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# RIVERSIDE LAWYER



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Gustave Doré illustration to the 1884 edition of Edgar Allan Poe's *The Raven*: Doubting, dreaming dreams no mortal ever dared to dream before. Wikimedia Commons.



# PRESIDENT'S Message

by Megan G. Demshki



## Riverside Roots Run Deep at Installation Dinner

Alongside my peers on the RCBA Board and Barristers Board, I was honored to be sworn in to serve this organization on September 11, 2025.

The energy in the room was infectious. We were thrilled to welcome so many members of our legal community that we had to increase the number of attendees at each table from 10 to 12 to squeeze everyone in. It was a tight fit—but the RCBA is firmly committed to making room for all our members.

It was great to see our members from across all practice areas enjoying each other's company and connecting.

Brian Unitt received the E. Aurora Hughes Meritorious Award for Service, in part, for his many years of dedicated service to Project Graduate, and Harlan Kistler received the Attorney of the Year award.

We were also able to celebrate two members who are celebrating 50 years with the State Bar of California, including Virginia Blumenthal and Steven Weinberg, and four members who are celebrating 25 years or more as RCBA members, including Dan Katz, Robyn Lewis, Luis Lopez, and Craig Marshall.

Throughout the evening, I was reminded of the history of this organization and the service of our members to the legal community and broader community at large. Past presidents going as far back as 1981 joined us to celebrate the past and the future of the RCBA. How privileged I feel to help steward an organization with such a rich history and dedicated, lifelong members.

The RCBA is here to support you from the beginning of your law career (even as students) throughout the many twists and turns in your career. It transcends genera-

tions. The RCBA has been a steady pillar of collegiality and growth in our profession, and we are excited to continue to foster relationships in the year ahead.

Thank you to Judge Sophia Choi for gracefully and eloquently serving as the Master of Ceremonies for the evening and Judge William Bailey (Ret.) for swearing in the RCBA Board.

Thank you to Charlene Nelson and the RCBA staff for working hard on a great event.

Thank you to all who attended and made the event a success. We were overwhelmed with a fantastic turnout of sponsors for the event including:

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It was an evening that reminded me of how intertwined this legal community is into the fabric of our community at large due to our dedicated and determined membership.

## Come Mix and Mingle at the Joint Bar Happy Hour!

Come meet new faces across our legal community!

The RCBA is proud to sponsor the Joint Bar Happy Hour alongside our friends at the Barristers, Richard T. Fields Bar Association, HBAIE, and APALIE on Thursday, October 16 at 5:00 p.m. at Lake Alice (3616 University Ave., Riverside).

Thank you to the Barristers Board for organizing this event. Please reach out!

I would love to hear from you! If you have any feedback or see an opportunity to grow the RCBA programming, please do not hesitate to reach out. I'm also happy to introduce you to new colleagues at any of our events. My email is [megan@aitkenlaw.com](mailto:megan@aitkenlaw.com) and my phone number is (951) 534-4006. We look forward to a year full of engagement with the RCBA.

Megan G. Demshki is the president of the RCBA and a partner at Aitken Aitken Cohn.



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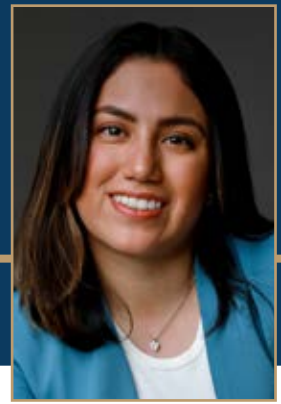
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# BARRISTERS

## President's Message

by Sharon P. Ramirez



### RCBA Installation Dinner

This past month, the RCBA held its annual Installation Dinner at the Mission Inn Hotel & Spa. I have always enjoyed installation, as it brings so many wonderful people from our Riverside legal community together. It was a great night, and fun was had by all!

During the dinner, the RCBA Board and Barristers Board were installed, and Brian C. Unitt was honored with E. Aurora Hughes Meritorious Award for Service, and Harlan B. Kistler received the Attorney of the Year Award. It was a meaningful moment to celebrate their dedication and the kind of service that continues to strengthen both our profession and our Riverside community.

I would like to give a special thank you to Judge Jackson Lucky for swearing in the Barristers Board. Judge Lucky is no stranger to the Riverside community. He has given back at every stage of his career, mentoring young attorneys, teaching, and modeling professionalism both in and out of the courtroom. Always accessible and encouraging, Judge Lucky exemplifies the kind of leadership that inspires us as we begin and continue our own journeys in the legal profession. Thank you again, Judge Lucky!

### The Holiday Season is Upon Us

There's something about the transition from summer's long days to the cooler pace of fall that always brings perspective. It's a season of gratitude — gratitude for the colleagues we work alongside, the mentors who guide us, and the clients who put their trust in us. As we head into the close of the year, may we continue to support one another, stay motivated in our work, and carry the spirit of service that defines our Riverside legal community into the holiday season.

This season also offers the perfect opportunity to lean into connection! Whether it's attending Barristers events, joining a happy hour, or reaching out to a mentor or colleague, there are countless ways to stay engaged with our legal community. These moments of connection not only enrich our professional lives but

also remind us that we're part of something larger — a network of peers committed to growing, supporting, and uplifting one another.

### Upcoming Events. You're Invited!

Please join us for our Joint Bar Happy Hour on Thursday, October 16, 5:00 p.m. at Lake Alice Trading Co. This will be our third year where we have held this joint event with the Hispanic Bar Association of the Inland Empire (HBAIE), the Asian Pacific American Lawyers of the Inland Empire (APALIE), and the Richard T. Fields Bar Association (RTFBA). It's a special



Back row – Henry Andriano, Elia Vasquez, Kevin Collins, Amanda Perez, Nolan Kistler  
Front row – Sara Truitt, Faran Imani, Sharon Ramirez, Summer DeVore, Derek Diemer



Judge Jack Lucky (Ret.) swearing in the Barristers Board.



Installation Dinner



way for our local bar associations to connect and enjoy each other's company! Appetizers will be provided. We can't wait to see you!

While we have some great events planned for this upcoming year, we are always happy to hear suggestions and ideas for events you are interested in seeing from Barristers. Please feel free to reach out! My contact information is below.

**Stay up to date on everything Barristers!**

For upcoming events and updates:

Website: <https://rcbabarristers.wixsite.com/rcba-barristers>

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Instagram: @rcbabarristers

If you're interested in learning more about Barristers or you would like to attend one of our events, I am more than happy to connect with you and introduce you to our amazing members. Feel free to email me at [sramirez@ramirezlaw.com](mailto:sramirez@ramirezlaw.com) or text or call at (909) 702-0058.

*Sharon P. Ramirez is an attorney with Kenny Ramirez Law Firm located in San Bernardino, where she practices catastrophic personal injury. Sharon can be reached at [sramirez@ramirezlaw.com](mailto:sramirez@ramirezlaw.com).*



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# From Disney Dreams to Disney Nightmares

by Mary Shafizadeh

For generations, Disney characters have symbolized happiness, safety, and childhood innocence. But imagine these beloved icons turning dark: Winnie-the-Pooh and Piglet as no longer just honey-loving friends, but axe-wielding, human-hating predators terrorizing Christopher Robin and a group of college students through the woods. Mickey as no longer the cheerful mouse, but a relentless villain stalking teenagers in an arcade. Peter Pan as no longer the boy who never grows up, but a deranged kidnapper. Bambi as no longer a gentle fawn, but a vengeful predator. Pinocchio as no longer a puppet longing to be “good,” but a puppet on a mission to destroy all things “bad.” These aren’t just terrifying what-ifs—they are the actual storylines of recent horror films such as *Winnie-the-Pooh: Blood and Honey*,<sup>1</sup> *The Mouse Trap*,<sup>2</sup> *Peter Pan’s Neverland Nightmare*,<sup>3</sup> *Bambi: The Reckoning*,<sup>4</sup> and *Pinocchio: Unstrung*.<sup>5</sup>

How is this possible? How did the Disney characters of our youth—once sweet, innocent, and comforting—transform into bloodthirsty monsters and slashers? While some critics dismiss these films as cheap or sacrilegious, the truth is they are perfectly legal.

To understand why these dark adaptations are allowed—and where the legal boundaries lie—we need to explore the laws that govern creative works, particularly the intersection between copyright and trademark law.

Copyright exists to protect creative works—books, films, drawings, music, and more. It gives creators the power to control how their work is used, whether to reproduce, adapt, distribute, perform, or display it themselves, or to authorize others to do so. These rights can also be sold, licensed, donated, or passed on to heirs.

Copyright lasts a long time, but not forever. In essence, copyright allows authors and artists to profit from and control their creations, while also ensuring that once the protection expires, the work enters the public domain for everyone to use freely.<sup>6</sup> No permission is required to copy, modify, distribute, or build upon the original elements, whether that means staging a faithful

retelling or reimagining treasured characters as chain-saw-wielding psychos.

That’s exactly what has happened with some of Disney’s earliest creations. As the copyright terms on specific versions of these characters have expired, those iterations have entered the public domain, allowing modern filmmakers to adapt, remix, and reinterpret them without seeking permission or paying royalties. But this freedom has limits—it only applies to the original versions, not the later adaptations still under copyright. Take Mickey Mouse, for instance. The black-and-white 1928 Steamboat Willie is fair game, but the Mickey Mouse we know today—with his iconic red shorts and full color charm—remains firmly protected.

