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SOCIAL PROGRESS:

OUR NEW SUPERIOR COURT COMMISSIONER MICHELE CASTILLO

by Panda Kroll
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January 15, 2015. Success at Yosemite. Tommy Caldwell and Kevin Jorgensen, after years of planning, a false start or two, nineteen days and 3000 vertical feet of granite, summited El Capitan by way of its Dawn Wall, free climbing. Every advance was unaided by equipment, but as progress was made, ropes were placed such that should they lose a hold going forward, their falls would be stopped.

The larger story, if that is possible, might be two little bits and pieces along the way. With Caldwell several pitches ahead and waiting not far from the top, Jorgensen, 30, his progress stalled, was locked in a struggle with pitch 15, the climb's most difficult. Seven days. Eleven falls. The pitch would not concede. Jorgensen as well would not give. His mind had taken him to that place of "Let it go and return some other day," but he refused to waver.

Jorgensen fought off the thought, the doubt, and continued the struggle. A week into the stand-off, his fingers torn and his strength in decline, he did it. Jorgensen traversed pitch 15, and was on his way up, finally. He wrote on Facebook, "It took everything in my power to stay positive and resolve that I would succeed."

Jorgensen had contacted Caldwell when he heard of the 36-year-old's plan to free climb the Dawn Wall. This was Caldwell's goal before it was also Jorgensen's. As Jorgensen struggled, locked in place for a week, Caldwell waited. The summit and its glory were his for the taking. He could have decided it for Jorgensen. No one would have questioned it. Yet, he patiently waited. And waited. The pair would, and did, summit together. That is a partner, a teammate, a leader. The real deal.

I remember when I first saw El Capitan. Just a picture in a book. I had run for class

PRESIDENT'S COLUMN:

"Slow Down, You're Doing Fine"

Vienna, Billy Joel 1977

by Bill Grewe

president in the 7th grade and lost. My opponent could not send me to Siberia so he did the next best thing. He appointed me to lead the Clean-Up Committee. My interest in politics ceased. To distract myself in leadership class, I reached from my seat and pulled the nearest book off the shelf. I thumbed through it and there it was, a picture of El Cap. The next day I returned to the picture. I had to see it for real. The local YMCA offered a youth camping trip to Yosemite. I went the next two Julys. When I was old enough, I got a job in the park.

MARCH 1, 1872. Creation of Yellowstone National Park. You can file this under *Didn't See it Coming*: California Senator Cornelius Cole argued against creating the park, reasoning that if, due to elevation and latitude, the land was not arable, then there was no sound reason for protecting the place against occupation as nature had already done so. (*At no time in the hearings of either house did anyone mention Native Americans. The Battle of the Little Big Horn was only 300 miles distant and four years in the future.*)

Cole was alive 50 years later when, during the summer of 1922, well over 5,000 cars entered Yellowstone Park. Cole, like you a member of the California bar, died in 1924 at age 102 in Hollywood, CA.

In fairness to Cole, if he was not the "most interesting man in the world" of his time, he was a close second.

Cole studied law under William H. Seward, who would later serve as Lincoln's secretary of state. The pull of California's gold rush proved to be too much for young Cole and in 1849, after completing his studies, he headed west. Cole did not stop until he met up with John Sutter himself. Sutter befriended the young man, and decades later, as a senator, Cole would repay his hospitality sponsoring a bill granting Sutter a pension.

Cole had success in the gold fields. He made his way to San Francisco to cash in his nuggets. Money in hand, Cole invested it all with the expectation that his working days were over. Not quite. His investments soured. His money lost.

Cole turned to the law, opening an office in San Francisco. Not long after, his office burned to the ground. Thinking a change of scenery might help, Cole set out for Sacramento. There, he made friends with a fellow named McClatchey. Together, they started a newspaper. We know it as *The Sacramento Bee*.

Cole was an abolitionist. The existing political parties were pro-slavery. Cole founded the California Republican Party which opposed it. Cole served in the House of Representatives and later the Senate.

He had purchased 4000 shares of railroad stock somewhere along the way but sensing a conflict of interest, the politician in him felt duty-bound to part with it. He contacted a friend named Stanford who took it off his hands at a dollar a share. It would increase in value a thousand-fold during Cole's life.

In Washington, Cole became personal friends with Lincoln, Grant and many others. He thought he should travel to Gettysburg for a listen when he learned of the battlefield dedication, and so he did. When his Congressional term was up – he would later return as senator – Cole stopped by the White House as he left town. It was April 1865. He bid farewell to Lincoln, who mentioned plans to attend the theater that night.

If you are on the fence about this fellow, maybe this story from his early California law days will tip the scale: Cole, while practicing law, dabbled in gold panning,

Continued on page 6

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PRESIDENT'S COLUMN: *Continued from page 3*

camping in the hills when time permitted. A friendly sort, Cole invited two men to join the camp of Cole and his friends. After a few days, the visitors snuck away, taking their host's cooking gear.

It was an unacceptable offense even for a thief, but there was not much that could be done. Cole let the matter go, but about a year later, he happened upon the two fellows at a jail house. The cookware was item one, but that changed when Cole discovered that the two were being held on a murder charge. "Nevermind the campware!" Cole would defend the men. He made plans to return the next morning when they would get started on a defense. Not soon enough.

