



CITATIONS

AUGUST - TWO THOUSAND FOUR

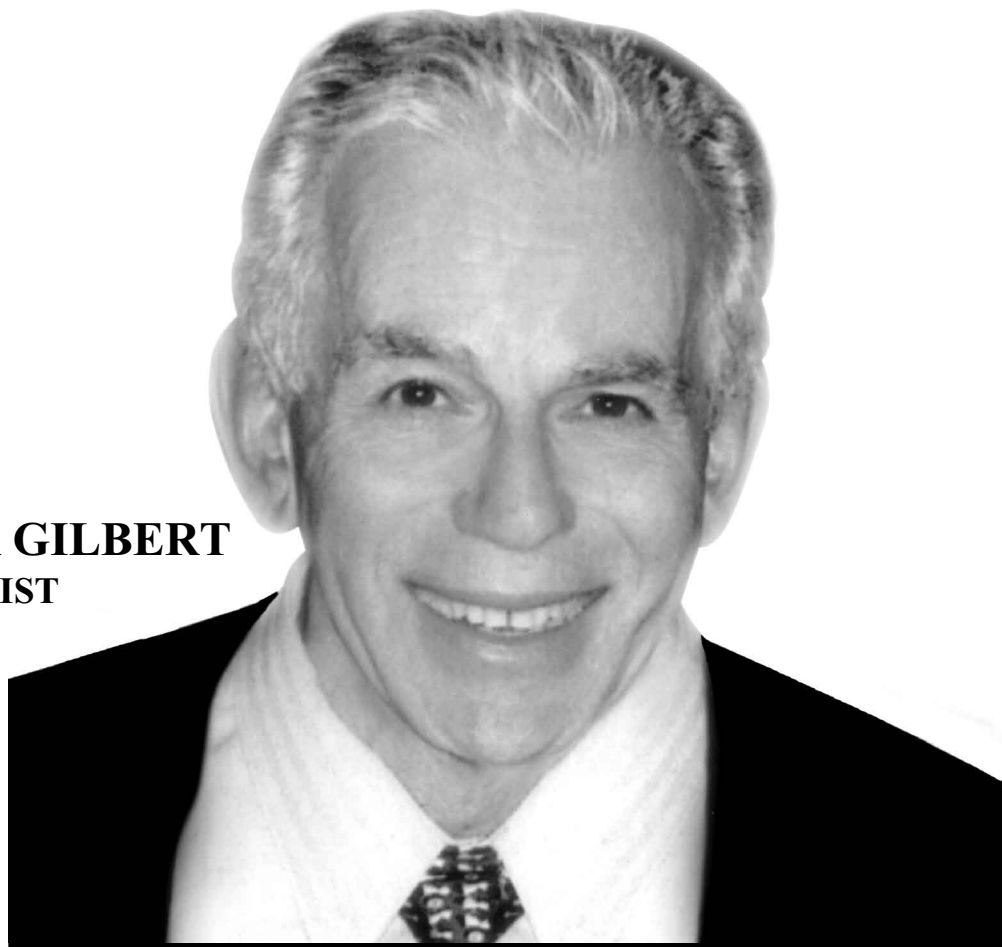
VCBA MISSION STATEMENT

To promote legal excellence, high ethical standards and professional conduct in the practice of law;

To improve access to legal services for all people in Ventura County; and

To work to improve the administration of justice.

JUSTICE ARTHUR GILBERT THE ACCIDENTAL JURIST



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EULUA ACCOUNTING

THE HUNT FOR THE GREAT BLUE WHALE

By Philip Garrett Panitz



This is an open letter to my fellow attorneys in Ventura County. By now, you are comfortably ensconced at your desk, no doubt a telephone in one hand, a sandwich in the other, reading glasses pushed up on your nose, attempting to read this article while grabbing a bite and listening to voicemail messages simultaneously. I know how it goes, time is money, precious and limited. There are, after all, only so many hours in a day. And not enough days in a week, etc., etc. In fact, you're probably already late for some meeting.

Well, take a deep breath. Maybe even two. I want you to consider how lucky you all are. You live in Ventura County, one of the most beautiful counties in America. Do you even take the time to realize this? Do you stop to smell the roses? A few years ago, I had a small epiphany. My father wanted to come out and visit me, and I decided to take a day off work to entertain him. I didn't really have time to plan anything, being an attorney and all. So I asked him what he wanted to do. His response was, "Well, you live near the ocean. Let's do something on the water." Do something on the water? What a concept. I decided to sign us up for a whale watching expedition.

We left early in the morning, into a thick pea soup fog. By noon, the fog had burned off and we were motoring with maybe thirty or forty other enthusiasts somewhere between San Miguel and Santa Rosa Islands. The captain of the ship announced on the megaphone that the crew had spotted some Humpback Whales ahead, and we were attempting to catch up to them.

