

# RIVERSIDE LAWYER

April 2011 • Volume 61 Number 4

MAGAZINE



**WOODCREST CHRISTIAN HIGH SCHOOL • 2ND PLACE**



**RIVERSIDE POLY HIGH SCHOOL • 1ST PLACE**



**CENTENNIAL HIGH SCHOOL • 3RD PLACE • HEMET HIGH SCHOOL**



## 2011 MOCK TRIAL WINNERS

The official publication of the Riverside County Bar Association

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# RIVERSIDE LAWYER

MAGAZINE

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# MISSION STATEMENT

## Established in 1894

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

## RCBA Mission Statement

The mission of the Riverside County Bar Association is to:

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

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

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

## Membership Benefits

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

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

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

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

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

MBNA Platinum Plus MasterCard, and optional insurance programs.

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

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*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

## April

- 12 PSLC Board**  
RCBA Noon
- RCBA Board**  
RCBA 5:00 p.m.
- Joint RCBA/SBCBA Landlord-Tenant Section Meeting**
- 13 Federal Bar Association – IE Chapter – Noon**  
George E. Brown, Jr. Federal Courthouse  
Federal Civil Practice Seminar  
RSVP: Kim Connelly @(951)686-4800  
(MCLE)
- Barristers**  
The Salted Pig – 3700 12<sup>th</sup> Street, Riverside  
5:30 – 7:30 p.m.  
“Business Development and Law Firm Management Forum”  
Speakers: Bruce Varner, David Moore, Paul Grech & Mark Ostoich  
(MCLE)
- 15 RCBA General Membership Meeting**  
RCBA John Gabbert Gallery – Noon  
“Common Mistakes Attorneys Make in Criminal and Civil Court” – Speakers: Judge Mac Fisher and Judge Roger Luebs – Moderator – Steve Harmon  
(MCLE)
- 19 Family Law Section Meeting**  
RCBA John Gabbert Gallery – Noon
- 20 Estate Planning, Probate and Elder Law Section Meeting**  
RCBA John Gabbert Gallery – Noon  
“Trust Administration”  
Speaker: Larry Brock
- 26 CLE Brown Bag**  
RCBA John Gabbert Gallery – Noon  
“Motions for Summary Judgment – Life after *Reid v. Google*”  
Speakers: Commissioner John Vineyard, Nancy Lyons, Judicial Staff Attorney and Robert Schnabel, Supervisor of Judicial Staff Attorneys  
(MCLE)
- 27 Criminal Law Section Meeting**  
RCBA John Gabbert Gallery – Noon  
“Eyewitness Identifications”  
Speaker: Dr. Steven Clark  
(MCLE)
- 28 Solo & Small Firm Section Meeting**  
RCBA John Gabbert Gallery – Noon  
“Things to Know as a Solo & Small Firm Practitioner”  
Speaker: Judge Becky Dugan  
(MCLE)

## May

- 6 RCBA 30th Annual Good Citizenship Awards**  
Riverside Historic Courthouse – Dept. 1 – 1:00 p.m.
- 9 Law Day Luncheon with Chief Justice Tani Cantil-Sakauye**  
Mission Inn – Music Room – Noon  
For more information contact RCBA.
- 17 Federal Bar Association – I.E. Chapter**  
Mission Inn – Music Room – Noon  
Constitutional Law Update by Dean Erwin Chemerinsky  
RSVP: Kim Connelly @(951)686-4800  
(MCLE)



## President's Message

by Harlan Kistler

April is the month for the "April Fool's" edition of the Riverside Lawyer. I like good humor and a fun April Fool's prank. Although there was one played on me that I will never forget.

In 1991, I took a short leave of absence from a law firm I was working at for my wedding and honeymoon. Upon my return back to work, I entered my office and saw that all of my personal belongings were cleared out. I was perplexed to say the least and I wondered foolishly if I had been promoted to a corner office. As I was trying to figure out what the heck was going on, the office manager entered my office with a box containing my photographs and other personal belongings. She sat down in a chair in front of my desk and she said very sadly that "she had some bad news to tell me." My heart rate started to speed up as I deduced that something awful was about to happen to me given the fact that my office had been stripped bare. Despite the fact that it was April, it never dawned on me that the office manager might be playing a cruel prank as she continued to explain that I had been laid off.

Inside I had a sinking feeling of despair and I searched her face for any expression or hint that she was playing a prank on me. However, she was quite an actress and I started to think that she was serious and that she may be telling me the truth. My gut was telling me it didn't make any sense at all so I decided to go along with it. I responded that "I was surprised and loved working here but if I am being terminated it actually makes a decision for me." She looked a little surprised and responded back "what do you mean?" I

saw a different expression on her face and I started to doubt she was seriously firing me. I continued to tell her after a long pause that a head hunter had been pushing me to take a job near the beach. I told her that I loved working at the firm but it was an irresistible offer and she just made my decision for me.

Well the table had turned as she turned bright red and started stammering that it was just an April Fool's prank. I was delighted as hell but she tortured me internally for 5 shocking seconds and I was not going to let her off that easy. I continued to tell her that I wasn't sure now and strung her along for a minute or two. Eventually I told her I was just teasing her back and we had a good laugh over the incident.

I would like to recognize and thank everyone who participated in the Twenty-Ninth Annual Riverside County Mock Trial Competition including attorney coaches, attorney scorers, judges, mentor judges, the Steering Committee members and teacher coaches. This event has grown dramatically over the years since it was established in 1983. The Mock Trial program promotes a greater appreciation and understanding for the law, court procedures and our judicial system in our community. Congratulations are in order for Poly High School and their mock trial coaches as they celebrated winning the mock trial county championships. Woodcrest Christian High School finished second in a close match to the end.

The State Mock Trial Championships will be held in Riverside this year. Both Poly High School and Woodcrest Christian High School will compete for the State Mock Trial Championship title. We wish them the best of luck!

I would like to thank Harry Histen for conducting the RCBA general membership meeting while I was away coaching the King High School wrestling team at C.I.F. My responsibilities as the head wrestling coach also prevented me from attending the final round of the mock trial competition. The success of some of the King wrestlers required me to attend a series of C.I.F. wrestling tournaments this year. Both of my sons, Harlan II and Nolan, were among the successful King wrestlers this year as they both placed in the C.I.F. tournament and advanced to the Master's Tournament (the top 5 C.I.F. place winners from the 6 C.I.F. tournaments who advance to the state tournament).

Despite numerous serious injuries that plagued the King wrestling team this year, several of them were able to bounce back at the end of the season with 6 qualifying for the frosh/soph State Tournament in Fresno. My youngest son, Nolan, a freshman at King, placed third at the State Tournament. My oldest son, Harlan II, a sophomore, made it to the finals and placed second at 160 pounds. Two other King wrestlers placed in the top 6 providing for a successful year for the King Wrestling Team. These four King wrestlers will compete against 5,000 wrestlers at the National Tournament in Reno, Nevada.

Our next general membership meeting is Friday, April 15, 2011, and our speakers will be a panel of our esteemed Riverside County Superior Court Judges. I look forward to seeing many of you there.

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*Harlan B. Kistler, President of the Riverside County Bar Association, is a personal injury attorney for the Law Offices of Harlan B. Kistler.*





# BARRISTERS PRESIDENT'S MESSAGE

by Jean-Simon Serrano



The Barristers have been operating under the same bylaws since 1993, with one minor change in 1995. However, many things have changed in our legal community since this time, including the addition of federal and appellate courts in the county, not to mention the growth of this region and its legal community. Since 1995, the Barristers have also changed the way they operate, though their bylaws have remained the same, creating an incongruence that the board is seeking to remedy.

After much discussion and compromise among the board, some of the proposed changes relate to the method of elections, allowing members of the Barristers to run for just about any position. The proposal calls for the position of vice-president to be elected in the previous year, subject only to a confirmation vote in the election before they become president. The position of Member at Large was also proposed in light of our use of the title for many years. We hope these provisions encourage democratic checks and balances on the current lock-step system which places nearly all board positions beyond the electoral process. In previous years, many open positions have been filled mid-year by the board, thereby thwarting any election in recent memory. All Barristers may vote in elections so long as they are members of the RCBA and have attended three meetings during the year. The full amendment was distributed at the March Barristers meeting and will be voted on at the April Barristers meeting which we be held on Wednesday, April 13, 2011 from 5:30 to 7:30 p.m. at The Salted Pig, 3700 12th St. in Downtown Riverside. Join our email list to ensure you have all of the information about our April meeting by logging on to <http://riversidecountybar.com/barristers/>.