Cole awoke to find the two were already being transported to a neighboring county courthouse for trial. Cole hurried off in pursuit, arriving just as the trial began. Cole gave an impassioned argument. The jury deliberated for an hour and apparently liked what Cole had to say, concluding that there was not enough evidence to support immediate execution. Rather, the men were deserving of a more formal trial. The jury pool had stuck around, and they were having none of it. As the accused were led to a hanging tree, Cole and a sympathizer spirited away one man and made a dash for it. Whether because it only had one rope or the crowd was simply satisfied with one hanging, the pursuit died off and the others escaped.

As he aged, things calmed for Cole. He opened a law office on Main Street in Los Angeles, where he worked the remainder of his life. On his 100th birthday, he went to his office to get things done.

Cole provided some services to the City of Los Angeles at the same time that Ventura's first female judge, the Honorable Alice Titus Magill, was working in the L.A. City Attorney's office.

Cole had successfully represented Major Henry Hancock in a land grant case (*La Brea*). As a fee, he received a parcel of land located at present day Hollywood.

Eventually, as the city grew, it was necessary to put a road through Cole's vineyard. We know it as Vine. On the ridge of his property, Cole thought the trail there provided a nice view. He called it Sunset. There is more, but I had better stop. (*The Weekly Pioneer*, Sept. 2010.)

Justice Sandra Day O'Connor. March 26, 1930. First Woman Justice, SCOTUS. Her autobiographical book, written with her brother and published in 2002, titled *Lazy B: Growing up on a Cattle Ranch in the American Southwest* is a good read. The ranch, located on Gadsden Purchase land, was off by itself. The living unit was O'Connor, her brother and parents, and a lively group of cowboys. It is a good account of a place, time and lifestyle now gone.

Ranch life played a role in O'Connor's judicial perspective. Often the swing vote, O'Connor would decide the ultimate holding in the 2004 case of *Tennessee v. Lane*. (2004) 541 U.S. 509. The opinion was published on the 50th anniversary of *Brown v. Board of Education*. (1954) 347 U.S. 483 Lane, a paraplegic, was charged with a criminal offense. The first court appearance was set for hearing on the second floor of the local courthouse. Lane crawled up two flights of stairs to timely make his appearance. The second appearance was again set on the second floor. Lane declined to crawl or be carried. There was no elevator. When he failed to appear, Lane was arrested and jailed.

Lane sued under the ADA contending that the disabled were entitled, at law, to reasonable courthouse access. Seems like a no-brainer, but like a knocking sound in a V-8, when you get down to the nuts and bolts there is more than one interpretation. Thus, the split court.

O'Connor had shown her hand in her autobiography. On the ranch, among the cowboy crew who stayed for all of their working years, there was a cowboy whom she described as having been "dealt a bad hand." Among his many challenges, he was physically disabled. It was not until he passed away on the ranch, and O'Connor and her family removed his boots, that they discovered that for all his years, "Rastus"

had worn a sizeable homemade insert in one of his boots. O'Connor was taken aback by the discovery that with this small assist he could, but without could not, hold his own with any cowboy. "Give him a staircase." She was about access. -O'Connor, as well, would side with a disabled professional golfer in need of a cart.

O'Connor had voted against plaintiffs seeking compensation for treatment within the workplace. It was as if in her view, the law assured everyone a ticket to the dance, but there could be no complaining about the music.

Sounds a bit strong, but imagine this is your life experience – it was hers: Her father, brother and the cowboys were off on a round-up. The cook was away from the ranch. The chuckwagon sat idle. O'Connor, 15, begged for, and was given, the job of putting the day's lunch together and driving the pick-up out to where the crew was roping, branding, etc. It was a big job with hours of preparation the night before. O'Connor's father gave her a window of time in which she was expected to arrive.

On her way, a lonely trip of many miles on a rough dirt road, she got a flat. O'Connor located the spare and set about changing the truck tire, something she had never done before. With some stops and starts, she did it and resumed her trip. O'Connor arrived late. She immediately started a cook fire, made coffee, and readied lunch for the men who were working the cattle. Her father ignored her. Eventually, he would say, "You're late." She should have planned for a flat he explained. He would not touch the food. Lunch time had passed.

In his world, there was no second team. At fifteen, his daughter had better understand what that meant. One wonders if on those later occasions when Justice O'Connor took a moderate position, she saw herself as liberal. It would be understandable.

What's in a Number, continued. I heard from last month's mention, **Christopher Jew** SBN 302193, a Dec. 2014 admittee, holds the highest bar number in Ventura County. While still addressed in Moorpark,

the Marines have sent Chris to Judge Advocate School in Quantico, VA. The Marines can thank, in part, the Ventura County high school mock trial program, Newbury Park 2007-2008, coached by **Jon Light** and **Martin Zaehring**... Lowest *practicing* number in the county? **Bill Hair** checks in at 30134. Bill is old enough to have appeared before **Judge Alice Titus Magill** as a high schooler on a traffic infraction – *and she promptly suspended his license for two weeks* – so he is going to be hard to beat, but it is possible. Anyone out there? This is an all-comers meet so drop me an email.

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send in your renewal/app. or go online (vcba.org). Check out the inserts and the online calendar (vcba.org). There is a program for you. Thank you!

