

**Riverside
County**

LAWYER

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The Other Bar
Whose Body
HIPAA

The official publication of the Riverside County Bar Association

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Riverside
County

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 its members, and indirectly their clients, by implementing programs that will enhance the professional capabilities and satisfaction of each of its members.

Serve its community by implementing programs that will provide opportunities for its members to contribute their unique talents to enhance the quality of life in the community.

Serve the legal system by implementing programs that will improve access to legal services and the judicial system, and will promote the fair and efficient administration of justice.

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Public Service Law Corporation (PSLC), Tel-Law, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Inland Empire Chapter of the Federal Bar Association, Mock Trial, State Bar Conference of Delegates, and Bridging the Gap.

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

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

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

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

MBNA Platinum Plus MasterCard, and optional insurance programs.

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

CALENDAR

February

- 10 PSLC Board**
RCBA – Noon
- 11 Mock Trial Steering Committee**
RCBA – Noon
Barristers
Cask 'n Cleaver – 6 p.m.
MCLE
- 12 HOLIDAY**
- 16 HOLIDAY**
- 17 Family Law Section**
RCBA 3rd Floor – Noon
MCLE
- 18 RCBA Board Meeting**
RCBA – 5:00 p.m.
- 19 Business Law Section**
RCBA 3rd Floor – Noon
MCLE
- 20 Joint RCBA/RCLA General Membership Meeting**
RCBA 3rd Floor – Noon
MCLE
- 25 EPPTL Section**
RCBA 3rd Floor – Noon
MCLE
- 26 CLE Brown Bag Seminar**
RCBA 3rd Floor – Noon
MCLE

March

- 3 Bar Publications Committee**
RCBA – Noon
- 4 CLE Brown Bag Seminar**
RCBA 3rd Floor – Noon
MCLE





by *Mary Ellen Daniels*

My Past, My Reality, My Black History

America is the beautiful; is the melting pot with different flavors; is the mosaic with distinctive differences. Our ancestors from the seven continents brought their blessed differences to this country and wove them as threads in a fabric. That fabric is our history.

As many of you know, February is Black History Month. Although I am a black American, I have been so consumed with the practice of law that I have spent very little time, prior to this year, thinking about this month that is so special to black Americans. Maybe I have been hiding in my work because thinking about the history of my people in my community, and of blacks in general, is very painful. Looking at family pictures that depict our history is painful; watching movies about the history of my people is painful. Slavery, lynching of blacks, the continued legal struggles of blacks, the disparate legal treatment of blacks, the discrimination against blacks, the loss of affirmative action, the lack of black judges, the inability of blacks to obtain jobs in our communities, the destruction of the black family, all these things are painful. Who wants to think about black history? I know I must, especially now.

Being the president of the Riverside County Bar Association, being a black American, and being a black woman, brings with it many responsibilities. One of my greatest responsibilities, in addition to leadership within the bar, is the effect that my presidency has had on my people in the black community. I am looked up to as some sort of hero just

because I have done what I expect any normal person to do (if being an attorney is what they want to do). I am now asked to speak at numerous black events about legal issues. I am seen as someone who confirms that being black is not a curse and, in fact, it is honorable, because of my position. I have always expected success. I am asked about how my blackness affects my peers and adversaries; I am asked about black relationships, about my ability to generate income in spite of my blackness, about the effect that my blackness has on the judiciary and about the many business concerns that only blacks are faced with. I am honored, and yet saddened at the same time, by what I have experienced in my lifetime as a black female.

I have had little time to think about black history. I know that the work of Martin Luther King, Malcolm X, President Abraham Lincoln, President Bill Clinton and many others has changed the way blacks have been able to live in our society. The majority of blacks I come in contact with have yet to experience the feeling of being able to achieve those things that they see on television and have come to the conclusion that the American Dream is something that they cannot obtain. They are correct. Many of my people believe that life for them continues to be a nightmare which goes away upon death. They do not desire to do the "right" thing because they feel they can never leave the ghetto. Truthfully, it takes a very strong black to withstand the pressure of a continuing fight for equality for the black man in all arenas of our society.

When I was younger and had not been outside of my family home, I was of the opinion that anyone could achieve anything, regardless of whether they were black or white. I do not feel that way now. Even though I went blindly into myself in order to do what I have with my life, I think that I have been singled out by God to be blessed. When I reflect on my position and lifestyle after returning from a brief appearance in my neighborhood, to which I rarely return, I think that the level of strength that I have been given is something that even I do not and cannot understand.

Because it was the month for Kwanzaa, which is a newly created black holiday celebration, I was recently honored by a group of black females and given the "Sapphire Award" for the year in the area of Law and Justice. This group of black females included many of the females I recall from my youth. These were other black females who somehow avoided or were lucky enough to find their ways mentally out of the ghetto. In introducing me, the speaker talked of my contributions during the Tyisha Miller tragedy. She said that I was involved in the matter as the attorney for the Steering Committee, which I was. It was strange that she would also state that I had been strong enough and brave enough to put the issue of this child's death and the impact it had had on the community ahead of the effects it would have on my reputation in the community as an attorney. This statement was shocking to me. I thought to myself, "Doesn't this woman

continued next page

realize that this is what attorneys do? They make sure that rights are protected, that discriminatory killings do not occur, that our community is safe and that all people feel that the law works for them.”

I was born and raised in West Riverside. It was necessary for me to return to the neighborhood last week for a funeral. I attended the funeral of Mae Conyers, the mother of a childhood friend, who had preceded her in death due to drug and alcohol abuse. I had not been in West Riverside, other than driving by on the freeway, for at least ten years. I was back in West Riverside. West Riverside is my black history. Driving up to this small church served as an immediate eye-opening experience in trying to get a handle on why I should celebrate black history. Did I really want to think about the past? Does our celebrating black history tend to make things better? While celebrating black history, do those who have mistreated, disrespected and discriminated against blacks feel that blacks are treated fairly now? Do they give any thought, even for a minute, to what blacks have to experience as a result of inequality? I make things better for ourselves and those that follow us. Some of us do, but not enough of us do.

Attending the funeral was frightening. When I walked into the crowded little church and looked into the faces of people I grew up with, a mental shockwave went all through my body. I was looking at where I had come from and where I had left all of my childhood friends. Is this what my black history is all about? I saw friends who had grown gray and weatherbeaten due to drug use and excessive alcohol use.

I saw friends I had attended grad school and high school with and wondered if I had ever truly fit in. I did fit in. I was home again. I suddenly realized that they had all been trapped by drugs, alcoholism, teen pregnancy, the criminal justice system, the welfare system, the inability to obtain decent employment that had plagued our community for years; they had been trapped by the knowledge that their parents had had little money to give them to contribute to an education. They were imprisoned by the past as a result of years when their families had no knowledge or exposure at all as to the importance of an education and the fact that an education was a way out of the ghetto. Many of my friends knew little about education and its impact on the black community because our parents never anticipated that we would be able to really excel in school. They did not remember *Brown v. Board of Education* or the changes that were made. They were not

informed or exposed because it was better in their day that the black remained ignorant. They did not recall and were never aware of that short-lived dream of “affirmative action” that allowed a few of us to make it through.

As a child growing up in West Riverside, I was somehow protected from the horrors that I now witnessed. As I rode through my neighborhood on the way back to my office, I rode by the house that I used to live in. Nothing had changed, except that it was older and had less paint on its exterior. Somehow the County of Riverside has neglected to require that homeowners in this area keep their property clean, and rubbish and weeds have taken over much of the community. In riding slowly down the street, I noticed a woman, partially dressed, who had to be under the influence of alcohol or drugs. She approached my car asking for a cigarette. Her request could not be granted, as I had given up that habit around the time I passed the bar.

