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# CITATIONS

M A R C H - T W O T H O U S A N D N I N E

## A NEW FORM FOR END-OF-LIFE PLANNING

*By Jeffrey W. Loebel*

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## PRESIDENT'S MESSAGE

*By Tony Strauss*

The future looks good for lawyers in Ventura County. At least that is the conclusion reached at the VCBA Board's Retreat on February 7. Seventeen board members and two past presidents spent an entire Saturday morning discussing the role lawyers and the Bar Association will play in decades to come. The discussion was facilitated by Stuart Forsyth, the Executive Director of the Los Angeles County Bar Association, with the assistance of our Executive Director, Steve Henderson.

Stuart, who is a lawyer, has trained as a "legal futurist." He told us that means something other than a fortune teller reading a crystal ball. Rather his approach is "visioning" to create the future that you want. Most all who read this article will at some time have been in a strategic planning session for this or that organization. The components of a strategic plan require having both a "mission" and a "vision" for the organization. The mission is the purpose, the *raison d'être* of the organization. Turn back to the front cover of this issue of CITATIONS and the mission of the Bar Association is right on top. But a vision is not so easily stated. It is the passion, the thing that motivates people to give their time and treasure to an organization. Stuart said that one of the best examples of a vision statement is Martin Luther King's "I Have a Dream" speech.

Because the purpose of the retreat was to decide what the board wants to do, Stuart set us to the task of determining what we envision for our futures. In scenario planning, you cannot predict the future. However, you can plan for different possibilities or "Alternative Futures." From this you may have a "Preferred Future." Still, you need to plan for different scenarios in the event your preferred future does not come to pass.

Stuart asked us to pick a date either 10, 20 or 30 years out. This would be the time for scenarios about how we see the practice of law and the role of the Bar Association. The group picked 2030. We then divided into three smaller groups and spent 45 minutes discussing within the groups what we saw, or hoped to see, 20 years hence. The groups each then reported their findings.

Surprisingly, the members within the groups and the groups themselves saw very similar futures. Remember, our Board is comprised of representatives of many of the Bar sections and affiliates, including the Asian Bar, Black Attorneys Association, Barristers, MABA, Women Lawyers, East County, West County, Criminal Defense, DA, PD, County Counsel, etc. We ranged in age from under 30 to almost 60. Add to the mix that we are all opinionated attorneys, and the fact that we agreed on anything was remarkable.

So what did we see? We saw fewer, not more, lawyers per capita caused by the increased cost of higher education and changing demographics in California (and nationwide). We also saw that more people will be priced out of obtaining the services of a lawyer. Our profession will have to help fill the gap through pro bono and other programs to provide services for those left out. Nonetheless, attorneys and judges will be less relevant to a large part of the population that goes unrepresented. Community and other inexpensive forms of ADR will be more widely used.

We saw smaller, not bigger, law firms which have relationships or "strategic alliances" with other firms so as to share costs and expertise. More attorneys will work from home. The Bar is the coordinator or clearing house for sharing resources with a "Law Firm Technology Center," in which state-of-the-art technology is available for all members. The Bar also sponsors benefits not otherwise available to the small practitioner, such as a retirement plan, insurance and other benefits, with participation conditioned upon pro bono or other similar legal services. The Bar remains the main source of MCLE and is active in community outreach and public education.

A universal theme among the "preferred futures" envisioned by the groups is retaining the "small town" feeling among lawyers. No one wants the anonymity or acrimony of big city practice. In fact, interaction among attorneys is more critical in our future because of the needs to share resources, to mentor young lawyers and to provide social interaction for those who are practicing at home. The Bar plays a major role in providing the avenue for these exchanges. All members of the Bar, be they in the East County or the West, regardless of type of practice or other defining attributes, feel that they are members of the same community.

OK, that is 20 years from now. What does this have to do with deciding what this year's Board members are going to do? Stuart's answer was to challenge the group to determine what core values our visions represent. Once we identify those core values, we can look at what we are doing to see if our acts promote those values. We can also begin to plan the actions that will create the future we envision. We adjourned agreeing that a smaller group of Board members will meet to synthesize our thoughts on a single sheet of paper to serve as a yardstick by which our endeavors can be measured.

Was this a worthwhile experience? The 19 participants were energized. The Board meeting that we had the following Wednesday was the liveliest in my five years on the Board. And now when asked "What does a member of the Board do?" I can respond, "We are planning and implementing the future of our legal community."

PS. Many thanks to Joe Strohman, whose notes of the retreat were very heavily plagiarized for this article.

*Tony Strauss is the principal of Strauss Law Group in Ventura. He practices employment law and employment, business and real estate litigation with his son Mike and colleague Bruce Crary.*

## Letter To The Editor

CITATIONS received a letter to the editor this month. The writer groused about CITATIONS' calendar entry for February 16 as "President's Day." While the editor deplors misplaced apostrophes, CITATIONS does not print anonymous letters.



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# A NEW FORM FOR END-OF-LIFE PLANNING

By Jeffrey W. Loebel

## INTRODUCTION

Patients are now able to make end-of-life medical choices with their doctors in advance of health crises. Effective January 1, 2009, California has joined fifteen other states in adopting a form for a comprehensive doctor's order for end-of-life choices, under Probate Code § 4780. Lawyers should consider conflicts between the new "POLST" orders (Physician Orders for Life-Sustaining Treatment) and advanced directives already in place.

