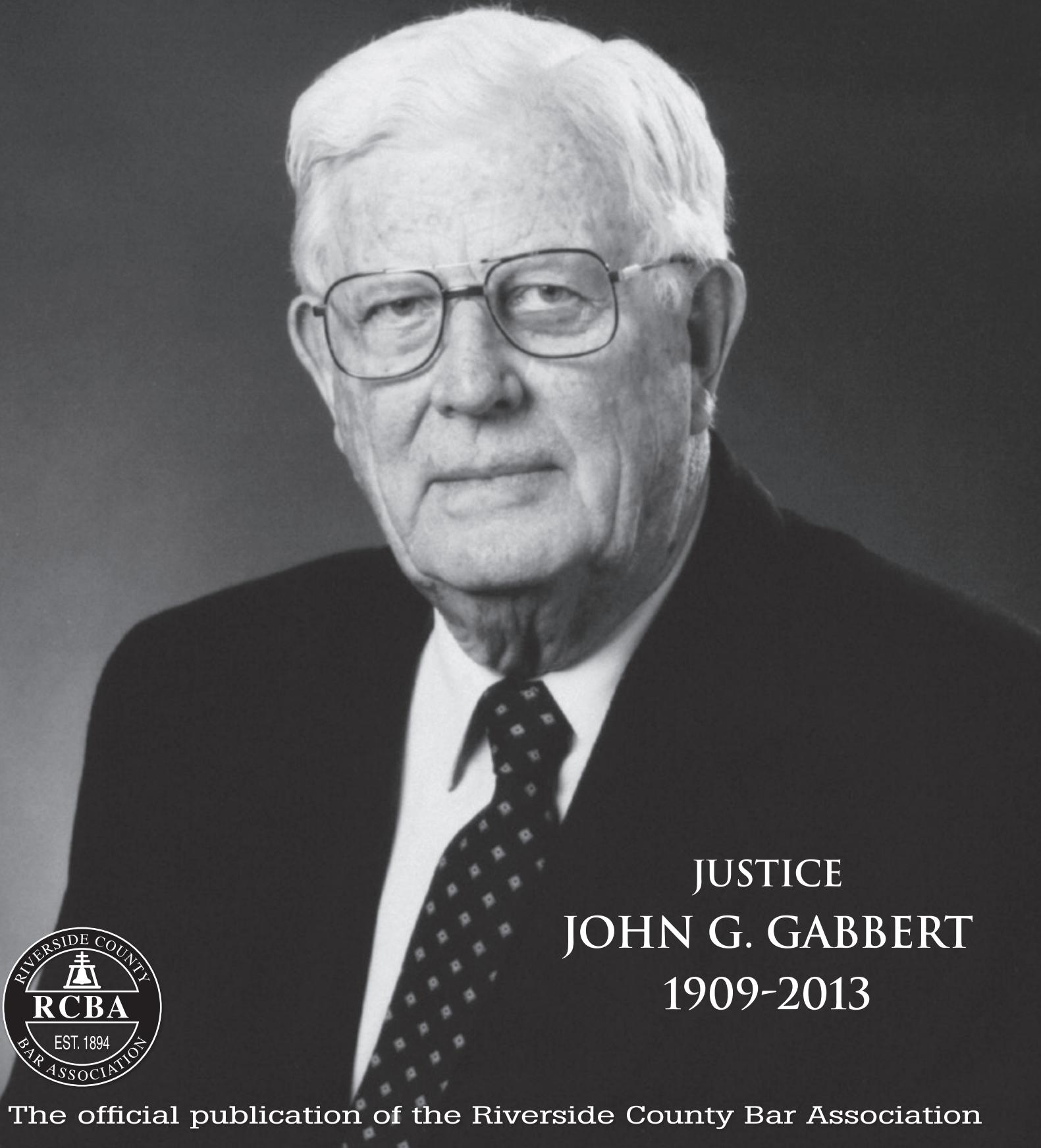


RIVERSIDE LAWYER

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MAGAZINE



JUSTICE
JOHN G. GABBERT
1909-2013



The official publication of the Riverside County Bar Association

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MAGAZINE

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MISSION STATEMENT

Established in 1894

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

RCBA Mission Statement

The mission of the Riverside County Bar Association is:
To serve our members, our communities, and our legal system.

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Public Service Law Corporation (PSLC), 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

- 14** **Landlord/Tenant Law Section**
San Bernardino
- 15** **Estate Planning, Probate & Elder Law Section**
Speaker: Robert Birgen
Topic: "Effective Uses of Life Insurance in Estate Planning"
RCBA Gabbert Gallery – Noon
MCLE
- 16** **CLE Trial Practice Series**
Speaker: Judge Richard T. Fields
Topic: "Evidentiary Issues from a Judicial Perspective"
RCBA Gabbert Gallery – Noon
MCLE
- Training Volunteers to Serve in Pro Se Clinic**
George E. Brown, Jr., Federal Court
4:30 – 5:30 p.m.
RSVP: Julie Cicero 951-328-4440
- 17** **MCLE MARATHON**
(See flyer on page 25)
- 22** **Mock Trial Scoring Attorney Orientation**
Speaker: Judge Jackson Lucky
RCBA Gabbert Gallery – Noon
- 23** **Solo/Small Firm Section Meeting**
Speaker: Troy Ellerman
Topic: "Beyond Barry Bonds and BALCO- a lesson in ethics."
RCBA Gabbert Gallery – Noon
MCLE
- 24** **General Membership Meeting**
Speaker: Presiding Judge Mark Cope
Topic: The State of the Court
RCBA Gabbert Gallery – Noon
MCLE
- 29** **Appellate Law Section Meeting**
RCBA Gabbert Gallery – Noon
FBA/IE Installation and Judges Appreciation
Music Room at the Mission Inn
Reception 5-6
Dinner 6-7
Speaker: Judge Raymond Fisher, 9th Circuit Appeals
RSVP: Julie Cicero 951-328-4440
- 31** **Bridging the Gap**
RCBA Gabbert Gallery – 8:00 a.m. – 5:00 p.m.
Free program for new admittees only
(MCLE: 6.25 hrs, including .5 hr Ethics)



President's Message



by Jacqueline Carey-Wilson

Justice Thomas Hollenhorst is in urgent need of a kidney transplant as he fights a lengthy battle with kidney disease. Immediately before Christmas, Deputy District Attorney and former RCBA board member Tim Hollenhorst contacted Kira Klatchko and me to enlist our help to appeal to the Riverside legal community for a person to donate a kidney to his father. Until very recently, the family was hopeful that one of his sons would be the donor. Unfortunately, the family found out last week that both sons had been disqualified by the transplant team. Several other prospective donors have also been ruled out due to age or health issues. Although Justice Hollenhorst is keeping a positive attitude, the outlook now is very challenging. His health is slipping, and it is imperative that he receive a transplant soon. Justice Hollenhorst has been cleared for a transplant by physicians at Loma Linda University Medical Center (LLUMC) and is on the national registry. However, he has been told that the wait and the criteria are not in his favor. The physicians have advised that it is best if he is able to obtain a kidney from a direct donor.

The prospective donor must have type O or B blood, be under the age of 65, and not have been diagnosed with hypertension. When someone volunteers to be tested, it is not a firm commitment; it is only a first step. There is no cost to be tested; neither is there any cost for the transplant surgery. The surgery will be performed at LLUMC, and the costs are covered by the recipient's insurance and/or Medicare, regardless of the

"Thank you very much for considering our request for help. Both Tom and I greatly appreciate your kindness and willingness to consider helping us. We have exhausted all alternatives and now must turn to Tom's friends and colleagues for help."

Beth Hollenhorst

donor's age. In addition, California law provides for up to 30 days time off for state employees who choose to donate and also allows for reimbursement for all ancillary expenses, such as transportation, lodging, meals, and aftercare. Thus, there will be no financial cost to the donor. Additionally, employers are required by law to provide leave for donors.

Justice Hollenhorst and his wife, Beth, know that they are asking a great deal, but they have no choice. In order for Justice Hollenhorst to regain his health and life, he needs your assistance. It takes only one qualified person to step forward and make the difference. Those who might be interested in taking that initial step are urged to contact Justice Hollenhorst's transplant coordinators, Mo Ramirez and Lynn Boissiere, at (909) 558-3691.

In September, the RCBA honored Justice Hollenhorst with the E. Aurora Hughes Award for his dedicated service to the RCBA. I am very hopeful that, through the efforts of the RCBA in spreading the word that he is in need of a kidney, a match will be found.

