AN EASY WAY TO DIE?
by Karen B. Darnall

Page 10
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There anything more?" Makes it hard to spiral. No. Judge Riley is apt to ask, "Is their breath in a long-winded downward calendar along, as the lawyer catches calling of another case so as to push the listening, even when counsel is drifting. No - and she seems to enjoy is hard to match: eye contact, patience - Judge Riley has a manner on the bench that courtroom before she retires in November. Be sure to visit Judge Rebecca Riley's somewhere. Keep stoppin' in!

It's easy as 1-2-3. This month, trust your gut, embrace the risk, roll the dice, go all in, help somebody. Take a shot for the client others rejected. Make the argument that rings true to you. Many years ago, a buddy told me about his track team's trip up to Eugene to take on the Ducks and others. The stadium was filled and the crowd was alive. What stunned him and his teammates, he said, was that the fans stood and cheered their leading runners in distance races who were challenging their own personal bests. In our legal community, too, your who were challenging their own personal rights should be no exception. See the flyer or reserve online at vcba.org.

Estate Planning & Probate. Their programs fill up and the Oct. 22 noon offering "Recent Developments in Trusts and Estates" should be no exception. See the flyer or online at vcba.org.

Barristers Judges’ Night. Thursday, Oct. 15 at Feirano’s Bistro and Lounge in Ventura. If you are a “Barrister” as defined – under age 36 OR admitted or practicing less than 7 years – please come and mingle with local bench officers, and enjoy some pizza, too. THIS IS A BARRISTERS-ONLY event. See the flyer, or vcba.org.

After many years of overseeing the silent auction at our bar’s annual dinner, Don Hurley is gently handing the reins to attorneys Amy Dilbeck Kiesewetter and Thomas Hutchinson. The auction, which benefits Ventura County Legal Aid, features (tax-deductible) donated items from our legal community including weekend vacation lodgings, sports tickets, wine and other items of note. If you have something to donate, please email Amy or Tom (ard@strausslawgroup.com or thutchinson@normandowler.com). This year’s dinner is set on Saturday, Nov. 21 at the Ventura Crowne Plaza.

Retired Judge Dave Long will host the Oct. 21 Ventura County Legal Professionals’ 53rd Bosses’ Night. There will be exceptional dining, spectacular door prizes and more. Please see the flyer in this issue of Citations.

MABA Annual Scholarship Dinner will be held Friday, Oct. 23 at Oxnard Courtyard Marriott. Keynote Speaker will be Judge Manuel Covarrubias. Please see the flyer or visit vcba.org. Hard to believe, for those alive at the time, that the 1965 Delano Grape Strike which galvanized the Latino community and gave standing to the voice of one-time Oxnard resident, was a half-century ago.

Employment Law? WLVC on Oct. 9 at noon asks, “Will Uber and Other New Economy Start-ups Survive the Old Economy’s Employment Laws?” Westlake attorney and VCBA member Matthew Kaufman will weigh in. Ottavios in Camarillo. Flyer herein. But wait, there’s more...

Check out VCTLA’s Oct. 27 program on Hot Topics & Trends in Employment Law, with MCLE. VCBA board member Michael Strauss and VCBM member Michael Hefelfinger will be at the mike. Flyer or vcba.org.

Mandatory Temporary Judges Training. Judge Kent Kellegrew and Commissioner William Redmond on judicial ethics, Oct. 8 and Nov. 5. Either or both days. Not going to volunteer? Go anyway. It is sure to be very insightful, and at $10.00 a session, with MCLE, you can’t afford not to go! Who knows,

Continued on page 5
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you might get the itch and volunteer in 2016 after all. Please see the flyer or go to ventura.courts.ca.gov under “Court News & Notices.”

**ABOTA Badda Bing.** Masters in Trial program. A trial demonstration by the California Coast Chapter of ABOTA on Oct. 16 at Santa Barbara City College. For details on the day-long program offering 6.5 CLE units, please see the flyer in this issue of Citations.

**Talkin’ baseball,** Oct. 23, 1945. The Montreal Royals of the International League signed a 26-year-old prospect who would earn an invite to the Brooklyn Dodgers’ 1947 spring training camp. There, a petition was circulated amongst the players protesting the presence of this newcomer, Jackie Robinson. Mike Sandlock, the Dodgers’ opening day shortstop in 1945, would have no part of it. Robinson stuck. Sandlock did not. He would spend the ’47 season in Montreal, where, among other things, he worked with an upcoming catcher who would be forever grateful – Roy Campanella. By 1953, Sandlock was out of the game, but you can find him today in the town where he was born: Old Greenwich, Connecticut, where he will celebrate his 100th birthday on Oct. 17.

