, p. 378.

9 Grant, p. 378.

1 Lawrence M. Friedman, *A History of American Law*, 3d Ed. (Touchstone 2007), pp. xii-xiii



The inscription above the Old Bailey's main entrance reads: *Defend the Children of the Poor and Punish the Wrongdoer.*

be blind but careful to see and consider all fairness factors.¹⁰

Trials involving murder and other violent crimes, and major financial fraud offenses, are still heard in the Old Bailey's courtrooms. And attendance is free. Security is tight, and cell phones, back packs, and women's purses are not allowed. My Rick Steves' 2015 *Great Britain* travel guide advised would-be visitors that these items could be stored at a nearby travel agency for a small fee (an earlier edition suggested a sandwich shop).¹¹ It worked, and the employees were friendly.

With cell phone safely stored (cost, one pound), I entered the building to see if I could attend a trial. The public entrance is no longer through the main grand entrance, which has been sealed off since a devastating IRA car bombing in 1973.¹² Instead, one enters through a Southern Extension that opened in 1972, and which increased the number of Old Bailey courtrooms from six to 18.¹³ Londoners may be proud of the efficiency of the extension, but its architecture appeared somewhat ordinary and the building a little dreary; in other words, it looked like many working courthouses.

After passing through x-ray machines, and climbing a flight of stairs, a security guard apologetically advised that there wasn't "much going on" that day except a trial in one of the courtrooms involving the death of a young child. I headed there, taking a seat with a handful of other spectators in a public gallery elevated above the trial participants. An older woman seated to my left was reading a crime novel that I recognized as one in the Commissario Brunetti series set in Venice by author Donna Leon. But for the wigs worn by the attorneys and judge, the proceedings had the familiarity of any other courtroom, and for that matter, could have been set in almost any moderately sized California city.

The trial involved a young father accused of the death of his months-old child by "shaking." In shaking cases, the violent and abusive shaking of a young child can cause swelling, bruising, and bleeding as the brain bounces against the sides of the skull, leading to irreversible brain injuries and, frequently, death.¹⁴ The cases are among the most tragic and saddest given the devastating harm to a young life resulting from a few seconds of anger and frustration by a parent. The prosecution's medical expert had concluded his direct testimony, and the defense was about to cross-examine



Fortitude, the Recording Angel, and Truth by F.W. Pomeroy depicted above the main door of the Old Bailey.

the witness. In the next two hours, I was transfixed by the intelligent if not compelling questioning by defense counsel. For his part, the expert remained persuasive as he acknowledged dispassionately that other causes might have led to the injuries suffered by the child, but that the most likely cause was a physical shaking by a caregiver. The parties took a break, and I took my leave. Again, no travel diary, but at the time I think I still

wanted to see the Ye Olde Cheshire Cheese pub and other sites of Fleet Street.

So, I am sorry to disappoint the readers that have stayed with me to this point, but no, I do not know the trial's outcome. Nor did I see anything of the Old Bailey resembling its depiction in the great law movie, Agatha Christie's *Witness for the Prosecution*, a film that had informed my own expectations. As the saying goes, always leave a travel site unseen so that you will have a reason to return, so my viewing Old Bailey's marble interiors and grand halls, or the impressive prisoner's dock in Court No. One, will have to await a future trip. But what I did see was the best that any courthouse can offer. Court buildings may become symbols of legal systems or even of our cherished rule of law, but what takes place inside the courtroom is justice. And for a brief two hours, as a tourist while on vacation, I had a chance to see it.

Abram S. Feuerstein is employed as an Assistant United States Trustee by the Department of Justice. The mission of the United States Trustee Program is to help protect the integrity of the bankruptcy system for all its stakeholders and constituents. The views, if any, expressed in the article belong solely to the author and do not represent in any way the views of the United States Trustee, the United States Trustee Program, or the U.S. Department of Justice.



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, 2022.

Jazmyne D. Alverson – Inland Counties Legal Services, Riverside

Thomas L. Behr – Solo Practitioner, Murrieta

Nithin B. Reddy – Law Offices of Graham Donath, Riverside



¹⁰ Grant, p. 378; Murphy, p. 31.

¹¹ Rick Steves, *Great Britain* (20th Ed. Avalon Travel), p. 127.

¹² Grant, p. 384.

¹³ Grant, p. 384.

¹⁴ See generally, "Shaken Baby Syndrome" retrieved at <https://my.clevelandclinic.org/health/diseases/13779-shaken-baby-syndrome>.