Sure enough, we approached two of them off the port bow (left front of the ship). The whales were probably about 100 yards or so from the boat. They were magnificent creatures, rising to the surface and diving with their flukes pointing skyward as they dove. The water would go completely still and silent after a dive, creating what is called a whale "footprint," looking similar to an oil slick on the surface where the whale had just been.

Suddenly, somebody screamed from the back of the boat. Two whales were heading

directly toward the boat! In a scene from National Geographic, the two whales literally went directly under the boat, and surfaced next to us. It was a mother whale and her calf! The mother whale stuck her snout out of the water, and appeared to be eyeing us with intense curiosity. Cameras were snapping furiously. The mother whale, when stretched out, was the complete length of the boat. It was probably one of the most awesome sights I have ever seen, and my dad still talks about it. We hated to depart, but we were supposed to find some Blue Whales as well, so off we went. In the hull of the boat, I studied a chart of whales. The whales were pictured on a chart in their relative sizes. The Humpback Whale was literally about 1/3 the size of the Blue Whale, which is the largest creature on Earth. Alas, we never did see a Blue Whale on that day.

This experience was not in some far remote land. It was right here, under our noses in our very own Santa Barbara Channel.

In some ways, that trip changed my life, because now, wherever I am in the world, if there is a whale expedition, I usually sign up. In New Zealand, I flew in a helicopter over a pod of Sperm Whales, which is the species of whale that inspired Herman Melville to write about Moby Dick. The Sperm Whale is the largest carnivorous creature on earth, since Blue Whales only swallow plankton through their baleen, which reminds me of the hanging cloths at a no-brush car wash.

Last year, I convinced my fiancée Molly to accompany me on a repeat whale watching expedition in the Santa Barbara Channel. The Blue Whales and the Humpback Whales generally appear in the channel in August through October, and have only been doing so for the last seven years. Prior to that, only the gray whales migrated through on their way to or from Mexico and Alaska. The theory is that for some reason the Santa Barbara Channel has become rich in the plankton that the Blues love, and they follow the food. After cruising for about five or so hours in the Channel, no whales had been spotted. Most of the passengers and crew had become a bit disenchanted, and some were taking naps down in the galley, or just sitting stoically on deck. Molly chided me about my position

in the crook of the bow of the ship, eyes alert looking for telltale water spouts or whale footprints. I scanned the seas for any indicia of whale. Molly laughed and wished me luck.

Off on the horizon, I thought I saw something. I stared intently, hoping that what I saw was real and not just my wishful imagination. Then I saw it again, and with a loud scream that would have made a director from some old golden age movie proud yelled "THAR SHE BLOWS!!!" (I must admit, I always wanted to scream that). There was scurrying on the deck and the captain and crew asked me where I had seen the whale. I was too excited to calculate the o'clock position, so I just pointed. They were looking with long binoculars, and soon were yelling "IT'S A BLUE!" and we were full speed ahead toward the whale. It was then that I set eyes upon the most astounding creatures on earth. And not just one, there were so many we couldn't believe it. Water spouts were going off in every direction (whales breathe through their blow holes, expelling water skyward). At one point we had counted almost twenty Blue Whales in the pod. Molly grabbed my arm and said "This is too surreal." We were among the whales. Massive flukes, looking as large as some buildings, thrashing the water and diving. Whales everywhere. Most of the passengers came up to me and congratulated me on spotting the whales. With as many whales as there were, I'm not sure how we could have ultimately missed them. The Blue Whales were like horizontal skyscrapers, gliding like innocent angels through the sea. Their sea. Their home. In one fantastic moment, we were lucky enough to be invited in to witness this miracle, and all too soon the time came to leave and bid the leviathans good-bye.

This experience was not in some far remote land. It was right here, under our noses in our very own Santa Barbara Channel. So put down this coffee-stained issue of Citations, pick up the telephone, and make a reservation on an oceanographic expedition. Then take a break from being a lawyer and have a life experience in your very own backyard. The Blue Whales and the Humpback Whales should be arriving soon. Thar She Blows!

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Philip Garrett Panitz, 2004 President of the Ventura County Bar Association, specializes in corporation and tax law.

JUSTICE ARTHUR GILBERT – THE ACCIDENTAL JURIST

By Michael A. Velthoen



Justice Arthur Gilbert never dreamed of being a judge. He entered Boalt Hall in 1960 only after he decided that a law degree would lead to a more practical and stable career than his passions – music and literature – would allow. As a lawyer, Justice Gilbert did not aspire to the bench. He found the practice of law to be engaging and satisfying. When the opportunity presented itself in 1975, however, Justice Gilbert was honored and excited to join the Los Angeles Municipal Court.