From the 118 to the 33, thank you for supporting our local bar association, and have a great October.

**Bill Grewe** handles wrongful death, personal injury, employment law and workplace injury cases at Rose, Klein & Marias, LLP in Ventura. He can be reached at w.grewe@rkmlaw.net

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*This activity has been approved for Minimum Continuing Legal Education credit by the State Bar of California in the amount of 1.75 unit(s) of general law and 1 unit of legal ethics. The State Bar of California provider #2261 certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.
Yesterday I took my friend to the Camarillo train station. He was going back home to San Diego. After an hour delay, we finally learned that someone had jumped in front of the train directly past Oxnard. A bystander remarked, “I guess that was an easy way to commit suicide.” Somehow, I resisted the temptation to argue.

Northbound passengers were driven slowly back to Camarillo. The driver parked the disabled locomotive on track two and I wondered how he felt. According to a related Facebook thread, the driver’s trauma could last a lifetime. One comment said, “Don’t think of it as a train or a machine. There’s a driver, not just a train.”

Passengers disembarked on the east platform. They had to climb up to the elevated bridge, walk along the freeway over the tracks and down again, to board the train at the west platform. One person in a wheelchair had to get a taxi.

The suicide victim probably did not think about the inconvenience to other people.

During the long wait, my friend and I discussed the End of Life Option Act. We wondered if Governor Brown would veto the bill or allow it to automatically pass into law. Feeling edgy, I asked why people in California needed an aid-in-dying drug. We could use ropes, knives, guns or railroad tracks without a doctor’s prescription.

My friend began telling me about his wife’s experience caring for someone with multiple sclerosis. The woman was paralyzed, incontinent, barely able to speak, blind, almost deaf and she suffered terrible pain. For her, suicide by train was not an option. My friend also explained the drug was meant for qualified individuals who would self-administer the substance to bring about death due to a terminal disease.

The bill is intricate. It would add twenty-three sections to the Health & Safety Code. The lethal drug is not specified. But the Assembly Committee report explains how it works in Oregon. The pharmacist dispenses ten grams of Seconal in a bottle. When the patient feels the time is right, the powdered medication is mixed with three ounces of liquid. A family member usually prepares the elixir but the individual is supposed to drink the liquid without any assistance.

Efforts to pass a death-with-dignity statute gained momentum in April 2014, when 30-year-old Brittany Maynard learned her brain tumor was growing rapidly. She had only six months to live. Brittany decided to move from California to Oregon so she could die “on her own terms.” She posted videos announcing the date of her death, Nov. 1, 2014. This gained widespread news coverage. Months later, Brittany’s husband shared intimate details with Oprah.

On Nov. 1, Brittany’s friends, family and her beloved dog gathered around the bedside. Brittany said goodbye to everyone in the room and posted a goodbye message on Facebook. She drank the medication, and five minutes later, she fell asleep. Her husband Dan explained, “She knew that she had to administer the medication to herself. No one could do it for her.”
Karen Darnall’s article (“An Easy Way to Die?”) provoked dissension on CITATIONS’ editorial board. Some thought the inconvenience angle sounds selfish. “We should care more about the person who killed themselves, even if they did it selfishly… I also despise the suggestion that committing suicide by train is ‘easy’—physically, yes, but imagine what led to the emotional state to do that to oneself…”

Occasionally, we publish articles that offend our readers for one reason or another. When that happens, please let us know. Point/counterpoint is always interesting. When CITATIONS’ editorial board is divided on the suitability of an article (and occasionally when time is very short) I make the final call about what gets published in CITATIONS. I try to bear in mind that CITATIONS is a Bar Association publication, not an independent body, and I try to avoid printing gratuitous insults. But sometimes the decision is to go ahead and run a provocative article. Sometimes, what offends simultaneously exposes important professional and societal issues that should not be avoided out of a false delicacy.

Wendy Lascher is an appellate lawyer, a partner at Ferguson Case Orr Paterson LLP, and the editor of CITATIONS.
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Will anyone ever know what happened to the Aloha, a sport fishing boat that vanished with all onboard in the Pacific Ocean off San Francisco’s coast? ‘Knowing’ is a complex, inexact business. There’s real truth and then there’s courtroom truth; a jury’s verdict may or may not approach what actually happened. Nor can someone reading about such an event—one that had no witnesses or hard evidence to explain it—be sure where the truth lies. But trials, judges, and juries are what we have in our legal system for finding truth.

