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CITATIONS

F E B R U A R Y - T W O T H O U S A N D F O U R T E E N

IN COURT ONE DAY, PAYING TRIBUTE TO THE BEATLES THE NEXT

by Kelton Lee Gibson



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PRESIDENT'S MESSAGE

by Laura Bartels



The Foo Fighters are one of the most highly-respected rock bands of our generation: Winners of 11 Grammy awards, the American Music Awards, MTV Music Video Awards, and having played for President Obama and his family for the Fourth of July, performed at the Kennedy Center Honors Ceremony honoring Paul McCartney and donated time to Rock the Vote, Hurricane Sandy Relief, earthquake relief and hundreds of other charitable efforts. And I am Ventura County's self-appointed biggest Foo Fighters fan. There are others in my club including retired **Judge Melinda Johnson** and **Judge Matthew Guasco**.

Being a part of this club requires much of what it takes to be an attorney. For example, it takes huge organizational and analytical skills to organize impressive show attendance. It takes intense people skills to navigate the personalities and cultures of the concert-going public: in Wilkes-Barre, Pennsylvania, a crowd chants and sways; in Germany, they bounce like springs; while in Los Angeles, the front row industry people tend to sit, arms crossed and peering into their phones. It takes an analytical mind to sort through the schedules, venues, passes, parking, catering, security, show times, set list, attire, and swag. It is probably our specified legal training and our passion for knowing the rules that make us such good

fans and contributes to our work in the law. You must know the rules.

Respectful Modicum – Be Respectful.

Take mosh-pits for example. One could argue that similarities exist between mosh pit and attorneys standing in the court well. At a Foo Fighters show you have between one and eight people wildly flailing their ideas or bodies in a confined area, under the awe and inspiration of the rock band. At counsel tables, there are one to eight attorneys similarly sharing their positions under the tutelage of a superior court judge. In a mosh pit you can get hurt, but the rules of mosh pit (court well) require some modicum of civility, so if your opponent falls, manners require helping them to their feet (both in mosh and in the well). Don't get "hometowned" – be briefed beforehand on the Foo Fighters' (judge's) policy of stage diving and crowd surfing (approaching the bench). Make sure that the policy is one of being returned to the throngs, rather than being expelled from the show (courtroom). Mosh pits (and courtroom wells) provide that people of similar training, interest and passion can safely express their views surrounded by 50,000 other people who are entertained, educated and enriched not only by the mosh pit (attorney show) but also by the Rock Gods' (judge's) presence

on stage (on the bench). Mosh pits are not always friendly. Sharp objects and weapons are not tolerated in mosh pits or courthouses, but civility and respect is required, and even after grueling rounds, either in the pit or with opposing counsel, you can leave your mosh pit with a high five or mosh handshake similar to meeting opposing counsel after court for a drink.

Engagement Agreements – Full Disclosure.

Written engagement agreements need to be carefully tailored for clients if you are a Dedicated Foo Fighters Fan. Full disclosure during the honeymoon period of the new client that all appointments, phone calls, meetings with opposing counsel and court appearances will be continued if the Foo Fighters are touring at the same time. All parties need to be educated and informed of the limitations of the attorney's schedule. Families of the attorney must also be trained. Coming home five nights in a row at 2 a.m. or later and sleeping in until 2 p.m. when it's time to get back in the car and go down to the next show, need to be coordinated with pre-grocery planning, school pickups and envelopes of small bills, preferably \$5s and \$1s for the pizza delivery person and lunch money.

Proper Footwear – Be Prepared.

Proper footwear needs to be considered for rock shows, mosh pits and court. Firmly-laced footwear is preferred for mosh pits because losing one's shoes is predictable and increases vulnerability; firmly laced footwear give one a foot-protection advantage in the pit. Similar to court, where proper footwear would also frown upon flip-flops, huaraches, or 4 inch platforms, or if you are a criminal defendant, shoelessness, one must determine the proper venue for critical footwear decisions. Personal extensive research finds that many east coast shows have the audience standing on plywood covered hockey ice requiring warmth and cushion which is also acceptable for west coast shows which require standing on cold slabs of concrete. For outdoor festivals on wet grass, close-toed shoes are preferred. Cute flats are preferred because heels tend to get stuck in the mud. Moderate heels, slip-on shoes and laces are

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all acceptable courtroom footwear. However the jury is out on whether lace-up, fluffy warm boots that are acceptable in outdoor shows or most moshes are acceptable footwear in probate or bankruptcy court (both courts, you'll remember, have no jury). The best rule of thumb is to follow the edict of the great courtroom drama "My Cousin Vinny" and just make sure you "blend."

Cell Phone Etiquette – Be Polite.

