

RIVERSIDE LAWYER

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MAGAZINE

Starting Your Own Practice

In This Issue:

Welcome to Our Noble Profession

Deposition Etiquette

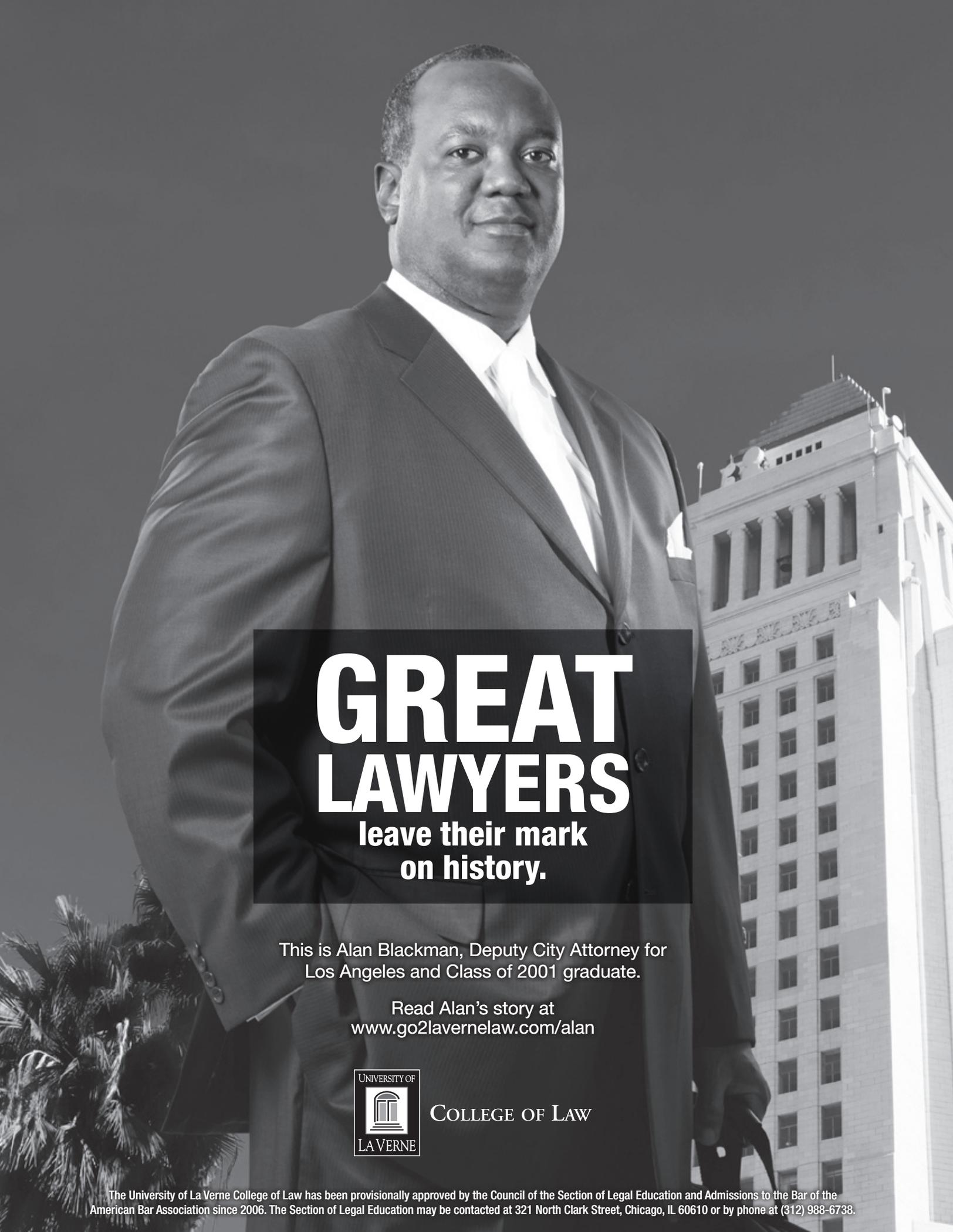
Law and Motion 101

Managing a Small Law Firm

Tips for New Admittees on Court Appearances



The official publication of the Riverside County Bar Association



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**leave their mark
on history.**

This is Alan Blackman, Deputy City Attorney for
Los Angeles and Class of 2001 graduate.

Read Alan's story at
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RIVERSIDE LAWYER

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MISSION STATEMENT

Established in 1894

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

RCBA Mission Statement

The mission of the Riverside County Bar Association is to:

Serve 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

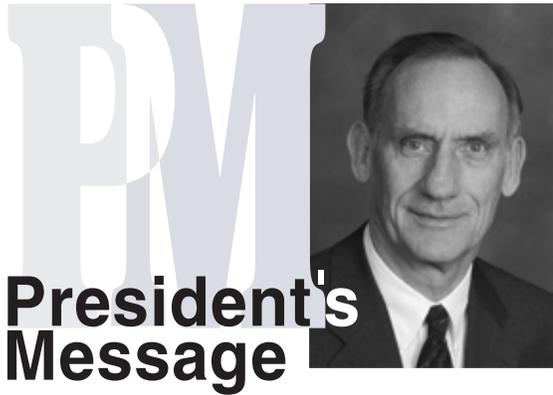
JANUARY

- 12 Joint RCBA/SBCBA Landlord-Tenant Law Section**
Nena's Restaurant, SBdno. – 6:00 p.m.
(MCLE: 1 hr)
RSVP/Info: Barry O'Connor, 951-689-9644 or udlaw2@aol.com
- 13 Mock Trial Steering Committee**
RCBA – Noon
- 13 Barristers Association**
Citrus City Grille at Riverside Plaza – 6 p.m.
(MCLE: 1 hr)
- 14 LRS Committee**
RCBA – Noon
- 14 Solo/Small Firm Section**
Citrus City Grille at Riverside Plaza – Noon
"Sharing Solo/Small Firm Challenges and Solutions for the New Year"
(MCLE: 0.5 hr)
- 15 General Membership Meeting**
RCBA, John Gabbert Gallery – Noon
"Sexual Discrimination in the Workplace"
Speaker: Areva Martin, Esq.
(MCLE: 0.75 hr)
- 18 Holiday – Martin Luther King Day**
(RCBA Offices Closed)
- 19 RCBA Board**
RCBA – 4:45 p.m.
- 20 Estate Planning, Probate & Elder Law Section**
RCBA, John Gabbert Gallery – Noon
(MCLE: 1 hr)
- 21 Immigration Law Section**
RCBA, John Gabbert Gallery – Noon
(MCLE: 1 hr)
- 22 Bridging the Gap**
RCBA – 8 a.m. to 4:30 p.m.
Free program for new admittees
(MCLE: 5.5 hrs, including 0.5 hr Ethics)
- 22 Federal Bar Inland Empire Chapter**
Installation Dinner and Judges Appreciation Night
Mission Inn, Music Room – 5:30 p.m.
(MCLE: 1 hr)
- 29 CLE Brown Bag Series "Ethics Marathon"**
RCBA, John Gabbert Gallery – 11:45 a.m. to 2 p.m.
Speakers: Charles Doskow, Susan Exon, Chris Harmon, Erik Bradford
(MCLE: 2 hrs Ethics)

FEBRUARY

- 2 Mock Trial Scoring Attorney Orientation**
RCBA, John Gabbert Gallery – Noon
(MCLE: 1 hr)





by Harry J. Histen, III

Twice each year, the legal profession is renewed by the swearing in of new members of the California Bar. Last month, in the Historic Courthouse, new lawyers were warmly welcomed and ceremoniously sworn.

This year's class arrived at a time when job opportunities are atypically scarce. Many will not be deterred and will start their own practices. Beginning under such circumstances demonstrates courage and resilience. Seasoned lawyers can perform a valuable service by watching out for recent admittees and welcoming and guiding them in the finest traditions of our profession. Customs and standards of practice, civility and courtesy are often not self-evident, and are best taught by example – a cordial phone call can work miracles. It is for us all to build honorable relationships to share and enjoy in the future.

