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# CITATIONS

S E P T E M B E R - T W O T H O U S A N D F I V E

## THE LAW FIRM



### LOCAL ATTORNEYS CAST IN NBC REALITY SHOW

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It was cold, rainy and dark when the Enterprise docked, with little fanfare, in the port city of Sasebo, Japan, in January of 1968. Being the only nuclear-powered carrier at that time, our presence was a visible reminder to the sensitive citizenry not only of the devastation wrought by our atomic weaponry in 1945 but also of our continued development of such weapons of mass destruction, including the 75,700-ton carrier. Adding to the discomfort of our visit was the suspicion that the United States was regularly violating our treaty with Japan, which forbade us from bringing any nuclear weapons into that country.

As luck would have it, within twenty-four hours of our arrival, one of our fast-attack submarines had made an inadvertent discharge of radioactive material in the process of getting under way. When it was reported in the local press, the reaction was swift. Literally thousands of demonstrators stormed the city and surrounded the base, armed with four-foot wooden sticks and shields, lacking only uniforms to be on equal terms with the dramatically outmanned local police force. The crew, although warned, was ill-prepared for this human maelstrom awaiting them at Sasebo.

My assignment at that time was as an Engineering Laboratory Technician, with the rank of E-6, in the reactor department, a relatively cushy job, involving taking samples of the reactor plant coolant, checking radiation levels, and entering and inspecting the eight nuclear reactors when they were periodically shut down. In addition, I also periodically had the responsibility for ascertaining the radiation levels of any nuclear weapons on board.

That morning's four-hour watch was more of the usual. Joe H., the division's resident alcoholic, spent the entire time describing his anticipated joy when the bartender would respond to his request for a large glass of Old Grand Dad and how many such requests would be made during the course of the next

## PRESIDENT'S MESSAGE: SASEBO 1968

By Don Hurley

few days. Tommy D., a reprehensible skirt-chaser even by Navy standards, was also on duty with me, as was Danny S., whose wife was having an open affair with Tommy. Danny would eventually get married again, once to a Filipina bar girl and then to a waitress in Vallejo, without benefit of obtaining a divorce from his first wife, which troubled me but apparently no one else.

Joe, Danny, Tom and I departed the ship together about 1:00 p.m., happy to be anywhere but onboard. With Joe leading the way, our first stop was inevitably a bar, and with Tommy also pulling on the reins, it was an off-base bar. We found an obliging cab driver who was able to make an end run around the demonstrators, who by that time had organized their members into groups of snakedancers, weaving through the streets, chanting anti-U.S. slogans but being kept at bay by both local police and the Military Police.

The bar was disappointing to all but Joe, who was well into his third round of Old Grand Dad and had lapsed into a somewhat incoherent state. Due to the near presence of the demonstrators, the bar was almost empty, except for the four of us, which eventually caused me to call it a day early and announce my departure. Joe was left with Tom and Danny, both depressed due to the lack of bar girls.

Taxis were hard to find, but one eventually did arrive. The driver, who was marginally fluent in English, wanted to take a different route back to the base, to avoid the demonstrations which, according to the local news reports, had become more and more violent. His suggested route, while more circuitous, swiftly brought us to a point where there was only a narrow, two-lane bridge over a channel before the entrance to the base. Just as the taxi started across, both the driver and I observed the nightmarish scene of more than a thousand chanting demonstrators crossing from the opposite side directly toward us. There was no room for a u-turn and no chance to back up before the cab was surrounded by angry, stick-wielding Japanese.

Discretion being the better part of valor, my first thought was to lie down in the back seat

with my heavy peacoat covering my uniform. It took only a few long moments for the pounding on the cab to commence, first with fists and feet, then with stout sticks, and with such force that it seemed only a matter of minutes before the windows would shatter. I looked outside for some sympathetic face and there was none, merely the recognition that, for these frustrated rioters, they at last had a target, me.

The crowd directly in front of the taxi abruptly began to thin, stopping the driver from abandoning his vehicle and passenger to the whims of the mob. A tank, with a high pressure water nozzle substituted for its cannon, had swung into action, directing its fire to effectively clear a path so that we could proceed across the bridge and through the entrance of the base. I departed the cab as soon as it stopped, pausing only to pay the cabdriver, who was surveying with anguish the damage to his vehicle, which looked as though it had been battered by a Texas-sized hailstorm.

Joe, Danny, Tom and I reunited later that night, as the ship got ready for a shortened stay in port, due not only to the riots but also to the capture of the U.S.S. Pueblo by the North Koreans that same day. The Enterprise turned around the southern tip of Japan and headed for the coast of Korea, where we were to remain for the next month, in frigid waters, as the lead ship in an avenging task force.

I left the Enterprise in August of 1968, heading for San Diego and an assignment with the U.S.S. Sperry, a submarine repair ship. I saw Danny a couple of months later, free temporarily of all three of his wives, having been discharged and now enroute to Mexico. Tom returned to his home state of Colorado, vowing never to see the ocean again. The last time I remember seeing Joe was at a bar at the Alameda Naval Station, toasting my good luck in leaving the ship and his in finding the bar. The Enterprise remains a force, almost forty-five years after she was commissioned, and Japan remains a suspicious friend.

*Don Hurley is an Assistant County Counsel for the County of Ventura and is President of the VCBA.*

## LETTERS TO THE EDITOR

### Editor:

I read with dismay the article in last month's CITATIONS on a book by Steve Bogira. I have not read the book, I don't know Mr. Bogira, and I have never appeared in Courtroom 302 in Chicago, so I am unqualified to comment on those issues. However, I find the tone of Mr. Menaster's review sad. He is clearly a bitter and disillusioned man, who probably ought to retire. His generalized statement that only defense attorneys seek justice is offensive to me. Certainly he has a right to his opinion, but to slam everyone else in such a broad brush fashion is beyond self-serving. Thankfully those of us who work every day in the criminal justice system *know* just how wrong he is and can put his rantings into perspective.

*Gene Kinsey, Deputy District Attorney*

### Editor:

Regarding President Hurley's article on his cruise-ship experience, another interesting article could be written about legal issues relating to "cruising."

If people sat down to read the voluminous fine-print on the back of a cruise contract, they might realize what a leap of faith they make when they board a cruise-liner. Not only that, but there are matters of foreign registration and international conventions as well.

More prosaically, what's the current status and enforceability of forum selection clauses (after all, many cruise lines try to designate places like Florida or Washington as the forum for disputes), especially with regard to less than catastrophic cruise-related cases? What's fair, given the doctrine of mitigation of damages and the frequent presence of stand-by passengers, about provisions forfeiting the entire price of the cruise for cancellation?

What's the record relative to how often cruise contracts have been held to be "adhesive" and provisions like these held to be overly-harsh, unduly oppressive, unconscionable and unenforceable?

Have there been any cruise-ship related disputes heard and decided in our local courts? Was jurisdiction challenged? Were motions for change of venue made and, if so, what happened? That would make for interesting reconnaissance and stimulating reading.

*Mark E. Hancock*

### Editor:

#### Lawyers: Foot Soldiers in the Culture War

"Liberty means responsibility. That is why men dread it." George Bernard Shaw

Last May, I rashly submitted a letter to the editor expressing my dismay that an Inns of Court presentation had been criticized as insensitive to the historical injustices suffered by the Native American people. I had perceived no mean-spirited intent in the presentation. I felt that the scolding was yet another example of the mentality that if one doesn't like what you have to say, you can't say it. Because of the P.C. movement, we have become twitchy and terrified we might inadvertently irritate the sensitivities of people who are, well, professionally sensitive. The Inns of Court promotes professional congeniality, continuing education and civility. Trying to hang on to the civility part of the Inn's standards, I decided not to challenge the speaker directly but left the meeting to consider just what was bothering me.

