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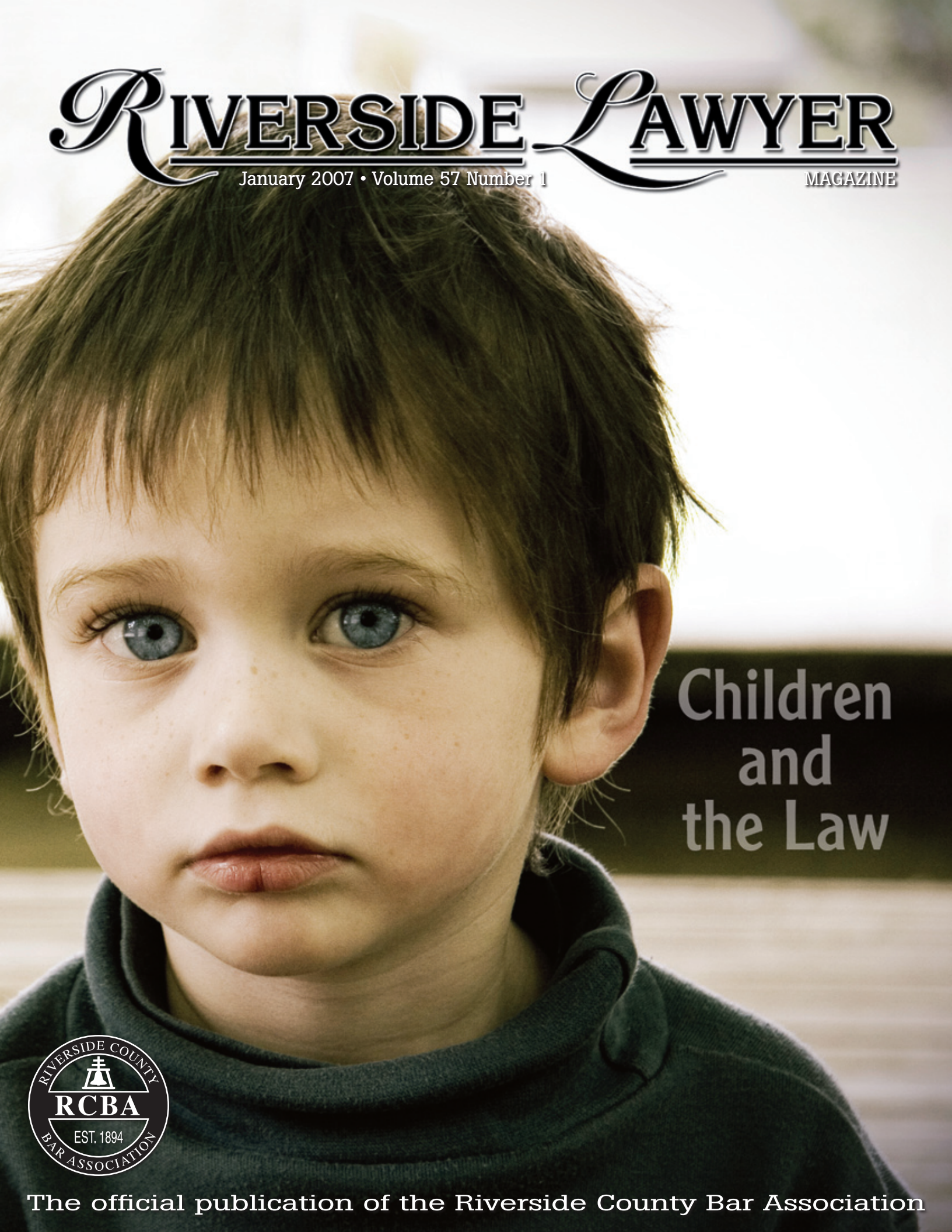

Children and the Law

RIVERSIDE COUNTY BAR ASSOCIATION RCBA EST. 1894

The official publication of the Riverside County Bar Association

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RIVERSIDE LAWYER
MAGAZINE

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Mission Statement

Established in 1894

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

RCBA Mission Statement

The mission of the Riverside County Bar Association is to:

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

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

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

MBNA Platinum Plus MasterCard, and optional insurance programs.

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

Riverside Lawyer is published 11 times per year by the Riverside County Bar Association (RCBA) and is distributed to RCBA members, Riverside County judges and administrative officers of the court, community leaders and others interested in the advancement of law and justice. Advertising and announcements are due by the 6th day of the month preceding publications (e.g., October 6 for the November issue). Articles are due no later than 45 days preceding publication. All articles are subject to editing. RCBA members receive a subscription automatically. Annual subscriptions are $25.00 and single copies are $3.50.

Submission of articles and photographs to Riverside Lawyer will be deemed to be authorization and license by the author to publish the material in Riverside Lawyer.

The material printed in Riverside Lawyer does not necessarily reflect the opinions of the RCBA, the editorial staff, the Publication Committee, or other columnists. Legal issues are not discussed for the purpose of answering specific questions. Independent research of all issues is strongly encouraged.

Calendar

JANUARY

25 **CLE Brown Bag Series**
"General Principles of Liability Insurance"
RCBA Building, 3rd Floor
12:00 p.m. - 1:15 p.m.
(MCLE: 1 hr Ethics)

31 **CLE Brown Bag Series**
"The LAP: Saving Careers, Saving Lives… One Attorney at a Time"
RCBA Building, 3rd Floor
12:00 p.m. - 1:15 p.m.
(MCLE: 1 hour Substance Abuse)

FEBRUARY

1 **Mock Trial Scoring Attorney Orientation**
RCBA Building, 3rd Floor
12:00 p.m. - 1:15 p.m.
(MCLE)

2 **Enrobement Ceremony for the Honorable Mark Mandio**
Riverside County Historic Courthouse, Dept. 1
4:00 p.m.

7 **Bar Publications Committee**
RCBA – Noon

9 **General Membership Meeting, Joint w/ Law Alliance**
RCBA Building, 3rd Floor
12:00 p.m. - 1:30 p.m.
(MCLE)

12 **Court Holiday – RCBA closed.**

14 **Mock Trial Steering Committee**
RCBA – Noon

Barristers
Cask 'n Cleaver – 6:00 p.m.
(MCLE)

15 **Business Law Section**
RCBA Building, 3rd Floor
12:00 p.m. - 1:15 p.m.
(MCLE)

19 **RCBA Golf Tournament**
Canyon Crest Country Club, Riv.
8:00 a.m. – 3:45 p.m.
Teams needed
Call RCBA for registration form

President's Message

by David T. Bristow

What happened to all of the lawyers in public office?

There was a time in the not-so-distant past when being an elected official was nearly synonymous with being an attorney. Washington, Sacramento and our local elected bodies were well-stocked – some complained over-stocked – with members of the legal profession. There is a certain natural affinity between being a practitioner of the law and a maker of the law, which is why so many of our brethren gravitated towards a career in elected office.

However, while this affinity exists no less today than at any time in the past, the legal profession's presence in elective office has been in decline for the past several years, particularly in Sacramento. Term limits, I fear, have contributed to this trend. But whatever the cause, the decline has, I think, been detrimental to the state of affairs in California government, particularly in the legislature, where just 20 percent of the members of the current body are lawyers (8 of the 40 members of the California Senate, and 16 of the 80 members of the California Assembly). And as the number of attorneys in the legislature has waned, so, too, has our profession's influence over the legislative process. I'm not talking about pork-barrel politics or tax deductions for MCLE fees – I'm talking about the ability of attorneys to play an integral role in the creation and execution of a legal system that is the envy of the nation.