While the appointment may not have fulfilled a life-long ambition for Justice Gilbert, the bench is his calling. In 1980, he was elevated to the Los Angeles Superior Court. Two years later, Justice Gilbert was appointed to the newly-created Division Six of the Second District Court of Appeal. He is now its presiding justice. Justice Gilbert also spends a considerable amount of time teaching at judicial institutes and speaking at conferences. His writings – both in opinions and elsewhere – reveal a passion for the law and the processes by which it is implemented.

Background

Justice Gilbert is a native Southern Californian. Born in Hollywood, his family lived in Venice and Santa Monica when he was a child. Justice Gilbert's father was a jazz musician who later owned a delicatessen in Hollywood. He made

some wise investments in the stock market and was able to retire at an early age.

In 1956, Justice Gilbert enrolled at UCLA, from which he obtained his degree in English Literature. He moved up north to Berkeley in 1960 to attend Boalt Hall. After he received his law degree, his love of literature led him to pursue a graduate degree in English at UC Berkeley. Justice Gilbert thought about a career in academia.

In his first year of the graduate program, however, Justice Gilbert questioned whether he could tolerate more school. To find out more about his options in the legal world, he visited a friend who worked for the City Attorney's office in Los Angeles. During this informational visit, Justice Gilbert met with some supervisors who made him an offer on the spot. Intrigued by the job, Justice Gilbert accepted. "When I told my professors I was dropping out of the program to take the job, they were surprised to learn that I was a lawyer. Some of the other students gave me grief for it."

Early Career

Justice Gilbert joined the Los Angeles City Attorney's office in 1964. He handled the criminal calendar alongside another young attorney, Johnnie Cochran. One year later, he decided to pursue a career in private practice. Turning down offers from several big firms, he joined a small firm of young attorneys located in the San Fernando Valley.

Within a year, Justice Gilbert was made a partner of the firm that would later become Bennett, Leonard & Gilbert. The firm moved to the West Side a few years later, where Justice Gilbert maintained a general practice with a focus on business litigation. He looked forward to building his career as a civil litigator.

Trial Judge: 1975-1982

In 1975, Governor Jerry Brown appointed Justice Gilbert to the Los Angeles Municipal Court. Justice Gilbert fondly recalls his time on the Municipal

Court, where he tried to make the court more responsive to the community's needs. "Courts are there to serve the community. Courts should be willing to make changes where necessary," he notes. "I had so much fun on the Municipal Court. You could really get something done."

While serving as the presiding judge on the traffic court, Justice Gilbert noticed that Latino motorists disproportionately failed to show up for their appointed court dates. After he learned that the instructions on traffic citations were printed only in English, Justice Gilbert suggested that the citations also be printed in Spanish. His recommendation was implemented and the absentee rate for Latinos decreased. He also allowed motorists to schedule court hearings to challenge their citations with the court clerk's office, instead of requiring them to appear before a judge at a predetermined time to do so.

Justice Gilbert also promoted several innovative sentencing programs. "Eric Younger was pushing the idea of community service," he recalls, "but nobody was really listening to it. I thought it was a good idea." For domestic violence offenders, Justice Gilbert frequently ordered anger management classes. He also started a program to require first-time DUI offenders to take a class instructing them on DUI laws. "Back then, a lot of people were not that well informed about the DUI laws. I did not think that first-time offenders should be sentenced to jail." Justice Gilbert gained some notoriety through his public debate with City Attorney Burt Pines over this issue.

Justice Gilbert was elevated to the Superior Court of Los Angeles in 1980. He strove to make his courtroom accessible to lawyers and parties, and to maintain his humility. "He was a very popular trial judge among the attorneys," his friend and colleague Justice Elwood Lui recalls. "He tried to create a more relaxed atmosphere in the courtroom and to let the attorneys try their cases." During one particularly contentious hearing, however, Justice Gilbert became a bit short with the attorneys. A public defender who had appeared before him on several occasions

happened to be observing in the courtroom. During a break, the attorney asked if she could approach the bench. “She told me I was acting like a real jerk. I immediately knew that she was right,” Justice Gilbert says.

His time on the Municipal and Superior Courts imbued Justice Gilbert with a healthy respect for the power and responsibility of a trial judge. “Lawyers and judges tend to think of the Court of Appeal as a more powerful body than the Superior Court. But the standard of review is very deferential to the trial court. The trial court is charged with making the factual findings. It is very rare for the Court of Appeal to disturb those findings.” As a reflection of his viewpoint, Justice Gilbert teaches a course at the Judges’ College titled “Who’s Afraid of the Court of Appeal?”

Appointment to Court of Appeal

In 1982, Justice Gilbert – along with Steven Stone and Richard Abbe – was appointed to sit on the newly-created Division Six of the Second District Court of Appeal. As Division Six had no courthouse at the time, Justice Gilbert shared his chambers in Los Angeles with Justice Lui. “I teased him that, in the trial court, you get your own chambers, while in the Court of Appeal, you get a roommate,” Justice Lui remembers. Justice Gilbert warmly recalls the excitement of handling the early cases without a centralized staff or location: “The other justices were from other parts of the state. We really had to make do with what we had.”

