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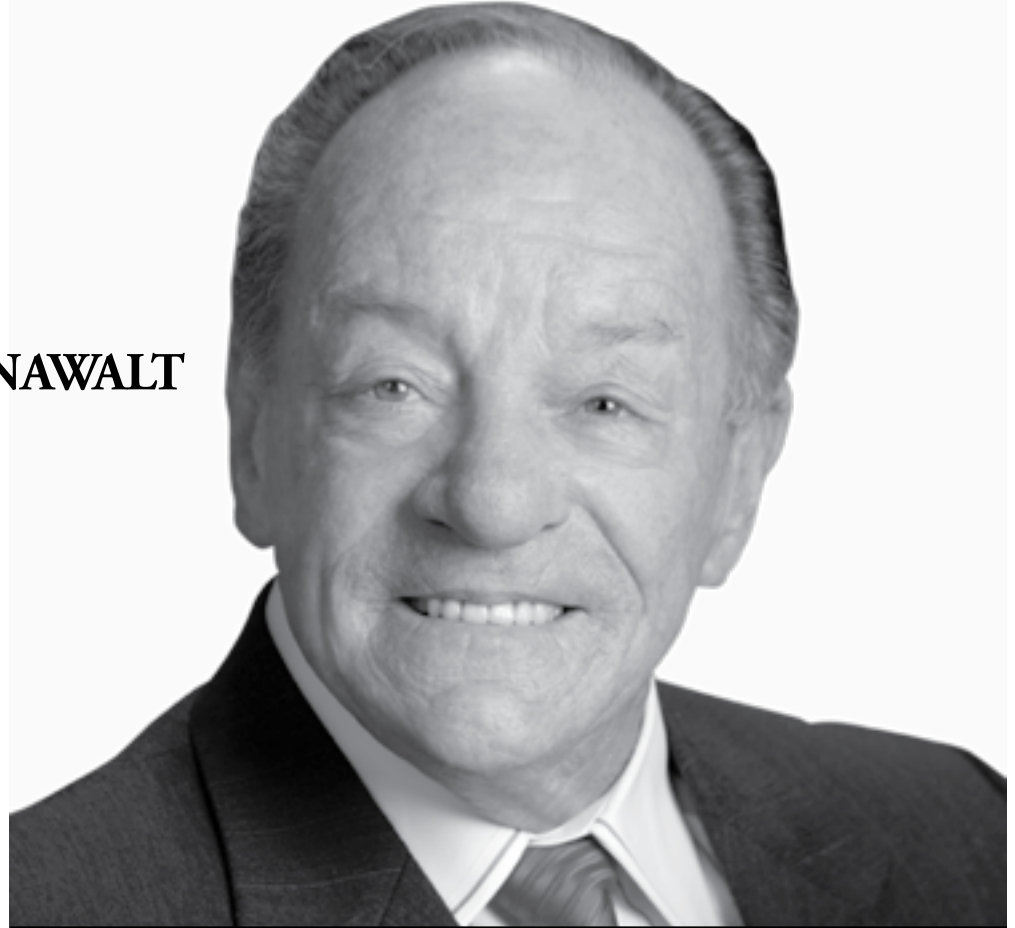
CITATIONS

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February 13, 2009

Jack Trimarco
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Dear Jack,

I would like to inform you that your services in the "W" case proved to be very helpful. The case was very troubling for our client as I guess anyone wrongfully charged with such serious conduct would be, but Mr. "W" was exceptionally so.

You should know that your efforts in finding him and his fiancé "truthful" when denying the offense was central in convincing the District Attorney to dismiss the case. It not only saved the expense and risk of a trial, but the mental well-being of my client. It is a convincing argument to the prosecutor when I can say that the polygraph expert they use has found my client to be innocent. They know that you only seek the truth, and do not show bias in any way in your testing methods.

On behalf of my client and staff, I thank you for your efforts.

Sincerely yours,

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I didn't come by my appreciation for technology naturally. In fact, some might say I was genetically predisposed against it.

I didn't grow up in a house that was particularly cutting-edge when it came to the newest technology. Don't get me wrong, it wasn't that we didn't enjoy our 8-track tape player and our Pong, it's just that these things all required a certain level of mechanical ability, and those tasks – usually the domain of the man in the house – didn't fall on the list of my father's favorite things. Anything with the words "some assembly required" printed on the box was to be avoided at all cost.

I remember when we got our first VCR (for the Barristers, let me explain – that's an acronym for "video cassette recorder," a primitive form of technology we used to watch a movie at home, before the DVD was invented). The excitement that was in the air at noon when my dad brought home the box was but a distant memory by 7 or 8 p.m. No hope of watching a movie that night or, for that matter, being able to tell the time by the front of the VCR. "Oh well," my father sighed in frustration, "it will be right in six months."