In February, our monthly meeting featured a discussion by Public Defender R. Addison Steele on the topic of humanizing one's client before a jury. The Barristers are extremely grateful to Mr. Steele for his excellent speech, complete with examples and anecdotes regarding past clients and the methods that were used to humanize them for the jury.

In March, we were honored to have Past President of the State Bar, Jim Heiting, give a speech regarding substance abuse and

the legal profession. Mr. Heiting illuminated the prevalence of substance abuse among attorneys and provided attendees with valuable information regarding assistance programs such as the Lawyer Assistance Program (LAP) and the Other Bar. We are most grateful to the various attorneys from law firms and government offices throughout Riverside and San Bernardino County that attended this event.

If you have any questions regarding the Barristers, our meetings, or the proposed changes to the Barristers Bylaws, please do not hesitate to contact me at: [jserrano@heitingandirwin.com](mailto:jserrano@heitingandirwin.com).

*Jean-Simon Serrano, president of Barristers, is an associate attorney with the law firm of Heiting and Irwin. He is also a member of the Bar Publications Committee.*



**2011 Red Mass**

**Tuesday, October 11, 2011**

**@ 6 p.m.**

**Our Lady of the Rosary Cathedral**

**2525 N. Arrowhead Avenue**

**San Bernardino, CA 92405**



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# 2011 Mock Trial Competition

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*by John Wahlin*

“It gets closer every year.” Those were the words of Justice Thomas Hollenhorst, the presiding judge in the championship round of this year’s Riverside County Mock Trial Competition. In a rematch of last year’s final, Riverside Poly High School defeated Woodcrest Christian High School in a highly competitive round. Poly’s victory was the culmination of an undefeated 7-0 run and represented its 12th county championship.

This, however, was not the end of the story for Woodcrest Christian. In order to have an even number of teams in the state competition, the Constitutional Rights Foundation, which conducts the state competition, holds a drawing for a “wild-card” team among interested second-place teams. This year, the CRF decided to have three wild-card teams, and Woodcrest Christian was drawn as one of them. The state competition was to be held in Riverside this year, with Poly participating as the county champion and Woodcrest Christian as a wild-card entry.

26 teams from 25 schools competed in this year’s county competition. Whenever there is an uneven number of schools participating, Riverside also has a wild-card team. The wild card is a second team from a school selected in a random drawing of interested schools. Centennial High School won the drawing and entered two teams – Centennial Red and Black.

Following the same format that has been in place for the last several years, after four rounds of competition, the highest ranking eight teams continued to compete in a single-elimination tournament. In the first round, the winners were Poly over Murrieta Valley High School, Woodcrest Christian over Santiago High School, Centennial High School Red over Indio High School, and Hemet High School over Chaparral High School. In the semifinal round, Poly defeated

Hemet and Woodcrest Christian edged out Centennial, setting up the rematch of last year’s finalists.

Poly and Woodcrest Christian argued their cases before Justice Thomas Hollenhorst of the District Court of Appeal. Scoring the round were Presiding Judge Sherrill Ellsworth, Judge Gloria Trask, District Attorney Paul Zellerbach, Public Defender Gary Windom and Assistant District Attorney Jeffrey Van Wagenen. The case, which each of the two finalists was presenting for the seventh time, involved charges of assault with a deadly weapon and violation of an anti-bullying law, along with a pretrial motion to dismiss the anti-bullying charge. The context of the charges was the cyberbullying of a high school student, which culminated in an assault on the student with a brick. Justice Hollenhorst ruled the anti-bullying law unconstitutional but ultimately found the defendant guilty of the assault.

The Riverside County Office of Education again coordinated the competition, under the direction of Tracey Rivas, with the assistance of the Mock Trial Steering Committee. Volunteers from the local bar made the program possible through countless donated hours. Several attorneys coached teams, typically two to three times a week during evenings and weekends. During the first four rounds of competition, 13 superior court judges and 45 or more attorneys gave their time each night. The Elite Eight rounds also required judges and scorers. No other county in the state has such a high level of support, and this support solidifies Riverside County’s as one of the outstanding programs in California.

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*John Wahlin, Chair of the RCBA Mock Trial Steering Committee, is with the law firm of Best Best & Krieger, LLP.*



# MOCK TRIAL: A COACH'S PERSPECTIVE

*by Matthew Schiller, Chemistry Teacher at Poly High School*



When I was hired at Riverside's Poly High School in 2004, it was contingent upon my coaching the Mock Trial Team. I'm sure this decision was due in no small part to the fact that my wife is an attorney; the powers that be must have assumed that some of her litigious knowledge must have sunk in osmotically. I can assure you that that was not the case. Consequently, I began coaching seven years ago knowing nothing about the law and even less about Mock Trial. This all changed rather quickly. During my tenure with the Poly Mock Trial Team, I have been schooled in trial procedures; I probably have your average law student's knowledge of evidentiary objections. I have also been completely indoctrinated into the "cult" that is high school Mock Trial.

If I had known way back then what I was getting myself into, I would have been more excited about the prospect of a coaching position. It turned out that the fellow coaches I was fortunate enough to join as part of the team were also fellow alumni of Poly High School and graduated either with me or around the same time. Carlos Monagas ('86-'89), Josh Hanks ('91-'93), and Steve Wahlin ('91-'95) have been coaching pretty much since the day they graduated from college, and some of them even during their college years. Carlos is currently a supervising deputy district attorney here in Riverside and oversees the office's training division, preparing new deputy DAs for "real" trial. Josh Hanks recently passed the bar exam, works for Criminal Defense Lawyers – which handles conflict cases from the public defender's office – and is seeking a position as a criminal defense attorney or prosecutor. Steve Wahlin has worked for several years as an investigator and a paralegal for multiple law offices throughout the area and is currently with the Law Offices of Michael Scaffidi in San Bernardino. This wealth of knowledge and experience that

forms the backbone of our team helps our team stay competitive against the numerous Riverside County squads that keep getting better and better every year.

Another thing I didn't know about the Poly Mock Trial Team before I became involved was how decorated we were. No Mock Trial team in California has won as many State Competition titles as Poly (three times, in '92, '96, and '03). With our recent County Championship win on March 5 of this year, hopefully we can add another State title this year. And while we have not yet obtained that coveted National title (and we're very jealous of Arlington High School, which won it in '94), we've had our close calls, in 2003 (4th place) and in 1996, when we were one of three undefeated teams but were left out of the finals based on the number of points we had obtained. The team sees this unachieved goal as motivation to do better every year.

I'm sure many people associated with Mock Trial wonder what allows our team to stay so consistent every year, and I would attribute it to the synergistic nature of our coaching staff. The ease with which we work together creates a family atmosphere for our team to flourish in year after year. For our students, and I'm sure this is true of most Mock Trial teams, it is fun to be with your teammates, and throughout the year they get very close. When the County Competition nears, Mock Trial students probably see more of each other than their actual families. Our Mock Trial team is a tight-knit group that works together very well and knows how to get down to business when it matters. One indication of how much students enjoy their time on the team is the number of them that drop in on practice and lend a hand during breaks from college. The fact that three out of the four of our coaches returned to coach their own team is another testament to the lure of this academic endeavor.

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With all of the fun that Mock Trial can be, it is sometimes easy to forget that the main purpose of it is student education. Mock Trial is invaluable in the development of critical thinking skills. Students who portray witnesses must adapt to deal with the situations in which they sometimes find themselves. While the witnesses have to follow a set of prescribed facts about the case and their involvement in it, they can't anticipate all of the questions that they will be asked, especially during cross-examination, and must be able to maintain their composure and remain within character. Many of their answers are improvised, but must still adhere to the facts of the case. The prosecution and defense attorneys have an even harder task in improvising direct and cross questions for witnesses with whom they may or may not have ever communicated. The attorneys arguing pretrial issues have the daunting task of assimilating numerous judicial case briefings significant to the case at hand and being able to use them to argue for dismissal or for exclusion of evidence in the case. Even the clerk and bailiff must be able to respond to situations that occur in court that can't always be anticipated. Few other extracurricular activities can claim to enrich students in such a substantial way.

The Constitutional Rights Foundation, which puts on the Mock Trial competition in California every year, has created an incredible program, and nowhere is that program more robust, in my opinion, than in Riverside County. Mock Trial in Riverside County is like Mardi Gras in New Orleans. We take it very seriously, and one of the things that makes this county's program so strong is the plethora of exceptional teams we have. Other counties have the same number of teams that Riverside County does (26 competing this year), but they don't have the same high level of competition every year. Competing against the best teams in one of the best counties for Mock Trial has honed our team this year and made us into a serious contender for a State Championship. I'd like to personally thank the teams that we had the opportunity to compete with in the final rounds of the County Competition this year for helping us to refine our abilities: Murrieta Valley High School in the quarter-finals, Hemet High School in the semifinals, and Woodcrest Christian High School in the finals. We hope to make Riverside County proud and bring home State title number four.