One of the first tasks assigned to the new justices was to locate a home for the new court. Initially, the court was to be sited in Santa Barbara. After reviewing the available options, however, the justices recommended that the courthouse be located in Ventura. They first settled in a building on Victoria Avenue, before moving to a spot on the corner of Figueroa and Santa Clara streets in downtown Ventura, where the courthouse now sits. Today, Justice Gilbert presides over the court from the corner office in that courthouse. He is proud of the collegial atmosphere that prevails, despite the

differences of judicial opinion frequently held by the justices. “We have tried to create a casual working environment. We often refer to ourselves as the ‘think tank with tank tops.’” Justice Gilbert notes that the justices often pop into each other’s chambers to discuss cases or less weighty matters. Still, Justice Gilbert concedes that the life of an appellate justice is often solitary: “It’s just the two of us in a room, me and my brain, only often I’m alone.”

The cordial environment extends to the courtroom, where the justices preside over cases originating from Ventura, Santa Barbara, and San Luis Obispo counties, as well as overflow work from the other counties within the Second Division. Attorneys appearing before the court are met with pointed – yet friendly – questions. “I view oral argument as an extension of the chambers conference. I often use it to try to make a point to one of my colleagues. I also use it to crystallize my thoughts to improve my written opinions.”

Wordsmith and Teacher

Over the years, Justice Gilbert has developed a reputation as a wordsmith. His opinions often start with a crisp recitation of the relevant facts, including an opening paragraph that provides a succinct statement of the holding. “Facts are often more difficult to present than the law,” Justice Gilbert notes. “Appellate lawyers must scrupulously present the facts as evidenced in the record to the court. If you mislead the court on the facts, you will lose credibility with the court.” Justice Gilbert also advises attorneys to present only those facts that are necessary for the court to render a decision. He cites Justice Cardozo’s opinion in *Palsgraf v. Long Island Railroad Co.* (N.Y. 1928) 248 N.Y. 339 as a model of clarity and brevity.

Justice Gilbert’s opinions are occasionally sprinkled with literary references, a reflection of his degree in English literature and his continuing love of language. A favorite piece is William Shakespeare’s *Measure for Measure*, which recounts the

story of the Duke of Vienna, who transfers his power to a subordinate, Angelo, under the ruse that he is leaving the city. In reality, the Duke wants Angelo to enforce the city’s vice laws so that he does not have to. The Duke fears the wrath of his subjects if he were to enforce the laws. The results, of course, are nearly tragic. “I think all judges should read *Measure for Measure*,” Justice Gilbert says. “We all want to be liked. But if you want to be liked, you shouldn’t be a judge.”

Justice Gilbert also uses his considerable writing skills off the bench. He writes a regular column – “Under Submission” – for the Los Angeles Daily Journal, in which he humorously discusses various legal and other topics. He has also written a short story that was published in the Judges’ Journal, an American Bar Association publication. In “Arts and Crafts,” Justice Gilbert tells the story of a talented judge who abruptly retires after being the subject of one too many 170.6 affidavits. “There is a craft to being a judge – the nuts and bolts of applying the law to facts,” Justice Gilbert remarks. “But there is also an art. The art involves handling attorneys, parties, and your own ego.”

Justice Gilbert has spent a sizable amount of time teaching the art and craft of judging to other judges, both in California and throughout the world. He regularly teaches at the Judges’ College, where his reading list includes – in addition to *Measure for Measure* – *Billy Budd* by Herman Melville and *The Penal Colony* by Franz Kafka. Justice Gilbert has also made presentations to fellow jurists in Hungary, Serbia, the Czech Republic, and Russia, where he was impressed by his foreign colleagues’ knowledge of the American judicial system.

Despite his busy judicial and teaching schedule, Justice Gilbert has always found time to stoke his other passions. He is an accomplished jazz pianist, who has plans to make an album in the future. Justice Gilbert cites the bebop style as his favorite, although he enjoys all types of jazz. He recently ran all 26.2 miles of the Los Angeles Marathon, although he only

Continued from page 5

smiles when asked about his time. Justice Gilbert enjoys spending time with his wife, Barbara, at their home in Pacific Palisades. He is also a cat lover. “He used to tell me that he let his cats do everything, including checking his citations,” Justice Lui recalls.

Next year, Justice Gilbert will celebrate his thirtieth year on the bench. Although his judicial career may have initially resulted more from happenstance than ambition, he has embraced it with enthusiasm. Not only has Justice Gilbert contributed to our jurisprudence through his opinions, he has enriched the legal profession through his teaching, writing, and personality. His success has been no accident.

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Michael Velthoen is a partner at Ferguson, Case, Orr, Paterson & Cunningham, where he handles business and intellectual property matters. He is a member of CITATIONS Editorial Board.