Cell phones no longer must be deposited with security before entering the Court of Appeal. Now they are allowed there as well as in superior court and bankruptcy court, but with strict admonitions to keep them switched off. Admonitions are in effect for Foo Fighters shows but only at private promotional parties, like the launch of the new BlackBerry or iPhone. Otherwise, cell phone use is ubiquitous. Cell phone distractions at shows will detract from your personal show experience if you are surrounded by newbie fans compelled to document their every breath with talking, texting, tweeting and taking selfies. For those of you who have not been to a show in 20 years, please know cell phones have also replaced Bic lighters in the closing songs tribute to the crowd, as now the etiquette is to turn your cell phone towards the rock gods as if moving one's solar calculator towards the light. Courtroom verdicts and closing arguments have not caught on to the flaming cell phone tribute.

Supplies required for all shows include Sharpies for autographs, ear protection, and an extra sweater. I suppose those supplies would be ok in court, too. And certainly the rules are the same: Be Prepared. Be Organized. Be Respectful. Be Polite. Know the Rules. And don't do something outrageous – try to blend.

Laura Bartels is a partner at Taylor, Scoles & Bartels in Fillmore, practicing estate planning and administration. Her little brother works for the Foos; she has attended many rehearsals and has had backstage passes to dozens of shows as close as Los Angeles (including the Grammys) and as far as Germany. There's a new album coming out this year which will require more concert attendance.



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IN COURT ONE DAY, PAYING TRIBUTE TO THE BEATLES THE NEXT

by Kelton Lee Gibson



If my partner **Dennis Jones** had a dollar for every time someone asked him if he'd rather be a lawyer or a musician, he probably would have been able to retire long ago.

He chose the right vocation because, he's told me, if he had to choose one, he would rather be a lawyer. He also chose the right avocation because he loves pumping up crowds of up to 5,000 people with "Hey Jude," especially now that the 50th anniversary of Beatle Mania – when the Beatles first came to the United States in February 1964 – is upon us.

Jones, a partner at Myers, Widders, Gibson, Jones & Feingold, LLP in Ventura, has practiced civil litigation, primarily insurance claims, for 30 years. He graduated with honors from the University of Southern California in 1976, then went directly into a master's program and worked in court administration before going back to the University of San Diego School of Law to earn his J.D. Since then, he has been named a Southern California "Super Lawyer" by *Law & Politics* in the field of insurance law for the sixth time in seven years.

At the end of 1999, he moved north from Manhattan Beach to join our firm. About seven years later, he formed Sgt. Pepper, a Beatles tribute band that plays about 40 gigs a year.

Jones's love of music started long ago. He started playing piano when he was five years old, but rebelled against practicing three years later and stopped. In high school, he re-taught himself to play by ear. In the meantime, he attempted saxophone for a semester, but it wasn't until he picked up a guitar at twelve that an instrument stuck.

Jones describes the 1960s music scene as phenomenal.

"Those were the glory years of both rock and soul music," he said.

Jones, like many others, fell in love with The Beatles the first time he saw them on the Ed Sullivan Show. He was nine years old at the time. The melodies and harmonies in early Beatles music, and how the band pushed the limits of music technology by using synthesizers in their later music, captivated

him. Singers like Aretha Franklin and Motown artists also enthralled him. Still, the Beatles remain his undisputed favorite.

In sixth grade, Jones joined his first band – the Perpendicular Triangles – playing acoustic guitar. But it wasn't until college that he got his first shot at playing Beatles music. His band at the time, Home Cooking, played an 11-song Beatles medley.

After he graduated from law school in 1983, he auditioned for Tom Thumb and the Hitchikers (the singular "h" in the middle is intentional). The now-eleven-person rock and soul show band already had a guitar player, but needed a bass player. Jones could be in the band, provided he transitioned to bass, which he did. He never looked back. Tom Thumb and the Hitchikers will celebrate its 30th anniversary in July and still plays three to four gigs a year.

Right about the time Jones moved to Ventura to join the law firm, the depressed economy started making it hard for bands to book gigs as frequently. However, Jones realized demand for tribute bands remained fairly consistent. He also knew no Beatles tribute bands yet existed in the Tri-Counties area. He decided to capitalize on the open market, and his conjecture proved true – Sgt. Pepper has never had a problem booking gigs.

Sgt. Pepper's gigs – which range from appearances at a British pub in Ojai, to concerts in Chase Palm Park in Santa Barbara for 5,000 people, to the Reagan Presidential Library's Summer Concert Series – and the associated practice time are worth every minute Jones spends away from the office and his cases.