# IN THEIR OWN WORDS: RIVERSIDE POLY HIGH SCHOOL STUDENTS SPEAK UP REGARDING THEIR MOCK TRIAL EXPERIENCE

Every year, hundreds of highly talented and dedicated high school students study, practice, and compete in the area's Mock Trial program. Here, four students from Riverside Poly High School speak about their experiences on the Poly Mock Trial Team and the benefits, and challenges, of competing.

"My name is James Webb and I am in the 11th grade at Poly High School. This is my third year on Mock Trial, and currently I am an attorney for both the prosecution and the defense.

"I got the idea to get involved in Mock Trial from my sister. She had been on the Poly team for four years, had seen the team go to state several times, and had even won a few awards herself. After being dragged to practices here and there and getting a firsthand look at the team dynamic Mock Trial offered, I knew exactly which club I was going to join once I got to high school.

"Mock trial completely shattered any expectations I had of it. Never in my life could I have imagined the level of commitment and critical thinking Mock Trial demanded from me every day. I knew I was going to forge some life-long friendships and even dabble in legal practices, too. However, no one could have adequately explained the expectations to surmount all opponents, the thrill of competition, or the pressure of constant mental gymnastics.

"I love Mock Trial. In no other activity can an eclectic group of high school students come together for such an exciting challenge. Mock Trial tests the limits of your mind and spirit. If the complexity of the subject doesn't kill you, the kiloton of work and practice will. However, I was one of the lucky ones who pushed through to the other side. Now I fully understand the direct correlation between hard work and victory.

"Our coaches are very supportive, and they have greatly influenced the team we are today. I am really proud of how far we have come, both individually and as a team. Perhaps one of the most valuable things I have learned through Mock Trial is to never underestimate myself. If I keep focus and stand with confidence, there is no limit to what I can achieve."

-- James Webb, Junior

"When I think back to the beginning of my sophomore year, when I tried out for the team, I smile at the immense amount of irony. Two years ago, I never imagined doing much – heck, I didn't want to do much – even if I made it onto the team. Law was boring, and all I really wanted were some extra lines on my college résumé. From what I had heard, half the people on the team didn't even have to compete! Perfect, I had thought to myself.

"However, Mock Trial began to captivate me starting from the first practice. Never before had I met such dynamic, personable, and intelligent people who shared a desire to win. As I worked as the expert witnesses in *People v. Bratton* with my sibling-like teammates and parent-like coaches, law – formerly arcane and esoteric – became fun and interesting. I became a confident public speaker, a sharper thinker, and a happier person. In the end, though, what has made the Mock Trial experience unforgettable is the quirky group of people that has become my second family.

"In the past, I never had the chance to work toward a common goal with a small group of people. I had never had a family quite like this. With Poly Mock Trial (PMT), I could share happiness, sadness, and everything in between with 25 other amazing people. After losing to Woodcrest Christian in finals last year, nothing motivated me more to come back stronger than seeing the disappointment in the eyes of my team family. This past season, I have grown immensely as a lawyer and as a friend. As I heard my name called as the Outstanding Prosecution Attorney, I reflected on the work, sacrifice, and effort that all of the team put in to support me—from our noncompeting understudies to our clerk, bailiff, and witnesses; from my defense and prosecution co-counsel to PMT's four tireless coaches. They deserve so much credit and thanks. As I write this, the thought of county semifinals on Saturday morning looms in the back of my mind. I hope that I can express my gratitude to my team by winning two rounds on Saturday. Knock on wood."

-- Jeffrey Guo, Junior

"I started high school in August and am in the second semester of my year as a freshman. My name is Michaela

---

Perinova. I portray the part of the expert witnesses for both the prosecution and defense on Poly's Mock Trial Team. A friend of mine told me about Mock Trial a few years ago, and I had thought about joining the team ever since. I didn't quite expect how realistic or professional Mock Trial would be, having envisioned more of a debate-like team.

"Becoming a witness went beyond just learning the facts and memorizing my statements. With each practice, we delved deeper into the law and took apart the case piece by piece. We spent many hours reviewing our statements and learning the importance of each piece of evidence. I found myself enjoying being a witness and began to anticipate the start of competition.

"Reflecting on this past year and the rounds I have been through, I have realized that I truly love Mock Trial. The team is incredible, and has become a second family to me."

-- *Michaela Perinova*, Freshman

"I tried out for Poly Mock Trial team as a joke. When I saw my name, Jessica Aragon, on the team list, I figured that I would go to one practice and then tell the coaches it wasn't for me. I didn't know anything about law, and I thought that I was 'too cool' to be a part of Mock Trial. Four years later, Mock Trial has undoubtedly taken over my schedule. It is more than a hobby. Mock Trial is a lifestyle.

"Prior to my first practice, I had this idea of Mock Trial as the nerd brigade, with people who were argumentative and had 4.5 GPAs. Now, having been on the team four years, these people have become my family. Yes, they're argumentative. Yes, they're intelligent. However, they are the most loyal, honest friends that a person could ever ask for. We've bonded over a common goal: the desire to win. This competitive fire is what has bonded us, and it's what kept me on this team for my entire high school career.

"Mock trial is not a part of my life; it is my life. It cuts into my sleep, my free time, and a large chunk of my time with non-Mock Trialers. However, I would not take back a single day of being in Mock Trial, even when it stresses me out or leads to a week of all-nighters. It has made me a more confident, well-spoken individual and has even changed my future plans; because of Mock Trial, I plan on going to law school after completing my undergraduate in Political Science.

"To sum up my Mock Trial experience, I'll leave you with a quote from Mia Hamm: 'I am a member of a team, and I rely on the team, I defer to it and sacrifice for it, because the team, not the individual, is the ultimate champion.'"

-- *Jessica Aragon*, Senior



# A STUDENT'S MOCK TRIAL PERSPECTIVE

*by Laura Lynn Sandoval, Woodcrest Christian High School*

“Gentlemen, we are going to relentlessly chase perfection, knowing full well we will not catch it, because nothing is perfect. But we are going to relentlessly chase it, because in the process we will catch excellence. I am not remotely interested in just being good.” This quote by Vince Lombardi, read to our team by Coach Mark Easter, sums up the most valuable experiences and lessons that I have acquired through participating in Mock Trial.

When I joined Mock Trial three years ago, as a freshman at Woodcrest Christian High School, I expected it to be very intimidating, rigorous, and challenging. Needless to say, my expectations were met. But what I did not expect were the empowering and life-changing lessons that I would soon learn.

One can only imagine how foreign and intimidating the Mock Trial setting was to me, as a freshman prosecution attorney. But after months of preparation, I went into competition, delivered my opening statement and examinations with poise, and learned to love the exhilaration of competition. The desire to win soon overcame my feelings of fear and timidity, and our team was successful. The ability to thrive in what seemed like intimidating circumstances is something that I will carry with me throughout my entire life. My experience in Mock Trial has taught me that nothing – not even a stuffy, tense courtroom or a stern judge – can stand between me and my goals.

Through Mock Trial, I have learned not only to relentlessly chase my goals but also – as Coach Victor Wolf would say – that “good enough is never good enough.” This is not to say that we don’t take pride in and enjoy our accomplishments; in fact, we receive many accolades that we treasure greatly. However, my team is constantly exhorted to perfection, and we have been trained to never be satisfied with a “good” performance. This is something I am extremely grateful for, because, by developing this attitude, I have reached performance capabilities that I never expected to achieve. I know that due to my experiences in Mock Trial, I will carry this outlook with me in all my endeavors in life.

I have also faced many challenges in my Mock Trial experience, challenges that I would not trade for any-

thing. I have had to overcome obstacles in the courtroom as well as in my character. Undoubtedly, the challenges that I have faced in Mock Trial have impacted my life in ways that I never imagined. But it is the process of overcoming these obstacles that is of most value to me. Through the months of practice and preparation leading up to competition each year, I developed the ability to handle almost any challenge that I would face in the courtroom. I learned how to make and respond to objections, give an opening statement and a closing argument, conduct direct and cross-examinations and even give a pretrial argument. I was trained to do all of these things professionally and to the best of my ability. However, something that was perhaps more difficult for me to be taught was an attitude of confidence and fervor in what I was saying. Certainly the hours of instruction and words of encouragement that I received from my three coaches helped to bolster my confidence greatly; but it was not until I truly believed these words and trusted my training that I adopted the attitude that we had all been searching for. This was an inner battle that I had to fight on my own. Perhaps it was my experience finally catching up to me, or my realization of my own preparedness and success, or perhaps it was simply a change of heart. Regardless of the cause, I had finally understood that I had been placed in the position I was in for a reason and that the only thing stopping me from performing to my full potential was my own inhibitions. It was at that point that Mock Trial became more than a game or a hobby to me, but was in fact a very empowering and life-changing experience.