Matt Guasco

EMPLOYEE PROBATION – THE “LAST CHANCE TO MAKE GOOD”

By Jonathan Fraser Light

You’ve had it with your employee. He screwed up again and you are ready to terminate, but he presents certain “risks” to an immediate termination: He just came back from disability leave, he has a continuing worker’s comp claim, and he is older than most of your workers.

You may have already prepared a “catch-up” disciplinary memo that describes the current problem and summarizes problems over the last several months that you did not previously document. Paperwork is crucial when it comes to justifying reasons for termination and defending lawsuits, regardless of whether an employee is “at-will” or in an introductory period. So you have decided to help minimize your risk by giving the employee one last chance with a formal written probationary memo. What should it look like?

A. Identify problems using examples.

Employers often provide broad generalizations that, when tested, do not have enough detail to back them up. Be specific.

B. Clearly identify the behavior expected, which should mirror the list set forth in the first section.

C. Suggest methods for achieving these goals. If the employee could have figured it out by himself, you wouldn’t be at this point. Also invite the employee to provide input on ways to improve his performance. The collaborative dialogue can be helpful. Your suggestions may be mundane in most circumstances, but they at least show an attempt by you to help the employee correct the problem. “You need to work more closely with employee X, who knows the computer much better; you need to get some training on this subject; you need to set two alarms so you get up earlier. . .”

D. Specify the time frame for improvement. There is no law that governs the length of a probation. Two weeks, 30, 45, 60 or 90 days are all fine. Indicate that this is not a “free ride” for

the designated length of the probation: “If we do not see immediate and sustained improvement, we will be forced to end the probationary period early and separate you from employment.” You may need the entire time if it is a training situation, but if it is simply a “doesn’t play well with others” or “can’t get to work on time” situation, then you may end it early.

E. Clearly spell out the possible consequences. There may be termination if there is no sufficient improvement. There may be an extension of the probation or the employee may be taken off probation. Make it clear that successful completion of the probation does not allow the employee to revert to this behavior in the future. Indicate that a repeat performance will most likely result in termination.

F. At the end of the memo, add language that helps protect the “at-will” relationship. Putting an employee on probation (or any other disciplinary action) “does not change the at-will employment relationship between you and the company. Although we are not required to go through this progressive discipline step, we are doing so in an attempt to improve your performance and make you a successful member of our team.”

If the probation is not successful (frankly, most aren’t), then it is time for termination; a subject for a future article.

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Jonathan Fraser Light is a senior partner with Nordman, Cormany, Hair & Compton, where he specializes in management-side employment law.

VON HANEL

PUT IT ON THE ELMO – COURTROOM TECHNOLOGY IN VENTURA

By Keri Collins



Here are a few tips that may help you if you decide to use the equipment:

- Attend a training class before using it for the first time (mandatory in Ventura)
- Allow at least 15 minutes before your hearing or trial to check the equipment.
- Determine how your document or object will appear using the Elmo. Make sure you know how to use the zoom feature if it will be necessary to display the object effectively.
- Don't leave a document displayed unless you intend for the jury to keep reading it; it will distract them.
- Currently there are no printers configured on the system in Ventura. If a witness annotates something on the system it is necessary to verbally enter it into the record. "Please let the record show that the witness circled the red ball."
- Be aware of your hands, fingernails and jewelry since they will be visible when placing items on the document camera.

In the last decade, the legal process has undergone a tremendous evolution as technology changes the way courtroom proceedings take place. Who counted the number of times that someone said, "Put it on the Elmo" during the O.J. Simpson trial? Elmo, an acronym for Electronic Lighting, Machine Organization, is a brand name for a document camera that can display documents, x-rays, transparencies, and 3-D objects.

What impact is the use of technology having on the courtroom? Presenting evidence in a way that allows everyone to view it at the same time is much more efficient than passing a photo or a piece of paper around so each person looks at it and passes it to the next person. Having documents and exhibits available on a laptop computer also allows the attorney to have everything instantly accessible and easy to find. Instead of shuffling through boxes or files looking for a document, an attorney can easily find and display it from a laptop computer.

Since summer 2001, the Ventura Superior Court has five Exhibit Stations that can be reserved and used in 17 courtrooms at the Ventura courthouse, and one Exhibit Station for use in two courtrooms in the East County courthouse. For a list of courtrooms, guidelines, and a copy of the user's guide, go to our website at www.courts.countyofventura.org.