In Memoriam

Hon. Jeffrey King (Ret.) 1950-2022



Hon. Jeffrey King (Ret.), JAMS neutral and retired California Fourth District Appellate Court Justice, passed away on April 28, 2022.

Before joining JAMS in 2016, Justice King served on the Court of Appeal for 13 years. He previously served on the San Bernardino Superior Court (1995-2003) and as a civil litigator handling personal injury and tort liability matters for two decades. Justice King also served his community of Rancho Cucamonga as mayor, council member and planning commissioner.

Justice King was respected by colleagues and clients alike as an independent thinker and hard worker with a keen ability to identify the strengths and weaknesses of a case. He will be fondly remembered by JAMS neutrals and associates who will miss his sense of humor and upbeat attitude.

Justice King is survived by his wife, Judge Pamela Preston King, their three sons and extended family.

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THE 30TH ANNUAL RED MASS

*by Jacqueline Carey-Wilson
Photos are by Sylvia Choi.*

Judge Michael Sachs and Judge John Vineyard, Recipients of the Saint Thomas More Award & Sophia Choi and Commissioner Ronald Gilbert, Recipients of the Saint Mother Teresa of Calcutta Award



L-R: Judge Michael Sachs, Sophia Choi, and Commissioner Ronald Gilbert. Judge John Vineyard was out of the country and unable to attend.

Judges, lawyers, and public officials of many faiths and their families participated in the 30th Annual Red Mass, which was held on October 7, 2021, at Our Lady of the Rosary Cathedral in San Bernardino. The Red Mass is celebrated each year to invoke God's blessing and guidance in the administration of justice. The mass is held in October to coincide with the opening of the annual term of the United States Supreme Court in Washington, D.C. For the first time, the mass was live streamed, so individuals could participate from far and near. You can watch the recording of the mass at the following link: <https://youtu.be/kSKYrANKwVg>.

During the opening procession of the mass, Mitchell Norton carried a banner depicting the Holy Spirit, the Scales of Justice, and the Ten Commandments, symbolizing the impartiality of justice and how all must work toward the fair and equal administration of the law, without corruption, avarice, prejudice, or favor. A vase of 37 red roses in memory of those members of the Inland Empire legal community who had passed away in the last year and three additional red roses for Linda Maynes, Helen Rodriguez, and Louise Biddle, members of the Red Mass Steering Committee who had passed away in previous years. The Red

Mass was dedicated to all victims of the COVID pandemic in our communities.

The chief celebrant was the Most Reverend Alberto Rojas, the Bishop of the Diocese of San Bernardino. The first and second readings were read by Mary Jo Carlos and Judge Gloria Trask (ret.). Deacon Donald Hitzeman read the Gospel and Bishop Rojas gave the homily. Patricia Byars Cisneros and Jacqueline Carey-Wilson offered the Prayers of the Faithful, which included remembrances of members from the legal community who had passed away during the last two years. Barbara Keough led the music during the mass. At the conclusion of the mass, Bishop Rojas gave a final blessing.

Immediately following the mass, the Saint Thomas More awards and the Mother Teresa of Calcutta awards were presented. The Saint Thomas More Award is given to a lawyer or judge who gives hope to those in need, is kind and generous in spirit, and is an overall exemplary human being. The Saint Mother Teresa of Calcutta Award is given to anyone with those attributes who is a member of the legal community or who has made contributions to the legal community.

The Saint Thomas More Awards **The Honorable Michael Sachs** **Presented by Jacqueline Carey-Wilson**

Judge Michael Sachs is a graduate of the University of California, Irvine where he obtained his Bachelor of Science in Political Science, and of Western State University College of Law, where he received his J.D. in 1988. He practiced civil defense with a private law firm and with San Bernardino County Counsel prior to his appointment to the bench in 2007.

From 2007 to 2013, Judge Sachs was assigned to a criminal calendar and then moved to hear civil cases at the San Bernardino Justice Center. In 2014, he was appointed supervising judge of civil and elected assistant presiding judge of the San Bernardino Superior Court in 2017 and then served as presiding judge from 2019 to 2021. Much of his term focused on responding to the pandemic and implementing COVID protocols for the court. His main emphasis was ensuring the health and safety of San Bernardino's legal community and the public, along with providing access to justice for those needing court services. As presiding judge, he created the Court's Elimination of Bias Committee, the first of its kind in Southern California. Along with Riverside County Superior Court's Presiding Judge John Monterosso, he also created The Inland Counties Judicial Applicant

program, geared toward recruiting qualified and diverse judicial candidates for appointment to bench.

