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PARENTAL ALIENATION: LOTS OF LABELS, LITTLE UNDERSTANDING

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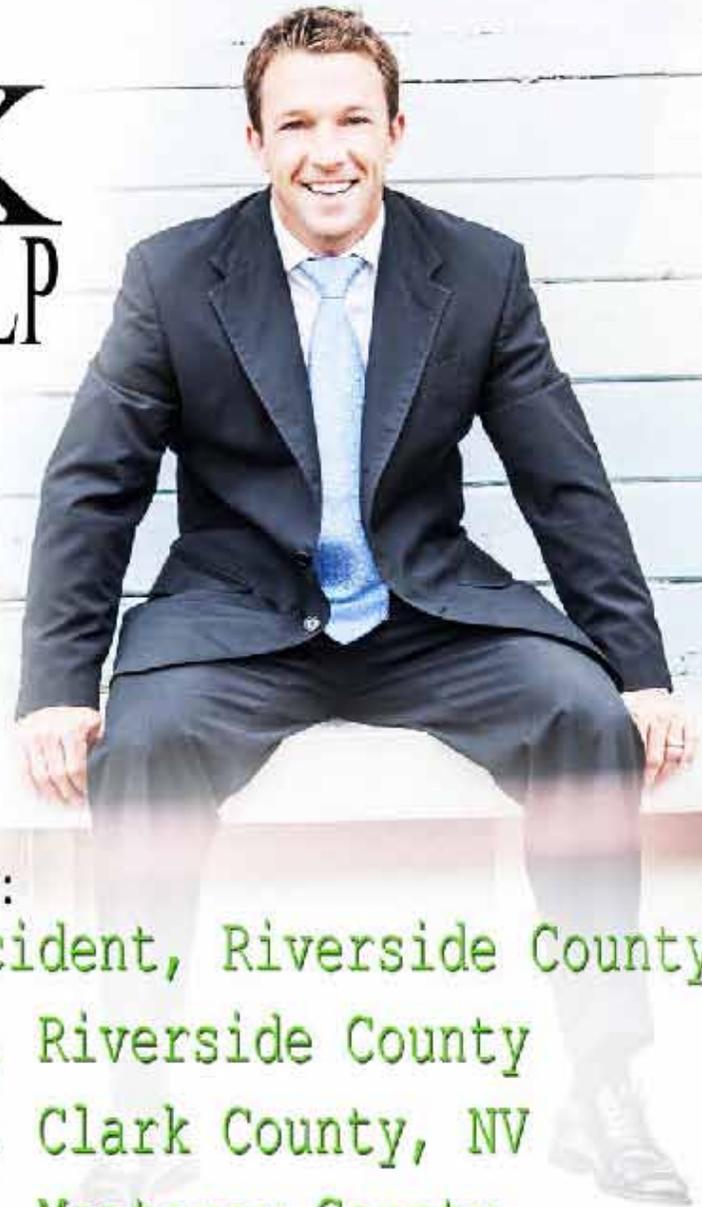
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PRESIDENT'S MESSAGE: YOUTH SPORTS AND WHY IT MATTERS

by Joel Mark



My good friend and CITATIONS editorial board member, **Panda Kroll**, has been after me for a few years to write an article about youth sports. I guess she figured, as a 30-year American Youth Soccer Organization volunteer, four-year past AYSO national president and six-year member of the United States Soccer Federation Rules Committee, I might have some insights to share. Procrastination being what it is, Panda still might be waiting for the article.

However, you may have seen the Associated Press article in the *Ventura County Star* on May 8 about the growing epidemic of violence directed toward sports referees, including the recent death of a Utah youth soccer referee punched in the face by a 17-year-old player. No one deserves to die just for doing something that is so important for youth development.

The article quotes Dan Gould, Director of the Institute for the Study of Youth Sports at Michigan State: "Part of this isn't a sport problem, part of it is a societal problem." I agree. More on that later.

One of the most fun parts of my youth sports experience was refereeing. You see great soccer games from the best seat in the house. You get exercise perhaps four miles or more running per game for a center referee. You get to participate in the best part of

youth sports, helping to teach skills and instill values players can use for the rest of their lives. And you satisfy what many have called "polyester envy" – making important and impartial rulings about participants' behavior relative to the laws while wearing polyester. Remind you of another group of people we lawyers deal with all the time?