Last month, our legal community lost a pillar; Justice John Gabbert passed away on December 9, at 104 years old. Although I never had the opportunity to work with Justice Gabbert, I spoke with him at legal events and took many photos of him. He was polite and patient when I cast my camera in his direction and once told me that I took the best photos of him. I know this was an exaggeration, but it is an example of the kindness and respect he showed to others. The RCBA offers our sincere condolences to his family and gratitude for sharing Justice Gabbert with all of us. He will be missed.

In December, we also lost Nelson Mandela, former president of South Africa. Mandela obtained a legal education, became a lawyer, and in 1952, opened the country's first black law firm in Johannesburg. He was imprisoned for 27 years in South Africa for fighting against apartheid. In the 1980s, I was in college at Cal State Fullerton and an organizer in the Coalition Against Apartheid. The Coalition Against Apartheid organized rallies to educate students about the horrible injustices occurring in South Africa and to encour-

age individuals to boycott companies doing business in South Africa. Mandela was in prison at this time; attendees at such rallies chanted "Free South Africa" and "Free Nelson Mandela" and carried those slogans on signs. After he was released from prison, I was among those fortunate enough to see Mandela when he spoke at the Los Angeles Coliseum in June 1990. I vividly recall the excitement and hope he inspired in all of us for the future of South Africa.

I understand that my work did not accomplish Mandela's release or an end to apartheid. However, I cannot help but believe that the work of many, many, many individuals voicing their outrage eventually contributed to its demise. As we begin our New Year, we must work together to be the change we want for the future, and to defeat obstacles that seem insurmountable.

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



CALIFORNIA STATE UNIVERSITY, FULLERTON
VOLUME 45, ISSUE 48

Daily Titan

Tuesday Dec. 2, 1990

Activist fights injustice of fate—and wins



After recovering from a car crash which caused her to spend 14 days in a coma last summer, political science major Jacqueline Carey will be the moderator of Wednesday's Apartheid Awareness Day.

Judge Helios Hernandez, State Bar President Luis J. Rodriguez, and Judge Raquel Márquez-Britsch at the RCBA meeting on December 5. The RCBA is grateful to President Rodriguez for addressing the membership at the December meeting, as well as speaking at the admissions ceremony earlier that day at the Historic Courthouse.

photo by Jacqueline Carey-Wilson



BARRISTERS PRESIDENT'S MESSAGE

by Kelly A. Moran



Happy 2014 to you all! I hope you had a wonderful holiday season and are right on track with all of those New Year's resolutions. The dawning of a new year offers us the opportunity to reflect on our past and consider how we can improve our future. On a personal level, January marks the halfway point of my term as Barristers President. While I am thrilled with the accomplishments of our board and the growth that this organization has shown, I can only hope that the next six months bring even more success for the Barristers members and group as a whole.

Just like most of you, the Barristers Board started the year off with several resolutions for our time in office. One of the resolutions of the Barristers Board this year was to welcome more members by presenting MCLE opportunities that discuss current and pressing issues in the community, state, and country. I am pleased to announce that our January meeting is doing just that.

Member-at-Large Christopher Marin has really taken charge of the January event and will be moderating a small panel discussion on the impacts of *U.S. v. Windsor* on various areas of law. Equal rights advocates discussing *Windsor* repeatedly pointed to the more than 1,100 federal marriage benefits being denied under the Defense of Marriage Act. The January Barristers event will bring to light some of those benefits and will explore the nuts and bolts of enforcing them in a post-*Windsor* world. Please join us for this exciting event on January 9, 2014. Information concerning the event time and location is available at the Barristers website (riv ersidebarristers.org) and on our Facebook page ("Riverside County Barristers Association").

Another resolution of our Barristers Board during our 2013-2014 year has been to increase our community and charitable involvement as an organization. I am so proud of all the Barristers who have truly helped to make this goal a reality. Thanks to the generosity of those who attended our November event, an ethics discussion featuring participants District Attorney Paul Zellerbach and Public Defender Steven Harmon, moderated by Judge Virginia A. Phillips of the United States District Court, we were able to raise over \$700 for the Joint Federal Pro Se Clinic. By way of our December event, a social featuring speakers Jason Ackerman, discussing the Inland Empire Latino Lawyers Association, and Brian Pearcy, discussing

the RCBA Elves Program, we were able to provide donations of toys to families in need within our community.

It is my hope and goal that our charitable efforts will continue into this new year. We are always on the lookout for ways to become involved in the community. If you have a suggestion or would like to bring an organization to our attention for a potential partnership in a future event, please do not hesitate to contact me.

We have an exciting year ahead of us and have several great events planned in the future. I look forward to seeing each of you, not only at our January 9 event, but also at upcoming events on February 13 and March 13. Thank you for all your assistance so far in helping to fulfill the resolutions of the Barristers Board. Here's to a bright and successful 2014 for us all!

Kelly Moran, the 2013-2014 President of Barristers, is an associate at Thompson & Colegate, where she practices in the areas of public agency representation, personal injury defense, and probate litigation.



CASA – COURT APPOINTED SPECIAL ADVOCATES

by Warren Chu

Editor's note: This is an update of an article that first appeared in the November 2011 edition of Riverside Lawyer with additional reporting by Christopher Marin.

Court Appointed Special Advocates (CASA) is a national association of 955 local community programs in 49 states that recruit, train, and support volunteers to represent the best interests of children who were removed from their families because of abuse and neglect. CASA volunteers (also called CASAs) are appointed and sworn in by judges to watch over and advocate on behalf of these children in the courtroom. They play a special role in juvenile dependency cases, especially for children whose permanent plan is long-term foster care, in providing a voice to advocate for the children's needs. Oftentimes, foster children get to meet with their attorneys only once every six months. CASAs bridge this gap and attend to the daily needs of the children to ensure that, despite their difficult circumstances, their best interests are looked after.

CASA began as a pilot program in Seattle by Judge David Soukup in 1977 to address his concerns about making important decisions about children with insufficient information. Riverside County implemented this program in 1990. Since then, CASA for Riverside County has provided thousands of advocates to dependent children. CASA volunteers come from all different age groups, educational backgrounds, and ethnicities. Many of the volunteers have been successful in their own careers and have decided to give back through CASA.

In order to be accepted into CASA, volunteers are subjected to a vigorous vetting process that includes a thorough background check, an interview with staff, and over 30 hours of training. This training covers mental health, educational rights, and navigating through the judicial system. This training process is very important to ensure that the person is fully committed,

not just to the CASA program, but more importantly to the child, who oftentimes has already been victimized by a turbulent life of instability. Once a volunteer is assigned to a foster child, he or she donates 15-18 hours a month in working that case.

Most of the CASA's time is spent on gathering as much information as possible about the child and the child's circumstances. Most importantly, this involves visiting with the child to observe and get to know him or her in his or her own living environment. It also includes interviewing the child's social worker, teachers, school officials, foster parents, group home staff, therapists, and any other relevant people. However, the CASA does not interact with parents. The CASA also ensures that all court orders are carried out and reports any violations of the court's orders. The CASA then prepares a written report, filed with the court, providing recommendations as to what he or she believes is the best for the child's future. The CASA goes to court with the child and attends the dependency hearings. At the hearings, the judge will

often afford time to the CASA, to garner his or her input. This is the time for the CASA to advocate for the child, asking the court to order things the child needs or that would otherwise benefit the child, such as glasses, orthodontic care, class trips, etc. According to the Honorable Jacqueline Jackson, supervising judge at Riverside Juvenile Court, “[CASAs] are a valuable and integral part of the juvenile justice system. Without them, many of our dependent and delinquent children in the county would have no or little positive and consistent adult influence in their lives. They bring the children joy, stability, a sense of belonging, and an understanding that they matter in the world.”

In an effort to continually provide the best service and advocacy to foster children, Executive Director Deborah Sutton constantly seeks to innovate and improve the CASA program with new initiatives. CASA for Riverside County started a program directed at providing services for the unique needs of LGBTQ youth back in 2011. According to Ms. Sutton, “The initiative has gone very well. Since the implementation, CASA for Riverside County has been highlighted nationally, and currently the curriculum we developed is being used statewide – and soon nationally – to train other CASA programs. We were able to highlight the work and success of this program, as we had the first gay man/gay boy CASA match. This union has been successful. Since the boy got a CASA, he moved around much less and did graduate from high school, with plans to go to college.” The program has also had an observable effect of empowering LGBTQ youth to report abuse in foster care, whereas before, they may have been quiet about abuse because they did not perceive a safe ally and advocate to turn to. Currently, CASA for Riverside County is working with the Department of Social Services to develop a family-finding program to help the department find a key person (not necessarily a parent) a child might have a connection with. Such connections may help cut down

the child’s stay in foster care and possibly lead to a more permanent plan for the child’s future.