In the early 1990s, doctors in Oregon developed a method of helping patients facing end-of-life medical decisions make thoughtful choices that medical providers will honor. This enables patients to preserve their autonomy at the end of life and, if preferred, avoid the trauma of resuscitation or other invasive procedures that often result in broken ribs and other injuries but have limited effectiveness.

Implementation of POLST in Ventura County is being led by Dr. James Hornstein, a local physician and ethics expert. He is organizing the training of health care professionals to honor the orders in Ventura County. Channel Islands POLST may be contacted at (805) 643-7246 or by email at [channelislandspolst@gmail.com](mailto:channelislandspolst@gmail.com). The POLST form and more information can be found at [www.finalchoices.org](http://www.finalchoices.org).

## WHAT IS POLST?

A physician, in consultation with the patient, writes up an order on a brightly colored one-sheet POLST form (the website directs users to print the form on 65# Pulsar Pink paper). The form offers a range of medical treatment choices

that hospitals and emergency responders will be trained to identify and follow. The order is kept on a patient's bed in nursing homes or very close to people in hospice or in homecare settings. The form is signed by both the doctor and the patient, or the patient's surrogate.

Completion of a POLST form is indicated for patients with serious health conditions resulting in a significant risk of death within one year. Use of a POLST form is voluntary, but the order is to be honored by health care workers. The form may be used as the patient moves between care settings. A completed form provides clear and convincing evidence of the patient's desires on a range of treatment options and ensures that a patient's wishes are known when, as in the majority of the cases, no advanced directive exists.

The order set is easy to read and endowed with certain legal protections enabling everyone from the responding emergency worker to the emergency room doctor to honor a patient's wishes quickly and completely. The orders offer more utility and greater protection than advanced directives because of the brevity, clarity and uniformity of the form and the liability protections accompanying it. Additionally, and very importantly, the weight of the doctor's signature makes the order set valid and carries authority.

## POLST V. ADVANCED DIRECTIVE

In hospitals, nothing happens without a doctor's order. Similarly, paramedics in the field are experienced in following medical protocol and doctors' orders. Because the form is an order signed by a doctor, the instructions are

given significant weight when any healthcare professional treats the patient. Emergency medical responders in Ventura County are being trained to identify and follow POLST orders when appropriate.

POLST forms are similar to Do Not Resuscitate (DNR) and Do Not Intubate (DNI) orders in that it is a doctor's order rather than a legal document prepared for non-exigent circumstances. POLST covers a wider variety of treatment options than do DNRs and DNIs, each of which address a single medical procedure. The POLST options for care include a range of treatment choices within the broad categories of: cardiopulmonary resuscitation (CPR), medical interventions, antibiotics, artificially administered nutrition.

The form is for exigent situations, and is not a replacement for Advanced Healthcare Directives, Durable Powers of Attorney for Healthcare or other lawyer crafted documents designed to allow clients to direct their care into the future or to appoint a surrogate.

Probate Code § 4781.4 provides that if an advanced directive conflicts with a POLST order then the document executed more recently in time controls. However, to be safe, including a term in the advanced directive that POLST controls in the event of a conflict would ensure that the form controlled.

If the client is a veteran, and becomes a patient of a Veterans Administration facility, the POLST form, known to the VA as a "state-authorized portable order" will be accepted by the VA. The VA then prepares new orders under VA guidelines to implement the veteran's wishes. Conversely VA practitioners must provide state-authorized portable orders to veterans who request them.

## HOW DOES POLST HELP?

Advanced directives are often ineffective in emergency response situations because reading and analyzing the document consumes more time than there is available. When a patient is in need of CPR or other life saving care, there is not time to analyze an advanced directive before providing treatment. Patients are therefore treated; then, if available, advanced directives are read, surrogates are called, or personal doctors are notified to determine a patient's wishes.



*Continued on page 8*

*Continued from page 7*

## A NEW FORM FOR END-OF-LIFE PLANNING

Unfortunately, this may not be the patient's desire. POLST forms are also helpful because only an estimated 20 to 30 percent of the population executes advanced directives, according to The Hastings Center. Very few people utilize advanced directive forms despite state and federal efforts to make completing advanced directives easier.

In many instances, patients are on life support or are progressing on their own, before anyone realizes what care they wanted, and what care they wished to refuse. The patient and the family then face the difficult choice of terminating care (pulling the plug) or in some cases, waiting for another serious medical event to occur.

Occasionally, saving someone who refuses care results in litigation, as in the *Neumann* case from Florida. A 92 year-old female nursing home patient had a valid advanced directive refusing resuscitation, but when she became ill, the ambulance was called, she was transferred to a hospital and given a variety of life-saving treatments. Her family subsequently informed the doctors at the hospital of the advanced directives. Eventually the life support treatments were terminated and Mrs. Neumann died a week later. The jury found the nursing home liable in the amount of \$150,000.

California POLST consumer information and forms are available on the Internet at the Final Choices website. Where appropriate, a practitioner might provide the reference booklet to a seriously ill client along with the suggestion that the client discuss POLST with their doctor. Because the choices to be made depend on the client's particular medical condition, medical expertise is helpful and usually necessary to help a client/patient knowingly complete the form.

POLST is a powerful tool to preserve a person's autonomy in making end-of-life choices and protecting health care providers when the orders are followed.