Black History Month parades, the killing of Tyisha Miller, the new Kwanzaa holiday, a few meetings with law enforcement, a new police chief, one black judge and a black president of the Riverside County Bar Association have not really changed this community. Most blacks in this community are still living in East or West Riverside, where the majority of tax funds are used for purposes other than those that would benefit the citizens. In West Riverside, it must be noted, substantial funds are being spent to put new palm trees down the center divider of Mission Boulevard. A journalist recently reported that Rubidoux High School test scores indicated that a low percentage of students are testing. There have been no visible programs instituted that will assist black families or low-income families in understanding the importance of a higher education. Is this the Blackman’s fault? Is it society’s fault? Will it ever change? Does anyone have an answer? Will my history keep repeating itself? Will all of our histories repeat?

Mary Ellen Daniels is president of the RCBA and is a sole practitioner in Riverside.





JUDICIAL PROFILE: HONORABLE CHARLES STAFFORD, JR.

by Rick Lantz

On a late Friday morning, I was escorted into the Judge's chambers for our Judicial Profile interview. He greeted me, shook my hand and led me in. At first I didn't recognize him, thinking I may have made an appointment with another, unknown judge. Granted, I had not been in his courtroom for at least seven months, but this conversion was remarkable. What had once been a mustachioed, bespectacled, let's say . . . less-than-svelte man, was transformed into a mustache-less, spectacle-less, 40 pounds-less gentleman, who, in the transformation, also seemingly lost 10 years off his life.

Charles Stafford Jr., 57, quite simply, looked good!

After we settled in, he behind his desk and me in front with my tape recorder, we chatted awhile and then, "I've been on Atkins since January and dropped 40 pounds and I have a little ways to go," Judge Stafford announced with a touch of pride in his voice. For a man no taller than 5' 8", 40 pounds is significant.

And the glasses? "Amazingly, after a while into the diet, my eyesight improved and I no longer needed glasses. I've worn glasses since I'm 41, so this is a big change." I thought, Atkins ought to make that part of its pitch: "On our diet, a prominent Superior Court judge regains his perfect vision!". On second thought, it sounded more like a National Enquirer headline.

As for the mustache? That I didn't ask, figuring if a man wants to be clean-shaven, that's his prerogative.

Well into the interview, I asked, "What are your hobbies, sports?"

"I've played golf since I was 12." Then a surprise.

"I became brave about a year and a half ago and learned how to ride a motorcycle and got my motorcycle license. And now I have a Harley-Davidson."

"What brought that on?"

"Just something that I decided to do."

"Just something that I decided to do?" Hard to believe that one, Judge. "Just something that I decided

to do" holds for taking a brisk walk after weeks of sitting around or ordering a stack of pancakes with oodles of maple syrup. But learning how to ride a bike and spending thousands on a hog – now that takes a whole bunch of thinking out, plus, probably, using persuasive arguments (and a bit of pleading) with your wife, who morbidly predicted you'll land on your head.

Anyway, for this decision – on the spur of the moment or after a great deal of thought – BRAVO! You only live once, and for Charles Stafford, learning how to ride a motorcycle was one more accomplishment in his quiver and one less regret in his life.

As I was on a bit of a roll, I next asked, "Any passion? Do you want to write that great novel? Be a Supreme Court justice?"

He scrunched up his face a bit in thought and said he wanted to be the best judge he could be and then a little more blah-blah about being a good judge, standard fare during these interviews. I was hoping for some revelation, and lo and behold, Judge Stafford did not disappoint.

He suddenly said with eyes gleaming, "I'm fanatical about the Chicago Bears."

Say what? "Are you from Chicago?"

"No, but I'm just crazy about them. I have a wall in my home devoted to them." Now getting warmed up, he went on to say, "Last year I took a trip to Chicago to see their first game at the renovated Soldier's Field. I liked that." As he was talking passionately about "Dem Bears," I spotted Chicago Bears souvenirs on his desk and on the wall behind him, little knick-knacks usually bought up by teenage boys. So what we have is a 57-year-old superior court judge with a whole bunch of little boy in him. Bravo again.

I dared not ask him if he also rooted for the Chicago Cubs. Rooting for the Bears is a bit quirky; rooting for the Bears and the Cubs borders on the nutsy.

I did manage to ask questions dealing with his professional life. So in 125 words or less, here's the professional man.

A California Western Law School graduate, who started in the Public Defender's office, then a prosecutor, then in private practice, then on the bench starting in 1995, who handles a civil calendar, as well as criminal trials, family law, probate and juvenile overflow, having the reputation of being some-

what active on the bench by asking questions of witnesses and lawyers with the outlook of, "I come to the bench with an attitude that no matter what type of case it is, whether criminal, civil, probate, family law or whatever, I view it as a significant matter. No matter what I'm confronted with, I take it as a significant case, because it is important to the parties, no matter what is in dispute."

So there you have it. More to the man than meets the eye, which of course can be said for all of us. In front of the public, a somber black-robed judge. Behind the scenes? A slimmed down, hog-riding, Chicago Bears fanatic. Who would have thought? After the interview, I got to thinking. What else is in Charles Stafford's private life that might prove unique? Next time.

Rick Lantz, a member of the Bar Publications Committee, is an attorney in La Quinta.



Barristers

by Robyn A. Beilin

get that all meetings begin at 6:00 p.m. at the Cask 'n Cleaver, which is located on University Avenue in Riverside.

We are also extremely excited about the "Old-Timers" event, which is being sponsored by BMW of Riverside and the Law Offices of Harlan Kistler. That event will take place on March 10, 2004 at 6:00 p.m. at BMW of Riverside. Please look for your invitations in the mail and mark your calendars now. We hope to see you all there!

If you have any questions regarding Barristers or would like more information about our organization, please contact Robyn Beilin at (909) 686-8848.

Robyn Beilin is with the Law Offices of Harlan B. Kistler and Secretary of Barristers.



CHRISTMAS IN THE CARIBBEAN

by Geoffrey H. Hopper

Over the years, I have written several short stories about my “Chevy Chase-like” vacations with my family, covering various parts of the world. My wife Lauralea and I have three separate tax deductions, the oldest of which, Shannon, is 20; next is our son Morgan, age 18; and our youngest is Lauryn, age 9. Shannon, a former prom queen, the captain of her high school soccer team, as well as a straight-A student, had seemingly somewhat fallen off the “successful life wagon,” not only by attending one of the world’s most renowned party universities (the University of California at Santa Barbara), but also by managing to convince her rather gullible father that it was essential she attend the University Exchange Program for a semester in Barbados from August through December of 2003. (In fairness to Shannon, she has excelled at the university level and is set to graduate after only three years.) Having sustained the longest separation my wife and I have ever encountered from our daughter, as well as having received two months of telephone bills at \$1,000 per month (a phone rate of \$8 a minute), we concluded that a family excursion to Barbados for the Christmas holidays was probably cheaper than talking to her on the phone.

The island itself is the most easterly island in the Caribbean, 17 miles wide and approximately 20 miles long. It is less than a couple of hundred miles from the Venezuelan coast. Less than 3% of its population is Caucasian, with most of the balance being native. The island itself is surprisingly flat, the highest point being 1,000 feet above sea level, with a tropical

climate. The vegetation ranges from cactus, in dry areas, to semi-rainforest. As a member of the British Commonwealth, having obtained its independence in 1966, Barbados has a tremendous English influence, as well as a high percentage of visitors from Great Britain. Poverty is in the extreme; the unemployment rate is approximately 30%. The sparkling waters and scuba diving conditions are simply spectacular, with water temperatures in the constant 70’s and air temperatures, during this time of year, in the 70’s and 80’s.

There are certainly some strong feelings regarding the races, in that the Caucasian 3% own nearly 90% or more of the businesses, establishments, etc. Industrial servitude ended in the islands, both for blacks, as well as, ironically enough, the Scots, in the 1830’s. Our personal experience was that the native people were very friendly and kind. Interracial relationships are for the most part nonexistent, with the exception of quite a few British Caucasian women in their 40’s-plus who take on native beach boys as their “boy toys.”