The equipment available includes:

- LCD Projector for display to a large screen for the jury
- Elmo document camera
- Pointmaker with Light Pen that annotates directly on the screen from either the presentation cart or the witness stand
- Connection point for laptop computer (laptop is provided by counsel)
- VCR for video presentation (a DVD could be presented using a laptop with a CD/DVD drive attached)
- Flat panel monitors for the judge, witness, and both counsel tables

According to courtroom staff and judges, the District Attorney requests the equipment most frequently in criminal cases. Once it is set up, however, the defense will also use it. It is also used frequently in civil cases with numerous documents or exhibits. The consensus is that it can be very helpful during the hearing or trial – as long as the attorneys are proficient with the equipment. Otherwise, trying to figure out how to make the equipment work detracts from an attorney's presentation.

One courtroom clerk gave a great example of how well it can work. Plaintiff's counsel

had an Elmo-trained technician come from his office. All the exhibits were in the laptop computer. All counsel had to do was mention the document, and the technician automatically put it up on the screen. No fiddling, no walking back and forth to operate the equipment. He came in before the trial started and set up, got acclimated with the equipment, and it worked very smoothly.

Training classes are offered several times a year by the Ventura County Bar Association and also provided by the District Attorney and Public Defender for their staff. In Ventura, it is mandatory that you be trained on the equipment before scheduling its use during a hearing or trial.

What is coming next in courtroom technology? Some courts are already experimenting with virtual reality in order to recreate the exact event being discussed. It may be a fairly expensive process at the moment, but five years from now, who knows?



Keri Collins is a Technology Project Manager for the Ventura Superior Court. She has a B.S. in MIS and has worked in the technology department at the courthouse for five years.

LETTER TO THE EDITOR - The Topless Bar

Phillip Garrett Panitz, I feel your pain and I have to get this off someone's chest. Whether one may believe that nudity is an amoral, aesthetic or equal protection matter (or some of the above), what in Justicia's name are you VCBA designees to the State Bar Conference of Delegates doing "proposing" legislation to institute bare-breasted sunbathing rights? It may be a very revealing idea, à la French Riviera, and I'm sure Francophile politicians and Janet Jackson would approve, but have you people lost your lids?

Do you folks really believe that, for the bar, unveiling this issue is uplifting? Will not the public think us boobs for sponsoring such an immodest proposal? Is this bar-related exposure? Will this help reverse the sagging public perception of attorneys? The advancement of the issue reveals that at least one of our delegates has way too much time on her hands? (Yes, I do mean "HER," for all you folks of the politically correct slant.) We must believe that the idea to promote topless lawyers could not have been advanced by some male-bar-member-patron-of-the-Spearmint-Rhino (wher-

ever that is). No, I doubt he could have withstood the accusations of aggravated attempted ogling.

Will this help reverse the sagging public perception of attorneys? Not to lose our heads over this issue, but I'm sure our bar president would not prefer our Association to become known as the Topless Bar – especially with Al Qaeda lurking about. Delegates: How about measures lowering our dues instead of raising your shirts?

In conclusion, I ask that the Board of Directors adopt a resolution requiring that all VCBA delegates supporting this measure do so bare-chested from the floor of the Conference and remain in that state, hopping up and down, until the voting is closed. I'm confident that such a display will ensure that the measure falls flat.

Very truly yours,

Glenn Campbell

Barry Cane

INSURANC

G. W. Kenny

CE SPREAD

Lawyers Mutual
Winner & Associates Agency

WHISTLESTOP

Tentative Rulings on the Court's Website . . . Often Confused with "Case Inquiry"

By *Jeanne A. Flaherty*



The tentative ruling line is used by Case Management to indicate which hearings the Judge Pro Tem determines do not require appearances. The website for the

Tentative Ruling Line is accessed through the following address:

www.courts.countyofventura.org/vent_frameset_puba.htm

Simply type that address and hit enter, then click on "Tentative Rulings" below the picture of Abraham Lincoln.

The website for the County of Ventura is: **www.courts.countyofventura.org/**

If the court's main website is used to find the Tentative Ruling Line:

1) First, type the above address.

2) Click on "Public Access & Case Inquiry" in the right hand column of choices (NOT "Case Inquiry" at the top).

3) Click on "Tentative Rulings" under the picture of Abraham Lincoln.

You will then be on the Tentative Rulings screen. **Be sure to select "Case Type,"** where it says "Please Select." Then enter the numbers for the case only (do not type the letter prefixes). The remaining instructions at that address are self-explanatory.

A common error in attempting to reach the Tentative Rulings is to go to the court's Homepage and click on "Case Inquiry" at the top. This leads you to a different screen for Civil called "Civil Case Inquiries" under "Civil Database". **Tentative Rulings are not under that screen.** Further, "Civil Case Inquiries" will not show you which cases the Case Management Judge Pro Tem has taken off calendar upon review of the file (done one or two days prior to an upcoming hearing). **"Civil Case Inquiries" marks**

off calendar only those hearings taken off calendar by the Clerk's Office. There is not enough time to update the "Civil Case Inquiries" screen after the Judge Pro Tem takes off-calendar a hearing scheduled one or two days after review. That is why the Tentative Ruling screen is used to notify the public.