*Jeffrey Loebel provides trustee services, legal project management, and practices business and sports franchise law. His office is in Ojai.*

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# WHAT IS “LIEN STRIPPING” AND WHY SHOULD YOU CARE?

By William E. Winfield, Esq.



In the current economic downturn, many people are in danger of losing property to foreclosure, or own property that is now worth less than the debt against it. Yet few consumers take advantage of a powerful tool for preserving real estate. This

may be because few people, including lawyers, are familiar with an arcane bankruptcy law procedure known as “lien stripping.”

As the name implies, lien stripping is a procedure allowed by the Bankruptcy Code to strip down a lien until it equals the fair market value of the real property encumbered by the lien. This may result in totally removing the lien or it

may simply reduce the secured lien with the balance becoming an unsecured claim.

The procedure is allowed in Chapter 13 bankruptcy cases. Chapter 13 cases are for debtors with regular income to reorganize

by paying creditors over a three- to five-year period. This payment does not have to be full payment as long as the debtor has devoted all disposable income to satisfy debts.

Lien stripping in Chapter 13 applies even to consensual liens, which is an advantage over the procedure for removal of involuntary liens that is often employed in Chapter 7 cases to remove judgment liens. Lien stripping does not happen often because, as the Bankruptcy Code is currently drafted, it may not be used to reduce liens secured *only* by the debtor’s *principal residence*. (If the lien holder has more than just real property collateral, the lien can be stripped even if it is secured by the residence.)

When a lien is stripped in Chapter 13, the



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**Brief Bio:**

Dr Rotnofsky has 21 years experience as a practicing clinician with 18 years experience working in a hospital rehabilitation setting in New York and was actively involved in providing crisis services during 9/11. She was the former manager of Crisis Services for the County of Santa Barbara and was instrumental in designing the new Crisis & Recovery Emergency Services Program. She presently is a faculty member at three Doctoral Programs and is an expert in crisis, mental health, recovery, and psychological assessment. She is a member of the Santa Barbara Police Departments Crisis & Hostage Negotiation Team & Restorative Policing. She has a Consulting/Medical/Legal and Psychotherapy practice in Downtown Santa Barbara and Ventura. o

holder of the unsecured balance typically receives partial payment along with other unsecured claims. The debtor can emerge from bankruptcy owing only an amount equal to the property's value on the petition date.

The procedure for stripping liens is somewhat complicated and potentially costly as it requires an appraisal, a motion to suspend plan payments and a separate lawsuit to strip the lien. The process, though costly, can be worthwhile, however, for people who qualify for this extraordinary relief.

In reaction to the epidemic of recent foreclosures, bills have been proposed in both houses of Congress to amend the Bankruptcy Code to expand lien stripping so that it can also apply routinely to principal residences. The proposal has the avowed support of majorities in both houses and of President Obama. Some major lenders such as Citibank have withdrawn longstanding objections to the notion of allowing bankruptcy judges to modify residential mortgages. It is likely this legislation will pass in some form this year. Under some proposals it will be effective retroactively.

Consumers who are under water on their mortgages should seek legal counsel to consider whether they might qualify for lien stripping under the current law and keep this alternative in mind as a possible solution if the law changes as expected.

*William E. Winfield is a senior partner at Nordman Cormany Hair & Compton LLP. He is board certified in Business Bankruptcy.*

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**Susan Bulfinch, JD** is an attorney and long time mediator and trainer. Ms. Bulfinch has served as past-president of the Southern California Mediation Association and as a member of the executive committee of the California Dispute Resolution Council. She also chaired the ADR section of the Beverly Hills Bar Association.