Judge Sachs is a frequent speaker at legal events with the many Inland Empire bar associations and the University of La Verne Law School. He has also taken on a leadership role statewide by serving on various advisory committees with the Judicial Council.

With all of these accomplishments, Judge Sachs is most proud of his time as a bench officer in drug court when he was assigned to Victorville. One story stayed with him. In 2010, a dad in his early 20s was trying to stay clean to be able to reunite with his six-year-old son. The dad was able to make it through drug court and at his final hearing, Judge Sachs called his young son up and spoke directly to him, letting him know how proud he was of his dad and the son. Fast forward to 2016 at the Countywide drug court program, both the father and son were speakers. Judge Sachs gave hope to that young father and son, as he has done for so many others.

This story is a perfect illustration of why Judge Sachs was selected as a recipient of the Saint Thomas More Award. In his personal life, Judge Sachs is married to his best friend and they have two daughters and a grandson, with whom he loves to spend time. He is very close to his immediate family and to his siblings. Judge Sachs is a man for all seasons and the Red Mass Steering Committee was honored to present him with the Saint Thomas More Award for his extraordinary service and devotion to church, community, and justice.

The Honorable John Vineyard

Presented by The Honorable John Monterosso

Judge John Vineyard is a native of San Bernardino. He graduated from Northeast Louisiana University in 1985 and earned his Juris Doctorate at the University of California, Davis, School of Law in 1989. He practiced civil law in private practice before he was elected as a Commissioner by the Riverside Superior Court in 2008.

As a Commissioner, Judge Vineyard served in criminal law and family law, along with civil law and motion. He was appointed to the Superior Court by Governor Brown in December 2011. He has served primarily in unlimited civil trial and master calendar departments, and as the supervisor of the civil division. Judge Vineyard served as the presiding judge of the Riverside Superior Court from 2019-2020 and implemented many COVID safety protocols to ensure that all who used the courts were protected, while still allowing access to justice for the community. Judge Vineyard is currently in Family Law Court in Riverside.

Judge Vineyard is a past president of the Riverside County Bar Association and Riverside Barristers Association and has been a member of the Leo A. Deegan Inn of Court. Judge Vineyard was named the Douglas Weathers Trial Judge of the Year in 2015 and was presented the Riverside County Outstanding Jurist Award in 2020 by the Leo A. Deegan Inn of Court.

Judge Vineyard has been married to Judge Carol Greene of the Riverside Superior Court for over 28 years. They have raised two incredible children in the Catholic faith and instilled in each a strong moral compass. Judge Vineyard exemplifies the highest ideals of the legal profession and serves as an inspiration to those around him. Accordingly, the Red Mass Steering Committee was honored to present Judge Vineyard with the 2022 Saint Thomas More Award for his extraordinary service and devotion to church, community, and justice.



Sophia Choi with her niece and nephew.

Saint Mother Teresa of Calcutta Awards

Sophia Choi

Presented by Riverside County District Attorney

Michael Hestrin

Sophia Choi is an accomplished individual who lives her faith and serves her community in myriad ways. She attended St. Catherine of Alexandria Parish School and was valedictorian at Notre Dame High School. She graduated from UCLA with highest Latin honors, earned her Juris Doctorate at age 22 from Southwestern University School of Law, and was co-editor in chief for the Advocates.

Ms. Choi served as a deputy county counsel for Riverside County for 14 years and then moved to the Riverside County District Attorney's Office in February 2020. Ms. Choi served as president of the Riverside County Bar Association during the COVID-19 pandemic. She previously served as president of the Leo A. Deegan Inns of Court, which awarded her the Terry D. Bridges Outstanding Attorney Award in 2019-2020. She was the inaugural president of the Asian Pacific American Lawyers of the Inland Empire and vice president of the Korean Prosecutors Association.

Ms. Choi has been active in the growth of the local Korean Catholic community, including liaising with the Diocese and teaching Sunday school. She has coordinated Diocesan events, such as ordinations, Asian Pacific ministry events, and ministry formation classes. Personally, she is godmother to her niece and nephew, helping to raise

them as strong faith-based individuals, and serving as a second-grade catechist.

Ms. Choi is devoted to her family, church, and community. Ms. Choi lives her faith in all aspects of her life. Accordingly, the Red Mass Steering Committee was honored to present the 2022 Saint Mother Teresa of Calcutta Award for her extraordinary service to church, community, and justice.