The CASA volunteer’s commitment lasts for the duration of the child’s dependency case, or about 18-24 months. For many, this was such a rewarding experience that they volunteered again. In fact, Riverside County has one of the highest retention rates in California, at 71%, for volunteers who decide to be a CASA for another child.

CASA receives the majority of its funding through private donations. Like most charities, CASA has seen its donations decrease in recent years due to the economy. Therefore, despite over 140 foster children waiting for a CASA volunteer and a waiting list of volunteers ready to serve these children, they cannot be matched up due to regulations that require one CASA staff member for every 40 volunteers. CASA for Riverside County has several events each year to raise awareness and to collect donations for the program. The next upcoming event is a comedy night fundraiser on January 17 at Hamilton’s Sports Bar in Palm Desert. If you wish to attend, donate, volunteer, or see the list of events, please visit casariversidecounty.org.

In conclusion, Judge Jackson would like to add, “Anyone can be a CASA – attorneys too. If someone wants to make a difference in a child’s life, this is a great way to make that desire a reality.”

Warren Chu is a deputy county counsel with the County of Riverside.



MY ROAD TO BECOMING A CERTIFIED FAMILY LAW SPECIALIST (CFLS)

by Kirby F. Combs

Volunteering at the Public Service Law Corporation's Family Law Clinic was my first step toward becoming a Certified Family Law Specialist; it was also the way I began to truly help others. This must be distinctly understood, or nothing wonderful can come of the story I am going to relate:

My mother raised nine kids, mostly by herself. With little extra money, she courageously brought up seven boys and two girls and taught them to help others. Other than me, my family members learned her lessons.

For instance, three of my brothers are medical doctors. One of them, Dr. Walter Combs, had already been healing people in Haiti on over 30 different occasions before the big earthquake even hit. He still goes to Haiti about four times a year. I've seen photos of some of the thousands of people he has helped – literally, lives saved, deformities reformed. Another brother, Dr. Curt Combs, spends unforgiving days with orphans in Mexico. My other siblings also volunteer.

But I, like Scrooge, had always helped myself; for me, the common welfare had never been my business. It's no small wonder, then, that my first career did not involve charity. (Though it did involve international travel, adventure, and a little romance, for I lived in Paris as a young man.)

In any event, my first career began around 1986, about the time I graduated from UC Davis with a degree in International Relations. Somehow, I landed a job as an extra in a Star Trek movie. I got to eat lunch with the costumed Captain Kirk, Bones, Scotty, and the rest. Then I got cast in a Norwegian Cruise Lines commercial with Larry Csonka. For seven days, all around the Caribbean, I guarded the Miami Dolphins Superbowl running back in different sports on the ship. I had to hand off a "volleyball" to him, for countless takes, as if I were a quarterback doing a "dive left" running play. This commercial got me into the Screen Actors Guild. I still vote for the SAG Awards. I go to screenings and stay afterwards to participate in the Q & A's with the director and cast.

My first career also took me to the Seychelles Islands (where I shared a thatched hut with a giant tortoise); to the jungles of Venezuela and Columbia (where, for many takes, as part of a French chewing gum commercial, actors threw me from a giant raft into a river full of man-eating reptiles); to Milan, where, with yellow chalk, Gianni Versace would write on the long coats and jackets I wore, while his then-assistant and sister, Donatella Versace, would put the

garments on me. My work also allowed me to see Israel, Istanbul, the Canary Islands, the Arctic, Morocco, and Europe.

But my career path was about to change. I was finally going to settle down and do something more substantial – something that could actually benefit others. In 1998, I graduated from the University of Miami Law School, became a new husband and father, moved to Temecula, and passed the California bar exam.

One day, on the way to the Mission Inn, I walked into the RCBA building with my German wife and baby girl. At the RCBA, Charlene Nelson greeted us. (Before Charlene became the Executive Director of the Bar, she ran the PSLC.) She needed a volunteer in her family law clinic who spoke some Spanish. I knew little family law, but Charlene's ebullient and optimistic nature compelled me to volunteer. I volunteered for years with the PSLC.

Soon after, I also began to volunteer with CFLR (California Family Law Report). The family law guru, Steve Adams, taught these seminars, and the charming Marilyn Pallister ran them. For about eight years, I volunteered at all CFLR seminars – even the then-week-long Advanced Family Law Courses. The Advanced Course trains you to become a CFLS, so I finally decided to just take the CFLS exam.

And so I prepped for the exam during a two-week family vacation to Yellowstone and Jackson Hole. While my wife and three kids slept, I got up remarkably early every morning and listened to family law tapes.

Well, I passed the exam. I also fulfilled the other requirements to become a CFLS. In 2011, I became a CFLS. And it all began by helping others at the PSLC.

(Ironically, since becoming a CFLS, I have focused on criminal law.)

Requirements to Become a CFLS

To become a CFLS, there are five hurdles: The all-day exam (given biannually); the experience (family law tasks in and out of court); the educational activities; the judicial and peer reviews; and the application. For more information on how to become a CFLS, visit the California State Bar website and click on "Legal Specialists" (ls.calbar.ca.gov/LegalSpecialization.aspx).

Kirby F. Combs is a sole practitioner focusing on Criminal and Family Law in Riverside County.



2013 CASE LAW AND LEGISLATIVE DEVELOPMENTS IN CHILD SUPPORT

by Christopher Marin

A review of California case law in 2013 reveals a couple of cases that could have major impacts on how the family law court approaches child support orders.

Moore v. Bedard (Cal. App. Jan. 15, 2013) – Fourth District, Division Two

Of note to attorneys in Riverside County is a case brought by the Riverside County Department of Child Support Services (DCSS) that was ultimately ordered published.

In this case, the DCSS brought an appeal from the dismissal of an order for child support. The order was dismissed on the grounds that it was made pursuant to a restraining order sought in 2006 under the Domestic Violence Prevention Act (DVPA). At the time of the request, the parties stipulated to terminate the restraining order and issue an order for child support and other orders. A request to modify the orders was filed in 2011, and at that time, the judge set a hearing on dismissal of the case for lack of jurisdiction, under the belief that actions under the DVPA do not survive if the underlying restraining order is not granted. Ultimately, it ordered the dismissal.

The order was reversed on appeal, citing Family Code, section 6340, which provides, “If the court makes any order for custody, visitation or support, that order shall survive the termination of any protective order.” This ruling might be great for clarifying the duration of orders made under the DVPA, but I fear it has the potential to lead to abuse of the DVPA restraining order process if parties can get custody, visitation and support orders without going through the co-parenting and child-centered resolution process that is more typical of paternity and dissolution cases and without paying any court filing fees.

In re Marriage of Ficke (Cal.App. Jun. 12, 2013) – Fourth District, Division Three

In this case, a mother appealed from an order for child support wherein the guideline support calculation was based on an imputation of income and from an offset of spousal support payable by mother to father. Both the child support and spousal support orders were overturned on appeal, but this discussion is focusing on child support.

The court held it was an abuse of discretion for the judge to impute income to a custodial parent without a finding, supported by substantial evidence, that such an imputation was in the best interest of the children. The

court’s review of the case law on imputation of income to custodial parents indicated that there were only “a handful” of cases upholding such imputation, adding, “it is counterintuitive – often counterproductive – to impute income to a custodial parent, because the objective effect of such an imputation will be to reduce the money otherwise available for the support of any minor children.” Imputation will usually have the effect of reducing the custodial parent’s time available to spend with the children, but the court noted that the case law upholding imputation gives the counterintuitive reason that imputation will sometimes allow the noncustodial parent to spend more time with the children.

The Affordable Care Act, or “Obamacare”

Website snafus aside, we are now starting to see substantial implementation of the Affordable Care Act (ACA), which was designed to open up the insurance marketplace and make it easier and more affordable for individuals to obtain health insurance through “health care exchanges” (California’s exchange is located on the web at coveredca.com).

How does this affect child support? Under Family Code, section 3751, both parents under a support order are responsible for providing health insurance to their child if it is available at no cost or reasonable cost to the parent. “Reasonable cost” is defined as no more than five percent of gross income, but that limit applies to the difference between insurance for coverage for the family minus how much it would cost to cover just the individual parent. The impact of the ACA on child support litigation has yet to be seen, but now that there is an open marketplace available, the family law court may have more information it can use to hold parents accountable to the provisions of section 3751. And if parents are able to cover themselves to meet the ACA’s requirements, then they should certainly be able to meet their primary obligation of supporting (i.e., covering) their children.

Christopher Marin, a member of the RCBA Publications Committee, is a sole practitioner based in Riverside with a focus on family law. He is also a Member-at-Large on the RCBA Barristers 2013-14 Board of Directors. He can be reached at christopher@riversidecafamilylaw.com.