And Here's to Cornelius Cole. Sure, he missed on Yellowstone, but he foresaw the threat of slavery in California and acted. He was a lawyer.



Bill Grewe is a member of *Rose, Klein & Marias LLP*, and represents individuals in personal injury and workers' compensation claims. He is the 2014-2015 president of the Ventura

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A ROLE MODEL FOR SOCIAL PROGRESS: OUR NEW SUPERIOR COURT COMMISSIONER MICHELE CASTILLO

by Panda Kroll



When **Commissioner Michele Castillo** spoke at a reception in her honor in January, sponsored by the Ventura County Diversity Bar Alliance, she recalled the words of Dr. Martin Luther King: “Law and order exist for the purpose of establishing justice, and when they fail in this purpose, they become the dangerously structured dams that block the flow of social progress.” Castillo knows something about social progress: The County of Ventura – with a Hispanic population of 42 percent (U.S. Census Bureau, 2013 statistic) – can now claim its first Latina bench officer.

Ventura County Superior Court **Presiding Judge Don Coleman** said of Castillo, “[H]er desire for excellence is unsurpassed. She is now, and will be for many years to come, an outstanding member of the bench.” The July 2014 appointment has not gone unnoticed by the community at large. Among the dignitaries attending her reception at Camarillo’s Safire Restaurant were Berenice Diaz Ceballos, Mexican consulate titular and Consul Patricia Lorenzo from Oxnard’s Mexican consulates office, **Assistant Presiding Judge Patricia Murphy**, **Judge Dino Inumberable**, **Judge Manuel Covarrubias**, **Judge Kevin McGee**,



Judge Henry Walsh, and **Judge Rebecca Riley**. Representatives from the constituents of the host Diversity Bar attended in full force, including their respective presidents: **Jacquelyn Ruffin** (Black Attorneys’ Association), **John Fukasawa** (President of the Asian American Bar Association), **Kathi Smith** (Women Lawyers), **Lou Kreuzer** (Mexican American Bar Association, or “MABA”), **Rebeca Mendoza** (MABA Foundation) and **Ed Elrod** (Diversity Bar, Lesbian Gay Bisexual Transgender Bar, or “LGBT”). In her remarks, Castillo quoted the national non-partisan group, Justice at Stake’s challenge to diversify: “An ideal bench is representative of the larger community.”

A side note: I first met Castillo along with her (now former) co-workers from the Ventura County Public Defender’s office as a fellow traveler to Cuba in 2008. Our MABA-sponsored trip manifest included **Judge Fred Bysse**, **Judge Charles Campbell**, and (now) Oxnard Mayor Pro-tem **Carmen Ramirez**, who organized the “professional” voyage: Under U.S. Cuban Assets Control Regulations, travel to Cuba is permitted for “full-time professionals conducting professional research or attending professional meetings.” Despite a full plate of meetings with Cuban bar groups, a law school, and the Cuban Parliament, we were able to enjoy the sights and sounds of old Havana.

Just before Castillo’s formal appointment to the bench, she was appointed to serve on the Board of Ventura County’s Jerome Berenson American Inns of Court. The nominating Board’s unanimous opinion of the young,

thoughtful, smart attorney: “What’s *not* to like?” In my opinion, Castillo’s participation on the Inns’ Board injects life and perspective into the enthusiastic leadership of this venerable organization. At her first meeting, the Board had a discussion that was at times contentious about inclusiveness, political correctness, codes of civility, and “teaching moments.”

Castillo knows a little something about diversity.

Raised in Ventura County, she grew up in a working class, multi-racial family. Her mother is half-Filipino and half-Caucasian. Her father, a Mexican-American, was deployed when she was born, and she didn’t meet him until she was a toddler. Along with her parents, Castillo’s maternal grandmother was a “huge” part of her upbringing, and Castillo recalls the difficult-yet-rewarding two years when she cared for her grandmother “24/7” prior to her passing, while she was studying for both the Arizona and California state bar exams. Her interests are also as diverse as she: she enjoys writing, playing the ukulele, surfing and running.

As early as elementary school, Castillo was fascinated with Dr. Martin Luther King, Jr. She continued to study the Nobel Prize-winner’s passion for justice and advocacy for human and civil rights, and she recalls with pleasure a Stanford University “Junior Statesman” summer program she attended while in high school, when she and her fellow students were assigned to study and watch King’s “I Have A Dream” speech. In addition, she also started traveling when

her eleventh grade high school Advanced Placement English class took a trip to England to study English authors. Since then, she has traveled to England, Scotland, Ireland, France, Italy, India, Nepal, Thailand, Australia, Tahiti, Costa Rica, Greece, Turkey, Mexico, Canada, Peru, Cuba, Grenada, St. Vincent and the Grenadines.

Rejecting her high school counselor's admonition to "take home ec" instead of more challenging classes because she "would soon be at home," Castillo was a serious academic who went on to earn bachelor's degrees in both history and women's studies from UCLA. While at UCLA, she was recognized with the Chancellor's Service Award for her service on a committee that ruled on violations of the University's code of conduct, ranging from plagiarism to sexual and other forms of violence. Her experience hearing evidence and reporting findings to the Chancellor was one of the many sources of inspiration leading Castillo to attend law school at San Diego's Thomas Jefferson School of Law. She was equally motivated by her desire to be a role model for her community. While in law school, she attended a summer program at Oxford University, earning a certificate in International Human Rights Law and the International Rights of Women. This certificate is one of numerous documents and awards evidencing Castillo's passion for social justice and public service.