Recall, if you will, what we learned in law school about the role that California played – as it still plays – in the shaping of our nation's laws. Again, in the not-so-distant past, we were in the vanguard of legal thought, and our laws were held up as models for much of the rest of the nation. This was due in no small part to the intricate role that lawyers played in the creation and refinement of our laws. While our courts continue to lead the way in legal thought, the trend in the legislature is an ominous one. Although the detractors of our profession might argue that having fewer lawyers in Sacramento is a move in the right direction, their conclusion is, I submit, entirely misguided. Knowledge and understanding of the law, and all that it entails – the role and importance of the judiciary, the constitution, the criminal justice system – are critical to the process of drafting and tailoring good laws. Think about the potential ramifications of changing the laws governing civil and criminal procedure without the proper input, consultation and participation of members of the legal profession. Our system of laws is a complex and mighty heritage, which has been honed and refined for centuries, and it is incumbent upon the members of our profession not only to safeguard it, but to contribute to its continued evolution by representing our fellow citizens in the legislature. Through participation in elective legislative office, attorneys can ensure our state's continued position at the forefront of legal thought.

Therefore, I think the interest of our state's citizens, judiciary, and bar would be significantly advanced by greater attorney representation in the legislature, and, of course, the same constituencies in Riverside County would benefit from such representation by our own county's attorneys.

So I call upon our members to consider public office, either for themselves, or for their colleagues, in order to provide the leadership that our state and our profession deserve. It is up to us to reverse the trend and return the lawyers to the statehouse.

David T. Bristow, President of the Riverside County Bar Association, is a Senior Partner with Reid & Hellyer in Riverside.

To Break the Cycle

The Problem

Imagine, if you can, a young adult leaving home on his or her eighteenth birthday with no place to live, no money, no driver's license and most likely no employment. Couple this with no loving support of parents and no safety net to fall back on, not to mention the absence of a solid foundation laid during his or her formative years.

This glimpse of the daunting reality that lies before young adults aging out of the foster care system reveals that many foster care youth have never worked, have not been permitted to obtain a driver's license and are in the minority if they have succeeded in graduating from high school. In short, they are far from being prepared to live their lives as self-sufficient, productive citizens.

Out of the 4000 foster youth that emancipate from State of California foster care every year, approximately 350 will age out of the foster care system in Riverside County alone. Less than 3% of these young adults attend college. A staggering 50-70% become homeless within the first five years after emancipation. Many become pregnant out of wedlock, turn to drugs, or lead a life of crime ending in incarceration.

To Dave and Kristi Camplin, a local Corona couple, these harsh facts were simply unacceptable. They were determined to find a way to provide former foster youth with the opportunity to break the cycle and create a better future. They knew they could make a *life-changing* impact on the youth they would serve in their program. They saw similar programs successfully helping youth in surrounding counties, but not one filling the need in Riverside County.

Inspire Life-Skills Training is Born

In 2005, the Camplins established a charity they named "Inspire." Inspire is a nonprofit section 501(c)(3) corporation that provides vital housing and supportive services to young adults at a crucial time, as they adjust to life beyond foster care.

The Inspire Six-Point Program emphasizes the following anticipated outcomes by the end of a two to four-year period (depending on the needs of each individual participant):

1. Education Assistance: 100% of the participants in the program will have completed their educational goals.
2. Employment: Participants will have developed long-term goals for the future, acquired job skills, and saved at least 10% of their income to start out on their own.
3. Counseling: Participants will have addressed their emotional and health needs and attained many life skills that will enable them to live independently, as measured by pre- and post-assessments.
4. Mentoring: Participants will have spent at least two hours every month with a mentor, assigned to them upon entry to the program, discussing their goals, needs, concerns and any other relevant information.
5. Life-Skills Training: Participants will have learned many life skills that will help them become self-sufficient, such as budgeting, goal-setting, resume-writing, cooking and cleaning.
6. Transitional Housing: Participants will live independently, without public assistance, outside the Inspire program and will be productive members of society.

Inspire has received no government or county money to support its operations, but rather has survived on the generosity of individuals and businesses in the community who want to make a huge difference in the lives of these young adults forgotten by the system. The monthly support of individuals and businesses is the life-blood of this homespun charity.

Inspire currently serves six young women, aged 18-21, primarily from minority communities. These young women (1) live below the federal poverty level, (2) come from significantly abusive backgrounds, and (3) are motivated to complete their education and to obtain job training and, eventually, full-time employment.

The organization is just beginning to get its feet wet where fundraising is concerned; however, the entire Inspire group of volunteers was recently elated and encouraged by the turnout at and results of their Inaugural "Make a Difference" dinner and auction fundraiser. The fundraiser, held in October, brought in $31,000, and will provide some much-needed financial support, at least for the near future.

Inspire Needs Your Help

The leadership of Inspire has the vision to offer the opportunity for education and self-sufficiency to many more aged-out foster youth in southern California, but your involvement is urgently needed!

There are continual volunteer and financial needs to be met. Volunteers are needed for life-skills training and fundraisers. Financial donations are needed to keep the youth living in safe and stable homes and to pay for their extra school expenses, some clothing, and transportation costs, as well as for the general running of the charity.

Most of the young women aspire to give back to the community by pursuing such professions as social work, nursing and teaching. These young women will be able to remain in the Inspire program until they complete their educational goals.

Space is limited, demand is high, and opening new homes depends on community support and the donations they receive.

Another one of Inspire's goals is to add an outreach component to the program for foster kids in their early teens to let them know there is hope for their future and opportunities for them, so they will be motivated to work harder in school.

Our communities benefit from breaking the cycle of abuse and poverty in young people's lives. One way or another, we as a society will pay for the youth that exit the foster care system. Inspire believes in putting that money into helping them to become educated and to transition successfully into adulthood rather than becoming dependent on public programs.

Please consider how you could make a difference today in the life of a foster child, and remember that no donation is too small.

For more information, please visit their web site at www.inspirelifeskills.org. You may also contact Kristi Camplin directly at (951) 316-0011.

My Experiences with Foster Care

by Roxie Findsen

Roxie Findsen

My name is Roxie Findsen. I am 20 years old, soon to be 21 in January. I am a junior at California State University, San Bernardino. I will graduate in June of 2008 with a Bachelor of Arts degree in mathematics. I plan to be a high school math teacher. I currently live on campus, where I have been since I started school. I really enjoy living on campus and being able to experience college life. I have a part-time job on campus at the Annual Fund, where I've been working since my freshman year.

I was born the fourth of seven children to a single mother. During the early years of my life, I was forced to live with my grandparents. This was the best place for me and my brothers and sisters, because my parents were going through a custody battle. It wasn't an ideal situation to live with either of my parents, because both of them were on drugs, and my mother didn't have a place of her own. By the time I finished kindergarten, my mother won temporary custody of us, so we moved to El Monte to live with her. There were a total of seven of us, living in a trailer. Eventually, my mother rented a house and we moved there. Life was rough living with my mother; at the time, she was a single mother on welfare trying to raise four kids. My siblings and I practically raised each other, because my mother was on drugs and was usually out of the house. We rarely had anything to eat or clean clothes to wear. It seemed that the only thing my mother could do was procreate, because by the time we had been living with her for approximately three years, she had had two more children. Finally, one day, my mother went out and left us with a cousin, and when she didn't return, my cousin called the police. The next day, a social worker came and saw the terrible conditions in which we were living. We were immediately removed from our home and placed in foster care.

It was December 28, 1995 when I was placed in my first foster home with my two older sisters. I was nine years old. We lived there for about two months before being placed in our second home. It was really hard being away from the only mother I knew and having to transfer to a new school. What made it even more difficult was that we didn't fit in this home, because of cultural and religious differences. I remember this being a difficult home to adjust to. This was one of the first times I remember having parents who made us do things like eat the same meal every day. We ate these colorful noodles covered with tomato sauce. One day, after we had been in this home for only a little while, the foster dad hit my sister in the face. Another time, he grabbed me by the throat and started to choke me. We told our social worker what happened and we were immediately removed. By this time, my biological mother had had another baby, who was immediately removed and placed in foster care.