The rules for how long copyright lasts have changed over time. For works created after January 1, 1978, copyright lasts for the author’s life plus 70 years. For anonymous works, pseudonymous works, or works made for hire, copyright lasts 95 years from first publication or 120 years from creation, whichever expires first. For works published before 1978, the 1909 Copyright Act applied: an initial 28-year term that could be renewed for another 28 years. The 1976 Copyright Act automatically extended the renewal term from 28 to 47 years for works still under copyright. Subsequently, the 1998 Copyright Term Extension Act added an additional 20 years, bringing the total renewal term to 67 years and the total copyright term to 95 years from publication for works that were properly renewed.<sup>7</sup>

Characters that have entered the public domain include A.A. Milne’s original *Winnie-the-Pooh* book (1926)<sup>8</sup> and Felix Salten’s *Bambi: A Life in the Woods* (1923),<sup>9</sup> which became free to use in the United States on January 1, 2022. J. M. Barrie’s *Peter Pan* play (1928) entered the public domain in the United States on January 1, 2024, while the 1911 novel *Peter and Wendy* had entered the public domain earlier.<sup>10</sup> The original 1928

7 U.S. Copyright Office, Circular 15A: Duration of Copyright (2011), <https://www.copyright.gov/circs/circ15a.pdf>.

8 Elisabeth Bruckner, *Winnie-the-Pooh’s Journey into the Public Domain*, J. TECH. & INTELL. PROP. (Apr. 19, 2023), <https://jtip.law.northwestern.edu/2023/04/19/winnie-the-poohs-journey-into-the-public-domain/>; *Winnie-the-Pooh* by A.A. Milne, LIBR. OF CONG., <https://search.catalog.loc.gov/instances/0425af7d-1a45-583e-bd57-439b28854be9?option=keyword&pageNumber=1&query=Winnie%20the%20Pooh%20from%20A.A.%20Milne%E2%80%99s&recordsPerPage=25&sort=publicationYear> (last visited Sept. 22, 2025).

9 Christine Schinagl, 13 Public Domain Characters that Crafters Can Use, CUTTING FOR BUSINESS, <https://cuttingforbusiness.com/8-characters-public-domain-crafters/> (last visited Sept. 22, 2025)."

10 Id.; Ellen Wexler, Mickey Mouse and Many Other Beloved Creations, Including Peter Pan and ‘Mack the Knife,’ Are Now in the Public Domain, *Smithsonian Mag.* (Jan. 1, 2024), <https://www.smithsonianmag>.

1 *Winnie the Pooh: Blood and Honey Trailer #1* (2023), YouTube, [https://www.youtube.com/watch?v=W3E74j\\_xFtg](https://www.youtube.com/watch?v=W3E74j_xFtg).

2 *Mickey’s Mouse Trap* (2024), YouTube, <https://www.youtube.com/watch?v=jVjt52sOs6g>.

3 *Peter Pan’s Neverland Nightmare* (2024), YouTube, [https://www.youtube.com/watch?v=BL6M27fz\\_d0](https://www.youtube.com/watch?v=BL6M27fz_d0).

4 *Bambi: The Reckoning Official Trailer* (2025), YouTube, <https://www.youtube.com/watch?v=zjvOOWZRDk>.

5 *Pinocchio: Unstrung* (2026), IMDb, [https://www.imdb.com/title/tt30887701/?ref\\_=vp\\_close](https://www.imdb.com/title/tt30887701/?ref_=vp_close).

6 *Copyright Basics*, U.S. Patent & Trademark Office, <https://www.uspto.gov/ip-policy/copyright-policy/copyright-basics> (last visited Sept. 22, 2025).



version of *Steamboat Willie*, featuring Mickey and Minnie Mouse, also entered the public domain on January 1, 2024.<sup>11</sup> Moreover, Carlo Collodi's *The Adventures of Pinocchio*, first serialized in 1881 and published as a book in 1883, has been in the public domain for over a century.<sup>12</sup>

Other classic characters and stories are up for grabs, ready for creators to twist, darken, or reinvent too. L. Frank Baum's *The Wonderful Wizard of Oz* is in the public domain, though the iconic film with Judy Garland is still protected. Hans Christian Andersen's *The Little Mermaid* story is free to use—but Disney's version with Ariel, Sebastian, and Flounder remain off-limits. The Brothers Grimm tales—*Rapunzel*, *Snow White*, and *Cinderella*—can be retold in any way one likes, though Disney's glossy versions cannot. Even *Aladdin*, as told in *The Arabian Nights*, is free to use, but not the Disney adaptation.<sup>13</sup>

Many of Disney's most famous tales are themselves reworkings of stories that were already in the public domain; the company didn't need to license them—it simply took old tales and made them magical. Now, as these versions enter the public domain, the same freedom is available to modern creators to remix, twist, or terrorize in ways Disney never imagined—or perhaps never chose to explore.<sup>14</sup>

Even after a work enters the public domain, creators still need to be mindful of trademark law. Unlike copyright, which eventually expires, trademarks can be maintained indefinitely as long as the owner continues to renew them. Trademarks exist to identify the source of a good or service, protect the brand, and prevent consumer confusion or fraud.<sup>15</sup> This means that while creators can legally use public domain versions of characters, they cannot imply that their work is officially associated with Disney. For example, Disney owns trademarks on the name "Mickey Mouse" and the modern likeness of the character. Accordingly, although a filmmaker can legally use the 1928 *Steamboat Willie* design in a horror film, they cannot market it in a way that suggests it is an official Disney production. Generally speaking, by sticking to the original public domain versions and including clear disclaimers, creators can safely explore dark or

twisted interpretations without running afoul of Disney's trademarks.

In an ironic twist, on September 17, 2025,<sup>16</sup> the law firm Morgan & Morgan filed a lawsuit against Disney. The firm had created an advertisement in which the 1928 *Steamboat Willie* crashes his steamboat into Minnie Mouse's car, prompting Minnie to call the firm for legal assistance. The ad prominently includes visual and verbal disclaimers making clear that neither Morgan & Morgan nor the advertisement is affiliated with Disney.<sup>17</sup> Before filing, the firm sought Disney's confirmation on whether the ad violated any of their intellectual property rights, but Disney declined to provide guidance, noting only that they hold certain related trademark rights. As a result, Morgan & Morgan turned to the courts, seeking a ruling that their parody is lawful and does not infringe on Disney's intellectual property rights.

So, is this scary—or fair game? Disney themselves have long played this game, transforming old tales into beloved stories. The reality is, once the copyright expires, creators can twist them in dark, surprising ways: honey-loving bears become axe-wielding predators, innocent puppets embark on vengeful missions, and the "Damsel in Distress" can cause stress instead. As long as copyright and trademark rules are respected, the public domain is a playground for terrifyingly creative reinterpretations.

Mary Shafizadeh, of the Law Office of Maryam Shafizadeh, practices criminal law, family law, and intellectual property. Committed to helping individuals and entrepreneurs navigate new chapters, she provides robust defense in criminal cases, compassionate guidance through family law matters, and strategic support for creative and digital ventures in intellectual property.



16 *Morgan & Morgan v. Disney*, No. 6:25-cv-01795 (M.D. Fla. Sept. 17, 2025), <https://www.documentcloud.org/documents/26102740-morgan-and-morgan/>, (last visited Sept. 22, 2025).

17 Morgan & Morgan, "Steamboat Willie Commercial," <https://docsend.com/view/q9x3bdin5vy9cst8>, (last visited Sept. 22, 2025).

[com/arts-culture/mickey-mouse-public-domain-2024-180983513/](https://www.rollingstone.com/culture/culture-news/mickey-mouse-chaplin-keaton-peter-pan-public-domain-1234938359/); Daniel Kreps, "More Than Just Mickey: Chaplin, Peter Pan, 'Western Front' Enter Public Domain," *Rolling Stone* (Jan. 1, 2024), <https://www.rollingstone.com/culture/culture-news/mickey-mouse-chaplin-keaton-peter-pan-public-domain-1234938359/>.

11 Alison Pringle, "Steamboat Willie Enters Public Domain," N.Y. ST. B. ASS'N (June 17, 2024), [https://nysba.org/steamboat-willie-enters-public-domain/?srsltid=AfmBOoq\\_yMh6ttcJc4T-112sCSLafjrNICBoQUy3lq1ggrOocxWYqrlS](https://nysba.org/steamboat-willie-enters-public-domain/?srsltid=AfmBOoq_yMh6ttcJc4T-112sCSLafjrNICBoQUy3lq1ggrOocxWYqrlS).

12 *The Adventures of Pinocchio*, ENCYCLOPÆDIA BRITANNICA, <https://www.britannica.com/topic/The-Adventures-of-Pinocchio> (last visited Sept. 22, 2025).

13 Schinagl, *supra* note 9.

14 *Id.*

15 "What Is a Trademark?," U.S. Patent & Trademark Office, <https://www.uspto.gov/trademarks/basics/what-trademark> (last visited Sept. 22, 2025).