Personally, I never really had many problems from the sidelines. Once people found out, usually about ten minutes into the match, that it was being refereed by AYSO's national president, every camper was a quiet one, if not a happy one. There was one time, however, when I was being heckled by a parent on the sideline. I let the game go on but stopped right next to him and watched for about 30 seconds. "You know, you're right," I said. "You really can see the game better from here." Play on!

There was one tournament where three of us were teamed to referee three games that day, each one doing a center. We gave the toughest to Cookie. She was the best. Before kickoff, each team did their sideline cheers. Cookie then called her two ARs (assistant referees) into the center and said we were going to do a cheer, too:

"One, two, three, we're the referees,

"Peaches, apples, pears, this game's gonna be fair."

Explained Cookie: "We're a team, too, aren't we?"

I also believe that the AYSO tradition of all-volunteer coaches and referees helped reduce referee abuse. It has been observed that, when people pay officials, they assume that with the payment comes the right to criticize them, which leads to yelling at them, which in too many cases leads ultimately to abuse. When instead you "pay" for referees by volunteering to be one yourself, you have an entirely different attitude about how they should be treated. And, often times, the referee for one day's match would be last year's coach or a neighbor.

Beyond refereeing, there are many benefits for the players. Statistics have proven, for instance, that children who participate in

youth sports have a much lower incidence of obesity, and that young girls who participate have a lower rate of female-related cancers in later life.

What really convinced me about the benefits of youth sports was when my youngest turned 21 and we went to Kips, a bar in Berkeley where I had bought my first legal beer upon turning 21. It hadn't changed. The soles of your shoes still stuck to the floor as you walked to the bar, and you still could order the best wine a box could hold.

As we stood waiting for a table, this absolutely gorgeous young woman rushed up and hugged me. My wife, Leslie, immediately started with that daggers look. The young woman finally let go, took a step back and said: "Don't you remember me?"

With Leslie's eyes now growing from daggers to javelins, I looked into the woman's eyes and blurted: "Katie?" Could the woman who was all grown up possibly be the awkward 13-year-old girl I had coached? "That's right, Coach," said Katie.

We talked for a while about what she had been doing over the years and how her family was. As we ended, she said: "You know, Coach, I always have been meaning to thank you."

"Why?" I asked. "I was a terrible coach."

"We all knew *that*, Coach, but it is for the other things you helped give me."

She explained that, at the time, her parents were going through a divorce, and she was not doing well in school as a result. She was drifting downhill. But, her youth sports experience was enjoyable and, as she looked back, she had come to realize that it had given her something to center her life around until the other parts of her life got better. I hugged her back, with Leslie's blessing.

That's the thing about youth sports. You never know at the time just how much value you deliver to young lives. You just have to have faith that, despite all other indications, it is something worth doing. And, you have to have the integrity and dedication to

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understand that something that important has to be done right and to the best of your ability.

And now, the part that is the societal problem. As Dodger Matt Kemp showed us a bit ago with a generous act for a cancer-stricken fan when Kemp thought the cameras were off, there still is much good about organized sports. However, although I am an avid sports fan, these days I mostly concentrate on amateur sports (well, if you call college sports "amateur," I suppose). I am not interested in paying \$12 for a beer and \$11 for a hot dog so a team like the Dodgers can pay \$22 million to someone who hits only .225 and thinks it is not only a right but an obligation to throw dirt on the umpire. There is no defending soccer on this issue either. Just ask any soccer hooligan.

I think the issue is that fewer of us are doing what we used to do to teach our children about personal responsibility. The trend now seems to go more toward teaching them how to blame others instead of looking within.

The recent movie "42" showed us how someone who could have rightfully blamed others for his challenges instead took personal responsibility for being the best he could be despite the shortcomings of others. In comparison, I recalled a father years ago who accused us of discrimination because his son did not make an all-star team. I explained he did not make the team because he was a sweeper (the last defender except the goalkeeper) on the team that had given up 11 more goals than any other team. I then offered him a position on my board as "Diversity Officer." I never heard from him again.