My mother's mechanical abilities far exceeded those of my father. My mother and I once spent the better part of an entire weekend assembling a reproduction of a suit of armor that had been given to my parents by a client. It arrived in a box that contained dozens of pieces, large and small, and my mother and I put the entire thing together ourselves. Of course, my dad supervised

PRESIDENT'S MESSAGE

By Kendall A. VanConas

and, thanks to his frequent observations and suggestions, we didn't have any parts left over when we finished. Carlos is still with us – my steadfast tin soldier, standing guard in my living room, a living and breathing testament to my technological and mechanical abilities. (OK, he's not really living, I know that ...but he gets presents at Christmas and a costume on Halloween, and since he never rolls his eyes at us or asks for anything, he is often the most-beloved member of our household).

Despite any aversion to technology I might have observed growing up, I was fortunate to have come of age in the Age of Technology.

For my generation, the use of technology turned from an option into a requirement, both in school and beyond. As a freshman in college in the early 1980s, it was still big news when someone in my dorm got a computer, and I was thrilled with my first one – a Tandy 1000 from Radio Shack that I got for Christmas. It got me through a few years of college, and would probably be worth far more today as a collectible than it ever was as a computer! Today it would be unthinkable to send a child off to college without a laptop, fully equipped with all measure of technology that I couldn't have envisioned while working away on my Tandy 1000.

So with this questionable upbringing and immersion into technology, it might surprise you to learn that I am making technology the focus of my year as president. I owe thanks to my husband, Andrew, for helping me to not only learn about, but also appreciate, the various electronic and computing technologies we have today. Andrew's technological abilities come naturally to him, and he has used them to make a living for the last 20 years or so. Andrew never met a computer or piece of electronics he didn't like, or couldn't figure out how to use. In that respect, I didn't marry my father, who only half-jokingly referred to the Yellow Pages as his toolbox.

When it has come to televisions, flat screen monitors, DVRs, wireless networking and countless other home and business technologies, over the years our family, thanks to Andrew, has become the Joneses in the neighborhood that you have to keep up with. It's become my duty to balk at first, question the necessity, complain about the cost and wrinkle my nose at the instructions on use, and then a few short days later ponder how we ever lived without it.

My thoughts about what I would like to accomplish during my year as President overlapped with a major IT upgrade in my office. This started me thinking about how some of what I wanted to do at my firm could also be employed by the VCBA and, thanks to the creative energy and technological know-how from my husband, I decided to use an IT upgrade at the VCBA as a way to achieve some of the greater goals the organization hopes to achieve.

The starting point is a new website. The Bar underwent the first major redesign of its website during my first term on the VCBA board, in 2005, during **Don Hurley's** presidency. I recall the board and bar leaders receiving an introduction to the redesign process, and looking at other state bar websites around the state. The process was fairly collaborative, and the redesign was developed within the standard of the time. Namely, it became the depository of information about the bar association, and visitors would go there to find out about the bar – its sections and committees, the upcoming events, local rules and practice, and the people serving as current directors or section leaders.

Most, if not all, of the information deposited onto the 2005 website is still there, along with some regular updates that have kept our calendar current, and the most "recent issue of Citations on the home

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PRESIDENT'S MESSAGE

Continued from page 3

page [Back issues may also be found on the website – ed.]. The current site is packed with information, much of it useful and relevant, and just about any question one may have about the bar can be found there

The challenge is that we – the “we” who consume this technology – have become very savvy about how we use it. And when we seek it out, we are using it differently than before. For example, rather than just “surf” the web for fun or general information purposes, people are visiting particular sites for very particular reasons. If someone wants information about the Ventura County Bar Association, the first place they go will be our website, and they will want to know particular things about us. I want to deliver on their expectations, and it can't be done with the current site which, judging against 2010 technology standards, is a bit of a dinosaur – not as much as my Tandy 1000 would be today, but deserving of an upgrade.

Thanks to the hard work of our IT committee, our fearless leader **Steve Henderson**, and my talented other half, we are close to unveiling the new site. I think you will find it to be more intuitive, easier to navigate, and generally more representative of the organization as a whole.

I have other goals in mind for the bar when it comes to technology this year, and the new website is just a starting point. In fact, many of us today don't go to a website at all for our information – we expect it to come to us, via a blog post, a Facebook update, or a ‘Tweet’ from a friend or colleague. My hope is that people who expect to get their information about the bar through those kinds of social media outlets will be doing so by the end of this year.

But I'm getting ahead of myself. Twitter? Facebook? Blogs? These are words that weren't even in the vocabulary during my DOS days. I wonder what my Dad would think of all this technology? I'll go ask Carlos what he thinks.

