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To promote legal excellence, high ethical standards and professional conduct in the practice of law;  
To improve access to legal services for all people in Ventura County; and  
To work to improve the administration of justice.

# CITATIONS

AUGUST - TWO THOUSAND SEVEN

## LAW OF THE JUNGLE

*By Michael McQueen*

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## PRESIDENT'S MESSAGE

*Jonathan Fraser Light*

In 2003, the VCBA conducted a member survey. One of the questions asked was "What can the VCBA do to increase your level of involvement?" It's been almost five years, and we may well do a five year survey in 2008 to measure your happiness quotient with our Bar Association. Meanwhile, to address a few more questions received in that survey...

**The Business Litigation Section has been restarted and seems to be doing quite well.**

**The Labor Law Section still needs to be strengthened (I am a guilty member of that group).** We have some strong members, but we have not been as diligent about meeting—unless the plaintiffs' bar is meeting secretly without me!

**Someone asked that we decrease the quarterly cost of lawyer referral participation.** At only \$200, the consensus among those I polled seemed to be that it was a fair number and can be recouped rather quickly.

**Provide more basic MCLE courses.** We conducted 109 courses in 2006, and I have to believe that a reasonable percentage of those were "basic."

**More meetings in the East County.** We have done slightly better, but perhaps the reinvigoration of the East County Bar Association is addressing that need. I would like to hear more from the East.

**Improve website.** Done. Setting up blogs and chat rooms may be the next phase for our website, and if anyone wants to help take the lead in that effort, the invitation is extended.

**Have Probate and Estate Planning meet monthly.** I confess ignorance. The first time I appeared in probate court in Ventura County, in 1985, I was defending a motion to compel document production in a real estate dispute, and probate court seemed an inappropriate forum for the dispute. Judge Willard disagreed, in front of 70 other lawyers; to my dismay, I was third on the calendar. Also in attendance to witness the carnage were my client and my senior partner, Marc Charney. Judge Willard's

first comment was "Perhaps it would have been more appropriate to have Ms. [Janet] Reese or Mr. [Jim] Wojkowski handle this matter." Gee, thanks for the vote of confidence. He then sanctioned me something in excess of \$1,000, and Janet later remarked that "Judge Willard has never sanctioned anybody for anything." That made me feel good. But enough about that painful day.

**Get more info to new lawyers.** If the swearing in ceremony was any indication, Joel Villaseñor and others are doing a good job of getting information to new lawyers. Nevertheless, we need to make a push to recruit new lawyers into the VCBA. Spread the word.

**The bar is poor when it comes to helping lawyers build practices and professionalize operations.** We could probably use some more nuts and bolts law office management courses, especially now that it is not required mandatory CLE. The solo practice bar section seems to be dormant, but perhaps some of the mid-size firms and others can coordinate some lunchtime tutorials. Any thoughts? I'm happy to help, if someone wants to propose a program.

**Seminars to educate consumers on law.** Our Public Education Committee has been dormant for some time, but when it was active the cable television show ran dozens of segments. We are actively working now to recruit chairs for that group and resurrect this program.

**Offer functions that include prosecutors and other government lawyers.** Good point. On the other hand, we do not want to duplicate what I understand is regularly undertaken by the Tri-Counties Local Government Attorneys Association. Nevertheless, if there are some suggested programs, I am sure we could find some lawyers to spearhead that effort.

**Why are dues so high and how does the VCBA spend its money?** I don't think dues are so high, and from my budget reviews, we seem to be spending our money wisely. I'll defer to our Executive Director for a future column to perhaps comment on the key programs

that occupy his staff's time; I know the staff supports the emeritus attorney program, CLE programs, the section meetings, the annual dinner and Nordman Award, *Citations*, the lawyer referral and fee dispute programs, and probably several other things I haven't thought of at this moment. I certainly don't think we're spending foolishly, and from my experience in the non-profit world, no one is being overpaid.

**Help me collect my accounts receivable.** Another lunch time "how to" is perhaps in order. Anyone want to volunteer on "Best Collection [and *Intake*] Practices"?

**CLE for real estate practitioners is quite poor.** We conducted about a dozen CLE programs related to real estate in 2006. Is there more that we could do?

**Expand leadership outside the few chosen law firms.** I think I'm in one of the "chosen" law firms, but I think we have done a reasonable job of diversifying. Check out our board roster this year and you will see many new faces, particularly from small or solo firms. I believe that the sections are also being led by a diverse group. If we can do better in certain quarters, let me know. As I say to my clients when they are trying to justify a termination, however, "be specific."

**Not one time has anyone from VCBA contacted me about participation.** Hmmm, does this count?

**Provide more information regarding health insurance benefits/policies.** There has been discussion about a VCBA-sponsored pension plan. Is there any interest? If so, please let me know, as I have been the contact person for this and I can put you in touch with the broker who is suggesting this approach.

**Do a survey and report on family friendly law firms/corporations/government agencies.** This might be useful in the next bar-wide survey. If you knew what Europe does for its workers (some good, some over the top),

*Continued on page 5*



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## PRESIDENT'S MESSAGE

*Continued from page 3*

you would see that our U.S. system of worker benefits falls short. One week of vacation for a new hire, for example. Not enough time for anyone to recharge their batteries.

**Activate the workers' compensation bar section.** Ladies and gentleman in that practice area, is there interest? If so, let me know, and I'll put you in touch with each other.

**Get better press from the *L.A. Times* and the *Ventura County Star*.** That would be a good brainstorming topic. Steve, please put it on the agenda.

**Don't exclude criminal law attorneys and pay more attention to immigration and social security law.** I'd be interested in hearing more on how we've treated this group and what we can do to make the bar more relevant to them.