As the first person in her family to graduate from a four-year university, Castillo, whose family life often included a chaotic environment, is no stranger to the struggles of at-risk youth. Her journey to the bench is a testament to social progress and possibility. Dr. King would surely approve.



Panda Kröll is co-chair of the Ventura County Bar Association Employment Law Section and a member of Citations' editorial board. She is the newest attorney at the oldest firm in Ventura County, Benton, Orr, Duval and Buckingham, founded 1882.

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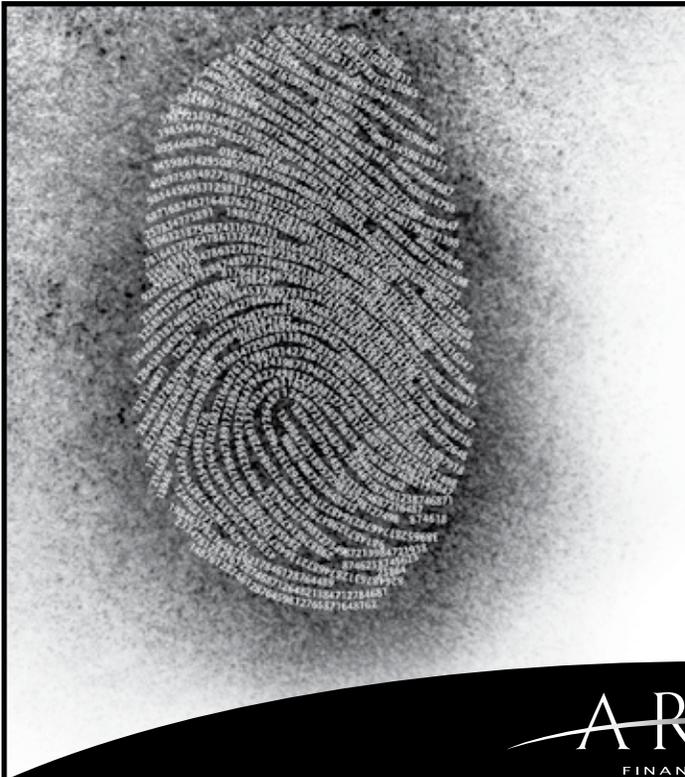
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1949 - 2014

Bruce Gordon Jones recently passed away in Oxnard.

Bruce attended Stanford University. He then attended University of Southern California College of Law. He was admitted to the practice of law in California on January 9, 1969 and practiced in Ventura County as a Deputy District Attorney and a Deputy Public Defender for approximately ten years.

Bruce entered private practice in Westlake Village and practiced primarily in the areas of criminal defense and family law for thirty years. Barbara DiMeo was an associate with Bruce for four years. Fellow attorneys considered Bruce congenial and helpful.

After relocating to Oxnard late in his career, Bruce began to suffer from the health problems that ultimately led to his death.

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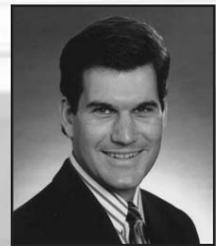
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BREAKING NEWS FLASH: FRACKING IS STILL CONTROVERSIAL

by Josh Hopstone



Hydraulic fracturing, or “fracking,” is an oil and gas well stimulation treatment by which a pressurized mix of water, sand and chemicals is injected into a wellbore to create small fractures in rock formations deep underground, increasing the flow of liquid hydrocarbons trapped within. The process has been actively used by oil and gas producers in California for decades, without a single publicly reported instance of groundwater contamination or other harm to the environment. Nevertheless, the process has grown increasingly controversial in recent years, as opponents contend that economic productivity resulting from the practice is outweighed by the risk of environmental harm.

Conflicting sentiments concerning fracking came to a head on Feb. 10 at the Ventura College Performing Arts Center, as the California Department of Conservation’s Division of Oil, Gas and Geothermal Resources (DOGGR) kicked off a statewide tour to receive public comments on its draft Environmental Impact Report (EIR) regarding hydraulic fracturing and other controversial oil and gas well stimulation treatments. This was the first of six public comment meetings that DOGGR arranged

across the state during the course of the public review and comment period of its draft report.

The EIR is a result of Senate Bill 4 (Pavley), California’s attempt to examine and regulate fracking at the state level. The law requires the state to conduct to the most comprehensive analysis ever conducted of the effects of well stimulation treatments on our environment and to implement a comprehensive regulatory scheme to ensure that they continue to be conducted safely. Among other things, PRC § 3161 requires DOGGR to conduct a comprehensive EIR under the California Environmental Quality Act (PRC § 21000 et seq.) to analyze the statewide impacts of well stimulation treatments on the environment. After eighteen months of preparation, DOGGR released a draft of its EIR last month.