When I started Mock Trial, I had no idea how greatly it would impact my life. I have gained knowledge of our legal system and even developed an ambition to attend law school and become an attorney. But more importantly, I have gained character traits that I will cherish in all aspects of my life. The perseverance, confidence and craving for perfection that I have developed through participating in Mock Trial have molded my personality and life in ways that no other high school experience could.



# Riverside Yearly Journal

APRIL, 2011  
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## USDA Taps Ousted Director Shirley Sherrod to Head FarmVille Subsidy Program

by Bob Wehadababyitsaboy

WASHINGTON, D.C. – Earlier this month Secretary of Agriculture Tom Vilsack announced at a press conference that Shirley Sherrod – the former USDA Georgia State Director for Rural Development – would be brought back into the department’s fold spearheading a new subsidy program designed to influence crop yields in the popular social networking game FarmVille. Secretary Vilsack commented, “This is a great opportunity for our government to ensure that our nation’s online farmers produce the necessary variety of virtual crops to keep our social networks running, not just those that yield the most coins or experience. I mean, we can’t have everyone growing super berries all the time when our social media consumers may also demand artichokes or watermelons.”

Mark Pincus, CEO of Zynga – the company responsible for untold hours lost by housewives on Facebook – also reacted positively to the news. “Now people can use their farm cash to rapidly expand farms and decorate them with prize-winning animals and buildings instead of going straight for the experience or coins brought by the expedited growth of crops, because Uncle Sam is their newest and best neighbor. Why, it’s enough to make anyone want to click on a sponsored link.”

But not everybody was excited about the new program. Conservative talk show host and perennial defamation defendant Andrew Breitbart had some heavy criticism of what he thought was a misallocation of USDA Virtual Agriculture resources. He devoted an entire hour of his syndicated radio talk show to casting doubt on the efficacy of this program. “Why are we devoting resources to possibly growing fewer plants when the plants that are currently out in the virtual realm are fighting off a rapidly growing zombie attack? I think this money would be better spent developing plants that can both produce necessary suns to bolster our plants’ defenses while still having some awesome offensive capabilities.” He continued, “And is this woman really the best choice to head the department? I mean, I don’t want to paint her in a false light (I’ve learned what that term means the hard way), but she was fired from the USDA before for her racist outbursts, and I don’t think she truly represents what America stands for.”

Detractors aside, FarmVille players across the nation are anxiously awaiting the day when the government helps them with coins and experience, so they can grow their farms, yet still be able to get some actual work done.



*Also part of the USDA program is a publicity campaign designed to encourage FarmVille farmers to engage their communities to pool resources for support. But it is, by no means, communist.*

### *Transcript Humor*

Q That was in Riverside?

A Uh-huh.

Q Is that “yes”?

A Yes.

Q The reason I did that is because the court reporter is writing down what you say.

A Okay.

Q So it’s important that, rather than saying “uh-huh,” which you and I might understand, she can’t really write that down.

A Okay.

Q Does that make sense?

A Uh-huh.

---

# Daily Briefs and Verdicts

## Civil Procedure

Counsel shall resolve discovery dispute regarding location for the Rule 30(b)(6) deposition by convening at a neutral site and engaging in one game of “rock, paper, scissors.” The winner of this engagement shall be entitled to select the deposition location.

*Avista Management, Inc. v. Wausau Underwriters Ins. Co.*, 2006 WL 1562246 (M.D. Fla. 2006)

## Defamation

Use of the words “bank robber,” “heist,” “crime” and “theft” in trademark infringement case is not defamatory. These are variants of the invective most often hurled at accused infringers, namely “piracy.” No one hearing this accusation understands intellectual property owners to be saying that infringers are nautical cutthroats with eye patches and peg legs who board galleons to plunder cargo. In context, all these terms are non-actionable rhetorical hyperbole. The parties are advised to chill.

*Mattel, Inc. v. MCA Records, Inc.*, 296 F.3d 894 (9th Cir. 2002)

## Product Liability/Negligence

Manufacturer is liable for illness resulting from putrefying human toe found in chewing tobacco. “We can imagine no reason why, with ordinary care, human toes could not be left out of chewing tobacco, and if toes are found in chewing tobacco, it seems to us that somebody has been very careless.”

*Pillars v. R.J. Reynolds Tobacco Co.*, 78 So. 365 (Miss. 1918)

## Civil Rights

Civil rights action against Satan and his servants for allegedly causing plaintiff misery and unwarranted threats, against the will of plaintiff, and for placing deliberate obstacles in his path and causing plaintiff’s downfall. Leave to proceed in forma pauperis denied in view of questions of personal jurisdiction over defendant, propriety of class action, and plaintiff’s failure to include instructions for service of process.

*United States ex rel. Mayo v. Satan and His Staff*, 54 F.R.D. 282 (W.D. Pa. 1971)

## Constitutional Law

Parachute jumping does not fall within the right to travel protected by the Fourteenth Amendment.

*Skydiving Ctr. of Greater Washington, D.C., Inc. v. St. Mary’s County Airport Comm’n*, 823 F. Supp. 1273 (D. Md. 1993)

## Jurisdiction

This case presents the perhaps unprecedented situation of a court, as litigant, petitioning itself, as court, for relief. Sanctions order against plaintiff precluding plaintiff from filing any paperwork in federal court until sanctions are paid does not preclude defendant from removing case to federal court. However, plaintiff will not be permitted to file any motions, petitions or complaints until sanctions are paid.

*In re Skupniewitz*, 73 F.3d 702 (7th Cir. 1996)

## Civil Procedure – Special Excerpt

“Before proceeding further, the Court notes that this case involves two extremely likable lawyers, who have together delivered some of the most amateurish pleadings ever to cross the hallowed causeway into Galveston, an effort which leads the Court to surmise but one plausible explanation. Both attorneys have obviously entered into a secret pact — complete with hats, handshakes and cryptic words — to draft their pleadings entirely in crayon on the back sides of gravy-stained paper place mats, in the hope that the Court would be so charmed by their child-like efforts that their utter dearth of legal authorities in their briefing would go unnoticed. Whatever actually occurred, the Court is now faced with the daunting task of deciphering their submissions. With Big Chief tablet readied, thick black pencil in hand, and a devil-may-care laugh in the face of death, life on the razor’s edge sense of exhilaration, the Court begins. [¶] . . .

“Defendant begins the descent into Alice’s Wonderland by submitting a Motion that relies upon only one legal authority. . . . Defendant, however, does not even cite to *Erie*, but to a mere successor case, and further fails to even begin to analyze why the Court should approach the shores of *Erie*. Finally, Defendant does not even provide a cite to its desired Texas limitation statute. A more bumbling approach is difficult to conceive — but wait folks, There’s More!

“Plaintiff responds to this debt, yet minimalist analytical wizardry with an equally gos-

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samer wisp of an argument . . . Naturally, Plaintiff also neglects to provide any analysis whatsoever of why his claim versus Defendant Phillips is a maritime action. Instead, Plaintiff ‘cites’ to a single case from the Fourth Circuit. Plaintiff’s citation, however, points to a nonexistent Volume ‘1886’ of the Federal Reporter Third Edition and neglects to provide a pinpoint citation for what, after being located, turned out to be a forty-page decision. . . (What the . . .)! The Court cannot even begin to comprehend why this case was selected for reference. It is almost as if Plaintiff’s counsel chose the opinion by throwing long range

darts at the Federal Reporter (remarkably enough hitting a nonexistent volume!). . .

“. . . Despite the continued shortcomings of Plaintiff’s supplemental submission, the Court commends Plaintiff for his vastly improved choice of crayon — Brick Red is much easier on the eyes than Goldenrod, and stands out much better amidst the mustard splotched about Plaintiff’s briefing. But at the end of the day, even if you put a calico dress on it and call it Florence, a pig is still a pig.”