The native men, however, are very aggressive and assertive toward all younger females, regardless of race, to an extent that had become quite a burden for my daughter and her female colleagues at the University of the West Indies. Homosexuality, on the other hand, is not only discouraged, but actually outlawed on the islands. A couple of weeks before our arrival, on the island of Jamaica, a homosexual boy and his mother were literally stoned because of such.

Consumption of alcohol is not a pastime, but rather almost a way of life for nearly all of the male natives, with rum leading the way in popularity, quickly followed by a beer referred to as “Banks,” which is brewed on the island. It is not unusual to see, on every other block or so, a table put out on a street, with several bottles of rum and Banks beer, and a group of males drinking and playing dominos (there is no enforced minimum drinking age). The island itself has the third most concentrated population of any area in the world, with 267,000 inhabitants, yet all of the negatives are overshadowed by the splendor of this tropical paradise.

The Trip Itself

December 19, 2003 through December 21, 2003 — After a red-eye flight leaving from LAX at 11:45 p.m. on the 19th, we arrived in Barbados at approximately 2:00 p.m. on December 20th. My wife and I were introduced to my daughter’s boyfriend Patton, whose blue-eyed, long-blond-haired appearance is suggestive more of a surfer than a UC Davis senior whose degree is in Computer Engineering. Despite my best efforts, I actually like this fellow who is stealing my daughter’s heart.

On December 22nd, we take a six-hour, four-wheel-drive-jeep tour on the island, which is led by a 53-year-old native by the name of Cassius Clay.

In addition to being the honorary mayor of the island, he also recently received a national award recognizing his many achievements. He had had a rather stellar boxing career in his younger days; he is in training to come back as the oldest champion of the island, á la George Foreman. Additionally, he is a writer, a poet, a philosopher, a fire-eater and, by all accounts, quite the ladies' man. Despite his "fireplug" physique, he hit on nearly all females our tour came into contact with. At the same time, we were told by another guide, this Cassius was married to a very young and beautiful limbo dancer. The jeep tour itself was superb, costing approximately 100 Barbadian dollars each (\$1 U.S. = \$2 Barbadian), said trip including an elegant lunch, as well as serving along the way several rum punches. Besides observing all the natural beauties of the island, we also were able to observe green monkeys in their natural habitat, who have a \$15 bounty placed upon their heads, because their bodies are used to prepare polio vaccine.

December 22, 2003 through December 23, 2003 — On these days, we were able to enjoy swimming and snorkeling on some of the finest beaches of the world, as well as going to some great restaurants, where the catches of the day included marlin, barracuda, swordfish, mahi mahi, etc.

December 24, 2004 — On Christmas Eve, our family was able to go to Harrison Cave, which is a cave consisting of limestone and coral with rivers and waterfalls dispersed throughout its three miles. One mile of the cave has actually been developed for a trolley system to give rides down through the cave. We have had the privilege of visiting nearly every cave in the United States, but would have to say that this nationally owned monument, which has been established only since 1981, was breathtaking.

Christmas Eve itself was somewhat surreal, in that our family has very specific traditions this time of year, which all went by the wayside. A party consisting of over 20 persons came to the home where we were staying, consisting of many natives, as well as some of the college students. Many

Barbadians on Christmas Eve go to a type of midnight mass; however, a majority of them go to church the following morning at 5:00 a.m., dressed in their best attire. Thereafter, there is simply lots of eating and drinking, and more drinking, going from Christmas day all the way into the following day, which is referred to as "Boxing Day," following English tradition. On Boxing Day, typically Barbadians visit, drink, eat, and again drink with their friends, whereas on Christmas Day, gathering is reserved for only the closest of family members. At approximately midnight on Christmas Eve, I and my children, as we normally have done for the last 18 years, went out to see if we could find Santa's sleigh traversing the sky, depicted usually by either a red or a white light. In an isolated area, involving an isolated island, with flights which run only every five or six hours, it is a little more difficult to pick out Santa's sleigh. After a lengthy wait, we were able to pick out a singular white light, which was rather low and in fact gave the appearance of actually being a boat. However, as I explained to my nine-year-old, the curvature of the earth while looking at the horizon can be deceiving, and accordingly she went to bed with sugarplum fairies dancing in her head. Prior to retiring for the evening, our family was able to sing several Christmas carols after the Christmas partiers had left. We were able to listen to some Christmas songs following a dinner of Bajan food, including tofu pudding, etc., which, for a meat-and-potatoes person such as myself, was indeed a cultural shock. All in all, it was a very special Christmas Eve.

continued next page

December 25, 2003 — We awoke to a beautiful morning, and while the presents were fewer this year, they seemed much more special and meaningful and made for a nice Christmas Day. We thereafter rented a right-hand-drive Land Rover (with a stick shift), which made for rather exciting trips throughout the island.

Also on Christmas Day, we were able to go to the Animal Flower Cave, which was essentially a hole cut out in the edge of the island by the ocean, with saltwater ponds located throughout. Thereafter, we went body surfing at a local beach, where my son Morgan was stung by a jellyfish. That evening, we had prearranged a dinner in an exclusive restaurant; however I was not aware of how exclusive this really was. We found that each dinner was \$150 (U.S.) and promptly made a mad dash for the exit door. We went to a reduced-price restaurant and had a fabulous meal.

December 26, 2003 — Myself, my oldest daughter and my son were able to go scuba diving in Carlisle Bay, and my wife and my daughter Lauryn snorkeled above while we explored six shipwrecks.

December 27, 2003 through December 30, 2003 — We took a taxi to the Barbados Wild Animal Reserve, where we were guaranteed to see monkeys. Not only did we see monkeys, but my son Morgan encountered one green monkey who apparently was having a bad hair

day, resulting in Morgan not only being scratched, but also actually receiving teeth marks on his side from a female monkey, causing us concerns, of course, about infection and disease etc.; however he once again survived. The balance of the time we stayed on the beach. We then returned home on December 29, 2003.

In general, Barbados (despite its inhabitants' average income being \$10,000 U.S. per year) is not necessarily a cheap trip.

All in all, however, Christmas in the Caribbean was not only novel, but also enjoyable, and surprisingly provided a great opportunity (without the aid of any television being present) for our family to spend some quality time with one another. Accordingly, I would wholeheartedly recommend such, especially during the time of year when we went, when the temperature is about 10 to 20 degrees cooler than normal, which explains why it is the most popular season for visitation by tourists.

Geoffrey H. Hopper is a past president of the Riverside County Bar Association and heads up the Law Firm of Geoffrey H. Hopper & Associates, which specializes in labor and employment law for employers and supervisors. Mr. Hopper is the current president of the RCBA Dispute Resolution Service.



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HIPAA OVERVIEW

by Michael L. Bazzo

On August 14, 2002, the federal Department of Health and Human Services published final regulations under the Health Insurance Privacy and Portability Act (HIPAA) which govern the release of personally identifiable health information by covered entities, including health care plans, health care information clearinghouses, and health care providers. These regulations create a new set of rights for patients and new obligations for the health care industry.

HIPAA protects from disclosure individually identifiable health information, i.e., information that relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care or the payment for such care. It also governs how such information is maintained or transmitted. Most importantly, HIPAA regulations protect medical records and other “individually identifiable health information” (whether oral or recorded on paper or electronically) created or received by covered health care entities.

“Individually identifiable health information” includes any health information, including demographic information, collected from an individual; and any health information that identifies an individual, or reasonably could be believed to identify an individual. HIPAA security regulations require covered entities to secure the privacy of any individual whose health information they hold.

What is the Difference Between Security and Privacy?