After this, I was placed with my two older sisters in our second foster home. We were placed with a single mother who had a son around my age. The foster mother had a beautiful home. I really enjoyed living there, because she made us feel so comfortable. I remember she had a bunch of Barbie toys – everything from cars to a kitchen set – and she would let me change my room into a Barbie city and play whenever I wanted. We lived there for about two months before being removed because my two older sisters were disobedient and would not listen to the foster mother. My oldest sister was placed in a foster home by herself, while my second-oldest sister and I were placed together in a different foster home.

It was April 7, 1996 when I was placed in this third home. I remember walking into the house for the first time. It was amazing. The house was enormous! There were five rooms, an office, a big kitchen, a pool in the backyard and a three-car garage. They had two dogs and a cat. I was really excited; I felt for once that I was living the good life.

These foster parents became my real parents. They accepted my sister and me as their own children. They loved us and gave us a level of support and guidance that we had never experienced before. After about six months, they started talking about keeping us permanently, and within a year, they had obtained legal guardianship of us.

My biological mother had given up. My parents asked us if we wanted to be adopted, but at the time, we still had hopes of returning home, so we asked not to be adopted. Around the same time, my three younger siblings were adopted by different families. My oldest sister became a runaway teen until she was 18 years old, and my oldest brother lived with my grandmother because he was already 18.

Words cannot express how blessed I was to have been placed with my new family. One of my favorite memories is of my first Christmas at my parents' house. They had asked my sister and me to make a list of what we wanted, and told us that they would try their best to buy what they could. It was Christmas Eve, and there were eight gifts under the tree. I remember my mom saying, "Those are all the gifts. We will open them Christmas morning." The mere fact of having a Christmas excited me, even though there were only two gifts for me. On Christmas morning, my sister woke up first, then woke me up. She walked out to the living room, and I remember her saying, "Oh, my God, Roxie! Come look at this!" I walked out and was shocked. The whole living room was filled with gifts. I was so excited; it took us four hours to open everything. For me, the most impressive thing wasn't just having gifts, it was having a caring family that we were now a part of.

From that moment, I knew that I had parents who really loved me, and I knew that I would always have a family and a home to come to. Many other extraordinary memories were made in this home and with my family. My parents were the best. They made school a priority, they made sure we participated in extracurricular activities, and they taught us everything that parents should teach their children, including how to be respectful. I am who I am today because of my parents, and I am truly grateful. The best part of my family is that I have a home to go to whenever I want and a family who loves me for who I am.

I have the utmost respect and appreciation for my parents for having a permanency plan for my sister and me. I strongly recommend that foster parents create a permanency plan for all foster youths. Foster children already have a hard time adjusting to new home, new schools and new friends. Permanency doesn't just mean adoption or legal guardianship; it means being a true parent and a friend to foster youth. It is a long-term commitment that says no matter what happens, I will be here for you, willing to provide help and support, especially when it comes to emancipation. Most foster youth don't have anywhere to go once they emancipate. Foster parents should have their doors wide open, accepting youth in until they get on their feet.

Now, as a former foster youth, I want to give back to the foster care system. I have helped establish the San Bernardino County Youth Advisory Board. We are a group of former and current foster youth who advocate for foster youth. I've had many wonderful experiences on this board, from participating in conferences to conducting my own workshops. My only hope is that there are more foster parents like mine, who will not only provide a foster home but be willing to be real parents, so that other foster youth don't grow up hating the world and not becoming the best they can be because they had to be part of the system. Today, foster youth need more than a place to stay – they need real parents.

Why Foster Youth Need Aftercare

by Keith Hosea

My name is Keith Hosea and I serve as an associate director for Cameron Hill Aftercare Services (CHAS). At CHAS, we have hosted aftercare services for San Bernardino County foster youth for more than 12 years. With the rising population of youth in care and the gradual but consistent increase in youth exiting the system over the past decade, we feel that our unique brand of these services is needed now more than ever.

Keith Hosea

My introduction to aftercare

I was first introduced to the aftercare program seven years ago by one of my close friends who worked at the agency. At the time, I was preparing to transition out of my seasonal position at a pharmaceutical company where she and I had previously worked together. To be honest, at the time, I had no idea about the plight of foster youth exiting the system or the work that CHAS was doing to assist them. Recognizing my background in working with at-risk youth for more than 10 years as a youth pastor and a private school vice-principal, Francine began to explore whether I might be willing to apply for a position in the agency. As she began to share the stories of the hundreds of former foster youth in our community who were struggling with homelessness, poverty and lack of parental or familial support, my heart was arrested by this new cause. I immediately applied for a position at CHAS, and I have been working in the agency in different capacities ever since.

My involvement with LDI, YAB, and Roxie…

Several years ago, I was asked to take the reins of the life-skill development and training portion of our company's services, and we launched a new division of our corporation called the Life Development Institute (LDI). Taking this position gave me a tremendous opportunity to focus my attention on the area of my greatest passion within this social service field, which is motivating youth to succeed through teaching and training. Through LDI, I have had the opportunity to spend countless hours with hundreds of youth passing through the system in both San Bernardino and Riverside Counties.

Perhaps the most serendipitous discovery that I have made since I started this part of my professional journey is that my roles as youth worker, life-skill trainer and motivational speaker have evolved into the position of youth advocate and mentor. Another important aspect of my personal development has been the opportunity for me to serve as a consultant to those who work in and with the social service system but don't have as much access to youth as I have had. I believe it was because of my work within these three roles that I was approached by San Bernardino County to assist in the development of the Youth Advisory Board (YAB).

Of all of the things that I have been a part of and have accomplished since I joined CHAS seven years ago, the YAB is one of the things that I am most proud of. Through the YAB, I have been able to be involved in the personal and professional development of several fantastic young adults. We have participated in classes and conferences both locally and abroad. The youth have been exposed to, educated about, and trained on the major issues affecting foster youth nationwide. Not only have they been trained, but they have done some of the training themselves. They have discovered the power of using their stories as their greatest tool for advocating for other youth in the system. Several of these youth have displayed extraordinary potential as leaders of this youth advocacy movement for the future; Roxie Findsen is one of them.

What is aftercare?

Most people who are not connected to the field of health and human services are largely unfamiliar with the concept of what aftercare actually is. There are literally hundreds of aftercare programs being hosted all across the country for many different types of populations in different fields of social service. In most cases. these programs exist to serve a population of individuals who, for one reason or another. have been removed, separated or alienated from mainstream society by some form of institutionalization. Some common examples of this would be incarceration, placement in a long-term mental health institution, or removal from home and placement in foster care as a ward or dependent of the court. As a result of this institutionalization, these individuals often need assistance reassimilating into mainstream culture and society without relying on these systems or institutions for their independent existence. They may need help

developing the basic life skills that most people take for granted. These skills are innate for most of us, because we develop them through cultural transmission. We observe these behaviors in friends, family, and the people we associate with on a daily basis. Our consistent exposure to these things helps us to determine what is normative, acceptable, and even necessary in order to function well in our modern society.

Cameron Hill Aftercare Services (CHAS)

At CHAS, helping to transition aging-out foster youth is the single focus of our aftercare services. Over the years, we have proudly developed the reputation of being the aftercare program in our county. We have discovered that, within the population of foster youth who are preparing to exit foster care, there is a significant need for services designed to bolster their life skills, increase their level of awareness of how to live outside of the system, and, in most cases, an occasional helping hand with practical issues that most 18-year-olds don't have to worry about until they feel they are ready. Some general categories of things that these youth need help with are:

1. Obtaining long-term, sustainable housing.
2. Continuing their education (which may include everything from completing high school to preparing for a career by attending college or a trade school).
3. Developing employability and job maintenance skills.
4. Building financial skills (money management, consumer awareness and banking/credit building, etc.).
5. Obtaining necessary documents (birth certificate, social security card, driver's license, etc.).
6. Developing general life skills (communication, time management, interpersonal skills, cultural diversity, conflict resolution, etc.).
7. Obtaining therapeutic services.
8. Obtaining general financial assistance.

And this is just a brief sample of the types of services that we provide through aftercare.