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AB INITIO

RICHARD W. HANAWALT



After earning his law degree from Hastings in 1962, Ventura attorney **Richard Hanawalt** took the only job he interviewed for: as a prosecutor with the Ventura County District Attorney's office. He's been practicing in Ventura County ever since, the last 36 as a criminal defense attorney. Since the 1950s, the District Attorney personally tried all homicide cases. Hanawalt was the first deputy district attorney to try a homicide when then-District Attorney **Woody Deem** ended up with a hung jury.

A Korean War veteran, Hanawalt extended his time in college during the 1958 Lebanon Crisis in order to get an Air Force commission, and didn't earn his law degree until he was 30. Over the past four and a half decades, Hanawalt has watched both the county and the practice of law here evolve, gathering – and sometimes generating – a succession of colorful tales, such as an incident in which he forced a police chief to leave town after a police informant's life was threatened.

Al Vargas and **Wendy Lascher** recently interviewed Hanawalt for CITATIONS. We will publish excerpts over the next several months.

Job Interview

RH: Woody Deem was a Mormon bishop. When he interviewed me at Hastings. He pushed an ashtray in front of me to find out whether I smoked or not I'm sure. He said, "You're 30 years old and you're not married. Why not?" And I could have thought of a million other questions but not that one.

WCL: This is when he was interviewing you for the job?

RH: Yes, it took me by surprise. Woody Deem himself interviewed all his -

WCL: Sure he wasn't trying to find out if you were gay back in the day when it wasn't fashionable?

RH: That's right. And coming from Hastings, he was always suspicious of San Francisco in general. We had to pass a litmus test...

WCL: Were you from here originally?

RH: Nope.

WCL: How was it you only wanted this one job?

RH: Oh, because, when you've lived in the San Joaquin Valley as a child, once you've been

near the ocean anywhere, you are stuck. And I always wanted San Rafael. As a child, San Rafael was my idea of a great place to live. Nice harbor – gotta have a boat – nice harbor and fantastic water waves.

But the San Rafael office had done a major hiring the year before in 61 and they were full-up. And I just happened to see this advertisement, not advertisement, it was a sign-up sheet on the wall at the student union office at Hastings [for the] Ventura County DA's office, so 35 of us signed up for four positions. And me and **Dick Regnier** and **Bruce Bringgold** and **Scott Dool** were hired on.

WCL: All from Hastings.

RH: Yeah. Wait, hang on, Bruce Bringgold and Dick Regnier were from Boalt Hall. [Dool was actually from Stanford - *ed*]. Boalt Hall was a popular – we had quite a few people from Boalt Hall that made it to the DA's office. Woody only interviewed from the top quarter of the class, which made the DA's office a hot area for individuals – Ventura County was growing by leaps and bounds and the big problem was to keep everybody in the DA's office for at least 24 months. You had to commit to staying for 24 months before you went out into private practice.

AV: Was it part of a contract or did the contract include precatory language?

RH: It wasn't a written contract. And we had people who were snatched up almost right away. In fact during our interviews of the 35 people, **Marv Lewis** and **Stan Cohen** were the two people that were assisting in the interview. **Anson Whitfield** was one of our many people and he had majored in taxation. And immediately, guess what, in the course of the hiring Stan Cohen said, "Woody, can I take him right off the bat?" He never made it to the DA's office, he went directly into private practice.

WCL: Oh so Stan Cohen came to help Woody Deem, but he wasn't in the DA's office?

RH: That's right.

WCL: Marv Lewis wasn't either?

RH: Marv wasn't either. That's right. And Marv was still with Nordman as I recall. . . .

The Courthouse on Poli Street

WCL: So when you came here in 62 . . . you were downtown in that building behind the courthouse [the current Ventura City Hall on Poli Street].

RH: That's true. You had the probation department, the Public Defender's office, and the DA's office, naturally on top . . .

WCL: And the court hadn't moved into the temporary buildings.

RH: Oh, my no. That wasn't until Earthquake Charlie. Somebody found out there might be personal liability on the part of the judges for any earthquake in the building and the building was prone to have some shortcomings . . . and I'll tell ya, those temporary buildings went up so fast I couldn't believe it. Virtually overnight. The instant there was personal liability on the judges, it was amazing . . .

WCL: I came in '73 and they were up. So between '71 and '73 they got themselves built.

RH: . . . [T]hat's right. They were in operation by '71. Every time it rained you would have pots all over the place. They posed some interesting problems.

WCL: You could get into chambers easily though.

RH: Sure could. You could get things on calendar quickly. . . .

AV: Why could you get on quickly?

RH: Because you were literally in the same – you went through one door . . .

WCL: [The temporary courtrooms] were bungalows with a balcony along the back with an ocean view [in the space on Poli just east of City Hall that is now occupied by a parking lot]. Just walk in through the back door.