PROFILE OF A DRS MEDIATOR: JUDITH RUNYON

by Krista Goodman

Editor's Note: We at DRS want the members of the RCBA to know the mediators on our panel who dedicate their time and services help us run our programs for the benefit of the public of Riverside County. We hope you enjoy the opportunity to read more about this mediator's personal and professional history. We are truly grateful to have Judith Runyon and her expertise on our Board and on our panel.

Located in the heart of downtown Riverside – not five minutes away from the historic Riverside County Courthouse, the Riverside Hall of Justice, and the Riverside County Bar Association (RCBA) – is the Law Office of Judith Runyon. Owner and operator Judith Runyon has specialized in bankruptcy law in the Riverside, San Bernardino, Orange County, and Los Angeles areas for over 20 years.

Runyon, an accomplished professional with many eclectic interests, believes in working directly with her clients throughout the entire legal process. The most rewarding aspect of her work, she explains, is listening and helping her clients solve their problems.

Runyon has a long history of involvement with the RCBA. She began mediating for RCBA Dispute Resolution Service, Inc. (DRS) in 1998, and in 2002, she joined the executive boards of both DRS and the RCBA's Public Service Law Corporation. In 2007, she accepted the secretary position on the DRS Board of Directors, a role in which she continues to serve today.

In addition to her service at the RCBA, Runyon has donated her time to several other professional service activities throughout the course of her career. She has served in a variety of executive roles for the Southern California Association of Law Libraries (President in 1989, Vice-President in 1988, and Treasurer in 1987) and the Inland Empire Bankruptcy Forum (Executive Board member from 1995-2005, President in 2000, President Elect in 1999, and Secretary in 1997). She has been a member of the Leo A. Deegan Inn of Court since 2009.

Runyon has been on the panel of mediators for the Central District of the U.S. Bankruptcy Court since 1998, where she has earned recognition both for settling the most cases and for settling a case in the shortest amount of time.

More recently, Runyon joined the Riverside Rotary Club. She was also just accepted into the Mission Inn



Judith Runyon

Foundation's 30-week docent training program.

Included among her many interests are books, performance arts, and flight.

"I'm an avid book reader. I read a book a week. I love that. As an only child, reading was a comfort to me. I spent a lot of time in libraries. Then, being involved in the theatre, I had to learn to express myself," Runyon reflected.

Runyon grew up in Decatur, Illinois. Her father was a hardworking, successful owner of a drilling company, and her mother was dedicated to cultivating opportunities for her daughter to succeed.

As a child, Runyon started taking dance classes. Performance arts turned into a lifelong passion and profession long before she would become involved in law.

"My parents gave me opportunities, but I had to work through them. You can't become a dancer without hard work," she explained.

Runyon started college at the University of Illinois as a voice major with a minor in piano. During this period, she operated her own dance studio and sang for a 14-piece band. Later, she moved to Oklahoma City, where she performed with the Oklahoma City Ballet Company and taught for two dance studios.

Runyon moved to La Jolla, California in 1967, where she taught dance for the University of California, San Diego, performed in various productions, and worked on her undergraduate degree in anthropology with an emphasis on dance in different cultures.

While working on her undergraduate degree, Runyon had the opportunity to study in Paris. She and her family moved there for a year, where she immersed herself in the culture and the language and studied mime with Étienne Decroux, who was Marcel Marceau's instructor.

"Living in Paris was a heady time, rich in opportunities to see and travel throughout Western Europe," she writes. "During the summer, we traveled throughout France, Italy, Austria, Germany, Belgium, and England in our VW Camper and made many lifelong friends along the way."

Runyon completed her undergraduate degree after she and her family returned to California.

She then decided to pursue a law degree during a time of heightened political unrest and the women's liberation movement.

"No one in my family had ever practiced law. No one in my family ever did anything that I did, but I've always been a bit of a risk taker," Runyon said. "I do things I don't know how to do so that I can learn how to do them! You don't do things that you already know how to do. There's no growth or inspiration there."

After she started law school, Runyon began working as a campus librarian at the newly renamed Thomas Jefferson School of Law in San Diego, where she completed her Juris Doctor degree. Later, she worked as the university librarian at Western State University College of Law in Fullerton. This spearheaded what would become an 18-year career as a law librarian.

Runyon completed her Master's Degree in Library and Information Science in 1984 at the University of Southern California. Shortly thereafter, she began working at Litton Industries. Her main responsibility as a corporate and law librarian was to set up law libraries and online research capabilities for the attorneys at the organization's different divisions located worldwide.

"While working for Litton, I discovered their Woodland Hills Division had a ground school for private pilots. So I decided that it would be really neat to learn how to fly! I completed ground school, passed the test, and began taking flying lessons at Van Nuys Airport," Runyon writes.

Runyon learned how to fly the Cessna 152, Cessna 172, Grumman TR-2, and the Citabria. She was an active member of the San Fernando Valley Chapter of the International Women's Pilot Association, also known as the 99's.

Runyon became an attorney after passing the California Bar Exam in 1991. She opened her own law office in 1994.

Considering her many personal and professional accomplishments, Runyon has adopted an attitude that is remarkably humble, jokingly referring to herself as 200 years old.

"We need to be humble. When we look at everything we've accomplished, it helps us appreciate more what we've done. I think we all need to appreciate ourselves and where we have been," she said.

For more information on Runyon's practice, visit judithrunyonlawoffice.com. For more information on DRS and its services, visit rcbadrs.org or phone (951) 682-2132.

Krista Goodman is the public relations coordinator for RCBA Dispute Resolution Service, Inc. and a current graduate student at the University of Southern California. She expects to complete her Master's degree in Strategic Public Relations in June 2014.



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GOODBYE TO A WONDERFUL MAN –

JUSTICE JOHN G. GABBERT

by Judge Charles D. Field

Writing about a much-honored icon whom virtually everyone in the audience knows is tough. When Justice John G. Gabbert passed away on December 9, 2013, at age 104, it saddened everyone who knew him, which in itself is quite a feat. Everyone who had contact with John claimed him as a respected and beloved friend, as I do.

I started work as a law clerk at Best Best & Krieger, while waiting for bar results, on a Monday in 1963. (That Friday, President Kennedy was shot.) Enos Reid was a partner there at the time; he was trying a condemnation case in Department 2 in front of then-Judge Gabbert and asked me if I'd go to court with him. He introduced me to the very courteous judge, who warmly welcomed me, and I sat at the counsel table for the first time in my life. At one point, Enos leaned over to me and asked, "How would it be if I could get the witness to say" such and such. I said I thought it would be fantastic. Enos stood up and asked to take the witness on voir dire, and the judge replied "Certainly, Mr. Reid." Enos asked a few short questions; the answer to the last was exactly what Enos had predicted, and he sat down. I thought, "I'm never going to make it in this business – everyone is too smart for me." The judge took us in chambers and later told me this happened all the time with good lawyers like Enos.

John was very collegial with the other judges, though he confided to me once that Tom Bucciarelli was so difficult that at one point, they didn't even speak for several years. John was the Supervising Judge for quite a while and got along with everyone but Tom. There were several other wonderful superior court judges in Riverside in that era, including Leo Deegan, John Neblett, Russ Waite, and Fran Estudillo, and some in Indio. I think most attorneys felt we had a good bench, though Tom was controversial.

Prior to his service on the bench, John Gabbert had been immersed in the community; he had been a member of the original Citizens' University Committee, organized to attract a branch of the University of California to Riverside. Its success was the legislation authorizing the



Justice John G. Gabbert

creation of UCR. During that time, John had come into frequent contact with the governor, Earl Warren, and shortly after the committee finished its work, the governor called John at home. I recall John saying it was on a Saturday, and the governor asked John if he'd like to become a judge. John, who hadn't applied for a judgeship, asked for some time to think – then returned the call and said yes. He was appointed in 1948. He was the only superior court judge I know of who didn't even apply for the job.

John had many special traits. His memory was the best I've ever known. He recalled the details of conversations for many years and recalled the details of testimony at trials held more than 50 years before. His balanced views of issues were wise, compassionate, but not sappy, and often extremely detailed. He was interested in damn near everything. He was the true author of a fascinating book called the "Odyssey of an Entomologist," by Alfred M. Boyce. On the frontispiece of the book, it states, "Based on Taped Conversations with John G. Gabbert." You don't see that on many books. John was a great friend of Al, who was the long-time Director of the Citrus Experiment Station at Riverside, which ultimately became UCR (and whom I got to know a little as a student library assistant at UCR, where Al would come every day to check new materials). John could get him talking and bring him to life as he told John wondrous tales of his background, from growing up on a farm to a pretty rough life at sea to a turnaround into an academic life of real substance and significance.

John was a perfect role model for attorneys, judges, and community members, and I, like so many others, loved him.