The Cameron Hill Difference

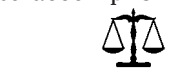
It is our philosophy at Cameron Hill that these youth need more than just services. There are several fundamental concepts that we feel are necessary for these youth to get what they really need from an aftercare program.

The first fundamental concept is that youth need a personalized individual plan. Many times, this is a failure in social systems. Often, there is not the flexibility for an individual to pursue personal goals and interests with the assistance of the program. In our aftercare program, everything begins with an intake appointment, at which youth are introduced to the spectrum of services available to them through aftercare. During the intake process, each youth is surveyed to find out what services they feel they need most; then another appointment is scheduled with one of our aftercare specialists to help them develop a plan on how to achieve their personal goals. Over the years, we have discovered that, until youth have specific, measurable and quantifiable goals, they very rarely find the level of success that they are looking for.

Perhaps one of the most powerful aspects of this feature of our program is that this is a youth-driven process. In other words, they are empowered and encouraged to take control of their future and the direction of their life. Our job is not to tell them what to do, but rather to facilitate their success by teaching them how to achieve their goals through deliberate goal-setting and strategic planning.

The second philosophy that our services are built on is the necessity of one-on-one case management provided by life-skills specialists. We pride ourselves on being independent living specialists. Within our corporate culture, this is not just a title, it is a shared value. We believe that if we are dealing with a population that is often identified as having special needs, then they need services provided by independent living specialists. Our training and hiring practices emphasize the need for our staff to become skilled and specialized in all the service areas listed above. All of the youth in our program are assigned to one of our specialists, who are responsible for providing one-on-one support and encouragement to our youth as they pursue their individual goals and the plans that were developed with them as they entered our program. This one-on-one case management continues throughout the length of their time in our aftercare program. Unfortunately, this is a component that is largely absent from a lot of aftercare programs. In our estimation, it would be a great disservice to our population not to give them access to a person to help them follow through on their goals and plans over the three-year period that they are eligible for our program. This is especially true considering that it might take at least three years to accomplish some of their goals (such as getting a college degree).

The third philosophy that drives our agency is life-coaching. Life-coaching, simply put, is the idea that people can benefit from having someone help them to determine and achieve their personal goals. Life coaches accomplish this by encouraging change in their clients' current and future behaviors. Life coaches often use abilities developed from the study of many disciplines, including sociology, psychology, career counseling and mentoring. Fundamentally, this is what we hope to accomplish through CHAS.



Riverside County's Youth Accountability Teams: Celebrating a Decade of Service to the Youth of Riverside County

by Cregor Datig and Raquel Marquez

After entering high school, Oscar began to associate with a negative peer group, which soon led him to drugs, violence and juvenile delinquency. He became regularly truant and failed all of his freshman classes. Outside school, Oscar socialized with individuals who were far older than he and deeply entrenched in the criminal justice system. Initially, these "friends" provided him with marijuana and alcohol on a daily basis. But by the end of his first year in high school, in order to support his drug habit, Oscar began to sell marijuana to other students.

Oscar was born into a close-knit, first-generation immigrant family. In middle school, Oscar excelled at academics and was well-known for his athletic abilities. Oscar is a handsome, charismatic and gifted young man. However, he was arrested in his sophomore year for stealing alcohol from a local store. Oscar's parents were devastated and felt hopeless. It seemed that Oscar was destined to a life of negative involvement in the criminal justice system. Fortunately, instead of making his first appearance in juvenile court, Oscar, along with his family, was given the opportunity to work with the Temecula Youth Accountability Team (YAT) – a voluntary diversion program offered to first-time, low-level juvenile offenders residing in Riverside County.

As part of the YAT program, Oscar met regularly with the YAT team, which is comprised of a probation officer, a deputy sheriff and a deputy district attorney. Additionally, Oscar and his parents signed a contract mandating that he abide by the following conditions for six months:

- Adhere to an 8 p.m. curfew
- Attend school faithfully
- Submit to regular drug tests
- Submit to searches for drugs and weapons
- Stay away from individuals with prior criminal contacts
- Complete a "life-plan" essay
- Submit to regular home and school visits
- Complete 60 hours of community service
- Attend a jail tour

During his first meeting with the YAT team, Oscar was not immediately receptive to the program. However, once the deputy sheriff explained to Oscar that law enforcement was now aware of his sales activity and that he was on a fast track toward juvenile incarceration, Oscar became cooperative. Under the strict terms of his contract, and with extensive supervision, Oscar responded well. After a few weeks, Oscar consistently tested negative for drugs in his system. Soon, Oscar's school attendance became regular and his grades improved vastly; recently, he earned a spot on the high school football team. After experiencing this dramatic change within their own family, Oscar's parents now refer other at-risk families to the YAT program.

Studies and experience show that a comprehensive, community-based approach of early intervention is the most effective means of ensuring that at-risk youth are steered away from a life of crime. In an effort to adopt a proactive approach to combating juvenile crime in general and on-campus crime in particular, in 1997 Riverside County District Attorney Grover Trask committed to participate in a new, community-based program involving the formation of Youth Accountability Teams. These multi-agency teams included representatives of the Riverside County Sheriff's and Probation Departments, the Office of Education, school districts and the District Attorney's office, and were designed to suppress and prevent juvenile delinquency among at-risk youth, steer them away from crime, and place them on the path toward becoming productive citizens.

Beginning with two teams in 1997, the YAT program has grown to 21 teams serving school districts throughout Riverside County. The District Attorney's office designates eight deputy district attorneys assigned to the juvenile division to participate in the YAT program on a full-time basis.

YAT teams focus on at-risk youth, ages 12 to 17, who exhibit one or more of the following behaviors:

- Truancy
- Substance abuse
- Gang involvement
- School discipline

- Family conflict
- Mental health issues

Youth are referred to YAT by schools, law enforcement, parents and/or the community. They are placed on contracts for two to six months, with a focus on redirecting their lives away from juvenile delinquency.

As part of the YAT program, the School Attendance Review Board (SARB) works in cooperation with representatives of local school districts and the Office of Education to coordinate mediation services for habitually truant children and, when necessary, to prosecute negligent parents who fail to ensure their children's education. Each YAT prosecutor is trained in providing SARB services and educating children and their parents about the importance of learning. SARB increases school attendance, which results in a reduction in juvenile crime. When children and their parents take school seriously, the opportunities for negative off-campus behavior while truant decrease dramatically.

In July of 1998, the Riverside County Board of Supervisors adopted a county ordinance to control curfew and truancy violations. This ordinance, the first of its kind in California, was drafted and presented to the Board by deputy district attorneys assigned to the YAT program. The ordinance allows county law enforcement to combat the problem of unsupervised children roaming the streets, and at the same time protects the rights of children who engage in legitimate activities. Through a simple citation process, minors who engage in high-risk activities and their parents can be provided with services through the court to help prevent future more serious and more dangerous offenses. Municipalities throughout Riverside County have enacted similar ordinances.

The YAT and SARB programs together raise awareness about the consequences of juvenile crime through school presentations, home visits, community outreach, and directed prosecution. For ten years, they have made a difference in the way Riverside County's youth and their parents view delinquent behavior. The YAT program has resulted in safer school campuses, reduced truancy, and reduced juvenile crime. In Western Riverside County, 89% of young people completing the YAT program had no further contacts with law enforcement; in the eastern part of the county, 85% of those who completed the program remained crime-free. This comprehensive, community-based approach has proven to be the most effective means of ensuring that Riverside County's at-risk youth become tomorrow's generation of productive citizens, reducing crime and saving thousands of taxpayer dollars annually.

Initially funded by a Federal Bureau of Justice Assistance community prosecution grant, YAT was dramatically expanded in 2001 through grants made available by the passage of Assembly Bill 1913, the Juvenile Justice

Crime Prevention Act (JJCPA). Coordinated through the Riverside County Probation Department, a framework is provided for continued development, implementation and expansion of this local program based on proven strategies to combat juvenile crime and delinquency.