Not only are concerts a way for Jones to get out of the office, but being part of a performance and helping the audience have a good time is very rewarding for him. Just making music is enjoyable. While not everyone may have musical talent, "any avocation – whether music, surfing, or hiking – is helpful because it helps balance practicing law, which can be stressful and

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all consuming, especially when it involves litigation.” When Jones is on stage, he never thinks about his cases, whereas he might think about them driving in the car or taking a shower. This is a good thing. Business people, perhaps especially attorneys, need an outlet to clear their minds.

Playing bass helps clear Jones’s mind in part because, as the only non-full-time professional musician in the band, he has to concentrate during performances – playing Paul McCartney’s bass lines and singing at the same time is no easy task. The intricate Beatles melodies means Jones sings more in Sgt. Pepper than he has since seventh grade, and the complicated, melodic, flowing bass lines keep him focused.

The other three musicians are world-class professionals, which makes scheduling practice times and gigs difficult sometimes, but Jones sticks with it, practicing on his own to stay sharp and sometimes playing concerts with substitute musicians. These substitutes, though, are usually professional Beatles impersonators, and no one in the audience can tell the difference.

Since Jones joined fourteen years ago, his expertise in liability claims and representing policy holders has undoubtedly enhanced our firm. His ability to help defend people and companies against insurance companies, including fire, mold, water and wind damage claims, is unparalleled. He also certainly adds to Ventura County’s legal quality and collegiality.

However, his side “job” providing musical tribute to The Beatles also adds to the firm and to his skill as a lawyer, because it helps keeps him alert, excited and balanced. While being an attorney can easily become all-consuming, making time for an avocation is undoubtedly worth the time.

***Kelton Lee Gibson** is managing partner at Myers, Widders, Gibson, Jones & Feingold, LLP, one of Ventura County’s oldest law firms. His areas of expertise include construction defect litigation, community association law, civil litigation and real estate. The firm’s headquarters are in Ventura, with other offices in Thousand Oaks, Valencia, Las Vegas, Reno and Mammoth Lakes. For more information call (805)644-7188 or visit www.mwgjlaw.com.*

Letters to the Editor More on Bill Clark

Some more background on **Bill Clark** (See *CITATIONS* January, 2014). Kay Haley of Ventura was a good friend of Ronald Reagan. He would use her horse, Mr. Spats, when he road with the Rancheros Vistadores. When Reagan wanted to run for governor, he asked Mrs. Haley to be his Ventura County campaign manager, but she suggested Bill Clark, a young attorney in Oxnard. Bill was very smart. He said “OK,” so long as Mrs. Haley remained on as the finance chairman.

Later, when Clark was a justice in the Rose Bird Supreme Court (the only conservative on that very liberal court), and Reagan was back in Washington, he got a call from the President to come to Washington. Once again he consulted Kay Haley. “Go!” she said. Forget about being on the Supreme Court, his was a voice in the wilderness on that Court. He did go to Washington and ultimately became the national security advisor to the President.

I met Bill Clark a number of times over the years including the last time when we both delivered eulogies at Kay Haley’s funeral. He was the real deal and one of the most remarkable people you could ever meet.



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SAYING GOODBYE TO OUR GOOD FRIEND, RAY

by Tina Rasnow



Raymond Clark Clayton, Sr., one of our treasured Emeritus Attorneys with the Ventura County Volunteer Lawyer Services Program (VLSP), passed away Dec. 27, 2013. He was 85 years old. Ray was born on Dec. 11, 1928 in Fresno, and grew up in the Central Valley. He attended Fresno State College, achieving a bachelor's degree in economics in 1951, while at the same time volunteering for the National Guard of California, receiving an honorable discharge in 1949. Ray earned his Juris Doctor degree from the University of California, Hastings College of the Law in 1960 and was admitted to the State Bar in 1961.

Ray began his legal career as a Deputy District Attorney for Madera County before becoming the Assistant City Attorney of Bakersfield. In 1969 Ray became the first full-time city attorney of Thousand Oaks. He and then-City Councilman **Charles Cohen** (later his law partner) drafted the Thousand Oaks Oak Tree Ordinance, enacted in 1970, protecting the trees for which Thousand Oaks was named.

From 1973 to 1998, Ray practiced law first with Chuck Cohen and **Leonard Alexander**, and later under the firm name Alexander, Clayton & Wilson in Thousand Oaks. He continued to serve governmental entities in his private practice as General Counsel for South Coast Area Transit (Gold Coast Transit), receiving a 35-year service commendation, and was special counsel to the Conejo Recreation and Park District in Thousand Oaks between 1995 and 1998 for the purpose of acquiring, with director Tex Ward, the McCrea Ranch.