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# Trick or Tort?: The Liability of Hosting a Haunted House

by Elizabeth Nance

The Halloween tradition of trick-or-treating has become less popular over the last few decades due to growing safety concerns. It is no longer considered safe to let children roam the streets during Halloween due to the dangers of drunk drivers, abductions, or even assault. As a result, families have started turning to more organized festivities such as local trunk-or-treats, carnivals, or amusement parks, but are they really safer? The scares have become significantly more intense as technology has evolved, but where does the line between “trick” and “treat” lie, especially when injuries occur on properties hosting such haunted events? Back in 2011, a property owner was faced with the question: Did hosting a haunted house put the trick on their patrons or on themselves?

The Haunted Hotel in San Diego, California hosts “The Haunted Trail” every year, which invites patrons for a one-mile loop filled with scare-actors that spook and chase visitors who find themselves on the treacherous path.<sup>1</sup> The scare-actors are disguised in frightening costumes, supported by visual effects, and wield realistic props. One unfortunate visitor purchased a ticket for the haunted trail and experienced its scares, including a grisly ghoul with a real, but chainless, chainsaw that leapt out at the end of the trail. Frightened, the visitor ran away, falling onto his wrist. Soon after, he filed a lawsuit against the Haunted Hotel.

The claims? Negligence, negligent hiring, negligent training, negligent supervision, negligent retention, and assault. JEEPERS! A common defense in tort law is the primary assumption of the risk doctrine, which is when a defendant does not owe a duty of care for injuries sustained by a plaintiff during an activity, when the plaintiff knowingly and voluntarily participated in the activity with its inherent risks. Historically, the primary assumption of the risk doctrine was reserved for traditional recreational activities such as sports due to the inherent risk of physical contact and active movement. Fortunately for the Haunted Hotel, the California Supreme Court had ruled in *Nalwa v. Cedar Fair, L.P.*, 55 Cal. 4th 1148, 1156 (2012), that the primary assumption of the risk doctrine is not exclusively reserved for sports and extends to “recreational activities that involve an inherent risk of injury to voluntary participants,” including amusement parks and attractions.

Questions the *Haunted Hotel* court was tasked with answering were whether walking among ghosts and ghouls contains inherent risks of injury, and if so, whether the hotel owes a duty to protect their patrons from the particular risk of harm: running, falling, and injuring oneself. The doctrine cannot be used as a complete bar if a defendant's conduct is completely outside the range of ordinary activity, and the plaintiff's counsel argued that the assumption of the risk defense is not applicable in situations of oppressive, malicious, or reckless conduct.

The court found that, with warnings on walls, the tickets, and online posts, patrons were given several notices of the operations of the Haunted Hotel. Many of the warnings, even on the ticket for The Haunted Trail, explicitly discouraged running due to the risk of injury. The court ruled that running in an amusement attraction is an inherent risk of the activity that occurs on the property, especially in haunted attractions. The plaintiff argued that, despite the Haunted Hotel's warnings against running, the scare actor's conduct was for the purpose of intentionally provoking flight, making injuries foreseeable. The actors were tasked with merely spooking patrons, which involves fast and quick movements to cultivate reactions of fear; they were not hired to intentionally cause patrons to run away and fall.

The Haunted Hotel has operated its trail for nearly fifteen years, hosting around 250,000 guests total. In that time, only this visitor had been injured and sued, demonstrating an extremely low risk of injury. The defense emphasized that its purpose in operation was to scare patrons, which was also the purpose that this visitor voluntarily paid money to experience. The Court of Appeal of California, Fourth Appellate District, ultimately affirmed the trial court's decision granting the Haunted Hotel summary judgment against the visitor.

It is important to set such standards for haunted operations because otherwise, they would most likely become extinct due to the liability of operations. Some of the most popular haunts in California include Universal Studio's Halloween Horror Nights and Knott's Scary Farm, which attract hundreds of thousands of patrons every year. By reducing the protection of such establishments, they would be less inclined to host spooky events due to the fear of impending lawsuits. In the law, there must always be a balance. Those doing the scaring must act reasonably, but so should the patrons who specifically paid to experience being spooked. The popular American tradition of haunted houses must be kept alive and well protected by the primary assumption of the risk doctrine, or else society will only be left with real fear: reality.

Riverside, like most cities, hosts popular haunted experiences every year, whether they are full-on attractions or your neighbor's front yard. It is important to consider the risks and potential lack of legal remedies when participating in a haunted experience. On the other hand, in a season that invokes fear, it is reassuring to know that property owners may have some legal protection. After all, a lawsuit may be the scariest thing to turn up at one's doorstep this Halloween. When haunted houses begin rising from the grave this fall, will you dare enter?

*Elizabeth Nance was a student intern at the Office of County Counsel during the summer of 2025 and is now a second-year law student at Western State College of Law.*



<sup>1</sup> *Griffin v. The Haunted Hotel, Inc.*, 242 Cal. App. 4th 490 (2015).



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# The Raven Ravings of Edgar Allan Poe

by Abram S. Feuerstein

"Lord help my poor soul" Edgar Allan Poe reportedly told Dr. John Moran, his attending physician at Baltimore's Washington College hospital.<sup>1</sup> Then the 40-year-old author died.

It was October 7, 1849. Poe's body was buried in an unmarked grave the next day.<sup>2</sup> His reputation was buried the following one by a New York newspaper obituary written by a grudge-bearing literary rival who portrayed Poe as a friendless, drug-addicted, morose loner, albeit one with genius.<sup>3</sup> Poe was both nevermore and evermore.

Poe had surfaced several days before his death outside of a Baltimore tavern in a confused, semi-conscious condition, and wearing ill-fitting, shabby clothing that belonged to another person.<sup>4</sup> While at the hospital, incomprehensibly he yelled out several times the name, "Reynolds."<sup>5</sup> In a lucid moment, when his doctor told Poe that he might recover and rejoin his friends, Poe said "the best thing his best friend could do would be to blow (Poe's) brains out with a pistol."<sup>6</sup>

Poe's cause of death to this day remains a mystery. Living at the time in Richmond as a widower, he had re-united with a woman from his teenage years, Elmira Royster, who had been widowed herself.<sup>7</sup> They planned to marry. In mostly good spirits, Poe supposedly was on his way to New York from Richmond, with a planned business stop in Philadelphia to edit a poetry collec-



Edgar Allan Poe, June 1849. Daguerreotype, photographer unknown.



Edgar Allan Poe's gravestone at Westminster Hall in Baltimore, Maryland. photo by Andrew Horne/Wikimedia Commons

tion.<sup>8</sup> A steamship took him to Baltimore where he disappeared for five days until, as noted, he was discovered in a condition of "great distress."<sup>9</sup> Poe could not recall what had happened to him or his luggage.<sup>10</sup> A Poe Baltimore literary acquaintance, J.E. Snodgrass, the person who had taken Poe to the hospital, described Poe as "utterly stupefied with liquor."<sup>11</sup>

Poe scholars have debated whether alcoholism caused Poe's death. And while alcoholism continues to be the prevailing theory, other medical explanations for his death abound.<sup>12</sup> Some of these include rabies,<sup>13</sup> epilepsy, cholera, mercury poisoning from being treated for cholera, syphilis, suicide, a drug overdose, foul play, and brain tumors. Or, a latent form of tuberculosis that he possibly contracted from exposure to his mother (who died when Poe was almost 3 years old), or his wife, Virginia, who predeceased Poe by two years when she, too, succumbed to tuberculosis (aka "consumption" at the time).

Still another theory is that Poe had been the victim of "cooping."<sup>14</sup> This was a type of voter fraud involving gangs who on election day would kidnap and drug individuals and force them to vote multiple times at multiple precincts.<sup>15</sup> To fool election officials, the victims would be dressed in different

clothes to prevent recognition. This theory would explain why a delirious Poe had been found on election day in Baltimore, outside of a bar that doubled as an election precinct, in clothing that was not his own.

1 Christopher P. Semtner, *The Raven Illustrations of James Carling* (The History Press 2014) (hereafter "Semtner"), p. 46-47. Semtner serves as the long-time curator of the Edgar Allan Poe Museum in Richmond, Virginia, and in his book provides a detailed introductory essay about both Poe and his poem, "The Raven."  
2 Twenty-six years later the body would be moved nearby in the cemetery and marked with a large monument.  
3 The obituary, written by Rufus Griswold, a well-known poetry anthologist, appeared in the *New York Herald*. Paul Collins, "Edgar Allan Poe: The Fever Called Living" (New Harvest, Houghton Mifflin Harcourt, 2014) (hereafter, "Collins"), p. 99. For the observation that Poe's reputation was "buried" by the obituary, see Mark Dawidziak, *A Mystery of Mysteries: The Death and Life of Edgar Allan Poe* (St. Martin's Press, 2023) (hereafter, Dawidziak").  
4 Collins, p. 97.  
5 Collins, p. 98; Semtner, p. 47. There is speculation that Reynolds might have been a reference by Poe to the polar explorer, Jeremiah Reynolds, whose work influenced Poe's only novel, *The Narrative of Arthur Gordon Pym of Nantucket*, and who theorized that the earth's South Pole was some type of a portal leading to an abyss. Collins, p. 98.  
6 Collins, p. 98 (quoting Dr. John Moran); Semtner, p. 46.  
7 Collins, pp. 95-96.

