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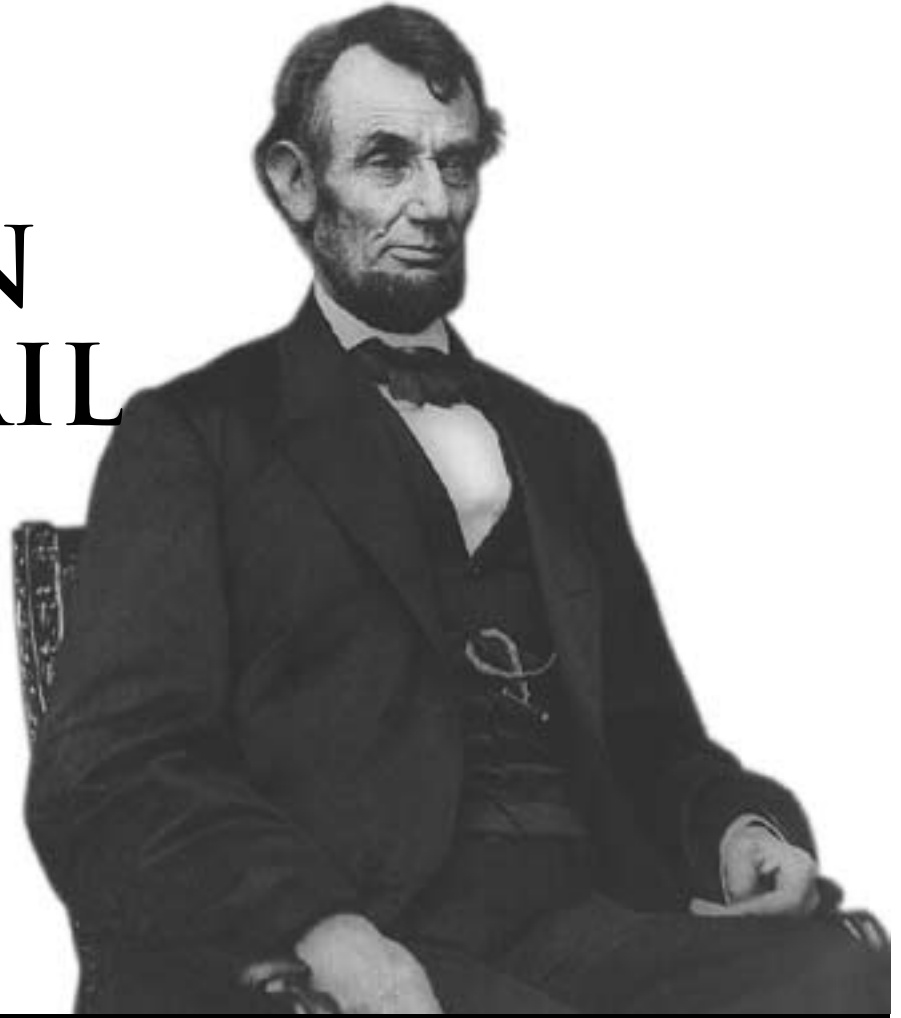
CITATIONS

A P R I L - T W O T H O U S A N D E I G H T

LINCOLN ON E-MAIL

BY WILLIAM M. GREWE

PAGE 8



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PRESIDENT'S MESSAGE

By Matthew P. Guasco

I attended the recent memorial for Judge Jerome H. Berenson, a much beloved and respected Ventura Superior Court Judge. My thanks go to Presiding Judge Colleen Toy White and the Superior Court for hosting this event, and to the Berenson family, who attended and permitted us to honor a truly great man. The memorial was dignified, tasteful and warm, like the man himself.

Shortly after Judge Berenson's passing, Justice Steve Perren was at a local coffee house. He encountered a young deputy district attorney, and the two chatted. During this conversation, Justice Perren asked whether the name Jerome Berenson was familiar to the young lawyer. The deputy district attorney replied, "No," leaving Justice Perren to ponder the significance of this: He and so many others of a certain generation knew and were greatly influenced by Judge Berenson. Could it be that there is a generation of lawyers who were not?

Justice Perren shared this story with me before the memorial, and I had to admit that while I had heard a great deal about Judge Berenson over the years, I never practiced before him. Judge Berenson retired before I came to Ventura County in 1989. What I knew of Judge Berenson I had learned from lawyers of the generation preceding mine, including Jim Loebel, Ed Lascher, Jim Farley, George Eskin, Richard Regnier, Richard Norman, and Lindsay Nielson. In particular, Jim Loebel and Ed Lascher shared with me many stories about "the Judge." All who knew Judge Berenson have described him as a person, lawyer and judge of great honor, integrity, intelligence, compassion, kindness, decisiveness, wisdom and skill. Justice Perren and others at the memorial who knew Judge Berenson lamented not only his passing but that so many lawyers did not have the privilege of knowing and learning from "the Judge." We have lost not only a great man, but an invaluable resource and a direct connection to our legal community's heritage.

Which left me – someone who had never practiced before Judge Berenson and who had only met him once – to speak after Judge White, Retired Presiding Justice Steve Stone, Justice Perren, Mike O'Brien and Bill Paterson, and before Bill Hair was to speak. I felt ill-suited for the task. It was Justice Perren's story which inspired me: Even though I had not been of Judge Berenson's generation or practiced before him, I was taught his example by lawyers for whom I have great admiration and respect. These lawyers have taught me not only directly but by sharing Judge Berenson's example, a standard to which any outstanding lawyer or judge should aspire. We honor Judge Berenson best by continuing that legacy.