Some of the presenters were appalled that anyone would conclude that their presentation was racist, insensitive, prejudicial or made at any group's expense. These are all thoughtful, well-educated and extremely nice people. I decided it was time to call a halt to this constant hectoring by the culture police. I view myself as a social liberal and fiscal conservative. I really don't have a viable political party. I am not a red or a blue – probably just innocuously beige. Most of my clients run small to mid-size businesses. They are busy running enterprises that generate taxes and support families. They are too busy to protest historical injustices that occurred hundreds of years ago. They just want the government to leave them alone. This motivated me to speak out for all the boring, distracted beiges about the insidious despotism of the political correctness movement. Well, what was I thinking? Like they say, life is like a nail, if you stand out, you get hammered.

#### The Ventura County Black Attorneys Association Speaks Up

The Ventura County Black Attorneys Association published a letter to the editor in response to my criticism of the P.C. chastisement. Admittedly, I was confused why the Black Attorneys Association was so worked up. I had never actually heard of or seen announcements about this organization. I asked Steve

Henderson, the County Bar Director, about the Association. He explained that it was a small group, comprised mostly of women and Latinos. I guess that's okay. There is no law that I am aware of that requires a minority group to be made up mostly of that minority. Kind of like having the AARP made up of mostly 20-somethings. Hell, why not? A Latino woman member of the Black Attorneys Association speaking out about Native American injustice makes about as much sense as anything else in this politically polarized world. The message is what is important, not how it was delivered.

Since the letter was a "group" letter, and not signed, I asked the Bar how it arrived. I was told that Tina Rasnow, past president of the Bar and renowned local progressive, delivered the letter. Ok. That makes sense. I suspect the Black Attorneys Association did not like what I had to say and that I was hopelessly confused and probably in need of a re-education camp. There is a lot in the letter that I think any lawyer would agree with, as a general proposition; but the BAA's letter is a yet another example of the continuing attempt to impose P.C. censorship on topics that deserve open discourse. I agree with the BAA's assertion that being silent is not an option.

#### The Language Wars

Each side of the political spectrum is evolving its own language. If you are liberal, the immigration issue involves "undocumented workers." If you are leaning to the conservative side, you use "illegal aliens." One side talks about "affordable housing," the other "subsidized housing." If this keeps up, we will have divergent cultures that literally cannot understand each other.

It now appears that various minorities of minority groups have wrested control of the language. Society just seemed to accept, by default, the strange idea that the most sensitive among us shall determine the appropriateness of the dialogue. Now, if someone says something in innocence that is perhaps funny, bawdy or a little risqué, it is the squeamish, fussy and prudish among us with a personal agenda who can take personal offense to close down the discussion. The difficulties I have with the Black Attorneys Association's position is this refusal to allow me to say things that they do not want to hear. Instead of addressing the substance of the speech they attack the very fact that I can even say it.

The casualties of the language wars are not insignificant. Ask Dr. Sommers, the President of Harvard, who had the audacity to suggest that a possible explanation for low participation of women in the sciences might be an innate inability; a genetic lack of proclivity, if you will. The initial media reports described Dr. Sommers as merely listing, in brainstorm fashion, several explanations that might address the issue. A woman scientist in the audience protested, claiming that the assertion made her physically sick, and she stormed out. I have since watched a veritable P.C. feeding frenzy. The media reports have evolved and now claim Dr. Sommers actually proposed, as a fact, that women were innately less able in the sciences. Using this apparent P.C. blunder the Harvard faculty have sharpened their knives and voted no confidence, though their true agenda may be their discomfort with the reforms at Harvard being pursued by the President.

I had thought that universities were the historical sanctuary of intellectual freedom of inquiry. They are now the last bastion of the politically correct inquisition. The absolute rejection of any discussion of the genetic basis for gender differences in the sciences is contrasted by the left's embrace of the genetic explanation for homosexuality. Both subjects should be openly debated and not curtailed by the radical right or left. Let's figure these issues out in an open atmosphere of inquiry without fear of stepping on the sensitive toes of those who are protecting personal agendas.

### **Should There Be A Statute Of Limitations For Historical Injustice?**

No lawyers should be placed in a position to say they are not for justice. The only problem I have with the concept of justice is that it is firmly in the eye of the beholder. History is replete with an inexhaustible supply of historical injustices. The politically correct among us must allow an open debate on these issues. Let us focus on today's issues instead of ancient inequities. Solving historical injustices is a phenomenally intractable problem. How does one go about doing it? Once you open that particular Pandora's Box (which may, of course, be a gender biased metaphor), when do you stop? What is the statute of limitations for historical injustice? If the victim is alive and

has suffered a harm or property loss, I don't believe there are many lawyers among us that would argue that person not be allowed access to the courts for monetary recompense within a reasonable time period. But what I hear from the so-called historical justice society is a desire to punish me for the sins of my grandfather. People who righteously banter the term "justice" in that context are merely arguing present redistribution of wealth. Scrape away the sanctimonious and righteous indignation and what you see is money. So every time I hear somebody justifying their position because "justice requires it," my reflex is to grab my wallet and run.

### **Should The Historically Oppressed Have Special Preferences?**

I do not intend to argue that the Native American people ("Indians" is now politically incorrect) were treated well as various pioneers expanded across America. The process was essentially an ethnic cleansing. The current 200th anniversary celebration of the Lewis and Clark expedition could be viewed as the equivalent of a home invasion robbery. But I am a little hard pressed to imagine how this expansion could have not resulted in unfortunate conflicts for all concerned. Should one wait to be invited to colonize a new country? Should France return the money that Jefferson paid to buy the Northwest territories? Should France give the money to the Indians, adjusted by inflation?

The difficulty with the Black Attorneys Association's historical justice premise is that it views past events through the lens of today's social and legal standards. Instead of beating us around the head and shoulders for the enumerable sins of the past, there should be some recognition that America has been quite successful in evolving and changing the attitudes of people to more closely approximate the ideal. Consider the Civil War as just one example. The ideal that we have as lawyers, and the reason it is such a joy to practice law in America, is the concept that all men are created equal "under the law." What too many people overlook or choose to ignore is that this concept does not mean that all people are actually equal, that all people should receive the same, that all people should enjoy the same result. What it means, and all that it

means, all that can possibly be attained in this country is that we are a country ruled by law and not by men.

"That all men are created equal is a proposition to which, at ordinary times, no sane individual has ever given his assent." Aldous Huxley

The Black Attorneys Association's argument that the sins of my grandfather should be compensated for by redistribution of our tax dollars or providing government forced preferences is an affront to the fundamental concept of freedom in this country. When one allows that particular camel's nose in the tent, the claims are endless and a new oppression grows to replace the old.

It was not that long ago that most men in this country felt quite comfortable with the idea that women were chattel and should not vote or own property. That was the natural way of things. That was the law. Thanks to Wyoming, which did not have many women to begin with, women now have the vote. If we use the Black Attorneys Association's historical injustice premise, we should pass laws redistributing the power to own property to women to even out hundreds of years of inequity. And while we are at it, why not give women 1-1/2 votes to balance out their disenfranchisement over the ages?

### **Let's Keep The Debate Open**

Finally, I think all these issues deserve open and unfettered debate. We need to take these professional racialists to task for hiding behind historical events to push present day political agendas. Just move on. As Alexis de Toqueville observed, the American experiment will last only until the people discover they can vote themselves something for nothing. We need to reclaim the debate from the radical left as well as the right. We seem to be a country of polarized differences. No one is happy. This is great! In a democracy, if anyone is too happy, we have a problem.