The “project” for the purposes of the EIR is defined as “the physical acts that are associated with hydraulic fracturing, acid fracturing, and acid matrix stimulation, as they apply to both existing and future oil and gas wells within the State.” Other well stimulation techniques such as steam

flooding, water flooding and cyclic steaming are expressly excluded. The 5,000-page draft report partitioned the state into six “study regions” and addresses 24 environmental subject areas required by CEQA, such as air quality, geology, noise, seismicity, water quality and greenhouse gas emissions. It provides a programmatic analysis of specific oil fields across the state, including the Sespe Oil and Gas Field in the Los Padres National Forest, just north of Fillmore. The EIR further considers the effectiveness of the final regulations, which were approved on Dec. 30 (Cal. Code of Regulations, Title 14, Chapter 4, Subchapter 2 (§§ 1751–1789)), with the goal of recommending refinements or additional regulations through mitigation measures.

Essentially, the draft EIR concludes that well stimulation techniques such as hydraulic fracturing can continue to be employed safely statewide through adherence to, and enforcement of, the final regulations. It is possible that some potentially unavoidable impacts may occur on things like aesthetics, air quality, biological resources, terrestrial environment, cultural resources, greenhouse gas emissions, public and worker safety,

and transportation and traffic. However, most of the environmental impacts can be reduced to the level of “less-than-significant,” Steven Bohlen, Supervisor of DOGGR, said in a press release announcing the draft report. “With the regulations and the newly formulated proposed mitigation measures in place, DOGGR is confident that well stimulation treatment activities can continue in California without the kind of environmental problems that have plagued well stimulation treatment in other states with lesser levels of environmental protection.”

These conclusions are generally seen as welcome news to oil and gas producers, who continue to maintain that well stimulation processes can be done safely in California. At minimum, the findings reduce the prospect of a statewide moratorium. But the findings are unlikely to persuade environmentalists or other opponents, who have not sat idle since the passage of SB 4. In November, voters in San Benito and Mendocino Counties

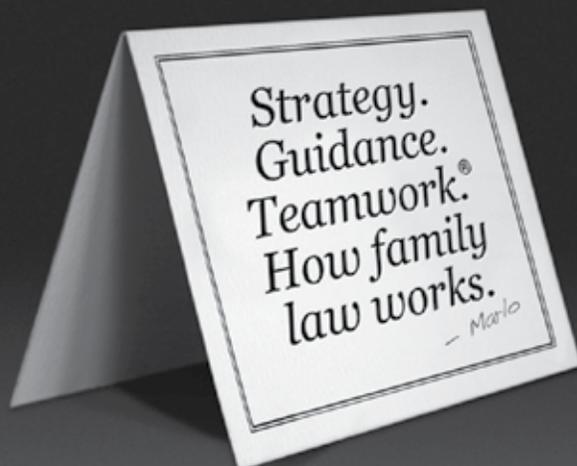
approved bans on the practice, but a similar measure in Santa Barbara County failed to pass.

The public comment hearing in Ventura was well attended, and despite heated opinions, the tone was respectful. Dozens of public interest groups (Save the Sespe, Citizens’ Climate Lobby, Ventura 350, Food and Water Watch, Keep Sespe Wild, Energy Alliance, Environmental Defense Center, Sierra Club, and many others), oil and gas industry representatives (California Independent Petroleum Association, Western States Petroleum Association, Seneca Resources Corporation, Weatherford International, National Association of Royalty Owners), and good old fashioned concerned citizens appeared to voice their opinions and concerns about the methodology, analysis, and conclusions of the report.

The public review period for the draft report is Jan. 14 to March 16. Following the kickoff in Ventura, additional public comment meetings were held around the state in February. Under CEQA, the agency is required to review and respond to all public comments received in response to the draft version of its EIR. The final version will be published in June and certified before the July 1 statutory deadline.



Joshua S. Hopstone is an attorney at Ferguson Case Orr Paterson LLP specializing in appeals, real estate, land use and natural resources litigation. He can be reached at (805) 659-6800 and jhopstone@fcoplw.com.