Security relates to the means (process and technology) by which an entity protects the private health information it possesses. The goals of security measures are to keep information secured, limit access and decrease the means of tampering or destruction. There are four categories of requirements: administrative safeguards (documented formal practices to protect information), physical safeguards (to protect information from fire and other natural and environmental hazards), technical security services (to protect information and control individual access to information), and technical security mechanisms (to guard against unauthorized access to information over communications network). Privacy refers to the individual’s right to keep certain information private, unless that information is used or disclosed with his or her permission. Privacy issues include the scope of providers who must comply, rights of individuals, consent/authorization, procedures/processes, business associates requirements, and organized health care arrangements. Patients must be provided with notice of their privacy rights and the privacy practices of the covered entity. “Direct treatment providers” must also make a good faith effort to obtain a patient’s written acknowledg-

ment of the notice of privacy rights and practices.

A limited data set may be created and disseminated for research, public health, and health care operations. Further privacy protection is added by applying conditions on disclosure of the limited data set by a covered entity, including the requirement that the recipient enter into a data use agreement. In such a case, the recipient would agree to limit the use of the data set to the purposes specified for distribution of the information, such as medical research. The security of the data must also be ensured, without identifying the information or contacting the individuals whose data is being used. There are civil penalties when entities or individuals violate the privacy rule.

Who is Affected by HIPAA?

All health care organizations are affected by HIPAA. Every practice, regardless of its size, will have to comply with HIPAA’s transaction, privacy and security regulations. That means anyone who provides any kind of health care service: physicians, vision care providers, dentists, nurses, ambulance services, and home care providers. Also affected are health plans, public health authorities, life insurers, clearinghouses, billing agencies, information systems vendors and universities that provide and pay for health care services.

What Does This All Mean to the Legal Practitioner?

A clear chain of custody must now be kept for every use of a patient’s records. This includes sending records to experts for review. An agreement with the expert must reflect that the information provid-

ed is to be used only in forming a medical expert opinion in the particular case for which the information was sent. The information cannot be further disclosed by the expert except as permitted or required by the expert's agreement or as otherwise required by law. The expert must use appropriate safeguards to prevent the unlawful disclosure of the information provided; if the information is used or disclosed in a manner inconsistent with the agreement, it must be reported to counsel immediately. If it becomes necessary to disclose the information to anyone, such as another expert, the initial reviewing expert must insure that the other party is bound by the same agreements and restrictions. An accounting must then be made as to how the information was disclosed. Records of the information's use must be made available to the federal government upon request. At the conclusion of the services, the expert must either return or destroy all information provided by counsel.

This raises the question of when an opposing counsel should be able to know which of his clients' medical records have been sent out and to whom they have been sent. Is it possible that the CCP §2034 expert designation at 50 days before trial can be circumvented by demanding to know at a much earlier date the identity of an undesignated expert to whom records have been sent for review by the other side? Would a plaintiff patient be within his or her rights to refuse to authorize the transfer of such information? These and many more privacy issues will surely rear their ugly heads and have a profound effect on the way we practice law in the coming years.

Michael L. Bazzo, a member of the Bar Publications Committee, is with the law firm of Bonne, Bridges, Mueller, O'Keefe & Nichols.



NOTICE

RCBA Members:

Have you moved?

Has your
telephone, fax
or email changed?

Please contact the
RCBA office
at
(909) 682-1015
or
rcba@riversidecountybar.com
with any changes.

WHOSE BODY: LEGAL PERSPECTIVE

by Donna L. Carlson

"[Moore] has asked us to recognize and enforce a right to sell one's own body tissue for profit. He entreats us to regard the human vessel – the single most venerated and protected subject in any civilized society – as equal with the basest commercial commodity. He urges us to commingle the sacred with the profane. He asks much."

Justice Arabian's Concurrence in *Moore v. Regents of University of California*²

Technological advances of the last 30 years – in equipment, in surgical methods, and in immunology and genetics – have made human organ transplants safer and more medically reliable than ever, for both donors and recipients. The United Network for Organ Sharing (UNOS)³ estimates that some 300,000 American lives have been saved by organ transplants. Yet a crisis of monumental proportions looms in the field. This is because, UNOS reports, there are not nearly enough donors for the more than 82,000 people on donee lists in the United States. On the average, seventeen patients die every day waiting for the kidney, the lung, the liver, the heart, that never comes.

Because of medical successes, "demand" for organs is up; but donations are down, and the number of non-relative transplants has been steadily decreasing in recent years. One observer has noted that the decrease in organ donations has seemed to parallel the general downturn in the economy. And one suggestion for reversing the trend, heard occasionally in the past, but more frequently in response to the current crisis, is that valuable consideration – cash, tax credits, or government subsidies for funeral expenses – should be offered to potential donors or their family members. As evidenced in the passage quoted above, there are serious moral and legal problems with such a proposal. Justice Arabian not only eloquently

voiced a major moral concern; by voting with the majority, he also reinforced a legal barrier found in customary interpretations of property law.

In 1990, the court decided in *Moore* that people do not have the full bundle of traditional property rights in body organs such that they can sell them or recover in equity for conversion when their surgically removed organs are used in medical research without their consent. Before an organ is removed, said the court, a person can direct its disposition within the bounds of a limited set of legal alternatives: the person can refuse to allow the removal; the person can give the organ to a family member or donate it to a needy stranger on the waiting list; the person can choose to make no disposition. Selling an organ, however, is not a legally available alternative. The major concern of the *Moore* majority seemed to be that that recognizing an individual right to sell one's body tissues would have a dampening effect on long-term scientific research. Such a right, the court suggested, would lead to private bargaining and title disputes that could seriously inhibit scientific progress.

Moore is still the seminal case in the organ sales arena, but newer cases dealing with sperm, ova, and even embryos as property that can be willed, inherited, or sold are eroding the pervasive precedential hold the case has had. And, despite the decision, legal scholars, mostly law-and-economics types, continue to urge the merits of instituting a controlled market in human organs for *transplant*, as distinct from *research*, to help relieve the shortage.

In 2002, just twelve years after *Moore*, the American Medical Association, a conservative organization that has always staunchly opposed the exchange of money for organs, suggested that the possibility of a "futures" market to increase the supply should be investigated. The plan, similar to one already in effect in Pennsylvania, would entail payment (by the government, not a recipient) to the estate of a donor when organs harvested at death are actually transplanted into another person. The AMA tabled its suggestion this past November, partly because of opposition from members. Some objections were based on religious concerns; others stemmed from what might be called a pessimistic, but realistic, understanding of human nature.

Religious constraints often adversely affect willingness to donate. People in some cultures believe the body must remain intact for its journey to the next world; others believe it is immoral to extend life beyond its allotted time in this one; still others believe it is wrong to transfer blood or any tissue from one person into the body of another.

More widespread is the fear of market evils and the dangers of commodification – and not without reason. The Thirteenth

ACTIVES ON MONEY FOR ORGANS¹

Amendment, passed immediately following the Civil War, has long been held to mean it is illegal to buy or sell human beings, or parts of human beings, in this country. Under the Uniform Anatomical Gift Act, a person convicted of buying or selling human organs is subject to a \$50,000 fine and/or five years in federal prison. Other places in the world are not so proscriptive. In Nepal, according to one source, poor families are often faced with two choices in order to survive: they may sell a daughter into prostitution or they may sell one of her kidneys for transplant.

The most egregious example of an unchecked market is found in China, where, reportedly, desperate patients can purchase a kidney transplant (parts and installation) for about \$30,000.00. Many of the organs sold on the Chinese market are said to come from the most unwilling of donors – young “criminals.” According to some sources, prisoners sentenced to be executed – under a substantively and procedurally suspect system, by our standards – are shot in the head to avoid damage to healthy organs, including skin. Immediately following death (and in some cases perhaps before), the organs are harvested by transplant surgeons, a number of whom may have trained at prestigious institutions in the United States.

Our own hands are not clean either, although the known excesses in the United States so far have not been for personal or governmental profit. In Colorado, a few years ago, with the support of some factions in the transplant community, the state experimented with shortening lengthy prison sentences for healthy inmates willing to become kidney donors. About the same time, in Arkansas, activist groups floated the idea of commuting a death sentence to life imprisonment without parole for any prisoner who would donate a kidney; fortunately, the proposal was quickly withdrawn.