Why does this President's Message relate to lawyers? I think that we must recognize that we are on the front lines for teaching about taking personal responsibility, and about respect for laws and for those who administer them. As I said, no one deserves to die for trying to do that.

Joel Mark is the managing partner at Nordman Cormany Hair & Compton LLP, in Oxnard. Cookie Oren succumbed to cancer a couple of years after that match. Look in any dictionary for "best youth sports of cial ever" and you will see her picture.



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PARENTAL ALIENATION: LOTS OF LABELS, LITTLE UNDERSTANDING

by Gary R. Rick, Ph.D.

A common problem in conflicted family court cases is the rejection of a parent by a child who had a positive and nurturing relationship with the now-rejected parent prior to the divorce. During the past 25 years, mental health professionals have spent much of their energy on this topic, arguing over the appropriate label or diagnostic formulation to describe this phenomenon. Little, if any, attention has been given understanding the cognitive changes a child has undergone.

I argue that therapy for alienated children and adolescents should include a strong focus on helping children to understand and modify their cognitive belief systems. This should be considered when drafting court-ordered treatment plans and when examining clinicians working with parent-child conflicts.

The history of the parental alienation phenomenon began in 1985 when psychiatrist Richard Gardner, M.D. coined the term "parental alienation syndrome" in a psychoanalytic journal. Following the medical model, syndromes consist of a grouping of symptoms assumed to be caused by an underlying disease. The syndrome can be assumed to exist even if only a few of these symptoms are present. Gardner went on to write many books and articles and became a strong advocate for his position.

In the early 1990s, Gardner's notion of a syndrome, and some of his other controversial ideas, became increasingly criticized by attorneys and mental health professionals. With the start of the new millennium, several alternative descriptions of various forms of parental rejection have been developed. Rather than looking at a unitary "syndrome," these models often include hybrid, nuanced descriptions of the different forms of parental alienation and estrangement that can occur.

Journal articles published during the past 25 years have developed improved descriptive labels of the various phenomena observed in children who express some form of displeasure with one of their divorced parents. While labels *describe* observed phenomena, they do not *explain*

the mental process the child has undergone. We can only assume that the expressed parental rejection has been caused by the undue influence of the alienating parent.

This poses a significant problem when alienated children and one parent or both parents are referred for "reunification" therapy. A therapist, possibly aided by the results of a custody evaluation, must piece together the family dynamics and try to improve them on a once-per-week therapy basis. The emerging research on treatment of alienated children often suggests forming a treatment team involving individual and family therapists, and possibly a parenting plan coordinator ("special master"). This treatment format is beyond the financial means of most persons, takes a long time and has, as yet, no supportive outcome data.

Little attention has been paid in the literature to the cognitive belief system of the child. Children who express beliefs

about a parent that are not based in their actual experiences with that parent have demonstrated the development of a faulty belief system that is surprisingly resistant to change. Any form of treatment that does not take this into consideration, is unlikely to be particularly effective.

The mechanism through which people develop false perceptions when confronted with conflicting beliefs is reasonably well understood. Social psychologist Leon Festinger developed his theory of "cognitive dissonance" in the late 1950s. Subsequent research has strongly supported this theory. Festinger found that people find it unpleasant to entertain two inconsistent ideas at the same time. To remove this source of irritation or dissonance, they may choose one viewpoint and reject the other. Once the decision to accept one set of beliefs is made, changing an opinion is difficult.



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Children in divorcing families often are exposed to competing beliefs regarding one or both of their parents. If the pressures under which they are placed are sufficiently troubling, they can resolve the dissonance they experience by accepting one set of beliefs. They experience relief from the dissonance and begin to shape their perceptions around the belief they have adopted. Recent research has shown that people whose beliefs are challenged will tend to become even stronger advocates of the position they have accepted.

These concepts may explain how children in a conflicted divorce reject a parent in spite of relatively good experiences with that parent. It explains why their beliefs are difficult to change and why they can become very intransigent at the idea of examining and modifying their beliefs.