Charles D. Field is a retired judge of the Riverside County Superior Court.



FOSTER KIDS GET HELP MOVING INTO ADULTHOOD

by Pam Lee

Olive Crest is one of only a handful of foster agencies providing extended services to foster children who would otherwise be turned loose by the state. Under a law designed to continue helping young adults who have “aged out” of the system, Olive Crest is providing housing, food, and essentials while providing case management to these kids as they transition into adulthood.

A.B. 12 is California’s version of a federal act that seeks to ensure that 18 to 21-year-old foster children receive assistance they may still need, such as financial and mental health support. The law became effective in California in 2012, but due to extensive licensing procedures, Olive Crest, a 40-year-old foster agency serving the Inland Empire since 1979, was unable to secure the license until the spring of 2013. It was one of the first agencies to receive that license in Southern California.

During the first phase of the program, Olive Crest is providing services in its Coachella Valley Children’s Center. As the young adults demonstrate their ability to handle more autonomy, they will have the opportunity to enter the second phase of the program, which will place them in various apartments throughout the county.

This program is critical for kids such as Tara (not her real name), an 18-year-old currently in the program. She was in the foster system since she was three years old, when her mom could no longer care for her. Tara was released from her foster home once she turned 18. She had no place to live, hadn’t finished high school, and had no job experience.



Tara, a former foster youth on her way to independence

“I’m so thankful that Olive Crest stepped in and offered me a place to live and support. I started working with a mentor on my GED while I enrolled at the local community college. I even got my first job at McDonald’s, thanks to the help of one of the Olive Crest Angels! I really love how they helped me think through what I can do now that I am an adult. I am saving a lot from my paychecks each week so I can have enough money to live on my own next year,” said Tara.

Before Olive Crest had access to federal funds through A.B. 12, it provided only short-term assistance to its own graduates, because it lacked funding to extend services past the age of 18. Now, it can take former foster youths from any foster agency, in addition to its own graduates, and provide a bridge to self-sufficiency.

The A.B. 12 funding will provide just under \$3,000 per month per young adult. The program requires the former foster youths to work or go to school at least part-time,

develop a plan for the future, and remain under the supervision of the court.

There are approximately 4,000 youths in the county’s foster care system, either with families or in agency-managed group care facilities. Nearly 40 percent of foster kids become homeless. Only 3 percent earn college degrees. By age 24, just 50 percent have jobs. A.B. 12 goes a long way toward solving these problems, while giving former foster youths a chance to become productive members of their community.

Pam Lee is the Executive Director for Olive Crest Inland Empire.



FAMILY COURT TRIAGE

by Judge Jackson Lucky

"That a procedure is efficient and moves cases through the system is admirable, but even more important is for the courts to provide fair and accessible justice." (*Elkins v. Superior Court* (2007) 41 Cal.4th 1337, 1366.) That is how, in a case that became (in)famous in family law circles, the California Supreme Court summarized the conundrum facing family court bench officers. Over six years later, family courts still struggle to balance efficiency and accessible justice.

In the spring of 2014, the Family Law Division of the Riverside Superior Court will implement a possible solution to that struggle: family court triage. Although triage is aimed at self-represented litigants, it will affect lawyers. In this article, I'll discuss the new procedures, their goals, and their anticipated benefits and challenges.

First, a little background on the problem. In April 2010, the Elkins Task Force, commissioned by the Supreme Court, released its *Final Report and Recommendations*. The report suggested several improvements for helping self-represented litigants: that the court allow live testimony in most hearings, that the court educate and guide self-represented litigants, and that the court provide more services to them. Perhaps the modern view of the family court's responsibilities is best summarized in this domestic violence opinion:

"We know the litigants . . . are unrepresented . . . in the vast majority of cases . . . We also know this fact influences how these hearings should be conducted – with the judge necessarily expected to play a far more active role in developing the facts, before then making the decision whether or not to issue the requested . . . order. In such a hearing, the judge cannot rely on the pro per litigants to know each of the procedural steps, to raise objections, to ask all the relevant questions of witnesses, and to otherwise protect their due process rights." (*Ross v. Figueroa* (2006) 139 Cal.App.4th 856, 861.)

On top of appellate cases and task force recommendations, statute and rule changes have demanded more from family courts. Standard of Judicial Administration 5.30 requires the court to take an active role in developing programs for self-represented litigants. Rule of Court 5.83 requires the court to review a family law case every 180 days to ensure that the case is progressing

timely: 20% finished within 6 months, 75% within 12 months, and 90% within 18 months of filing.

Family Code section 215 requires the court to accept relevant live testimony at every hearing unless it finds in writing or on the record good cause to refuse such testimony. With an average 20-plus law-and-motion matters each morning, after subtracting 10 minutes for calendar call and 15 minutes for morning recess, that leaves 10 minutes per case, even in an ideal world.

And family law is not an ideal world. About 85% of Riverside family law litigants are self-represented. This means that out of the five minutes that each side has to present its testimony, the court is forced in many cases to consume that time explaining the law. Service, notice, jurisdiction, admissibility of evidence, and substantive law are frequent areas where self-represented litigants need help.

Meanwhile, lawyers wait patiently, or sometimes less patiently, for the court's precious time. There has to be a better way. In Riverside family law, we are hoping triage is that better way.

Triage strives to prioritize court resources based on a case's condition. By combining staff, judges, the Department of Child Support Services (DCSS), and volunteers, we hope to harmonize the goals of efficiency and accessible justice. Separate referrals to self-help, the DCSS, and other services frequently require parties to make multiple visits to other agencies as well as to court. With triage, the court will provide these services simultaneously and immediately before the hearing.

Triage Stage One assesses service of process. If service is deficient, the litigant will receive a short, focused workshop, a quick continuance, and reissuance of the request. By intercepting these litigants before they reach the courtroom, the court can release them without unnecessary delay while freeing hearing departments.

Triage Stage Two assesses one-sided cases and failures to appear after service is complete. If the moving papers provide sufficient evidence to justify the relief requested, the triage judge can sign the proposed order. If the moving party has failed to appear, the hearing can be taken off calendar.

Triage Stage Three assesses uncontested cases. If the parties have an agreement or think they can reach one,

the court will provide staff or volunteers to write the agreement, and the triage judge will sign.

Triage Stage Four assesses contested cases. Have the parties met, conferred, and exchanged all documents as required by Rule of Court 5.98? Have they filed and served all necessary documents? Have they exchanged witness lists as required by Family Code section 217? Is the DCSS involved? Just as importantly, do they understand the process of a contested hearing? The triage judge will provide a short presentation stressing the benefits of settlement and giving basic instruction about jurisdiction, due process, civil procedure, evidence, and substantive law.

What is the impact of this program on lawyers? I see benefits and a challenge. One benefit is that represented cases may go straight to hearing without waiting for triage. The challenge will come when the opposing party is unrepresented. The lawyer in such a case must wait for the unrepresented party to finish triage. But when that self-represented litigant reaches the courtroom, the litigant will have received services and instruction and will be better prepared to meet, confer, exchange documents, and, to some extent, litigate.

We know this model works in other contexts. The Voluntary Settlement Conference Program has taken a similar approach to settling self-represented family law cases that are at issue. By combining workshops, staff, volunteers, the DCSS, and judges, the VSC settles more than 70% of its cases in one day and over 80% overall. We are hoping that by bringing a similar approach to our law-and-motion calendar, we will see similar gains in efficiency and accessible justice.

The Hon. Jackson Lucky is Supervising Judge of Family Law for the Riverside Superior Court, Judicial Mentor for the Asian Pacific American Lawyers of the Inland Empire, and President of the Leo A. Deegan Inn of Court.



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FAMILY LAW FACILITATOR

by Diana Renteria

In January 2013, I closed my family law practice and accepted an opportunity to work with the Riverside Superior Court as its newest Family Law Facilitator. Going from private practice to being an employee in a complex and ever-changing court system has created quite the learning curve. I can honestly say that, within the short time I have been with the court, I have a better understanding of court administration and operations and their importance. In general, my view of the court system as a solo practitioner was short-sighted.

Court administration and operations are not stagnant, "let's do just more of the same" processes. The court is always looking and striving for improvement and excellence in providing the best in public service, while at the same time creatively working within ever-increasing budgetary restrictions. To cope with the growing number of self-represented litigants, the California court system continues to create innovative ways to promote greater public access and accountability.

Two of the many ways the court provides superior public service are through its website and through the availability of Family Law Facilitators in the Self-Help Department.

The Superior Court for the County of Riverside won a prestigious award for the ease of use of its website. On July 17, 2013, riverside.courts.ca.gov was named one of this year's Top Ten Court Websites by the Forum on the Advancement of Court Technology (FACT). This forum is comprised of individuals from private companies and various court representatives. This award was presented during a conference held by the National Association of Court Management (NACM) in San Antonio, Texas.