Throughout his career, Ray was involved in many civic, community, and non-profit organizations. One of his many legal contributions was the work he did as co-counsel with Channel Counties Legal Services Association (CCLSA) for the Rancho Sespe Farmworker Housing Development in Fillmore. In the late 1980s CCLSA represented farmworker residents in Rancho Sespe who had been organizing under the United Farmworkers' Union for better pay and working conditions. Rather than negotiate with the UFW, the ranch owners sold the ranch and the new owners evicted all the farmworker residents from the ramshackle housing they occupied. CCLSA defended the farmworkers in the trial court, but the court ordered the workers to be evicted. CCLSA then successfully brought an action before the Agricultural Labor Relations Board on behalf of the workers to stay their evictions because their housing was part of their employment.

For the next nine years, 100 farmworker families struggled to maintain their deteriorating housing while the ranch owner refused to make repairs. Ultimately, Cabrillo Economic Development Corporation helped to locate land upon which to build replacement housing for the farmworkers. A conditional use permit had to be obtained from the County of Ventura, but neighbors opposed the application, not wanting farmworker housing in their community. These neighbors filed suit to stop construction, and again the court ruled against the farmworkers and in favor of opponents to the project. It was at this point that **Carmen Ramírez**, then executive director of CCLSA, sought Ray's help with

the appeal. As co-counsel with CCLSA, Ray brought his great wealth of knowledge, credibility and expertise as a former city attorney, and the case was reversed on appeal. The success he achieved for the farmworker community can be seen today from Highway 126, where 100 dwelling units, a community center and childcare center comprise the Rancho Sespe development.

In 1998 Ray "retired" to devote most of his time to pro bono work, along with his hobbies of reading, travel, participating in the Osher Continuing Education Program at California State University Channel Islands, lecturing with the Lewis & Clark Foundation and contributing routinely to his church, Westlake Community Christian. He passionately pursued fly-fishing, spending many summers with his family in Southwest Montana. It was in his "retired" role that I got to know Ray best.

For the past few years Ray, and often his good friend **Jerry Cline**, also a Pro Bono Attorney, rode with me from Thousand Oaks to the monthly Emeritus Attorney meetings at the VCBA office in Ventura. While Ray will be missed by many people in countless ways, for me what I will miss most is the thought-provoking, rich dialogue we shared carpooling each month. Ray would start the road discussion around an article he had read that morning in the *The New York Times*, or a book he was reading about politics or economics or some profound issue of the day. Ray was one of the most thoughtful people I have ever known. He liked to discuss issues with those who held differing viewpoints

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SAYING GOODBYE TO OUR GOOD FRIEND, RAY

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because such discussions, when respectful, which he always was, helped all participants to broaden their understanding of issues, and question their own assumptions. Ray was one of the most stimulating people to engage in discourse: his healthy curiosity, brilliant perception, and respectful manner made it a pleasure to share ideas.

Ray had impeccable ethics, often telling me that he was most proud of the cases he declined to prosecute when he was a deputy district attorney. He was acutely aware that the power of government, if not exercised carefully, could easily overwhelm the rights of individuals and undermine democracy. He was eminently fair, and believed it his duty to help level the playing field. According to his son, Ray, Jr., his father was always mindful of the needs of the community, and worried that he was not doing enough to help. He recalls his father helping a neighborhood in Northern California to save its elementary

school after flooding made it unsafe. Ray also worked to secure from the Janss family the land where the former Thousand Oaks City Hall was situated, near the Oaks Mall, which currently houses the National Park Service, a fitting tribute to Ray's legacy given his love of nature and the outdoors.

One of Jerry Cline's favorite memories of his conversations with Ray regarded a gift Ray had apparently received from a developer while he served as City Attorney for Thousand Oaks. It was a small Christmas tree with Rolex watches hanging from the branches. Not wanting to offend the giver, and clearly not comfortable with accepting the gift, Ray donated the watches to charitable organizations and sent a letter thanking the developer for the charitable donations so made.

When talking with colleagues about Ray,

the terms most often used are "kind," "generous," "thoughtful," "intelligent," and "honorable." He never ceased his hunger for learning, never compromised his high ethical standards, and always tried to help those in need. Having been predeceased by his dear wife, Patricia Richardson Molsick, in 1990, Ray, Sr., is survived by his daughter, son, stepdaughters, their respective families, and a host of lifelong friends, many of whom would concur he lived a richly understated life.



Tina Rasnow is an Emeritus Attorney and former VCBA president.



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NEW ACCESSIBILITY LAWS MAY PROVIDE BUSINESS PROTECTION

by David Carlson

The Americans with Disabilities Act (ADA) has been the law of the land for more than two decades, and access compliance has been a part of the California Building Code (CBC) even longer. The ADA and CBC have broad implications for business; nearly all brick and mortar public facilities (including professional offices) are potential targets of accessibility-related lawsuits. California has the dubious honor of being the most litigious state, and is home to 40 percent of all such lawsuits. It would be easy to say the majority of these cases are frivolous. Some clearly are, but many are not. The courts have little sympathy for businesses skirting accessibility laws. Businesses cannot afford to plead ignorance to their legal obligations.