"In general, the art of government consists in taking as much money as possible from one class of the citizens to give to the other." Voltaire

*Michael McQueen*



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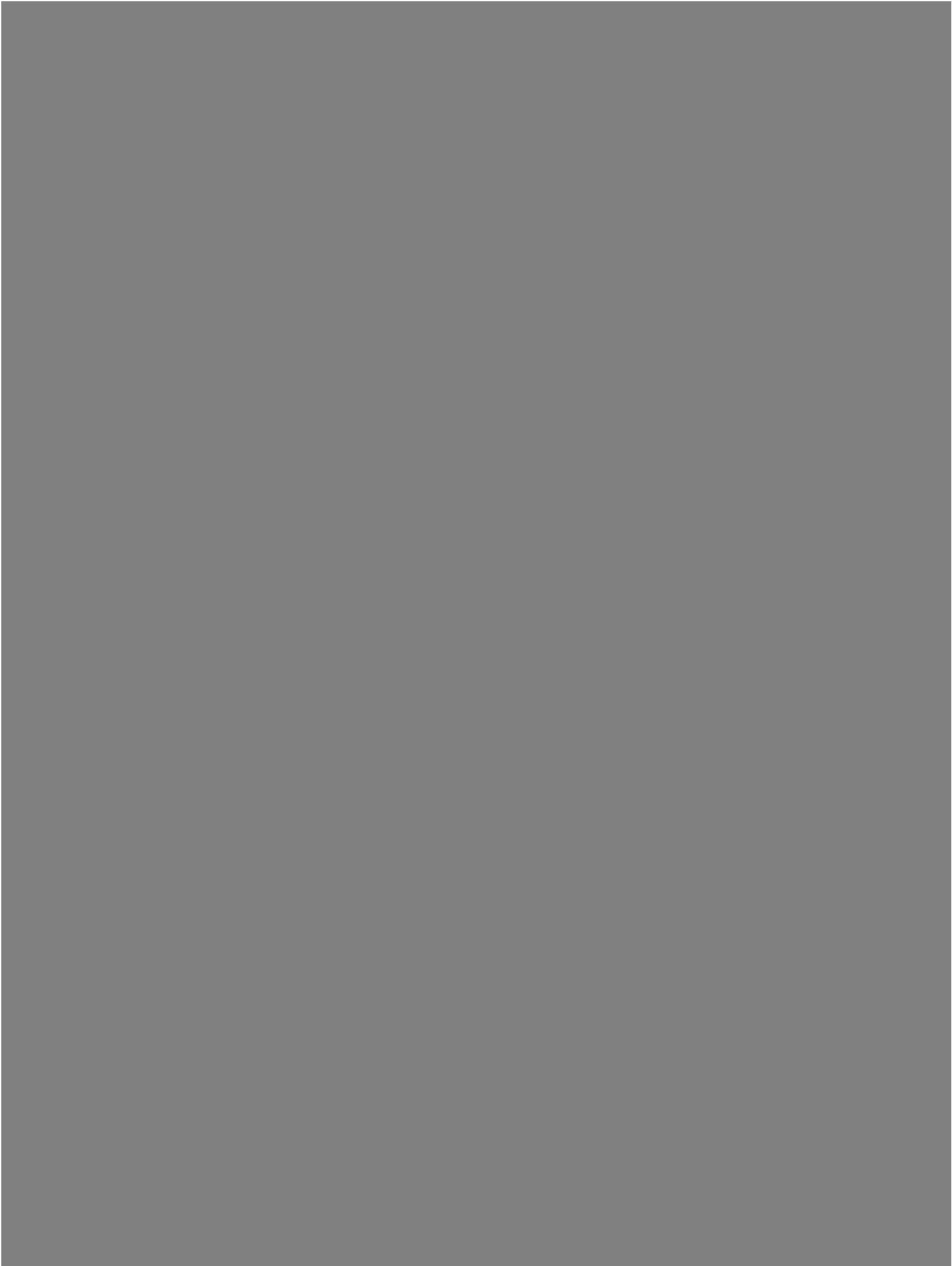
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**Carmen Ramirez** will be sworn in September 9 as a member of the State Bar Board of Governors. Carmen, who now directs the Superior Court's Mobile and Oxnard Self-Help

Legal Access Centers, was VCBA president in 1998. Congratulations, Carmen.

David Shain and Ron Harrington are hosting an open house in honor of Carmen's election Thursday, September 22, 2005, 5 p.m to 7 p.m. at Patricia and Ron Harrington's house, 4313 Westmont Street, Ventura (near the corner of Dean Drive and Westmont, one block east of Camino Real Park). Phone Ron at 658-0998 or David at 659-6800 for information.



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# TRY SKYPE - IT'S FREE!

By Karen Darnall

You don't have to be in a megafirm to get acquainted with broadband telephony. This fresh new jargon "VoIP" (Voice over Internet Protocol) was not in my vocabulary until my daughter moved to London. On the morning of her departure, my daughter emailed instructions for getting Skype, so we could make free phone calls. Her email referred me to <http://www.skype.com>, where I could get VoIP software for free. On the next day, we were already talking through our computer microphones. My daughter's voice from London was so clear she could have been in the same room, though she asked me to use my headset to eliminate annoying echo sounds coming from her computer. (Echo cancellation software for VoIP systems is also available.)

If you happen to be intrigued by Vonage commercials on TV, or if you are just curious about VoIP technology, you should try one of the free (or almost free) broadband-telephone services, such as Skype, JAJAH, GloPhone, or BuddyTalk. VoIP converts your voice into data packets, which can be routed over the Internet just like an email or any other kind of data. You can go almost anywhere in the world. Of course, the computer that you are calling must have the same VoIP software that you use. With Skype, you can use a telephone modem; however the sound quality is much better with DSL.

Perhaps a friend or family member is already using a particular VoIP program? Or, if you enjoy social adventures, you could set your Skype Privacy preferences to "allow calls from anyone." My sister (also a novice Skype-user) was overwhelmed at first, when she received a barrage of international phone calls, mostly from young men. When she mentioned this problem, I told her to change Skype Privacy preferences to "only people from my contacts." Later on that day, my sister in Chicago organized a family conference call, which included our parents in New Mexico. I'm hoping that within the next year or so, we will have regular video conference calls.

It's easy to understand why some megalaw firms have dropped their traditional phone system in favor of VoIP phone service. As a solo practitioner, my international phone-call budget is de minimis. What's more, every time my office building has a power outage, I have to reset my modem connection. Right now, I'm not ready to let go of my landline. But my eyes are definitely open to future possibilities.



*Karen Darnall practices law in Camarillo and is a member of CITATIONS editorial board.*