**The annual dinner should not be a fundraiser and should be less expensive.** Sorry, but I disagree. Our recent attendance bears that out. I know that won't please everyone...

**Keep producing greater excellence in CITATIONS.** What, my articles aren't enough? If there are tangible suggestions on how to improve *Citations*, we'd like to hear them ("Be specific"). I think they've done an excellent job.

**Last, being president of VCBA should not be a soap box for personal, ethical, legal, political or social agendas.** I could see others disagreeing with that view, but I do not have a problem with it. The president is representing this bar association. There is not a lot that one can accomplish within a single year's term. Steve Henderson pointed out to me that the bar president is the "face" of the bar for that year, and should do his or her best to be visible, continue to move the organization forward, and recognize excellence in the profession among our members. I felt some frustration at the outset of my term that I didn't have a "big ticket" item on my agenda for the year. He correctly pointed out that if every bar president had such an item, the bar would be paralyzed with 15 different items that never quite got completed. Thus, I am content with my role for the year.

*Last month VCBA president Jon Light offered a quiz. Here is his report on the winning entries:*

In response to my query about the tapestry in Courtroom 22, Alan Templeman emailed to say that before vertical case management the spear pointed to the number of stars that represented how many years it would take to get to trial. Brian Nomi emailed with the (mostly) correct answers, and thus is the winner of an autographed copy of my book for his favorite non-profit—which I understand will be the Asian American Bar Association. Weapons/tools: spear, shovel, pick. Ships: 5. Stars: 31. Mammals: miner, bear and Native American. Brian indicated "goddess" for that last one, so perhaps I'm wrong. He indicated that the gray building in the background is Alcatraz, but I think that's incorrect. Alcatraz (Pelican Island) is perhaps in the foreground in the water. I believe, at least according to Court Docent lore, that the building represents San Quentin prison, and was a prank by a prisoner who helped prepare the copper form used to create the tapestry. My apologies to the docents if I have butchered this in the retelling.

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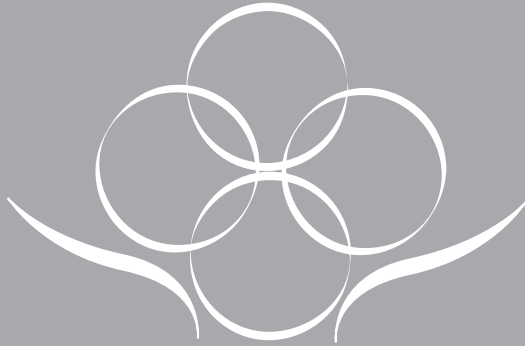
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Thousand Oaks City Attorney **Amy Albano** chats with **Bob Boehm** at the party honoring Bob on his retirement as Ventura City Attorney.

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# LAW OF THE JUNGLE

By Michael McQueen



The caiman slips along the entangled verdant shore deep in Brazil's Amazon jungle. My fishing guide, Homoaldo, excitedly points at the silent, stealthy reptile. This creature is not cute or cuddly. It exudes menace. Millions of years of evolutionary



self-preservation fired off in the lower parts of my brain. I did not want anything to do with this creature. Homoaldo laughed in excitement. At the sound of Homoaldo's laughter, the caiman abruptly changed direction and headed straight at our boat. A semi-submerged arrow with an appetite, heading for lunch! Homoaldo took my fishing pole and flipped my bright red rattle trap lure at the caiman. To everyone's

surprise, particularly mine, the caiman struck the lure.

A caiman is a South American cousin of the American alligator. It is smaller and perhaps more dainty in appearance, though no less dangerous. It is found throughout the Amazon Basin and where I was fishing on the Rio Negro Archipelago- the second largest collection of islands in the world. Homoaldo laughed again and handed back my rod now firmly attached to a very angry caiman. There is something very real and immediate when you're attached to a creature that represents serious consequences. Homoaldo was now quite excited, running about the boat gathering fishing line and rope. Damn, Homoaldo expected me to land this miniature version of Godzilla. Well, you never want to disappoint your guide.

Homoaldo was born and raised in Barcelos, Brazil, a ramshackle collection of semi-painted, partially completed concrete buildings located on the banks of the Rio Negro. Barcelos is the jumping off point for Brazil's northwestern Amazon jungle. The tannic acid from the jungle foliage stains the water a dark tea brown, thus the name. The tannic acid also keeps the mosquito

population in check. When the Rio Negro meets the yellow, mud laden Amazon River, near Manaus, the waters don't mix. For miles you have a two-tone yellow and black river.

Homoaldo is an Indian. He is married with 3 children and speaks Portuguese. He is known as a Riparian Indian. After 400 years of Portuguese subjugation, exploitation and enslavement, the Riparian Indians living along the Amazon River system have no tribal affiliation or tribal language and primarily speak Portuguese. What they have not lost is a profound knowledge of how to live in the harsh and unforgiving environment of the Amazon jungle. Outside of Barcelos, groups of extended family tribes live along the river islands in stilt villages, necessitated by the fact that the river rises 30 feet during the rainy season.

At the turn of the previous century, as the automobile became more common, the demand for vulcanized rubber for tires became enormous. The city of Manaus (named after a long disappeared tribe, like Milwaukee) was founded, as most villages, along the Amazon as a religious mission. Upon arrival in Brazil, I visited the town center of Manaus, listening to "I am dreaming of a white Christmas", and looking at a 30-foot fake Christmas tree next to a huge nativity scene in the middle of the humid, vividly green jungle. It was nearly hallucinogenic. Talk about cultural imperialism.