In the early 2000s, the California Legislature recognized that the number of access violation lawsuits was increasing dramatically with little attempt by the private sector to ameliorate the underlying issues. In 2008, the Legislature passed SB 1608 in an attempt to reduce the number of frivolous lawsuits while increasing accessibility at public accommodations. This bill established the Certified Access Specialist program (CASP) to help business owners identify and rectify access violations. Under SB 1608, proprietors who have their establishments inspected by a CASp inspector are afforded certain protective steps prior to costly litigation. Statutory damages, while still steep, are limited to \$4,000 per violation. Non-inspected businesses have no limit on the damages they may face. In addition, licensed architects in California are now required to complete several hours of access compliance continuing education each licensure period, thereby keeping access a high priority for all design professionals.

Unfortunately, access lawsuits continued to escalate while compliance by the business community continued to lag, even after SB 1608. In 2012, SB 1186 was passed by both houses of the Legislature. Among

its requirements, this law allows business owners 60 days to correct violations and reduces potential penalties to \$1,000, provided they have had a CASp inspection. It also ends “demand for money” letters as they have been done in the past. In any initial correspondence, plaintiffs must clearly identify the perceived violation and how they were barred access. They are also not permitted to demand money in lieu of litigation. Any demand letters must be submitted to the State Bar to ensure such letters comply with the law. In addition, all commercial landlords must now disclose to prospective tenants whether their property has been CASp-inspected. If requested, reports must be provided to allow prospective tenants to make informed decisions regarding potential accessibility deficiencies prior to signing any lease agreement.

The recent legislation aims for a more access-compliant California. The best thing business owners can do to protect themselves from access compliance litigation is to hire a CASp inspector to perform a complete survey and report of their properties. Even though one may think one has a fully compliant facility, the codes are very specific. Something as seemingly insignificant as a mislabeled sign or a mirror mounted at the wrong height can be a costly lesson. But the CASp report is not meant to be a dust collector on a high shelf in the office. It is every business owner's responsibility to actively work to provide universal access to all and continuously remove barriers from storefronts. It is far better to be proactive and correct access violations than to wait for a lawsuit to come knocking at your door.

David Carlson is a licensed architect in Camarillo and a Certified Access Specialist in the State of California. He is founder of CamCASP Services, Inc. and can be contacted at david@camcasp.com.

SIDEBAR: Cyber Accessibility and the ADA

by Mari Rockenstein

A disability claim could be just a click away as cyber accessibility fast becomes the new frontier for Americans with Disability (“ADA”) lawsuits. Web accessibility was a hot topic in 1998 when Section 508 of the Rehabilitation Act of 1973 was amended. It required that federal agencies and their contractors make their websites fully accessible to the disabled. Since that time, making the Internet accessible to those with disabilities has been a low priority as most courts held that the ADA covered only physical spaces, such as restaurants, retail stores and recreational activities, but not the Internet.

That began changing in 2008, when the National Association of the Blind filed a lawsuit against Target challenging their website. A federal district judge determined for the first time that the law applies to websites when they act as a gateway to a brick and mortar store. And more rulings have favored the disabled. In 2012, a federal district judge in *National Association of the Deaf v. Netflix* became the first to rule that accessibility also applies to Internet-only businesses. Netflix agreed to caption all of its content by 2014.

This past July, the Department of Justice (“DOJ”) proposed rules mandating that all state and local government websites be accessible to those with disabilities. And early next year, the DOJ is expected to do the same for all private websites that meet the definition of “public accommodations,” which has broad legal implications for nearly every website whose operations affect commerce or fall into one of the 12 categories listed in the ADA.

Mari K. Rockenstein, Esq. is an attorney and law professor in Camarillo, and blogs at www.rockonthelaw.com

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A BRAVE NEW VIRTUAL WORLD WITH “HER”

by Bill Paterson

A common narrative device in science fiction is the projection of the baleful effects of a current technological advance or social trend into the future. In “The Truman Show” it was “reality” TV and in “Minority Report” is was “advanced” law enforcement. There is a different target in director Spike Jonze’s “Her” and he doesn’t have to travel that far into the future to find it. It is a preview of where our infatuation with the virtual electronic world might be headed.

Theodore Twombly (Joaquin Phoenix) is a prototypical nerd whose chief companion is an earpiece which allows him to remain in constant communication with his computer. A lonely soul in the midst of a divorce, when we first encounter him he is sitting at a desk pensively composing a love letter. Then the camera pulls back and we get our first surprise. It is a brilliant set up and sets the tone for a film which is both wonderfully unpredictable and genuine food for thought.