8 Semtner, p. 46.  
9 See "The Mystery of Edgar Allan Poe's Death," Edgar Allan Poe National Historic Site, retrieved at <https://www.nps.gov/articles/poe-death.htm> (hereafter, "Park Service").  
10 Semtner, p. 46.  
11 Collins, p. 97.  
12 Approximately a dozen different theories are collected, examined and mostly discounted in Dawidziak's volume.  
13 Poe refused and was unable to drink water at the hospital, which apparently is a rabies symptom. See generally, <https://en.wikipedia.org/wiki/Rabies>.  
14 See National Park Service, <https://www.nps.gov/articles/poe-death.htm>. The term cooping relates to the small room or coop in which the victims were held.  
15 See generally, <https://en.wikipedia.org/wiki/Cooping#:~:text=Cooping%20%2D%20Wikipedia,See%20also>.

Given the state of pre-Civil War medicine, Poe's cause of death likely always will be unknown; and after 175 years it is doubtful that new information will emerge to explain Poe's disappearance in Baltimore. But oddly these mysteries – layered on top of Poe's artistic output – have helped his literary identity endure. They merge to make Poe possibly the most recognizable American author, with "The Raven" his most recognized work and America's most famous poem.

### Briefly Biographical

Poe was born in January 1809. He was a middle child, with a brother, William Henry, born in 1807, and a sister, Rosalie, born a year after Poe.<sup>16</sup> Both of Poe's parents were stage actors. His mother, Eliza, was well regarded by critics and audiences and in a short career starred in hundreds of roles, while Poe's father, David Poe, a bit player, received harsh criticism if anyone even noticed he was part of the cast. The family struggled financially. David Poe drank heavily. By mid-1811, when Poe was only 2 years old, David Poe abandoned the family. He would turn up dead five months later. In November 1811, Eliza Poe contracted tuberculosis and became very ill after a theatrical run in Richmond, Virginia. An ominous notice appeared in the *Richmond Enquirer*: "Mrs. Poe, lingering on the bed of disease and surrounded by her children, asks your assistance, and asks it for perhaps the last time."<sup>17</sup> She was dead by December.

The children were separated, and Poe was placed with a foster family, Frances and John Allan of Richmond, Virginia. Frances did not have any children and she adored young Edgar. John Allan was less adoring. He was a successful, hard-headed merchant who imported and exported all types of goods, including tobacco. He wanted Edgar to become a businessman and was disappointed when Poe did not. As the years passed, his relationship with Edgar was less like a father and more like a benefactor until he grew tired of that role and of supporting Edgar. After Frances died in 1829, John Allan had little to do with Poe. The Allans did not adopt Poe formally, and upon his death, John Allan disinherited Poe.

But the Allans looked after Poe's education. They had an extensive library, and Poe likely read many of its volumes. He latched onto the romantic poets and as a young child, Poe idolized and fancied himself a young Lord Byron. After the war of 1812, John Allan tried to expand his business and took his family to Scotland and England, where Poe was educated at boarding schools. Upon the family's return to Richmond, Poe attended a private academy. He started to compose poems. By age 14, he developed a crush on and shared his poetry with

a thirty-year-old mother of one of his classmates. She died, possibly of tuberculosis, a year later. Poe often visited her grave, and the Poe theme of a lost love for an idolized beautiful woman seems to have solidified: she was "the first, purely ideal love of my soul," Poe wrote years later.<sup>18</sup>

Poe attended Thomas Jefferson's newly opened University of Virginia, but it seems John Allan, who had just inherited a large fortune from a rich uncle, refused to provide Poe with sufficient funds for his living expenses. In need of money, Poe gambled heavily. And lost. John Allan refused to pay Poe's debts, and Poe dropped out of college. Hoping to hit it big, he published a collection of early work, *Tamerlane and Other Poems*, under the pseudonym, "A Bostonian." The 50 copies of the volume were never distributed.<sup>19</sup> Poe bounced around for a year before enlisting into the army in 1827 under an assumed name -- possibly to avoid his creditors.

After learning that Frances Allan had died, a dishonorably discharged Poe left the army and returned to Richmond, reconciled briefly with John Allan, and published another poetry volume without financial success. In June 1830, he secured admission into the Military Academy at West Point but soon was expelled. He then went to live in Baltimore at the small, crowded home of his aunt, Maria Clemm, her daughter, Virginia, her son, Henry, Edgar's invalid grandmother, Elizabeth, and Edgar's brother, William Henry, who died at the house from tuberculosis in 1831.

### Poe Finds Fame

Determined to earn a living from his writing, Poe entered short stories in newspaper contests. The five stories Poe submitted to the *Philadelphia Saturday Courier* did not win, but the paper published the stories. He won a \$50 first prize for a short story submitted in 1833 to the *Baltimore Saturday Visitor*.<sup>20</sup> Poe's developing reputation as an author enabled him to become an editor at Richmond's *Southern Literary Messenger*. He earned a stable income of \$15 per week and gained notoriety – and numerous enemies – for his book reviews and barbed criticism of other writers, becoming known as "The Tomahawk."<sup>21</sup>

In 1836, when Poe was 27, he married his 13-year-old cousin, Virginia Clemm.<sup>22</sup> Marrying a cousin was not

18 Semtner, p. 13; see also, <https://poecalendar.blogspot.com/2009/04/death-of-poes-first-love.html>.

19 Only a dozen or so copies of the book have surfaced, with one copy fetching \$420,000 at a July 2024 auction. See <https://www.finebooksmagazine.com/fine-books-news/poes-tamerlane-sells-420000-conan-doyles-sign-four-960000>.

20 The story, "Manuscript Found in a Bottle," relates the last observations of a man on a shipwreck heading towards the Antarctic.

21 During his short writing career, Poe published almost 1000 essays of literary criticism. See Barbara Basbanes Richter, "The Tomahawk: Poe & Criticism, Then and Now," *Fine Books & Collections*, October 10, 2014, retrieved at <https://www.finebooksmagazine.com/fine-books-news/tomahawk-poe-criticism-then-and-now>.

22 Collins, pp. 31-32.

16 Except as otherwise noted, the factual information presented here is based on the author's reading and reliance upon the biographical accounts in Collins, Semtner, and Dawidziak.

17 Collins, p. 3.



scandalous; the age difference was. The couple had the consent and strong approval of Virginia's mother (and Poe's aunt), Maria, but the marriage certificate nevertheless listed Virginia's age as 21. A lot is not known about Poe's life – or death – but biographers seem to agree that Poe's marriage to Virginia was a loving, devoted, and happy one.

Later in 1836, Poe was fired by the owner of the *Messenger*, who could no longer tolerate Poe's drinking bouts. Poe could go for long periods of time without drinking but inexorably would "binge drink" and seemingly self-destruct. Poe re-located first to New York, and then to Philadelphia. He scraped by with assorted newspaper and magazine work.

Poe's stories at this time also began to reflect the gruesome subjects we associate today with him. In an early story, "Berenice," a man becomes so obsessed with his would-be wife's teeth that after her perceived death, he breaks into the coffin to retrieve them only to realize that she had been buried alive. In another decade, Poe would publish "The Tell-Tale Heart," "The Black Cat," and "The Cask of Amontillado" in which revengeful if not insane narrators commit murder and dismember, bury, or entomb their victims.

Poe, too, was an early writer of science fiction. In 1835, he wrote a story, "The Unparalleled Adventure of One Hans Pfaall," in which the namesake character travels to the moon in a balloon to escape his creditors using a device that can convert the vacuum of space into breathable air. In 1839, Poe published "The Conversation of Eiros and Charmion," involving a newly discovered comet that destroys the Earth. Another balloon trip is at the center of an 1849 story, "Mellonta Tauta," which involves a time traveler to the year 2848.

By 1841, Poe finally found a little commercial success. He had published *The Conchologist's First Book*, a textbook on shells that was Poe's top selling work during his lifetime,<sup>23</sup> and edited several prominent Philadelphia magazines. Poe then wrote what is thought to be the first modern detective story, "Murders in the Rue Morgue," featuring the logic-loving detective C. Auguste Dupin, a Sherlock Holmes precursor. His widely circulated treasure hunt story, "The Gold Bug," became a sensation and audiences paid to hear the author discuss both the adventure tale and his views on writing and writers.

Poe's good news would not last long. In early 1842, as she sang at their parlor piano, Virginia Poe ruptured a vessel and coughed up blood, displaying the first symptoms of tuberculosis.<sup>24</sup> Several months later when he wrote the short story, "The Masque of the Red Death," Poe must have been expressing the horror and agony he felt at the prospect of his wife's death: "The 'Red Death'

had long devastated the country. No pestilence had ever been so fatal, or so hideous. Blood was its Avatar and its seal – the redness and the horror of blood. There were sharp pains, and sudden dizziness and then profuse bleeding at the pores, with dissolution."