Manaus' rubber trees were a natural monopoly that was soon exploited. The natives collected the latex throughout the jungle. Manaus became enormously wealthy, enough to build an opulent opera house that is bewildering in its incongruity. Like most monopolistic industries (not unlike our patent-based industries), the monopoly ultimately ends. Manaus' grip on the latex artery to the world was destroyed by a bit of corporate espionage. An Englishman smuggled out 50,000 rubber trees that were planted in the English/Asian colonies. With the monopoly broken, Manaus slipped back into being a sleepy, slightly seedy, jungle river



town. Brazil then declared Manaus a free trade zone. It now contains nearly 2 million souls with factories for every major world electronics firm, shipping products all over the world, tax free, smack in the middle of the Amazon jungle.

Barcelos is close to the Equator, about 250 miles northwest of Manaus. Where I was standing in a bass boat, with an angry caiman thrashing on the end of my fishing pole, was about 80 miles northwest of Barcelos, deep in the riverine system. Actually, I had no idea where I was.

With the rubber industry long gone, there are only two ways to make a living in the jungle. The natives collect a type of stiff fiber from the jungle used for brooms throughout Brazil. They also collect tropical fish for the world's aquarium trade. Barcelos is the world center for fresh water tropical fish. Fish such as erawanas, tetras, neons, hatchets and angels are collected in the Barcelos area and shipped throughout the world. And then there are the peacock bass!

The peacock bass was why I was in the jungle wrestling with a ticked off 6-foot caiman. There are three types of peacock bass, speckled, butterflies, and the peacock. They are not actually bass at all, but are classified as cichlids-closely related to the oscar you find in aquariums, rather than American bass. They are one ferocious and aggressive fighter. The speckles and butterflies are normally around 5 lbs. and sometimes 10 lbs. The peacocks in the Barcelos area are world famous for often exceeding 25 lbs. and giving the angler the battle of his life. They are also absolutely gorgeous.

I hooked up with a peacock that gets bigger every time I tell the story. It hit my lure and I watched in rapt amazement as the line screamed off the spool. At the end it just snapped the 80-lb. test braided line. When the line broke the peacock stopped the run. I was able to grab the line from the water and gently coax the fish towards the boat, wrapping the line around my left hand. I almost had the peacock to the boat when it made another run. That was when

I painfully learned the consequences of wrapping 80-lb. test line around my hand. These were not Ventura surf perch. This was a huge, nasty, angry fish that was tearing braided line through my fingers and slinging blood everywhere. He stopped his run. I stopped screaming. Again, I slowly pulled him to the side of the board. Homoaldo was screaming "beeeg feesh, beeeg feesh" and grabbed the net. I knew when that fish saw the net it would make another run and I would lose some fingers. In anticipation of that run I loosened up the line. That was all it needed. The lure was tossed and Homoaldo gave me a forlorn, disappointed look. But I had my fingers!

The caiman was also giving me quite a battle. Homoaldo motioned that he wanted the caiman alongside the bass boat. The priority was to get the caiman's mouth in a noose. I was acutely aware that I was barefoot. After much thrashing, splashing and hollering, we had the caiman's snout tied shut; the sharp clawed legs trussed and we hauled the creature onboard. Homoaldo wanted to take the caiman back to show the other guides and guests at the lodge.

Homoaldo works at the Rio Negro Lodge as a guide. The lodge is situated on high land on an island in the jungle. It has a central lodge, a swimming pool and a large inside aquarium with 15 cottages situated out on the periphery. It is owned and operated by Phillip Marsteller, who was raised in the area by his missionary parents. His son Andrew also helps manage the resort. The Brazilian government gave the land to Amazon Tours, which employs 100 of the local tribe's people as servers, cooks and guides, and supports a school, medical and dental facilities for the area.

The local Riparians trade tropical fish to the Lodge's aquarium in exchange for diesel fuel. I later visited a local village and was intrigued by the sight of satellite antennas pointed straight up in the air, next to ramshackle buildings set on 15-foot stilts. It was explained that from six to nine p.m. they start the generator and watch T.V. Mostly soccer and Brazilian soap operas. The head

of the village chuckled and explained that "with T.V., few children, without T.V., many children." I wondered about the children being raised thousands of miles into the jungle, watching soap operas and soccer of the modern world. How do you stay in the jungle when you watch what the modern world offers?

The staff guides brought the caiman up into the lodge with its snout tied but its feet loose. The reaction of the guests was interesting. They all instinctively kept five feet away, innately knowing to keep their distance. The air-conditioned lodge reduced the caiman to a calm complacency and soon the lodge guests were examining the caiman with curiosity and awe. Most of the guests are dedicated sportsmen and hunters. It seems counter intuitive that those who most respect and hold wild animals in almost religious reverence, are those that fish and hunt them. But a couple of guests' reactions were of pained empathy; a sympathetic and emotional reaction of concern for the animal.

Three California birdwatchers, all retired teachers, were particularly concerned with the perceived plight of the caiman. They convinced themselves that the caiman was going to die. They worked themselves into a state of anxiety, just positive that they had to "rescue" the caiman. I spoke with the manager and he laughed. The animal was fine. This "Free Willy" syndrome is based on an emotional anthropomorphic sensibility that is just not rational. It is the senseless and absurd basis for the animal rights movement. It is a movement that seeks to deny and ignore the atavistic, well established, genetic proclivities of man as a predator. It is yet another form of the insidious feminization of the male and should not be tolerated.

As most of the guests left, the rescuers started to steel themselves to make their move. They picked up the caiman. I asked them what they were doing with my caiman; that the caiman was doing fine, and why didn't they talk to the manager? They were convinced about the righteousness of their cause and resentful of my interference.

# LAW OF THE JUNGLE

*Continued*

They persisted. Since the animal was to be released in the morning anyway, I decided not to take a stand. I wish I had. Though I cannot abide officious intermeddlers, what was the point?