Among many other success stories are these:

1. 1. P.J. was 15 – failing nearly all of his classes and drinking himself to the point of unconsciousness – when he entered the YAT program. The family is severely dysfunctional; both parents are alcoholics, and the father had prior incarceration for spousal abuse. The YAT program first provided P.J. and his two brothers with clothing and school supplies so they would not feel embarrassed about going to school. P.J. and his family responded well. His mother enrolled in a rehabilitation center. P.J.'s grades improved, and he was accepted by Job Corps, a live-in program where he will receive a high school diploma and the skills to obtain a job.
2. When Shelly entered the YAT program, in her sophomore year, she had been arrested for shoplifting a pregnancy kit; she often appeared depressed and detached. Her mother regularly had convicted felons in the home. In fact, while Shelly was in the program, her family's mobile home burned in a fire that was thought to be the result of an explosion in a clandestine methamphetamine lab. After countless visits from, and supervision by, the Lake Elsinore YAT team, Shelly's grades and demeanor improved and she became motivated to pursue a career as a firefighter. Currently, she is working a part-time job and hopes to attend college so she can provide a better life for herself and her 12-year-old brother.

For a decade, the Riverside County Youth Accountability Team program has successfully increased community awareness about the consequences of juvenile crime. These efforts have shown positive results, and across the state and the nation, other communities have looked to Riverside County as a model for their own programs. Most importantly, the YAT program has positively impacted the lives of troubled children and their families.

Cregor Datig is chief deputy of the juvenile division of the Riverside County District Attorney's office and chair of the California District Attorney's Association Standing Committee on Juvenile Justice.

Raquel Marquez is a senior deputy district attorney with the Riverside County District Attorney's office and a lead attorney for the YAT team.

Riverside County's Juvenile Courts

by Judge Becky Dugan

Whenever I tell attorneys or my colleagues that I judge a dependency caseload in Juvenile Court, I always get the same response: "I'm sorry! What an awful, depressing assignment. Whom did you displease to get that job? I never want to do that!"

The response I get from other judges, when I tell them I am the Presiding Judge of Juvenile Court, is, invariably, "Why aren't you doing the 600s? You're PJ; make somebody else do those 300s."

For those of you unfamiliar with the above lingo, a "300" is a petition filed under the Welfare and Institutions Code alleging that a parent has endangered the safety or well-being of his or her children, usually by physical abuse or neglect. These allegations result in either the removal or the threat of removal of the children from the home. These kids are referred to as "dependents."

A "600" is a petition under the Welfare and Institutions Code alleging that a child under 18 has committed an offense that would be a crime if committed by an adult. The child may be removed from the home as part of his or her punishment or rehabilitation, and may be subject to other conditions of probation. These kids are referred to as "delinquents."

Far from being depressing, Juvenile Court, whether on the "300" or "600" side, is about hope – reunifying families; getting children while they are still young enough that changing their behavior is actually possible; and giving parents the tools and motivation so that, not only do they get their kids back, they break the generational cycles they have grown up with.

Here are some statistics about our families: Riverside County is number two in California in the filing of dependency petitions per capita. While this is a depressing statistic (reflecting our status as drug capital of California), we also reunify 75% of the families from which kids have been removed, the highest figure in the state. We still have 4,000 children in out-of-home placement. However, 70% of them are with relatives. We also have more children adopted and a faster time to adoption than any other county.

Children are removed in dependency for a variety of reasons, but I am sure it surprises nobody that the number-one reason for removal is a parent on drugs neglecting the needs of the children. Coming in second is domestic violence, often together with drug use. Other reasons are physical and sexual abuse and severe neglect not related to drug use; the latter situations usually involve a developmentally delayed or mentally ill parent.

Many agencies help the judges do their work. In 300s, the Department of Social Services determines whether kids are removed or allowed to remain with the parent, and whether a petition will be filed or the matter taken care of informally. Social workers make difficult judgments daily, often in horrendous situations. They must use their discretion in every case in determining whether removal would be more traumatic than trying to work with the family while leaving the children in the home. Their "failures" are reported loudly and often inaccurately, while their successes with thousands of families go largely unnoticed. They are also responsible for giving the families services to reunify and for writing reports to the court on how each family is doing.

Along with DPSS, the Mental Health Department, school districts, teachers, foster families, Court-Appointed Special Advocates and extended family also help the court in getting each family back on track. The goal is always the safe return of the kids.

Riverside County has several innovative programs designed to help families heal and to keep them together. Family to Family is a social service program in which the entire community is called to the table to address the needs of the family and to prevent removal. Often the extended family, a child's teacher, the family's pastor, and mental health professionals will meet with the parents to make a safety plan and to provide them with support. Family Preservation Court is an intensive drug court that treats parents, some of whom have had their kids removed, and some who are with their children without the filing of a petition, who have agreed to get treatment.

The Court-Appointed Special Advocate (CASA) program is a volunteer mentoring program in which adults are matched with children in out-of-home placement so they can serve as role models and friends. They must commit to serve a certain number of hours per month for at least a year. This is a highly successful program that needs many more volunteers. A separate mentoring program, just in its inception, uses our local Rotary Clubs and Big Brothers and Sisters to provide mentors and role models to our kids, many of whom have not seen how

a normal family functions and have never learned any hobby or activity.

We have focused over the last two years on our children in out-of-home placement, the 4,000, referred to as "planned permanent living arrangement" kids, which actually means we have failed to connect them with a permanent family. These are our kids most at risk of becoming delinquents, for the very basic reason that they have nobody to love them. They are the reason we have expanded our mentoring efforts and our searches for their extended families.

So what better job could a judge possibly have? I get to be a catalyst for change every day, to observe first-hand the resiliency and strength of the human heart, to celebrate parents' successes with them, and finally, to dismiss the case, with the court's congratulations.

However, our 4,000 kids still need your help. Please volunteer to be a CASA or mentor. To be a CASA, call (760) 346-2497 or (951) 358-4305. To be a mentor, call Lisa Sayles at DPSS, (951) 358-4011.

The Heart and Soul of International Adoptions: Laws Are Not Enough

by Susan Nauss Exon

Picture the most translucent, beautiful green eyes looking up at you. As your gaze expands to the entire face, you see the big eyes widen as a huge smile begins to grin from ear to ear. These are my thoughts as I reminisce about the first time I laid eyes on a cute, six-year-old Belarusian girl whom my husband and I would house for a two-week "therapeutic vacation." Instantly, and without speaking a word to each other, we both knew we were looking at our daughter.

So a love story began to unfold – a love story more poignant than I ever thought possible. As lawyers know, however, most love stories involve laws. Adoptions are no exception, especially international adoptions.

International adoptions are complicated because they are controlled by international treaties, declarations, and conventions that set forth specific requirements for intercountry adoptions and that apply only to the extent that certain countries sign on to the specific document. Once a country of origin is selected, its domestic adoption laws and procedures must be translated and met. Relevant statutes here in the United States set forth additional requirements, including the ever-changing policies for immigrant visas.

The main international document is the Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption, done at the Hague on May 29, 1993, commonly referred to as the Hague Treaty on International Adoptions (Hague Treaty). The Hague Treaty requires each signatory country to have a Central Authority to ensure compliance. In 2000, pursuant to the Hague Treaty, the United States promulgated the Intercountry Adoption Act, 42 U.S.C. §§ 14901 et seq., designating the U.S. State Department as the Central Authority. In turn, the State Department promulgated administrative rules and regulations (22 C.F.R. Part 96) in 2006 to implement the Hague Treaty.

One purpose of the Hague Treaty is to prevent child trafficking. A key requirement is to require accrediting entities to approve adoption agencies as well as individuals (usually attorneys) who want to help process international adoptions. In the United States, the Council on Accreditation (COA) is the designated accrediting agency. It is a nonprofit organization formed by adoption specialists to raise the standard of performance by adoption agencies. Colorado's State Department of Social Services is the only other accrediting entity in the United States.