Although he remains only vaguely aware of it, there is a central irony in Theodore’s life. Given what he does for a living one would think that he would have no problem navigating the most central part of any relationship – communication. But he and his wife Catherine’s (Roona Mara) marriage has ended up on the rocks and Theodore has no idea of how to right the marital ship. Distracted and at loose ends, one day he finds himself wandering through a technical exposition. There he stumbles across something which promises much more than Internet dating – the OS 1. The latest in cutting edge software, the OS 1 has been designed to be the perfect binary companion.

Theodore is intrigued and the OS 1 is soon up and running on his computer and smart phone. After a short question and answer session in which the OS 1 gets to “know” Theodore, “she/it” tells him her name is Samantha. It doesn’t take long

Continued on page 21

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Continued from page 19

before Samantha is well on the way to crafting a lasting electronic relationship with Theodore. Better yet, this new girlfriend in the cloud has been given the beguiling voice of Scarlett Johansson. Before long, Theodore and Samantha are inseparable and he is convinced that at long last he has found the perfect partner. But as time goes on there is a glitch in this boy-meets-computer fairy tale. If one creates an artificial intelligence program to mimic human thought there is always the possibility that at some point it may start developing some unsettling human habits. When that happens Theodore and Samantha's courtship takes some unexpected turns.

The world which Jonze has created is just a tick removed from our own. The streets in L.A look just a little more futuristic. There are even more pedestrians glued to their smart phones, and addictive computer games are now holographic 3-D extravaganzas whose dazzling effects fill a room. Apps and games have multiplied exponentially and one of Theodore's few flesh and blood friends, Amy (the ever impressive Amy Adams), is a game designer. Her newest effort, "Perfect Mommy," is a game custom-designed to play to parental anxiety. But, like Theodore, Amy's human relationships are equally star-crossed. However creative the electronic diversions which surround them, it turns out that this brave new virtual world can be a very lonely place. "Her" is a real original.

Memorable Movie Machines

Hal ("2001") – With his unblinking red eye and sonorous voice, Hal is one of cinema's most iconic characters.

Gerty ("Moon") – Voiced by Kevin Spacey, the only companion of a man (Sam Rockwell) serving a lonely tour of duty on a lunar outpost.

WALL-E ("WALL-E") – The "Waste Allocation Load Lifter Earth Class" is but another in Pixar's long line of ingenious characters.

Bill Paterson is of counsel to Ferguson Case Orr Paterson LLP in Ventura.

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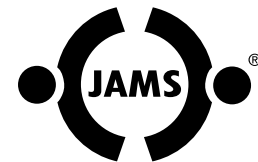
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An Excerpt From *Butler v. Sheriff of Palm Beach County* (11th Cir. 2012) 685 F.3d 1261

In one of his ballads, Jim Croce warned that there are four things that you just don't do: "You don't tug on Superman's cape/ You don't spit into the wind/ You don't pull the mask off that old Lone Ranger/ And you don't mess around with Jim." He could have added a fifth warning to that list: "And you don't let a pistol-packing mother catch you naked in her daughter's closet."

I.
It all started with a phone call. Nineteen-year-old Uzuri Collier called Larry Butler, who was of a similar age, and invited him to her house. Butler responded to the invitation the way most young men over the age of consent would have – he went. Once Butler was at Uzuri's house, he and she consented to watch television for a while. Then they consented to do what young couples alone in a house have been consenting to do since the memory of man (and woman) runneth not to the contrary. The record does not disclose how long these two young people had known each other in the dictionary sense, but that afternoon in Uzuri's bedroom they also knew each other in the biblical sense. While doing so, and while clothed in the manner that is customary in such matters, which is to say not at all, they heard someone coming into the house.

The record does not tell us how the timing worked out as unfortunately as it did. It may be that the two young people simply lost track of time, which would be understandable given the circumstances. Or it may be that Uzuri's mother, Dorethea Collier, left work early that day. However it happened, Collier came close to catching the couple coupling. So close that when they heard her, Butler had only enough time to dash into the bedroom closet wearing nothing but a look of surprise.

Collier was a corrections officer at the Eagle Academy, which is a "boot-camp facility for minors" run by the Palm Beach County Sheriff's Office. She was wearing her uniform and gun belt with pistol and "[u]pon entering the room, she began demanding that Uzuri explain why she was undressed and what she was doing." While talking with her daughter, Collier took off her utility belt and threw it on the bed. Sometime thereafter—the implication is sooner rather than later—Collier discovered

Butler stark naked in her daughter's closet. She yelled at him and punched him one time. Then Collier picked up her utility belt, put it back on, and drew her gun. She told Butler that if he moved or did not follow her commands, she would shoot him.