Fortunately, procedures known as cognitive behavior therapy (“CBT”) have proven to be beneficial to improving the behavior of children and adults in many clinical settings during the past 50 years. CBT helps a child develop the ability to monitor, understand and control their beliefs and perceptions. Any child would benefit from developing these skills. The issue of parent relationships can be addressed after the child develops some cognitive skills.

Working on the family system, addressing depression, anxiety and other problems are other components of an overall treatment plan. However, if CBT is not included in the treatment plan, the likelihood of meaningful outcomes is limited.

The goal of reunification therapy should not be reunification of the child and the rejected parent! The goal should be to equip the child with the means to understand and objectify their thinking and behavior. These are skills that they can carry with them throughout their lives. Reunification with the rejected parent can be seen as a positive side effect and may occur during therapy or in the years after therapy.

Gary Rick, Ph.D. is a clinical and forensic psychologist who has worked in the area of child custody evaluation and treatment for over 30 years. He has offices in Ventura and Pasadena. He can be reached at grickphd@pacbell.net and www.drgaryrick.com.

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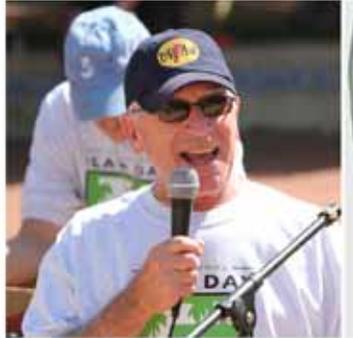


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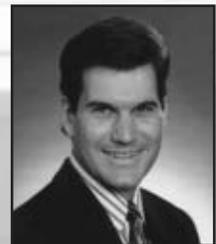
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MUD: AN AUDACIOUS BUT SURE-FOOTED SOUTHERN TALE

by Bill Paterson

Jeff Nichols's last film, "Take Shelter," was a critical success but failed to find the audience it deserved. Fortunately that has not dimmed Nichols's passion for making strikingly original films. Just the name "Mud" shows that Nichols marches to the beat of a different drummer. Part "Huckleberry Finn" with a nod towards last year's "Beasts of the Southern Wild," "Mud" is set in the hardscrabble world of a dying breed who earn their meager living from whatever they can catch in the turbid waters of the Mississippi River.

The story begins when two adventuresome boys (Ellis and Neckbone) venture onto an uninhabited river island. To their surprise a disheveled stranger appears from behind the trees. It is their first encounter with Mud (Matthew McConaughey), a modern day Robinson Crusoe. Mud tells them he needs their help to refit a boat washed up on the island. With the boat back in the water Mud plans to embark on a quest which would do justice for a knight of old: win the hand of his long lost love, the fair

Juniper (Reese Witherspoon) and spirit her away downriver.

Ellis and Neckbone are immediately drawn to Mud and enthusiastically embark on the adventure of their young lives as they beg, borrow and steal whatever is needed to help him get off the island. However, there is a small complication – Mud is hiding out on the island for a reason. The police are scouring the countryside for him. He is also the target of a vengeful hit squad from Texas. More than these barebone facts you will not pry out of me, as one of the many joys of this film is wondering where this story of childhood adventure, crime and lost love will take you.

Like "Beasts" and another recent tale set in the rural south, "Winters' Bone," "Mud" perfectly captures a sense of place. This is not the America of Starbucks and sushi bars. It is a place of ramshackle dwellings edging the river and the faceless nearby town with its sterile strip malls and shabby bars. Equally surefooted is its portrayal

of the people who dwell in this forgotten little corner of America. It would be easy to stereotype these folks as "rednecks." But Nichols is not interested in stereotypes. He wants to show us how his characters' struggles coping with life mirror many of our own.

Mud has built his life around yearning for a woman who has regularly spurned him. Ellis's parents have a marriage slowly being eroded by petty conflict. Ellis's father wants to be closer to his son but is the type of man (does this sound familiar to anyone?) whose idea of parental love is a stream of constant criticism. Neckbone lives with his rude and crude uncle (Michael Shannon) who is not a poster boy for the "sensitive" male. For Neckbone and Ellis, Mud is a revelation. He is the first adult who has ever treated them with respect and they love him for it. Mud's own father figure Tom (Sam Shepard) is a river dwelling loner who may or may not be a former CIA assassin. Even the patriarch of the hit squad gunning for Mud is motivated by familial love. Mix in Ellis's naive foray into "teenage" romance and you have a rich and intertwined story of the strange paths love and loss can take us down.