Despite this very real parade of horrors, it is clear that the organ shortage problem will not solve itself. Suggestions from the legal community have included “paired” organ exchanges (which would work something like a 1031 real estate exchange); preferential access to organs for registered donors (who would move to the head of the queue should they or a family member ever need an organ); a licensing system (where independent agencies not involved in distribution could procure organs for modest, pre-set prices); or, more radically, a revision of property law such that ownership rights in “spare” organs (for example, kidneys, bone marrow, and rare blood types) would be vested in the person who needs them rather than in whoever happened to possess them by accident of birth. This last suggestion clearly flies in the face of personal autonomy, the value undergirding our system of political liberalism. For this reason, among others, it is unlikely to be adopted. Licensing, paired exchanges, and preferential access may be viable options.

Nevertheless, objections to the coercion of “donation” – whether by the iron fist of government or the golden hand of relief from economic strain – are deeply embedded in the traditions of our society and are not to be set aside lightly. We in the United States are exquisitely sensitive to the excesses of which people making a market in the bodies of their brothers are capable. Unless there is a major change in our understanding of the fundamental ethical norms that should apply to the vesting of property rights, or at the very least in our systems of organ procurement and distribution, we are likely to remain bound by the concerns expressed by Justice Arabian.

In order to avoid culpability for the unnecessarily early deaths of people waiting for organ transplants, not to mention culpability for abuses like those in Nepal, China, and Colorado, as described above (black markets and perverse incentives would not exist if donated organs were plentiful), potential donors need to act. In practical terms, this means that members of professional communities who have been blessed with leadership roles at all social levels in this country have a responsibility to become registered organ donors – today!

Donna Carlson is a physician/attorney with the County Counsel in San Bernardino.

- 1 This article is based on an April 2003 *Bioethics Grand Rounds* lecture by the author at Loma Linda University Medical Center. Because of the limits of space, most citations and credits have been omitted from this summary. Readers who would like references and background information are invited to send an e-mail to: DCarlson@cc.sbcounty.gov.
- 2 (1990) 51 Cal.3d 120.
- 3 <http://www.unos.org>. This is a good source for current statistics and other organ transplant information.



THE OTHER BAR

by James Otto Heiting

Today, I visited a friend of mine in the hospital. I heard he was there by way of a phone message from another friend this afternoon. The message said John ___ is in the hospital, but he is going to be moved to a hospice facility because he is dying, and there is no hope for him. I got over there within the hour. This was the first I had heard that he was ill at all.

John is 47. I have known him, first as a personal injury and medical malpractice client when he broke his leg in a motorcycle accident, then had it amputated following very questionable medical care; and later as his life spun out of control and he went to Pelican Bay Prison (for the hardest of the hard) as a result of several armed robberies, behind a growing anger at life and a growing drug addiction. He was not a “friend” then, but the person I got to know earlier was not somebody I thought should be discarded, either; so I kept in touch.

Gradually, as John cleaned up in prison, he began to inquire about ways to stay clean and sober, and he began to employ those principles in his life. We kept in touch, and when John got out, he came to visit.

Now, John never developed a sense of conservative fashion and was always an intimidating vision. Some of our staff who knew him as a client still refused to see him after he got out of prison (and to the present, many years later), as they were too frightened ... and probably for good reason. He was a man of average height and always neatly combed hair, but with large, dark, detailed “artwork” all up and down his prison weightlifter arms, from his wrists to his perpetually cut-off sleeves; and when he wore just an undershirt, which was often, it became obvious that the tattoos covered his entire powerful chest and part of his back. Add to that visual the shorts that effectively displayed his prosthesis (or not, when he decided not to wear it), a Fu Manchu moustache and “stinger” beard, and a stare that could put icicles on a

flamethrower, and you start to get a picture of his outward appearance. But this did not describe his insides, at least not any more.

He was no longer the angry man, blaming everybody else for his problems and plight in life. He was accepting of his disability, humble and apologetic about the pain he had caused to others, and willing and enthusiastic to move on and do positive things in this life.

He got married and had a son. He got a job as a janitor and later in maintenance and then as a motorcycle mechanic and painter. Unfortunately, as sobriety does not guarantee that all will be roses, the marriage did not work out, and the couple divorced. John took all responsibilities for his son and was awarded full custody.

In the years since, John was known, loved, and respected by his neighbors and all who got to know him. He would help anybody to do the hardest and most time-consuming tasks. He became a loyal and an honorable man of good character and quality.

But his past caught up with him around Thanksgiving last year, and he started to feel a little under the weather. He thought it was just the flu or a cold, but it lasted, so he saw a doctor. By Christmas, he was hospitalized and his liver had basically quit functioning. When I saw him recently, he looked as if he had bathed in yellow magic marker fluid. I have had a lot of experience with the results of alcohol and drug abuse, but I have never seen anybody as yellow as John. The doctors say they are waiting and searching for a liver transplant to become available, but to see the doctors and nurses in action, and his surroundings and treatment so far, gives the impression that they have given up and are just waiting. Probably a short wait. He may be dead now, as I am writing this, but he says he and God have been connected quite awhile now, since he got clean, and he has no fear of death. I will miss him.

But John is not unique in this final circumstance; nor is he unique in falling into drug addiction. Bruce ___ was a lawyer. He was a very accomplished and well-respected lawyer. He came from a good Jewish family with no history of alcoholism or drug addiction. He was successful in school and as a lawyer. Somehow, somewhere along the line, though, Bruce tried drugs and liked the experience (I don't know if you have heard this, but there is a good likelihood that when people try drugs they will like them – addiction to drugs doesn't arise because people don't like the effects).

Bruce went on for a fairly brief period (a few years) in this shadow world of “lower companionship,” and eventually came to realize the slide he had taken: his practice had been going downhill, and he had only drug-related crimes to deal with now; his connections to his family had suffered, although they had not yet been completely severed; his spiritual connection was seemingly nonexistent. He was in

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The Other Bar *(continued from page 16)*

trouble with the State Bar and he had been careless in handling client money and trust funds. He knew he wanted to stop, and he tried. He found that he kept returning to drug use and couldn't stop on his own.

So he turned for help to members of the Other Bar. He started going to meetings, and he connected with lawyers and judges in recovery from drug addiction and/or alcoholism. He started to learn and practice some steps to assist in his own recovery. His life started to get better again.

His recovery on track, he reconnected to his family (and was accepted with thankful open arms); he faced his bar problems head on and got through them responsibly and effectively; his practice started to grow and blossom again (and, remarkably, he started getting referrals again, even from those lawyers who had stopped referring clients during his period of drug abuse); and most important of all to Bruce, he connected with God again. He felt spiritually whole and able to practice his religion without the weight of guilt and remorse he had always carried along. His sense of humor returned (he had a great sense of humor, and his cutting sarcasm and dry wit always kept us in stitches).

But Bruce's past caught up with him, too. He, too, had done too much damage to his liver. With Bruce, though, it was quicker. He felt a bit under the weather for about a week. He went to a doctor who did a complete and thorough office workup, was diagnosed with the liver problem on a Wednesday, entered the hospital for tests on Friday and was dead before he could start therapeutic treatment scheduled for Monday. I had seen him in the hospital that Friday, and even though he knew what he was facing, he expressed no fear, but only faith and gratitude for the gifts of sobriety.

I will miss both of my friends.

I didn't write of these two men to seek sympathy or to provide entertaining reading, though. I write of them to lay out reality. The reality of drug addiction and/or alcoholism is that, if continued long enough (and nobody can predict how long "long enough" will be for any particular individual), it will result in jail, insanity, illness or death, and maybe a combination of them all. And knowing this, the logical next realization to hit us is that early intervention into this process, to lead to early recovery, is of primary importance! Even if we don't care about the alcoholic/addict, think about how many clients, friends, sons, daughters, wives, husbands, grandchildren, nieces and nephews, and others are affected by the torturous existence of the alcoholic/addict and by their ultimate death. And if you are not emotional about such things but are more practically minded, think about the cost to our society to treat the health concerns of the addicted and those they affect by their addictive behaviors and abuses.