But what our terrific trio failed to understand was that the air conditioning had made the reptile lethargic. By the time they got to the outside dock by the river it was considerably hotter and the caiman much more feisty. They could not handle the caiman, and it wrestled itself free and slithered off into the warm Rio Negro River. Unfortunately, they had not been able to untie its snout. Its escape meant its death. Though well meaning, these gentlemen represented the catastrophic results of the well intentioned. They personified those who ban deer hunting so the deer overpopulate and die of starvation. They are the same ilk that promoted the legislation banning the sale of horse flesh to Europe. These "horse lovers" condemned thousands of horses to painful, extended illness and death because of their emotionalism. The animal rights movement wants to substitute their irrational, emotional attachment to animals for the rights of animal owners, and those who hunt and fish.

As a postscript, I was recently speaking with a Montana outfitter about another trip. I shared my caiman story and he asked if I was all right. I assured him I was just fine. Apparently, a couple of weeks after I left Brazil, another guest at the same lodge also hooked a caiman. Instead of waiting for his guide, he reached over the side of the boat to bring in the alligator. He lost his arm. There should be consequences to stupidity. We should really try not to legislate the jungle out of the law. Consequences are a good and necessary thing.



*Michael McQueen is a solo practitioner in Camarillo, and a member of CITATIONS' editorial board.*



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# PRO BONO HIGHLIGHTS

By Verna R. Kagan

I subscribe to the *New York Times*. On Tuesday, July 3 an article appeared entitled "PREDATORS FIND NEW SCHEMES TO BILK STRUGGLING HOMEOWNERS". Nationwide, predators find ways to take over properties from people who naively believe they are being rescued from foreclosure, by those "kindly" real property advisors. Our own District Attorney's office is overwhelmed with requests for assistance.

Such a matter has recently come to our attention. The case involved an elderly couple who are deaf mutes. They are people who didn't really understand the nature of the document they were signing, only to discover that for the value of several missed mortgage payments, they had signed over title to their property.

No less a generous person than **Richard Francis** has agreed to accept this matter to attempt to assist these people in their recovery. Mr. Francis will have a very hard road to hoe on this matter but he is no less willing to give it his best. The VLSP is most appreciative to Richard for his efforts and would like to thank him for his caring response to our request for service.

It is foreseeable that other *pro bono* attorneys will be called upon to serve in this very vital area, since it appears that this is a problem that will continue for some time to come.

*Verna Kagan is VLSP Senior Emeritus Attorney.*



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# Letters to the Editor

By *Terence Geoghegan*

I'll let others opine about the usability of the Court's new case inquiry functions, compared to the old—other than to note in passing that the word “disastrous” might not be out of place.

“If it ain't broke, don't fix it.” Well, perhaps a bit late for that, but if we're stuck with this nightmare, it might help to at least be able to navigate it.

Previously, my ActiveWords (see [www.activewords.com](http://www.activewords.com)) shortcut “vcases” would take me to [http://www.ventura.courts.ca.gov/civcase/case\\_home.asp](http://www.ventura.courts.ca.gov/civcase/case_home.asp), where I could rapidly search any civil case...but now only family-law cases (“D” or “SD”) are there. (Other triggers, like “sbcases,” “lacases,” “sdcases,” etc., take me to neighboring courts' civil-case search engines.)

Part of the problem with the new system is that visiting the Court's home page at <http://www.ventura.courts.ca.gov/index.htm> offers a link to “Public Access & Case Inquiry,” at [http://www.ventura.courts.ca.gov/vent\\_frameset\\_puba.htm](http://www.ventura.courts.ca.gov/vent_frameset_puba.htm). But clicking on “Case Inquiries,” and then “Continue” on the silly disclaimer, and then “Civil, Small Claims & Probate Case Inquiries,” while it takes you—finally—to the case search engine, does not change the published address at [http://www.ventura.courts.ca.gov/vent\\_frameset\\_puba.htm](http://www.ventura.courts.ca.gov/vent_frameset_puba.htm).

So how can one set an ActiveWord, or any other sort of shortcut, to take one directly to the civil-case search engine? Or, for that matter, to any number of other court resources?

Well, it takes a bit of playing about to discover the actual page addresses behind the “frames” charade, but here are a number that I unearthed in the “venturaMasterFrames” mapping. The civil search engine is the last, at <http://www.ventura.courts.ca.gov/venturaMasterFrames30.htm>. (Note—the addresses are not case-sensitive.) For our comrades who handle criminal matters, the criminal and traffic search engine is at <https://public.courts.ventura.org/>.

Ventura County Superior Court  
Master Frames

No frames found below No. 3.

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[ventura.courts.ca.gov/venturaMasterFrames3.htm](http://ventura.courts.ca.gov/venturaMasterFrames3.htm)

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#### What's New

[ventura.courts.ca.gov/venturaMasterFrames8.htm](http://ventura.courts.ca.gov/venturaMasterFrames8.htm)

#### Search Engine

[ventura.courts.ca.gov/venturaMasterFrames9.htm](http://ventura.courts.ca.gov/venturaMasterFrames9.htm)

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[ventura.courts.ca.gov/venturaMasterFrames10.htm](http://ventura.courts.ca.gov/venturaMasterFrames10.htm)

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#### Case Inquiries

[ventura.courts.ca.gov/venturaMasterFrames18.htm](http://ventura.courts.ca.gov/venturaMasterFrames18.htm)

#### Directions to Courthouse

[ventura.courts.ca.gov/venturaMasterFrames19.htm](http://ventura.courts.ca.gov/venturaMasterFrames19.htm)

#### Court Phone Directory

[ventura.courts.ca.gov/venturaMasterFrames20.htm](http://ventura.courts.ca.gov/venturaMasterFrames20.htm)

#### Annual Report

[ventura.courts.ca.gov/venturaMasterFrames21.htm](http://ventura.courts.ca.gov/venturaMasterFrames21.htm)