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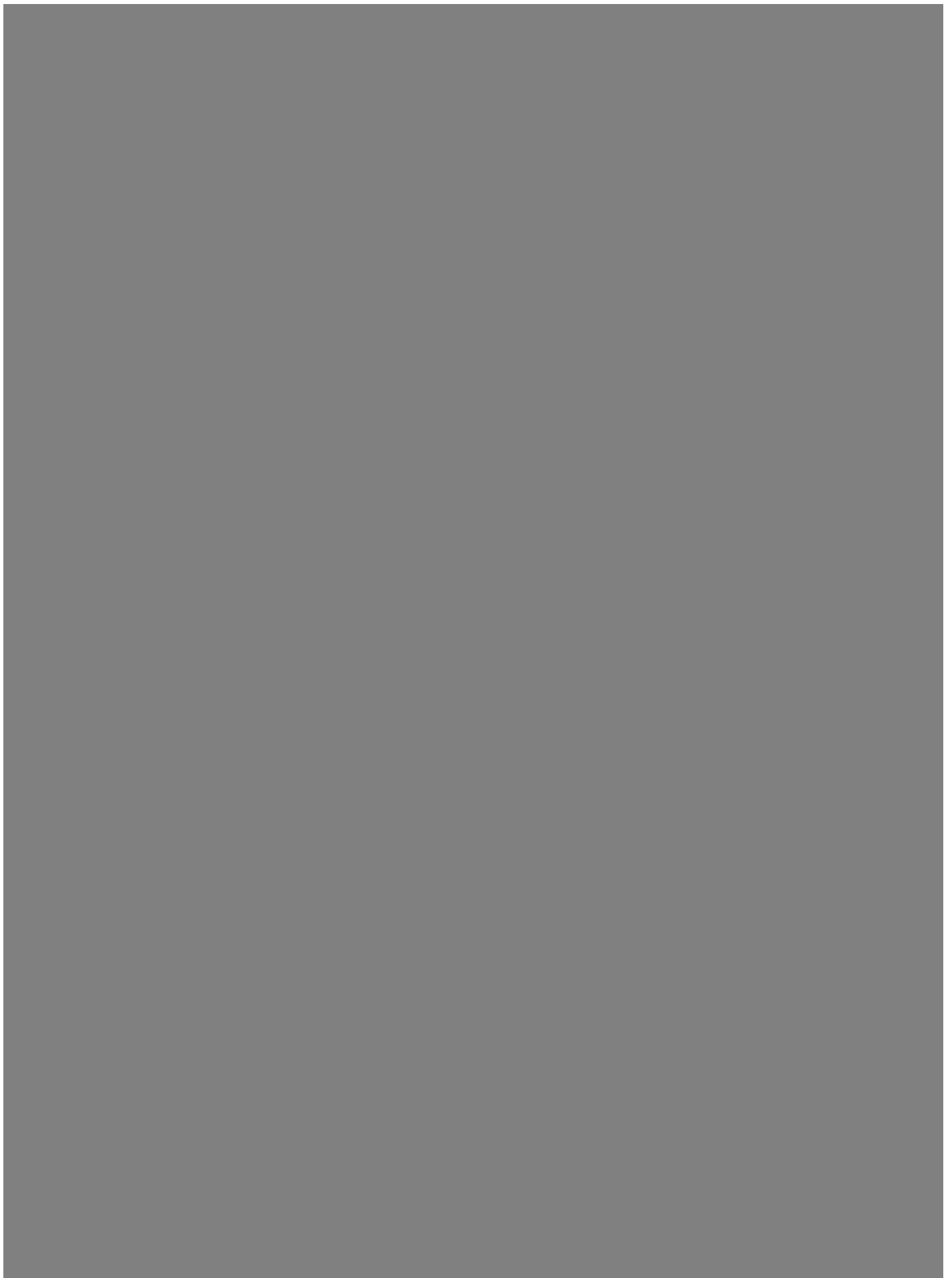
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## WHAT IS A BLOG?

By Greg May

Although blogs are ubiquitous, legal professionals as a group seem to be rather uninformed about them. One tech-savvy lawyer reports that his informal survey at a recent seminar revealed that fewer than 5% of the several dozen lawyers and paralegals in attendance knew what a blog was.

The word “blog” originally started out as shorthand for “web log,” a kind of website on which a person posts mini-essays on anything from politics to cooking to one’s daily life. The blog might have two or three postings a week or a dozen a day. If you are unfamiliar with blogs, this article will make a lot more sense if you look at a few first. Using Google, I found lists of tennis blogs, gardening blogs and cooking blogs all within a minute – but seemingly the most numerous are the political blogs. A sampling drawn from the political realm:

On the right: Radio host and author Hugh Hewitt posts at <http://www.hughhewitt.com>. Syndicated columnist Michelle Malkin posts at <http://www.michellemalkin.com>. David Burge posts political satire at <http://iowahawk.typepad.com>.

On the Left: Internet phenom (not sure he has any other claim to fame) Markos Moulitsas posts at <http://www.dailykos.com>. The American Prospect staff writer Matthew Yglesias posts at <http://www.dailykos.com>. *Washington Monthly* contributing writer and *The Hill* columnist Joshua Micah Marshall posts at <http://www.talkingpointsmemo.com>.

On some blogs, you will see an opportunity to post responses. The comments can be as interesting as the post itself. Many of the blogs also include a “blogroll” – a list of links directing the reader to other blogs, usually of a similar stripe but sometimes covering a broad range of interests. Many blogs also maintain searchable archives of posts and comments.

Don’t be surprised, once you start looking at blogs, to get hooked. It’s quite possible to start on one blog, follow its link to another, and 2 hours and 75 clicks later find yourself clicking right back to where you started.

Some blogs, including the political ones, have served genuine journalistic functions. For example, bloggers were among the very first to challenge the authenticity of documents

Dan Rather used to substantiate a story on President Bush’s Texas Air National Guard service. And it is worth noting that the Democratic and Republican conventions in 2004 both had many bloggers attend as credentialed press. Bloggers even deliver the equivalent of live news coverage (or commentary), “liveblogging” important events like speeches or debates by describing the event and offering a running commentary. It takes a fast typist and someone unafraid to show the world their stream of consciousness to do “liveblogging.” Search “liveblogging” using the Google search engine for current and archived liveblogs.

Not everyone is happy about the impact of blogging on journalism. When the Dan Rather controversy broke, news executive Jonathan Klein disputed bloggers’ journalistic bona fides, saying in a televised exchange that “Bloggers have no checks and balances ...[it’s] a guy sitting in his living room in his pajamas.” (The bloggers dogging Dan Rather started referring to themselves as the “pajamahadeen.”) One newspaper article in late 2004 described the blogosphere as “the chaotic new media world where questionable truths joust with plausible fictions, agendas are often hidden, and motives are frequently mixed, and millions of ordinary citizens clamor to offer their own rumors, opinions and jeremiads. All of which is either very bad or very good for the republic and the future of the American free press, depending on your point of view.” (<http://www.billinggazette.com/index.php?id=1&display=rednews/2004/09/19/build/nation/55-bloggers.inc>).

Legal issues abound for bloggers. Defamation and copyright infringement are always a concern. The quasi-journalist status of some bloggers raises the interesting question of whether a blogger could be compelled to reveal a source.

Which makes for a very rough transition to the subject of legal blogs. Not blogs about the legal issues in blogging (though that probably wouldn’t be hard to find), but blogs by lawyers. That’s for the next article.

*Greg May is a Ventura lawyer, and a member of CITATIONS editorial board.*

# LOCAL ATTORNEYS CAST IN NBC REALITY SHOW

By Panda Kröll

What do you get when your firm brings suit against ABC for theft of intellectual property? A role on an NBC reality show (or “alternative drama,” as the network calls it)? CITATIONS learned in an exclusive interview with Ventura County attorneys-cum-reality show-contestants that what really counts in Hollywood is being in the right place at the right time, and not being intimidated by the interview process.

You may have recognized two of the twelve contestants on the season premiere of “The Law Firm,” David E. Kelley’s first venture into reality television. Local attorney contestants cast on the show included **Anika Harvey**, who interned with the Ventura County District Attorney’s office, and **Jason Adams**, a partner in Adams Noblin Vrataric, LLP. The show, which aired on NBC, was moved this month to the Bravo Network. The show uses a Court TV-meets-Apprentice elimination format. Contestants represent clients in legally binding conflicts while competing for a \$250,000 prize. Jason’s firm’s website, [anvlaw.com](http://anvlaw.com), not only describes his firm’s ABC litigation, but also links to the NBC show’s official website. Jason and Anika gave CITATIONS an exclusive interview soon after the show was first aired. We were joined by Jill Carmen, a network public relations representative. CITATIONS began with a question about the contestants’ contractual obligations.