At the memorial, my remarks were not only on behalf of the Ventura County Bar Association, but on behalf of the Jerome H. Berenson Chapter of the American Inns of Court. This organization is dedicated to promoting excellence, ethics, civility, honor, integrity, dignity and service in the practice of law. Each Chapter is organized with a mix of judges, more experienced lawyers, and less experienced lawyers who meet monthly from September through May to present educational programs, socialize, and learn from each other. In particular, the Inns of Court promote the concept of mentoring: Judges and more experienced lawyers sharing their knowledge and wisdom with less experienced lawyers. The exchange is by no means one-way: The less experienced lawyers teach at least as much as they learn, completing the cycle of shared knowledge and wisdom that is central to the Inns.

I remember the night we formally named our Chapter after Judge Berenson. After having heard about him for so many years, I was excited to meet Judge Berenson. When he arrived, I immediately knew why he was held in such esteem by so many. He was at once both dignified and humble, and his eyes were intelligent and kind. He was greeted warmly by the many lawyers and judges he knew, and the evening was marked by an extraordinary spirit of camaraderie. The younger lawyers who had never practiced before Judge Berenson – including me – enjoyed seeing this connection

between people and professionals, and I suspect we all privately hoped we could achieve something like that between ourselves one day.

Remembering and honoring Judge Berenson is more than nostalgia. I think he would be pleased to see our Chapter of the Inns of Court – his Chapter – perpetuating the principles by which he lived his life and passing them on to the next generation of lawyers and judges. I also think he would approve of the work being done by the Barristers to connect younger lawyers with more experienced lawyers. We will continue this work and other initiatives in the years to come. We owe this not only to Judge Berenson but to all those lawyers whom he mentored and who have mentored us.

Matthew P. Guasco is a mediator and arbitrator in Ventura. He is also Of Counsel to Norman Dowler, LLP, where he handles post-trial and appellate matters.

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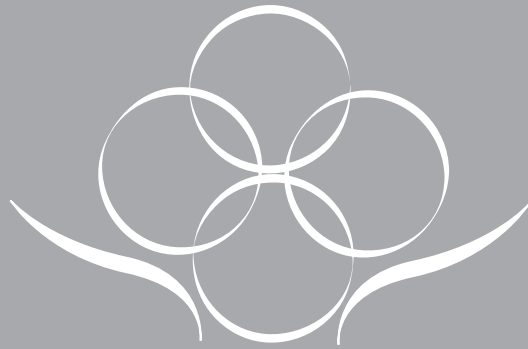
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LINCOLN ON E-MAIL

By William H. Grewe



Historians were excited to learn that a previously undiscovered signed letter of Abraham Lincoln had been found in obscure files. Only a few lines, the letter offers no new information but confirms Lincoln's fervent desire to end the war. Historians knew of the letter's existence, as its contents were quoted in a telegram sent from the war department to General George Meade at Gettysburg.

- Los Angeles Times, June 2007

One hundred and forty-five years later the telegram seems rather neutral. It was not. It was personal. It includes the names of three generals, and Lincoln is asking Meade, who just prevailed at Gettysburg, to do more. The telegram from General Henry W. Halleck said:

"I have received the following note from the President which I respectfully communicate: 'We have certain information that Vicksburg surrendered to General Grant on the 4th of July. Now, if General Meade can complete his work, so gloriously prosecuted thus far, by the literal or substantial destruction of Lee's army, the rebellion will be over.'"

Halleck, on the following day, telegraphed again:

"There is reliable information that the enemy is crossing at Williamsport. The opportunity to attack his divided forces should not be lost. The President is urgent and anxious that your army should move against him by forced marches."

With the carnage fresh in his mind and victory in place, Meade held in his hand a note that the President wanted more and wanted it now. It was too much for Meade. He responded by offering his resignation. It was refused.

Nothing at West Point prepared the officers of the Civil War – both sides – for the technical revolution that would be the telegraph. Never in history had the actions of those on a battlefield been reviewed and commented upon, in real time, by persons sheltered far away. Some adapted. Some could not. Confirmation of its significance would come after the war from an unexpected source. Robert E. Lee, serving as a college president, instituted telegraph instruction.

The war department, located a short walk from the White House, served as Lincoln's telegraph office. Major General-In-Chief Henry W. Halleck, who practiced law in San Francisco before the war, was a clearinghouse of orders. Telegrams were sent and received day and night. Lincoln would spend hours, often late into the night, reading and responding to reports from the field and elsewhere. It seems to have been disarming to the Union generals, except Grant, that the President of the United States was communicating directly with them, without formality or warning. Grant, who had been forced to resign from the army in the 1850s, composed telegrams with the cadence of a mathematician, which he was. He'd give Lincoln what he wanted before he asked. There is a pulse to Grant's telegrams which makes it clear to the reader – friend or intercepting foe – that if he were to again leave the army, it would be from the saddle.

Lincoln was never schooled in the use of the telegraph but his instincts, and the telegraph, served him well. He had a quick mind and loved to communicate. Following are some of the pointers he left us:

1. BE BRIEF

The Commander in Chief, who wrote sentences such as, "What next?" did not waste words. He was a listener and almost always wrote to gain information. The telegraph was in wide use. Lincoln's practice was not the rule. Some examples:

"We have news that the enemy has reoccupied heights above Fredericksburg. Is that so?" and,

"Have you any news? If so, what is it? I expect to be up tonight." or

"Have you Richmond papers of this morning? If so, what news?"