Regarding law practice issues, I know only sole practice. In retrospect, I acknowledge that I did not give sufficient attention to the details and difficulties of establishing my office. Yet I also believe that, had I tried to guard against all potential problems before beginning, I may never have begun. It's a journey; the lights need not all be green before you start.

Over the years, I have learned some principles of good office management – principles, which if followed faithfully, will speed and heighten your success. I have proven the truth and universal applicability of those principles by repeatedly failing to follow them.

The basics of starting a law practice are easy to explain, but difficult to maintain. A primary consideration should be to limit your expenses and overhead. You will receive countless solicitations. I believe that the wisest practice is to avoid acquiring anything until you feel a compelling need for it. Doing

so will help with time management. Although I'm a geek, I recognized that it is easy to sink too much time, effort and money into technology. Resolve to look toward pleasing results instead of temporarily pleasing activities.

An excellent "startup" strategy is to rent space from a larger law firm. Often firms have office space within their walls that is not being used. They may be willing to rent it to another lawyer for a reasonable rent. I began by renting an office on the same floor as a firm, and then rented space from them when it became available.

I took advantage of that opportunity for several years and found not only that the arrangement saved a good deal of money on overhead, but that there were other benefits. I had the use of an excellent library as well as copiers, printers, and the like. I was also given research and drafting work by other lawyers. I made routine court appearances on mutually beneficial terms. I had experienced lawyers to bounce ideas or issues off of. Don't be shy.

Perhaps the thing that most solos dread is learning how to get hired comfortably and profitably. Dealing with retainer agreements, retainers and billing necessarily puts us in danger of rejection. Early on, I was advised by more experienced sole practitioners that law firms have a significant advantage in that when one of the firm's lawyers discusses fees with the potential client, he or she can attribute the need for a fee agreement and retainer to what has been called a "higher authority." That is, you can blame it on your partners or firm. ("It's not I who wants your money. It's the firm.")

After far too many years and unrewarding techniques or gimmicks, I have come to the conclusion that the best method is what I now call

“blatant honesty” (a/k/a the golden rule). It should come as no surprise that clients are at least as concerned as you are about the costs of your services. They already know that lawyers are expensive. They will appreciate your bringing the subject up early. Clearly describe your method of billing and how payment is to be made. When helping a client understand why hourly billing is necessary, I often begin with a simplified example of a physician who can charge a fixed fee for a certain procedure such as an appendectomy. I explain that in litigation our opponent and his or her client will, metaphorically, be trying to knock the knife out of my hand.

I explain to clients what they can expect from their initial retainer and the likelihood of that retainer being sufficient to attain their desired results. We discuss the possibility that an opponent can simply outspend them. They should know upfront that if they will be unable to pay legal bills after the initial retainer is used up, they may just be throwing that retainer money away while not moving closer to their goals – that they could actually be making things worse. I remind them that they generally know the other party far better than I do and ask them to assess the likelihood that an early, though a possibly lesser, resolution would be acceptable.

In financial relations, “The helping hand is the hated hand.” In allowing a large bill to accumulate, you are creating an enemy and will likely be doing work that could just as well have not been done (how necessary is that deposition?). Payment when services are rendered allows the client to make a timely and informed decision.

If the client agrees, but simply cannot perform in a timely manner, the State Bar lays out methods by which you can obtain security or guarantees. That may require that the client be advised by another lawyer to ensure that he or she understands. It’s okay, the client is still being advised in advance.

I chose the Inland Empire years ago because it was a place where I could achieve the freedom I desired. I have. The promise is still here. Establishing your practice will be a journey – a journey among wonderful people, most of whom are pulling for you. Welcome. Begin.



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2010 RIVERSIDE COUNTY MOCK TRIAL COMPETITION NEEDS SCORING ATTORNEYS

by L. Alexandra Fong

The 2009-2010 Riverside County Mock Trial season has begun. The Riverside County Mock Trial Competition is sponsored by the Riverside County Office of Education, the Riverside County Bar Association and the Riverside Superior Court, in cooperation with the Constitutional Rights Foundation.

Schools that entered the competition submitted an intent to participate form and registration fee by September 22, 2009. Registration forms were submitted by December 4, 2009. Twenty-six teams from throughout Riverside County will be participating in the competition, which begins on Wednesday, February 10, 2010 and continues through to the finals on Saturday, March 6, 2010.

Every year, scoring attorneys are needed for Rounds 1 through 4 of the competition. Round 1 occurs at the three major criminal courthouses in Riverside County – downtown Riverside (Hall of Justice), Murrieta (Southwest Justice Center) and Indio (Larson Justice Center). The remaining levels of competition, including the finals, occur in downtown Riverside, at either the Hall of Justice or the Historic Courthouse. Competition dates for the first four rounds are:

- Round 1: Wed., February 10 (5:30 to 8:00 p.m.) – Regional
- Round 2: Thur., February 18 (5:30 to 8:00 p.m.) – Hall of Justice
- Round 3: Wed., February 24 (5:30 to 8:00 p.m.) – Hall of Justice
- Round 4: Sat., February 27 (8:30 to 11:00 a.m.) – Hall of Justice

For those attorneys who have not had the opportunity to score a round in the

Riverside County Mock Trial Competition, please consider signing up now. It is an interesting experience to see future attorneys prosper at the competition. A Scoring Attorney Orientation will be held on February 2, 2010, from 12 noon to 1:15 p.m. at the Riverside County Bar Association building, located at 4129 Main Street. Mandatory Continuing Legal Education credit will be provided for those who attend the orientation.

For additional information on how to become a scoring attorney, please contact Tracey Rivas, Programs and Student Activities Facilitator for the Riverside County Office of Education, at (951) 826-6570 or trivas@rcoe.us.

L. Alexandra Fong, a member of the Bar Publications Committee, is a deputy county counsel for the County of Riverside. She was a scoring attorney for the 2009 Mock Trial competition and has already signed up to be a scoring attorney for the 2010 competition.





KURT E. YAEGER

August 10, 1956 - November 10, 2009

Kurt was well known and loved throughout the community and will be missed by all who had the opportunity to know him. He was a great friend, mentor, partner and advocate. We love him and will never forget him.

From the partners, attorneys and staff at Thompson & Colegate

IN MEMORIAM: KURT E. YAEGER

by Kirsten Birkedal Shea

A Class Act

It is with great sadness that I write this article. After three and a half years of courageously battling cancer, Kurt Yaeger passed away on November 10, 2009, surrounded by his family and close friends. A service for Kurt was held on November 29, 2009 at La Sierra University Church. The church pews were filled to capacity as family, friends and colleagues came to celebrate a life well-lived. It was apparent from the service that Kurt was a true inspiration to everyone he met. Kurt never complained about his illness. Instead, he sought out the most innovative cancer treatment he could find. Kurt's close friend and partner, Jack Marshall, recalled that even during the darkest of days, Kurt's optimism would shine through, as he would often say "It's all good."

I want to take this opportunity to share with you a little about this extraordinary person. Throughout his life, Kurt was an all-around class act. Not only was he a distinguished lawyer, but he had a natural ability for making friends wherever he went. Kurt was born in Los Angeles and raised in a La Sierra neighborhood. It was in La Sierra that he met one of his lifelong friends, Doug Weathers, who was a neighbor of his, and who later became a judge. When asked in January 2009 about his friendship with Kurt, Judge Weathers said, "I've known Kurt more than 45 years, long before La Sierra had curbs and gutters." Judge Weathers added, "I've never seen him without a smile. He is one of the finest persons I have ever known."

While growing up, Kurt was largely influenced by his father, Derrill Yaeger, a well-respected attorney specializing in land use issues at Clayson, Mann, Yaeger & Hansen in Corona. However, Kurt did not immediately set his sights on becoming a lawyer. Instead, he focused his career path on his love of sports and athleticism, a love he had developed at an early age.