The Honorable Ronald Gilbert

Presented by The Honorable John Pacheco

Commissioner Ronald Gilbert was born and raised in San Bernardino. His father was a self-taught engineer/inventor and his mother stayed at home raising their three children. He attended San Gorgonio High School, went to San Bernardino Valley College and then transferred and graduated from Cal State Fullerton. Thereafter, he attended La Verne Law School and went to work at the San Bernardino Public Defenders Office, where he worked for eight years before being appointed as a commissioner in 1993.

Commissioner Gilbert's current assignment involves handling seven different drug courts in seven different locations, six adult courts, one mental health court, one veteran's court, and one juvenile court, as well as "in custody" video arraignments, and post release community supervision.

Commissioner Gilbert married his lovely wife 32 years ago and they have two adult children. His hobbies are fishing, golfing, mountain biking, and spending time with the family.

Commissioner Gilbert treats each person who appears in front of him with dignity and respect. He sees individuals at perhaps the lowest and darkest time in his or her life and gives them hope for a future. Accordingly, the Red Mass Steering Committee was honored to present Commissioner Gilbert with Saint Mother Teresa of Calcutta for his extraordinary service and devotion to church, community, and justice.

The 2022 Red Mass

The 31st Annual Red Mass will take place the first week of October 2022. The Red Mass Committee is accepting nominations for the 2022 Saint Thomas More and Saint Mother Teresa of Calcutta Awards. If you have a nominee for the awards or would like to be involved in the planning of the Red Mass, please call Jacqueline Carey-Wilson at (909) 387-4334 or Mitchell Norton at (909) 387-5444.

Jacqueline Carey-Wilson is a deputy county counsel with San Bernardino County, co-chair of the Red Mass Steering Committee, and a past president of the Riverside County Bar Association and the Inland Empire Chapter of the Federal Bar Association.

Photos by Sylvia Choi.



WE REMEMBER THEM

The following members of the legal community family who passed away October 2019 - October 2021 were remembered at the Red Mass:

Brendan W. Brandt	William Pitt Hyde
Sharon Bridges	George P. Hobson, Jr.
Kirk D. Butterwick	Walter Hogan
Linda Bunney	Daniel Holden
Ray Bunney	William E. Jack Jones
Susan Kieran Byrne (Burn)	Judge Ben T. Kayashima (Ret.)
Del Davis	Judge Bob Krug
William DeWolfe	Thomas L. Miller
Gerald Farber	Bruce Morgan
Katherine Fixa	Hugh Patty
Donald H. Freeman	Steven J. Pope
Kenneth Gray, Sr.	Judge Manuel Real
Sang Yoon Han (Song Yun Han)	Robert Ripley
Judge Jay Thompson Hanks (Ret.)	Mitchell I. Roth
Stanley Hodge	Robert "Bob" Taylor
Daniel Hogue	Suzanne Tocco
Dan Holden	Judge J. Michael Welch (Ret.)

The following members of our Red Mass Steering Committee who have passed away in previous years were also remembered during the mass:

Louise Biddle
Linda Maynes
Helen Rodriguez



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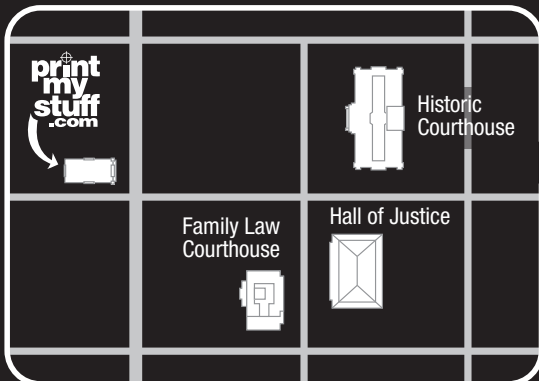
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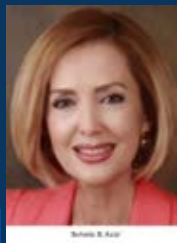


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JUDICIAL PROFILE: HONORABLE CHERYL C. MURPHY - LOCAL GIRL MAKES GOOD

by Betty Fracisco

Are you ready for another “Local Girl Makes Good” story? Meet Judge Cheryl Murphy, born in Riverside and a graduate of J. Smithers School and Riverside Poly High School. Judge Murphy is the daughter of Jamaican parents who divorced when she was 13. She and her two sisters stayed with her mother, a nurse, while her brother went to live with their dad in Redlands. All three sisters were athletic, and Judge Murphy played basketball in high school for four years, softball for three years, and track and field one year. In fact, she had the good fortune of playing with her older sister for one year. Her younger sister, who was a year younger, also played basketball and went to the Olympic trials for track and field.