*Bradshaw v. Unity Marine Corp.*, 147 F. Supp. 2d 668 (S.D. Texas 2001)

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## Judicial Profile: Steven Tyler

*By Erasmus B. Dragen*

LOS ANGELES, CA – Insiders in both the entertainment and judging industries are abuzz about the latest addition to the Pantheon of distinguished judges as Steven Tyler joins Randy Jackson and Jennifer Lopez on the panel for the *American Idol* Circuit. As the show



*As of press time, this is the most decent photograph we could find of our subject. Hopefully, it will make it past our censors.*

rounds the halfway mark for its tenth season, Mr. Tyler has certainly made a name for himself. “At first, I didn’t know if he’d be another Paula or Simon,” recalls *Idol* host, Ryan Seacrest. “Really he seems like a combination of both – someone who cannot give a negative critique that will hit on anything that moves. The girls are just going crazy for him, though, which is good because it takes a lot of that attention off of me.” He quickly added, “Not that I minded it, of course, heh heh, ahem. But Steven is not one to insist on formality. I don’t recall there being a swearing-in ceremony to induct him onto the swivel chair, although the show has seen a marked increase in swearing since he joined.”

*Idol* fans were also enthusiastic about the addition, after some initial confusion. “At first I thought, ‘Is that Cher? Wow! She must have really let herself go after that *Burlesque* debacle,’” recounts Riverside resident Connie O’Connor. “But then I realized it was just a dude that

looked like a lady. And then I thought, ‘Good for Steven keeping himself busy since Aerosmith broke up.’ It is broken up, isn’t it?”

To get the scoop on the history behind America’s hottest new judge, I went directly to the source. “From what people I know tell me, if I could recall anything that happened to me before I was forty, I probably wasn’t there. Joe Perry told me I did things that even smut producers won’t put in their films,” Mr. Tyler admitted. “But when you’ve lived a life like mine you’ve gotta keep moving forward. If I fall back I’m liable to break a hip.”

“I like being a judge, though,” Mr. Tyler continued. “I mean, I know I’m only up there as an umpire calling balls and strikes and leaving the really tough decisions up to the voters. Sometimes, though, you get a smokin’ hot babe with a rockin’ voice and you send her through easy. It’s those tough calls where you got an ugly girl or guy with a great set of pipes, or a girl with a slamming body that can’t carry a tune. Those are what we in the industry call ‘Problems of the Penumbra’ and I deal with them on a case by case basis.” He later admitted, “Who am I kidding? This job is so easy I would probably catch Hepatitis C from doing it if I hadn’t already caught that.”

Easy or not, Mr. Tyler is quickly garnering praise for his judicial astuteness. Later this year, University of LaVerne College of Law is planning on bestowing an honorary Juris Doctorate on Mr. Tyler as well as his co-judges from their newly constructed Coca-Cola Courtroom and Auditorium.

CLETUS G. ROETZEL (1889-1973)  
SAMUEL C. ANDRESS  
JOHN M. ULMAN  
GEORGE W. ROONEY  
RICHARD E. GUSTER  
DUANE L. ISHAM  
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*Roetzel and Andress*  
*Counsellors at Law*  
*20th Floor*  
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ALBERT J. HENRY  
GARY B. PEARCH  
TIMOTHY J. OCHSENHIRT  
ROBERT A. BOARDMAN  
STEVEN M. NOBIL  
JAMES M. STEPHENS  
JAMES L. RENCH

November 18, 1974

RECEIVED

NOV 19, 1974

Cleveland Browns

The Cleveland Browns  
Cleveland Stadium  
Cleveland, OH

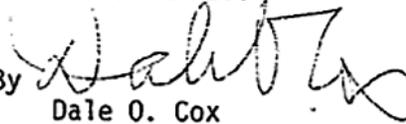
Gentlemen:

I am one of your season ticket holders who attends or tries to attend every game. It appears that one of the pastimes of several fans has become the sailing of paper airplanes generally made out of the game program. As you know, there is the risk of serious eye injury and perhaps an ear injury as a result of such airplanes. I am sure that this has been called to your attention and that several of your ushers and policemen witnessed the same.

Please be advised that since you are in a position to control or terminate such action on the part of fans, I will hold you responsible for any injury sustained by any person in my party attending one of your sporting events. It is hoped that this disrespectful and possibly dangerous activity will be terminated.

Very truly yours,

ROETZEL & ANDRESS

By   
Dale O. Cox



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November 21, 1974

Dale O. Cox, Esquire  
Roetzel and Andress  
20th Floor  
One Cascade Plaza  
Akron, Ohio 44308

Dear Mr. Cox:

Attached is a letter that we received on November 19, 1974. I feel that you should be aware that some a&&#\*le is signing your name to stupid letters.

Very truly yours,

CLEVELAND STADIUM CORP.

James N. Bailey,  
General Counsel

JEB:bjn

cc: Arthur B. Modell

## Legislative Proposals – Review and Comment

The Legislature, having determined that traditional jail sentences and fines are not effective enough as a deterrent to the commission of crime, is considering the enactment of alternative sentencing. Proposed amendments to the sentencing guidelines in the Penal Code include the following:

- **Shoplifting:** Anyone found guilty of shoplifting shall be required to stand outside the store from which he or she stole wearing a conspicuous sign stating, “I stole from this store.” Such sentence shall be carried out during the store’s self-reported busiest shopping day for a period of not less than two hours.
- **Cruelty to animals:** Anyone found guilty of starving an animal shall be provided only bread and water during the first three days of his or her incarceration.
- **Building code violations:** Any multi-unit residential dwelling owner found guilty of building code violations that impact the habitability of the multi-unit residential dwelling shall be sentenced to reside in the impacted multi-unit residential dwelling until such time as all code violations are remedied, with the unit in which the offender is residing being repaired last.
- **Disorderly conduct:** Anyone convicted of disorderly conduct, when the conduct includes calling the arresting officer a “pig,” shall stand on a city sidewalk for two hours in a pen next to a 350-pound pig along with a sign reading, “This is not a police officer.”
- **Vandalism:** Anyone convicted of vandalism involving the spraying of graffiti shall spray paint the following on his or her car: “I vandalized someone’s property. I am sorry.”
- **Usury:** Anyone convicted of charging usurious interest shall be required to give an arm or a leg.

The Legislature is seeking input from the public on these proposed alternative sentences. In addition, the Legislature seeks recommendations for other proposed alternative sentences. Comments should be directed to [www.UwillBSorry.gov](http://www.UwillBSorry.gov).

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## Letters To The Editor

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### Dear Legal Swami:

I heard something the other day about some sort of monument to be erected in honor of the legal community.

Jefferson Thomas

JT:

Your ears did not deceive you. Plans are in the works to construct a “Mount Rushmore” to honor our noble profession. It will be built near the top of Mt. Rubidoux and will face east so that it can be viewed from the Historic Courthouse steps. Three of the four honored recipients have already been determined: John Gabbert, Victor Miceli and Elwood “Woody” Rich. There was talk that Rod Pacheco was going to be the fourth “head,” but in the light of recent voter disapproval of him, those plans have been scrapped. Nominations for the fourth honoree can be submitted to the Riverside County Bar Association (due by June 1, 2011).

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### Dear Legal Swami:

Department 12 in the Historic Courthouse is just too small! Sometimes it is so crowded that I have been instructed to wait outside the department until the bailiff tells me to come inside once my case is being called. What can be done to correct this?

I. M. “Lefty” Out

Lefty:

You are not the first one to complain about this problem. The clerk’s office has been inundated with letters and emails about this appalling condition. After a meeting among the judges to address this situation, the following solution has been reached. Normally, attorneys are not allowed to make court call appearances by cell phone. However, there will now be a special exception for infamous Department 12. Beginning on April 15, 2011, attorneys will be allowed to stand outside this department and use their cell phones to make their appearances. Thus, an attorney will be able to sit on one of the comfortable benches in the Great Hallway and simply use a cell phone to call in an appearance to Department 12 without having to personally appear in the department. The call-in number for Department 12 can be obtained by contacting “Beulah” in the clerk’s office.

### Dear Legal Swami:

I am a practicing civil attorney and I don’t understand why food is not available inside the historic courthouse – most other courthouses have food available.

Jacque N. Box

Mr. Box:

Funny you should mention this. Your all-knowing swami has recently learned of plans to construct a food court (including a full-service bar) within the courthouse. It is going to be located in the center courtyard (many probably do not know that this actually exists) and it will feature everything from fast food to fine dining. Businesses such as McDonald’s, Starbucks, Mario’s and Duane’s Steakhouse have already submitted applications. My sources tell me that there may be a two-beer maximum at the bar so that our fine judiciary is not berated during court hearings by unruly participants (both litigants and attorneys). Bon appétit!