#### EZ Legal File

[ventura.courts.ca.gov/venturaMasterFrames22.htm](http://ventura.courts.ca.gov/venturaMasterFrames22.htm)

#### Family Law Self-Help Center

[ventura.courts.ca.gov/venturaMasterFrames23.htm](http://ventura.courts.ca.gov/venturaMasterFrames23.htm)

#### Guardianship

[ventura.courts.ca.gov/venturaMasterFrames24.htm](http://ventura.courts.ca.gov/venturaMasterFrames24.htm)

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#### Juvenile Courthouse

[ventura.courts.ca.gov/venturaMasterFrames26.htm](http://ventura.courts.ca.gov/venturaMasterFrames26.htm)

#### Voluntary Early Civil Mediation Program

[ventura.courts.ca.gov/venturaMasterFrames27.htm](http://ventura.courts.ca.gov/venturaMasterFrames27.htm)

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Non-Family Law Self-Help Directory  
[ventura.courts.ca.gov/venturaMasterFrames29.htm](http://ventura.courts.ca.gov/venturaMasterFrames29.htm)

Case Inquiry Search  
[ventura.courts.ca.gov/venturaMasterFrames30.htm](http://ventura.courts.ca.gov/venturaMasterFrames30.htm)

No frames found above No. 30...but I only checked up to 50 or so.

Note that there are many court resources that are not directly addressed at “\*venturaMasterFrames.htm.” To cite just one example, one can reach the “Elmo” page from the home page at <http://www.ventura.courts.ca.gov/index.htm> by clicking through “Court Services & Programs” (at <http://www.ventura.courts.ca.gov/venturaMasterFrames4.htm>), and then “Courtroom Presentation,” but the actual page address is at [http://www.ventura.courts.ca.gov/courtroom\\_pres.htm](http://www.ventura.courts.ca.gov/courtroom_pres.htm). These actual addresses can be discovered in most browsers by briefly pausing the mouse over a link leading to the page (which in Opera pops up the link address), and then right-clicking and selecting “Copy link address” (in Opera, for example) or “Copy link location” (in Firefox) or “Copy shortcut” (in Micro\$atan’s Internet Explorer 7).

Once the actual page address is known, a shortcut can be triggered by ActiveWords, or however you normally avoid typing long strings, or clicking through endless menus. I started by reassigning “vcases” to <http://www.ventura.courts.ca.gov/venturaMasterFrames30.htm>. But I kept the old link to [http://www.ventura.courts.ca.gov/civcase/case\\_home.asp](http://www.ventura.courts.ca.gov/civcase/case_home.asp) under the new trigger “vcases-fam,” for those occasions when I might need to check on a family-law case.

*Terence Geoghegan is a sole practitioner in Westlake Village. Those with further questions can inquire by email to TG at [tg@iswest.com](mailto:tg@iswest.com).*

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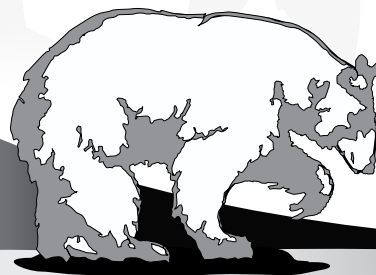
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# I'M A SOLO, DARN IT!

By Greg May

When you hear the term “sole practitioner,” what comes to mind? Here’s what comes to my mind: the only lawyer in town; or maybe a podiatrist, shoe repairman, or a practicing fish.

Why? Because according to my thesaurus, synonyms for “sole” are “only, one (and only), single, solitary, lone, unique, exclusive, isolated.” And according to my dictionary, “sole” can mean “one and only,” “the undersurface of a person’s foot,” “the section forming the underside of a piece of footwear,” or “a marine flatfish of almost worldwide distribution.”

One definition for “sole” *not* included in my dictionary is “for or done by one person alone; unaccompanied.” That’s the definition for *solo*, and it’s the modifier we used to use – and rightly so – to describe lawyers who practice on their own. It is correct either as an adverb (“she practices solo”) or an adjective (“his is a solo practice”).

Yet “sole practitioner” seems to have taken over. It is used regularly in *California Lawyer*, *California Bar Journal*, and other bar publications. For the life of me, I cannot understand why.

For one thing, it’s incorrect, and there aren’t even any similar incorrect uses that would have led to this one. No one ever says that a jazz musician breaks into a “sole” or that a flight student flies “sole” the first time he goes up alone. These are “solo” activities. The word connotes daring, a leap of faith, a willingness to put oneself on the line. Some of the synonyms provided by my thesaurus include “independent” and “single-handed.” Think about it. Would Harrison Ford’s *Star Wars* character have had the same swashbuckling swagger if he were named “Han Sole”? I don’t think so!

For another thing, I can’t figure out how the term “sole practitioner” managed to stick when it is so obviously incorrect. I suspect it was first uttered or written by someone of such eminence that everyone else was afraid to correct that person. Or perhaps some judge said it in open court (and who’s going to speak up then?) while a reporter from *California Lawyer* was in the courtroom,

who then wrote it into the magazine, and it just kept propagating.

Whatever its source, “sole practitioner” is probably too mainstream now to do anything about it. Through continued misuse, it has become acceptable and perhaps preferred. This is the same way “irregardless” made it into the dictionary.

Don’t get me started on *that* one.