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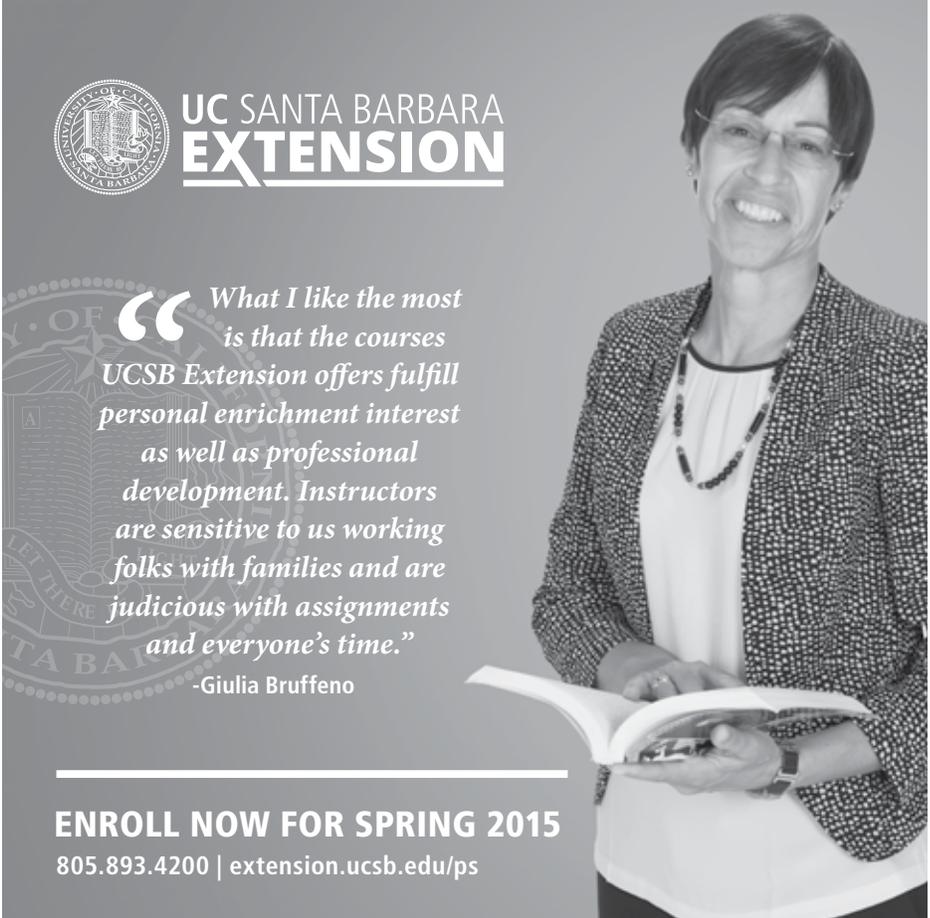
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BARRISTERS UPDATE

The Barristers held their Second Annual Law Student Mixer at Surf Brewery on Feb. 17. This meet and greet is held once a year and is an opportunity for the local legal community to interact with the law students from both Ventura College of Law and Pepperdine. If you did not go, you missed out on good beer and even better company!

Whether you are a Barrister or not, you are welcome to attend these upcoming fun events: Third Thirsty Thursday at Dargan's in Ventura on March 19 and Dart Night at Brendan's in Camarillo on April 16. For further information about the Barristers or about a Barrister event, please give Barristers Vice President **Melanie Ely** a call at 805.643.2200.

***Melanie Ely** is an associate at Engle Carobini & Coats, LLP, focusing on civil litigation.*



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IS THERE AN APP FOR THAT?

by Rachel Coleman

How many times have you heard someone ask “Is there an app for that?” Next time you receive a traffic ticket and you do not want to appear in court, you can download a free app that will assist you in preparing and filing paper work to request a trial by written declaration. GetDismissed, which made its debut on Feb. 3, is the first-ever app that enables drivers across California to fight traffic tickets. Managing member Steve Miller and member **Alexis Vega**, a local attorney, came up with the idea and put the concept together through their company, The Ticket Advocate LLC. Mr. Miller expects that within the first year of its debut, about 5,000 tickets will be contested using the app. Within three years, he projects that between 30,000 and 40,000 tickets will be contested with the assistance of GetDismissed.

Vega stated that using an app is a revolutionary way to contest a traffic ticket. There is no other app out there like GetDismissed, which has a patent pending. In a press release, Miller said that he “wanted to offer the most cost effective way to contest and dismiss a traffic ticket ever seen in the state of California.”

GetDismissed is free to download and very easy to use. Simply download the app from the App Store on an iPhone or iPad, or download it directly from the company’s website at www.GetDismissed.com. The app is also available for download from the Google Play store. Once you have downloaded

the app, just follow the instructions. First, take a picture of your driver’s license. Next, take a picture of the ticket. Then, answer a series of questions based upon the type of ticket you received. Once you answer all the questions, the app automatically generates the documents necessary to contest the ticket. All you have to do is print out the documents and mail them to the court. The most difficult step in the process is finding a stamp and envelope. The cost is \$49.00 to use the app to prepare the Trial by Declaration documents.

If the driver does not win the trial by declaration, not to worry. He or she can still fill out a form (TR-220) requesting a trial *de novo* within 20 days of the decision, and be right back at the start. The driver then can either ask for a bench trial, or ask the court to allow traffic school. The driver loses almost nothing. If the driver wanted to hire an attorney to represent them at the bench trial, the driver does not lose that option either by using the app. So, next time someone asks you for help with a traffic ticket, tell them there is an app for that.



Rachel Coleman practices criminal defense and civil litigation with David Lehr Law in Ventura. She is a member of CITATIONS Editorial Board. Email Rachel at Rachel@DavidLehrLaw.com or

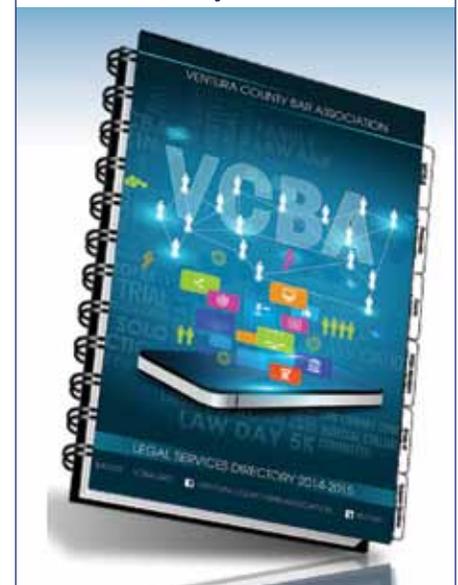
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37th ANNUAL JUDGES’ NIGHT

Please join the Ventura County Trial Lawyers Association as it honors **Judge Bruce A. Young** and **Justice Steven Z. Perren** at its 37th annual Judges’ Night program. Judge Young has been selected as Judge of the Year and **Justice Perren** is this year’s Portrait Honoree.