Another alternative is to simply call the Tentative Ruling phone number: (805) 650-4089, and follow the instructions. That eliminates confusion over the different web screens.

For both telephonic and website access, re upcoming hearings, **if there is no ruling it means an appearance is necessary.**

Note that once the tentative ruling becomes the actual ruling, or if the hearing is continued in court, the tentative ruling on the website or telephone is deleted the day after the actual ruling.

Quote of the Month: (This is about the financial state of jazz music. Query whether it is similar to the average practice of law.): "There's no money past the fifth fret."

-Jay Graydon,
Guitarist and Producer.

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Jeanne A. Flaherty is the Senior Case Management Attorney and presides over the Civil Case Management Calendar. She contributes monthly articles about the concerns of the Civil Case Management Team of Ventura County, which includes Judge David W. Long, Judge Vincent J. O'Neill, Jr., Judge Henry Walsh, Judge Thomas J. Hutchins, Judge Kent M. Kellegrew, Judge Steven A. Hintz, Judge Frederick H. Bysse and herself.

EAR TO THE WALL



GREGORY W. HERRING, a partner in the law firm of **Ferguson, Case, Orr, Paterson & Cunningham, LLP**, has been certified by the State Bar of California, Board of

Legal Specialization as a Legal Specialist in Family Law. As a Certified Specialist, he joins his partners, **Robert L. Gallaway** and **Theodore J. England**, Certified Specialists-Taxation Law, and **Robert B. England** and **David B. Shea**, Certified Specialists-Estate Planning.

The Thousand Oaks firm of **VAN SICKLE & ROWLEY, LLP** is pleased to announce the addition of two new attorneys to the staff. **Brent D. George** brings 10 years of legal experience to the Business Services Group where he will work with partner **Richard Van Sickle** handling business transactions, formations and contract disputes. New associate **Christina Shaffer** joins six other attorneys in the firm's Family Law Department. Either can be reached by phone at (805) 379-3311 or at their respective e-mail addresses brent@vsrlaw and cshaffer@vsrlaw.com.



The Law Offices of **Robert P. Wright** announces relocation to: 290 Maple Court, Suite #118, Ventura, 93003. Phn:654-0628 Fax: 654-0354, rpw@wrightlaw.com

CITATIONS PROFILES

CITATIONS has tried over the years to profile all of Ventura County's judicial officers and others whose work is essential to the local legal community. Some profiles are in the pipeline, and a few judges have never been profiled because they have let it be known they would prefer not to talk to our writers. But if you think we have overlooked someone you'd like to read about, please contact the CITATIONS editorial board to let us know.

IN MEMORY OF DANNY DALE HULLINGER

By *Louis J. Vigorita*



Workers' Compensation Judge Danny Hullinger, age 67, died recently of a heart attack. Survived by spouse Katharine, son Matthew (age 11) and daughter Saffron (age 8), he had recently returned from a family trip to the Grand Canyon.

Judge Hullinger's family filled his office walls with photos and mementos. He

never expected that he would have children, and when he had them late in life he was overjoyed, often beguiling us with their stories and events that neverendingly enthralled him. At his memorial service, the judge's father-in-law read excerpts from the diaries the judge started when the children were born, entries that showed how cherished they were.

An Iowa native, he interjected a little mid-western down home wisdom whenever he got a chance. Before his appointment as a Workers' Compensation Judge, he was an attorney for the State Compensation Insurance Fund. As an Air Force mechanic, he nurtured his love for airplanes. He flew every chance he got, and thoroughly enjoyed the recent B-17 flights at Camarillo Airport. In chambers he showed attorneys the numerous photos that he took during these flights.

Judge Hullinger was a very hard-working judge in a system he found frustrating and wasteful. Still, he never avoided difficult decisions, and he worked hard to get his voluminous case load resolved. He was expeditious in his settlement conferences and never shirked

from setting a case for trial. He was never afraid of taking the Appeals Board to task with an issue that irked him – and there were many. His last few months on the bench involved many of the unfortunate issues that were created by the recent reform bill signed into law on April 19, 2004. Still, he never missed a step and continued to provide respect and patience to those who appeared before him.

Judge Hullinger was a respectful gentleman who understood his role in life and pursued it with all his energy, leaving a loving family and a respectful bar. Last month there was standing room only at the Ventura Missionary Church at his memorial service. "We've lost our big brother," commented one of his co-workers.

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Lou Vigorita is a Ventura attorney practicing personal injury, workers' compensation and Social Security law. He is a member of CITATIONS editorial board.