Pursuant to the newly adopted State Department rules and regulations, all adoption agencies and individuals who want to conduct international adoptions had until November 17, 2006 to file an application for accreditation. In approximately eight to ten months, all applications will be either approved or denied. If approved, agencies and individuals may work with any signatory country to the Hague Treaty and will be subject to all of the Hague Treaty requirements.

Understanding international adoption laws is one thing; implementing the procedures is quite another. Hence, it is important to align yourself with a person or agency that has experience with a country's adoption process and, in particular, has developed a rapport with the adoption officials in that country.

Remembering my own adoption agency and the skill and expertise its entire staff exhibited, I decided to contact Nightlight Christian Adoptions (Nightlight), which is located in Fullerton. No wonder Nightlight was so thorough in how they prepared my husband and me for our international adoption; it is headed by Ron Stoddart, one of the nicest attorneys you will ever meet.

Stoddart told me that Nightlight, whose international operations occur primarily in Russia and China (and to a lesser extent in Kyrgyzstan)[1], filed its application for accreditation with the COA. He is not worried about Nightlight's approval, since it already complies with the Hague Treaty standards, some of which require: 1) educating adopting families; 2) supplying a certain amount of available information to adopting families about the adoptive child; 3) providing post-placement counseling; and 4) maintaining professional liability insurance.

Stoddart also provided me with a copy of the Russian Federation Decree # 654, adopted November 4, 2006. The complete title of the decree is Provision Regarding Activity of the Bodies and the Organizations of the Foreign States, Conducted for the Purpose of Adoption of Children, Residing on the Territory of the Russian Federation and Supervision over Its Implementation (Decree # 654). Decree # 654 authorizes the Russian Federation's Ministry of Education and Science to issue permits to foreign nonprofit adoption agencies allowing the agencies to establish

local offices in Russia for purposes of conducting adoption business. In particular, by permitting local offices of foreign nonprofit adoption agencies, the Russian Federation authorizes the Ministry of Education and Science to "supervise" the adoption agencies. Decree # 654 contains extensive provisions detailing the specific permit process and listing grounds for approval or denial.

International adoptions require legal and technical expertise regarding international laws as well as the laws of both the United States and the foreign country where the adoption will take place. Nonetheless, international adoptions require much more. As I complimented Stoddart about all aspects of Nightlight, he replied that in addition to a legal education, he believes a good adoption agency should possess the emotion and compassion to help all parties involved.

So let's return to my love story, which began when my husband and I started our adoption process. We were lucky to find Nightlight in February 2002. We began two concurrent processes. First, we began our home study, which included lots of education. At the same time, we began to fill out many documents for the Immigration and Naturalization Service (now known as U.S. Citizen and Immigrant Services, under the Department of Homeland Security). We worked feverishly and completed the home study by the end of March. Although we intended to adopt domestically, a higher power steered us to Belarus. Now we had to redo all of our paperwork because international adoptions require notarized signatures on all documents and the notary's signature had to be apostiled by the California Secretary of State.

In October, we viewed photographs of seven children who were coming to California for therapeutic vacations right after Christmas. When I saw Vika's photograph, something special touched my heart. We decided to house her. Vika (Russian for Vicky), along with six other children and two adult chaperones, came to California. We knew instantly that Vika was meant to be our daughter.

By April 2003, we were on our way to Belarus for the adoption process. Nightlight's expert staff in Belarus guided us through every procedure. We had to be observed interacting with Vika at her orphanage. Two days later, the adoption hearing took place in the judge's chambers. The witnesses included the director of the orphanage (one of the chaperones who had come to California). She testified about our home and how well we interacted with Vika. The inspector from the National Education Department testified about her observations the previous day. The inspector from the National Adoption Center testified about the difficulty of attempting to have Vika adopted within Belarus. Then the prosecutor testified. All witnesses ended their testimony with essentially the same recommendation: that it would be in the best interest of this child to go with this couple.

Within an hour of the court hearing, we had certified copies of the adoption decree. Then we had to vacate Vika's original birth certificate, obtain a new one that lists us as her parents, get passport photographs taken, obtain a passport within a 24-hour period, and purchase train tickets to take us to Warsaw, Poland. Once we were in Warsaw, a physician examined Vika, and then we took a tremendous amount of paperwork to the American Embassy. Later that same day, we obtained Vika's visa enabling her to enter the United States.

All of these activities took place within a short six-day period. When we landed in the United States and walked through the immigration gate at the airport, Vika became an American citizen.

What a whirlwind week we experienced. Even more exciting was that, while in Belarus, we met our son. Although our original intent was to adopt one child, we discovered that Vika had a half-brother. Who could keep siblings apart? So we started the process all over again and returned to Belarus in April 2004 to pick up our son, Nikolas.

As a lawyer and law professor, I am inquisitive about laws. I discovered that during the adoption process, I had to sit back and let the professional experts do their work. I found that when I stopped worrying and gave my faith to a higher power, the adoption process actually went more smoothly. Stoddart is right. You really do need to understand the emotional side of adoptions. I learned to empathize with people from a different culture, to communicate with children who spoke only Russian (using lots of charades along the way), and to exhibit compassion to everyone involved in the international adoption process.

Envision those two beautiful eyes, multiplied by the number of children housed in individual orphanages. I wanted to adopt them all. I knew, however, that God had a plan for each and every child. Thinking back about my own international adoption journey, I can see that God had a plan for my family. Although my husband and I had to adhere to adoption and immigration laws, we worked through the system based on our love and compassion for each other and for our children.

Susan Nauss Exon is a Professor of Law at the University of La Verne College of Law, where she teaches Civil Procedure, ADR, Negotiation, Mediation, and Professional Responsibility. She also is the proud mother of two wonderful children adopted from Belarus.

1 Nightlight used to conduct adoptions in Belarus; however, in October 2004, Belarus closed its doors to international adoptions, and apparently the political climate is preventing the doors from being reopened.

Minor's Compromises in Riverside Superior Court

by Robyn Lewis

Very frequently in my personal injury practice, I am required to make a visit to Department 10 of the Riverside Historic Courthouse for a hearing on a Petition for the Approval of a Compromise of a Disputed Claim by a minor. Generally, I do not make very many appearances in that department, which typically handles probate issues. But minor's comp hearings, as they are commonly referred to, are the one exception.

Department 10 usually has a pretty full calendar, and each case requires some time to be heard individually. Usually, I spend time in the gallery watching other cases until my case has been called. During that time, there is always at least one attorney appearing for a minor's comp hearing who unfortunately is faced with a petition rejected by the court. But the most unfortunate thing is that the rejection is not because the petition is without merit. Instead, the petition is being rejected because the attorney did not complete the paperwork properly.

As a result, I usually see that attorney apologizing profusely to his or her client for wasting the client's time or, in some cases, even waiving his or her fees just to get the petition approved. I always want to go over to that attorney and explain that the minor's comp process is not as trying as it seems. You just have to know the rules and make sure that you follow them.

In years past, minor's comp hearings in Riverside were presided over by now-retired Judge Victor Miceli. Judge Miceli created what I have come to call the "Miceli rules." When I first started practicing personal injury in 1999, I thought that every county followed these rules, but I soon realized that Riverside implicitly imposes a higher standard on minor's comp petitions than other counties do.

First, it is important to distinguish the two circumstances in which a minor's claim can be settled: Either there is an action pending with the court, or there is not.

If there is not an action pending with the court, the petition is filed under Probate Code section 3500, which states that the following persons have the right to petition the court on behalf of the minor (unless the claim is against such person or persons):

(1) Either parent, if the parents of the minor are not living separate and apart;

(2) The parent having the care, custody, or control of the minor, if the parents of the minor are living separate and apart.

Under Probate Code section 3500, the petition must be filed either in the county where the minor resides or in any county where suit on the claim properly could have been brought. The proper Judicial Council form to use is form MC-350.