Judge Murphy had not yet decided where she wanted to attend college, but an unexpected opportunity arose. She was playing in the CIF Championship game against Long Beach Poly, and one of the Long Beach parents was filming his daughter and sent the video to the coach at San Diego State. The coach saw the video and decided Cheryl’s performance justified a spot on his team. That happened to be a school that interested her, so she played the next two years as a walk-on starter for the Aztecs. She loved San Diego State and her role as point guard. Unfortunately, a problem arose when there were complaints that a walk-on was getting more starting and playing time than scholarship players. The coach was pressured to let her go. What to do? Her brother was playing baseball at Sacramento State and despite the fact she was going from a Division 1 to a Division 2 school, she joined him there. Her team did well and she was team captain. Since she was not able to graduate in four years, she returned to San Diego State and finished her degree there. She really loved that school.

After graduation Judge Murphy worked for GMAC, but after a year she realized it was not for her. She started thinking about law school, so she spent three years at Western State University College of Law, graduating in the class of ’90. She started at their then campus in San Diego, but she transferred to the Fullerton campus when she moved to Upland in 1988. She went to school full-time during the day and worked for the Blumenthal firm in Riverside her first year and then for Tuckerman & Thompson, a family law firm in Ontario her last two years. During her second year of law school, she married her husband, with whom she had worked at GMAC.



Hon. Cheryl C. Murphy

Judge Murphy took the July 1990 State Bar Exam and went to work for Tuckerman & Thompson, staying there six years, practicing family law at what she described as a “high-end firm.” After that she moved to a Tuckerman subsidiary, Rancho Law Center, which catered to clients who could not afford the high-end firm. She managed that firm for two years, still working closely with her two former bosses. In 1999, she founded the Law Offices of Cheryl Murphy and began her 20-year solo career in family law, which she thoroughly enjoyed. For eight years she served as a Judge Pro Tem and received favorable comments from judges about her performance. Several suggested she think

about the judiciary.

You know what’s coming next, but the road to the bench was not an easy one for Judge Murphy. She applied three times and went to the JNE Commission all three times. She started with Governor Gray Davis and it was finally Governor Jerry Brown who named her to the bench on December 14, 2018, after his Appointments Secretary Josh Groban (now a Supreme Court Justice) had come to personally interview her. Judge Murphy filled a seat vacated by retiring Judge Jeffrey Prevost and was assigned to hear dependency cases at Riverside Juvenile Court. She enjoys dependency, although she only had a handful of dependency cases in her career. The goal is to protect the children and their families and work through struggles in an attempt to reunite the children with their parents, if at all possible. Unfortunately, these “struggles” often include sex abuse, drug abuse, and domestic violence, so the county’s children protective services also play a vital role in these cases.

So what does Judge Murphy do outside the courtroom? She is involved with Project Graduate and is a Riverside County Law Library Trustee. Her husband of 33 years is a mortgage consultant in San Bernardino County, and her two children, graduates of Etiwanda High School, both currently reside in Texas. Her daughter works for Bloomberg Law as a director, and her son, a West Point grad, is a Second Lieutenant stationed with the Army Corps. of Engineers in Ft. Hood, Texas. The judge and her husband recently returned from a trip to Italy that took them to Sorrento, Rome, Florence, and Venice. As I mentioned earlier, this is definitely a “Local Girl Makes Good” story.

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



GRADUATION OF 2021-2022 CLASS OF THE RCBA- RIVERSIDE SUPERIOR COURT NEW ATTORNEY ACADEMY

by Robyn A. Lewis



*Back row – l-r - Greg Rizio, Janate Valenzuela, Kelcey Hoffman, Claudia Carr, Daniela Tovar-Jalalian, Dev Patel, Cynthia Amiot, Sumangala Bhattacharya, Vincent Hughes, Tony Luzuriaga, Adolfo Mediano, Cristian Palafox, Evelyn Uba, Isaac Young, Judge John Vineyard
Front Row – l-r – Judge Randall Stamen, Summer DeVore, Lena Zumbrunn, Bijal Joshi, Brigitte Wilcox, Jamie Hall, Sharilyn Nakata, Alma Colchado Segovia, Orquidea Wilcox, Yecenia Vargas, Robyn Lewis
(graduates not pictured – Annelyse Gomez, Michael Rahmanou, Jamie Traxler, Sochima Vincent)*

The New Attorney Academy, which is a joint collaboration by the Riverside County Bar Association (RCBA) and the Riverside County Superior Court, and with the assistance of the American Board of Trial Advocates (ABOTA), is pleased to announce the graduation of its seventh class.