Kurt obtained his Bachelor of Science from Loma Linda University, in Physical Education, and a Master of Arts from San Diego State University, in Exercise and Physiology.

Throughout high school and college, Kurt remained very athletic. His high level of physical activity caught up



The Yaeger family (left to right) – Andrea, Elizabeth, Jacqueline and Kurt

with him in college, at which time he underwent three separate knee operations. Always one to make lemonade out of lemons, he got his first job after college as a result of one of his knee operations; his third operation was performed by the renowned orthopedic surgeon, Dr. Frank Jobe, and the two became friends, which led Dr. Jobe to offer Kurt a position at the famous Kerlan-Jobe Orthopaedic Clinic in Los Angeles. Kurt was involved in research projects on college

and professional athletes, including the physical testing of team members of the Los Angeles Rams during their annual spring training camp.

While working at the Kerlan-Jobe Clinic, Kurt received a call from a former teacher, who asked him to consider taking an assistant professor position at Walla Walla College in the state of Washington. Kurt decided to take the job and moved to Walla Walla. While Kurt enjoyed teaching immensely, the cold, wet weather was not so enjoyable, and after a year, he moved back home to sunny Southern California.

Shortly thereafter, Kurt accepted a position at Corona Community Hospital, where he developed an innovative hospital-based system for providing personal training, weight loss, smoking cessation, cardiac rehabilitation and lifestyle modification programs, all under the supervision of a medical director. The success of this system led to his appointment as Director of Development for the hospital. It was around this time that he decided he wanted to go to law school. Kurt remarked that he knew he wanted additional education that would promote his professional career, and he believed a law degree would provide him with the most flexibility. Kurt attended law school at Western State University College of Law in the evenings and continued working full-time at the hospital. It was his intention to use his law degree in his job as a hospital administrator.

In 1989, Kurt obtained his J.D. from Western State. Around this time, he wanted a change from his role as a hospital administrator, and he decided to practice law instead. Kurt obtained his first legal job with a prominent

insurance defense firm in Bakersfield under the tutelage of a well-known litigator, Robert King.

Kurt not only obtained the experience and responsibility he desired, he also discovered that he excelled at developing client relationships, and as a result he was made a partner three years after starting with the firm. Kurt's insurance defense clients began giving him their commercial and employment law issues. Always up for a challenge, Kurt jumped at the opportunity and began developing his practice in these areas. As a result of these efforts, he opened his own practice, a move encouraged by his client, country music star Buck Owens.

Kurt fondly recalled the excitement of opening his own practice. He remarked that it was exciting to be an entrepreneur and work for himself. However, he had a young family at home, and realized that he wished to spend more time with them. To that end, he decided to join a labor and employment law firm in Sacramento. Two years after he and his family moved to Sacramento, Kurt learned that his father had been diagnosed with prostate cancer. Wanting to be closer to his father, they decided to return home to Riverside.

After his return in 2000, Kurt joined Thompson & Colegate. It did not take long for Kurt to find his place at the firm and make lifelong friends with his fellow colleagues. Kurt was the head of the successful Labor and Employment Section of Thompson & Colegate and represented business clients in all areas of labor and employment litigation, discrimination and business development/risk management. Kurt declared that Thompson & Colegate was the "greatest place in the world to work," citing its collegial atmosphere, which he really appreciated.

Kurt was also very active in the legal community. He had been a member of the Leo A. Deegan Inn of Court since 2000, and served as a Special Master for the State Bar. At the Inn, Kurt formed numerous friendships with both local attorneys and judges. Kurt declared that Riverside had "a superb group of lawyers and judges, which makes the practice of law very satisfying." In this author's opinion, as well as the opinion of many others, Kurt stood out as one of the best Riverside lawyers, who made our legal community shine.

During his first year of law school, Kurt married the love of his life, Andrea, who shared his love of athletics. She has worked for many

years as a teacher of physical education and currently teaches at Villegas Middle School in the Alvord District. In addition, both Kurt and Andrea devoted much of their time to their two daughters, Jacqueline and Elizabeth. Jacqueline graduated from Poly High School in Riverside in June 2009 and dreams of following in her dad's footsteps by becoming a lawyer. Elizabeth is a freshman at Poly High School and is dedicated to becoming a cancer doctor in order to help find a cure for the disease that afflicted her father. Kurt's family meant the world to him, and he was so proud of his two daughters' accomplishments.

With the support of his wife and daughters, as well as his close network of friends and colleagues, Kurt refused to let cancer keep him from loving life. For this reason and countless more, Kurt will be deeply missed.

Kirsten B. Shea, a member of the Bar Publications Committee, is with the law firm of Thompson & Colegate in Riverside.



Jack Marshall and Kurt Yaeger on a golf trip in Scotland a few years ago

WELCOME TO OUR NOBLE PROFESSION¹

by Terry Bridges

I am pleased to join your many relatives, friends, loved ones, and supporters and other members of our community in welcoming you to this noble profession. At the same time, I am happy to take this opportunity to extend a sincere invitation to join the local legal community and to become an active and contributing member of the Riverside County Bar Association.

The rigors of law school are behind you, and before you lies the horizon of a lifetime of professional involvement. It is my hope that the jubilation you experienced in successfully completing law school, passing the bar and being sworn in as a member of the California Bar will remain with you throughout each day of your professional career.

If you have not done so already, you will soon experience the joy and opportunities of making your first court appearance, having initial conversations with opposing counsel, interacting with your support team, meeting the staff of various courtrooms and enjoying the privilege of seeking to help those in need of your talents.

But with each of the above joyful rewards comes the transcending opportunity to develop your reputation as someone who is and will be respected and admired in our relatively small legal community, as well as in our community at large.

Each of your professional interactions brings with it not only the opportunity to develop and enhance your professional character, but also the danger of quickly developing a poor or at least blemished reputation in our community. Please be acutely aware of the fact that a negative reputation is difficult to overcome and may constitute a lifetime footnote to your involvement in our relatively small community.

In our bar, word about you travels between colleagues, office assistants, courtroom personnel and, indeed, judges as fast as the striking of a "send" key on an individual or group email.

At this stage of your career, please be aware of the importance of starting with and maintaining a positive, professional, civil and courteous approach to every person with whom you come in contact in our profession. This includes, of course, not only judges, but applies equally to courtroom staff, the clerk's office, opposing counsel, clients, and opposing parties. While these responsibilities should be self-evident, they are so often overlooked, with the resulting degradation of your reputation in our community.

At this embryonic stage of your professional career, may you remember and remind yourself on a regular basis that it is our highest duty as lawyers to resolve disputes between parties in a civil and professional manner and, with each professional interaction, to enhance and dignify our reputation in this noble profession.

As an aid to such a civil trajectory in your practice, may I suggest that you read the California Attorney Guidelines of Civility and

Professionalism to ensure that you adopt and adhere to each of these standards of minimal professional conduct in our community. The guidelines may be found on the State Bar's website, together with useful background information.

If each of the Guidelines of Civility is followed, not only will your reputation grow in a positive manner, but your dealings with all members of the judicial system will be pleasant, fulfilling and enjoyable and your dreams of entering our profession will be more easily realized.

I have been blessed in practicing in this community for over 15,000 days. I have formed lifelong friendships and relationships. My laugh lines, I am happy to say, are reflective of my experience in this wonderful community.

As you join our legal community, my fondest wish is that you will be able to enjoy the satisfaction, happiness and relationships that I have treasured as an active and involved member of the Riverside County Bar Association.

A hug of congratulations and welcome to each of you.

Terry Bridges is a Senior Attorney with the law firm of Reid & Hellyer in Riverside. He was President of the Riverside County Bar Association in 1987 and also President of the Leo A. Deegan Inn of Court in 1998.