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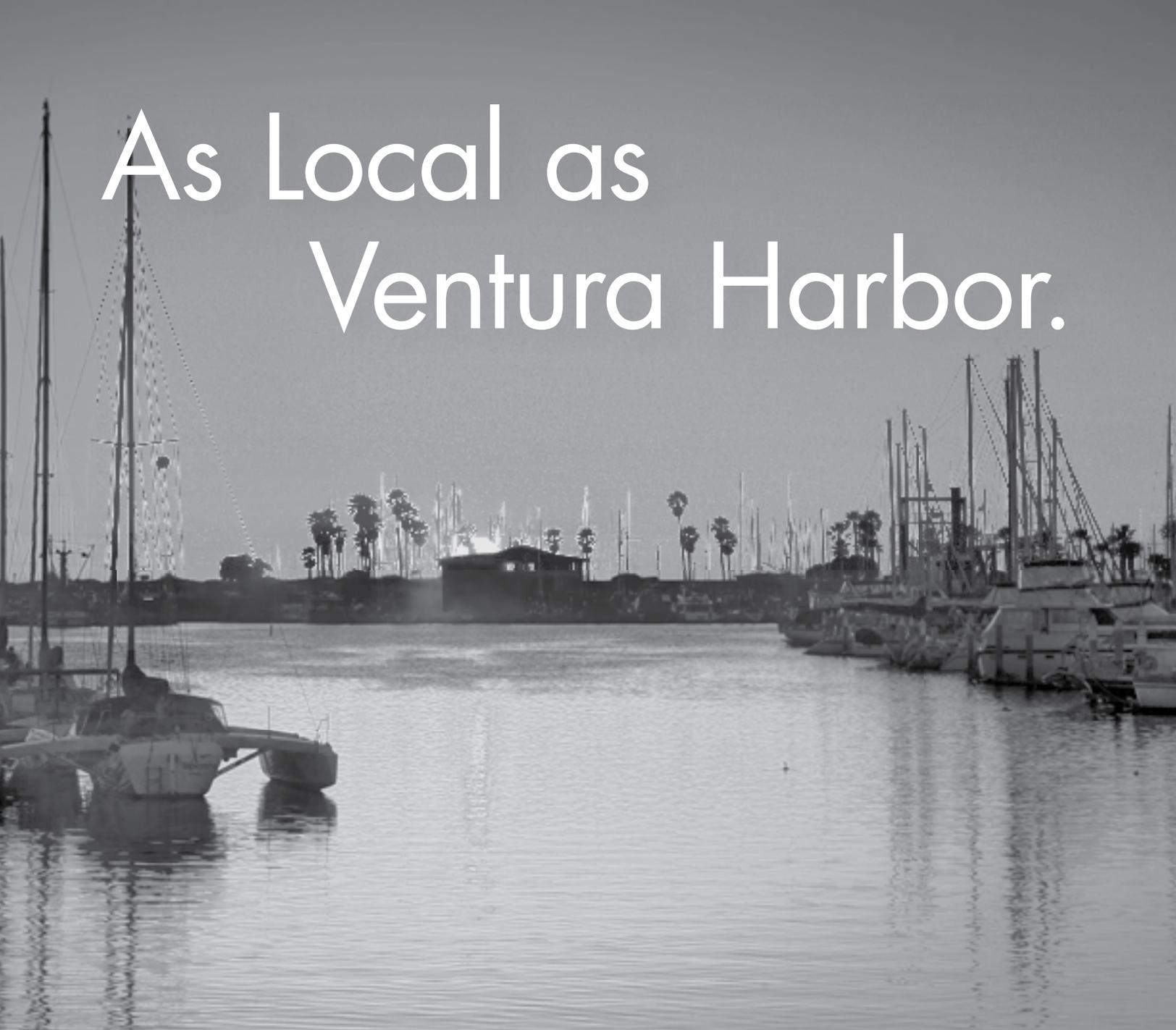
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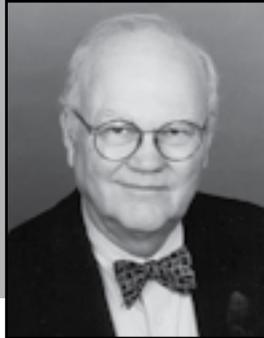
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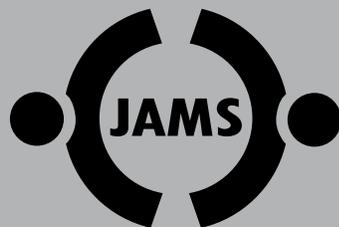
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## NOMINATIONS INVITED FOR 2008 TRIAL LAWYER OF THE YEAR

The Ventura County Trial Lawyers Association is accepting nominations for its annual Trial Lawyer of the Year award to be presented at its May 26, 2009 evening meeting at the Courtyard by Marriott-Oxnard.

Past honorees are: **Dave Ellison, John Howard** and **Dan Palay**.

The VCTLA Board considers the following when making its selection:

- Noteworthy civil trial results in 2008 (bench or jury trial);
- Contributions to the legal community;
- Demonstration of high standards of ethics, civility, courage, advocacy and dedication; and
- Contribution to the betterment of the civil justice system.

The honoree must be a member of VCTLA (may join after being nominated).

Please use the nomination form in this issue of CITATIONS or visit [VCTLA.org](http://VCTLA.org) and submit your nomination to VCTLA c/o Steve Henderson at [steve@vcba.org](mailto:steve@vcba.org) or (fax) 650-8059. Nominations must be received no later than 5:00 p.m. on April 1, 2009.



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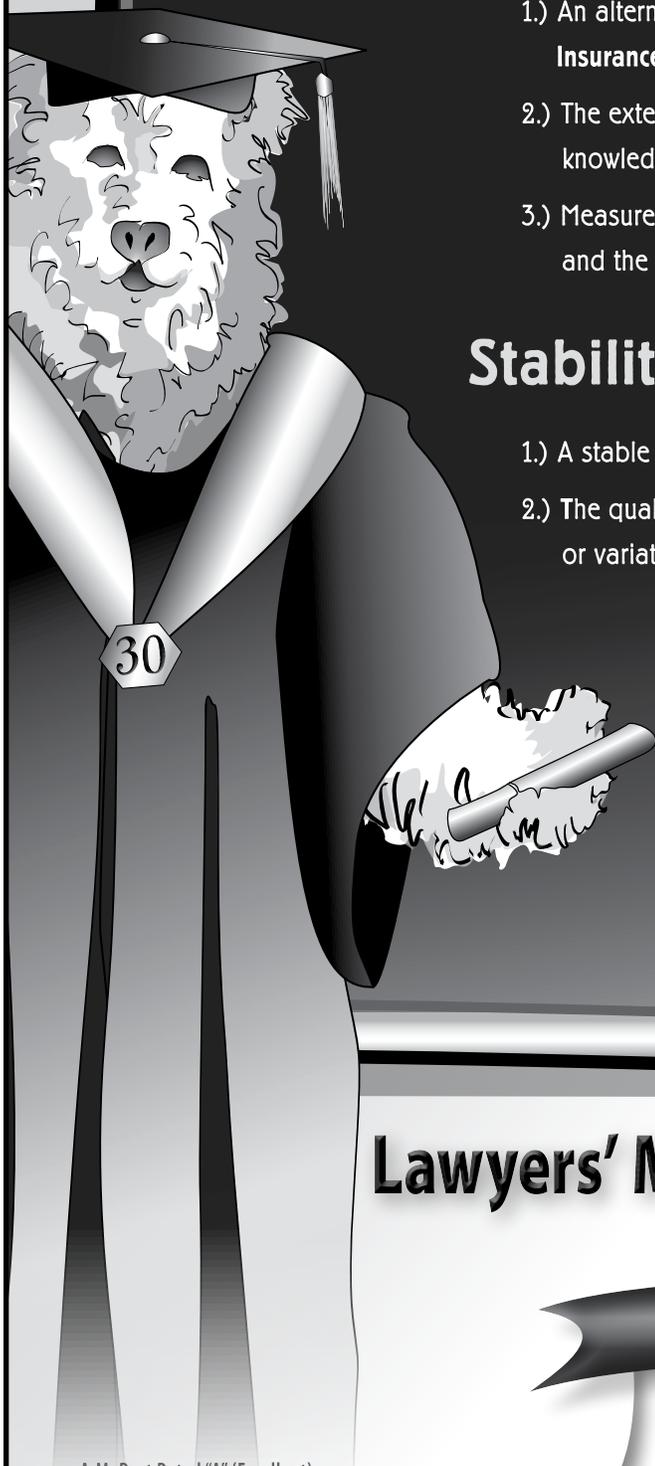
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# PRO BONO HIGHLIGHTS