Thanks to the founders of the Other Bar, a program of recovery for lawyers and judges was started in California in about 1975. From this body and its efforts, along with connections uncovered in other states, a networking group was formed, which became the "International Lawyers in AA" (ILAA). And through the efforts of ILAA, with the participation of the Other Bar and other groups that had begun to be formed in other states, the American Bar Association got on board and

continued next page

The Other Bar *(continued)*

started to organize their own efforts, with a central think tank and information center (every state now has a lawyer assistance group of some kind; in 1974, none had any). Finally, recognizing the success of the ABA programs and the continued success of the underfunded and quietly and anonymously growing Other Bar, and knowing that the lives and protection of the public were at stake, State Senator John Burton spearheaded legislation to allow – better, to compel – the State Bar of California to form and fund, with the assistance of the Other Bar, an effective Lawyers' Assistance and Diversion Program of its own.

At the time the legislation by Senator Burton was winding its way through the process, two State Bar leaders with foresight and vision were thinking along similar lines. Executive Director Judy Johnson and chief prosecutor (Chief Trial Counsel) Mike Nisperos were making their own efforts to see that the public was protected, and to combine this concern with the ideal of saving lives, and careers, of our members.

Judy Johnson was pounding hard and put major resources behind Senator Burton's efforts and organization. She made sure that her staff, especially her very capable assistant Starr Babcock, made every effort to help draft the legislation and to work with people with experience. The final result is the legislation eventually adopted. It targets help to those in trouble or need as a result of chemical dependency (drug or alcohol addiction) and/or mental and emotional issues.

Meanwhile, Mike Nisperos, a former Alameda County prosecutor and now the chief prosecutor of lawyers for the State Bar, was determined that the drug court theory and practices that have been so effective in helping defendant addicts in the county courts could serve to help respondents in similar circumstances in the State Bar courts. He put together a program to do just that, quickly adopted by the Board of Governors and now in place as a "pilot program." It is not exactly like the drug courts in our county courthouses, and

continued next page

true diversion is not yet a reality, but what a giant step in the right direction!

Great credit should go to these two individuals and their staffs for the effective implementation of these two very important programs. No other programs that I know of in State Bar history have had anywhere near the potential of these to help and serve our members and the public.

The outline of the Lawyers' Assistance Program may be found in the Business and Professions Code, commencing with sections 6140.9 and 6230. Excerpts are quoted below. Those who wish to inquire may call with any questions or issues and discuss them with a counselor at (213) 765-1190. The toll free number is (866) 436-6644. Callers may remain anonymous.

Here are some of the pertinent portions of the legislation:

6140.9 Moneys for the support of the program . . . shall be paid in whole or part by a fee of ten dollars (\$10) per active member per year.

The Board may seek alternative sources for funding the program . . .

6230 It is the intent of the Legislature that the State Bar of California seek ways and means to identify and rehabilitate attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness, affecting competency so that attorneys so afflicted may be treated and returned to the practice of law in a manner that will not endanger the public health and safety.

6231 (a) The board shall . . . establish a committee to oversee the operation of the program . . . appointed as follows:

(1) Six members appointed by the Board of Governors . . .

(2) Four members appointed by the Governor . . .

(3) One member of the public appointed by the Speaker of the Assembly.

(4) One member of the public appointed by the Senate Rules Committee.

(b) Committee members shall serve terms of four years, and may be reappointed . . .

6232 (c) An attorney currently under investigation by the State Bar may enter the program in the following ways:

(1) By referral of the Office of the Chief Trial Counsel.

(2) By referral of the State Bar Court following the initiation of a disciplinary proceeding.

(3) Voluntarily . . .

(d) An attorney who is not the subject of a current investigation may voluntarily enter . . . on a confidential basis. Confidentiality pursuant to this subdivision shall be absolute unless waived by the attorney.

6233 An attorney entering the diversion and assistance program pursuant to subdivision (b) of Section 6232 may be enrolled . . . inactive . . . or may be required to agree to various practice restrictions . . . Upon the successful completion of the program, . . . attorney participants on inactive status . . . shall be eligible for reinstatement to active status and a dismissal of the underlying allegations or a reduction in the recommended discipline. Those attorneys . . . with practice restrictions shall be eligible to have those restrictions removed and to a dismissal of the underlying allegations or a reduction in the recommended discipline.

6234. Any information provided to or obtained by the Attorney Diversion and Assistance Program . . . shall be . . .

(a) Confidential and this confidentiality shall be absolute unless waived by the attorney . . .

(c) Not discoverable or admissible in any civil proceeding without the written consent of the attorney . . .

(d) Not discoverable or admissible in any disciplinary proceedings without the written consent of the attorney . . .

(e) Except with respect to subdivision (d) . . . the limitations on the disclosure and admissibility . . . shall not apply to information relating to an attorney's noncooperation with, or unsuccessful completion of, the Attorney Diversion and Assistance Program . . .

6235. (a) Participants . . . shall be responsible for all expenses . . . In addition, the State Bar may charge a reasonable administrative fee . . .

(b) Notwithstanding subdivision (a), the State Bar shall establish a financial assistance program to

ensure that no member is denied acceptance into the program solely due to the lack of ability to pay.

6237 It is the intent of the Legislature that the authorization of an Attorney Diversion and Assistance Program not be construed as limiting or altering the powers of the Supreme Court of this state to disbar or discipline members of the State Bar.

The drug court "diversion" pilot program can be reviewed at the State Bar website at www.calbar.ca.gov. Their program applies to those under investigation or within the discipline process and offers incentives to submit to treatment, counseling, and means of addressing the addictive behavior and/or the mental and emotional issues. At least two deputies (attorneys) in the Office of the Chief Trial Counsel are assigned to handle only those cases that deal with these issues; and while your inquiry may not be anonymous or confidential, Chuck Murray of Los Angeles and Cyd Batchelor of San Francisco are experienced, compassionate, fair-minded people who want to see people who need help get help.

Finally, the Other Bar continues to work in the shadows, completely confidentially and completely anonymously, with over 26 weekly meetings throughout the state and consultants who answer the phone in the area of the origination of the call on a 24/7 basis. Although the number is an "800" number, they have arranged it so that it rings through to a person local to the caller. That number is (800) 222-0767. Callers may remain anonymous and may ask about their own issues, others' issues, and all aspects of recovery, treatment and support. You can obtain more information about the Other Bar at www.otherbar.org.

With these programs available, and the many volunteers throughout the state standing at the ready to help their brothers and sisters get their lives back, there is no reason why anyone must continue to suffer or to reach the depths that would otherwise await them.

If you need help, get help. If you know another who needs help, help. Even sharing this simple article or the numbers and names here may be enough to save a life or career.

You may certainly call me to discuss these issues any time, too, at (909) 682-6400.

Remember, early intervention saves lives and avoids the tragedy otherwise certain to befall the addict/alcoholic/emotionally troubled and those with whom they come in contact.

James Heiting, of Heiting and Irwin, was president of the Riverside County Bar Association in 1996 and is the current District 6 representative to the State Bar Board of Governors. Mr. Heiting is a past president of The Other Bar.



RIVERSIDE COUNTY MOCK TRIAL 2004

by Judge Joe Hernandez

The High School Mock Trial season is here again. This is a program that teaches our youth about the judicial system and about being the best that they can be. Civics classes are good, but nothing compares to the education that you get in Mock Trial. Where else can you meet and work with judges and attorneys and not be in trouble with the law?