Lincoln could be brief when sending a personal telegram. In this note about a son to his mother, he shows that he knew whom to keep apprised, and of what, even in time of war:

"Tad arrived safely and all is well. A.Lincoln"

2. DON'T MICROMANAGE

The telegraph gave Lincoln the opportunity to make tactical decisions which, of course, his generals would be bound to follow. Given that Lincoln was awake at all hours and saw things with clarity rare in history, this was a real temptation. His telegrams reveal that he was aware of the temptation but deferred to those to whom fighting the war was delegated. That does not mean he did not walk the delicate line between offering an opinion and seizing the reins.

To U.S. Grant: "Your dispatch to Gen. Halleck, referring to what I may think in the present emergency is shown to me . . . Now what I think is that you should provide to retain your hold where you are certainly, and bring the rest with you personally, and make a vigorous effort to destroy the enemy's force in this vicinity. I think there is really a fair chance to do this if the movement is prompt. This is what I think, upon your suggestion, and is not an order. A.LINCOLN"

Or this example taken from *Gettysburg*, written by historian Stephen Sears regarding Lincoln's reply to a telegram from General Hooker wherein Lincoln does not direct or order but, in a non-meddling way, comments on the issue at hand:

"Lincoln replied that he was turning Hooker's telegram over to General Halleck for a proper professional military response, but then he went on to offer his own view of the case – an astute view, couched in one of his vivid frontiersman's metaphors. Should Lee move north, leaving behind a force at Fredericksburg, 'tempting you to fall upon it,' he warned his general not to take the bait. 'In one word I would not take any risk of being entangled upon the river, like an ox jumped half over a fence, and liable to be torn by dogs, front and rear, without a fair chance to gore one way or kick the other. If Lee would come to my side of the river, I would keep on the same side & fight him . . .'" p. 62.

3. DON'T BE PERSONAL

Lincoln made it a point not to criticize by telegram. When he was unhappy with his generals, he said so in person. When he was critical of someone not in the chain of command, he sent a letter. An example,

"To Major Gen'l. Burnside: Our friend Gen. Sigel claims that you owe him a letter. If you so remember, pls. write him at once. He is here. A. LINCOLN"

A telegram would have been read by several or more persons just as an e-mail can through cc's and forwarding. A harsh e-mail lingers, to be recalled to the screen by the recipient. It sizzles and crackles long after the sender intended its embers to darken.

Lincoln, if he had anything critical to convey, preserved privacy and put the message in the hand of the receiver, first. He would let the recipient determine who else would see it.

Lincoln's reply to note from New York Post editor Horace Greeley shows this. Greeley's letter, in which he enclosed a telegram reported that representatives of the Confederacy were standing by at Niagara Falls prepared to discuss terms. As intermediary, Greeley urged the President to make a frank offer as the country was, bleeding, bankrupt, dying and on the verge of insurrection. The Confederates would await a telegram in response through Greeley.

Lincoln and Greeley had routinely corresponded by telegram in the past and would continue to do so in the future. But this time, Lincoln, despite the sense of urgency, would respond by letter. His reply, now famous, put Greeley in his place – although Greeley failed to see it – and so a letter was appropriate.

Lincoln wrote, "... If you can find any person anywhere professing to have any proposition of Jefferson Davis in writing, for peace, embracing the restoration of the Union and abandonment of slavery, what ever else it embraces, say to him he may come to me with you ..."

Greeley would respond, by telegraph, requesting permission to print the correspondence so that the public would see his wisdom and Lincoln's lack thereof. Lincoln gave his consent.

Continued on page 10.

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LINCOLN ON E-MAIL

Continued from page 9.

Greeley was mistaken. Publication subjected the editor to the ridicule and embarrassment from which Lincoln had sought to spare him.

Telegrams were, in the course of the Civil War, intercepted. Lincoln knew this. He did not fuel the enemy. At a time when many of his generals – certainly not Grant – were preoccupied with thoughts of Lee and Stonewall Jackson, Lincoln rarely used the terms “South,” “Lee” or “Jefferson.” He wrote and spoke of “the enemy.” He avoided making his statements personal or his opinions inflammatory.

4. PAUSE

With the assistance of Halleck, Lincoln’s disappointment with Meade mentioned at the outset of this piece raced from the War Department to Gettysburg. Meade’s tender of his resignation was foreseeable but not a reaction which Lincoln intended. Lincoln smoothed things over. Meade stayed on but the relationship between the two men was no longer productive.

Lincoln, though, could not let the dog lie after the exchange had been put behind the two men, or could he? Lincoln positioned himself for the last word. He picked-up his pen and wrote his thoughts for delivery to Halleck and transmission to Meade:

“My dear general, I do not believe you appreciate the magnitude of the misfortune involved in Lee’s escape. He was within your easy grasp, and to have closed upon him would, in connection with our other late successes, have ended the war. As it is, the war will be prolonged indefinitely. Your Golden opportunity is gone, and I am distressed immeasurably because of it.”

Lincoln then paused. He might have tapped his desk for a few moments or put the letter aside until the next morning. We will never know.

After Lincoln’s assassination, and Meade’s death, an envelope was found in a drawer of Lincoln’s desk. Inside was the telegram-to-be. On the outside of the envelope Lincoln had written these words, “To Gen. Meade, never sent or signed.”



William Grewe is a personal injury lawyer in Ventura.