## Welcome aboard, Tina!

By Verna R. Kagan

Officially, our dear **Tina Rasnow** retired from her work with the Self Help Legal Access Center on January 23. She will be joining the staff of the VLSP as an Emeritus Attorney sometime in the middle of March.

The Court's loss is our gain. Everyone knows Tina: her energy, her enthusiasm, and her many awards for her outstanding services to the legal community and the community at large. Not one just to rest on her laurels, Tina hit the ground running and is launching a new project for the Unlawful Detainer Court. It is most exciting but a lot of hard work. More about that as the project gets under way.

### Excerpt from a New York Times Editorial:

Lost in the wrangling over the huge House economic measure was a program

for the poor that is in urgent need of Congressional Attention: Legal Services.

The proven national program of civil legal aid for impoverished Americans, created in the 1960's, is suffering from multiple blows in funding. While the poor are caught increasingly by foreclosure, evictions and food stamps fights for their daily bread, deficit bedeviled statehouses across the country are cutting support for legal services or dropping the programs outright.

Creative funding that taps lawyers' escrow accounts has evaporated because it is tied to the Fed's fading interest rate. Local governments, charities and pro bono law firms are similar tight pursed. Scores of legal aid societies are cutting their staffs just as requests for help are booming, according to the Times' Erick Eckholm.

Bar associations continue to help, and even in these tough times probably could do more. But federal funding is the ultimate hope in a dire situation. In 2008, Congress chipped in \$350 million for non-profit Legal Services corporations, which then distributed the money through out the country. Given the tough times, underfunded programs and even more desperate clients, more money is needed. Congress still has the opportunity to renew regular appropriation in a coming omnibus budget bill but it must bolster that with extra support for the program.

I am always very proud of all the fine contributions our pro bono attorneys make to our program, both in time contributed to people in need and financial support. Maybe now we need one more favor.

*Verna Kagan is VLSP Senior Emeritus Attorney.*

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## PRACTITIONER ALERT

*This month CITATIONS launches a new feature to alert lawyers about courthouse developments you may have missed, and de facto policies you will never find in published rules. If you notice any, please send them to CITATIONS, by email to wendy@lascher.com.*

With Judge Kellegrew's move to Courtroom J-6 at the Perren Juvenile Justice Center, all probate and conservatorship matters are now heard there. According to a phone call to the clerk's office February 17, all probate and conservatorship filings are also to be made there: 4353 East Vineyard, Oxnard 93036, phone 805-981-5700

## EAR TO THE WALL

**David Laufer** has joined the Camarillo office of Burke, Williams & Sorenson, LLP, 2310 East Ponderosa Drive, Suite 25, Camarillo 93010-4747. Phone (805) 987-3568; direct (805) 987-4406; fax (805) 492-9834; email [dlaufer@bwsllaw.com](mailto:dlaufer@bwsllaw.com). David serves as a commissioner of the Oxnard Mobilehome Park Rent Review Board. He has taught franchise law and regulation at Loyola Law School, served as corporate general counsel, and as a litigator in private practice.

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# PATERSON'S FILMS - "I've Loved You So Long"

By Bill Paterson



But for a close friend's recommendation, I would have missed "I've Loved You So Long." Thankfully I followed his advice and would urge you to follow suit. While "I've Loved You So Long" has been embraced by the critics, it has not generated the requisite "buzz" among the art house crowd. (There were six of us in the Paseo last week when Colleen and I saw it). I suspect the reason is the barrier faced by any "downbeat" film. While "I've Loved You So Long" explores the corrosive force of personal tragedy (not normally a crowd pleaser) it is ultimately about the healing power of love. No film lover should miss it.