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Robert McSorley has started his new job as Commissioner in Dept. NWL in Van Nuys presiding over family law matters. He was sworn in on May 26. He had been practicing in Ventura County since January 1976. "His youngest was out of the house and it was time for a change." Bob applied for the job over a year ago. **Commissioner McSorley** can be reached at Robert@mcsorley.com . . . As of January 2004, the **Legal Specialization program** had a total of 3,898 members on its roster. The leaders: Family Law, 1041; Workers' Compensation, 861; Estate Planning, 762; Taxation, 426; and Criminal Law, 357. The fewest? Bankruptcy with 99 . . . **The Regniers, Georgianna and Dick**, had an audience with the Pope on June 16. Happened with 2,000 others on the steps at St. Peter's and the Pope "looked very well" while speaking three languages---English, Polish and Italian. The Regniers were in Italy for 18 days with a West Point group . . .

The **Barristers' Mixer** attracted nearly 70 lawyers to the law offices of **Lascher & Lascher** June 29. **Judges Curtis, Walsh, Back, and Cody** supported the Barristers by their presence as young lawyers and law students enjoyed vintage wine from **Wendy's** cellar while networking for jobs and mentors . . . **A so-called "judicial hellhole"**—namely, the state of Mississippi, according to the U.S. Chamber of Commerce, due to the frequency of huge jury awards there—is set to become more business friendly now that Gov. Haley Barbour has signed a new law capping damage amounts. But not everybody's happy. Said one members of the Mississippi Trial Lawyers Association, "The governor has made it clear that he places corporate profit above the safety of Mississippi families." . . . **George N. Dyer, Jr.** (#32855) died Father's Day playing hoops with his youngest son and a grandson. After 35 years in practice, George retired in 1998 . . .

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Steve Henderson, Executive Director

Executive Secretary **Carol Sherwood** will be retiring from **Benton, Orr, et al.** in October. How long has she been with the firm? Since 1969! . . . **Relax, Lawyers—the doctors will see you after all.** A doctor's proposal asking the AMA to endorse refusal of care to plaintiffs' lawyers and their spouses was shouted down at the association's annual meeting late June. Dr. J. Chris Hawk, had it withdrawn. Hawk said he proposed the resolution to draw attention to rising medical malpractice costs . . . The bar's **Court Tour Program** provided a tour of the courthouse to a large group of deaf adults, advocates for deaf agencies and four sign language interpreters. They were appreciative and really enjoyed communication with **Judge Roland Purnell** . . .

DDA **Miriam Arichea** celebrated her 40th July 3 at the Pierpont Racket Club with 80 family, friends and colleagues. **Justice Steve Perren** wrote and sang a little ditty for her, too . . . The bar's new Associate Executive Director is **Sandra J. Elespuru-Bishop**. Replacing **Charlene Andrews**, Sandy hails from Modesto where she was the Executive Director of the United Cerebral Palsy Association for the past nine years. She has a B.S. from C.S. Sacramento and a M.P.A. from C.S. Stanislaus. Sandy has 12 years experience in mental health too, which will come in handy. She'll start on the 16th . . .

Program Notes: We have a relatively free (MCLE \$5 optional) program sponsored by the **Small Firm Section** and The West Group scheduled on the 10th and a lunch generously donated by **Gregg Kravitz** included . . . Additionally, you'll want to calendar the 14th of September for the debut of the **Business Litigation Section** lunch program at the Tower Club at noontime . . . **BARRISTERS & JUDGES**—September 14 is the annual Judges' Pizza Night at Corizzi's in Ventura. Only Barristers allowed! . . . See promotional brochure contained herein...

Donn Taketa and **Mark Sullivan** have left **Sullivan, Sottile & Taketa** to form their own firm in Westlake . . . **Robert Wright** has gone solo. After 3 1/2 years with **Alexander, Clayton, et. al.**, he's set up shop in the **Ron Harrington** suites at 290 Maple Court...**Timothy S. Plum** (#122047) has returned to Ventura after 12 years in LA. Prior to his run in So. Cal. he was employed with the old **Henderson, Wohlgenuth & Bole** and has just been hired at **Proctor, McCarthy, et al.**, giving them 23 lawyers . . . Whatever happened to Timothy Wind 13 years later? One of the LAPD officers fired for the Rodney King beating and found innocent by a jury, cannot land a job in the criminal justice system in Indiana. Wind passed the bar last year, but no one will take a chance on him. Shunned by fellow students in law school, he was denied an internship at the local DA's office when they found out about his past . . .

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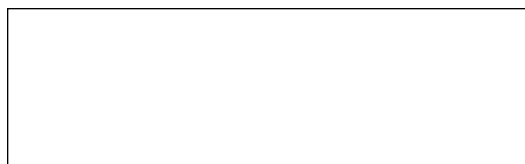
Steve Henderson has been the executive director of the bar association since November 1990 and was offered the position of head coach of the LA Lakers. He spurned the \$40 million, four-year package to remain with his current board of directors. Lastly, Henderson and his family will be enjoying a Disney Cruise in the Carribean through the 8th of the month – so don't call, email or correspond in any fashion.

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