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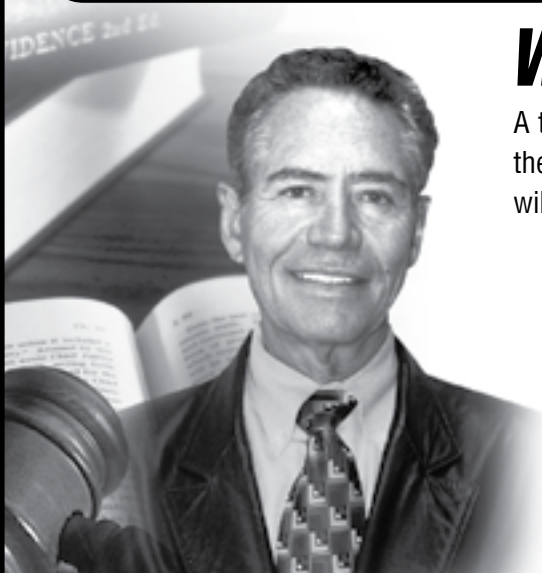
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“TRIAL LAWYER OF THE YEAR” NOMINATIONS OPEN

By Susan L. McCarthy

The Ventura County Trial Lawyers Association is planning to honor the trial lawyer of the year of Ventura County for 2007. The award will be given at the Third Annual Award gala on May 27, 2008, at The Courtyard by Marriott-Oxnard. Now is the time to nominate your choice for the award.

Past recipients of the award are Dave Ellison and John Howard.

In 2005, Dave Ellison was honored for his work in an extraordinarily difficult damages case, a moderate speed “rear-ender” auto accident. In *Ayers v. Verizon*, plaintiff’s claimed damages were based upon her principal long-term injury of a persistent tremor in her right hand. Through his excellent lawyering, Ellison convinced a Ventura County jury to award \$879,688 in economic damages and \$1.2 million in non-economic damages.

John Howard was the recipient in 2006, for significant results he obtained in two difficult cases. In *Sivott v. State of California Department of Transportation* Howard obtained a jury verdict of just over \$1 million for an injured bicyclist who alleged negligent road maintenance, in San Luis Obispo County. The second case, *Deacon v. Santa Barbara Community College District*, et al., involved a sexual assault at Santa Barbara City College. After settling with the College before trial for \$1 million, Howard obtained a \$50 million verdict against the rapist. Although that judgment is not likely to be satisfied, Howard felt it was important to his client that her claims were heard and the rapist held accountable.

Who will receive the award in 2007? Nominations are now open for the third annual Trial Lawyer of the Year award.

Nominees will be selected by VCTLA based upon the following criteria:

- Noteworthy civil trial result in 2007 (court or jury trial)
- Contribution to the legal community
- Demonstration of high standards of ethics, civility, courage, advocacy and dedication
- Contribution to the betterment of the civil justice system
- VCTLA member (may join after nominated)

Nominations must be received no later than April 25, 2008. Send your nominations to VCTLA c/o Steve Henderson via facsimile (805) 650-8054 or by email to steve@vcba.org. Use the nomination form enclosed with this issue of *Citations* or download the form from VCTLA’s website at www.vctla.org.



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JEROME H. BERENSON

By *William H. Hair*



I first met Jerry Berenson shortly after being admitted to the bar in 1960. I was a very young deputy district attorney prosecuting misdemeanor cases. Jerry at that time was the partner in the Oxnard firm of Nordman, Berenson & Lewis. There were, maybe, 150 lawyers in Ventura County. To survive in private practice, you basically took any case that walked through the door – divorce, criminal, landlord-tenant – whatever, and Jerry was no exception.

One of Jerry's clients was a family of commercial fishermen from Port Hueneme (Jerry was the city attorney then). These fishermen were in the "sights" of the local Fish & Game officials, and it came to pass that criminal charges were filed against them for some dastardly offense such as taking sardines for the purpose of canning them in the wrong size can. As the newest prosecutor, these cases had a way of finding their way to my desk – and I was faced with the task of trying a case against an established and experienced member of the bar – who, my God, was the president of the Bar Association!

The trial was in the old Oxnard-Port Hueneme Municipal Court before Judge Clarence Pecht. There were two Municipal Courts in Ventura County – the Ventura Municipal Court with Judge Richard Heaton and the Oxnard-Port Hueneme Municipal Court with Judge Pecht. The rest of the county was served by Justice Courts in Ojai, Camarillo-Moorpark, Fillmore and Santa Paula.

This was a major case for the Fish & Game, so in addition to the game wardens, I was being assisted by the captain of the enforcement division. Much of the evidence had been gathered through radar surveillance of the fishermen's activities at sea and following tanker trucks to the canneries. During my case in chief, a game warden was testifying about the nefarious acts of the defendants and the gathering of the evidence when Jerry Berenson caught my assisting captain giving hand signals to the testifying warden. Needless to say, the always "calm" defense lawyer called this conduct to the attention of the court in no uncertain terms – which resulted in a prompt reprimand to my assisting officer. I honestly do not remember the outcome of the case, but notwithstanding this case and several others that we tried against each other, I was offered an associate's position in his law firm, the fourth attorney in the firm. Jerry and I became lifelong friends.

Near the end of 1962, a fourth department was created for the Superior Court and Jerry was appointed to the bench by Governor Pat Brown. The Superior Court judges were E. Perry Churchill, William A. Reppy and Edward J. Henderson.

After about five years, Jerry's fellow judges elected him as presiding judge and he continued in that role for some 15 years until he retired in 1982. During that period the court went through tremendous changes. It grew with more judges being added on a fairly regular basis. The Justice Courts went away and were replaced by a unified countywide Municipal Court, the old courthouse at 501 Poli Street (now Ventura City Hall) was condemned as unsafe, and the courts were moved into mobile homes in the parking lot at Chestnut and Poli. Ultimately, after a number of years in temporary and uncomfortable quarters, the county and the courts moved to the current location on Victoria Avenue. Jerry Berenson was recognized statewide as a judges' judge, including service on the California Judicial Council.