*Greg May is a sole solo appellate practitioner in Ventura.*

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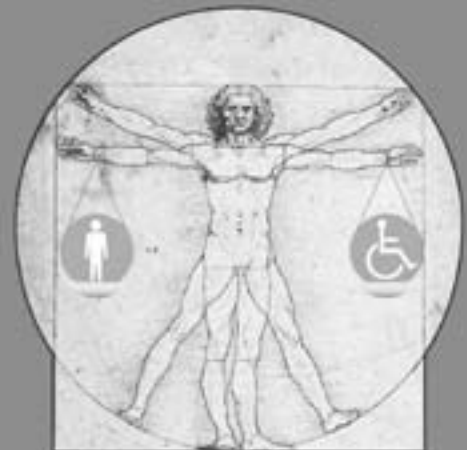
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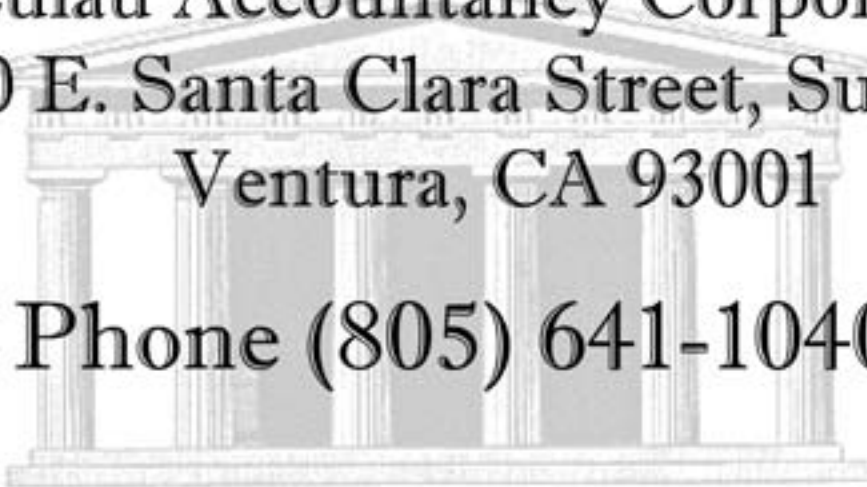
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# HONORING HOLLY – The Holly Grace Spevak IOC Scholarship for Law Students

By Anne Pierce

When I learned that Holly had died, I immediately called Diane Goad. In less than an hour, Diane and I separately came up with same idea—establish a dues scholarship at Inns of Court in Holly's name. We quickly decided it should benefit a law student.

I met Diane & Holly in Women Lawyers in the mid-'90s. Holly was still in law school at the time. I didn't know then (and still don't know) how Holly managed to balance the demands of law school and working, give her family attention, and find time to join a professional organization. But, she did. A few years later, with the same skill, she was able to maintain a private law and mediation practice, teach as an adjunct professor at Ventura College of Law, help law students prepare for the bar exam, undergo cancer treatment, and be actively involved in her children's lives and her family.

After Holly graduated, she became a member of Inns of Court. Diane was already a member and I'd also joined. Somewhere along the line, the three of us started going to lunch on a relatively regular basis—relative to the demands of being lawyers, time/attention involved in raising teenagers, and the twists and turns of life while we were making other plans. When we met, Holly always had a smile on her face, a twinkle in her eye, and an easy laugh. Holly shared the strides her children were making and the milestones in their lives (Sasha's new job, Noah's marriage, Blue's interest in mediation and law). She always shared her gratitude and appreciation for a loving, supportive husband and children.

And, she would talk about how she was trying to motivate and reach her students. She didn't give up on the students who were struggling or those who seemed to not want to be reached. Holly's desire to teach and motivate students goes back to her childhood and its roots go back generations in her own family. At Holly's memorial ceremony, her mother told of watching Holly, still in elementary school, playing teacher, complete with lesson plans and tests that Holly took

for each of her 30 make-believe students and then graded. And Holly is the third generation of women in her family to be a member of PEO (Philanthropic Educational Organization). One of the purposes of PEO is for women to "*motivate each other to achieve their highest aspirations.*" Holly didn't limit her efforts to women, as the messages and comments in the Guest Book on her web site, [www.spevaklaw.com](http://www.spevaklaw.com), show.

Holly and I had a long lunch on April 26th. Diane was called into arbitration at the last minute. We missed her. The last couple of years, Holly had struggled with whether to continue in Inns of Court. She was tiring from trying to balance everything on her extremely full plate and was concerned that she wouldn't be able to fully contribute to her team. She didn't really want to leave, but had decided to take the 2007-2008 year off. She asked me to keep her updated. I assured her that she was always a welcome guest. Holly died on May 9th.

The Holly Grace Spevak Dues Scholarship is one way to honor her spirit and the example she set, as well as ensuring that she will always be a part of Inns of Court and the mentoring process in which she believed so firmly. The scholarship will pay the dues of one or two law students to be members of Inns of Court on an annual basis.

In addition to Diane and me, Lindsay Nielson and Dick Regnier have offered contributions for the coming term. If you are interested in contributing, please contact Diane Goad (805)496-4220 or [dgoad@goadlaw.com](mailto:dgoad@goadlaw.com)), Anne Pierce (805)654-2924 or [apierce@dock.net](mailto:apierce@dock.net)) or VCBA (805)650-7599).

And, pass the word to any law student you know (not limited to VCL) who would be interested so s/he can get the short application for the 2007-2008 term.

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# BUILDING THE FIRM

By Doug Green

You've established your practice, hired a small number of other attorneys and you want to grow. What do you do next? Change is inevitable and small law firms are subject to many of the same development challenges of other small businesses. The smart money is on planned organizational change rather than development by default (a strategy inadvertently practiced by many smaller firms).

This article applies current organizational development strategies to help small firms answer the questions: Who are we? Who are we striving to become?

These are the key questions in growing any organization. The answers create a dynamic tension between the current reality – which may include low productivity, managing by crisis or insufficient quality control – and a compelling shared vision for the future of the firm. This dynamic tension, characterized by a sense of urgency throughout the firm, is essential to planned change. Without it,

complacency overwhelms the process and the firm drifts rather than moving boldly ahead (see John Kotter's *Leading Change*).