The purpose of the New Attorney Academy (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.

This year, the Academy began its seventh term in October with the curriculum taught by judges and noted attorneys in the community. Topics of the classes included an introduction to the legal community, a practical and intensive primer on pleadings, depositions and discovery, 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.), and an introduction to law practice management. Students were given tours of the Historic Courthouse, including a “behind the scenes look” at the clerk’s office, the Family Law Court and the Court of Appeal. The students enjoyed an introduction to trial that included an interactive class on voir dire, tips on openings, closings, and direct and cross examinations from some of the most notable trial attorneys in the Inland Empire.

At every session, the class attended the monthly RCBA general membership meeting, which allowed the members to interact with the legal community. At the May meeting, the academy members were recognized for their participation and received a graduation certificate. Unfortunately for our 2019-2020 class, the program was cut short because of the COVID-19 pandemic and the emergency orders that followed. When we resumed the New Attorney Academy in person this year, we extended an invitation to those students who were affected by COVID and allowed them to audit the classes they missed as a result of the pandemic. We had many students from the 2019-2020 class join this year’s class as a result and those participating students were able to graduate from the New Attorney Academy this year as well.

Once again, the Academy was an enormous success, which is due in large part to the efforts of the Riverside County Superior Court and members of ABOTA, most particularly, Judge John Vineyard, Judge Randall Stamen, Judge Irma Asberry, Judge Jackson Lucky (retired), Greg Rizio, Megan Demshki, Kelly Moran, and Sophia Choi.

If you are interested in obtaining more information about the 2022-2023 New Attorney Academy, please contact Charlene Nelson at the RCBA or Robyn Lewis at robynlewis@jlewislaw.com.

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

Photo by Michael Ortiz.





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JUDGE EBENEZER GRIFFITH BROWN: RIVERSIDE'S FINDER AND EARLY JUSTICE OF THE PEACE¹

by Chris Jensen

Ebenezer Griffith Brown was a successful merchant in the prairie village of Belle Plaines, Iowa. His business provided well for his family consisting of his wife, Sarah, son, Lyman Van Wickle, and daughter, Sara. However, for reasons unknown, Brown was not content.

In March of 1870, John W. North placed a full-page advertisement in a variety of Eastern newspapers offering an opportunity to join in the creation of a colony of people of good character, willing to improve land within one year, somewhere in Southern California. North, a Republican abolitionist, once appointed by Abraham Lincoln to be a judge in the territory of Nevada, was out of work and not satisfied with his life in Tennessee. He wanted to be a colonist and needed people to constitute the Colony. E.G. Brown saw a new opportunity and signed on.

In April of 1870, North was joined by Brown, A.J. Twogood, Dr. Eastman and Dr. Greaves as they traveled to Southern California to locate the perfect land. The trip west consisted of a four to five-day train ride from Iowa to Sacramento over the less than one-year old Transcontinental Railroad. In Sacramento, a paddle wheel boat was then required to travel to San Francisco where the party needed to locate steamer-ship passage to San Pedro in Southern California.

San Pedro was known as Banning Landing. Banning Landing constituted a rickety freight wharf surrounded by muddy tidal flats. Once disembarking in San Pedro, passengers then transferred onto the only train line in Southern California which ran 21 miles from the wharf to the small town of Los Angeles.² The rail line ran to Los Angeles and back, once each day. If the steamer was late and one missed the train, one would be stuck with the 21-mile trip by wagon which took four or more hours. In Los Angeles, the party stayed at the brand new, three story, 33 room, Pico House.

Over the next few months, the colony party investigated and inspected many possible sites for their Colony. They eventually, reluctantly, settled on a parcel in what was called San Pasquel, in what is now Pasadena. The owner of the San Pasquel parcel was in San Francisco. This required J. W. North to travel back up to San Francisco to negotiate and enter into a contract to purchase the group's find. The other four members of the Colony party remained in Los Angeles.

While waiting on J. W. North's return, Brown and Dr. Greaves were contacted by Mr. Thomas Cover of San Bernardino. San Bernardino was a rough cow town east of Los Angeles. The population of the entire county was 3,988 people. Mr. Cover had a little more than 8,000 acres for a silk farm venture which failed before it started. The land mostly encompassed the old Roubideaux Grant/



E. G. Brown

Jurupa Rancho. Mr. Cover, having heard of the group, insisted they see his fine parcel.³ The gentlemen declined.