Presiding Judge Berenson was a calming catalyst who kept things running in the Superior Court system notwithstanding a growing calendar, "fast track" and demands on the system that

could have, and in some jurisdictions did, result in disaster. As a settlement judge, he was – without peer – sorry, Dave Long. He had a poster from the Godfather movie on the wall of his chambers with the classic line: "I'll make you an offer you can't refuse!" And this was usually the result.

I vividly remember a case about land subsidence involving numerous properties which had evolved into a class action with so many lawyers that we almost had our own bar association for the case. There were government agencies, multiple layers of engineers, developers, and property owners. Fingers were being pointed in every direction. Judge Berenson, after multiple settlement conferences, told all of the lawyers to stay away and ordered all of the engineering experts to meet and come up with an agreed solution to cure the problem and their estimate of the costs to do this. After several weeks, a solution was agreed on and ultimately the case settled and the problem was fixed. This probably saved many months of court time and hundreds of thousands of dollars being spent on litigation that ultimately were used to fix a serious problem.

After his retirement from the bench, Jerry continued work as a private mediator/arbitrator/judge for many years. He was a real asset in getting matters decided and/or settled. Always level-headed and unflappable (this was not a quality that was demonstrated in my fish case some years before), with a hearty laugh and tremendous sense of humor, Jerry will be missed by those of us fortunate enough to have known and worked with him.

His 93 years were full, including service to his country in the Navy, service to his clients as a lawyer, service to the community and state as a wonderful judge and, of course, service to his family. He will be remembered for generations through the local chapter of the Inns of Court named for him.



Bill Hair is a partner at Nordman, Cormany, Hair & Compton in Oxnard.



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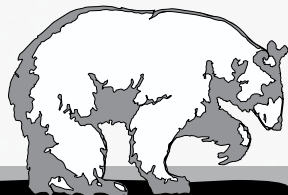
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STILL GOING... AND GOING... AND GOING...

By Robert M. Sawyer



The author and Law Day 5K Committee member Olivia Newton at the Law Day.

The inaugural Law Day 5K found me competing against two guys who, at the time, seemed just impossibly old to be running: Bruce Johnston and Joe Hadden. Recently, I caught up with each of them by telephone, a task that was a lot easier than trying to catch up with either of them out on a race course back in those days.

Bruce first raced the Law Day when he was 63. He was a late-comer to running, but not to athletics. As an undergrad at UCLA he'd captained the crew team. After law school, however, he settled for more sedentary activities, like softball. When he was 48 he got a wake-up call. A law school classmate suffered a heart attack, and was warned by his doctor that unless he started jogging, he'd soon be due for another. Bruce joined in, and started running for the first time in his life.

Bruce worked up from jogging to running local 10Ks, and credits Gary Tuttle with being responsible for a lot of his success. (Gary, who's now 60, was an outstanding athlete at Ventura High; set national records at Humboldt State; and returned to his hometown over 30 years ago to open The Inside Track running gear shop on Main Street. Last year Gary sold the shop to another local running standout, Josh Spiker, but he hasn't hung 'em up. Most days you can find Gary in the middle of a 10-mile run from his home on a ranch just west of Santa Paula.)

Bruce regularly took home the Law Day Blue Ribbon in the Probate Division. That is, until 30-years-younger John Scoles from Fillmore decided to switch from the Real Estate classification. Even as age slowed him down, Bruce still enjoyed focusing on younger runners in the final half mile or so of the race and overtaking them as they approached the finish line.

Known for decades as one of Ventura County's premier estate planning attorneys, Bruce finally turned in his bar card (State Bar No. 20542) four years ago, at age 84. Well into his 80's he continued to mentor Special Olympics runners. He gave up running some years ago due to circulatory problems, but stays active, going to a local gym a couple of days a week, and taking in long walks around town. At 88, Bruce is enjoying a very healthy retirement.

Joe Hadden was 49 when the first Law Day 5K came along. He'd taken up running in 1959, after being discharged from the Army and going to work for an insurance company in San Francisco. He simply liked being active and outdoors, and wasn't fazed that in those days a grown man running up and down the street in shorts and a tee-shirt (and Converse Chuck Taylor high-tops) was generally seen as some sort of nut-case.

Joe came to Ventura in 1964 to join Woody Deem's DA's Office, and then went into private practice in Camarillo with Bob Waldo and Tom

Malley. Running in old tennis shoes, it wasn't until the early 70s that Joe finally started using real running shoes. He ran 5Ks and 10Ks all over Southern California. His first marathon was the "Heart of San Diego," a precursor of today's Rock 'n' Roll Marathon.

Appointed to the bench in 1980, Joe says that his training really picked up when he began working out with a friend at the Judges College in Berkeley. In 1988 and 1989, when he was Presiding Judge, his duties included firing the starter's pistol at the Law Day. And then quickly jumping into the pack. Until his retirement and transition to private judging and mediation in 1999, no one else on the bench could come near the Judges Trophy.

Now 74, for three consecutive years Joe has had to settle for second place in his age group at his favorite event, the Big Sur Marathon. And in each of those years, the division winner has been a different "ringer," brought in by the promoters. Joe's only consolation is that while he continues to get stronger and train

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smarter, his competition is simply getting older. He credits his durability in part to cross-training and physical therapy (he's an avid touring cyclist and regularly undergoes a Roling regimen, the extreme massage and body manipulation system created by Dr. Ida Rolf.) He endorses the "run/walk" system of training and racing promoted by Olympic Marathoner Jeff Galloway, a system of breaking up the rhythm in distance runs so that one's net time is even faster than if he or she had run the whole distance at a single pace.