If there is an action pending in the court, however, the petition will be governed by Code of Civil Procedure section 372, which states that the petitioner must be the guardian ad litem of the minor. Thus, in addition to the minor's comp petition (Judicial Council form MC-350), it will be necessary to file a Application for Appointment of Guardian ad Litem (if you did not already do so when you filed the

lawsuit on the minor's behalf). The proper Judicial Council form to use when filing an Application for Appointment of Guardian ad Litem is form 982(a)(27).

The petition for compromise of a disputed claim of a minor is lengthy and requires much information. This would be too long an article if I went into each and every section, but I will try to highlight several sections that are common pitfalls, because attorneys often miss them when completing the petition.

Section 3 asks whether the petitioner was a plaintiff in the same incident or accident from which the claim arises. This is really important to consider, as it stands to reason that minors are mostly with their parents, and so if they are hurt, it is likely that the parents were also hurt. The petition requires that, if you answer "yes" to that question, you must detail in Attachment 3b whether the petitioner's involvement has affected the minor's claim.

This is when I must point out one of the "Miceli rules," which goes one step further. If you have a parent and child who are both injured, use the non-injured parent as the petitioner so that there is no problem. However, if you have a case in which both parents are injured, or if there is no other parent, try to get a close relative or family friend to be designated as the petitioner/guardian ad litem. I have had many cases in which whole families were injured in the same automobile accident. In those instances, I will try to get a close relative to petition the court on behalf of the minor or minors to avoid any problems in section 3.b. I will then include a section in my supporting attorney's declaration that explains to the court why I have chosen that relative to be the petitioner.

Section 9 is the next section that is worth highlighting. The petition clearly states that "[a]n original or a photocopy of all doctors' reports containing a diagnosis of and prognosis for the claimant's injuries, and a report of the claimant's present condition, must be attached." Oftentimes, attorneys fail to attach those records, but you must do so.

In section 10, the petition requires you to set forth the medical expenses that you are asking to be paid out from the settlement. For those practitioners who take only the occasional personal injury claim, it is worth noting that most medical bills are negotiable, a fact of which the court is well aware. Thus, if you are preparing a minor's comp petition, be sure to attempt to negotiate medical liens and bills prior to submitting the petition. The court can reject a petition because the medical bills and liens were not negotiated or because the court feels that perhaps a greater reduction is necessary.

How attorney fees and costs are awarded is extremely important to be aware of when handling a minor's comp. Typically, the court will not entertain a request for attorney fees in an amount greater than 25%. The mere fact that your attorney-client fee agreement may say otherwise will make no difference to the court.

Attorney fees are not based on the gross settlement. Any allowable costs must first be deducted before attorney fees can be calculated. So, hypothetically, if the minor had a $10,000 settlement and $200 in costs, costs would be deducted first, and the attorney would request attorney fees of $2,450, or 25% of $9,800 ($10,000, less costs of $200).

It is important to note that not all costs that the attorney has incurred are allowable costs. The court will usually entertain costs for litigation expenses, such as filing fees, fees for obtaining medical records

(continued on next page)

or expert fees. However, costs for postage, faxing, or photocopying are generally not considered allowable costs.

Let me mention another "Miceli rule" here. The Riverside court will expect that the minor will receive half of the settlement proceeds that the attorney is petitioning the court to approve. Unless you can explain why that is not feasible, be prepared for the court to reject your petition. I will normally try my best to negotiate all of the medical liens as much as I can, but I will take a reduction on my attorney fees, if necessary. The amount of time that it will take to renegotiate or to go back to the medical providers is usually worth more than the discount that you are providing to the client. So, as a general rule in my firm, and in accordance with the "Miceli rules," the minor will always get half of the gross settlement.

If you are seeking attorney fees, you must provide a declaration to the court as Attachment 14a. In that declaration, it is important to set forth what you and your office staff did on this particular file to warrant the attorney fees that you are requesting. It is not enough to state that you are requesting those fees pursuant to the fee agreement. You should explain to the court that you had to file the lawsuit, engage in extensive settlement discussions or spend significant time negotiating medical liens. I will usually itemize in my declaration any costs that I have, as well, and provide receipts to the court as attachments to that declaration (unless I am just asking for the filing fee). Again, I can guarantee that if you do not have that declaration and you do not specifically state how you earned your attorney fees, your petition will be denied.

With respect to the funds that are ultimately being paid out to the minor, it is important to consider investment options before preparing the minor's comp petition. Typically, if the amount is in excess of $5,000, the court will be interested in knowing whether you researched any annuity options and discussed those options with the petitioner. A simple phone call to a structured settlement firm, such as Ringler Associates, will assist you in this task. If you are depositing the funds into a blocked account for the minor, be sure to complete Attachment 16b(2), which asks you to state the address and telephone number of the depository where the funds will be held.

Other forms that will need to be filed, in addition to the actual petition and its attachments, include a proposed order (Judicial Council form MC-351) and, if you are depositing the funds into a blocked account, a proposed Order to Deposit Money into a Blocked Account (Judicial Council form MC-355).

You will need to bring a Receipt and Acknowledgment of Order for the Deposit of Money into a Blocked Account (Judicial Council form MC-356) to the depository to be completed by a bank representative, which will confirm to the court that you have, in fact, deposited the funds on behalf of the minor. Make sure that you file that form with the court after the deposit has been made, or else you will be required to appear on an Order to Show Cause.

The last topic that bears mentioning is preparing your clients for the actual court hearing. The minor must be in attendance at the hearing, so if the minor must miss school, it is important to let the minor's parents know well in advance of the date of the hearing, so they can make arrangements. The petitioner must also be present.

During the hearing, the court will inquire as to the injuries that the minor sustained and whether the minor has recovered from those injuries. As a practice tip, it is always a good idea to know what was the last date of treatment

that the minor had or when the minor was released from a doctor's care.

If the minor has been physically scarred, the court will generally look for a plastic surgery consultation report, as it is expecting that any future revision surgery was factored into the ultimate settlement amount agreed to between the parties. Let the minor know that the judge may ask the minor to come to the bench so that the judge can see the current status of the minor's scars.

The judge will also ask if the petitioner believes that the settlement is fair and reasonable. It is always a good idea to prepare the petitioner in advance for this question. Since the settlement itself would have been agreed to by the petitioner (or the minor's parent or guardian), you might assume that they agree that the settlement is fair and reasonable. However, clients often like to state otherwise, for some inexplicable reason, before a judge.

Finally, it is important that the petitioner understand in advance that, by accepting the settlement, the minor can never go back and get more money from the defendant. Further, it should be made clear to the petitioner before the court hearing how the money is being invested (e.g., in an annuity or a blocked account) and that the money cannot be touched until the minor reaches the age of majority (or per the terms of the annuity) without further court order.

Minor's comp petitions and hearings are not incredibly complicated legal proceedings. However, it seems that some attorneys just can't get them down. A complete and thoroughly prepared petition, with all relevant attachments, knowledge of the "Miceli rules," and prepared clients will ensure you success in any minor's comp hearings that you might have, here in Riverside and in any other county.

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The ICWA – The 411 So You Won't Be 404 (Translation: The ICWA – Basic Information So You Will Not Be Clueless)

by Ramona E. Verduzco

Because the English language is vast and spoken by a diverse multitude, we often encounter unfamiliar words or terms introduced by that same multitude, such as the "ICWA." So what is the ICWA? Is this Six Flags' newest roller coaster? Or is it yet another diminutive-sized electronic device? Or could this be an expression children are now using when they are not pleased with their dinner? Or maybe it is the current trend in slang verbiage popular among today's adolescents?

The possibilities are endless, but the true answer is none of the above. The ICWA is actually the acronym for the Indian Child Welfare Act (25 U.S.C. §§ 1901-1963), a vast federal statute that has been around for nearly 30 years but often overlooked. However, after much attention from the state appellate courts and the state legislature, life has been breathed back into this federal statute, and it is now experiencing a rejuvenation like no other in state child custody proceedings.