"Mud" is an audacious high-wire act which never makes a misstep. It may be a tall tale but it never strikes a single false note. Special praise is due Matthew McConaughey (who has re-tooled his career from that of a Hollywood pretty boy to that of an accomplished character actor) and Tye Sheridan as young Ellis. "Mud" has been universally praised by the critics. When you see it you will know why.

Other Southern Tales

Here are three of my favorites, all featuring Robert Duvall. In "The Apostle," Duvall plays an evangelist with a conflicted soul. In "Tender Mercies," he is a down and out alcoholic country and western singer redeemed by a woman and her young son. And most recently he is a backwoods recluse planning his own funeral in "Get Low." Duvall is a national treasure.

Bill Paterson is Of Counsel at Ventura's Ferguson Case Orr Paterson LLP.

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IMAGINING A WORLD WITHOUT DOMINION: PART 2

by Kate Neiswender

In the last issue of *CITATIONS*, I posed a question. What would happen if one phrase were excised from Genesis, that verse that states humans have dominion over all the creatures that live on the planet? It appears to me that habitat loss and species extinction is just one of the consequences of this short phrase, but there are other ethical questions that we must ask ourselves.

The use of living breathing creatures, “God’s creatures,” to quote Saint Francis, as test subjects is a crime that continues to slaughter an estimated 27 million animals every year (25 million rats and mice, 65,000 dogs, 210,000 rabbits, 21,000 cats, 53,000 pigs and more). Ninety percent of the animals killed – including the mice and rats – are excluded from the Animal Welfare Act. It is state-sanctioned cruelty so heinous that even reading the Code of Federal Regulations will cause you to retch. The code (9 CFR parts 1 and 2) explains in painstaking and mind-numbing detail the proper way to torture an animal to death. Rabbits are discussed in 9 CFR 354. What the CFRs don’t explain is that rabbits have literally broken their own necks in an effort to escape from the scientists that torture them. What happens to rats and mice is as bad, perhaps worse, because those species are not protected by law. But we were given dominion over all the creatures that fly and crawl over the earth, so we are somehow entitled to continue this moral breakdown.

In the past 5,000 years, this Biblical phrase could have evolved differently. It could have been interpreted in a protective way, that we were to cherish and nurture the other species in order to prevent harm to the creation we inherited. Sadly, that didn’t happen.

Even those species we treat as companions, the ones that share our homes, are treated in many communities as disposable. The No Kill movement is working hard to change the way animal shelters are run. In a twist that has no rational basis, some of the nation’s largest “animal welfare” organizations, including the Humane Society of the United States (“HSUS”) and People for the Ethical Treatment of Animals (“PETA”), have fought against

No Kill shelters. The No Kill Movement has established protocols that minimize killing and maximize adoptions. It is a combination of many factors: use of volunteers, micro-chipping, message boards and lost-and-found internet sites, spay and neuter outreach, and more. The No Kill-sponsored Companion Animal Protection Act is being brought to legislators across the country and is being passed by more and more public entities (see www.nokilladvocacycenter.org/infobox/CAPA). Once initiated, the Act serves as a template for No Kill, and it is working.

These are tried and true techniques. Austin, Texas was killing 20,000 animals a year, with only a 45 percent save rate; shortly after initiating No Kill in 2010, the save rate doubled, to 91 percent. Allegheny County, Maryland went from an 85 percent kill rate in 2010, to a 94 percent save rate in 2011, only one year after initiating the No Kill protocols. Shelbyville, Kentucky, a rural shelter, went from high kill to a 94 percent save rate for dogs and a 98.5 percent

save rate for cats. The Seagoville, Texas, shelter, killed fewer animals in its first year of No Kill than it previously killed in a week. Reno, Nevada is a No Kill shelter. It went from filling 15 barrels a day with the dead with two full-time animal control officers dedicated only to killing, to a 94 percent save rate; this, in a city beset by the recession and a population that is highly transient (www.thenokillnation.org). Yet even with these impressive statistics, HSUS and PETA claim that No Kill is a myth, and continue to support high kill shelters. In fact, PETA kills almost 90 percent of the animals that it “rescues” (see Homans, “PETA and the World of Dog Politics,” *Los Angeles Times*, Feb. 10).