---

### Dear Legal Swami:

Is there any truth to what I recently heard – that attorneys in the public sector and members of the judiciary do not have a requirement to complete MCLE training? In my opinion, they are just as susceptible to bias, substance abuse, and law office mismanagement as the rest of us poor schmucks in the private sector.

U. N. Fair

Dear Mr. Fair:

This has been an explosive topic behind the scenes in the legislature, as many attorneys in the private sector have been putting pressure on the legislature to change this perceived unjust situation. As a compromise, starting in 2012, attorneys in the private sector will no longer be obligated to complete MCLE training. This situation will last until 2018. During those six years, it will be attorneys in the public sector and members of the judiciary who will be required to complete the training. Thereafter, the training will rotate back to private attorneys in 2018, and the rotational basis will thus change every six years. So, if you are an attorney practicing in the private sector, you will not need to take any MCLE courses after this year until 2018. Enjoy the respite!

**Dear Legal Swami:**

I read in the newspaper the other day that an exquisite renovation has been completed at the historic courthouse in San Bernardino. Since Riverside and San Bernardino counties have always been friendly rivals, are there any plans to “keep up with the Joneses” by updating our Historic Courthouse?

“Yankee” Dodger

Mr. Dodger:

In case you have not heard, the Historic Courthouse is going to be completely closed starting on July 1, 2012 for just such a renovation. Plans call for an expenditure of several million dollars in taxpayer funding to complete the remodeling. During construction, which is estimated to last about a year, all civil cases will be heard in the criminal courthouse, so expect some crowding as civil attorneys and criminal attorneys will be jockeying for position in what will undoubtedly be confined quarters. Once the update has been completed, however, Riverside will again have a leg up on its neighbor.

**SPEEDING TICKET**

John bought a brand new 2005 convertible Jaguar XKR . He took off down the road, pushed it up to 100 m.p.h., and was enjoying the wind blowing through his (thinning) hair.

“This is great!” he thought, and he accelerated to an even higher speed. Then he looked in his rear-view mirror and there was a police car. “Problem,” thought John, and he floored it some more and flew down the road at over 120 m.p.h. to escape being stopped. He then thought, “What am I doing? I’m too old for this kind of thing,” and pulled over to the side of the road and waited for the police officer to catch up with him.

The police officer pulled in behind the Jaguar and walked up on the driver’s side. He said, “Sir, my shift ends in five minutes and today is April Fool’s Day. If you can give me a good reason why you were speeding, one that I’ve never heard before, I’ll let you go.”

John looked back at the policeman and said, “Last week my wife ran off with a policeman and I thought you were bringing her back.” The policeman responded, “Have a nice day.”

**Word Search**

T	R	A	I	L	Y	Q	E	L	C	M	P	C
N	O	I	T	A	S	N	E	P	M	O	C	O
E	B	R	H	Y	Z	S	E	R	R	O	R	U
M	B	W	T	R	N	K	A	C	E	T	X	R
N	E	C	J	U	D	G	E	P	R	C	F	T
O	R	V	O	J	B	E	N	A	S	A	I	E
S	Y	C	O	D	E	D	F	R	D	E	L	V
I	N	E	G	L	I	G	E	N	C	E	R	I
R	V	E	R	D	I	C	T	E	M	T	U	T
P	X	T	N	E	T	N	I	I	D	O	P	O
M	R	E	T	H	G	U	A	L	S	N	A	M
I	C	L	I	T	I	G	A	T	I	O	N	Z
Y	T	N	E	M	E	L	T	T	E	S	B	Q

- CODE
- CODICIL
- COMPENSATION
- COUNSEL
- COURT
- DEED
- ERROR
- IMPRISONMENT
- INTENT
- JUDGE
- JURY
- LARCENY
- LIEN
- LITIGATION
- MANSLAUGHTER
- MCLE
- MOOT
- MOTIVE
- NEGLIGENCE
- NOTE
- ROBBERY
- SANE
- SETTLEMENT
- TORT
- TRESPASS
- TRIAL
- VERDICT
- VICE

## **FOOD FROM THE BAR**

**FOOD DRIVE  
March 27 – April 27**

Please join attorneys and staff throughout  
Riverside County in **FOOD FROM THE BAR 2011**  
to help feed hungry members of our community.

Towards the middle of the year, food banks will run out of food. Statistics show that 12% of our residents do not know where their next meal will come from. Spring and summer breaks mean that children cannot rely on school meals for their basic sustenance. Donations have decreased with the tight economy and demand outstrips supply.

The RCBA will be competing with other area bar associations to raise money, donate food and volunteer time at our Inland Empire food bank. There will be food bins at the RCBA office where you can donate non-perishable food items. Monetary donations can go to the RCBA. Please make checks payable to Second Harvest Food Bank with a designation "FFTb." You can also arrange to volunteer with the food bank and credit goes to the RCBA.

For more information please contact  
Charlene Nelson at (951)682-1015 or  
[rcba@riversidecountybar.com](mailto:rcba@riversidecountybar.com)

Our community needs our help so let's work together  
to make this the biggest food drive of the year.

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Addressing your interests?  
Being published?  
Expressing your  
viewpoint?**

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RCBA office  
(951) 682-1015 or  
[lisa@riversidecountybar.com](mailto:lisa@riversidecountybar.com)



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# INDIO MOCK TRIAL PROGRAM

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*by Judy Thompson, Indio High School Mock Trial Teacher Coach*

For about eight years, the Indio High School Mock Trial Team languished at the bottom of the heap in our county competition. Rarely did these students have a positive relationship with the justice system. They lacked the confidence that they could actually achieve the legal skills it would take to be a contender in the Mock Trial world.

We decided to make a change, and it started with being the only team that had a real courtroom on our campus. A federally funded magnet grant gave us the opportunity to fulfill this dream. From the new furniture, the draperies, and the jury box, down to the official seal of the state of California, we were able to create an authentic stage for our students. They began to believe that they not only had a special room, but that they could be special, as well.

Immediately, the attitude began to change. For our competition, each student received a new suit to help him or her create the persona of a legal professional. Local attorneys volunteered their evening hours to train what was

thought to be the untrainable. Slowly the momentum began to shift from perennial losers to possible contenders.

Then one day we received an invitation from the Harvard University Mock Trial Team to participate in their weekend seminar, under the tutelage of their nationally ranked members. It would take a great deal of funding for us to fly across the country and to pay for hotel rooms, along with the registration fees. We knew the families, for the most part, would not be able to help, but with the support of the administration and our community, we made our first trip to Cambridge.

The transformation was complete when 18 Indio High students first walked across the hallowed Harvard yard. The confidence level exploded as our students moved from class to class, listening and questioning while madly scribbling notes in their own Harvard notebooks. Within two days, they were able to actually perform a complete trial alongside students from exclusive private high schools and former national champs. They did not feel out

of place; they did belong in the courtroom, and they were able to compete.

That belief continued once they returned home and demanded that they be given more rehearsal time. That is tantamount to a student requesting more homework. The change was there, you could see it, you could feel it.

The campus courtroom now became our arena, preparing us for the battles to come in February. In 2007, for the first time, Indio High made it past the preliminary rounds, and we found ourselves in the Mock Trial “play-offs”: the Elite Eight.

We had arrived. While we slowly edged our way up the rankings, the traditional powerhouse schools were made aware of the new Indio. We were no longer the “easy out” of the past, but the gutsy new fighters ready to put them all to the test.

Over the next few years, our courtroom hosted visiting attorneys and judges, who shared their knowledge and enthusiasm for the legal profession. One state Supreme Court justice made a special visit to room 45, our courtroom. She was as impressed with what we had built as she was with what our students had achieved.

This year, we had a young, inexperienced team. We needed a kick-start; we needed Harvard. The courtroom alone was not going to be enough. But our funding had all but dried up and dwindled down to nothing. How could we make it happen? Eventually, a private donor loaned us \$16,000, which enabled us to take 20 students on a trip of a lifetime: a trip to Boston; a trip to Harvard.

Our young team embraced the magic of that historic campus. They, too, were energized and thrilled at the opportunity to be exposed to the best Mock Trialers in the nation. They absorbed all of the legal terms, tricks and attitude needed to be a successful team. But upon returning to our courtroom, they struggled to actually put what they had learned into practice. Weeks of frustration slowly turned into small successes, and eventually that old confidence emerged.

The Riverside County Competition began in February, and for the first time in our school’s history, Indio ended the early rounds with an undefeated record of 4-0. Along the way, we had outperformed three recent championship teams. We returned to the Elite Eight. Though we suffered our first loss of the tournament in our quarterfinal round, it was a historic run. Our final ranking was fifth out of 26 schools: our best finish ever.