The Widow Wave explores this alternate reality. It is a fascinating true-life mystery and courtroom drama rolled into one. Jay Jacobs offers no facile answers — and he’s not the flawless protagonist typically portrayed in such dramas. He lets us see how a big wrongful death case really unfolds, in a true story that reads like a novel. Will the jury find the truth? Will the reader?

The story centers on the passion-driven trial, pitting widow against widow, that resulted from the worst recreational fishing boat accident ever to happen in San Francisco’s long maritime history. Francis Dowd, his son, and three other men left San Francisco Bay on Dowd’s 34-foot boat, the Aloha, for a day of salmon fishing on the Pacific. The boat vanished under mysterious circumstances. There were no survivors or witnesses. Much speculation ensued in the San Francisco newspapers and broadcast news about what may have occurred. Was the boat sunk by a rogue wave? Or run down by one of the large ships in the area? If weather was the explanation, why didn’t any of the fifteen other boats out that day go down?

Ultimately, the widow of one of the passengers sued Francis Dowd’s widow. Author Jay Jacobs, a relatively inexperienced lawyer at the time, was tasked with defending her. She maintained that her husband was not a negligent or careless man. On this slim statement Jacobs built his case. His opponent was a highly experienced lawyer, a Goliath known for always prevailing, in fact crushing his opponents in the courtroom.

Under the special circumstances of no physical evidence and no eyewitnesses, the three-week jury trial hinged on the testimony of both sides’ expert witnesses. They intertwined the physics of rogue wave formation, navigation, and meteorology with the all-too human story of the fragility of life. Each day’s dramatic testimony overwhelmed the courtroom. Which side was ahead seemed to change day by day, almost witness by witness. The old legal bromide, “You never try the case you prepare,” seemed to be written for this trial.

The three weeks in court was an extreme emotional burden for Jacobs’ client. If it had been only her husband who died, in
time she would probably have come to accept that; after all, he was a grown man doing something he loved. But her son was also onboard. It’s hard to imagine a greater grief for a mother than the death of a child. If the jury found her husband was responsible for the loss of her son, it would have been the death of her soul.

Compounding this pressure was the fact that she was being sued for sums that could have wiped her out financially. Yet the two factors prompting most people into settling—the fear of going to court and the possibility of financial devastation—had no effect on her. She regarded the allegations of negligence as a dark cloud over her husband’s good name, and she wanted that cloud removed. For her, honor was more important than money.

Jacobs, *The Widow Wave: A True Courtroom Drama of Tragedy at Sea* (Quid Pro Quo Books, 2014). Jay Jacobs has been a member of the California bar for 35 years, specializing in maritime law. Prior to law school, he was a sailor and then an officer in the merchant marine. He sailed on cargo ships, ore-carriers and tankers on voyages to Europe, Africa, India, the Far East, South America, the Persian Gulf and Japan.

This review comes the publisher’s synopsis, and is used with permission. Attorney Randi Geffner reviewed *The Widow Wave* in the July 2015 issue of The Valley Lawyer. https://www.sfvba.org/UserFiles/File/Valley%20Lawyer/2015/Flipbook/July/

Attorneys and clients considering financially challenged businesses should overlook the benefits of receivership, both as a potential tool for collection of outstanding obligations or enforcement of contracts, and as a vehicle for financial restructuring.

Receivers are typically appointed by a court at the request of a creditor, co-owner of a business or real property, or by any adverse litigant. A party contesting ownership or control of an asset over which receivership is being sought may be wise to consider consensual receivership as a solution to the dispute and means of financial restructuring.

The advantages of a receivership over bankruptcy include:

- The ability to choose the fiduciary and discuss outcomes and strategies in advance.
- Lower administrative costs than in bankruptcy.
- Faster administration than in bankruptcy.
- Judicial supervision by local superior court.
- Ability to preserve going-concern value that would be lost in a bankruptcy liquidation.

A receiver has tools that can facilitate continued operation of a business or rehabilitation of an asset before sale, such as the power to:

- Issue receivership certificates to fund needed services to preserve and manage the estate. Such certificates grant priority status in exchange for money or services.
- Assume or reject existing contracts. Receivers, like bankruptcy trustees, may assume or reject executory contracts. (H.D. Rooten Co. v. Pacific Radio Pub. Co. (1932) 123 Cal.App. 525, 534.)
- Pursue litigation on behalf of the receivership estate. Code of Civil Procedure sections 568 et. seq. authorize receivers to bring and defend actions, take and possess property, compromise claims, and make transfers, among other things. (See, Morand v. Superior Court (1947) 38 Cal.App.3d 347, 351.)
- Sell property with court approval. Code of Civil Procedure section 701.510 allows receivers to sell real or personal property with a court order. When a receiver is in place, a secured party is exempt from Uniform Commercial Code notice requirements for such sales. (Security Pacific National Bank v. Geernaert (1988) 199 Cal.App.3d 1425, 1432-1433.)
- Obtain contempt orders to insure cooperation. Receivers may seek contempt orders to require turnover, assets or records as directed by the court or to sanction interference with or disturbance of the receiver’s administration. (Ex Parte Ferguson (1954) 123 Cal.App. 799, 803.)
- Abandon burdensome assets. Like a trustee in bankruptcy, receivers can abandon property. (Helvey v. U.S. Building and Loan Association (1947) 81 Cal.App. 647, 650.)

While there is no automatic stay protecting against other suits, the appointing court will typically protect the receivership estate from lawsuits that would interfere with smooth administration of the estate. (Strain v. Superior Court (1914) 168 Cal. 216, 220 [a court is duty-bound to protect its receiver in the discharge of the receiver’s duties].)

Sometimes disgruntled parties seek to remove a receiver by filing a voluntary or involuntary bankruptcy proceeding, but the Bankruptcy Code provides the bankruptcy court with discretion to leave the receiver in control of assets in order to do what is best for the estate. Bankruptcy judges are often inclined to leave in place court-appointed receivers who have already invested time in protecting assets.

William E. Winfield is an attorney at Schneiders & Associates, L.L.P. He has practiced creditors’ rights and debtors’ remedies for 30 years and is board certified in Business Bankruptcy by the American Board of Certification. He is also available for appointment as a receiver.
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Women Lawyers of Ventura County President Kathi Smith emceed WLVC’s annual scholarship dinner at the Ventura County Museum on Sept. 16. Organized by President Smith, Vivian Christiansen, Jaclyn Smith, Charmaine Buehner, Jacquelyn Ruffin, Sasha Romanowsky Collins, Kymberley Peck, Katie Becker, Sacheen Swan, Cari Ann Potts and Tawnee Pena, the event celebrated the legal accomplishments of three women.

Several judges and commissioners, as well as local leaders attended: County CEO Mike Powers, County Supervisor Kathy Long, Court Executive Michael Planet, and Oxnard City Councilmember Carmen Ramirez.

Judge Rebecca Riley, WLVC Legacy Award recipient, focused on access to justice and diversity on the bench, ending with a clarion call to women lawyers to apply for judicial appointment. Judge Riley, who will retire Oct. 2, described the positive effect of ethnic and gender diversity on the bench.

Jodi Prior received the Holly Spevak Public Service Award. Prior spoke about access to justice in terms of what it’s like to work in the Self-Help Legal Access Center. She made clear the feeling of satisfaction and accomplishment that comes from helping people who are otherwise unable to hire an attorney, even when a particular client or issue is emotionally draining.

WLVC awarded its annual scholarship to Tamara Honrado, a member of the Six Nations Mohawk Tribe. Tamara looks forward to Indian Child Welfare Act legal work.

BARRISTERS’ CORNER
by Brian Israel

Summer has officially concluded, though it seems the heat does not want to let up. What a summer it was for the Barristers! President Katie Becker welcomed her first baby, Seth Shapiro has another little one on the way, and I took the plunge into marriage. Lauren Wood became partner at the newly minted Schurmer and Wood, Melanie Ely moved over to Gold Law, and Rabiah Rahman settled into Ventura County and made herself right at home as a Barrister. Congrats and Mazel Tov to all.

Save the Dates
Judges’ Pizza Night is set for Oct. 15 at Peirano’s Restaurant in downtown Ventura. This event is limited to justices, judges, barristers, and law students. This will be a chance to mingle with colleagues and members of the bench, while eating everyone’s favorite meal.

Trivia Night, hosted by MC Andrew Ellison, is set for Nov. 19 at Garman’s in Santa Paula. This event is open to all. Be sure to bring your trivia thinking caps.

Earn those MCLEs
Bridging the Gap, hosted again by Barristers, will be held on Jan. 16. Earn those last continuing education units, including the harder-to-obtain special requirements, all while benefitting the Barristers. It’s a win-win!

If you are age 35 or younger or have been in practice seven years or fewer, you are a Barrister! If you are interested in getting more involved with the Barristers, feel free to email us at vcba.barristers@gmail.com or simply make it out to an event. Have a spooky October, and we hope to see you at some upcoming events.

Kathleen Smith, who practices civil litigation at Schneider & Associates, LLP, is President of Women Lawyers of Ventura County. She is a member of CITATIONS’ editorial board.
Sometimes numbers are the only prints left behind.