Mock Trial is a collaborative effort of the bench, the bar, and the Riverside County Department of Education. The Steering Committee consists of representatives of each of these groups. John Wahlin, of Best, Best & Krieger, is the Chair. Tony Johnson is the Coordinator from County Schools. Joe Hernandez is the representative from the bench. Many other dedicated volunteers are on the committee. Two Mock Trial participants are on the Steering Committee: attorney Samra Roth (North, 1991) and attorney Chad Firetag (Arlington, 1994). The Committee works with the Constitutional Rights Foundation, which is based in Los Angeles and is the sponsor of the program statewide and nationwide. Tony Johnson is the main interface between the committee and the participating Riverside County high schools.

Riverside County has been exceptionally successful in the past, winning the State Championship four times (Poly in 1992, 1996 and 2003 and Arlington in 1994). Arlington won the National Championship in 1994, the only California school ever to do so.

For 2003-04, the Steering Committee has revamped several of its procedures in order to streamline the competition and to make it even more exciting. There will be four rounds for everyone: three regional rounds, in Indio (Larson Justice Center), Riverside (Hall of Justice), and Murrieta (Southwest Justice Center), and one round for all teams at the Hall of Justice in Riverside. The awards ceremony

will be after round 4. At the awards ceremony, the Elite Eight will be announced. They will compete the following Wednesday at HOJ. Then the following Saturday, the Final Four will compete in the morning at the Historic Courthouse. The championship round will follow, also in the Historic Courthouse.

Attorneys, contact the Bar Association to volunteer to be a scoring attorney.

The schedule:

Round 1

Regional
Tuesday, 2/17/04, 6 p.m.

Round 2

Regional
Thursday, 2/19/04, 6 p.m.

Round 3

Regional
Wednesday, 2/25/04, 6 p.m.

Round 4

HOJ
Saturday, 2/28/04, 9 a.m.
(Awards Ceremony follows Round 4)

Elite Eight

HOJ
Wednesday, 3/03/04, 6 p.m.

Final Four

Historic Courthouse
Saturday, 3/06/04, 9 a.m.

Championship

Historic Courthouse
Saturday, 3/06/04, 1 p.m.



by Richard Brent Reed

Parking and Underpants: The Future of Riverside

Much has been speculated as to what the Riverside of the Future should look like. It is to be a glassy city, with Bauhaus towers and Lego-like adamantine spires. It will be a metropolis of cutting-edge technology, including a supercharged, subterranean electrical system and free DSL connections for downtown businesses. Law firms, even now, it is rumored, are planning to erect colossal, state-of-the-art edifices, wired to take advantage of these improvements. But what does the Riverside of the Future really need? Parking. Free parking, and lots of it; especially around the court houses. (If the parking structures can't compete with free parking, let them bring their rates down.) If the city is so desperate for revenue that it must charge a premium for a parking spot on the street while litigants sprint to make their timely appearances in court, then why not just put a turnstile at the courthouse door and place a surcharge upon due process?

Parking, DSL, and skyscrapers are all very well, but they are components of a vision born out of testosterone. Ask businesswomen what the Riverside of the Future should offer and you will get an almost unanimous consensus: sundries. Let's say that you're a smart, well-heeled, nattily attired lawyeress. While hastening up our courthouse's historical steps, a sudden up-draft reminds you that you forgot your briefs. You don't have time to run home or call up your paralegal, so you go hunting for a shop that sells such things. It is then that you learn the sad fact: there are no sundry stores downtown. You can buy flowers, bagels, greeting cards, jewelry, antiques, running shoes, and cigars downtown, but not undies. Of course, the need for fresh briefs is not confined to female lawyers, but males are less likely to care, unless the judge sends them home. Male judges, on the other hand, are less likely to send females lawyers home. Underwear, then, becomes an equal protection issue, with women lawyers as the suspect class.

The Riverside of the Future will bear little comparison to today's Riverside. It will shadow its citizens in the penumbra of stately buildings. But before the construction begins, Riverside must be equipped with the proper foundations. No cosmopolitan metropolis can be truly modern without parking and underwear. Access to the courts should be unimpeded. Until there is adequate parking and underwear, our legal community's access to the courts will be subject to those restraints.

Richard Reed, a member of the Bar Publications Committee, is an attorney in Riverside.

**Upcoming Dates
the Law Library
will be CLOSED:**

**Thursday, February 12th
&
Monday, February 16th**



BARRISTERS PROFILE: AMANDA OWEN

by Robyn A. Beilin



Amanda Owen, an associate attorney with Fiore, Racobs & Powers, has been admitted to the State Bar only since December of 2002. However, after having had the pleasure of spending some time getting to know her, I was quickly impressed with this new member of Barristers.

Although she was born in Indiana, Amanda grew up in Denver, Colorado. She attended the University of Colorado at Boulder, where she received a B.A. in English and Creative Writing in December of 1997. After she married her husband, Jeb, in 1998, the couple spent most of the next year and a half traveling. They spent some time in Europe, then returned to the States to travel in the southern part of the country, as Jeb was doing research in entomology. "When we went to the American South, [Jeb] was doing some research that I helped him with, collecting a certain species of ant in the Florida Keys. That was great, to travel and have a purpose," explained Amanda. "And I really enjoyed the South. Southern writing is one of my favorite genres of writing."

When Amanda and Jeb completed their time traveling, they both began applying to graduate schools. They decided to move to California after Jeb obtained a fellowship at UC Riverside to get his Ph.D. in entomology and Amanda was admitted to the University of Southern California Law School. The couple settled in Los Angeles in 1999 to start their graduate studies, and remained there until Amanda's graduation in 2002.

While in law school at USC, on a partial scholarship, Amanda was a staff member of the Interdisciplinary Law Journal as well as a member of the Corporate Law and Women's Law Societies. She also volunteered for the Big Sisters of Los Angeles and became a big sister to a 14-year-old girl, for whom she remains a big sister today. "She was just starting high school, and now she is 17 and will be graduating in June. It's been an amazing time to share with her. It's kind of like being a teenager again. We're shopping for prom dresses and doing college applications. It's very fun."

Amanda took advantage of gaining valuable experience while she was still in law school that enabled her to focus on what she wanted her career path to be once she became an attorney. After her first year of law school, she interned for the Equal Employment Opportunity Commission. Amanda

Amanda is a great addition to our firm. Her interest in the local Bar and its activities indicates that she'll also be a great addition to the Riverside County legal community.

– Peter Racobs, head partner of
Fiore, Racobs & Powers

explained that "the EEOC prosecutes cases regarding discrimination. So I got to see a little bit of the intake and interview process and got to work on trial preparation." Her work included assisting on a case against the Mondrian Hotel in Los Angeles as well as one against the Imperial Palace Casino in Las Vegas.

After her second year of law school, Amanda went on to clerk at Brobeck, Phleger & Harrison in Los Angeles, which focused on technology and Internet businesses. There, she says, "I spent a lot of time in real estate and litigation." During the first semester of her third year of law school, Amanda externed for the Honorable Susan Bryant-Deason of the Los Angeles Superior Court. "I was the judge's shadow. She let me sit in on all of her in-chambers meetings, when appropriate. I would prepare summaries of the pleadings for the matters that she was going to hear. I would sit in on settlement discussions, if the attorneys were amenable to that. I worked with the research attorney that she had. And then I would watch trials whenever she was in trial." Amanda explained that the judge had "a great attitude about it, which was just, 'You are here to learn and you are here to see.' I got to see as much as I could."

In her last semester of law school, Amanda participated in an employment law clinic. "We assisted non-profit organizations that needed personnel advice. I did an employee handbook for [my client] and helped them construct anti-harassment policies and helped

them deal with some of the issues related to running their office in a way where they would increase their productivity and also still comply with all of the laws that they needed to comply with. It was a great experience.”

After she graduated from law school, Amanda and her husband decided to move to Riverside. She sat for the bar exam in July of 2002 and joined the firm of Fiore, Racobs & Powers, which is located in Riverside, in September of 2002. “We’re experts in community association law and we’re corporate counsel for community associations.” Amanda has found that her experiences as an associate attorney at her firm have matched her interests. “I have always been very interested in property and real estate and land use issues. So, even though I didn’t know that this specialty existed in law school, it fits in with my interests well.”