In a nutshell, the ICWA applies to all American Indian children who are the subjects of state child custody proceedings, such as foster care placement, termination of parental rights, guardianship, adoptive placement, and some juvenile delinquency proceedings – those in which the acts committed would not be classified as adult crimes and in which foster care or guardianship may result. It excludes custody disputes in divorce proceedings, as well as those juvenile delinquency proceedings in which the crime committed would be classified as an adult crime.

When the ICWA was enacted in 1978, its purpose was "to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families" (25 U.S.C. § 1902) by establishing minimum federal standards for state child custody proceedings involving Indian children. The legislation was in response to the placement or adoption of a disproportionate number of Indian children into non-Indian homes without any input from the affected tribe, resulting in the child's loss of culture and threatening the tribe's survival. In 1999, the California legislature re-emphasized the purpose of the ICWA by codifying portions of it in Welfare and Institutions Code section 360.6 and Family Code section 7810. Implementation of the ICWA is governed by additional sections of the Welfare and Institutions Code, the Family Code, state Rules of Court, federal regulations of the Bureau of Indian Affairs, and of course, case law.

For the ICWA to operate, the parties involved in juvenile dependency, juvenile delinquency, and family law proceedings need to know whether the child in question is an American Indian. This is easier said than done. The ICWA defines an Indian child as any unmarried person under the age of eighteen who is either (1) a member of a federally recognized tribe, or (2) eligible for membership in a federally recognized tribe and the biological child of a member of a federally recognized tribe. A federally recognized tribe means an Indian tribe that is registered with and recognized by the Secretary of the Interior. Thus, tribes that are not registered or that are from outside the United States, such as Canada or Mexico, are not federally recognized.

The child's tribe must be advised of its right to intervene in the court action. It is therefore imperative that the other parties involved in the proceeding inquire of the child's parents as to whether they are tribe members or have any American Indian ancestry. Additionally, if the child is old enough to understand, an inquiry should even be made of the child. Sometimes the parents are able to provide the specific information necessary to trace their lineal heritage to an Indian tribe, but other times, they are unable to provide specific information, or they provide information so vague that a lineal

trace to an Indian tribe cannot be made. In either scenario, the tribe must be contacted and provided with whatever information has been gathered from the child's parents or family, or even the child. This can be done by contacting the tribe directly, if the identity of the tribe is known. If its identity is unknown, the Bureau of Indian Affairs must be contacted and provided with the information that has been gathered, and it will attempt to identify the appropriate tribe.

While the duty to inquire regarding Indian ancestry and subsequently to give notice to the tribe is the burden of the court and the agency or person instituting the court action, it is in the best interests of the child if all parties involved assist in that regard. Otherwise, the result may be an unnecessary delay in the child's long-term or permanent custody plan while the case takes a long detour through the appellate court. After the inquiry phase, if it is determined that the child is not an Indian child, the court case would proceed as it normally would. However, if the child is determined to be an Indian child, the remaining provisions of the ICWA will apply. These provisions permit the tribe to intervene in the proceedings at any time and to have a voice in the matter. These provisions also call for active efforts to prevent the break-up of the Indian family, special evidentiary standards concerning foster care placement and termination of parental rights, and specific placement preferences for foster care and adoptive placements.

There are many nuances to the ICWA, and a brief scan through the case law will show that these nuances provide areas for potential disputes. To date, however, the primary areas of contention seem to be over when there is a duty to inquire whether the child has Indian ancestry, what information triggers the duty to give notice to an Indian tribe, and how to comply with giving notice in the manner prescribed by statute.

Now that you have the basic 411 on the ICWA, you may wish to add the term to your own legal lingo – you know, the one that draws strange glances from those outside the industry when you throw around such terms as "my briefs, "the bench," and "the bar." The benefit is that this practice will get you primed for the new and improved ICWA of 2007. Yes, that is correct. New state legislation has been passed, codifying various provisions of the ICWA, the BIA Guidelines for State Courts, and the state Rules of Court, and repealing Welfare and Institutions Code section 360.6 and Family Code section 7810, in an attempt to rein in all these scattered resources and to provide a one-stop shop for the various state courts handling child custody cases. Although 2007 has just been ushered in, there is no need to panic about regressing back to your former 404 status. Because of the complexity of the new legislation, it is not scheduled to take effect until July of 2007. Thus, by this time next year, we will likely have an interesting sequel to add concerning this vernacular of the ICWA.

Ramona E. Verduzco is deputy county counsel for San Bernardino County and a member of the RCBA.

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Online Temporary Judge Ethics Training is Now Available
The online version of the temporary judge ethics training is now available. This is a mandatory course for all attorneys that volunteer their time to the court to serve as temporary judges. The course can be accessed at the following link: http://www2.courtinfo.ca.gov/cjer/pro_tem.htm.

If you have any questions regarding the Riverside County Superior Court's program, please contact Sylvia Chernick, Temporary Judge Program Administrator, 760-863-8127.

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, (951) 682-1015 or charlotte@riversidecountybar.com.

Membership

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective January 30, 2007.

Thomas N. Abbott – Lobb Cliff & Lester LLP, Riverside

Cari S. Baum – Sole Practitioner, Santa Ana

Erica Ball – Burke Williams & Sorensen, Riverside

Melissa R. Cushman – Best Best & Krieger LLP, Riverside

Donna Greschner – Sole Practitioner, Riverside

Jeffrey D. Harada – Best Best & Krieger LLP, Riverside

Douglas F. Higham, Jr. – Varner & Brandt LLP, Riverside

Linda S. Klibanow – Sole Practitioner, Pasadena

Danielle K. Little – Creason & Aarvig LLP, Riverside

Dolores Lopez – Inland Counties Legal Services, Indio

Mark F. Lovell – Best Best & Krieger LLP, Riverside

Linh B. Mai – Crandall Wade & Lowe, Rancho Cucamonga

Brandon S. Mercer – Office of the City Attorney, Riverside

Catherine A. Schwartz – Blumenthal Law Offices, Riverside

Mary Crenshaw Tyler – Anderson & Kriger, Temecula

Return of the Appellate Law Section

by Kira L. Klatchko

After a short hiatus, your RCBA Appellate Law Section is back in action. Beginning in February 2007, the section will hold the first in a series of presentations designed to acquaint both appellate and non-appellate practitioners with the latest trends in appellate law. Our inaugural event will be a brown-bag tour of the Riverside branch of the California Court of Appeal, narrated by none other than the newest addition to its bench, Justice Douglas Miller. The tour will be an opportunity to get an insider's perspective on the sometimes mysterious appellate court and to hear from Justice Miller about his first months at the court. It will depart from the courthouse steps at 3389 Twelfth Street at noon on Thursday, February 22.

But the section isn't stopping there. Because appellate law touches all areas of civil and criminal practice, the section plans to coordinate with other RCBA sections to put on programs that interest more than just nerdy appellate lawyers like me. In addition to hosting programs on the mechanics of legal writing, electronic filing, and oral argument, we'd like to cover substantive areas of appellate practice, ranging from juvenile and family appeals to probate and pro se petitions. And we'd also like to introduce you to the justices and staff in a setting somewhat less scary (hopefully) than your first oral argument.

In order to make the court less imposing, I'm imposing upon each RCBA member – I'm asking for your thoughts and suggestions on topics that interest you, court practices that frighten you, and justices who impress you. All comments, help, and volunteers are welcome. You can reach me through the RCBA or via email at Kira.Klatchko@bbklaw.com – or better still, come to the next section planning meeting on March 5, at which we will be discussing the year-long calendar of events.

If you are interested in attending either the court tour or the March planning meeting, please RSVP to the RCBA office, (951) 682-1015 or rcba@riversidecountybar.com.

Kira Klatchko is the Chair of the RCBA Appellate Law Section and Vice Chair of the Appellate Group at Best, Best & Krieger.