We have to thank Harvard and our attorney coaches, as well as the students for their desire to dig deep and be among the best. They performed as attorneys, witnesses, bailiff and clerk better than they even thought possible. It was a great run. It was a statement year. Indio is a contender, Indio is for real.



*Indio High School’s Mock Trial Courtroom  
— A Juror’s View*



*Indio High School’s Mock Trial Courtroom  
— View From Witness Stand*



*Indio High School Mock Trial  
student names from L to R:  
Paul Barba, Ashley Ortega, Robert Patino, Ry Walton*

Our courtroom is dark for now, but we will be back, and we will be the team to beat.

We are obligated to repay the \$16,000 loan. Fundraising so far has only allowed us to buy new suits for the team and defray the baggage charges that we accrued on our cross-country flights to and from Boston. We would be grateful for any assistance the legal community can provide. Please send donations to the following:

Indio High Mock Trial  
c/o Indio High School  
81-750 Avenue 46  
Indio, California 92201

Thank you for your interest in our team.



# CALIFORNIA SUPREME COURT DECLARES OPEN SEASON FOR ATTORNEYS TO LIE TO AND CHEAT THEIR CLIENTS, IF IT'S RELATED TO A MEDIATION AND NO CRIMINAL LAWS ARE BROKEN

by Shirish Gupta

## Summary of the Case

In January, the California Supreme Court ruled that the mediation privilege trumps clients' right to present evidence in future civil or administrative actions against their attorneys. (*Cassel v. Superior Court* (2011) 51 Cal.4th 113.) In *Cassel*, a client sued his attorneys for "for malpractice, breach of fiduciary duty, fraud, and breach of contract. His complaint alleged that by bad advice, deception, and coercion, the attorneys, who had a conflict of interest, induced him [at mediation] to settle for a lower amount than he had told them he would accept, and for less than the case was worth." (*Id.* at p. 117.) The client sought to introduce at trial evidence of communications between him and his attorneys during the mediation. These communications occurred when no one else was in the room, not even the mediator.

The court upheld the exclusion of the evidence, citing "the Legislature's explicit command that, unless the confidentiality of a particular communication is expressly waived, under statutory procedures, by all mediation 'participants,' or at least by all those 'participants' by or for whom it was prepared ([Evid. Code,] § 1122, subd. (a) (1), (2)), things said or written 'for the purpose of' and 'pursuant to' a mediation shall be inadmissible in 'any . . . civil action.' ([Evid. Code,] § 1119, subs. (a), (b).)" (*Cassel v. Superior Court, supra*, 51 Cal.4th at p. 119.) The court acknowledged that its decision would compromise the client's ability to prove a claim of legal malpractice, but claimed that its hands were tied by the statute's plain meaning. The reality, however, is that no legislator would agree that it was the legislature's intent to permit attorneys to defraud clients with impunity. Indeed, legislators would point out that there is no provision in the statute or the legislative history suggesting that the mediation privilege was intended to limit future malpractice actions or the court's ability to regulate and discipline attorneys.

## The Supreme Court's Ruling Hurts the Court, the Profession and the Public

In order to practice law in California and become a member of the bar, one must comply with rules approved by the Supreme Court and seek the court's permission to practice. (Bus. & Prof. Code, §§ 6060, 6062, 6064.) The Supreme Court has the authority and duty to regulate attorneys. For example, Business and Professions Code sections 6076 and 6077 authorize the State Bar, with the approval of the Supreme Court, to establish rules of conduct for attorneys and consequences for breach of those rules. In addition, Business and Professions Code section 6077 permits the Supreme Court to suspend an attorney for up to three years for breaching those rules.

However, because of the court's ruling in *Cassel*, clients will not be able to present evidence of their attorneys' malpractice in administrative complaints filed with the State Bar. This will directly impede the State Bar's and thus the Supreme Court's ability to discipline attorneys who violate the Rules of Professional Conduct. Given that the Supreme Court has a duty to regulate all attorneys licensed in California, it could and should have held that the legislature never intended the mediation privilege to apply to private communications between an attorney and his or her client.

Furthermore, the *Cassel* decision gives further justification to a legislature openly hostile to the State Bar and to the judicial branch. In recent years, the legislature has taken the State Bar to task for lax internal controls and oversight and poor public protection. In addition, the legislature is critical of the courts' ability to manage their electronic records and their finances, even threatening to take away much of their building funds. In a climate of such hostility, it is all the more surprising that the court would so openly abdicate its duties to protect the public from unscrupulous attorneys. In essence, the court is inviting the legislature to further encroach on its and the

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State Bar's daily activities, possibly even taking attorney discipline from the court's purview.

The court tried to limit the impact of its ruling by saying that only those communications related to mediation are protected. However, depending on the county, nearly every civil case in California goes through mediation at one point or another. Therefore, a portion of attorney-client communications in nearly every civil case will be excluded from evidence in potential civil and administrative actions. These will be crucial gaps in evidence that clients will have a hard time overcoming.

## Conclusion

The reality is that vast majority of attorneys in California take their ethical duties seriously. For them, the *Cassel* opinion will not impact how they interact with their clients; likewise, their clients will not be more vulnerable due to this ruling.

The problem will be the few attorneys who give the rest of us a bad name. Their malpractice, even if not admissible in courts, will be spread by the media and there will inevitably be a backlash against the profession, the bar and the courts for failing to ensure public protection. The profession has been a target for the legislature's populist ire over the past few years. It is unfortunate that the Supreme Court, in *Cassel*, has given the legislature yet another stick to beat the profession with. Hopefully, the legislature will remedy this promptly.

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*Shirish Gupta is a mediator and attorney with Flashpoint Law. He mediates matters throughout the state from his offices in Orange County and Silicon Valley.*



# OPPOSING COUNSEL: JONATHAN J. LEWIS

by Alexandra Fong

## “FIRST MAN-ELECT OF THE BAR ASSOCIATION”

Nancy Reagan focused on “just say no.” For Hillary Clinton it was health care. Laura Bush emphasized education. Michelle Obama is fighting childhood obesity. So when I asked Jonathan Lewis on what he was going to focus when his wife Robyn Lewis (nee Beilin) assumes the position of Riverside County Bar President this September, his response was “shorter bar board meetings.”

Robyn and Jon are the parents of triplet sons, Hayden, Henry and Noah. All three boys were born last July. Jon explained that he will have the child care duties while Robyn attends her board meeting and other bar functions. “It is hard work taking care of three kids, I need all the help I can get. So the sooner Robyn is home to help me, the better.”

Jonathan J. Lewis grew up in Riverside, the son of Shirley Lewis, a math teacher (retired) and Michael Lewis, the former Public Defender for the County of Riverside (retired). While growing up in Riverside, he attended Arlington High School where he was a member of the Mock Trial team coached by esteemed criminal defense attorney Steve Harmon.

After graduating from high school, Jon attended the University of California at Riverside, where he was a business major. He was inspired to go to law school by his father, as well as his experience competing in Mock Trial. He attended Western State University in Fullerton graduating in 2002 Summa Cum Laude.

While in his last year of law school, Jon externed with the Honorable Thomas E. Hollenhorst at the Fourth Appellate District, Division Two. When his externship ended, he began working at The Law Offices of Harlan Kistler. There he saw first hand the workings of a small firm, which provided to him an opportunity for growth and experience.

It was at that job where Jon met his future wife, Robyn. Jon explained that Robyn was a tough boss. He remembered one occasion where he wanted to cut out of work early to go surfing with some friends. When he told Robyn, she gave him a stack of discovery and told him it had to be answered before he could go. Robyn has always claimed she kept him from surfing that day to teach him responsibility. Jon has a different take on the subject, “I think she just wanted to keep me around.”



*Jon & Robyn with their triplets:  
Noah, Hayden and Henry*

Ultimately, Robyn got what she wanted as Jon and she started dating not too long thereafter. They continued to date, but before getting engaged to Robyn, Jon wanted to win his first big case. He got that opportunity in August 2004, with his first jury trial.

Jon represented an individual who was accused of shoplifting spark plugs from Wal-Mart. His client was acquitted in a criminal trial and in the civil trial, Jon was able to get the two Wal-Mart security guards who accused his client of shoplifting to admit that they were lying. His client was awarded over \$500,000 in damages. After Wal-Mart’s attorneys lost various post-trial motions, Wal-Mart paid the judgment, including interest.

Within a week, Jon and Robyn were engaged. Jon explained that he was just trying to follow the example of the great movie lawyer, Vincent Laguardia Gambini, also known as “My Cousin Vinny.” Jon explained that in that movie, Vinny would not get engaged to his girlfriend until he won his first case. “Hey it worked for Vinny, so . . .” Jon said tongue in cheek. Robyn and Jon were then wed on May 15, 2005.