## The Raven Takes Flight



According to Christopher Semtner, the curator of Richmond's Poe Museum, "(p)recisely when, where and how Poe composed 'The Raven' is unknown."<sup>25</sup> The poem likely was written in 1844, and probably while Poe resided at a farmhouse located on 84th Street in New York City prior to the Poes moving to a cottage in the Fordham section of what would become The Bronx, New York.<sup>26</sup> Poe understood that with "The Raven" he had created something extraordinary. Before its publication in early 1845, he read it to a friend and fellow author, William Ross Wallace. Wallace pronounced the poem as "fine." "Fine? Is that all you can say for this poem? I tell you it's the greatest poem ever written," a confident Poe exclaimed.<sup>27</sup>

Perhaps Poe's idea for a raven poem came from his friendship with a fellow Philadelphia poet, Henry B. Hirst, who owned a pet raven. Or it may have come from a Charles Dickens novel, *Barnaby Rudge*, which features Grip, a talking raven. Poe had reviewed the novel for a February 1842 magazine article. It also seems that Poe himself had been terrified of ravens as a young child.<sup>28</sup>

Initially slated for publication in a Philadelphia magazine, the *American Review*, a New York newspaper editor for the *Evening Mirror* had seen "The Raven" proof sheets at the printer and obtained permission to publish an advance copy of it.<sup>29</sup> The newspaper opined that the poem was "unsurpassed in English poetry for subtle conception, masterly ingenuity of versification, and consistent, sustaining of imaginative lift and 'pokerishness' . . . It will stick to the memory of everybody who reads it."<sup>30</sup>

In short order, the poem was reprinted in newspapers around the country and its popularity exceeded Poe's "The Gold Bug." Poe himself noted that "the bird beat the bug."<sup>31</sup> Although Poe received little compensation for

<sup>23</sup> Semtner, p. 27.

<sup>24</sup> The farmhouse was demolished in the late 1800s. See "The Lost Brennan House – 84th Street and Broadway," <https://daytoninmanhattan.blogspot.com/2017/06/the-lost-brennan-house-84th-street-and.html>. The Bronx Fordham Poe cottage still exists and is the actual historic home where the Poes lived from 1846 to 1849. The cottage, now a National Historic Landmark, is open to the public and operates as a museum. See generally, Edgar Allan Poe Cottage, [https://bronxhistoricalsociety.org/poe-cottage?srlid=AfmBOop612X6xAFmVjZCuqOfmUBm-u\\_jpHDGZTJhrOEGhjuwsNH6JoiQ..](https://bronxhistoricalsociety.org/poe-cottage?srlid=AfmBOop612X6xAFmVjZCuqOfmUBm-u_jpHDGZTJhrOEGhjuwsNH6JoiQ..)

<sup>25</sup> Collins, p. 67; Semtner, p. 30.

<sup>26</sup> Semtner, pp. 29-30.

<sup>27</sup> Semtner, p. 32.

<sup>28</sup> *Id.*

<sup>29</sup> Collins, p. 68.

<sup>23</sup> Semtner, p. 24.

<sup>24</sup> Collins, p. 51.

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# Hocus Pocus: What's Brewing for the 8th Amendment?

by Richard La Fianza and Lyly Brantley

As Halloween approaches, images of witches herald a holiday that celebrates the defiance of death. Today, we view witches with revelry. However, in the past, the label - "witch" - condemned one to being burnt alive. The European monarchy, seeing the terror created by public immolation, began to use it for other state crimes, particularly treason.

Our founding fathers rejected this type of cruelty with the adoption of the the Eight Amendment: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." These 15 words would become the cornerstone of the American justice system. But first, the United States had to fight a war.

## Spanish/American War

In 1898, the United States and Spain went to war. Six months later, Spain conceded the war and ceded to the United States the territories of Puerto Rico, Guam, and the Philippines. A major question arose: What laws would apply to the new territories?

In the Philippines, the government blended Spanish and American law by enforcing the Spanish Penal Code subordinated to the U.S. Constitution. This juxtaposition of two very different legal systems resulted in the seminal case of *Weems v. U.S.* (1910) 217 U.S. 349, 382. This article will explain *Weems* and its lasting effects on the U.S. justice system.

## *Weems v. U.S.*

Weems was a government clerk who was required to keep track of any public money he spent. Weems made two entries showing that he had "paid out, the sums of 208 and 408 pesos," when he had not. (This would be about \$350 dollars today.) He was convicted of making false log entries.

For these crimes, each false entry was a separate offense. Weems was sentenced under the old Spanish law to the "*cadena temporal*" or, in English, the temporary chain. This meant he would be imprisoned for a minimum of twelve years and one day with "a chain at the ankle, hanging from the wrists," while "employed at hard and painful labor." He would also lose his parental and property rights. Weems appealed.

The court in *Weems* reviewed the history of British punishment. They found, at a minimum, Americans would never tolerate burning people alive or publicly dissecting them for any offense. The court also found

that the Eighth Amendment could not just be limited to the prohibition against past gruesome punishments. Otherwise, Kings would simply substitute new barbaric punishments to replace the former banned ones.

The Eighth Amendment could not be "fastened to the obsolete but may acquire (new) meaning as public opinion becomes enlightened by humane justice." Courts should consider a variety of factors, but the key factor is if the punishment is proportional to the offense. Excessive punishments were prohibited.

After announcing these principles, Weems compared how Americans were punished under federal law to the punishment imposed in the Philippines. America did not have a law criminalizing false log entries. As such, the court compared Weems' crime to the crime of embezzlement. Under federal law, an embezzler would receive a prison term of "not more than two years," substantially less than the sixteen years dictated by the *cadena temporal*. Weems also received more time for his offense than a person convicted in the United States of treason, forgery, or robbery.

Without drawing any bright lines, the court found this contrast "condemns the sentence in this case as cruel and unusual," because it was not proportional and did not reflect current American values. For 100 years *Weems* was the foundation for Eighth Amendment jurisprudence. The Supreme Court cited *Weems* 76 different times, including the following cases:

- 1) In 1972 *Furman v. Georgia* (1972) 408 U.S. 238, 242, held that the death penalty, as applied, was unconstitutional. One of the concurring opinions cited *Weems* to support this conclusion.
- 2) In 1977 *Coker v. Georgia* (1977) 433 U.S. 584, 592, ruled that imposing the death penalty for rape was unconstitutional because, in part, it was "grossly disproportionate and excessive." Like *Furman*, *Coker* cited *Weems*.
- 3) In 1982 *Enmund v. Florida* (1982) 458 U.S. 782, held that it was disproportionate to execute a man guilty of felony-murder, because he had not actually killed anyone or attempted to do so. Once again, the court cited *Weems*.

*Weems* is deeply enrooted in American law. In fact, since 1910 *Weems* has been mentioned over 7,000 times in federal documents. However, recent cases portend a shift in direction.



## A Change in Values?

The principle of proportional punishment is still accepted by the Supreme Court. However, the current Justices interpret that word differently.

For example, in 2003 Mr. Ewing was sentenced to prison for 25 years to life as a "three striker" for shoplifting. Citing *Weems*, Ewing argued that his life sentence was disproportionate. (*Ewing v. California* (2003) 538 U.S. 11, 28.) The Supreme Court held that this sentence was not merely for the theft, but also for the defendant's criminal record. It was, therefore, constitutional. The dissent, also citing *Weems*, held that his punishment was grossly disproportionate.

In 2008 Justice Kennedy, citing *Weems*, wrote that "the death penalty is not a proportional punishment for the rape of a child." (*Kennedy v. Louisiana* (2008) 554 U.S. 407.) In contrast, Justice Alito argued that because a raped child may suffer even more than a murder victim, execution of the offender would be proportionate.

*Weems* also stands for the proposition that the constitution may acquire new meaning. It evolves. However, this proposition is strongly rejected by Originalist justices. Justice Amy Coney Barrett has said that an Originalist is someone who believes that the Constitution "doesn't change over time." Justice Kavanaugh says an Originalist must "interpret that text according to its ordinary meaning as originally understood." Of the nine

justices currently on the Supreme Court, six espouse Originalism.

## Conclusion

Reflecting the sentiment found in *Weems*, most Americans believe that punishment should be proportional and, when it is not, the punishment should be changed. The current Supreme Court says it believes in proportional punishments, but its decisions have diluted that term to the point where they uphold life sentences for nonviolent crimes. Three Justices have also argued that executions are proper for rape.

Consistent with *Weems*, many Americans also believe that we have a living constitution that changes to reflect the times. However, six members of the current court reject this view.

Today, most people no longer believe in witches. Even if we were to believe that witches existed, people found "guilty" of witchcraft would never be executed, let alone burnt alive. Traditionally, under *Weems*, such a punishment would be disproportional and thereby unconstitutional. However, under the current majority, witches have reasons to worry.

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# Curbing the Scary Specter of Legal Liability

by Boyd Jensen

With schools open following the summer and after Labor Day, many amusement park venues gear down for their season's close, except for a growing trend to extend the amusement park season to Halloween on October 31. Even mountainous Utah's Lagoon Park, at 5000 feet, willingly challenge Mother Nature and early snow. Knott's Berry Farm in California started the tradition of Halloween theme park celebrations in 1973 with its first "Halloween Haunt," currently Knott's Scary Farm. This groundbreaking event is widely credited with inspiring countless other Halloween-themed attractions at theme parks across the country. Albeit neighbor Disneyland's 1959 "Parade of Pumpkins" deserves kudos.