The Law Day 5K is just one of many reasons I look up to Bruce and Joe as role models. I began running as a high school cross-county competitor, later used running to stay in shape over the winter for competitive cycling, and upon returning to Ventura County in 1975 after law school, took it up as a fun way to compete against friends without having to haul cycling equipment around or worry about flat tires. As with Bruce and Joe, along the way Gary Tuttle was a guide, inspiration and coach. Every year I'm a little bit slower, but it's hard to imagine getting up and starting my day without at least a few miles on one of my favorite training routes.

Seven years ago at the pre-race exhibition for the Napa Valley Marathon I sat in on a lecture by singer and actor John Keston, who was at the time 76. (You can check him out in the March issue of *Runners World Magazine*.) His fastest marathon had been at age 69, in 2:58. Now 83, he holds the over-80 half-marathon record, 1:39:28, a time I haven't personally seen since I was in my late 20s. For a long time I focused on Keston as a guide for my running future. Then a week ago I learned about Buster Martin, of London, England. Martin is entered in this year's London Marathon, and will set world marks just by finishing. He's run a couple of half marathons in the past year, and given his finishing times, if you didn't know anything about him you might dismiss him as being awfully slow. Until you learn that he's 101 years old.

See you in a few years at, say, the 67th Annual Law Day 5K.

Attorney and runner Rob Sawyer is very proud that members of his firm have won the attorney/staff competition so many times that the firm has been allowed the privilege of sponsoring the Norman Dowler perpetual trophy.

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The Ventura Superior Court is pleased to announce that local attorney Robert "Bob" Bayer will be joining the Court as the new Family Court Services Manager. Bob has been in private practice for over twenty years. Before that he was a deputy district attorney. Over the past nine years, Bob's practice has been focused heavily in the area of family law. He has been a member of the Collaborative Family Law Professionals and a proponent and practitioner of alternative dispute resolution.

Family Court Services provides assistance to the Court and to the parties in family law and probate. Currently, the court has thirteen mediators who are trained and experienced in mediating cases involving child custody issues. The department also conducts probate investigations in all guardianship and conservatorship matters.

Bob will be assisted by Vincent "Vince" Morda in overseeing the department. Vince has been a mediator and probate investigator with Family Court Services for over twelve years and was recently promoted to Court Program Supervisor. The combination of their legal and mental health expertise will allow Family Court Services to continue to enhance its services to litigants and the Court.

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A LAW SCHOOL IS BORN

By Eric Reed



The University of California at Irvine (UCI) expects to open the Donald Bren School of Law in Fall 2009 – a decade after UCI's leadership proposed the idea of planting California's first new public law school since 1966.

UCI Chancellor Michael V. Drake announced the hiring of renowned constitutional law expert Erwin Chemerinsky as the school's inaugural Dean in September of 2007. The appointment came only one week after Drake withdrew a previous offer to Chemerinsky, whose views Drake once criticized as "polarizing." Liberal and conservative scholars alike welcomed the news that Chemerinsky accepted Drake's second offer and that the two resolved to put their differences behind them.

The institution's moniker honors real estate mogul and philanthropist Donald Bren, whose \$20 million gift will endow the chairs of eleven founding faculty members and the school's deanship. Bren's UCI gift follows his previous gifts to institutions such as Chapman University, CalTech, The Marine Corps University and UC Santa Barbara, home of the Bren School of Environmental Science and Management.

Sixty-five students will comprise the first class. UCI hopes the law school will grow to 200

students per class, or 600 total, within five years of opening. Initially, UCI will house the law school in existing facilities such as Berkeley Place on the university's northeastern corner. The Bren School aims to open its own building and law library within six years. As part of UCI at large, the school will offer joint degree programs in, among other fields, public health (JD/MPH) and business (JD/MBA).

UCI's threshold challenge is the three- to five-year ABA accreditation process. The school will seek provisional approval as soon as possible, enabling its students to enjoy the same benefits as other ABA schools until approved in full. The school must show "substantial compliance" with ABA standards in the interim.

For more information about progress at the Donald Bren School of Law, visit www.law.uci.edu.

Eric Reed is an associate at Lascher & Lascher, and a member of CITATIONS' editorial board.



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MEXICAN-AMERICAN BAR ASSOCIATION HOSTS RECEPTION FOR MEXICAN CONSUL

By Sandra Ruvalcaba

The Ventura County Mexican American Bar Association (MABA) hosted a welcoming reception for the new Mexican Consul, Rogelio Alejandro Flores Mejia, in January. The same evening marked MABA's 30th anniversary of service in Ventura County.

Consul Flores was recently appointed by President Felipe Calderon to represent the Mexican government for Ventura, Santa Barbara and San Luis Obispo Counties. Much like an ambassador, his office will provide needed services to constituents, including emergency medical assistance, education, and naturalization services. At thirty-eight years old, Flores is the youngest consul ever to serve this area. He is a graduate of the Universidad Popular Autonoma del Estado de Puebla (1995) and the doctrinal program at the Universidad Pontificia in Salamanca, Spain. Flores moved here from Puebla, Mexico with his wife, Rocío Martinez Cervantes, and his three children,

After moving speeches and declarations of support by Ventura County Supervisor John Flynn, Oxnard Deputy Mayor John Zaragoza, and Port Hueneme Mayor Maricela Morales, Consul Flores gave a powerful and passionate speech about his and his family's desire to become an integral part of the Ventura County community, and about the synergistic political and commercial relationship between the U.S. and Mexico that must continue for the benefit of both countries.