**Jill, must NBC “chaperone” all interviews with this show’s contestants?**

*Jill Carmen:* We try. As with all reality shows, contestants are under certain obligations as to what they can and can’t say; that’s standard fare for reality shows. But we are also able to help with certain production questions that the contestants may not be able to answer.

## JASON’S VIEW



**Jason, how does a Ventura County lawyer get cast in a major network reality show? Did you mention the ABC litigation in your application?**

*Jason:* No. In fact, I was in the middle of jury trial in Los Angeles, when a colleague mentioned that he needed a ride to his try-out at NBC studios. As I waited for him at the studios, casting people were walking back

and forth, and encouraged me to fill out an application. It was a full three inches thick and I was busy with the trial. But I took it and did my best. The next day, in a lunch break from preparing witnesses, I faxed in the app. Next thing I knew, I was in a series of interviews, psych evaluations. Then I had a microphone taped to my back and I was on TV.

**Why do you think you make the cut?**

*Jason:* I had a great time with the interview, unlike other applicants who I saw studying note cards. I acted like myself instead of being too serious.

**Please describe your experience.**

*Jason:* It was a once in a lifetime opportunity that fell in my lap. I had a great time and learned a lot from some great lawyers. [Ed.: Trial attorney and law professor Roy Black serves as the show’s “Managing Partner” and Trump-style eliminator.] The show’s premise is these are actual clients and cases that need attention. We spent 22 hours a day working with clients and witnesses, looking up statutes, and preparing for trial.

**In the first segment, your team won your client’s suit, but you were the first to be eliminated. How has your life changed since then? Have you been on a press junket?**

*Jason:* Actually, this is my first interview. But I feel a “juggernaut” effect kind of happening. For example, I have been getting looks at Starbucks as the show builds in notoriety.

**How did your fellow partners feel about your participation in the show?**

*Jason:* They were very supportive and appreciated what an opportunity it was for me, even though it meant that I would be unavailable for up to 5 or 6 weeks.

**How did the “clients,” whose matters were decided in the show, seem to like the experience?**

*Jason:* Our clients had a great experience because their cases were handled much faster than they would have been in a traditional court setting.

**Is this a good show for lawyers to watch?**

*Jason:* Yes, absolutely – lawyers in particular will find it educational. Great cross-examinations, great closings – stuff you pay for in seminars.

**Any application advice for Ventura County attorneys who want to be on a reality show?**

*Jason:* Be yourself times 10.

## ANIKA’S OUTLOOK



**What is your connection to Ventura County?**

*Anika:* I was recruited out of law school in 2002 by members of the D.A.’s office who saw me at a regional competition of trial advocacy.

**Why do you think you made the cut? People I spoke with from the D.A.’s office say you are quite attractive and your “bio” for NBC’s website self-describes you as “Sass and A–.”**

*Anika:* First and foremost, it’s what I do in court that counts. I have great experience as a trial attorney from the D.A.’s office. But I also have personality and an undeniable physical presence in court. When I was in Ventura bopping down the hallway, people would say, “You are so SPICY. Like paprika.” They would say after a trial, “Hey pappy, paprika, how did it go?” That’s the sass. As for the a–, that’s catchy and funny. I have a good sense of humor. It’s undeniable that people say “Wow,” when they see me. They also see my passion, however. They listen to me, they believe me, and I get the verdict.

**What was the best part about being on the show?**

*Anika:* I have a prosecutor’s mindset, so defending clients in a civil setting was a personal challenge, as was working with a group. I’m used to working independently. But that’s why I applied. I wanted to stretch.

*Inquiring minds would like to know: Why did you leave us and where are you now?*

*Anika:* I'm from the East Coast, and after I passed the California Bar, I moved back home to D.C. I am now working as a prosecutor in Maryland, as an Assistant State's Attorney.

*Has being on the show affected you professionally?*

*Anika:* Just today a judge told me after court, "I normally don't watch reality TV; but I watched your show. We're so proud of you." I haven't lost any credibility.

*Do you think people are jealous of your experience?*

*Anika:* Of course. Defendants and defense attorneys try to use it against me. I heard a lot of jokes about "Big dogs running, big dogs out," a line from the show. But what matters is that I am a good attorney.

*Any advice for attorney/contestant "wannabes"?*

*Anika:* Take yourself lightly and be great at what you do.

Camarillo attorney Cassandra Clingan, who has created a website, RealityShowReject.com, told CITATIONS that while she had applied – and has been given call-backs – to such reality shows as Amazing Race, Survivor and the Apprentice, she declined to apply to "The Law Firm" because she felt it crossed the line between "fun and adventure" and "bad career move." She would, however, "gladly eat bugs for a month" for a million dollars.

*Panda Kroll is an associate at Norman, Dowler, Sawyer, Israel, Walker & Barton in Ventura and a member of the CITATIONS editorial Board.*

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# CATCHING UP WITH... JOHN HOWARD

By Richard Norman



John Howard participates in some pretty interesting extra curricular activities, not the least of which is playing on an Australian baseball team.

***Is it true you play for an Australian baseball team?***

Yes.  
(As John knows, being a trial lawyer, anything beyond this short answer would be non-responsive.)

***Tell me how you got started with this?***

*(I am inviting a narrative answer.)*

I played baseball with Bob O'Connor, a former deputy district attorney in Ventura County. Bob moved to Saipan. While there, he started playing baseball with an Australian team. The Australian team needed a couple more players and asked Bob if he knew of anyone who might be interested. Bob told me and I contacted a friend of mine from Pasadena. The two of us went to a try out and made the team.

***When and where does this Australian team play?***

Every year in October, there is a Senior World Series in Arizona. Teams from all over the world compete. There are various age brackets from 35 to 60 and over. It is a pretty big deal. The Australian team typically enters the tournament every other year.

***What about this year?***

This year, the Australian team participated in the World Masters' Games in Edmonton, Canada. This event is held every 4 or 5 years. It is like a senior Olympics. Senior athletes participate in all sports, including baseball.

***Did you play with the Australian team this year?***

Yes, we played in Edmonton. I could only stay for 3 rounds.

***How did the team do?***

The team made it to the medal round, not beyond.

***What positions did you play for the team?***

I played third base and center field.

***How did you do, any heroic events?***

I did OK. I got on base and made some good plays.

***How did you start in baseball?***

I played Little League. I was a Little League All Star. I played some baseball in high school and college and later played semi-pro baseball. My college baseball career was short lived because I got into football.

***Have you played for any Senior World Series teams other than the Australian team?***

Yes, I've also played for a team from San Diego. I will probably do that again next year since the Australian team won't be coming to the Senior World Series. However, I plan to stay with the Australian team whenever it does come. Also, my friend and I may go to Australia next year and play for the Australian team for a tournament there.

***Do you participate in any other sports activities?***

Yes, I am a volunteer assistant coach at Villanova High School for both the baseball and football teams. I have been doing that for about 4 years.

***How are you able to do that and maintain a trial practice?***

It is sometimes tough. The practices are generally at 3:10 p.m., and the games are generally on a weekday, sometimes weekends. Except when I am in trial, I am able to balance my schedule so that I can make the practices and games.

*Richard Norman is of counsel to Norman, Dowler, Sawyer, Israel, Walker & Barton in Ventura, and a former president of VCBA.*



## A FUNNY THING HAPPENED AT THE CLERK'S WINDOW...

So, an attorney walks up to a superior court clerk's window on a Monday and presents an ex parte application for an ex parte set for Tuesday. His declaration states that all parties were notified the previous Thursday, at the time the hearing date was reserved. The clerk refuses to file the document because the attorney gave too much notice. She tells him to give notice again, and come back in the morning with an updated declaration. Ba-dum-bum-chhh!

Did you miss the punchline? So did the attorney.