Whether it is Los Angeles' *West Hollywood Carnaval*, the world's biggest Halloween street party, attracting over 500,000 people; or the equally large Mexico City's *Día de los Muertos*, memorializing traditions of Mexico's Day of the Dead, the vast majority of events go off without a hitch. Even the Arizona State Fair throughout October features large-scale, Halloween-themed exhibits such as "Pumpkinferno;" and the enormous State Fair of Texas includes haunted houses or other spooky dark rides in its midway.

Though the unique nature of most Halloween amusement park programs or even the ones occurring in our own back yard – occur at night, in dimly-lit venues, with a number of unpredictable surprises – can raise the specter of risk and safety, and potential legal challenges. How does legal counsel help create a ghoulishly good time while avoiding the unamusing hobgoblins? Fortunately, there are several justiciable solutions.

## **Safety for Patrons/Participants**

### **Inform**

Amusement operators know that, since Halloween events will contain more aggressive and personally threatening entertainment devices, their duty is accentuated. Guests should be informed of the more strenuous and aggressive environments or attractions, including hidden and cloaked entertainment devices, even for a well-known holiday that celebrates these very devices: monsters and their victims.

Inform patrons online, waiting in line, and creatively at and within the park environment, about (a) lighting, (b) caring for personal possessions, (c) personal and companion medical/health concerns, (d) unusual or "scary" surprises, (e) uninvited physical contact, and (f) that patrons are assuming the risks of the darker, louder, and more surprising entertainment/recreational environment.

### **No Personal Contact**

Say "No" to unreasonable monsters—often related to physical contact. At touch football games, people accept extra risks by participation with more strenuous and aggressive physical contact. But not so regularly at Halloween parties. In fact, because they are knowingly hidden or knowingly

cloaked, the land owner needs to have published extra guidelines and safety procedures to demonstrate they are safe, like any other entertainment device. Knott's Berry Farm's current GUEST ASSISTANCE GUIDE is 40 half pages long.

### **Good Signage and Disclaimers**

Halloween incidents may be caused by a guest reacting to fear and hence losing balance or tripping over a nearby guest or object. For these types of incidents, disclaimers and good signage are a good risk management tool to follow. However, not all incidents occur when scared visitors fail to take appropriate care. Some result from more technical problems such as problematic elevations, negative generated g-forces, or inadequate lighting or signage.

### **Follow the American Society of Testing and Materials Standards**

The American Society of Testing and Materials Standards (ASTM) has standards which are very helpful. For example, when it comes to elevation changes, operators can rely on ASTM 1637, which establishes a maximum change of elevation between walking surfaces, down to inches. A number of ASTM committees have other relevant information contained in standards formulated by experienced members in the attractions industry for trampolines, aerial adventures, and ziplines. ASTM standards are not always mandatory requirements, however; safety experts use the standards to support their opinions aiding property owners in design, manufacturing, construction and operating rides and attractions.

### **Access and ADA**

Standards also help to maintain America's with Disabilities Act (ADA) compliance, by fashioning accessible routes and exit systems from buildings, and not just inside the buildings or temporary structures themselves; but also in the open, with unusual or surprising route characteristics. Darkness inside the haunt events is an integral part of the event, and care must be directed towards those with reduced visual acuity or inability to hear.

### **Claims and Litigation**

There is no 'reasonable monster' standard." Which means that a careful balance must be struck between generating the desired fright and keeping the actual event under control. Guest safety must be placed ahead of any other factor. Legal counsel need not eliminate all risks and, in doing so, create a risk-averse bubble (and a dumbed-down event) that almost totally suppresses creativity. Creativity and excitement should be allowed to flourish, but within an orchestrated chaos, as opposed to actual chaos. Say "Yes" to risk management that begs the question of how an





amusement facility keeps a Halloween event genuine without incurring unnecessary legal risk?

Incidents do happen in spite of all home owners and operators attempts to operate safely. The standard which best summarizes the law in California in situations, such as those presented by Halloween events, is found within Civil Jury Instruction 470 *Primary Assumption of Risk—Coparticipant in Sport or Other Recreational Activity*:

"[Name of plaintiff] claims [he/she] was harmed while participating in [specify sport or other recreational activity, e.g., amusement ride] and that [name of defendant] is responsible for that harm. To establish this claim, [name of plaintiff] must prove all of the following: 1. That [name of defendant] either intentionally injured [name of plaintiff] or acted so recklessly that [his/her] conduct was entirely outside the range of ordinary activity involved in [e.g., amusement ride]; 2. That [name of plaintiff] was harmed; and 3. That [name of defendant]'s conduct was a substantial factor in causing [name of plaintiff]'s harm.

Conduct is entirely outside the range of ordinary activity involved in if that conduct [for example, amusement ride] (1) increased the risks to [name of plaintiff] over and above those inherent in [e.g. amusement ride], and (2) it can be prohibited without discouraging vigorous participation or otherwise fundamentally changing the [sport/activity].

**[Name of defendant] is not responsible for an injury resulting from conduct that was merely accidental,**

**careless, or negligent.** (Emboldening added and 'e.g. amusement ride.')"

Halloween events really do not present totally unique issues, but they require an analysis that many better-lit and less frightening attractions might not. Indeed, almost every major North American amusement operator has introduced elements of Halloween – and the holiday is catching on in parts of Europe as well. Further, as the monster above demonstrates appropriate considerations should also be made at homes. While we can generate real fear, our guests should be informed to avoid real risk. After all, no one wants to be haunted for years with boring interrogatories, incessant document productions, the unforgiving eternally preserved deposition words, forced mediations/settlement/status and trial setting/readiness/post mediation conferences on top of annual MCLE. Wow, now I realize why my family says, I have turned into a cold-hearted monster.

*Boyd Jensen has represented almost all amusement parks and most fairs in California regarding legislative matters or litigation, trying over a dozen jury trials related to such activities, and in other surrounding states. Boyd Jensen is a Riverside County Bar Association member, an Advocate Member of the American Board of Trial Attorneys, has been rated AV Preeminent for over 35 years, and is a member of the RCBA Publications Committee.*



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# Bespoke Honor

## Virginia Blumenthal, the 2025 Frank Miller Award Winner, Enjoys a Customized Celebration

by Gale Hammons

What do you give the woman who has (nearly) every civic award?

A bespoke honor, tailored just for her.

Virginia Blumenthal, in a black, floor-length gown, received the prestigious Frank Miller Civic Achievement Award from the Mission Inn Foundation at the Mission Inn in Riverside on May 29.

The semi-formal evening had a single purpose: honoring a woman, now in her 50th year practicing law, who lives the phrase "giving back."

And so the program was a celebration: the stitching together of memories, humor, insight and homage. Highlights included assorted short speeches, a 10-minute tribute video, and ovations from a sellout crowd.

As we shared on social media, the guest speakers proved creative and compelling. They described Virginia as:

- **Tireless, honest, and committed to justice and the rule of law.** "You're one of the best people I've ever known in my life," said Jack Clarke, partner of Atkinson, Andelson, Loya, Rudd and Romo.
- **Steadfast in her work for the community.** She is "inspired by divine energy" and "someone who lifts up and supports" those around her, said Kim Wilcox, then chancellor of UC Riverside.
- **So accomplished that she must have been cloned.** Her "fingerprints are all over Riverside" and the local newspaper should have investigated long ago, quipped Dan Bernstein, the retired Press-Enterprise columnist.
- **More complex than her courtroom moniker "Brass Balls Blumenthal."** She's also the mom who helps anyone in need, lives the essence of her religious values, strengthens the community with constant, quiet, unwavering action – and sees herself as "just Virginia," said her daughter Heather Green, an attorney at Blumenthal & Moore.

The intro to the evening's video – in which Green, Virginia's friends, and local leaders shared stories of her support, service and positive behind-the-scenes influence – also put it well:

*"Virginia Blumenthal has been described as a mentor, a trailblazer, an icon.*

*In the courtroom, she's a fierce advocate for her clients' rights. In the community, she's a bridge-builder.*

*She grew up in a military family, moving from place to place as a child. When she put down roots in Riverside, they were real and deep and durable.*

*She's often said she'll never leave."*

Virginia graduated Poly High School and Riverside City College and began her career as a teacher before falling hard for the law while researching ways to improve student learning.

After law school, she established her own practice because no Inland law firm at the time would hire a female litigator.



Virginia Blumenthal

Thus was born the first woman-owned law firm in the region.

Gradually, she built the practice into a powerhouse.

Virginia has spent five decades advocating for others, upholding the constitutional rights of the accused, and recruiting top litigators to build on her legacy. Her team, which includes firm partner Jeff Moore and attorneys Brent Romney and Heather Green, delivers more than a century of collective courtroom experience.

She has set a similar standard in her volunteer work, modeling grace, civility and consensus-building in areas from education and health care to business and the arts.