What makes the Riverside Superior Court website so unique? Individuals can easily access a variety of forms and fill them in, whether for family law, civil, small claims, expungement, guardianship, domestic violence, or other areas. Some of these forms automatically self-populate the typed information, so there is no need to remember whether you filled in all the right spots. The forms are available free to everyone. Individuals can also obtain other useful information on direct fax filing, court transcripts, paying a traffic ticket online, and obtaining a continuance, and they can get a direct phone number to a specific courtroom. But this only scratches the surface of all of the information and services one may obtain by accessing the court's website.

The Office of the Family Law Facilitator operates pursuant to Family Code sections 10000 through 10015. Those desiring a one-on-one appointment or requesting to attend a free workshop or clinic must complete Form FL-940. This form advises that the Family Law Facilitator is available to help parents and other parties who have questions about family law issues, including child support, spousal support, health insurance, and the availability of community resources to help families. It further advises that the Family Law Facilitator can help "you" in preparing "your own" forms and can give you general information. "The Family Law Facilitator cannot go with you to court. The Family Law Facilitator is NOT YOUR LAWYER, but is a neutral person who does not represent any parent or

party. There is no attorney-client relationship between you and the Family Law Facilitator. The Family Law Facilitator may provide information and services to the other party in your case. Communications between you and the Family Law Facilitator are not confidential. You should consult with your own attorney if you want personalized advice or strategy, to have a confidential conversation, or to be represented by an attorney in court. The Family Law Facilitator is not responsible for the outcome of your case."

Free workshops and clinics are provided by the Family Law Facilitators and the staff of the Self-Help Center. The classes cover such topics as how to file a petition or a response in a dissolution, legal separation, or nullity proceeding, how to file a petition or response to establish parentage, how to request an order for child support, spousal support, custody, visitation, or contempt, how to file a default judgment with or without the signature of the respondent, how to prepare for a mandatory settlement conference or trial date, and how to prepare a final judgment agreement. The days and times of these workshops can be found at the court's website, riverside.courts.ca.gov. Click on the "Self-Help" tab, then click on the "Family Law" tab. On the resulting screen, you can find our form packets and the workshop and clinic information.

How is this information useful for a practicing private attorney? If by chance the opposing party is representing him or herself, you might want to consider directing the self-represented litigant to the nearest Self-Help Center. A Family Law Facilitator can explain the use and content of the website, court policies, courtroom procedure, forms, and legal code sections. Once a self-represented litigant has some of the basics about litigation and the process, he or she can move forward toward concluding the legal matter. When I was in private practice, my primary goal was to extricate my client from the system by buttoning up the ultimate conclusion of a family matter – the final judgment. Finally, my clients, so many of whom had put their lives on hold during the pendency of the litigation, were satisfied and could move on with their lives. Family Law Facilitators have exactly the same goal – after we help self-represented litigants open a case, we are here to make sure they can navigate the system so as to close their case with a final judgment.

Self-Help Centers can be found at the following locations: Riverside, at 3535 10th Street, Riverside, CA 92501; Hemet, at 880 N. State Street, Hemet, CA 92543; Murrieta, at 10755-D Auld Road, Murrieta, CA 92563; and Indio, at 46-200 Oasis Street, Room 122, Indio, CA 92201.

Diana Renteria is the Family Law Facilitator for the mid-county courts in the County of Riverside. She is at the Hemet Branch on Monday, Tuesday and Friday. On Wednesday and Thursday, she can be found at the Southwest Justice Center. Please check the website at riverside.courts.ca.gov under the "Self-Help" tab and the "Family Law" tab for a calendar of the latest clinics and workshops at all court locations.



FAMILY SIZE MATTERS – AT LEAST IN BANKRUPTCY

by Everett L. Green

Size matters, at least when analyzing household expenses in bankruptcy cases. In Chapter 7, a debtor can eliminate most debt¹ if he or she can establish an inability to repay creditors. Establishing an inability to repay creditors requires the completion of a complex mathematical formula – commonly referred to as the means test² – that requires a debtor to calculate his or her monthly net income based on deductions and expenses set forth in the Bankruptcy Code. The amount of household-related expenses increases based on a debtor's household size. A debtor with a household of four, for example, may automatically claim \$4,402 in monthly expenses under the means test. A single unmarried debtor may claim only \$2,581:

Means Test for a Household Size of One:

Monthly Household Expenses	Amount Allowed
Mortgage/Rent	\$1,556
Other Housing & Utilities	\$442
Food & Clothing	\$583
Total:	\$2,581

Means Test for a Household Size of Four:

Monthly Household Expense	Amount Allowed
Mortgage/Rent	\$2,148
Other Housing & Utilities ³	\$609
Food & Clothing	\$1,465
Total:	\$4,402

- 1 All non-priority, unsecured debt may be discharged, including credit card debt.
- 2 The means test is set forth in 11 U.S.C. § 707. It was created as part of the Bankruptcy Abuse Prevention and Consumer Protection Act to correct perceived abuses of the bankruptcy system and to “ensure that debtors who can pay creditors do pay them.” (*Ransom v. FIA Card Services, N.A. (In re Ransom)* (2011) ____ U.S. ___, ___ [131 S. Ct. 716, 721].) Congress designed the means test to measure debtors’ disposable income and “to ensure that [they] repay creditors the maximum they can afford.” (*Ibid.*)
- 3 Housing and utilities standards are derived from census data and are provided down to the county level. The numbers above apply to families living in the County of Riverside. The standard for a particular county and family size includes both housing and utilities allowed for a taxpayer’s primary place of residence. In addition to mortgage or rent, housing and utilities standards include property taxes, interest, insurance, maintenance, repairs, gas, electricity, water, heating oil, garbage collection, telephone, cell phone, internet, and cable. The tables include five categories for one, two, three, four, and five or more persons in a household.

The means test automatically gives these household expenses to all debtors, without regard to a debtor’s actual monthly expenses or income level.⁴

The means test also uses another metric based on household size – median family income. Congress decided that debtors who make less than the median family income are unlikely to make enough money to repay creditors and thus allowed them to discharge debt without completing the means test. In California, the median family income for a family of four is \$75,111. The median family income for one person is \$47,798.⁵ Debtors in households earning less than the median family income often have an easier time completing the bankruptcy process and eliminating their debt, so household size is an important factor in whether debtors can discharge their debt.

The means test’s standardized formula functions reasonably well when applied to a single debtor or a nuclear family. However, seemingly intractable problems arise when a household is in flux or departs from the nuclear family.⁶ The rise of divorce, remarriage, joint custody, and blended families – shifting financial obligations – has disrupted the means test’s mechanical formula. The means test measures a debtor’s ability to repay creditors, not a debtor’s evolving family arrangements. In fact, the Bankruptcy Code does not define the terms “household” and “family.” As a result, bankruptcy courts have devised various tests in the absence of binding precedent.

One bankruptcy court faced the following situation: A married debtor with an ex-husband filed bankruptcy. The debtor and her ex-husband shared joint custody of their two sons.⁷ They shared expenses for clothing, school supplies, medical expenses, and incidentals. By

4 11 U.S.C. § 707(b)(2)(A).

5 These numbers apply to Chapter 7 bankruptcy cases filed on or after November 15, 2013 and are provided by the U.S. Census Bureau; they are available at justice.gov/ust/eo/bapcpa/20131115/bci_data/median_income_table.htm (last visited, December 16, 2013).

6 In 2012, the U.S. Census Bureau concluded that there is no single kind of American family or predominant living arrangement in the United States. (Vespa & Lewis, *America’s Families and Living Arrangements: 2012*, United States Census Bureau (August 2013).)

7 These facts are derived from the case of *Johnson v. Zimmer* (4th Cir. 2012) 686 F.3d 224.

an informal agreement, the children lived with the debtor 204 days each year. The debtor also took care of three step-children from her husband's previous marriage. The step-children resided with the debtor approximately 180 days each year.

When she filed bankruptcy,⁸ the debtor claimed a household of seven, i.e., herself, her husband, her two children and her three step-children. The debtor's ex-husband, who was a creditor in the bankruptcy case, objected. He insisted that the debtor did not actually have seven members of her household because none of the children lived with the debtor full-time.

The bankruptcy court adopted an analysis referred to as the "economic unit" approach. Under that approach, a debtor's household includes all individuals whose income and expenses are interdependent with the debtor, based on the number of days per year those individuals reside with the debtor. Applying the economic unit approach, the bankruptcy court divided the number of days the debtor's sons lived with her – 204 – by the days of the year – 365 – and determined that each of the debtor's two sons constituted .56 members of her household. Applying the same calculation, it held that each of the debtor's step-children formed .49 members of her household. It concluded that the debtor's household consisted of 2.59 children, which it rounded up to three. Thus, it held that the debtor, her husband, and her three children formed a family of five persons. The bankruptcy court's ruling meant that the debtor could claim household expenses attributable only to a household of five, not seven.