San Bernardino was over 60 miles east with no railroad between; the trip would take days. When Cover offered to pay the transportation and lodging for Brown and Greaves, they decided a little touring would not hurt. They agreed to a paid trip and the two were off on the rugged wagon ride to the property.

It was late June of 1870 when Brown and Greaves first saw the Inland Empire. They later described they saw lush green grass and a river which was more than sufficient to irrigate the entire valley. Brown and Greaves were instantly "sold" on the property consisting of 8,735 acres. The two immediately located a means to communicate with North to stop him from

buying the San Pasquel parcel.

North balked. He wanted nothing to do with the Brown and Greaves find. North insisted the land he chose was perfect for his Colony. Brown advocated the decision was to be one for the group and insisted North reconsider. North did not bend.

E. G. Brown saw the 8,735-acre San Bernardino County parcel⁴ as a perfect opportunity and chose to break from North. Brown returned home to Iowa to gain the needed financing to purchase the land and start the Colony without North.

North must have realized his dream of the Colony he envisioned was about to fail without Brown, and maybe the others, and relented. The group sent word to Brown to return to California, the Colony would be in San Bernardino County at the property he and Greaves chose.

Brown reversed the trip, again, to Southern California. It was then the Southern California Colony Association was formally formed, and the Cover land was purchased. The 8,735 acres were sub-divided, a town plat mapped out and the parcels were available to be sold to fund the venture. But Brown did not purchase a Colony parcel.

Amazingly enough, Brown, ever the businessman, saw an opportunity available on the North-East corner of the Colony parcel. The land adjacent to the Colony was owned by the United States and Brown found out he could homestead it for far less than he could purchase Colony property. Brown homesteaded 104 acres.⁵

What made Brown's homestead parcel even more valuable was that the only road to the City of San Bernardino, the county seat, required one to cross and circumvent Brown's property. The road was called the Colton Road, but at its best was a wagon wheel rut

1 The word "Finder" is intentionally used, not "founder."

2 1870 was the first year in Los Angeles the White population was reported to be demographically greater than the Hispanic population.

3 Mr. Cover intended to operate a silk farm on the property, but his expert/manager died leaving Cover with a venture he knew nothing about.

4 Riverside County would not exist until 1893.

5 Brown's homestead property is located in the area immediately to the east of the current 91 Freeway and south of the 60 Freeway including Massachusetts Ave and La Cadena/Kansas.

path. Being adjacent to the road afforded Brown the opportunity to later construct one of Riverside's first hotels, the Anchorage. Being outside the center of dusty town commerce of early Riverside, the Anchorage was considered somewhat of a resort for its time.

Brown's eminence was agriculture. Brown was one of the earliest Riversiders to successfully market agriculture and agriculture products. Water was key to the success of the land and Brown figured out the correct balance with the new irrigation system built by the Colony and others. Brown opened a nursery on 20 acres of his property. Others looking to be citrus and related farmers would look to Brown for advice. Brown also had his own successful farming operation, growing, and selling product including oranges and raisins. The landscaping around Brown's home, and later the Anchorage, was lush and green, not dirt streets without sewers, one might find in the middle of 1870's Riverside.

Brown was one of the organizers of the Inland Empire Grange and became, and was for years, the "Master of the Grange." Being the Master was to be the "go to guy" for agriculture advice as well as being the lead marketer for the region. Brown traveled extensively to fairs and agriculture conventions extolling the virtues of and showing off the products of the Inland Empire.

But Brown was not just a hotelier and farmer. Brown was also "Judge Brown."

L.C. Waite is credited as being Riverside's first Justice of the Peace.⁶ Then in 1874 the San Bernardino County Board of Supervisors created the Riverside Township. As part of the process, they also appointed the necessary Constable and Justice of the Peace. The new Justice of the Peace was Ebenezer G. Brown. Brown had no known legal training. Yet the community respect for Brown was great enough to warrant the appointment. And as if to confirm he was correct for the appointment, Brown was re-elected twice, serving in that capacity until 1880.

Court was typically held in Judge Brown's parlor, no civic buildings existed in Riverside in the early years. Compensation for the role was paid for by the user. Judge Brown's fees for services as a Justice of the Peace were \$2.00 for non-trial proceedings and \$5.00 for trial, plus \$2.00 for any additional day. Felony testimony in writing review was \$3.00. The fee for being the marriage officiant was \$3.00. A Notary acknowledgement was \$2.00. A Coroner's inquest proceeding was \$10.00. And it appears a deposition before the Judge was \$.15 per page. Court was not inexpensive. On top of the Justice's fee were always the fees for services charged by the constable for service of process, transporting prisoners to the county seat, and a myriad of other services. When one used the services of the court, one paid for said services.