¹ Portions of these remarks were included in Mr. Bridges' welcoming presentation to the new admittees at the RCBA "Bridging the Gap" program held on January 22, 2009.

DEPOSITION ETIQUETTE

by Robyn A. Lewis and E. Aurora Hughes

For new attorneys, here are a few tips about deposition etiquette that may help you:

- Remember that depositions are a discovery tool. They are not the place to demonstrate your skills at provocation or your skills at impeachment.

- You should call the day before to confirm that the deposition is still going to go forward. If you are going to travel to the deposition location, you should have directions and be there on time. Usually the parties will wait 10 to 15 minutes for a late participant before proceeding with the deposition. Be sure to call if you are running late. If you are not the primary participant, you may suggest that they begin without you. Obviously, if you are representing the deponent, they must await your arrival.

- The protocol for depositions is that the noticing party is the first to ask questions of the deponent. If there are more attorneys besides the plaintiff and defendant's counsel, the attorneys associated with the noticing attorney usually ask questions next. The deponent's attorney usually asks questions last, if at all. The actual techniques of deposing a witness or party are a matter of your firm's preferences and training. They are also something you develop over time; however, there are a number of areas that should always be covered.

- The deponent is sworn by the court reporter. You should ask the deponent to state his or her full name and spell the last name.

- You need to explain the deposition process by going through a description of what will occur and how to respond. This is done in a number of ways, but the following is a typical example. It is usually done at the very inception of the deposition, but sometimes after a few preliminary questions. It usually helps the deponent relax if you go through this first. Usually you will want to obtain as much information about the issues as you can, and having a relaxed and cooperative deponent is the best way to achieve this result. Antagonizing a witness from the beginning usually results in less information.

a) Introduce yourself and identify whom you represent (if appropriate).

b) Advise the deponent that the oath he or she has taken is the same oath that they would take if testifying in a court of law. It has the same solemnity and

effect as if testifying in court. It is usually good to get the deponent to say they understand by simply asking if they understand.

c) Remind them that they are required to give their best testimony. Explain that everything being said is recorded by the certified shorthand reporter and that at the conclusion of the deposition, the questions and answers will be transcribed into a booklet. They will be given an opportunity to make changes and corrections to their answers. Caution that if they make changes of a significant nature, those changes can be used to affect their credibility at the time of trial or arbitration.

d) Explain that if they answer a question, it will be presumed that they understood the question that was asked and that their response was a response to the question asked. Tell them to ask you to repeat a question if they did not hear it or to rephrase it if they did not understand it.

e) Advise against beginning an answer before the question has been completed and request that they pause before answering. This allows the court reporter to take down everything, as he or she cannot record two people speaking at once. It also makes the testimony read better.

f) Remember that nods or shakes of the head and statement of "uh-huh" and "uh-uh" are difficult to discern, so they should answer "yes" and "no," as appropriate.

g) Explain that you are entitled to all information they have, but that you do not want them to guess at any response. You are entitled, however, to their best estimate. Give them an example of a guess versus an estimate. Make sure they understand.

h) Inform them that they are not expected to know all the answers and that if they do not know the answer, they should tell you. "I do not know" or "I do not recall" can be an appropriate response.

i) Remind them that this is not a marathon session and that if they want to take a break or speak to their attorney, they may do so.

j) Ask them if they have taken any medication that may affect their ability to recall or testify. Ask them if there is any reason why they could not give their best testimony today. Ask them if they have any questions before you continue.

- After this preamble is completed, it is customary to obtain some personal background information from the deponent, including his or her home and work addresses and phone numbers. It is also advisable to determine if they have any plans to move in the next year. You might get the name and address of someone who would know how to reach them if they moved. This helps if you are going to need to subpoena them for arbitration or trial.

- You should also consider asking them if they have ever been convicted of a felony. Sometimes the response can be surprising. If so, you need to obtain information about the felony and when it occurred.

- If you have requested documents to be produced, it is usually useful for you to ask for the documents at this time. You can get each document item by item, as set forth in your document request or subpoena, or you can ask for all the documents at once, make copies, and then ask about them during the regular questioning. Just remember that you asked them to be produced for a reason, and you do not want to forget to ask questions about them, especially to make sure you have all the documents. If an objection has been raised to some of the documents, be sure you identify the nature of the objection and to which documents the objection applies. You may want to consider making an offer for a protective order so that you can get the information. If you are not successful with this approach, be sure to reserve your right to obtain court intervention.

- You should always ask: "What documents did you review to refresh your memory in preparation for your testimony today?" This is because Evidence Code section 771 allows an examiner to inspect such documents in the following circum-

stance: If a witness "either while testifying or prior thereto, uses a writing to refresh his memory with respect to any matter about which he testifies, such writing must be produced . . . at the request of the adverse party." Keep this rule in mind when you are preparing your own client for his or her deposition. This rule does not apply to documents that are otherwise protected by attorney-client privilege.

- Your questioning should continue in a non-hostile manner. You can ask piercing questions without being rude or hostile. Keep your tone calm throughout the deposition and you will obtain more information.

- As for the type of questions that are allowable during a deposition, the standard rule of thumb is "any matter, not privileged, that is relevant to the subject matter . . . , if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." (Code Civ. Proc., § 2017.010.) Thus, the scope of questioning during a deposition is very broad. As a result, objections based on "irrelevancy" are very difficult to sustain, and hearsay and opinions may be liberally inquired into on the theory that they may lead to the discovery of admissible evidence. Try not to make those types of objections or to object that a question "lacks foundation."

- If your opposing counsel objects during the deposition, let them make their objection. If they do not instruct the witness not to answer the question, and you believe the question is appropriate, ask the deponent to answer it. If the objection to the form of the question is well-taken, or if you have any doubts about it, rephrase the question.

However, do not abandon a question or a line of questioning simply because you draw objections.

- Here are some of the appropriate objections that you might encounter or that you can make at a deposition:

- Privilege or work-product.

- Lack of relevance to subject matter (although this is difficult to sustain because of the broad scope of discovery).

- Defects in the deposition notice.

- Defect in the oath administered.

- Misconduct by a party, counsel or a deposition officer.

More commonly, attorneys often object to the form of the question, on the following grounds:

- The question is ambiguous, uncertain or not readily understood.

- The question is compound.

- The question calls for a narrative or a lengthy explanation.

- The question is argumentative.

- The question is leading and suggestive to the questioner's own client or witness.

- You may find yourself in a situation where a more seasoned attorney tries to bully you with hostile objections, or, if your client is being deposed, is engaging in an argumentative fashion or with unduly repetitive questions. It is important to remember that attorneys are to be guided by the following rules of civility:

"An attorney should treat other counsel and participants with courtesy and civility, and should not engage in conduct that would be inappropriate in the presence of a judicial officer." (State Bar of California Guidelines of Civility and Professionalism, § 9(a)(3).)

"An attorney should remember that vigorous advocacy can be consistent with professional courtesy and that arguments or conflicts with other counsel should not be personal." (State Bar of California Guidelines of Civility and Professionalism, § 9(a)(4).)

If you are put in that position, the first line of attack is to voice your objections for the record. In an extreme case, you can suspend the deposition to enable you to obtain a protective order terminating or limiting further examination. A motion for a protective order must be made on the grounds that the examination is being done in bad faith or in a manner that unreasonably annoys, embarrasses or oppresses the deponent or the party seeking the protective order. (Code Civ. Proc., § 2025.470.)

Remember, though, that any motion for a protective order must be accompanied by a declaration showing a reasonable and good-faith attempt to resolve the issue informally. (Code Civ. Proc., § 2025.420, subd. (a).)

- If you are not asking questions, you have the right to object to the form of the question. Instructions not to answer directed to your client should occur only when the answer would require disclosure of privileged information. Trying to force the examiner to rephrase a vague or ambiguous question leads to argument which invariably lessens the effectiveness of the witness.