Amanda has found the challenges of being a new attorney to be extremely rewarding. “I work very closely with Peter Racobs, who is the head partner of our office, and that’s really exciting. I think that it’s a real advantage of working in a small firm. You get to work closely with people who are great lawyers and have a lot of experience.”

Since learning more about Amanda during the time of our interview, I would agree with Peter Racobs, who commented that “Amanda is a great addition to our firm. Her interest in the local Bar and its activities indicates that she’ll also be a great addition to the Riverside County legal community.”

Please join Amanda and me at the next Barristers meeting, which is scheduled for 6:00 p.m. on February 11, 2004, at the Cask ’n Cleaver on University Avenue in Riverside. We are pleased to announce that the Honorable John Kennedy of JAMS will be speaking on mediation. Hope to see you there!

Robyn Beilin is with the Law Offices of Harlan B. Kistler and Secretary of Barristers.



RCBA

To register for RCBA events, call (909) 682-1015, or email rcba@riversidecountybar.com or use the online form at www.riversidecountybar.com. RCBA is a State Bar of California approved MCLE provider.

Wednesday, February 11, 2004; 6 PM

Barristers Association

“Mediation”

Speaker: Judge John Kennedy

Location: Cask 'n Cleaver, Riverside

MCLE: 1 hour General

Friday, February 20, 2004; 12 PM – 1:30 PM

Joint RCBA/Riverside Law Alliance

General Membership Meeting

“Caught in the Kosovo War”

Speaker: Justice James Ward

Cost: Members \$18; Non-members \$25

Location: RCBA Building, 3rd Floor

MCLE: 0.75 hour General

RSVP by February 17th to RCBA office.

Thursday, March 4, 2004; 12 PM – 1:15 PM

(CLE Brown Bag Series)

“Tax Tips and Traps for the Unwary:

A look back and a look forward”

Speaker: Francine Lipman,

Prof. of Law at Chapman Univ. School of Law

Cost: Members FREE; Non-members \$25

(Bring your own lunch.)

Location: RCBA Building, 3rd Floor

MCLE: 1.0 hour General

RSVP by March 2nd to RCBA office.

Wednesday, March 10, 2004; 12 PM – 1:15 PM

(CLE Brown Bag Series)

“Twelve Fundamental Rules of Appellate Practice”

Speaker: Katherine Stone,

Certified Appellate Law Specialist with

law firm of Myers, Widders, Gibson,

Jones & Schneider, LLP, in Ventura

Cost: Members FREE; Non-members \$25

(Bring your own lunch.)

Location: RCBA Building, 3rd Floor

MCLE: 1.0 hour General

RSVP by March 8th to RCBA office.

UCR Extension

Each quarter, UC Riverside Extension offers over 40 courses for MCLE credit for attorneys and paralegals. Below is a partial listing. Classes are held at the UCR Extension Center, 1200 University Avenue, Riverside, unless otherwise indicated. To register or request a catalog, call (909) 787-4105 or (800) 442-4990, e-mail register@ucx.ucr.edu, or visit our website at www.ucrextension.net/law. For program information, contact the Department of Law and Public Policy at (909) 827-7820 or e-mail law@ucx.ucr.edu. (NOTE: The Department of Law & Public Policy's telephone number has changed.)

Conflict Management & Dispute Resolution.

2 Fridays, February 20, March 5, 2004 (6:30-9:30 pm) and 2 Saturdays, February 21, March 6, 2004 (8:30 am-4:30 pm).
MCLE: 18 hours. \$275. Reg# 33F17.

Public Records Act.

Saturday, February 21, 2004. 8:30 am-1:30 pm.

MCLE: 4.5 hours. \$155. Reg# 33F20.

Effective Principles for Code Enforcement.

Thursday, March 4, 2004. 8:30 am-1:30 pm.

MCLE: 4.5 hours. \$155. Reg# 33F21.

Legal Issues in Human Resources:

Computer and Network Forensics.

Wednesday, March 10, 2004. 9:00 am-12:15 pm.

MCLE: 3 hours. \$95. Reg# 33F04.

Computer Legal Research Using LexisNexis.

Friday, Saturday, March 12 & 13, 2004. 9:00 am-4:00 pm.

MCLE: 11 hours (includes 1 hour of Legal Ethics).

\$215. Reg# 33F65.

Paralegal Career and Information Meeting.

Wednesday, March 24, 2004. 6:00-8:00 pm.

Free. Reg# 33F73.

Internet Legal Research.

Saturday, April 3, 2004. 9:00 am-1:15 pm.

MCLE: 4 hours (includes 1 hour of Legal Ethics).

\$95. Reg# 33F32



CLASSIFIED ADS

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Full-service appellate practice. Flat, hourly or contingency rates. Highly qualified. Jeffrey S. Mintz, Esq., phone or fax (909) 927-4227.

Attorney Wanted

New admittee, some experience preferred, for growing litigation firm in Corona. Fax resume to (909) 734-8832.

Office Space for Rent

San Bernardino – Downtown, next to Courthouse. Great location, 500-700 sq ft.; \$1.37 per sq. ft. Full service lease with limited parking. Call (909) 906-9304.

Office Space – Riverside

Office space for rent, downtown Riverside, includes conference room and receptionist. Competitive rates. Call Chris at (909) 683-4615.

Riverside Downtown Office Space

Two locations near post office & justice center now available. 745 sq ft available on 9th Street. Also 977 sq ft on the Main Street Mall. Can assist with other site selections. Call for information: IPA (909) 686-1462.

Office Suites Available

Office suites available in RCBA building. Contact Sue Burns at the RCBA, (909) 682-1015.

Conference Rooms Available

Conference rooms, small offices and the third floor meeting room at the RCBA building are available for rent on a half-day or full-day basis. Please call for pricing information, and reserve rooms in advance by contacting Charlotte at the RCBA, (909) 682-1015.



Riverside County Bar Announces New Website

<http://www.riversidecountybar.com>

Bar Publications Co-Editors Jacqueline Carey-Wilson and Mike Bazzo invite you to tour the Riverside County Bar Association's new "online bar office" website.

The website includes Bar Events Calendar, Legal Research, Member List, Office Tools, Feedback Forum, and Online Cashier. On it, you can add YOUR link to the link exchange, pay bar dues, register and prepay for events, make donations through our website using our secure PayPal system ... and much more.

Please feel free to contact us with your comments.

web: <http://www.riversidecountybar.com>

e-mail: rcba@riversidecountybar.com

phone: 909-682-1015

MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective February 29, 2004.

Rima M. Badawiya –

Elliot Snyder & Reid, LLP, Redlands

Lisa Carlson –

Reid & Hellyer, Riverside

Gregory H. Comings –

Sole Practitioner, Riverside

Mark S. Dove –

Elliot Snyder & Reid, LLP, Redlands

Peter D. Eggertsen (A) –

IVAMS, Pomona

Randy Grams (A) –

IVAMS, Riverside

Brandon Kerr –

Reid & Hellyer, Riverside

Stacey Martinez-Marks –

Law Offices of Dayn A. Holstrom, Corona

Jason Merritt (A) –

Ideal Trial Solutions, Riverside

Kenny R. Padilla –

Sole Practitioner, Beaumont

Nishita Patel –

Kinkle Rodiger & Spriggs, Riverside

Ryan F. Poe (S) –

Blumenthal Law Offices, Riverside

James M. Powell –

Sole Practitioner, Riverside

Michael K. Rogers –

Kinkle Rodiger & Spriggs, Riverside

Ellen M. Stern –

Sole Practitioner, Gavilan Hills

Allen C. Turner –

Sole Practitioner, Redlands

Aimee Vierra –

Blumenthal Law Offices, Riverside

Karen A. Wesche (S) –

Blumenthal Law Offices, Riverside

(A) /

(S) Designates Student Member