California Rules of Court, rule 379 subdivision (b) in pertinent part requires notification of all parties by 10:00 a.m. the court day before an ex parte hearing. Absent a requirement in the Code or the Rules of Court, a provision in a court's local rules would control only if the provision did not conflict with a state rule.

California Rules of Court, rule 981.1, subdivision (a), informs that the Judicial Council preempts local court rules relating to many fields, including ex parte applications. "No trial court... shall enact or enforce any local rule concerning these fields." Unless

permitted by statute or Judicial Council rule, "[a]ll local rules concerning these fields are null and void." However, rule 981.1, subdivision (b) allows for exceptions in certain areas.

The Ventura County Superior Court Local Rules may be found at [www.ventura.courts.ca.gov](http://www.ventura.courts.ca.gov), by clicking on the "General Information" tab, then on the "Court Rules" tab. The following Local Rules reference ex parte proceedings: Rules 3.20, 9.04-9.09, 10.00(d), and 15.00-15.03. No rule prohibits giving notice more than 24 hours in advance.

We're not certain which rules the clerk was following in this instance, but it's a funny story.

*Alfred Vargas is an attorney at Lascher & Lascher in Ventura, and a member of CITATIONS editorial board.*

The CITATIONS Editorial Board has become the de facto repository for superior court clerk stories. The Board has attempted to resolve recurring issues for the past four years. If you have any recent funny stories to relate, please email [alfred@lascher.com](mailto:alfred@lascher.com) for inclusion in future articles.

## THE 1ST ANNUAL VCAABA CHARITY TENNIS OPEN

The 1st Annual VCAABA Charity Open was held at the Pacific Tennis Club, Westlake Village. Sixteen players survived the blistering hot July 24th afternoon, but everyone still had fun despite the heat! Over \$750 was raised to benefit VCAABA's scholarship fund, which will be awarded to deserving local law students who have demonstrated a commitment to pro bono work and to serving the Asian Pacific American community. Although Judge Kevin McGee could not play, he still made a donation to the cause. Almost everyone walked away with a door prize.



VCBA members participating: Kevin Dorhout, Donn Taketa, Cheri Kurman, Mark Miller, Mark Fang, Kassandra Clingan, Dien Le, Ruth Morrow, Mitch Noda, and Petrina Hsi (non-player).

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**SUE O'BRIEN**

Sue O'Brien, a colleague and friend, a devoted mother of two children, and the spouse of Michael O'Brien, died August 5, 2005, from cancer, which she had fought for two years. She was a 1969 graduate of UCLA and a 1973 graduate of Loyola Law School. Sue worked as an Assistant County Counsel for Ventura County for more than 11 years, advising school districts, the personnel board, and many other County agencies. During her time with the County, she was recognized for her ability to respond to the most complex of issues with clarity and precision. When Mike and Sue had their first child, Katy, in 1984, followed by Chris in 1985, she decided to take some time off from practicing law to be with her children.

She was a part-time associate of Myers, Widders & Gibson from 1992-1998. She would never agree to work full time, always keeping her husband Mike and her children her number one priority. She had it right!

Sue was a wonderful person who contributed to so many community functions and was especially active in school functions, such as the PTA. It was never enough for her just to be part of any group, Sue felt compelled to actively participate, to contribute in whatever way she could. She was a member of the legal community and we were always proud of her demeanor and knowledge. We will miss her in so many ways.

*Thanks to J. Roger Myers and Don Hurley for this tribute to Sue O'Brien.*

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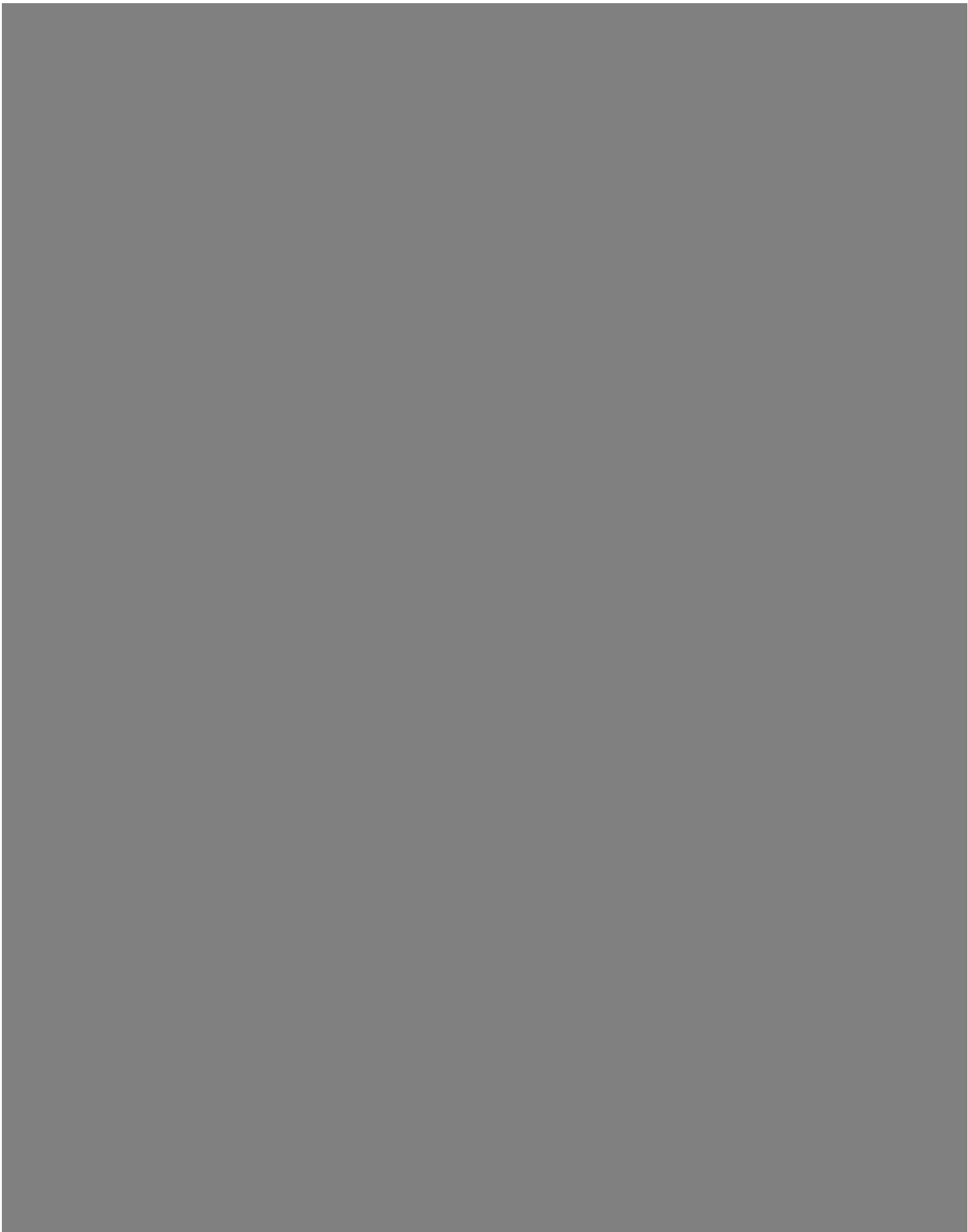
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By Alice Duran  
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We are most fortunate to have two new members join our VCBA/VLSP, Inc. Emeritus Attorney Team.



**Dolores Anderson** comes to us with just short of fourteen years of service with Child Support Services when it was still in the District Attorney's Office, and private family law practice. Dolores lives in Ventura and during

her retirement she has served four one-year terms on the Ventura County Grand Jury.