In a small firm, everyone can contribute to the change process and, indeed, everyone's perspective is critical in an environment where a single naysayer can derail the best plans for change. One tool for getting everyone on the same page is to collect thoughts from everyone through interviews grounded in a style called appreciative inquiry. This approach begins with exploring key individual strengths and firm assets, and builds to uncover ideas about how the firm would operate ideally. Tension (characterized by a mild dissatisfaction with the status quo) is built by identifying the changes that must happen in order to fully utilize the firm's current resources to achieve an ideal.

Often there is considerable agreement on the assets of the firm: a strong and uniquely gifted leader; smart attorneys, a beautiful location, a congenial office culture and/or

an excellent reputation for service in the community. There may also be a fair amount of consistency in defining the elements of an ideal future. For example, people may want a certain level of profitability or a level of recognition within the community. However, significant differences usually arise when people contribute ideas about the types of changes that will help build the firm. Part of this is situational. The experienced attorney views things differently than does the new attorney. The administrative staff views things differently than do the attorneys.

These differences in perspective must be addressed effectively to overcome barriers to development and create a sense of ownership of the process by everyone in the firm. Organizational development gurus Lee Bolman and Terrence Deal (see *Reframing Organizations*) provide four distinct frames or lenses for viewing organizations: the human resources frame, the structural frame, the political frame and the symbolic

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frame. Most people are adept at viewing the organization through one or two of these frames but seldom does a single individual see the whole picture ... yet another reason for engaging everyone in the process.

Viewed through the lens of the human resources frame, individuals in the firm may identify a need for more communication or for training in specific job functions. This lens focuses on the experience of *individuals* at the firm and prompts questions like, "Do people know what is expected of them?" And, "Do people have the resources they need to succeed in their jobs?" Particularly if you've had recent turnover in your legal or administrative staff, you will usually find that job satisfaction – and performance – will increase if people are comfortable that they know the standards to which you will hold them accountable.

Looking at the firm through a "structural lens" it is possible to see places where

changes in structure will encourage growth and reduce barriers to change. For example, your compensation structure may create disincentives for billing the most hours or developing new business or both. A well-structured compensation system that rewards achievement can significantly impact the bottom line. Other structural payoffs may be realized though establishing clear lines of authority or reporting relationships. Particularly in the small firm, where everyone wears multiple "hats," clarifying the "chain of command" can relieve stress and support performance by answering a question like: "If several people come to me with high priority items, how do I prioritize?"

Seasoned attorneys often view life and the future through a political lens, easily identifying the key partnerships that will position them and their firm for new business. In any case, it is essential to have a person with a strong sense of the political – the firm's owner or a senior attorney

– to guide associates in identifying and building important relationships. Viewed through the political frame, involvement in community activities and pro bono work provide opportunities for development that might be missed without the strong guiding vision of someone with political savvy. The key question here is: "With whom does our firm need to connect in order to thrive?"

Finally, Bolman and Deal's symbolic frame can't be overlooked. The manner in which your phones are answered, the décor of your offices, and your letterhead all provide symbolic cues about the quality of the firm's work and its future prospects. Many people have a keen sense of the symbolic while other just don't "get it." Even in the rare case that people share a sense of concern about "image" there may be little agreement on what should change. Providing a style sheet for correspondence, setting telephone etiquette and improving the appearance of your foyer are simple things that can be built upon. If your firm can't agree on the image it wants to convey or the right way to project that image, you may want to seek the help of an interior designer, a trusted image advisor or someone else outside the firm with a keen sense of the symbolic.

Planned change allows the small firm to shape the future intentionally. A process that includes all staff members will take time but will yield important dividends in building commitment to the process. It will also assure that important barriers to change are not overlooked by a few individuals with "blind spots." In this way, the planning process gives everyone a voice and builds momentum for change.

*Doug Green is principal of DH Green Consulting. He also teaches at Cal State Channel Islands.*

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# VETERANS ADMINISTRATION FINALLY ALLOWS LEGAL REPRESENTATION

By Lou Vigorita

Until recently veterans were effectively prohibited from hiring legal representatives since there was a prohibition on attorneys charging fees to represent them in claims for benefits before the VA's various administrative levels. However, legislation passed during the last hours of the last Congress allows veterans to hire an attorney or "agent" for representation in VA benefit claims (the Veterans Benefits, Health Care and Information Technology Act of 2006). The new law allows veterans to hire attorneys or agents after the VA files a "Notice of Disagreement" after an initial denial, similar to requesting reconsideration in Social Security Administration claims. It will apply to services in cases where the VA Notice of Disagreement is filed on or after June 20, 2000.

The VA is authorized to set qualifications and standards of conduct for attorneys and agents, and there are restrictions on the amount of fees. No fee can exceed 20% of retroactive

benefits. In addition, there is a 5% user fee charged to the attorney, which is capped at \$100.

The new regulations are listed at 72 Fed. Reg. 25930 (May 7, 2007). The following are the key elements:

1. Only accredited attorneys and agents are allowed to receive fees from the claimants.
2. Accreditation requires a character and fitness determination, passing a written examination administered by the VA, and an application filed with the VA for the accreditation.

Fees may be fixed, hourly rate, a percentage of benefits recovered, or a combination. This new procedure will provide veterans the same rights enjoyed by many other citizens who

have had access to legal representation. Since the Civil War the restrictions on attorneys charging fees to represent veterans frustrated many veterans and prevented them from pursuing their rights to various benefits. This new law has now corrected what has heretofore been a travesty regarding veterans' rights.