Her achievements and contributions include:

- Decades of distinguished litigating: She been named one of the Top 100 trial attorneys in the United States by the National Trial Lawyers and Best Lawyer in the Inland Empire by Inland Empire Magazine, among many other professional honors.
- Arguing and winning a case before the California Supreme Court, a rare distinction for a trial attorney. In 2019, she prevailed in *People v. Aranda*.
- Consistent accolades from peers, law enforcement, civil rights groups and judges. At a previous awards ceremony honoring Virginia, one retired Riverside County jurist called her the best attorney ever to appear in his courtroom.
- Years of leadership on a range of local boards and commissions, including the Riverside Community College District Board of Trustees, the Riverside Philharmonic, and the boards directing the Riverside Police Foundation, the UC Riverside Foundation, and the Riverside University Hospital System Foundation.

Such contributions are exceptional because she has sustained them not just for years, but for decades.

This year's Frank Miller award, tailored and embroidered to acclaim Virginia, to help her feel seen as a person, is a validation of that lengthy service record.

Even the trophy she received, a Raincross adorned with scales of justice, was bespoke via 3D printer. The Mission Inn Foundation made sure that every stitch of the evening was one of a kind, much like the woman identifiable by a single name, "Just Virginia" herself.

Gale Hammons, the director of Hammons Strategies, provides communications for Blumenthal & Moore. Reach her at [gale@hammonsstrategies.com](mailto:gale@hammonsstrategies.com)

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# RCBA Past President – Hayden Lewis Hews

by Christopher G. Jensen

On Saturday afternoon, July 23, 1922, 17 members of the Riverside County Bar Association met in department one of the Superior Court to elect new officers. The nominating committee, consisting of Raymond Best, A. C. Murray, and Lyman Evans, designated Hayden Hews as president, K. E. Schwinn, secretary and R. J. Welch, Junior, as treasurer. It was moved unanimously that the secretary be authorized to cast a vote for the Association for the appointees in which manner they were elected, taking over their duties at once.

Hayden Hews was born September 11, 1893, in Pennsylvania. His father was born in Canada to English immigrants and his mother was born in Pennsylvania to parents of Welsh descent. His father was a salesman.

Around 1911, the family moved west to Riverside. By 1912, 19-year-old Hayden was reported to be part of a debate team; having lost to another debater named Redwine. *The Riverside Enterprise* reported musings by the Poly High School graduating class of 1912 to include a look into the future wherein by 1923, Hayden Hews would be Chief Justice of the Police Court, posed upon a soap box.

Upon graduation from High School, Hayden chose Stanford as his choice for college, with the class of 1917 being his goal. A violinist for entertainment, Hayden became an involved student. In his sophomore year he was chosen as the manager for his graduating class year book.

Hayden's college summers were still in Riverside. Riverside was somewhat the open West, rural, with the county wide population in 1910 at 34,000, half of that population being in the City of Riverside. However, open did not mean lawless. In 1915, just before returning to Palo Alto, Hayden and a buddy were caught by the game warden hunting quail without a license in the vicinity of the road known as Alessandro. Dragged before the justice of the peace Hayden and his buddy were each fined \$10.

Hayden graduated in 1917, his bachelor degree a "pre-law curriculum". Because of the war in Europe, Hayden and others similarly situated were fast-tracked to their Bar licenses. The October 1918 Bar Exam results list included Hayden Hews. It was noted the Third District Court of Appeal granted licenses to 13 people, 12 men and one woman.

Although Hayden was drafted for the war, he served in the position of head of the Pacific Division of the American Red Cross, Salvage and Shop department. Raw material was desperately needed for the war effort and Hayden toured the state in an effort to instill the patriotic duty to recycle.

Hayden's father died in November 1918 due to a lingering illness. Upon his return to Riverside shortly thereafter, Hayden took up residence with his mother.

Hayden's legal career was delayed for about a year and one-half because of his Red Cross role. Eventually his legal



Hayden Hews

career commenced late 1919, early 1920 as an associate of Bush and Barbee. When that firm dissolved shortly thereafter, Hayden simply hung out his sole practitioner shingle at the Citizens Bank Building. Within a few months of opening his practice, on September 8, 1920, Hayden married Myrta Smith, then currently employed in Los Angeles as a nurse. She was originally from Riverside.

Hayden's practice was diverse. As was common at the time, new attorneys were regularly appointed (or "voluntold") to provide the service of what we now know as the role of the Public Defender. In addition, Hayden also handled personal injury cases, probate matters, what we now refer to as Workers Compensation cases, some family law, some municipal law issues, as well as corporate and business cases.

For Hayden and Myrta, life was good. They had a home and two children. Haydens practice was good. He was respected enough to become the 1922 RCBA president and was an up-and-comer in the Riverside County Republican Party.

In 1924, a new civic organization was formed in Riverside, the Exchange Club. Hayden was elected its first President.

Hayden became known for being a veteran trial attorney. Notable cases included a love triangle murder case and a successful personal injury result against the Pacific Electric Railway Company. Hayden evened dabbled in Admiralty Law.

Life was not always rosy. In 1926, Hayden's first law partner, Alfred Murray was tragically killed in an automobile accident. At the time of the accident, Murray was a California Assemblyman. Even though he and Murray were no longer law partners, they were still close friends. Hayden was the first one to be called and was the one to make all necessary arrangements for Murray's family.

As everyone of some, or more, affluence did before air conditioning was invented, Hayden and his family left the heat of Riverside during the summer months. They spent their time in Laguna Beach. In 1933, a regular social column once documented the family's time spent by reporting Hayden ran into a real estate office leaving his two children of 4 and 5 years of age in the car unattended. One of the kids loosened the handbrake allowing the car to roll down a steep hill towards the cliff at the ocean. Fortunately, the potential disaster was witnessed by a good Samaritan who was able to stop the car in time.

In 1934, Hayden believed it was his time to become a judge. He made the decision to run against sitting Judge George Freeman on the platform that the courts procedures needed reform. He suggested his idea of how to run the court could save litigants and taxpayers thousands of

dollars. Freeman retained his seat with a vote of 8077 to Hayden's 7672.

Six years later, with the 1940 judicial election on the horizon, Hayden chose to run again for judge. Still sitting Judge George R. Freeman, at 70 years of age, was not ready to retire. Hayden was probably more than qualified to be a judge but with a sitting judge doing a fine job, it was probably not the wisest choice by Hayden.

Hayden tried a novel sales pitch to sway the voters to his favor. In 1937, the State created the Judicial Retirement Act which funded a retiring judge, at 70 years of age, 50% of his salary. So Hayden suggested to the voters since Judge Freeman was over 70 years of age, one should not feel sorry for Judge Freeman since he would receive all to which he was entitled. Therefore, Hayden suggested, voters should not defeat the concept of the old age pension. Judge Freeman, Hayden continued, should retire, collect his money, and open the judicial position to a younger person. Moreover, Hayden continued, whoever became the judge would therefore make available a practice for a younger attorney. And wouldn't one know it, Hayden was that "non-partisan [potential] judge who understands youth problems; who is interested in helping the young men and women with their future; who is young enough to understand them."

Judge Freeman, on the other hand, was supported by a who's who list of attorneys in the area, including the likes of Raymond Best, Miguel Estudillo, Redwine, Thompson, Sarau, Gabbert, Clayson, McFarland, Neblett, Swarner and many more. Suffice it to state, Hayden Hews lost the November 1940 election.

For another 22 years, Hayden continued in his practice of law as well as his volunteering for the RCBA, Boy Scouts, his Church and a variety of other community organizations. Moreover, from the 1920's through the 1940's, Hayden was a member of the Board of Education, and eventually became President of the Board. In 1948, Governor Warren appointed Hayden as a local Draft Board Appeal Agent.

In 1957, Hayden donated to the University of California, Riverside, his collection of laws passed by the California Legislature between 1855 and 1859.

In 1957, Hayden's son, John Hayden "Jake" Hews joined his fathers practice.

Even late into his career, Hayden was not done advocating for those in need. In 1958, Hayden took on the County of San Bernardino's Planning commission and its denial of a building permit to the Jehovah Witnesses. To Hayden it was a simple issue of unfair application of rules.

Jake worked with his father until Hayden's death on June 12, 1962. Jake eventually became a judge in Riverside County 8 years after his father's passing, being appointed by Governor Ronald Reagan. Jake was re-elected judge twice and in 1972 was elected by his fellow judges to be the Presiding Judge of the Riverside Superior Court.

*Christopher G. Jensen, Of Counsel in the firm of Reid and Hellyer, is secretary of the RCBA Board of Directors, president of RCBA Dispute Resolution Service, Inc. Board of Directors, and chair of the RCBA History Committee.*



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# Legal News Publication Opens in Riverside, San Bernardino Counties

by Aidan McGloin

Four months ago, I published the first edition of my privately owned legal news publication, *Inland Empire Law Weekly*. Every week since, people have asked me the same questions: Why am I doing this? Why do I think it will work? Why did I think I could find success in news publishing following the last twenty years of failing media?

Before I get into the reason, I need to explain the purpose of the *Inland Empire Law Weekly*. I publish all my articles on Sunday morning on my website, [ielaw.news](http://ielaw.news). Subscribers get one email each Sunday, announcing that week's articles. Anyone can sign up to the Sunday email for free, but recently published articles are behind a paywall. Two weeks after publication, the article will be free to access, no subscription required.