The dinner program will be held on March 24 at the Tower Club. Register online at VCTLA.org, or use the flyer in this issue of Citations.

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HELP THE LAW LIBRARY

by Alfred Vargas

The Friends of the Ventura County Law Library, Inc. (FVCLL), a 501(c)(3) non-profit corporation, is now accepting donations to benefit the Ventura County Law Library, which faces budget cuts due to decreased filings and statewide filing jurisdictional changes affecting fees collected. Only the Legislature may increase filing fee allocations to fund the State's law libraries, which is unlikely at this time.

Many attorneys are grateful for having had the VCLL available during their early days in practice. Many more still use the Law Library for research, for the workspace, and for the ability to copy, print and fax away from the office during court days.

You may donate any amount by visiting WWW.FVCLL.ORG and clicking on the "Donate" button at the bottom of the screen. If everyone reading this article donates even a small amount, it would help the VCLL keep more books available to all.

The FVCLL will host a book sale fundraiser on May 1st from 1 to 5 pm at the Law Library. Further activities are planned for 2015 – but you can click on the donate button right now.



Alfred Vargas is a landlord-tenant and appellate lawyer practicing in Ventura. He is a member of the CITATIONS editorial board and the president of FVCLL. You can reach him at 805-415-7837 or avargaslaw@gmail.com



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WE READ SO YOU DON'T HAVE TO

The Case Of The Itsy Bitsy Teeny Weeny Bikini Top v. The (More) Itsy Bitsy Teeny Weeny Pastie

Order concerning preliminary injunction

An ordinance dealing with semi-nude dancers has once again fallen on the Court's lap. The City of San Antonio wants exotic dancers employed by Plaintiffs to wear larger pieces of fabric to cover more of the female breast. Thus, the age old question before the Court, now with constitutional implications, is: Does size matter?

The genesis of this gentlemen's clubs case can be found at 2003 U.S. Dist. LEXIS 8517, 2003 WL 21204471, known by some as "The Salomé Order."

To bare, or not to bare, that is the question. While the Court finds these businesses to be nefarious magnets of mischief, the Court doubts several square inches of fabric will stanch the flow of violence and other secondary effects emanating from these businesses. Indeed, this case exposes the underbelly of America's Romanesque passion for entertainment, sex and money, sought to be covered with constitutional prophylaxis. Alcohol, drugs, testosterone, guns and knives are more likely the causative agents than the female breast, proving once again that humans are a peculiar lot. But case law does not require causation between nudity and naughtiness. *Baby Dolls Topless Saloons, Inc.*, 295 F.3d at 479-82.

Accordingly, the request for preliminary injunction is DENIED.

Should the parties choose to string this case out to trial on the merits, the Court encourages reasonable discovery intercourse as they navigate the peaks and valleys of litigation, perhaps to reach a happy ending.

It is so ORDERED.

(*35 Bar & Grille, LLC v. City of San Antonio* (W.D.Tex. 2013) 943 F.Supp.2d 706, 712-713, footnotes and several pages of text omitted, though they are worth reading.)

What The California Supreme Court Does Not Love About Easement Disputes

From a 1995 decision:

The dispute is now before us.

Its resolution requires us to penetrate a legal thicket entangled by the ancient doctrines of covenants that run with the land and equitable servitudes. The task is not easy. "The law of easements, real covenants, and equitable servitudes is the most complex and archaic body of American property law remaining in the twentieth century." (Citation.) Another commentator uses stronger language: "The law in this area is an unspeakable quagmire. The intrepid soul who ventures into this formidable wilderness never emerges unscarred. Some, the smarter

ones, quickly turn back to take up something easier like the income taxation of trusts and estates. Others, having lost their way, plunge on and after weeks of effort emerge not far from where they began, clearly the worse for wear. On looking back they see the trail they thought they broke obscured with foul smelling waters and noxious weeds. Few willingly take up the challenge again." (*Citizens for Covenant Compliance v. Anderson* (1995) 12 Cal.4th 345, 348 [47 Cal.Rptr.2d 898, 906 P.2d 1314].)

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MANDATORY NEW FORM FOR BOND WAIVERS IN PROBATE MATTERS

by Amber Rodriguez

Effective Jan. 1, 2015, there is a new Judicial Council form that is to be used in all matters where an heir or beneficiary is waiving the requirement of a bond. The form numbers are DE-142 and DE-111(A-3d). Because this is a “mandatory use” form, the court will no longer be able to accept the self-drafted bond waivers that have been previously used for this purpose.

In addition to the entirely new bond waiver form, many other forms have been updated. Those forms include the Spousal or Domestic Partner Property Order and both the temporary and permanent Letters of Conservatorship. You can see all of the updated forms on the judicial council website at www.courts.ca.gov/forms.