- When making an objection, the proper method is to say, "Objection," and to state the ground, e.g., vague as to time or calls for speculation. You should refrain from making speaking objections, where you start hinting to the witness what the answer should be or giving a speech. Such conduct is not appropriate and can result in a special master or discovery referee having to sit in at the deposition at your client's expense. When opposing counsel does this, simply remind them that protocol requires that they state the objection and the nature of the objection and nothing more. If done politely, you need only do this once, even if they seem to take offense initially. If they continue to make speaking objections, consider suspending the deposition and seeking court intervention.

- If the witness starts telling you that he does not remember, you may want to consider asking him or her if there is anything they could look at or anyone they could talk to that would help them to refresh their recollection. This helps later at trial when they suddenly have a miraculous memory recovery. If they identify someone or something, reserve your right to question the witness after they have had the opportunity to refresh their recollection. You can follow up on this through a written interrogatory as you get closer to the discovery cut-off.

- It is important to ask "closing questions" so that the deponent is locked into their testimony. For example, ask, "Was anything else said at the meeting?" Keep repeating this type of question until the deponent acknowledges that he or she has no more information on the topic of your inquiry.

- If there are any documents or materials that are shown to a deponent during the deposition, they should be marked for identification by the court reporter. The court reporter will then attach those items as exhibits to the deposition transcript.

- If it is your client who is being deposed, it is often strategically advantageous not to cross-examine them after opposing counsel has finished with their line of questioning. Since there is no trier of fact present, there is no need to try to elicit favorable testimony. In some cases, it can do more harm than good, as it can often lead to educating opposing counsel or to allowing them to ask questions that they might have forgotten to ask about.

• Of course, if your client has provided damaging testimony, you may need to rehabilitate them by cross-examination. In that situation, it is recommended that you ask for a brief recess after opposing counsel has concluded their line of questioning to review the testimony that you are concerned about with your client first.

• Once you have obtained responses to your questions, you should renew any reservation of rights to pursue court intervention and suspend the deposition pending that resolution, or if you are not reserving any rights, end the deposition. In any case, you should offer a stipulation. In Northern California, they do not follow this process. If you are out of state, you may want to consider discussing this stipulation ahead of time to avoid problems with evidence being admitted later. The stipulation should include:

- a) The court reporter is relieved of his or her custodial duty of maintaining the transcript and making it available for review and signature.
- b) The original transcript may be sent directly to the deponent (or to the attorney for forwarding to the deponent).
- c) The deponent may sign the transcript under penalty of perjury within 30 days of receipt by the deponent (or by the attorney).

d) You (or the deponent's attorney) will send notification of the changes to the original transcript within ten days of the signature. I usually ask that copies of the changes also be forwarded, if I do not maintain the original.

e) You (or the deponent's attorney) will maintain the original transcript until such time as it is needed for trial, arbitration, or other proceedings, and will produce it upon reasonable notice and request.

f) If the original is somehow lost or misplaced, a certified copy may be used in place of the original for all purposes.

There are more rules of etiquette that apply to litigation. As you develop experience, you will find which techniques work for you and which do not. But please remember, advocacy does not equate to being obnoxious. Practicing law can be one of the most rewarding occupations in terms of helping others and promoting justice. Don't lose sight of the value that courtesy and cooperation contribute toward advancing your goal of excellent advocacy for the benefit of your client in your pursuit of justice.

Robyn A. Lewis is Vice President of Riverside County Bar Association and E. Aurora Hughes is the Immediate Past President.



by Commissioner Paulette Durand Barkley

I was asked to write an article geared toward attorneys who are new to the wonderful art of law and motion. I use the word “art” because it is your job to paint a clear picture of the problem at issue and the proposed solution. I hope the following suggestions assist you.

First, even though your client is suing (or being sued by) the other side, it is your job to remain focused. Your client may become emotional during the course of litigation, but your job is to remain calm. **Never assume** a court order is required. When a dispute arises during litigation, pick up the phone and try to resolve the dispute informally.

At this point, some of you have concluded that I am naïve. I am, at a minimum, an optimist.

Second, if the phone call is ineffective, prepare your motion and supporting documents. Be concise but complete. Before you file your motion, take the time to read it. Read and Shepardize the cases you have cited. Do not string-cite cases unless you have a good reason to do so. If your motion refers to an exhibit, verify that the exhibit is actually attached. Verify that all declarations are signed.

At this point, you might think I am stating the obvious. You would be amazed at how many motions are continued (or denied) because exhibits or declarations in support were not attached, or because the points and authorities cited outdated law. In this day and age of court congestion, any unanticipated continuance can severely impact resolution of your case.

Third, after your motion is filed and the hearing date is set, verify that opposing counsel has been served with notice of the hearing date. Unlike some counties, Riverside does not reserve hearing dates. If the court cannot determine that you provided proper notice of the hearing date, the motion will be continued or denied. In addition to verifying that the notice of hearing date has been served, verify that sufficient notice has been

provided (especially if the motion is under Code of Civil Procedure section 437c.) It is not the clerk’s job to figure out how much time is needed before the hearing date is set.

At this point, my readers are probably thinking that I am making up issues that do not exist. I am not. Notice and timing issues are addressed on a daily basis in Department Two.

Fourth, if the issues raised in your motion are resolved prior to the hearing date, alert the department in which the motion will be heard. Every department in the Historic Courthouse has a pending caseload of approximately 2,000 cases. I am sure you wrote a beautiful brief, but please do not make the judicial officer prepare for a motion that is not going to be called.

Fifth, on the day of your hearing, check in and provide two cards (one for the deputy and one for the clerk.) Procedures in particular courtrooms may differ. Contact the department to verify the specific protocol. In Department Two, in addition to the two cards, a stipulation will be available for your signature. If you are appearing in more than one courtroom, alert the deputy in Department Two and your matter will be placed on second call. Be respectful of your opposition, and alert your opposition of any delays.

Sixth, and finally, when your case is called, approach counsel table, announce your appearance, and **listen!** In Department Two, counsel will state their appearances, and I will ask if the issues have been resolved. If a dispute remains, I generally provide a tentative. If the tentative is in your favor, let opposing counsel speak. Despite your preparation and beautifully crafted argument, resist the temptation to reopen issues unless it is needed.

That is law and motion in a nutshell. Sometimes you will claim victory. Sometimes you will falter. Whatever the ruling, retain your professionalism. Tomorrow will be another day in law and motion.

Welcome to the bar and the court!

Commissioner Paulette Barkley is with the Riverside County Superior Court, in Department 2 at the Historic Courthouse in downtown Riverside.



MANAGING A SMALL LAW FIRM

by Robyn A. Lewis

Managing a small law firm is not an exact science. There is no “proper way” to achieve organization and efficiency. And much of what it takes to run a successful law practice is based on an evaluation of your firm’s own specific needs and demands. But I can offer some tips I have learned that may assist you in running or managing a small law firm.

Organization Is Key

One of the most important things you can do is to centralize the organization of your office. In our office, the buck stops with me. While support staff are there to assist you, it is important to remember that the ultimate accountability for each and every file is and should be on the handling attorney for that file. Just ask any judge, who I am sure will tell you that he or she loathes attorneys who come in and blame their secretary for filing or calendaring mishaps!

It is important to start the organization of your office at the very beginning, when a file comes in. The attorney responsible for the intake of the new client should draft an intake memo, setting forth in detail all of his or her comments regarding that particular client and case. In that memo, the attorney should set out all of the special tasks that he or she would like the support staff to accomplish. I think that the intake memo is crucial, as it helps me to remember my initial thoughts on the case months after I have met with the client. It also seems to me that the client, when he or she first is meeting with you, has a better memory of the facts relating to the case. The intake memo helps the support staff to ensure that all of the tasks that need to be done during the work-up of the file are accomplished.

Using memos to the file is another great way to maintain organization. I always send a memo to the file if I have talked to opposing counsel, if I need something done and want my assistant to help me, or if any other issue arises during the handling of a case. That aids me in assuring that all tasks on the file are completed. It also provides a good basis for the history of the file if any other staff member or attorney should need to work on it, as well.