Our first view of Juliette (Kristin Scott Thomas) is sitting alone in a near empty terminal building. Hollow-eyed and absently smoking a cigarette, she has the "thousand yard stare" of a soldier who has spent too much time on the battlefield. A few moments later her vivacious sister Lea (Elsa Zylberstein) arrives to pick her up. Juliette dropped out of Lea's life 15 years ago when Lea was a young teen. Now a professor, married with two young children, Lea has invited Juliette to stay with her until she can "get on her feet." Lea's excitement at being reunited with her long lost sister is not reciprocated by Juliette. Withdrawn and uncommunicative, her face an impassive mask, Juliette only grudgingly tolerates human contact. As the film progresses we gradually learn where Juliette has spent the last 15 years and the source of her self-imposed solitude. This all culminates at the end of the film in one of the most searing, heart wrenching and ultimately uplifting scenes to appear on screen this year.

What is so gratifying about "I've Loved You So Long" is the way it takes the ordinary day-to-day elements of life, friends and family and creates, for lack of a better word, an emotional "thriller." At heart, Juliette is a mystery. As in all mysteries we want to know how it turns out. Who is she, what did she do, and will she ever find peace? Be patient and do not expect a quick answer. "I've Loved You So Long" moves at a slow, diffuse and deliberate pace. While that can frustrate audiences used to the quick emotional payoffs of mainstream films, the pace of the story is a purposeful directorial choice. Because it is a film designed to portray the messy ambiguities of real life, writer/director Philippe Claudel has not found it necessary to fall back on the kind of conventional cinematic shorthand by which some film makers seek to get audiences to reach for the Kleenex.

Shrouded in an abiding sadness which she masks as indifference, Thomas' portrayal of Juliette's painful accommodation to the past, and her tentative first steps back into life, may be the performance of her career. Surrounding her is a superlative ensemble cast. Lisa Segur who plays Lea's 8 year old adopted Vietnamese daughter is not just off the adorable chart but, more importantly, possesses acting gifts one rarely finds in a person so young. To a person, the members of the cast are totally grounded in real life. Whether it is at a dinner party with Lea and her husband Luc's eclectic group of friends; Juliet's contacts with a middle aged police officer who dreams of someday leaving his cubicle and exploring the Orinoco River; or the first hint of a romantic attraction between Juliet and Lea's school colleague Michael (Laurent Grevil), one's sense is of eavesdropping on real people and not watching actors at work.

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The sense of life as actually lived is further heightened by the manner in which the film has been both written and edited. Given the subject matter of the film, a lesser director would be tempted to manipulate the audience by pushing the dramatic envelope. However, Claudel knows that the secret of quality drama is to trust the audience and to know when to stop rolling the camera. The result is a film which earns your emotional investment and sets you up for the final shattering scene when we discover the burden Juliet must carry the rest of her life. While it is a burden that can never be shed, in a few simple words she utters before the screen goes black, we know that she has begun the process of healing. Good as it is, I suspect "I've Loved You So Long" will not be in theaters much longer. If you miss it, save it in your Netflix queue.

**Another DVD Pick** - A much different film, "The Big Night," features two battling brothers trying to make a success of an "authentic" Italian restaurant in the days when Italian food meant meatballs and spaghetti, red-checked tablecloths and straw covered Chianti bottles hanging from the ceiling. Starring Stanley Tucci and Tony Shaloub swimming against the then-culinary tide, this gentle "foodie" comedy is an unqualified delight. The final poignant kitchen scene is done with virtually no dialogue and is as good as film endings get.

*Bill Paterson of Ferguson, Case, Orr & Paterson has been sharing film reviews with his firm and a select group of friends for many years. He has agreed to let CITATIONS publish the reviews. If you missed these movies in the theater, there are some great DVD or Netflix choices.*

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# AB INITIO

By Alan R. Templeman

One of the advantages of trying cases throughout California is recognizing that the caliber of Ventura County civil judges is much higher than those in most other counties and in some federal courts.

My first foray from home turf was before the late Judge Timothy O'Reilley of the San Luis Obispo Superior Court. I was warned to have the motion heard after Judge O'Reilley had his first drink of the morning. I thought the discovery motion was a slam dunk. However, when Judge O'Reilley indicated he was about to deny my motion, I responded that there was a CCP section directly on point. His response was, "My boy, the Code of Civil Procedure is just a set of mere technicalities imposed upon us by Sacramento."

I had some time to kill before another appearance in San Luis, so I listened to the remainder of Judge O'Reilley's calendar. A group of O'Melveny/Gibson Dunn, types – but from San Francisco – were in his courtroom requesting that he grant their motion for summary judgment. When the attorney pointed out to Judge O'Reilley that he should take a closer look at one of the declarations contained in his motion, Judge O'Reilley responded that he hadn't read the motion. He simply explained to the astonished lawyer that he had granted 12 prior motions for summary judgment and each had been overturned by the Court of Appeal. Now he no longer granted motions for summary judgment.

Trying cases in the Los Angeles County Superior Court also subjects you to people with varied skills and attitudes who don the black robes. Once I was told by a judge to stand with my client (plaintiff) during the reading of the verdict although he did not impose a similar requirement on the defendant or his attorney. In another case, I represented a college baseball pitcher who had his skull fractured by a high speed comebacker that he could not avoid because the ball came off the batter's titanium bat at a speed more than 20% faster than if he had been swinging a wooden bat. We attempted to discover the manufacturer's test information on their

high tech softball bats, as they claimed to have no test information on their hardball bats. After initially denying our discovery request, the judge stated that he thought softball bats were soft.