Our local court has also created a new mandatory form. VN248 can be found at www.ventura.courts.ca.gov, under the Self-Help tab, Local Forms. This form is titled, “Confidential Ex Parte/Temporary Conservatorship Information Summary.” As the title suggests, it is required whenever you file a new ex parte conservatorship petition. If it is not submitted with your ex parte petition, your filing may be delayed.

If you have any updates or information to share with our section, please let me know. Otherwise, we hope to see you at the end of March for Judge Reiser’s Annual State of the Probate Court presentation.

Amber Rodriguez is the Chair of the Executive Committee for the Estate Planning and Probate section of the VCBA. Her practice focuses on Probate and Trust Litigation and Administration, Estate Planning and Conservatorships. You can visit her website at www.estateattorneycalifornia.com or you can reach her directly at arodriguez@estateattorneycalifornia.com.

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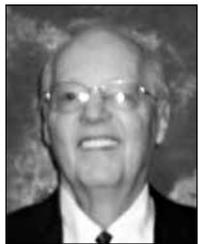
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Exec's Dot...Dot...Dot...

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



Dan Barron has been a valued member of our bar association for 35 years. A perennial presence at Estate Planning and Probate lunches, he served as an arbitrator in our Fee Arbitration Program managing dozens of cases. He may now be reached at barronlaw@live.com as he migrates into travel land. Thank you my friend! ...In a case of first impression, the State Bar Court has issued a public reproof of a lawyer who falsely accused his opponent in a June 2012 judicial campaign of being involved in a bribery and corporate fraud scheme. The State Bar Review Department said Clinton Edward Parish, 43, made the false charge against his opponent, a sitting Yolo County Superior Court judge, with reckless disregard for the truth. The court found the false accusations violated rule 1-700 of the California Rules of Professional Conduct, which requires attorneys running for judicial office to abide by Canon 5 of the Code of Judicial Ethics. The judicial canon states that a candidate for judicial office shall not “knowingly or with reckless disregard for the truth, misrepresent the identity, qualifications, present position or any other fact concerning the candidate or his or her opponent.” ...Our esteemed



Emeritus Attorney, **Carolyn Tulberg**, celebrated her 62nd birthday on Feb. 8. She has donated her time with the VLSP, Inc. since 1998...

Got shoplifters? Indeed that's the name of a company located in the 310. “Over 20 years of experience HELPING shoplifters CONQUER their compulsion to steal.” www.donnaburstyn.com...



An Arizona lawyer has been admonished after a fee dispute escalated into an email feud that included a reference to the movie *Deliverance*. The presiding disciplinary judge of the Arizona Supreme Court admonished lawyer Dennis Wilenchik on Feb 2. During an angry email exchange on a late Friday evening with the complainant, a medical marijuana consulting business, Mr. Wilenchik emailed, “OK drug dealer—I look forward to the many nights and mornings when you think of my name and squeal – you mean nothing to me. Check out the movie *Deliverance*.” ...The Immigration Law Section is hosting their first CLE of the year on March 10, beginning at noon at the Pirates Restaurant in Oxnard. Check out the enclosed flyer for registration information. The speaker is **Matt Bromund**, the section's chair...

Justice Ruth Bader Ginsburg caused something of a stir last month when she offered an excuse for nodding off during President Obama's State of the Union. Ginsburg said she had dined with other justices before they attended the speech, and wine was on the menu. “I wasn't 100 percent sober,” Ginsburg said. In a follow-up interview she offered a second explanation for her sleepiness: She hadn't slept the previous night because she was writing. “I thought to myself, don't stay up all night,”

she told *MSNBC*. “But then my pen got hot.” ...Judges' Night is scheduled for March 24 and St. Patrick's Day is March 17. “May your luck be like the Capital of Ireland—Always Dublin.”...



Carmen Ramirez will be awarded the Outstanding Environment Leadership Award from State Senator **Hannah Beth Jackson** on March 7 during activities of the International Women's Day hosted by Ventura Sierra Club



Bar Assistant Executive Director, **Sandra Rubio**, is celebrating her birthday March 27. Give her a shout-out at 650.7599 or sandra@vcba.org.



John Hribar of Ferguson Case Orr Paterson LLP and **Betsey Hillman** of Move, Inc. are the proud parents of Emmett James, who weighed in at 7 lbs., 13 oz. on Feb. 5 – the same day his big brother Ethan turned three.

Steve Henderson has been the executive director and chief executive officer of the bar association and its affiliated organizations since November 1990. He has respectfully submitted his *Final Four* calculations including Kentucky, Duke, Virginia and Wisconsin. Henderson in 2009 was aboard a helicopter that was shot down in the Afghan Province, Kabul. He may be reached at steve@vcba.org, Twitter@[stevehendo1](https://twitter.com/stevehendo1), FB, LinkedIn, or better yet, 650.7599.

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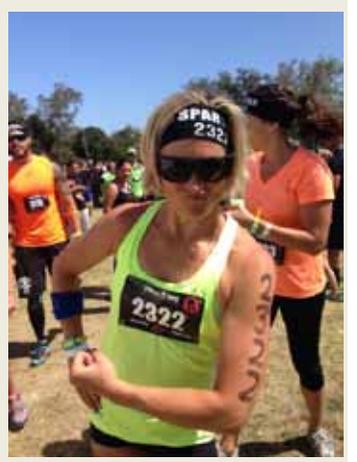
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