Clearly, it doesn’t take a lot of effort to make the world more humane. But changing the culture of killing – whether of wildlife, test animals or pets – is a gargantuan task. One would think that we, as an advanced civilization, should recognize that other species have a right to live. It is difficult for me to comprehend how humans have

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a “right” to determine which other species can survive.

Whales may be far more intelligent than we are; they have complex social structures and language, just as we do. Recently, elephants in Zululand mourned the death of Lawrence Anthony, a human researcher. Anthony died on March 7. On March 10, two herds of elephants walked for 12 hours to his home. They stayed for two days, and then quietly left. Anthony spent his life on conservation of the African herds (his most recent book, *The Elephant Whisperer*, was an international best-seller). Recently-released research indicate that the wolves of the northern states also have a very complex social structure, which is shattered by the killing of pack members in the name of preservation (see, e.g., Levy, “Wolf Family Values,” *New Scientist Magazine*, June 12, 2010). Why do so many humans believe that the social structures and right to life of these species are less valuable than ours?

While I can’t argue against using certain animals for food, I can certainly lament the way in which we choose to slaughter the innocents. Factory farming is without doubt incredibly cruel and yet it persists. There are better ways, kosher ways, that reflect a more enlightened approach, but there are still those who argue that we need not be kind. As humans we should find such arguments unenlightened and unethical.

When I started this article, I was welcoming the new pope and meditating on St. Francis, friend to all creatures. Well, Francis, humankind has become very efficient at killing God’s creatures, through global climate change, habitat loss and destruction, animal experimentation, factory farming and relentless euthanasia. We need a leader like you. But in the meantime, perhaps you could work a small miracle and delete that pesky phrase out of Genesis for me.



Kate Neiswender is a Ventura-based land use and environmental lawyer. She will be lecturing again this year at the July 13-14 No Kill Conference in Washington DC on “Legislating No

Kill” and “Use of Public Records in Forcing Shelter Reform.”



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Exec's Dot...Dot...Dot...

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



Ok, who's driving the late model BMW 325i Series with license plate OBJKTN and a frame with Southern California Institute of Law surrounding it? It was in the Ventura In-N-Out Burger drive through May 12... They've fallen, but they can still go to court! As of July 1, it will be legal in China to sue your adult children for neglecting you. New amendments to the Law for the Protection of the Rights and Interests of the Elderly will require citizens to visit their parents and prohibit discriminating against, insulting, abandoning or mistreating those who gave you life. "Family members should not ignore and isolate the elderly," said Wu Ming, the deputy department head in China's Ministry of Civil Affairs... **Kathryn Clunen** was elected to the ABA Young Lawyers District Representative for Southern California. Her term begins 8.10.13 and lasts until 8.2015...

Jessena Hernandez is the new interim Directing Attorney at CRLA. **Kristen Hunsberger** has also joined the organization. Both may be reached at 483.8083 and jhernandez@crla.org and khunsberger@crla.org respectively... *The Wall Street Journal* carried a story April 30 titled, "Wigged Out: Hong Kong's Lawyers Bristle Over Horsehair Headpieces." Terrific piece regarding how in hypermodern Hong Kong, a debate over 17th-century fashion is dividing the city's legal circles, www.wsj.com... I could be wrong about this, and I am still doing research regarding the lowest State Bar number and active attorney in Ventura County. All signs point to **John F. Fay** with #22456. The Loyola Law School grad was admitted in June 1951. The highest State Bar number? **Heidi Cheng** at 289419...