Butler tried to explain that Uzuri had invited him to the house, but Collier insisted that he must have broken in. She had the still-naked Butler turn around, she handcuffed him, and she made him get down on his knees. After staying there "for a prolonged period," Butler pleaded with Collier that he could not maintain that position any longer. Collier responded by telling him to bend over or she would shoot him. She "made numerous threats against Butler, [telling him] that she would 'kill him' if he did not obey her commands."

While still holding Butler at gunpoint, Collier called her husband and told him to come home immediately. After that, she called a supervisor at Eagle Academy and asked what charges she could bring against Butler for entering the house and "engaging in sexual relations with her daughter." The supervisor told Collier that if Butler had entered without permission he could be charged with trespassing and rape, but that if he had been invited in, she would have to let him go. About this time, Collier's husband arrived at the house, and he "also assaulted Butler." In what manner, we are not told.

Collier continued to hold Butler at gunpoint, threatening to kill him if he did not follow orders. After Collier's husband "inquired further" about the naked man's identity and determined who he was, Butler was allowed

to get dressed and leave, although Collier kept the gun pointed at him while he was dressing. One can assume that it did not take Butler long to get dressed and get out, but before he had time to leave Collier "warned him about the consequences of filing charges or even 'thinking about' reporting the incident." She told Butler that if he reported what had happened, she "would submit a report to discredit him and would engage in some 'creative writing' if necessary to justify the filing of charges against him for trespassing on the property." Despite those threats, Butler eventually reported the incident to law enforcement. There is no allegation that Collier responded by submitting a report of her own or by filing trespassing charges against Butler.

[Legal discussion omitted]

The amended complaint and Butler's briefs leave no doubt that he feels mistreated, and with what appears to be some justification. If the allegations are true, Collier's treatment of Butler was badder than old King Kong and meaner than a junkyard dog. She might even have acted like the meanest hunk of woman anybody had ever seen. Still, the fact that the mistreatment was mean does not mean that the mistreatment was under color of law. Because the alleged mistreatment of Butler was not inflicted under color of law, the district court correctly dismissed his § 1983 claims. Butler will have to seek his remedies under state law and in state court.



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Ventura County Legal Professionals Association's meeting on Feb. 12, 2014 will have a different format since we're all sick of legal discussions. We'd like to include spouses and significant others to make this a social event. So, we're going to hear from a lawyer BUT, in honor of the start of baseball season, **Jon Light** of LightGabler will regale us with stories from his baseball book and show us some great pictures. He guarantees that even those of us who aren't remotely baseball or sports fans will enjoy the show. Jon is the author of the nationally acclaimed book, "The Cultural Encyclopedia of Baseball."

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– Experience in workers comp law is needed. Hours are flexible. Camarillo location. Please send résumé and salary expectations by email to tom@gablawfirm.com.

Seeking a litigation paralegal/legal asst.

Seven-attorney law firm in Oxnard seeks litigation paralegal/legal assistant to assist employment law attorney. Job duties include researching federal and/or state statutes and case law, drafting legal notices, responding to and drafting written discovery, organizing and indexing file documents, general secretarial duties, and assisting attorney in all aspects of practice. Must have knowledge of MS Word, Outlook, Excel and PowerPoint. Successful completion of certification program for paralegals is required. No phone calls please. Please send résumés to lwithrow@calattys.com

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Beautiful class A office space: \$600 - \$1400 (Westlake Village) – Available immediately for professional tenants to share with a law firm. Two window offices and one workstation area – take one or all. Turnkey: shared internet, kitchen, copier and executive conference room. VOIP phones. 31111 W. Agoura Road, Westlake Village, 91361. Call (818)995-8787 and ask for Armond.

Executive office space – 674 County Square Drive, #201, Ventura. Three offices available in newly remodeled office. Large picture windows and beautiful wood floors. Possible separate space for assistant. Offices start at \$450, includes WiFi. Great location across from government center with tunnel access. Contact Janet at (805)302-8238 or Janet@JanetMertesLaw.com

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California Supervised Visitation provides monitoring of court-ordered child visitations in the San Fernando and Conejo Valleys. I work with attorneys, social workers and individuals to insure a safe and secure environment for all parties. Please consider referring your clients to me, *William Roberts*, at (818) 706-0622 or Monitor@CaliforniaSupervisedVisitation.com.