I divide our cases into two categories for further organizational purposes – pre-litigation and litigation. I am also a big fan of the checklist. Every file in our office has a checklist, which covers the basic necessities for each file while it is classified as a pre-litigation or litigation file. For instance, since our firm is a personal injury firm, our pre-litigation checklist includes an outline for ensuring that

our support staff obtains any police report, medical records, and other pertinent items that the file will require.

Litigation checklists are similar, in the sense that the checklist distills the basic necessities of bringing a case through litigation. It begins with the filing of the complaint, monitors the service of defendants, and documents discovery, depositions of witnesses, arbitrations, and discovery cut-offs, up to the time that a case has been set for trial.

All of the pre-litigation checklists and litigation checklists in our office are kept in binders. That way, if members of our support staff are working on a pre-litigation file, for instance, they can pull the binder and go to the checklist for that file. They can then see, at a glance, when the last time was that someone worked on the file, what was accomplished, and what still needs to be done. It also helps that attorneys can grab it and take a quick look to get basic information on a file in seconds. And it helps me to see where our firm files are and what else I need to accomplish as the firm manager.

Once a case has been resolved, there is still much to do on a file. In our office, we usually have to resolve medical liens and then pay out on all settlements that we have received. A file continues to be monitored and tracked until it has been formally closed.

Calendaring is obviously a critical task in any law office. I cannot emphasize enough how important it is to be organized with your calendaring. In our office, we have one staff member in charge of central calendaring (just as we do with accounting and check-writing). Everyone else must submit a calendaring request to her in writing so that there is no confusion. We attorneys also make it a point to have weekly calendar meetings with her and monthly meetings with the entire staff to keep everyone on track and to discuss upcoming events.

You have to evaluate your firm, your staff, and your caseload and come up with a system that best suits your needs. But however you decide to do it, organization is the key to the running of a successful law firm.

Always Remember Customer Service Is a Priority

Sometimes, I think that attorneys lose sight of the fact that their clients are customers, just as in any other business. Clients want to know that their business is valued and that their case is being worked on diligently. I soon learned that clients would clog up the phone lines with questions about their cases when they didn’t hear from our office.

The better part of my day was spent on the phone with clients rather than working on their files. So I made client relations a priority for our firm. And I must admit that just a few simple things that we have adopted have really assisted us in maintaining high client satisfaction and control.

To begin with, it is important to educate clients about whatever legal process they are embarking on. Consider drafting a form letter that can be used to explain the initial legal process to your clients. Our new clients receive a lengthy letter within a week after they first meet with our firm that sets forth what they can expect during the pendency of their case. We also send clients copies of all correspondence that we send out on their behalf. It takes two seconds to print off an extra copy of a letter that you have drafted and to mail it to your client. It may cost a little more, but clients are so happy to see that you are working on their file.

During each critical step of a case, we have a form letter that is sent to the client that explains what is going on. For instance, if we send out a demand package on the case, our client will receive a copy of the demand as well as a letter that explains what a demand is and what the client can expect at that point in the case. Letters regarding filing a lawsuit, discovery and settlement are all mailed to our clients with regularity.

Once a case is done, we send the client a thank-you card. We periodically send letters to former clients, either in the form of a newsletter or simply with a business card, to remind them that we appreciate their referrals. Every holiday season, each of our clients, both current and former, receives a card from our office.

I'd like to think that those little touches have turned into a steady stream of referrals from clients who have been pleased with our representation. But however you decide to do it, client management is critical for smooth firm operations, in addition to making good business sense.

Take Advantage of Outside Resources

If you are a solo practitioner or a member of a small firm, you may not have the resources that other, larger firms may enjoy. But there are many things that you can take advantage of to assist in the running of your firm.

The best tip that I can give you is . . . use legal interns! I can't emphasize how invaluable they can be to a small law firm. Many interns just want the experience of working in a law office and are willing to work for free or for a small hourly fee. When my husband, Jonathan Lewis, who is a solo practitioner in Riverside, first opened his doors, he could not afford any support staff. However, as his practice grew, he found himself drowning without any help. He was fortunate enough to meet a very ambitious and talented student who was entering UCR. That student was interested in going to law school, but wanted to see what it was like to work in a law firm before he made that commitment. He volunteered to work for Jon for free, which worked out great

for Jon, who desperately needed help but could not afford it at the time.

You can take advantage of other free resources, as well, to aid in your practice. For instance, the Victor Miceli Law Library offers free sessions on Westlaw and Lexis/Nexis. You can also rely on www.findlaw.com for legal research, if you don't have the financial resources to pay for Westlaw and Lexis.

If you are a member of any of the local bar associations, keep your eye out for deals offered in their monthly publications. You can find all sorts of freebies and discounts on everything from insurance to support services.

A while back, there was a company that was advertising in all of the bar magazines, offering an online service that calculated pertinent deadlines for cases in litigation. Our firm used to use deadline software, but we opted not to renew it, as it was very expensive. However, I grew very anxious about calculating deadlines and began looking for alternatives to that software. This particular advertisement offered five free calculations per email address. I began to use that software and loved it. The company, Deadlines on Demand, then contacted me and gave me more free sessions. It was a great way for me to try a service without any cost at all.

Practicing law is hard enough, but running a practice in this day and age requires computer savvy. One of the best recommendations that I can make is to find a good computer tech person you can call upon rather than trying to deal with the hassle on your own. There are many computer tech people out there, who can assist you with networking, problem-solving, or creating the best solutions for your business for an economical price.

A small firm may often find it hard to compete with larger firms when it comes to finding staff members, because of benefits. Often, small firms or solo practitioners cannot provide health benefits to their employees because they are just too expensive – or, at least, they seem to be too expensive. The same goes for professional malpractice insurance. Having just paid our renewal premium, I know how expensive that can be.

As a solo practitioner or member of a small firm, you can always take advantage of some of the programs that the local bar associations offer. The State Bar provides discounted rates on professional liability insurance, life insurance, worker's compensation insurance, and other types of coverage. If you use the company Paychex for your payroll, you can use them as well to get discounted rates on worker's compensation insurance and even health insurance.

The many MCLE sessions that the RCBA offers are also invaluable tools to aid in your practice. You can always go to one of the brown bag lunches, the other presentations offered by different sections or even Barristers meetings. That is a really inexpensive way not only to get your MCLE credit, but also to get advice and tips from other attorneys.

Miscellaneous Tips

Trust Account

Your attorney-client trust account is an incredible responsibility and certainly one that you should not take lightly.

However you do your accounting, you should make sure that there is some form of reconciliation of your trust account for each individual client. If you find yourself in a situation where you have not been doing a regular reconciliation, I would strongly suggest hiring an accountant to help with the trust account audit and get your account reconciled. It is our firm's policy that each file must be reconciled before it is closed to ensure that what went into the trust account is exactly what went out. Our bookkeeper also reconciles the entire account monthly to make sure that there were no stop payments, wire transfer fees, or other banking costs that need to be reconciled back to that account.

Closed Files

This topic often presents a dilemma to attorneys in small private practice, who are uncertain what to do about closed files. In our fee agreement, we have a provision that was suggested by Judge Thomas Cahraman when he was in private practice. That provision allows our office to destroy files after a particular period of time. When a file is closed, we place files in a numbered box that goes off-site to a storage facility. Our office maintains a record of each file contained in each numbered box. Once a year, we destroy

any files that are beyond the time limitations set forth in our fee agreement. And we always ask clients if they would like their file back at the end of their case.

If you are able, you can create a virtual file by scanning the file's contents before giving the file back to the client. I know that there are companies that can do this for you. But no matter what you do, you are obligated to maintain that file on your client's behalf.