Consul Flores also offered to assist MABA with its legal educational excursion to Guadalajara, Mexico this October, including possibly scheduling a private audience with former president, Vicente Fox. The educational trip will be open to all attorneys and judges. Anyone interested in participating may call Sandra Puga at (805) 988-0285, ext. 105 for more information.

Sandra Ruvalcaba is an associate with Wasserman, Comden & Casselman in Oxnard.

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“INSIDE THE MEDIATORS STUDIO” INTERVIEWS JUDGE WILLIAM PECK

By Harold K. Kyle

Movie buffs are familiar with the Bravo Channel's show, "Inside the Actors Studio." Host James Lipton, armed with a stack of 5x7 index cards, interviews an accomplished movie actor about his or her background, accomplishments, and the craft of acting, in front of an audience of film and acting students. The programs are a blend of biography, entertainment, and instruction, as well as a tribute to the actor being interviewed. Those of us watching at home get the feeling we are looking in on a private, professional class where the "secrets" of great acting techniques are revealed.

Ventura County is blessed with many accomplished mediators who practice their craft in conference rooms behind closed doors.

The thought here was to apply this same concept to a MCLE program where one of these prominent mediators would be profiled and interviewed, in order to give us insight into his or her techniques and methods utilized in the mediations they conduct. VCBA's Alternative Dispute Resolution Section is pleased to announce its first "Inside the Mediators Studio" program on Thursday, April 24 at noon at the Ventura College of Law, featuring retired Superior Court Judge William Peck.

Many attorneys have war stories involving Judge William Peck, both on the bench and in his current practice as a mediator. Counsel appreciate his directness and honesty, and the manner in which he has always moved matters to resolution. From all of the feedback I have already received this hour that we spend with Judge Peck will be both entertaining and educational. If you have anecdotes and recollections from working with Judge Peck, please share them with me in advance of the event, so I can work them into what I hope will be a rich and colorful hour.

Hal Kyle is a mediator and attorney practicing in Ventura. He is currently Chair of the ADR Section and serves on the Board of Directors of VCDS. He can be reached at HKyleLaw@aol.com.

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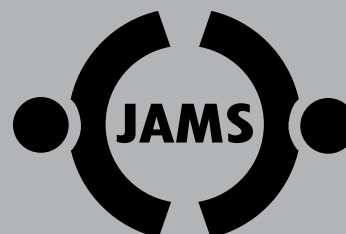
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WORKING WITH ALLIED PROFESSIONALS IN AN INTERDISCIPLINARY COLLABORATIVE PRACTICE

By *Ellen J. Hirvela*

Most attorneys practicing in family law address the obvious emotional and financial, as well as legal, issues involved in a divorce. We refer clients to consult with therapists and accountants as needed. So, how is it different when we work in an interdisciplinary way with mental health and financial professionals in the context of a collaborative divorce case?

Before engaging additional professionals to be part of a collaborative divorce, we need to establish, in fact, that it is a collaborative case.

The Disqualification Agreement: Collaborative Law Agreement

Attorney Stu Webb, of Minnesota, the founder of collaborative family law, designed collaborative divorce around the basis of a disqualification agreement, which is still the centerpiece of the process today. Before signing the agreement, the clients have been fully informed by their attorneys. They understand that by signing the agreement they are choosing a much different, more comprehensive way to divorce. The clients understand that mental health professionals (working as “coaches” or “child specialists”) and an accountant or another qualified financial professional (working as “financial neutral”) will be a part of the process as needed. Clients also understand that, if the case does not settle and/or either of them wants to take the case to court, their collaborative attorneys will be disqualified, and they will need to hire new attorneys.

The disqualification agreement is similar to a treaty among negotiating nations. It can supplement trust, allowing parties with differing points of view to “come to the table” and negotiate within preset safe guidelines. Sometimes this step may be overlooked locally when we think, “the other attorney and I already trust each other, so why do we need it?” However, the agreement is not only for building trust between the attorneys; it is also for the benefit of the clients. There is a big difference in the tone of a four-way meeting when there is a signed “disqualification” agreement in place. Trust grows where previously it seemed unlikely: between the divorcing spouses, between your client and the other spouse’s attorney, as well as among the professionals. A lot more can be accomplished when defensiveness has left the room.

Overview of Interdisciplinary Work

In interdisciplinary work, attorneys and their clients, along with the coaches and the financial neutral work as a “team.” From the beginning of the case, the professionals have more communication with each other, and they design the process to fit the couple’s particular needs. The team approach broadens the way the professionals help. For example, the coaches not only help with traditional areas such as communication and child issues, but they also help with fear and abandonment issues, moving through impasse, and restructuring lives.

Coaches also reinforce the paradigm shift from adversarial to collaborative, which is not only taking place in the lawyers but also among all the participants – as our culture

still generally associates divorce with a range of stereotypically bad behavior. When coaches are present in a meeting with the lawyers and their clients, the meeting doesn’t feel like “business as usual.” According to preliminary “exit” data from collaborative divorce cases, clients reported more overall satisfaction with their divorce process when there was a team of professionals, rather than when there were just the two lawyers working with the parties in the case.

Ellen Hirvela is a collaborative family law attorney and a mediator who practices in downtown Ventura. She is president of the Coalition for Collaborative Divorce.

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VCBA MEMBER-INVOLVED ARTS

A Time Out of Rhyme produced by the Ventura College Opera Workshop. First 2 weekends in April: www.operaworkshop.info.



Past issues of CITATIONS may be found under “membership resources” on the bar’s website at www.vcba.org.