In the last two and a half months, I've published 161 articles. The type of news I cover is general, but the lens through which I write is legal. I have recently written on a \$5 million verdict in a fatal highway accident case, ongoing negotiations between court interpreters and the courts, and on three federal suits against SoCal Edison alleging responsibility for fires. Additionally, I have written about a Riverside water company's attempts to obtain a restraining order against local gadfly Jason Hunter, the appeal of a Corona mother who was wrongfully convicted for the murder of her boyfriend, and closing arguments in a Beaumont drive-by shooting case. I have also reported on legislative committee hearings, judicial appointments, a tenant rally, and appellate rulings from both state and federal appellate courts.

I have also published contributions, including a letter from the American Board of Trial Advocates in defense of a judicial ruling in baby abuse defendant Jako Haro's earlier case, an article from Western State College of Law Professor Sandra Rierson about the Supreme Court's CASA ruling, and an explainer from Connecticut law professor Wayne Unger on the free speech rights of Jimmy Kimmel.

As I wrote in one of my pre-launch updates in May:

*My primary focus will be on civil cases regarding municipalities in the Inland Empire. I believe people have a right to know about the lawsuits regarding their government. My secondary focus will be on, in no particular order, high-profile local criminal cases, the happenings of our local attorneys and the many cases filed by the state against the federal government's new policies.*

*I will accept and publish at no cost open letters, announcements of community events, and announcements of the hirings and retirements of judges, attorneys, prosecutors and public defenders.*

I currently only publish online. Recently, I have been looking into the possibility of starting a print edition and publishing legal notices. The more support I get now, including from

free subscribers, the closer I am to that possibility. I also am interested in selling advertising space in my newsletter. If you are interested, shoot me an email at [editor@ielaw.news](mailto:editor@ielaw.news).

A little bit more about me: I grew up in Redlands. I joined the Redlands High School Speech and Debate team, where I focused on debating and impromptu speaking. Both activities led me to believe that the issues of our nation are exacerbated by low quality journalism. People need to be informed of current events in a democracy, otherwise they cannot express their will to their elected representatives at a city, county, state or national level. So, I decided to study journalism at Cal Poly, San Luis Obispo, with a minor in law. I started work at the campus newspaper before my freshman year, started a data and investigations team, founded a California State University-wide wire service for which I was interviewed by Voice of America and interned at an alt-weekly newspaper.

The very idea of an alt-weekly as having a separate business structure and type of content from daily newspapers struck me. I read every book I could find about newspaper start-ups, newspaper consolidation, and the recent collapse of media. I found out that all of our local legacy newspapers (the *Sun*, the *Press-Enterprise*, the *Facts*, the *Bulletin*) are all owned by the same hedge fund, Alden Global Capital. Alden, more surprisingly, drains money out of these newsrooms to support their acquisitions in other markets. I also found out that there are plenty of independent newspapers that are still turning a profit. I interviewed successful publishers for my senior project, and found that, yes, there are many options to successfully run a news publication in the 21st-century. After I graduated from college, I worked at a small weekly paper in rural Oregon. I was sorry to see the paper had closed this year for lack of a buyer. Following that, I worked on a part-time contract with the state news organization CalMatters, on the operations side of the business. My law minor luckily qualified me to be hired by Toni Momberger and join the *Follow Our Courts* team, where I spent three-and-a-half years reporting on local legal news before it closed down this year.

I believe that *Inland Empire Law Weekly* can be sustainable. But it is up to you, and other people throughout the Inland Empire, to make it so. I feel odd ending this letter with a Smokey Bear-style, "Only you can support a free press!" but that is the truth. Please subscribe, even if it is for free. If you have any questions for me before you subscribe, let me know by emailing me at [editor@ielaw.news](mailto:editor@ielaw.news). If you think I should show up at a courtroom for a closing argument, or should follow some case, or know of anything you'd like me to look into, please send me an email. I view this paper to be my subscribers' as much as my own, and that entitles those subscribers plenty of space in the publication.



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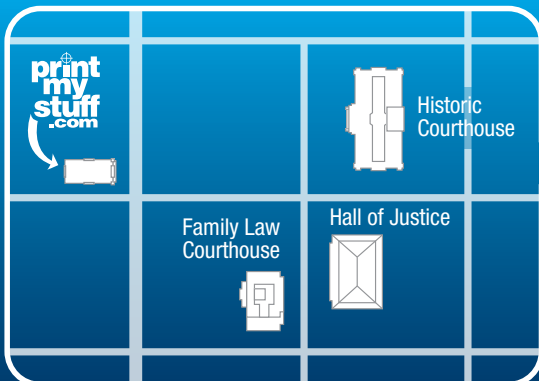
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To apply to the program, fill out the Judicial Mentor application at:

<https://forms.riverside.courts.ca.gov/Forms/JudicialMentorApplication>

For additional information, go to Riverside Superior Court website or email: [JudicialMentor@riverside.courts.ca.gov](mailto:JudicialMentor@riverside.courts.ca.gov)

## Conference Rooms Available – RCBA Building

Conference rooms, small offices and the Gabbert Gallery 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@riverside-countybar.com](mailto:rcba@riverside-countybar.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 October 30, 2025.

**Sarah Jo Antonucci** – Better Call SJ, Rancho Cucamonga

**Priyanka Bhattacharya** – Reel Fathers Rights, Corona

**Binh T. Bui** – Law Office of Binh Bui, Riverside

**Heidi M. Janz** – Law Office of Michael J. Hemming, Pomona

**Adam M. Lubliner** – Reel Fathers Rights, Corona

**Beatriz A. Luna** – Riverside Juvenile Dependency Panel, Moreno Valley

**Carrisa Maldonado** – Law Student, Hemet

**Gregory Mikhanjian** – Best Best & Krieger, Irvine

**Patricia Nance** – Law Offices of Patricia Nance, Yorba Linda

**Lisa P. Ng** – Solo Practitioner, Montclair

**Elijah M. Philpot** – Gibbs & Fuerst, Murrieta

**Sondra S. Sutherland** – Law Offices of Sondra S. Sutherland, Temecula

**Desirea M. Tucker** – Solo Practitioner, Temecula

**Jason Yang** – Solo Practitioner, Chino



### \* ATTENTION RCBA MEMBERS \*

How would you like to receive (or read) the *Riverside Lawyer* magazine?

Some members have told us they prefer reading the online version of the *Riverside Lawyer* (at [www.riversidecountybar.com](http://www.riversidecountybar.com)) and no longer wish to receive a hard copy in the mail.

OPT-OUT: If you would prefer not to receive hard copies of future magazines, please let our office know by telephone (951-682-1015) or email ([rcba@riversidecountybar.com](mailto:rcba@riversidecountybar.com)).

# CALENDAR

## OCTOBER

- 6** Roundtable with Judge Hopp  
12:15 PM, Zoom  
MCLE
- 7** Joint RCBA & SBCBA Landlord/Tenant Section Meeting  
6:00 PM – 7:30 PM  
Napoli Italian Restaurant, 24960 Redlands Blvd., Loma Linda  
Speaker: Judge Kyle S. Brodie  
Topic: "Landlord-Tenant Cases: Policies and Procedures in Fontana Court"
- 15** Estate Planning, Probate & Elder Law Section Meeting  
Noon, RCBA Gabbert Gallery  
Speaker: Sam Price  
Topic: "The \$750,000 Question: Is AB 2016 Right for Your Probate Case?"  
MCLE
- 16** Barristers  
5:00 PM, Lake Alice Trading Co.  
Happy Hour, Joint with HBAIE, APALIE & RTFBA
- 17** General Membership Meeting  
Noon, RCBA Gabbert Gallery  
Speaker: Judge Chad Firetag, Ret.  
Title: "What Kind of Judge are You?  
Judicial Independence and the Rule of Law"  
MCLE - 1 Hour Ethics
- 21** Family Law Section Meeting  
Noon, RCBA Gabbert Gallery  
Speaker: Marc Kaplan  
Topic: "Determining Income Available for Support and Games People Play"  
MCLE
- 22** Juvenile Law Section Meeting  
12:15 PM, Zoom  
Speaker: Catherine Rupp  
Topic: Welfare & Inst. Code Section 3663 – Review of Permanent Plan Hearings: Court Options  
MCLE
- Save the Date –**  
**RCBA Elves Shopping Night**  
Monday, December 8  
2:00 PM – 7:30 PM  
Walmart  
1800 N. Perris Blvd., Perris
- Wrapping Nights**  
December 10 & 11  
3:30 – 7:30 PM
- Events Subject To Change**  
For the latest calendar information please visit the RCBA's website at [riversidecountybar.com](http://riversidecountybar.com)

## 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 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), Riverside Legal Aid, Fee Arbitration, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Mock Trial, State Bar Conference of Delegates, Bridging the Gap, the RCBA - Riverside Superior Court New Attorney Academy and the Riverside Bar Foundation.

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, Law Day activities, Good Citizenship Award ceremony for Riverside County high schools, Reading Day and other special activities, Continuing Legal Education brown bag lunches and section workshops. RCBA is a certified provider for MCLE programs.

The *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 6<sup>th</sup> 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 \$30.00 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 the *Riverside Lawyer*. The material printed in the *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.





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