Conclusion

If you are a solo practitioner or a member of a small firm, inevitably the subject of firm management will come up. Like it or not, running a law firm is running a business. You have to be organized, always be thinking about the needs of your individual office, and surround yourself with great support staff. But don't feel as if you are all alone; know that there is no one right way to do it. There are resources out there to help you, and careful consideration and planning will always lead to the success of a well-managed law firm.

For more articles, tips and guides on managing a small or solo law practice, you can check out www.myshingle.com.

Robyn A. Lewis of J. Lewis and Associates, APLC is Vice President of the Riverside County Bar Association and Vice President of the Leo A. Deegan Inn of Court. She is a member of the Bar Publications Committee.



TIPS FOR NEW ADMITTEES ON COURT APPEARANCES

by E. Aurora Hughes

So you made it through law school, passed the bar, and are now a full-fledged attorney at law. You may or may not have employment. You may be contemplating opening your own office. You may be picking up an appearance here and there as a contract attorney. But all new admittees are certain to be excited about being a lawyer. Here are a few tips about courtroom etiquette at status conferences and law and motion to help you in your career. You may already know some of them, but a reminder couldn't hurt. That goes for you veteran attorneys, too.

- Be there 10 to 15 minutes before your scheduled appearance so you have time to check in. You will usually check in with the court clerk, but sometimes with the bailiff. Never underestimate how important it is to be polite and courteous to the bailiff and the court clerk. They are essential to the courtroom. A good relationship with them starts with respect and cheeriness. They can be very helpful, especially to new attorneys, and can provide valuable information about their judges' preferences and how they run their courtroom. When you encounter the occasional rude clerk, respond with kindness and concern. They deserve respect regardless of their mood.

- Have a business card ready before you check in. If you don't have a business card, fill out your name, firm name, business address and phone number on a small piece of paper. You will need to add your calendar number and whom you represent. You can abbreviate plaintiff as π and defendant as Δ , but be sure to write out the name of your client. Put the calendar number in the upper right hand corner of your card. Some courts require two cards (one for the court and one for the court reporter), so ask how many they want.

- The calendar is usually found immediately outside the courtroom. Sometimes it is inside the department. It is also posted in the courthouse lobby. In downtown Riverside's civil courthouse, the calendar for each department can be found just inside the front entrance, and the departments also have a copy inside. In San Bernardino, the calendars are posted outside the respective departments.

- Once you have checked in, please be seated and keep quiet. When the judge comes out, the bailiff will tell you to come to order. Some judges require you to stand when they enter, others do not; but above all, do not carry on conversations with others once the judge takes the bench. If you need to talk with others, please leave the department.

- The court calls the calendar one case at a time. The order is up to the judge. Some allow priority cases to be called first; others do not. You may ask for priority at the time you check in with the clerk, but you must give a reason for it, such as another appearance in another courthouse that morning. You should not ask for priority simply because you think your matter can be handled quickly or you need to get back to your office.

- When your case is called, wait until you are standing behind your side of the counsel table, then state your name and whom you represent. If you are representing a plaintiff, you will stand on the side closest to the jury box. If you are representing a defendant, cross-complainant, or cross-defendant, you will stand on the side furthest from the jury box (unless you are representing a plaintiff who is also a cross-defendant – then you stand on the plaintiff's side). When you state your name, state it clearly and slowly. Spell your last name if it has a different spelling than the norm or if it is uncommon. You are not allowed inside the "well," which is the space between counsel table and the judge's bench; it is usually where the court reporter is sitting. If you have anything to give to the judge, give it to the bailiff, who in turn will give it to the judge. (Any documents given to the judge must have been previously provided to all counsel).

- The court will usually address the attorneys first, indicating what information he or she wants from counsel. Listen to what the court asks and then provide that information. Do not give unnecessary information or long-winded explanations, unless the court asks for further information. Remember, the judge has a number of cases to deal with and probably has a trial pending, so be conscious of the court's time.

- Above all – **DO NOT INTERRUPT THE COURT.** One of the easiest ways to upset the judge is to interrupt to offer additional information or an explanation. **RESIST THE TEMPTATION.** You will have an opportunity to explain or add information when the judge has finished speaking. Interrupting a judge will earn you a bad reputation, so don't do it.

- Do not address your opposing counsel directly. All communication during a court appearance is between counsel and the judge. Comments on opposing counsel's statements should be directed to the judge only. Colloquy between attorneys is unprofessional and inappropriate.

- If you are appearing on a law and motion matter, be aware that spending time sifting through papers and

fiddling with files distracts from your presentation and overall effectiveness. Have notes of the points you want to make and reference cases appropriate to your points. Do not repeat what you have written in your brief, unless it appears that the point was unclear or you have something new to add.

- Do not argue with the court. If the court disagrees with a point you have made, try to understand where the disagreement lies, then address that issue clearly and concisely. If you have objected to evidentiary material, you may need to ask the court to rule on your objections. If the court does not give a ruling on them, be polite, but ask again “so the record is clear.”

- Remember, the court expects you to be a professional. Therefore, do not let personal animosities between counsel interfere with the purpose for which you are in court. Do not complain that opposing counsel has done bad things or has said things to you at which you take offense. This does not ingratiate you to the court. It indicates to the court that you are a complainer and have difficulty getting along with the other side. Courts recognize that you are an advocate for your client’s position, but advocacy must be conducted with civility. You are expected to be civil toward each other even if you do not agree.

- Refrain from making faces, shaking your head or displaying other body language disparaging of your opposing counsel. Also, do not interrupt your opposing counsel when they are addressing the court. You will have the opportunity to address their points when it is your turn to speak. Make sure you take note of the point you wish to address. If it is a personal attack on you, however, remember that you are a professional, and do not respond in kind. It is sometimes best to ignore it and speak only to the issues before the court.

- If the court makes a ruling or sets another hearing date, it will usually ask if counsel “waive notice.” The court is asking that counsel waive written notice of its order. If not all parties are represented at

the hearing, notice should be given. Usually the prevailing party gives the notice, though the judge may order one of the parties to give notice. You can volunteer to give the notice if you think it better to have written notice.

- When your matter is over, thank the court and then leave the courtroom. Do not have a conversation with your opposing counsel until you are out of the courtroom and the door has closed behind you. Remember, there are other matters being called after your case.

E. Aurora Hughes is the Immediate Past President of the Riverside County Bar Association.



LEO A. DEEGAN INN OF COURT

by Robyn A. Lewis

The 2008-2009 program year for the Leo A. Deegan Inn of Court was an exciting one. Under the leadership of its President, the Honorable Stephen Larson, the Inn focused on various aspects of trial, with each team assigned to present a program on a different aspect of trial preparation and mechanics. The Inn was also proud to participate in the programs held for the female attorneys from Afghanistan when they came to Riverside in January of 2009.

The Leo A. Deegan Inn of Court is a professional organization, comprised of attorneys and judicial officers, which is organized under the American Inns of Court. The organization focuses on improving the skills and professionalism of the bench and the bar. Each month, the members get together at a dinner meeting, during which programs are held that focus on matters of ethics, skills and professionalism. Membership is by invitation only. Applications for membership are considered each summer and result in invitations for new membership for the upcoming year.

The Inn was named for the Honorable Leo A. Deegan, a legend of the Riverside legal community. Judge Deegan first began practicing in Riverside in 1946 as a member of the district attorney's office. After also serving in the county counsel's office, he became the City Attorney for Riverside in 1958. He was appointed to the bench by Governor Edmund Brown in 1959. He served on the superior court until his retirement in 1975. In the late 1980's, he served for 14 months on the Court of Appeal for the Third Appellate District in Sacramento.

Each year, the Leo A. Deegan Inn of Court recognizes both an attorney and a judicial officer for their outstanding contributions to the legal community as well as for their professional accomplishments. The 2008-2009 recipient of the Terry A. Bridges Outstanding Attorney Award was John Porter, a partner in the law firm of Lewis Brisbois Bisgaard & Smith. Mr. Porter's career, which has spanned over 30 years, has focused on the defense of police officers and police departments against allegations of false arrest, false imprisonment, civil rights violations, excessive force, and other police misconduct.