Another Los Angeles County judge kept our jury in the box while he conducted his divorce calendar, started his trial 1 to 2 hours late, and after not showing up for trial until 11:30, he shut down at exactly 4:30, forcing my Colorado expert to return on Monday even though the defense attorney represented that he had less than 10 minutes more of cross-examination. The same judge refused to read the only case the defense and I requested that he read so that he could correctly instruct the jury. His solution to remedy the time problems that he created was to limit final argument to 20 minutes in a case which involved several hundred thousand dollars in losses due to stockbroker negligence.

No article on judges could be complete without mention of some of the characters who populate the U.S. District Court in Los Angeles. Back in the day, I experienced the normal adventures that most attorneys had to endure in front of federal judges, such as neck strain from looking up at their Honors, who are perched on what appear to be 50-foot high benches, being allowed only 10 minutes to voir dire an entire panel, and watching opponents losing control of their bladders when threatened with contempt.

There is a certain judge who had the reputation of being anti-plaintiff, anti-female, anti-Mexican, and anti-union. Greg Ramirez, Eileen McCarthy and I had the misfortune to be assigned to this judge when we were representing a group of female Mexican-American packing house employees in a suit against their employer. Of course, the mega firm representing the employer brought a motion for summary judgment. Fortunately for us, the judge was not content to merely announce that he was granting the motion. Instead he went on a rant telling us why our case lacked any merit whatsoever and why he was going to dismiss it. He became so excited during his rant that at its conclusion he announced, "the motion is denied." The mega firm lawyer made the mistake of trying to correct the judge by telling him that he meant to say "motion is granted." The judge was so infuriated that the defense tried to correct him that he again announced that the motion was denied, and that if the mega firms lawyers continued to speak, they would be held in contempt. Fortunately, the case settled before they could make another motion. Most of the present day federal judges are very competent, but if you happen to be assigned to one of the old guard and you are easily intimidated, you may wish to wear Pampers to any hearings.

*Al Templeman is a partner at Lowthorp, Richard, McMillan, Miller & Templeman in Oxnard. He handles professional negligence, employment, personal injury and securities cases.*



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# JUDICIAL EVALUATION MEMBERSHIP CHANGES

VCBA has appointed **Joel Mark** and **Carmen Ramirez** to the Judicial Evaluation Committee, replacing longtime members **Ricarda Bennett, Richard Norman** and **Mary Shea**. In addition, **David Shain** has been appointed as an alternate member. **Dennis LaRochelle** remains chair of the committee; other members are **Linda Ash, Michele Castillo, Michael Frawley, Oscar Gonzalez, Samuel Huestis, Wendy Lascher, Dien Le, J. Roger Myers, Sylvia Soto,** and **Karen Wold**.

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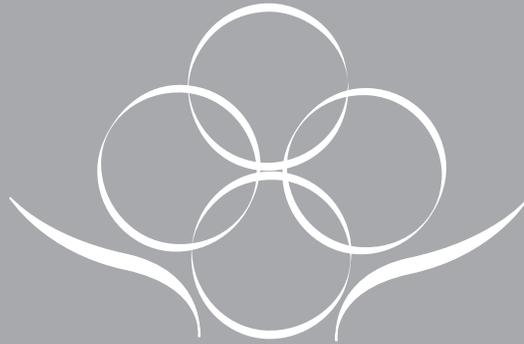
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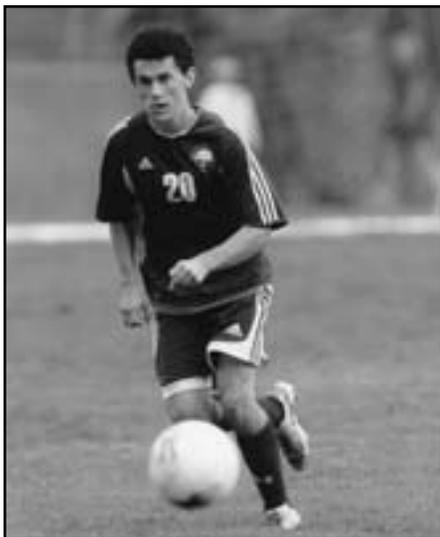
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The Gold Coast Chapter of The Federalist Society will be having a forum to discuss the Second Amendment entitled "A Debate on Gun Control after D.C. v. Heller." The forum will include a panel of four scholars consisting of Alan Gura, Adam Winkler, Peter Pierce and a constitutional law scholar from the Claremont Institute. The forum will be held on Tuesday, April 7, from 6:30 p.m. to 8:00 pm. at the Lunding Events Center at CLU. There is no fee unless you want CLE for \$25. Contact Chapter President **Natalie Panossian** at 217.2465 or goldcoastfs@gmail.com...From MSNBC.com: The High Court in New Delhi is so behind in its work that it could take up to 466 years to clear the enormous backlog, the court's chief justice said in a damning report that illustrates the decrepitude of India's judicial system. The Delhi High Court races through each case in an average of four minutes and 55 seconds but still has tens of thousands of cases pending, including upward of 600 that are more than 20 years old... **Diane Becker, Glenn Dickinson, Ron Gill, Jon Light, Joel Mark, Bill Winfield, Gabriele Lashly, Matthew Guasco, Greg Herring, and Wendy Lascher** have been chosen for inclusion on the 2009 Southern California Super Lawyers list...