While this bankruptcy court treated the debtor's children and step-children as fractional units, other ways of analyzing a debtor's blended family exist. Some courts use an approach that counts anyone living at a debtor's home at the time when he or she files for bankruptcy as part of the

debtor's household. (See, e.g., *In re Ellringer* (Bankr. D. Minn. 2007) 370 B.R. 905, 910-911.) Using that approach, commonly referred to as "heads on beds," a bankruptcy court would agree with the debtor in the previous example that her household size is seven. A third approach defines a debtor's household size based on any dependents claimed on the debtor's tax return. (See, e.g., *In re Kops* (Bankr. D. Idaho Feb. 9, 2012) 2012 WL 438623 at pp. *3-4, 2012 Bankr. LEXIS 775 at pp. *13-14 [citing cases].)

Each approach has advantages and disadvantages. And each approach enjoys varying levels of support among bankruptcy courts across the country. Practitioners should familiarize themselves with each approach.

Everett L. Green is a trial attorney for the United States Department of Justice and represents the United States Trustee for Region 16. The United States Trustee Program is responsible for protecting the integrity of the bankruptcy system. The views expressed in this article do not necessarily represent the views of the United States Department of Justice, the United States Trustee, or the United States Trustee Program.



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Period: 2/1/12 -1/31/15
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GROUP 3 (N-Z)

Period: 2/1/11-1/31/14
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⁸ In *Johnson*, the debtor actually filed a Chapter 13 case. Chapter 13 uses a similar means test, so the difference in chapters is not relevant here.

NOTARIOS Y PARALEGALES, SAY WHAT?

MISCONCEPTIONS IN FAMILY LAW HURTING OUR CLIENTS

by Heber J. Moran

A wave of newcomers is the story of America, and history has shown that our diversity provides vitality, creativity, and opportunities. However, challenges also arrive.

For example, our state has seen – and will continue to see – growth fueled by a burgeoning Latino community. However, many in the Latino immigrant community face misconceptions regarding the roles of different professionals in the legal field. Many newcomers in the Latino community get lost in translation when attempting to decipher the various roles of legal professionals, from law clerk to legal document assistant, to notary public, to paralegals, particularly when they assume that similar-sounding terms, such as notary public and *notario* or paralegal and *paralegal*, have similar meanings. Sadly, some dishonest individuals have taken advantage of this community because they know that, in areas such as family law, where emotions are running high and desperation is at a fever pitch, there is a gold mine to be made from these misconceptions.

Thus, we are responsible, as a bar and as fellow neighbors, for ensuring that our clients understand the limitations placed on *paralegals* and *notarios* in order to ensure the integrity of our legal system and access to competent and effective legal assistance.

Why the Confusion?

Challenges in translation from Spanish to English can lead to confusion and frustration. For example, *notarios* in Latin America hold the highest degrees in the legal field, which makes their training more akin to that of a California attorney than a notary public. In California, becoming a notary public, which is incorrectly assumed to be the same thing as a *notario*, requires only a short course, an exam, a background check, and an oath. Thus, a newcomer from Latin America with little understanding of the legal system in the United States searches for a notario in California, assuming this professional can perform the functions of a lawyer. A notary public in California is specifically prohibited from claiming to be *notario*, and will have his or her license suspended or revoked for doing so. Despite this, some notaries public have targeted the Latino community by

presenting themselves as capable of performing full legal representation.

Nowhere is this clearer than outside our family law courts. Immediately after emotional hearings, we sometimes see pamphlet distributors approaching individuals and promoting paralegal services in both Spanish and English. These potential clients are peppered with questions about their intimate affairs and promised cheap and easy legal solutions. Many desperately turn to these services as a way to get legal assistance because they are facing the prospect of losing precious time with their children or financial support after a divorce. However, the use of these services leads many times to ineffective and incompetent legal assistance, the waste of precious financial resources, frustration to the bench, and further erosion of the layperson's trust in the integrity of the legal system.

Potential Issues

An immediate consequence of incompetent legal counsel is the waste of time and money. Paralegal and *notario* services do not run cheap, but many times are an inviting alternative to the hourly rate of the attorney. Paralegal services offer flat fees, payment plans, and lower rates for document preparation, filing, and service. Furthermore, many of the pamphlet distributors perform one-on-one legal "consultations" right outside the courthouse.

However, without proper legal training and supervision, many non-attorneys prepare Judicial Council forms incorrectly or incompletely or choose inappropriate ones for the client's needs and desires. Not only can this be damaging to the client's case, but it is a growing frustration for the bench, which is left to sort out the mess. These services sometimes "advise" their clients with outdated and incorrect law because they do not have the training required of an attorney, nor the MCLE requirements that would keep them fresh on the law, nor the fear of disciplinary action, because they are not under the supervision of the State Bar. Frustrated and angry, clients are then still forced to reach out to attorneys, arriving at our offices after the waste of time, money, and precious deadlines. Attorneys, in turn, become frustrated at having to submit amended petitions and fix critical

mistakes, and they are often faced with limitations on their ability to fully help the client because of the past errors of the paralegal services.

The vast majority of paralegals, legal assistants, and notaries public are an integral and essential part of the legal office family, and their experience and expertise are invaluable. Those who are unqualified and untrained tarnish the reputation of ethical and hard-working paralegals, who are committed and effective legal professionals.

What Can the Bar Do About It?

As a bar, we can take three key steps to remedy this common problem in family law. We can commit to promote, celebrate, and properly fund public interest offices and attorneys who can provide competent legal advice and assistance to those who are priced out of the private, for-profit legal market. We can support legislation and the State Bar's programs for protecting consumers from fraudulent legal assistance. Finally, we can continue to be great neighbors and friends by clearing up any misconceptions about the roles and limitations of different legal professionals, with an emphasis on outreach to the Latino community whenever there is an opportunity. The legitimacy and strength of our legal system depend not only on competency, but also on practitioners who are dynamic, responsive to their clients' needs, and committed to cultural understanding and the protection of a new generation of Californians.

Heber J. Moran is a founding partner of the law firm of Moran and Moran, LLP in Upland. He is a member of the Barristers subcommittee of the Los Angeles County Bar Association and an active member of the Los Angeles Gay and Lesbian Bar Association. His practice areas include dissolutions, child custody and visitation, child support, spousal support, and premarital agreements.



Riverside County Bar Association General Membership Meeting

Friday, January 24, 2014

12:00 p.m. to 1:15 p.m.

RCBA Building, John Gabbert Gallery

"The State of the Court"
Presiding Judge Mark Cope
Riverside Superior Court

RSVP by Jan. 21 to:

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Cost:

RCBA Members \$20, Non-members \$30

Lunch Provided.

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The website includes bar events calendar, legal research, office tools, and law links.

You can register for events, make payments and donations, and much more.



OPPOSING COUNSEL: MORAN AND MORAN, LLP

by *Melissa Cushman*

The IE's Brother-and-Sister Legal Team: Moran and Moran, LLP

Siblings Heber Moran and Cindy Moran-Aguirre together make up Moran and Moran, LLP, which appears to be the only brother-and-sister law firm in the Inland Empire. Together, they have built from scratch and now run their Upland family practice, which helps clients navigate the often messy process of divorce, child custody, paternity, and similar matters.

Cindy and Heber's parents, Julian and Alba Lilian Moran, met and married in the United States after separately emigrating from El Salvador. Believers in the American dream, their parents worked hard – Julian was a gardener and Alba Lilian a nanny and housekeeper – and made many sacrifices to give their three children (including older sister Alba Lisset Moran, now a social worker in Los Angeles) the opportunity to pursue higher education and white-collar careers. They encouraged and supported their children in achieving their dreams and raised them to appreciate their opportunities, be hard workers, and speak fluently in both Spanish and English. From a young age, Cindy and Heber were compatible and very close, and they remain devoted to their parents and sister, who are their biggest supporters.

Heber dreamed of being an attorney from the time he first learned as a child that the occupation existed, with Thurgood Marshall as a particular inspiration for the type of idealistic lawyer he would like to emulate. He has consistently worked hard to pursue that dream, attending Stanford University as an undergrad. After adjusting to the culture shock of attending school far from his home in Pomona, Heber chose a law school closer to his family and attended Loyola Law School in Los Angeles.