Since opening his firm, J. Lewis & Associates in December 2002, Jon has focused his practice on all types of plaintiff personal injury cases. Jon feels that being a personal injury lawyer lets him benefit the community where he was raised. "I feel satisfaction in helping people and personal injury affords countless opportunities to help." When I asked Jon how he gets his cases, Jon explained that his clients come from advertising as well as referrals from past clients and local attorneys. "If you treat a client with respect and work hard on their case, they will reward you with referrals and of course, it's always important to pay referral fees to attorneys who refer cases."

Since being admitted to the bar, Jon has actively participated in the Riverside legal community. Jon and Robyn were mock trial coaches at Santiago High School from 2003 through 2006. "I'd like to say I coached mock trial to give back to the community, but really, I just did it because I wanted to win county." Jon almost achieved that goal in 2005, when Santiago finished second place in Riverside County and placed 13th in the state competition.

Jon has been a member of the Leo A. Deegan Inn of Court since 2003. He is also a member of the Riverside County Bar Association. Jon participates every year in the "Bridging the Gap" program for newly admitted attorneys, wherein he gives a presentation on the nuts and bolt of civil litigation.

When I asked Jon what he likes to do in his free time, he just chuckled and said "free time, what's that?" He then told me that he just goes from interest to interest. "Well, in the last few years, I was really into chess and competed in a few tournaments. Then from there, I started to play the Wii for a while. Now, I am trying to run a half marathon." He went on to explain that one of his older sisters (he has five sisters) just completed a half marathon with an average of 11 minute miles. Jon could not stand the fact that one of his sisters could run faster and farther than he. So now, Jon he is training to compete with her at the Orange County half marathon on May 1, 2011. "I've thrown down the gauntlet, and she's accepted, so it's on like Donkey Kong."

Former first lady, Lady Bird Johnson once said "the first lady is an unpaid public servant elected by one person, her husband." So just as our legal community elected Robyn Lewis as bar president, she elected Jon to be the "first man" of the bar association. "I'm proud of Robyn, she will be a terrific bar president. The boys and I will miss her when she is away at bar functions, but we know she will be serving our legal community and making Riverside a better place." Jon will serve the legal community as the "first man" of the Riverside County Bar Association starting this September.

*Alexandra Fong, a member of the Bar Publications Committee, is a Deputy County Counsel for the County of Riverside. She is also serving as a Member-at-Large of the Barristers.*



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# RIVERSIDE INTERNATIONAL AUTOMOTIVE MUSEUM

by Bruce E. Todd

## The roar is no more.

On August 14, 1988, the famed Riverside International Raceway (RIR) hosted its last race when Robby Gordon took the last checkered flag at the SCORE Off Road World Championships. The bulldozers were standing by to move in shortly after he crossed the finish line so that a new shopping mall could be constructed upon the hallowed racing soil.

The track, which was a major part of Riverside's history, served up its first feature race to the general public on September 22, 1957, when Richie Ginther won a Cal Club event in a Ferrari. In fact, along with Frank Miller's historic Mission Inn, it was RIR which put Riverside on the map. Many of the legendary drivers enjoyed both venues by staying and playing at Miller's landmark hotel during race weekends.

Although the storied venue is now long gone, racing fans still have the opportunity to recall the sights

and sounds of the track simply by visiting the Riverside International Automotive Museum. Opened to the public on September 20, 2007 by local racing enthusiast Doug Magnon and his father Ray, the museum houses numerous historic race cars and automotive memorabilia. The museum also hosts various public events, including the annual Legends of Riverside weekend. The first two such galas honored, respectively, Riverside legend Dan Gurney and Cobra creator Carroll Shelby. This year's third event, on March 25-27, featured the famed American racer Parnelli Jones. Jones had success driving just about any kind of race car and was famous for winning the Indy 500 in 1963 and then losing the same race in 1967 in a dramatic finish due to late-lap engine trouble.

Inside the museum, visitors are treated to vintage memorabilia, including old posters, ticket stubs, racing stickers and programs. The main lobby, which contains a small gift shop, has a continuously playing big screen television, which shows vintage footage of motor

racing at RIR. And, of course, there are the race cars themselves. Among them are various Gurney Eagles, which were designed at the racing shop of "Dan the Man" himself. There is a 1970 Lola, which Mark Donahue raced to a second-place finish at the Indy 500. A 1985 Nissan 300ZX, captained by famed actor Paul Newman, is also among the stable of vehicles.

A recent public event at the museum was the inaugural Race Track Workers Reunion, which gave an opportunity for former track



*Riverside International Automotive Museum's Director, Bruce Ward*

employees to mix and mingle with some former drivers who were also in attendance. One of the drivers was Jerry Grant, who was the first USAC driver to break the 200 m.p.h. barrier, which he achieved on a qualifying lap on September 3, 1972 at the old Ontario Motor Speedway (a venue that is another story in itself). Grant has fond memories of his days of racing at RIR.

“You can write a book on that one,” said Grant of Riverside’s famed road racing course. “The track was the ultimate. I drove a three-liter Ferrari in my first race there. I had always wanted to race at two tracks – the Indy speedway and at Riverside. I was fortunate enough to drive every type of car there – sports cars, formula cars and stock cars.”

Grant recalled the day that Lee Petty (the father of stock car hero



*Riverside International Automotive Museum*

## **Law Day Luncheon with the Honorable Tani Cantil-Sakauye**

On May 9, 2011, there will be a Law Day luncheon event at the Mission Inn in Riverside, featuring keynote speaker Chief Justice of the California Supreme Court, Honorable Tani Cantil-Sakauye. The event celebrates Law Day and the 20th anniversary of the appellate court’s settlement conference program. Local volunteer attorney appellate mediators will be honored and recognized. The California Court of Appeal, Fourth District, Division Two, is sponsoring the program in association with the Riverside and San Bernardino County Bar Associations, Inns of Court Chapters in Riverside, San Bernardino, and the Desert, and other local legal organizations. Individual seats and tables are available through the Riverside County Bar Association by calling (951) 682-1015 or email at [rca@riversidecountybar.com](mailto:rca@riversidecountybar.com).

Richard “The King” Petty) came over to him at the track. “You are braking the latest of everybody and still making the turn [turn nine],” said Petty to Grant. “Would you come over and tell my son how to do that?” Grant remembers thinking, “I am supposed to tell ‘the King’ how to drive?”

Another racer who was at the reunion was noted sports-car driver John Morton, who mentioned that he actually completed his driver’s schooling at the track.

“My least favorite thing about the track was the smog,” laughed Morton. “But it was a great track and very challenging. I raced there from 1963 through the time that I won my last race there in a Group 44 Jaguar in an IMSA race in 1987. It’s a special place for me.”

Bruce Ward has served as the director of the museum since it opened. He joked that he serves as the curator, administrator and janitor. His father Joe raced a Lotus in many races and then sold it long ago. After it belonged to six different owners, Ward was finally able to track down the now-vintage racecar (which was still accompanied by its original paperwork), and he now happily watches over it as one of the museum’s exhibits.

During the recent track workers reunion, museum owner and founder Doug Magnon was in attendance, and he enjoyed his visit with the drivers and former track workers.

“Although the cars are important,” commented Magnon, “the primary purpose of the museum is to cherish the memory of the race track.”

The museum is open from 10 a.m. to 4 p.m. Monday through Saturday. Admission is free, but a \$5 donation is suggested. The museum is located in Riverside at 815 Marlborough Ave., Suite 200, and can be contacted at (951) 369-6966.

*Bruce E. Todd, a member of the Bar Publications Committee, is with the firm of Osman & Associates in Redlands.*



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*Thank you for continuing to support the RCBA and its giving-back programs.*

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### Conference Rooms available

Conference rooms, small offices and the third floor meeting room at the RCBA building are available for rent on a half-day or full-day basis. Please call for pricing information, and reserve rooms in advance, by contacting Charlene or Lisa at the RCBA office, (951) 682-1015 or rcba@riversidecountybar.com.



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or fearb@riversidecountybar.com.**

## MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective April 30, 2011.

**Fred M. Adelman** – Milstein Adelman LLP, Santa Monica

**Mack Anderson** – Gresham Savage Nolan & Tilden, San Bernardino

**Ursula Barboza** – Borders McLaughlin, Irvine

**Andy Cavalletto** – Mandarano Cavalletto & Associates, Palm Springs

**Robert Co (A)** – Century 21 Classic Estates, Cerritos

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