Antartica? **Byron Lawler** at [bjlawler@gte.net](mailto:bjlawler@gte.net)... Vietnam? **David Shain** at [dshain@fcoplaw.com](mailto:dshain@fcoplaw.com)...From *Texas Lawyer*: "A Dallas lawyer has filed a libel suit against a judge overseeing a case involving the dissolution of his law firm for expressing concerns that the lawyer was stalking him. Lawyer Evan Shaw claims in the Dallas County suit that the judge made false statements about stalking to the sheriff's department and in emails to judges in his courthouse."...From the *ABA Journal*: "Police have few leads in the killing yesterday morning of a Pennsylvania lawyer, who was shot in the back of the head at point-blank range as he was walking across the parking lot toward his office.

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

By *Steve Henderson, Executive Director, M.A., CAE*

Police are scouring **Eric Birnbaum's** client list in his personal injury practice—" This quote submitted by **Richard Walton** right out of Grouch Marx's mouth: "I was married by a judge. I should have asked for a jury."...

**Jon Light** celebrated his 24th year at Nordman Cormany et al. February 3...A Michigan judge says he's learned a lesson about locking his car doors after a 16-year-old prisoner who escaped from a holding cell at the Macomb County courthouse was found inside his trunk. The *Macomb Daily* reports the teen had appeared Friday in juvenile court in Mount Clemens on a probation violation before he fled. A deputy found the boy in the trunk after a search of the grounds...**Marc Charney** was named this year's recipient of the Carl Lowthorp Golden Eagle Award for outstanding public service by the Ventura County Economic Development Association. This is the 3rd time Charney has received this honor, having also been recognized in 1994 and 2004...150 family, friends, and colleagues attended the Retirement Dinner for **Tina Rasnow** January 30. The event was MC'd by the **Honorable Chuck Campbell, Judges Back, Bennett, Cody, Conroy, Covarrubias, Dobroth, and Justice Perren** attended. DA **Greg Totten**, PD **Duane Dammeyer**, and retired PD honcho, **Ken Clayman** were also present.

In the spirit of Richard Weinstock, **Lou Vigorita** wants us to know who the board members are of the Advocates For Civil Justice – **Andrew Koenig, Barbara Macri-Ortiz, Pete Dowler, Jessica Arciniega, Deborah Jurgensen, and Ron Harrington**. Want to help? Contact Lou at [lvigorita@yahoo.com](mailto:lvigorita@yahoo.com)... From 10News.com: "A defendant who wanted his public defender removed from the case will get his wish after smearing feces on his lawyer's face and flinging the material at jurors. Weusi McGowan was on trial in San Diego for a home invasion and robbery when he brought in a baggie filled with excrement during a mid-morning break...Special from Tehachapi – **Francis** and **Mary Pugh** celebrated their 50th wedding anniversary October 4, 2008. They have four children and nine grandchildren. **Don Leach** and **Felix Masci** were among the attendees. Francis was diagnosed with prostate cancer in 2004 and has been undergoing treatment at the City of Hope, including living at the Research Center in Duarte in November and December of this past year. Francis may be reached at 661.821.0430 or [francis@pughlaw.com](mailto:francis@pughlaw.com)...

Remember the Lascher at Large columns written by the late **Edward L. Lascher** and appearing in The Los Angeles Daily Journal and the California Bar Journal? Well, his son, Bill, will be picking up on some of his dad's themes on his new blog, found at [Lascheratlarge.com](http://Lascheratlarge.com)... From boxer Mike Tyson: "I might just fade into bolivian."...Koko the gorilla resides in comfort at Woodside, Calif.-based The Gorilla Foundation. Koko has also been involved in a grotesque sexual-harassment case along with her handlers and their supervisor. Court TV reports that "former gorilla caretakers Nancy Alperin and Kendra Keller asked for more than \$1 million in damages in their sexual discrimination and wrongful termination suit," which claims that the two women were forced to expose their breasts to the gorilla in order to indulge her fetish. Alperin and Keller maintained that they were fired when they refused to show their breasts to the gorilla, but they ultimately reached a settlement with the foundation...**David Lehr** is getting used to the proud papa status he receives. A 6th child was born 1.06.09 at 2:40 p.m. weighing-in at seven pounds, six ounces. Patrick Michael was 20 inches long too. He joins Kaylene, Aubrey, Elly, Trinity, and David Michael II...

**Brook Carroll** became a first-time daddy February 18 at 7:51 a.m. Ella Ashlyn weighed nine pounds, five ounces. Mom, Kelly, doing fine... San Antonio litigator Larry Macon, 64, just finished his 105th marathon in 2008 and qualified for the Guinness Book of World Records running a total of 413 since he turned 50...Steve Lopez, LA Times columnist, writes about a funny experience he had when called for jury duty in the 1.18 issue of [latimes.com](http://latimes.com)... Mark your calendars! March 30 will be an East meets West Mixer of the **East County Bar Association** and the Ventura County Bar Association at Eric's Restaurant & Bar in Thousand Oaks beginning at 5:00 p.m....

*Steve Henderson has been the executive director and chief executive officer of the bar association and its affiliated organizations since November 1990. He hangs with Alex Rodriguez and Michael Phelps for recreational purposes. Additionally, he has pictures at [www.vcba.org](http://www.vcba.org) proving these facts for your viewing pleasure.*

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