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SERVICES OFFERED

2015 Berkeley Law graduate. I moved to Ventura after taking the California Bar Exam in late July, and I am currently awaiting results. I am looking for an entry-level attorney position in or around Ventura. I would prefer to practice in some kind of civil litigation, but I am open to most practice areas. My name is Jason Edlinger, and you can contact me at jason.edlinger@gmail.com.

OFFICE SPACE

Short-term office rental in downtown Ventura. Need an office for a day, a week, or a month? Maybe a place to take a depo or conduct a mediation? Rooms available in quiet, ocean-view building. Contact John Wilner, 805-340-5431 or jw5862@icloud.com.

Office – downtown Santa Barbara fully furnished in law office suite. Internet, color printer, copier, fax. For more information, contact derek@dtmllaw.com or 805-452-4463. $775/month.

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Bill Winfield, Certified Business Bankruptcy Specialist, has taken his talents to Schniders & Associates, L.L.P., where he will continue to practice in commercial litigation, bankruptcy and creditors’ rights. Bill has been an active member of the bar since 1986)…Prosecutors in Washington State won’t file any charges in connection with a party in September sponsored by the Tacoma-Pierce County Bar Association. The Kitsap Sun described the lawyer gathering in Olalla as a “raucous party” that included a bonfire that violated the burn ban. An investigating deputy at the scene endured insults from one lawyer, according to the story, which is summarized by the AP. The lawyer also threatened to lock the gate on the property to prevent the deputy from leaving. The prosecutor’s office said it would not bring charges for violation of the burn ban because the property owner wasn’t present and would not charge the lawyer who hurled insults.

The Constitution “allows people to be obnoxious,” said the DA… Mild mannered executive director by day, mostly harmless mystery author by night—the Santa Barbara County Bar’s Lida Sideris’ debut novel, Murder and Other Unnatural Disasters, was released by the Wild Rose Press on Sept. 30. The tagline: “She swore she’d never turn into her P.I. father. But that was before she ran over the body.” Lida will be signing copies at Chaucer’s in Santa Barbara on Nov. 24 at 7 p.m. Details: www.lidasideris.com…

How can I not know this attorney? Donald Ian MacKay was born on July 7, 1931 and passed away at home in Ventura on Aug. 16. He went to Hastings and practiced law here for 54 years. He was a member of ABOTA. He served in the Air Force for four years and played football at Pomona College. He went to Ventura College and graduated in their first class at the new campus. He loved UCLA football and LA Angels baseball… Only in SLO County (specifically, Superior Court, in Paso Robles): A cow belonging to defendants escaped their fenced-in property and began to chase plaintiff’s donkey next door. When plaintiff went to assist the donkey, the cow charged him, knocked him into the air and struck him. Plaintiff suffered head, neck, back and shoulder injuries. Robert Fitzgerald v. William Woolley 8.18.2015 15cvp0236…Favorite sports moments? I still cannot get enough of the soldier hiding in the venue and surprising the spouse or the child. Once the first pitch is thrown, the catcher takes off the mask and poof! Great moment…

Who gets married twice in a week? Who gets married in Ventura County and hosts the reception at Duke’s in Malibu Aug. 31? Who then goes to Auckland, New Zealand and enjoys a Hindu wedding before departing on their honeymoon in Tahiti Sept. 1? That would be one Brier Miron Setlur, formally Brier Miron of LightGabler…

The new ABA President, Paulette Brown, began her term in August, thus becoming the first woman of color to be elected to the position…

Called for jury duty in Michigan, Kid Rock arrived in the Oakland County Court House in Pontiac to answer questions about his fitness to serve in a murder trial. Noting his many law enforcement friends, the singer promised to give police “the benefit of the doubt.” He also praised the murder trial prosecutor, Jeff Hall, who handled the case over a 2013 incident concerning a man who sprinted past Kid Rock’s security gate and tried to break into his house. “Jeff prosecuted him successfully,” Rock said. “So thank you Jeff.” The judge then dismissed him as a juror… Take advantage of our FREE Fee Arbitration training Oct. 21…

Steve Henderson has been the chief executive officer of the bar and its affiliated organizations since November 1990. His Halloween costume has been selected and you all would be offended. Groucho Marx’s birthday is the 2nd; he is famous for many a quote, including, “Alimony is like buying hay for a dead horse.” SNL premiered Oct. 11 in 1975. Steve may be reached at steve@vcba.org, FB, Twitter at stevehendo1, LinkedIn, Instagram at steve_hendo or better yet, 650-7599.
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