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Exec's Dot...Dot...Dot... *by Steve Henderson, Executive Director, M.A., CAE*



VCBA/VLSP, Inc. Emeritus Attorney Extraordinaire, **Ray Clayton**, died December 27 at the age of 85 after a brief illness. Upon “retiring” in 1998 from Cohen, Alexander & Clayton, he spent his time fishing in Montana, continuing education at CSUCI and volunteering with the bar’s pro bono program since 2000. In addition to Ray’s thoughtful legal analysis, he was known for his colorful shorts and ever present toothpick... Guy Padraic Hamilton-Smith graduated in the top third of his law class at the University of Kentucky, but the state Supreme Court blocked him from taking the bar exam because he is a registered sex offender. In the first case of its kind, the court rejected Hamilton-Smith’s bid and a move by the state Office of Bar Admissions to create and endorse a blanket rule that would have kept all registered sex offenders from gaining access to the bar. Hamilton-Smith, who was convicted of a charge related to child pornography in 2007, had until January 13 to ask the court to reconsider... Round-trip cruise to Hawaii? **Don Hurley** at don_hurley2008@yahoo.com...

“We are rationing justice,” California Supreme Court Chief Justice Cantil-Sakauye said in a fierce address regarding Gov. Brown’s

budget proposal. “We needed \$250 million to tread water and we got \$100 million.” It’s going to get worse. If you’d like details and printed information, please contact me... An attorney-owned website that helps married individuals seek out possible affair partners is one of the defendants in a North Carolina alienation-of-affection suit. Plaintiff Robert Schindler says his wife of 13 years left him for another man she met on the Ashley Madison website. Schindler seeks damages from the man, the website and its Canadian corporate parent... If you are looking for **Joanna Orr**, after practicing just longer than four years at FCOP, she’s hanging her hat at RAC, a berry-growing business in Oxnard. Her email is Joanna.orr@berry.net and may also be reached at 665.7360 or 730 South A Street, Oxnard, 93030...

“Yep, I’m going to do it”, wrote **Mae Brooks**, a picture perfect legal secretary/professional. She started working at 17 and in 1982 began at **Cohen, England & Whitfield** and was assigned to **David Tredway**. That’s 50 years in the biz and 30-plus with Tredway. Early on, Mae earned her Certification as a Legal Secretary and has been “Ms. Everything” for the Ventura County Legal Professionals Association. I believe she’s on her way to a few casinos. Way to go, kiddo!... A city and county in New Mexico have agreed to settle for \$1.6 million their portion of litigation brought by an arrestee who said he was subjected to a humiliating hospital anal exam involving three enemas, a colonoscopy and more after a traffic stop last year. The city of Deming and Hidalgo County got a search warrant to authorize the examination of David Eckert after he was pulled over for failing to yield to a stop sign when exiting a parking lot. It was based on a police dog’s alert to the alleged presence of drugs and that Eckert appeared to be clenching his buttocks. No drugs were found... Tokyo? **Panda Kroll** at 988.4848 or pk@dk4law.com...



Many of you do not make the rounds at the courthouse or the criminal courts. Because of that, lots of lawyers are not aware of the bar association’s president-elect, Deputy District

Attorney **Alvan Arzu**. Alvan has come up the ladder of the bar association, including stints as secretary-treasurer, board member, on the Judicial Evaluations Committee, president of the Black Attorneys Association and all-around good guy and dad for someone who played football at Washington State... A former lawyer for the Department of Justice who practiced 20 years without an active law license has been disciplined with an informal admonition – the lightest possible penalty – for failing to maintain an active license and providing false information to the DOJ. Laura Heiser began working for the DOJ in 1986, but let her Ohio bar membership lapse in 1989. Her Washington, D.C. bar membership became inactive in 1990... The Ventura County Legal Professionals (VCLPA) gave Emeritus Attorney and Program Director **Verna Kagan** and bar president **Laura Bartels** a \$250 donation for the VCBA/VLSP, Inc. during Clerks’ Night January 8...

Effective January 1, **Greg Johnson** and **Jody Moore** formally joined firms and will operate as Johnson Moore with their main office in Thousand Oaks and a satellite in Oxnard. Jody may be reached at 419.2498...



Good friend and bar leader **Dick Chess** died December 9. His obit appears in the December 16 issue of *The Star*. Dick was a member of the bar’s Fee Arbitration Program and was called upon many times to mediate disputes...

Steve Henderson has been the executive director and chief executive officer of the bar association and its affiliated organizations since November 1990. He correctly selected a Super Bowl comprising of the Broncos and Seahawks with Manning delivering an MVP. Additionally, Henderson was fired from his recent positions as the Public Relations Manager for Dennis Rodman, Richard Sherman and Chris Christie. He may be reached at steve@vcba.org, Twitter and [stevehendo1](https://www.facebook.com/stevehendo1), FB, LinkedIn or better yet, 650.7599.

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