Cindy first dreamed of becoming a doctor, but while attending the University of California, Riverside, she shifted her focus to social work and became interested in family law. As soon as Heber discovered his sister's interests now coincided with his, they immediately began planning to open a law firm together. Cindy completed a master's degree in social work at California State University, Los Angeles, then attended La Verne College of Law in Ontario, which offered her financial assistance and enabled her to live at home. She graduated with her J.D. and passed the bar in 2010. She worked at the Inland Empire Latino Lawyers' Association for two years while waiting for Heber to finish law school so together they could realize their dream of opening their own law firm.

Once Heber graduated and passed the bar in 2012, he and Cindy began the process of opening their own law firm, which culminated in the creation of Moran and Moran, LLP. From the time Cindy first realized she was interested in law,



Cindy Moran-Aguirre and Heber Moran

she knew her passion was for family law, and that is now the specialty of their firm. Both Cindy and Heber are happy with their selected specialty and enjoy practicing in that field. While family law can be very emotional, both appreciate that this aspect keeps things interesting and dynamic, and they value the fact that, at its base, family law is about *people*. They appreciate that every divorce is different and that there is always a family and individuals whom they have gotten to know behind the legal arguments they craft. Even an argument about who gets the dishes in a divorce, they know, is important because the dishes are so meaningful to the individuals in the situation.

The siblings have poured their blood, sweat, and tears into the creation of their firm and are working hard to make business grow a little more each month. Their familiarity with and care for each other has allowed them to be accommodating with each other, with their clients, and with their business. For instance, Cindy has the flexibility to be home when needed to take care of her one-year-old daughter. Being bilingual and having an intimate understanding of multiple cultures allows the siblings to be even more accommodating with their clients. When clients have little ability to speak English, Cindy and Heber are able to make them comfortable and help get them through the process by explaining the complicated legal terms and issues. Understanding that some of their clients may not have money for child care while they are consulting with their lawyer, Cindy has stocked the office with a few coloring books and toys to make sure that any children who come along can be entertained while Cindy and Heber tend to their parent.

Both siblings see a bright future for their firm. They particularly appreciate practicing in the Inland Empire, where the Riverside and especially the Rancho Cucamonga courts maintain a friendly, collegial atmosphere that differentiates the Inland Empire from some larger urban areas. Cindy looks forward to continuing to provide family law services for years to come, while Heber hopes in the long term to offer their clients expertise in complementary areas of law, such as pre-marital agreements or estate planning. They are active in the Riverside and San Bernardino County Bar Associations and the IE community, and Heber is also a member of the Barristers subcommittee of the Los Angeles County Bar Association and an active member of the Los Angeles Gay and Lesbian Bar Association.

Melissa Cushman is an associate in the Environmental and Natural Resources practice group at Best Best & Krieger LLP in the Riverside Office. She is also a mentor in the RCBA Mentoring Program, and Heber Moran is her mentee.





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Elimination of Bias – 1 hour

Presented by the Honorable Jackson Lucky, Judge of the Riverside Superior Court

Substance Abuse / Mental Illness – 1 hour

Presented by Richard P. Carlton, MPH

Acting Director for Lawyer Assistance Program, The State Bar of California

Friday, January 17, 2014 ~ 9:30 a.m. to 2:30 p.m.

(check-in/registration 9:30 a.m., program starts promptly at 10 a.m.)

Riverside County Bar Association Building

John Gabbert Gallery (3rd Floor)

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<http://www.riversidecountybar.com> (Calendar of Events)

or to RCBA office (951) 682-1015 or rcba@riversidecountybar.com

BANNING: A BEST-KEPT SECRET IS GROWING

by Robert L. Rancourt, Jr.

Nestled between the San Jacinto and San Bernardino Mountains (containing the two highest peaks in all Southern California) in an area known as the San Gorgonio Pass is a part of Riverside County that connects the eastern portion of the Inland Empire to the Coachella Valley desert. The town of Banning, named after Phineas Banning, a 19th-century entrepreneur and state senator whose stagecoach business operated in the town, is home to the area's courthouse.

According to the California Department of Finance, Riverside County is the fourth fastest growing county in the state. The San Gorgonio Pass area is no exception to the Southern California trend of growing from west to east, offering the next "hot" area available for residential, industrial, and business development. Between 1990 and 2012, Banning almost doubled in population. In 2007, the housing boom saw Beaumont's population eclipse Banning's; in the same 22-year time period, Beaumont quadrupled!

Against this backdrop, the Banning Courthouse has been a hardworking little courthouse for more than 30 years. It has two courtrooms, plus a smaller hearing room in the basement (those of us who have tried cases in this basement "courtroom" take issue with calling it such). Currently, there are two judges. It is quaint.

Quaint, though, is a relative term. In some circles of our legal community, you may have heard of the idea of a colleague having been "banished to Banning." For example, a prosecutor or public defender gets assigned or rotated to work exclusively in the Banning Courthouse, and, upon hearing of the assignment, the individual is frequently asked by other legal insiders, "Oh, so you got 'banished to Banning'?"

Apparently, the phrase is meant to insinuate that the person who got "banished to Banning" did something wrong, is not well liked, or somehow fell into the disfavor of his or her employer. Thus, the person so afflicted is believed to have been reduced to working in a remote, disadvantaged community with few resources and limited upward career mobility.

The thing is, it seems to be those who have never been "banished to Banning" who cause this unfortunate misnomer to persist. The men and women who have "suffered" an assignment or rotation in the Banning Courthouse



Robert L. Rancourt, Jr.

usually not only come back having survived it, but tend to tell war stories of downright fun, congeniality, and success. Some people actually want to work here.

The bedrocks of the courthouse greatly inform these stories. These are the individuals who keep the wheels of justice rolling day after day, month after month, and year after year. They are court staffers who have been working at the Banning Courthouse seemingly forever. These individuals give you the kind of service, accommodation, and attention to which one is not accustomed in other, larger courthouses. They see the attorneys

come and go, come back and visit, or return for another rotation. They marvel at how their visitors change over time, mature, and prosper, and they take pride in having fostered this process.

Consistent with the advantages of a small town, there is the notion, too, that Lady Justice seems to be more flexible, easygoing, and individualized in Banning. Per State Bar of California membership records, there are 21 lawyers who identify Banning as their principal office address. There are two active courtrooms. The population is only 10% of that of Riverside. Traffic is not a problem.

Since there are fewer judges, lawyers, and litigants than in most other county hubs of justice, the courthouse regulars know one another better. It's easier to build good working relationships, which benefits everyone and makes the workplace comfortable and welcoming rather than stressful or acrimonious. How frequently do you lunch with your adversary, judge, court clerk, or court reporter? In Banning, not only does it happen, but it happens with some frequency. The court and parties can be more creative, helpful, and flexible in structuring unique, advantageous, or alternative resolutions. Flying below the county seat radar is a welcome way of life. "Frequent flyer" litigants are more quickly recognized.

On the flip side of this latter coin, there are disadvantages. The problem lawyer, police officer, staff member, or client, for example, sticks out like a sore thumb. Indeed, he or she is a readily recognized and disruptive thorn in an otherwise pleasant courthouse's side.

Yet our charming workhorse of a courthouse has outgrown its britches, and the time has come to "change venue." They say that life is change, growth is optional,



Architect's rendering of the future Banning Justice Center, courtesy of the Administrative Office of the Courts. It is scheduled to open in the spring. There will be six courtrooms and three additional – for a total of five – bench officers.

and to choose wisely. Similarly, Henry Ford said that change is not always progress.

Of those of us legal professionals who have worked in Banning, most will say that the scales of justice tip in favor of camaraderie, good will, and teamwork. Those who have worked here and have come to gain this knowledge prefer to keep the truth about working in the Banning legal community the best-kept secret that it is. Whether the new

courthouse will change this dynamic – whether we will choose to change or grow – remains to be seen.

Bob Rancourt is a deputy public defender with the Law Offices of the Public Defender, County of Riverside, where he has worked for 11 1/2 years. His first rotation in Banning was in 2004, and he gladly returned to work there last year.

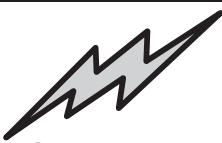


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MEMBERSHIP

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, 2014.

Jhaila R. Brown – Office of the County Counsel, Riverside

Aaron G. Ezroj – Burke Williams & Sorensen, Riverside

Paul E. Flores – Fidelity National Title Group, Riverside

Douglas K. Glauser – Law Offices of Vivian L. Schwartz, San Bernardino

Gabriel Henriquez – Lobb & Cliff, Riverside

Amanda J. Parker – Wagner & Pelayes, Riverside

Maurice A. Sharpe – Sole Practitioner, La Mirada

Christina L. Stevenson (S) – Law Student, Alta Loma

Ashley R. Wedding – Law Offices of Dennis F. Fabozzi, Temecula



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