**Byron Lawler** is a graduate of U.C.L.A. School of Law, admitted to the State Bar in 1964. He brings us extensive litigation experience, having worked with the legal department of the Union Pacific Railroad

from 1964-1969, then as a senior partner in the firm of Stockdale, Peckham, Estes, Lawler & Iorillo from 1969-1999, Lawler, Bonham & Walsh from 1979-2000, and Lawler Enterprises 1990 to present. Byron has been an arbitrator, settlement officer, and judge pro tem for the Ventura County Superior Court. He has also written for several publications and has participated in several reported appellate cases.

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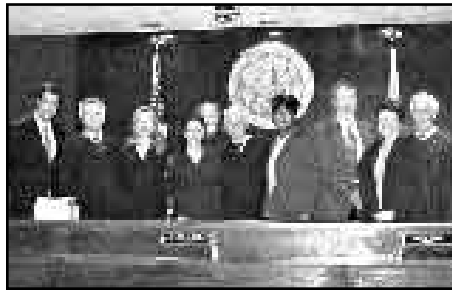


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## JUSTICE ABBE MOOT COURT HONORS COMPETITION



Left to right: David Glassman, Honorable Steven Z. Perren, Shanley Curran, Melissa Hatch, Michael McMahon, Honorable Arthur Gilbert, Rosalynnda Morales, George Rapacki, Wendy Lascher, Honorable Paul H. Coffee

Presiding Justice Arthur Gilbert and Associate Justices Paul H. Coffee and Steven Z. Perren donated their time and use of their courtroom to judge the final round of the Justice Abbe Moot Court Honors Competition. The annual competition pays tribute to the memory of Justice Richard W. Abbe, who served Division Six from 1982 to 1990.

This year Michael McMahon and Wendy Lascher, adjunct professors at the Santa Barbara and Ventura Colleges of Law, coached students Melissa Hatch and George Rapacki, who received the Justice Richard W. Abbe Award. David Glassman, adjunct professor at the University of West Los Angeles, coached students Rosalynnda Morales and Shanley Curran, who received the Barry Levin Award, given in memory of the UWLA professor.

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*Submitted by Michael G. Walker*

Footnote 1 to the majority in *Oakland Raiders v. National Football League* (July 28, 2005, No. H026688) \_\_\_ Cal.App.4th \_\_\_ says the court “will use the name ‘Raiders’ in reference to the business entity (NFL club member); thus, its association with singular verbs is appropriate.” But Justice Conrad Rushing would not take the easy way out. His concurring opinion:

“The Raiders *are* a diverse group of athletes. But despite such pluralism, the Raiders *is* a singular football team, and because of this, I must concur in the technical propriety of such phrases as ‘the Raiders asserts,’ ‘the Raiders does not contend,’ and ‘the Raiders was discriminated against,’ which appear in the main opinion. However, although these phrases may be sound, their sound, to me, is personally foul and deserves dissent, if not a 15-yard penalty and loss of down. This is especially so when the phrases are read out loud.

“I have long been a loyal fan of grammatical agreement. The natural harmony between subject and verb is usually euphonious. But my boosterism has not deafened me. Though the merits of agreement may be great, here it is grating. The phrases noted above are like blasts from an air horn or plastic trumpet, blaring technical correctness.

“Obviously, with a subject like ‘the Raiders,’ the writer enters the challenging zone of subject-verb agreement. And in this appellate opinion, I do not think we should have simply agreed to ‘disagreement.’ However, I believe we could have reached our goal of meaning and avoided fumbling dissonance with a judicial substitution: pulling ‘the Raiders’ and going with a second-stringer like ‘the plaintiff.’”

## EAR TO THE WALL

**Spring M. Robinson**, a second-generation native of Ventura County and a graduate of University of California, Hastings College of Law has joined the Real Estate Law Group at **Nordman, Cormany, Hair & Compton**. 1000 Town Center Drive, Sixth Floor, Oxnard 93036. (805)485-1000.



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## THE DINING ADVOCATE

By *Michael L. McQueen*

When I first heard of "Progressive Dinners" I mistakenly believed them to be liberal Democrat fundraisers. Obviously, not the case. It is a fun way to meet new friends who share your enthusiasms and expand your culinary horizons.

Though many of our Southern neighbors view Ventura's restaurant scene as mundane, a number of restaurant entrepreneurs are applying their creativity and love of the art of food to raise the bar for culinary experiences in this County.

Giovanni Tromba is a long-time Ventura County restaurateur. He is the proprietor of the newly renovated Table 13 in Ventura. He is also pursuing a new venture, Bistro 13, to replace Pastabilities in Camarillo.

Sheila Waldie has had a long history with numerous restaurants throughout Ventura, but wanted to make her own statement and has done so in Camarillo with Sheila's Place, an elegant wine bar and bistro.

Putting their creative heads and hearts together, Giovanni and Sheila threw a progressive dinner. On a Thursday evening the participants, about 45 food enthusiasts, arrived at Sheila's Place for Champagne and cocktails. Then three of the

largest stretch Hummer limos I had ever seen arrived and we departed to Ventura for our visit to Table 13.

Giovanni Tromba had a representative from the Western Division of American Wine and Spirits there to explain the background and history of the fine Argentine wine that was served with a first course of seared scallops, artfully presented, followed by a delicate duck-filled ravioli. Having shared a couple of splits of Champagne in the exotic Hummers, the group was enthusiastic and somewhat boisterous, forcing Mark to give our table a private seminar on the fine accomplishments of Argentine vineyards.

The revelers were now in a totally festive mood. We climbed back into the Hummers, this time in a playboy themed one with red laser lights and thumping music, for our return trip to Sheila's Place. Normally, I am a bit of a curmudgeon, leaning towards sedate classical music but the laser lights, Champagne, Argentine wine and fine food created a convivial party atmosphere that actually cajoled me into a good mood, on Thursday night, no less.

Arriving at Sheila's Place, we settled in and were

served a delicate and extremely tender elk steak laid over a bed of purple mashed potatoes with a juniper berry marinade, baby carrots Vichy, finished with wild berry demi glace. The meat was not at all gamey, it had a unique but pleasant taste and was quite lean. Sheila's Place has a vast array of vintage wines, and served a number of fine cabernets that complimented the dinner. Chefs Gael Lecolley and Jeff Boullion concocted a fine and memorable culinary experience.

Both Sheila and Giovanni embrace the idea that food should be an experience of the senses, entertainment designed to promote companionship and new friends. They are dedicated to providing a high end dining experience comparable with any you would find to the south or north of our bucolic little community. Both establishments are highly recommended. In the spirit of full disclosure, I do represent both establishments, but I don't allow client loyalty to interfere with my appreciation of fine food.