*Lou Vigorita handles Social Security, disability, workers' compensation, and veterans' claims. He is a member of CITATIONS' editorial board.*

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**J**ustice Art Gilbert authors an entertaining and compelling piece regarding *Moncharsh v. Heily & Blase* in the Spring 2007 issue of California Courts Review. In his *Commentary: Justice Portrayed* column, Gilbert pens “The Untold Story Behind Moncharsh,” and it can be found easily at [www.courtinfo.ca.gov/reference...](http://www.courtinfo.ca.gov/reference...) From Miguel de Cervantes: “But do not give it to a lawyer’s clerk to write, for they use a legal hand that Satan himself will not understand.”...Recommended Web Site of the Month: [www.avvo.com](http://www.avvo.com). You’ve just got to check this fraud out. The lawyer-rating site has been slapped with a class action suit since its launch June 5. It compiles data from state bar associations and other sources (legitimate and checked) to compute a numeric score between 1 and 10 for nearly every attorney in the country. I know one lawyer who changed their score from a 6 to a 9 by answering two questions. It’s received \$14 million in funding from Benchmark Capital and Ignition Partners. The class action suit? The site inexplicably gave convicted felons higher numeric scores than dozens of law school deans...

Where’s **Liana Johnson**? After departing the Public Defender’s office last year, Liana finished her assignment as a Barrister with the JHB Inn of Court this past May. She is departing our county in October and opening her own new bed and breakfast Memorial Day weekend ’08. Liana’s headed to Bell Fourche, South Dakota, about 30 miles outside Sturgis...Speaking of our local chapter of the Inn of Court, we’ve started a waiting list so you’d be well advised, if interested, in getting me an application ASAP. Find it online at [www.vcba.org](http://www.vcba.org). Click About VCBA and then click JHB Inn of Court...This from

## EXEC’S DOT...DOT...DOT...

By Steve Henderson, Executive Director, M.A., CAE

the *London Daily Telegraph* (6.7.07) culled by **Ron Harrington**: “Oliver Heald, from the Ministry of Justice, states he has evidence that a shortage of family law lawyers in Kent is leading to, ‘advice deserts’...” From Arthur G. Hays: “Where there is a rift in the lute, the business of the lawyer is to widen the rift and gather the loot.”...**Ellen Murphy’s** last day with FCOP was June 28. She accepted a new position with [www.Move.com](http://www.Move.com) in Westlake Village. She had been an associate in the firm since 2004...

**Judge Brian Back** and **Kathleen Back** have one more reason to be proud parents. Daughter **Shannon** graduated from Pepperdine Law School, took the February Bar and was sworn in by Kathy’s sister, the Honorable Wendy Lindley, in Orange County. Shannon was immediately given a jury trial at the DA’s office where she landed a job. Sidebar—Shannon broke her nose following the first day of the bar exam and finished the last two days with a throbbing schnoze...From the LA Times 7.12.07: “U.S. District Court Judge **Cormac Carney**, a former UCLA wide receiver and Academic All American, gave no leniency to a former USC lecturer this week when he sentenced Barry Landreth to six years in federal prison for running a Ponzi scheme that bilked \$1.5 million from investors...From Maurice Nadjari: “You can’t earn a living defending innocent people.”...Want to see how the wildly successful Barristers’ Bowling Night went? Photos at the Barristers’ group page: <http://groups.google.com/group/vcba-barristers...>

**Donna Standard** is leaving our ranks for the wild of the Sequoia National Park for the simple pleasure of the great outdoors and the company of horses. Donna’s been an active pro bono attorney for our VLSP, Inc., and leaves a great void...New words by the folks at Merriam-Webster—Ginormous, Bollywood, Sudoku and speed dating. There’s crunk, DVR, IED, smackdowns and telenovelas for the cooler crowd. You don’t have to use them if you do not want to...The *California Bar Journal* reports the percentage of California Lawyers who were 55 or older in its July edition. In 1991, 14% were older than 55. In 2001, it was 24%. In 2006, it’s a staggering 35%...Stuffed inside CITATIONS this month is the Ben E. Nordman Public Service

Award Nomination Form. As you know, this is the bar’s most prestigious honor given to the recipient during the installation and awards dinner November 17 in the top floor of the Crowne Plaza. This award identifies one lawyer each year whom we can tout to the community and the media as our profession’s finest. We all know lawyers doing exemplary volunteer work, so send in the nomination form...

After 23 years as the Director of the Mediation Center for Family Law, **Nina Meierding**, will be moving to the Northwest in early 2008, where she will continue to teach, train and consult in the conflict resolution field. **Terry Buchanan**, who is a family law attorney and experienced mediator, has accepted the position of Director and Senior Mediator...George Bernard Shaw explains that, having worked out his own system for colons and semicolons, he has checked it against the Bible, and seen that the Bible almost got it right. He accuses Lawrence of throwing colons about “with an unhinged mind.”...There exists a cartoon showing two people fighting over a cow. One was pulling the cow by the tail, while the other was tugging on the horns. Underneath was a lawyer milking the cow—Not attributed... Have I mentioned **The Other Bar** meets the 1st and 3<sup>rd</sup> Tuesday’s beginning at 12:15 p.m. in Acapulco’s? Lawyers with substance abuse issues and addictions gather for lunch to chat and support. Other lawyers are welcome too...From Anton Chekhov: “Doctors are the same as lawyers; the only difference is that lawyers merely rob you, whereas doctors rob you and kill you too.”...

*Steve Henderson has been the executive director and chief executive officer of the bar association and its affiliated organizations since November 1990. He frequently can be seen playing lacrosse with his 15-year old son, Sean, whom he has advised to steer clear of Michael Nifong. His officers and directors will not meet August 8 to re-load and coalesce. Additionally, he will not be viewing Barry Bonds’ 756<sup>th</sup> in silent protest and righteous indignation.*

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