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Beginning April 1, VCTLA Secretary, **Becky McCarthy**, is Of Counsel with **Proctor, Slaughter & Reagan** – PSR? Hmm...From Ralph Waldo Emerson (Does anyone ever just write or say “Ralph Emerson?”): “The good lawyer is not the man who has to eye every side and angle of contingency and qualifies all his qualifications, but who throws himself on your part so heartily, that he can get you out of a scrape.”...Can you tell me which Ventura County lawyer has a cell phone ring tone to the tune of *Law and Order*? \$5 cash to the first correct caller...Anybody want to review the proposed revisions of the Ventura Superior Court Rules? Comments and suggestions welcome by 4.19 to Victoria.Borjesson@ventura.courts.ca.gov. Proposals are at www.ventura.courts.ca.gov. When you get to the site, click *what’s new*, and that takes you to another hyperlink...

Rob Sawyer, after 32-plus years of lawyering, will be departing **Norman Dowler et al.** June 30. Rob moved into **Dick Norman** and **Pete Dowler**’s Santa Paula office as a renter in March 1976; went to work for them as an associate in 1981 and became a partner in 1984...Movie Law: “Right now everything is great, everyone is happy, everyone is in love, and that is wonderful! But you gotta know that sooner or later you’re gonna be screaming at each other about who’s gonna get this dish. This eight dollar dish will cost you a thousand dollars in phone calls to the legal firm of That’s Mine, This Is Yours” – Harry Burns (Billy Crystal), *When Harry Met Sally*. One of my Top 20, BTW. You have to see Crystal as Miracle Max in *The Princess Bride*, Danny Costanzo in *Running Scared*, and Mitch Robins in *City Slickers* (the first version, of course). Puerto Rico? **Tina Rasnow** at tina.rasnow@ventura.court.ca.gov. Manzanillo, Mexico? **Kendall VanConas** at kvanconas@atozlaw.com. Croatia? **Byron Lawler** at bjlawler@gte.net...

Angela Lopez and **Meena Kotak** have been advanced to junior partners at **NCHC**...From Aristotle: “The virtue of justice consists in moderation, as regulated by wisdom.”...From

Exec’s Dot...Dot...Dot...

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

Jay Leno: “Roger Clemens says he has not decided whether to retire or not. It’s tough for him, you know. He says he’s going to miss the locker room and all the guys needling him.”...License Plate of the Month: OMYATTA, on a bright red 2007 Miata driven by **Michael Brooks**...From John Arbuthnot: “Law is a bottomless pit, it is a cormorant, a Harpy that devours everything.”...As of February 25, it had been two years and 142 cases since **Supreme Court Justice Clarence Thomas** last spoke up at oral argument. (For that alone, I have given myself a Coke break). The last time Thomas asked a question in court was February 22, 2006, in a death penalty case out of South Carolina. Says Thomas, “If I think a question will help me decide a case, then I’ll ask that question. Otherwise, it’s not worth asking because it detracts from my job.”...After 34 years of legal service, **Don Gardner** has retired and gone inactive with the State Bar. Don was at one time the only lawyer in Port Hueneme...

Justice Steve Perren portrayed *Poobah* in *The Mikado* March 7-30 in the 90-seat Theatre on the Hill in Thousand Oaks...From SOLOSEZ: “Yes, Virginia, there is a Santa Claus, and his name is Carl Malamud. This week (2.14.08) Carl posted free electronic copies of every U.S. Supreme Court decision and Court of Appeals ruling since 1950. Malamud hopes the database of 1.8 million rulings – equivalent to a row of law books longer than a football field – will inspire Internet users to demand that all court rulings be made available online for free.” More about Malamud’s largesse at <http://tinyurl.com/yrf9y6>. The database: <http://bulkresource.org/courts/gov/c/F2/>...From Jeremy Bentham: “Lawyers sometimes tell the truth – they’ll do anything to win a case.”...From Ambrose Bierce: “*Litigant*: (n.) a person about to give up his skin

for the hope of retaining his bones.”...From Emory R. Buckner: “More cross-examinations are suicidal than homicidal.”...And lastly from H.L. Mencken: “It is hard to believe that a man is telling the truth when you know that you would lie if you were in his place.”... **Al Vargas** will appear in *A Time Out of Rhyme* the first two weekends in April at the Ventura College Theater, www.operaworkshop.info...

Save the Date: April 24 – The Ventura County Asian American Bar Association will be holding their annual installation and awards dinner. The keynote is **Mr. Stewart Kwoh**, director of the Asian Pacific American Legal Center of Southern California. Mr. Kwoh attended Bruin Country for his undergrad and law school and won the Loren Miller Legal Services Award in 2007. Tell **Brian Nomi** at 444.5960 or bar@vcba.org if you want to go...At the top of the NY Times Best Sellers List (Fiction) is John Grisham’s *The Appeal*. “Political and legal intrigue ensue when a Mississippi court decides against a chemical company accused of dumping toxic waste.” www.amazon.com for \$10.60...TV Law: Denny Crane (William Shatner): “I’ll argue it myself. Ban red meat. That cannot pass Constitutional mustard.” Shirley Schmidt (Candice Bergen): “The word is “muster”, Denny, but you’re right, the law lacks condiments” – Boston Legal... **Tina Schoneman** has been elevated to name partner in **Bohl, Nixon, & Schoneman** after being with the firm since June 2005...

Steve Henderson has been the executive director and chief executive officer of the bar association and its affiliated organizations since November 1990. He will be buying lunch for anyone who joins him on Tuesday April 1, beginning at noontime, at Danny’s Deli in Ventura. All you have to do is show up and eat, while leaving the tab with me. Eliot Spitzer will be the keynote.

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