*Michael McQueen practices law in Camarillo and is a member of CITATIONS editorial board.*



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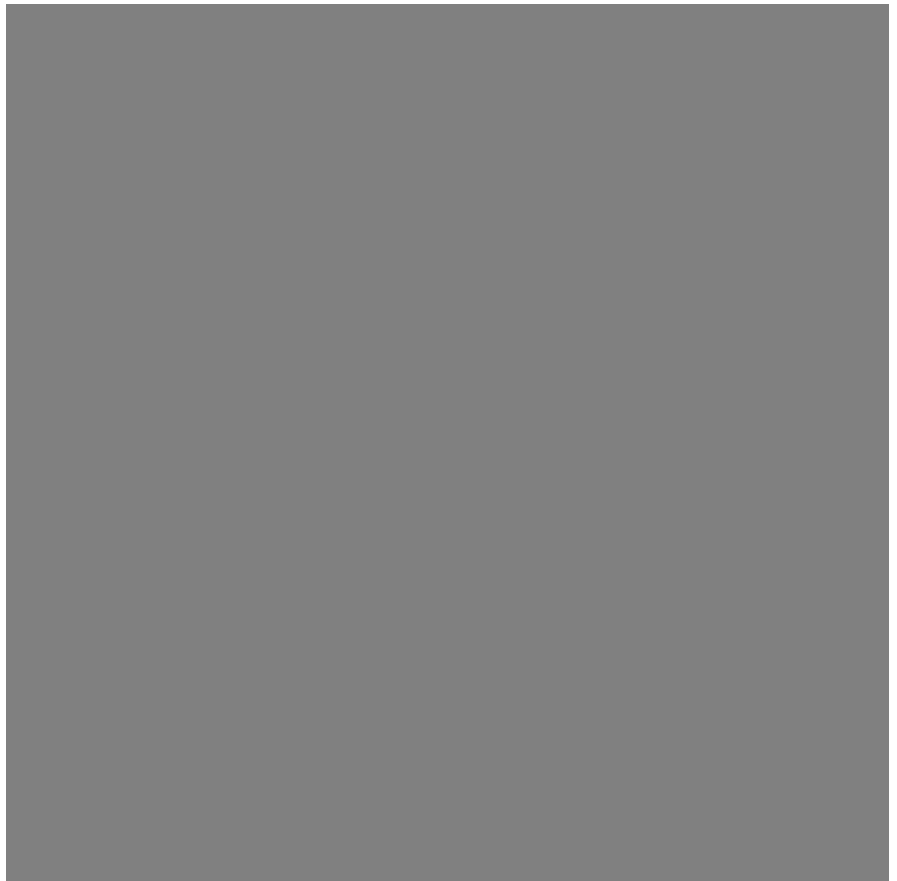
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### BOOKS UP FOR BID

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**Mitch Noda** is the newest member of the Ventura County Asian American Bar Association board of directors. He replaces **Sharon Yoon**, who is now a work-at-home mom with a new baby, Alyssa Nicole –born May 11 at 6 pounds and 3 ounces. VCAABA hosts Senior Circuit Judge A. Wallace Tashima, the first Japanese American appointed to the U.S. Court of Appeals for the Ninth Circuit. He is currently the highest-ranking Asian American in the federal judiciary. The dinner will be at the Hyatt on September 20... From Cervantes: “But do not give it to a lawyer’s clerk to write, for they use a legal hand that Satan himself will not understand.”... And another from Elbert Hubbard: “Lawyers are men whom we hire to protect us from lawyers.”... Looney Laws: Canadian law states that citizens may not publicly remove bandages...

**Robert Lee Finestone** (59356), died April 29 after practicing law in Westlake since 1974... Also departing our bar is **John Schaeffer** (22631) July 21 in Ojai. He practiced law for nearly 50 years, much of that in the Bay area where he was admitted in 1951...

Kudos to **Susan Ratzkin** and **Robert Guerra** for receiving the State Bar of California’s prestigious Pro Bono Public Service Award. **Chief Justice Ronald George** will bestow the honors September 9 in San Diego during the State Bar’s 78<sup>th</sup> Annual Meeting... From actual court records – Counsel: “I would like to say that the reason I did not show up to court is that before I am a lawyer I am a servant of the Lord Jesus Christ and everything I do is subject to him, and he told me.” Judge: “Who told you?” Counsel: “Jesus Christ.” Judge: “He told you?” Counsel: “That I should not go to court on Thursday or Friday and that he instructed me not to even call in on Friday, and that is why I did not come in, and when he allows me to come in, I come in. I go where he allows me to go and I do what he tells me to do. I cannot let any court supercede that. That is a right set up by the founding fathers of this country.” Judge: “What is the message today?” Counsel:

## EXEC’S DOT...DOT...DOT...

By *Steve Henderson, Executive Director*

“The message today was to come in.” Judge: “As of now, the message is going to be that you are going into custody”...

Don’t forget the 4<sup>th</sup> **Annual Mexican American Bar Association Scholarship dinner** set for the 30<sup>th</sup> at the Courtyard by Marriott. There’s a promotional brochure stuffed inside. Proceeds benefit law students in our county. They raised nearly six thousand dollars last year and they anticipate more generous participation this year because they’ve added an art show and dancing. Call **Herman Mora** at 486-3362 for details about tickets and direct giving... From Alexander Pope: “The hungry judges soon the sentence sign, and wretches hang that jurymen may dine.”... A private developer contacted the local government in Supreme Court Justice David Souter’s hometown in New Hampshire asking that the property of the judge who voted in favor of a controversial decision allowing a city to take residents’ homes for private development be seized to make room for a new hotel. Logan Darrow Clemens faxed a request to Chip Meany, the code enforcement officer of the town of Weare seeking to start the application process to build a hotel on 34 Cilley Hill Road, the present location of Souter’s home. ([www.weare.nh.gov](http://www.weare.nh.gov)). I’ve left a couple messages with city staff and have yet to get any calls returned... Immediate past president, **Phil Panitz**, finally tied the knot August 20 at the Wynn Hotel in Vegas and honeymooned in Hawaii. Molly and Phil were engaged on New Year’s Eve 2002...

As usual, and for the 14<sup>th</sup> time, **Roger Myers** coordinated the legal portion of the Stand Down Program held July 22-23 at the National Guard Armory. Stand Down is a statewide effort born in the early nineties, assisting homeless veterans with a variety of economic, medical, social and legal issues. Faithfully aiding Roger on the civil side were **Glenn Campbell, Bill Raymond, Ron Harrington, Dan Palay** and **Ben Schuck**. On the criminal side, DDA **Ron Carpenter**, and from the PD’s office, **Duane Dammeyer** and **April Allen**. **Nancy Aronson** was the pro tem for the day (nicely substituting for **Judge John Dobroth**) clearing misdemeanors warrants... From Jonathan Swift: “It is a maxim among these lawyers that whatever hath been done before may legally be done again, and

therefore they take special care to record all the decisions formally made against common justice and general reason of mankind. These, under the name of precedents, they produce as authorities, to justify the most iniquitous opinions.”...**Rob Sawyer** completed his 3rd marathon, running a 4:48:42 July 31 in the San Francisco Marathon.

**Melissa J. Hill**, Ventura Superior Court Research Attorney and 2004 chair of the VCBA Delegation to the Annual State Bar Conference of Delegates, has retired for health reasons. Melissa plans to relocate and recuperate in her new home in Lake Oswego, Oregon. Melissa counsels her fellow attorneys to take time to smell the roses, and warns that “all work and no play not just makes for a duller life, but can have serious consequences for your health.”...Real World Rules by Bill Gates: “Life is not divided into semesters. You don’t get summers off and very few employers are interested in helping you find yourself. Do that on your own time.”...JP Morgan Chase & Company will issue Visa-branded, prepaid debit cards to replace paper checks for child support payments in Arizona. The state will also offer the cards to recipients of unemployment benefits as an alternative to checks...And from Bernard Shaw: “Only lawyers and mental defectives are automatically exempt from jury duty.”...Outrageous Lawsuits via the American Tort Reform Association – A man sued Anheuser-Busch for \$10,000 for false advertising. He claimed that he suffered physical and mental injury and emotional distress from the implicit promises in the advertisements. When he drank the beverage, success with women did not come true for him, plus, he got sick. The Michigan Court of Appeals affirmed a lower-court decision dismissing the case...

*Steve Henderson has been the executive director of the bar association since November 1990 and will be turning 40 on the 15<sup>th</sup>. His favorite beer (Red Stripe) can be delivered to the office and donations to the VCBA/VLSP, Inc. may be sent to the same location. And finally, he has absolutely, positively, never used steroids and would so testify before a Congressional Committee. Of course, he can be reached at [steve@vcba.org](mailto:steve@vcba.org).*





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