David Lehr is a proud poppa for the NINTH time on May 6 when Victoria Kathryn entered this world at 8:15 p.m. Wife Jen is doing superb as well. Want to see the newest addition, look at the back page of *CITATIONS*... In roughly 75 hours of arguments at the US Supreme Court since October, only one African-American lawyer appeared before the justices, and for just over one hour, eleven minutes. The numbers were marginally better Hispanic lawyers. Four argued for a total of one hour, 45 minutes. Women were better represented, accounting for just over seventeen percent of the arguments before the justices. In an era when three women, a Hispanic and an African-American sit on the court and white men constitute a bare majority of the nine justices, the court is more diverse than the lawyers who argue before it, according to a survey by the Association for Legal Career Professionals. Uluru? Melbourne? **Carol Mack** at 403.0357 or chmack47@yahoo.com... Ottawa, Canada? **Wendy Lascher** 659.6800 or wlascher@fcoplaw.com...

Alfonso Martinez was quoted extensively in the May edition of *California Lawyer* regarding his CLE Audit by the State Bar, www.callawyer.com... When a Philadelphia lawyer and his client arrived 50 minutes late for jury selection in a drug case on May 6, a Pennsylvania judge jailed them both. Holding lawyer B. David Marcial in contempt and upping the bond for his client, Jesus Ortiz, from \$120,000 to \$3 million, Judge Stephen Lieberman of Berks County ordered both held in the courthouse cellblock. "We were all here at 9:00 a.m. for a jury trial and the defense table was empty," said the judge, who had dismissed the prospects not long before the two arrived. "We wasted a jury panel."... One of the lawyers evacuated during the Camarillo Springs fire was **Donn Taketa**... Tokyo, Nikko, Hiroshima, Nara, Osaka? **Dien Le** at 818.889.2299 or dien.le@calawcounsel.com

Denise Allen retired from the A-Z firm after 12 years of service on April 26. Employed by **Bart Bleuel** for eight years prior to that and six years more at FCOP, that's total of 25 years in the legal profession. Congrats Denise!... A review panel has recommended that the chief judge of the Minnesota Tax Court be censured and suspended without pay for nine months because he routinely exceeded the three-month deadline

for submitting his opinions and falsified dates to try to obscure his non-compliance. Judge George Perez was known for not filing timely tax opinions, suggesting a "lack of oversight, both organizationally and technologically," the Board on Judicial Standards wrote... The new admittee swearing-in ceremony is scheduled for June 4 beginning at 4 p.m. inside Courtroom #22... After nearly nine years of service to the bar association, **Alice Duran**, will begin working at FCOP June 3. AND, after six-plus years of impeccable effort at the bar, Client Relations Manager **Alex Varela-Guerra** has taken a job with the County of Ventura. A BIG thank you, ladies, and good luck to you both! Filling their shoes are **Nadia Avila** and **Sandra Rubio**.

You do not want to miss this special CLE event hosted by the Diversity Bar Alliance. "Everything You Wanted To Know About Becoming A Judge But Were Afraid To Ask," is scheduled for June 22 beginning at 9 a.m. inside the Courtyard by Marriott (see flyer tucked inside this edition). Joshua Groban, Senior Advisor to Governor Brown, Judge Holly Fujie, **Judge Gilbert Romero**, and Helen Zukin, former Chair, State Bar Commission on Judicial Nominees Evaluation, are the featured speakers. Contact Nadia Avila at 650.75999 or bar@vcba.org to register... A handcuffed client decked his defense lawyer May 13 in a Blair County, Pa., courtroom, in front of the judge who was hearing his post-conviction argument that he should not be sentenced to the death penalty. Andre Staton slammed the blow in a "baseball bat fashion" squarely in the forehead and his eyes of his counsel, Tim Burns, who dropped to the floor as his chair broke. The defendant was not only cuffed but his hands attached to a belt in order to restrain him at the time of the attack. Burns took the following day off and is going to be fine...

Steve Henderson has been the executive director and chief executive officer of the Ventura County Bar Association and its affiliated organizations since November 1990. His college roommates were LeBron James and Nate Robinson. Targeted by the IRS for being a Tea Party member, he was rescued by the AP and the Justice Department. Henderson may be reached at steve@vcba.org, FB, Twitter @stevehendo1 or @vcba1, or better yet, 650.7599.

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