The Inn bestowed the Elwood Rich Outstanding Jurist of the Year Award on the Honorable Richard Fields, particularly for his accomplishments as presiding judge in Riverside during what has been truly a crisis. In addition to sitting as presiding judge from January of 2007 until January of 2009, Judge Fields has presided as a Riverside Superior Court judge and commissioner for over 15 years. Additionally, he served as chair of the court's Drug Court Oversight Committee and as a drug court judge.

The Inn's membership votes annually on its favorite presentation, and an award is given to that team. The 2008-2009

award for best Team Presentation went to Team Marshall, named after Jack Marshall of Thompson & Colegate, for its presentation on mediation. Team members included the Honorable Oswald Parada, Randy Stamen, Neil Okazaki, Jeremy Hanson, Audrey Owens, Sharon Hodges, Chris Oliver and Tarek Shawky.

This year, the Inn is focusing on exploring controversial topics, such as jury nullification and attorney fees. The Inn is headed by President Jeff Van Wagenen, with the Honorable David Bristow, Jeb Brown, Chris Harmon, Robyn Lewis, Chris Oliver, Chad Firetag, and John Michels serving as Executive Board members.

The Inn is excited to have students from the University of La Verne School of Law participating as team members this year. The students were selected by Dean Allen Easley. This is the first time that the Inn has extended invitations to student members.

For more information on the Leo A. Deegan Inn of Court, please contact Sherri Gomez, Executive Director, at sherri.gomez@gmail.com or Robyn Lewis at rlewislaw@yahoo.com.

Robyn A. Lewis is with J. Lewis & Associates, APLC. She is Vice President of the Riverside County Bar Association and Vice President of the Leo A. Deegan Inn of Court.



Jeff Van Wagenen



Team Marshall – Audrey Owens (holding award), Randy Stamen, Jeremy Hanson, Chris Oliver, Tarek Shawky

INLAND EMPIRE RESURRECTS ITS WOMEN LAWYERS GROUP

Why does the Inland Empire, or any area, need a women's bar association? That was the question asked by Holly Fujie, immediate past president of the California State Bar, when she spoke at the formation party for the newly created Inland Empire Legal Association of Women (ieLAW), held on September 19, 2009 in Redlands. With women making up nearly 50 percent of new enrollment at law schools, there appear to be few visible hurdles for women entering the legal field. However, there has not been any clear explanation for why women lawyers, once in their chosen profession, are not advancing into leadership roles.

Holly Fujie explained that she was only the third female State Bar president in 81 years. There has never been a female district attorney in either San Bernardino or Riverside Counties. The number of female partners at large firms is nearly stagnant at 17 percent. Although San Diego, Orange, and Los Angeles Counties have active female bar associations, the Inland Empire has been without a similar organization for almost three decades. Once the previous women lawyers group achieved its goals of appointment of women to the bench, it generally lost membership interest.

However, in January of last year, criminal defense attorney Marcie Gardner sent out an email and quickly discovered that many in the Inland Empire felt, as she did, that they would benefit from a women's bar association. Before beginning work in Rancho Cucamonga in 2003, Ms. Gardner had spent six years as an attorney in Los Angeles, where women lawyers have a strong, thriving bar association. After acclimating herself to the Inland Empire legal community, Ms. Gardner wanted to start a women lawyers group, but balancing the demands of her newly opened practice with family obligations made her feel as if she had little time to dedicate to starting a bar organization. Finally, in 2009, after working in the area for almost six years, Ms. Gardner decided that she could continue just hoping to find the time to do it, or she could focus her efforts on making it happen. "After all," Ms. Gardner reports, "everyone is busy. But we have to make the time for things we find truly important, or less important things will inevitably fill up that time."

Ms. Gardner organized an informational meeting, and over 50 civil and criminal attorneys, members of the judiciary, and other legal professionals (including some men) gathered in the administrative offices of the San

Bernardino Public Defender's office in downtown San Bernardino. Ms. Gardner was thrilled to have a cross-section of the legal community represented, as participants included public interest lawyers, associates and partners in large Inland Empire firms, government attorneys, attorneys with small firms and solo practitioners. This group brainstormed ideas of what they would expect from a bar association in the 21st century. Laura Crane, an associate at Best Best & Krieger LLP, was "shocked that despite the group's eclectic makeup, we were nearly unanimous in our desire to focus on community service, mentoring and networking."

The group spent several meetings defining its mission statement and finalizing formation documents. In May 2009, ieLAW became official when the group approved bylaws and elected its first slate of officers and directors (its 501(c)(3) status is pending). Its stated mission is: "To promote women lawyers and judges in the Inland Empire and to advocate for the concerns of all women in our community." The officers consist of President Marcie Gardner (criminal defense attorney, Rancho Cucamonga), Vice-President Karen Feld (partner, Lewis Brisbois Bisgaard & Smith LLP, San Bernardino), Secretary Barbara Buchholz (Law Offices of Raul Garcia, Redlands), and Treasurer Goldy Berger (civil private practice, Riverside). The Board of Directors consists of the Honorable Janet Frangie, Laura Crane (associate, Best Best & Krieger, Ontario), Sandra Muñoz-Harlow (family law attorney, San Dimas), and Shauna Wickham (San Bernardino Legal Aid). There is one further opening for a board member, which ieLAW hopes to fill promptly.

While the group worked through the time-consuming task of incorporating, they continued to work toward their stated goals. Several members conducted a mock trial at an underprivileged charter school in San Bernardino County. ieLaw members also chaperoned a college fair for foster children organized by Judge Marcia Slough. At the formation party, donations were collected for Operation Safe House, a Riverside crisis center for runaway, homeless and other at-risk youth.

ieLaw has received an enormous outpouring of support from the Inland Empire legal community. Judges, attorneys, law students, mediators and court reporters, coming from as far away as Malibu, attended September's party. The San Bernardino County Bar Association, Western County Bar Association and Riverside County

Bar Association have each lent their support to ieLAW's success by donating space in their respective publications to advertise meetings. The San Bernardino County Bar Association has been particularly helpful, as it made an initial monetary contribution to offset meeting costs and made its executive director available to help answer questions, and the President, Michael A. Scaffidi, hosted the group's September party at his gorgeous home in Redlands. The San Bernardino County Public Defender's office has allowed the group to meet in its conference rooms. Both Best Best & Krieger LLP and Lewis Brisbois Bisgaard & Smith LLP have made financial contributions, as well as allowed the group to use their office space for meetings.

In 2010, the group intends on continuing its work toward its goals through community service, mentoring and networking. Of particular interest to the group is to establish mentoring relationships between its members and youth in the Inland Empire's juvenile delinquency and dependency systems. The group is open to

anyone who supports its mission, and the dues are very reasonable (just \$75 per year for attorneys with three years or more in practice, \$25 for law students, and \$50 for all others). If you are interested in becoming a member of ieLAW, please contact Membership Chair Barbara Hannah at ie.law09@gmail.com. If you have any questions about the group, please contact any of the officers or board members. To reach Ms. Gardner, please call her office (909-635-2028) or email her at Marcie@justdefense.com.





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NOTICE

RCBA Members

Have you moved?

Has your telephone, fax or email changed?

Please contact the RCBA office at (951) 682-1015 or rcba@riversidecountybar.com with any changes.



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, 2010.

Andrew T. Chan – Thompson & Colegate, Riverside

Zena M. Ho – Gresham Savage Nolan & Tilden, Riverside

Christopher V. Markarian (S) – Law Student, Rancho Mirage

Jonathan D. Tanoos – Sole Practitioner, Mission Viejo

Binu Varughese – Davis & Wojcik, Hemet

David E. Wall – Eadie & Payne LLP, Ontario

Charles R. Waltman – County of Riverside, Economic Development Agency, Riverside



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