Although a County Superior Court Judge held court at the County seat, local matters required local justice. A Justice of the Peace handled just about any non-jury judicial service imaginable to arise in the township. And a language barrier was not an impediment to justice. For example, it was not unusual for Judge Brown to preside over cases entitled *People v. John Doe* or *People v. John Doe Indian* or *People v. John Doe Chinaman*. Such a case title may have been given because a John Doe language barrier blocked the simple act of answering one's name. Typically, such cases were complaints of assault and/or battery by a Native American or one of Spanish descent.

One such John Doe case was the March 18, 1879, accusation of assault with a deadly weapon. The arrest warrant was issued by Judge Brown to bring in John Doe. The Constable, with warrant in hand, then rode off to find the alleged John Doe. Apparently, those

6 Waite's initial appointment was Justice of the Peace for the Salvatore Township. But Waite was a Riversider and it is understood he held court in Riverside. But there was no Riverside Township at the time.

involved knew who was John Doe. Sometime during the night, the defendant was found and later brought before Judge Brown the next morning. The unknown named defendant somehow or another demanded an immediate trial. This required locating and calling in Louis Rubidoux, Jr. to act as the court interpreter.⁷ The proceeding was held, and Judge Brown found the accusation was without merit ordering the "prisoner discharged."

Another case of regularity was by the manager of the Glenwood Inn,⁸ Frank Miller, suing for unpaid room and related charges. Frank obtained attachment orders and judgments. It is not always clear if Frank collected on the debts.

One of the last cases reported before Judge Brown was one entitled *Riverside Land & Irrigation Company (R L & I Co) v. J. W. North*.⁹ Apparently J.W. failed to pay \$115.00 in irrigation fees before he left Riverside.¹⁰ The R L & I Co. was very diligent in accounting and not about to let anyone off the hook.

J.W.'s attorney filed a motion to change venue to the county of J.W.'s new residence in Fresno. The motion was denied, the debt was incurred in Riverside, San Bernardino County. The claim had to stay. The attorney then demurred to the complaint, objecting the claim did not state a valid cause of action. Judge Brown agreed. However, Judge Brown gave the R L & I Co a chance to amend its complaint, which it did. It was agreed J.W. would have 15 days to respond to the new complaint and defend himself at trial.

On July 15, 1880, the case of *R L & I Co v. North* was called for trial. Mr. North failed to appear. With minimum testimony, judgment was then entered against North in the amount of \$115.00 plus costs of suit consisting of \$5.00 to the Justice of the Peace, \$1.00 for a copy of the complaint, \$.87 and ½ to J.D. Hughes, reporter, and \$2.75 for service of the summons for a total judgment of \$124.62 and ½.¹¹

Ebenezer Griffith Brown died in 1894, aged 73, leaving his wife, daughter, and son. Brown outlived North by four years. Brown remained a respected member of the community always referenced as the Judge or Judge Brown. Brown lived long enough to see the Colony grow from a "thought" to a town, to a city, and then a county in 1893. He left a modest estate including the Anchorage, which continued to operate under the control of his son until his son's death.¹² Judge Brown earned his title, "Judge," and should probably be given the recognition, along with Dr. Greaves, as a "Finder" of Riverside.

Chris Jensen, Of Counsel in the firm of Reid and Hellyer, is president of RCBA Dispute Resolution Service, Inc. Board of Directors and chair of the RCBA History Committee.



7 Louis Jr. was the son of the famous trapper and namesake for the town of Rubidoux.

8 Now the Mission Inn.

9 1874, a little over three years after the Southern California Colony Association began, J.W. North lost control. The R L & I Co had bought out the controlling interest of the Colony. Although J.W. North's death record listed his profession as "Colonist" that description was more of J. W.'s dream than reality.

10 J.W. and his wife left Riverside about 1879, initially relocating to San Francisco. J.W. was asked to join a Colony in Fresno. He agreed and relocated opening a law office there. His wife did not move with him. J.W. died in 1890, it seems alone, in Fresno.

11 Failed collection efforts resulted in an additional \$11.91 in court costs imposed. On July 29, 1880, S.C. Evans, President of the R L & I Co, reported to the court the judgment was satisfied.

12 His son, Lyman Van Wickle Brown was Riverside's 5th Mayor but sadly was killed in an automobile accident on the day he was inaugurated.

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