RH: Yeah, yeah. They were – the cement was poured and the buildings were up so fast I couldn't believe it. All of a sudden they were moved out the main building.

Wildlife on Victoria

[Paradise Chevrolet used to be on the west side of Victoria just south of Telephone, about where Chipotle and Exotic Thai are now located.]

RH: And all during those years we had a lemon grove [at Victoria and Telephone], and Victoria was a rural area. And Paradise Chevrolet was about the only business . . .

WCL: After you crossed Telephone you were on a two-lane road.

RH: Yeah, all the way down to the [101] freeway. I recall I had a case – somebody out there had a pet lion and the pet lion would run around outside

WCL: Where?

RH: Right near Paradise Chevrolet. And the pet lion bit this kid. And the family wanted me to sue - I forget what we did. . . .

WCL: Did the lion get caught?

RH: Oh yeah. It was a small one. And it wasn't supposed to be out running around. But periodically . . . a friend let it out and the kid went on the property and the next thing you know this lion attacked him. It was a small lion, but supposedly friendly.

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M E R R I L L C O R P O R A T I O N

SECURITIES ARE AS EASY AS TORT

By Greg Tevis

In my view too many good civil trial attorneys pass up the opportunity to handle a case simply because securities are involved. During the years I have been associated with the financial services industry as an in-house counsel good trial attorneys have often asked me for referrals for securities litigators. Rather than immediately respond with referrals I usually probe a little and suggest that they are quite capable of successfully trying the case. That is the message I would like to convey to you. If you can try the run of the mill tort case you can try all but 1 percent of the securities cases that come along, and securities cases are fun to try. In the final analysis securities cases are very similar to common tort cases involving fraud, negligence or breach of fiduciary duty. With that in mind let's go over some basics in this limited space.

First, I suggest you evaluate the case on an economic basis just like you would evaluate any other tort case. Remember that insurance is not commonly involved, so consider whether collection of any judgment is possible. Unless activity is involved that would provide for multiple or punitive damages in tort cases which do not involve securities, you won't recover them in a securities case either, so evaluate your securities case accordingly. Do not, however, overlook the fact that our elder abuse statutes provide for recovery for financial fraud and in some circumstances for awards of attorney fees. If a brokerage account is involved then an enforceable arbitration clause is probably contained in the contract with the brokerage firm, and arbitration will be the required forum. I do not subscribe to the proposition that securities arbitration forums are stacked against the client. Panels are made up of three individuals, two of whom are not associated with the securities industry. If you have good facts you'll prevail and the streamlined procedure may make the smaller case economically viable.

Sometimes the existence of a security under the operative facts is not readily evident. Obviously if your potential client bought (or sold) a stock or bond then a

security is involved. Let me give you a simple test: A security is involved if one party parts with their money under circumstances in which they are expecting the possibility of a return on their investment due to the efforts of someone else. Even when the investment instrument is esoteric, such as a security derived from another security (in which case it's called a "derivative," such as an option on a stock) the critical element to evaluate is whether you have actionable (as in tortious) behavior and whether pursuing the case is economically justified.

Who then are the potential parties? Obviously the plaintiff and the person who sold the security. Others may be involved depending on the cause of action alleged. For instance, an agency or similar relationship (such as a partnership) may cause parties to be vicariously liable. If an individual has a fiduciary relationship with the client (by virtue of a professional relationship such as attorney or CPA) and did not sell but recommended the securities transaction, that person may be involved as well. If a stockbroker was involved there is always a fiduciary duty stretching from the broker to the client in California. Officers, directors and persons who control an enterprise may also be involved depending on their knowledge of the offending conduct.

The causes of action include of course those related to federal and state securities law but also common law fraud, negligent misrepresentation and possibly breach of fiduciary duty. By and large securities statutes do not add to the level of damages you may recover and they may in fact require proof regarding elements that are not present in some of the common law causes of action. The additional elements, however, are not foreign to tort law – nothing you haven't already seen. For example, an action under section 10b of the federal Securities Exchange Act of 1934 and section 12a(2) of the Securities Act of 1933 have different elements, but each requires (1) use of interstate means such as phone, mail, fax or the internet; (2) a material false statement or omission; and (3) damages.

Section 10b(5) requires reasonable reliance and so does section 12a(2). The California antifraud securities statutes are virtually identical except that they allow you to include secondary actors and do not require interstate activity.

There are certain types of securities cases which I would not recommend accepting unless you either have previous securities litigation experience or are willing to invest substantial time in educating yourself in this field. A "churning" case is a good example. In essence "churning" occurs in a brokerage account when the broker takes de facto control over the account and buys and sells securities in the account primarily to benefit the broker and not the client. Churning cases typically involve a high turnover of securities in the account. Insider trading cases are also cases which I would recommend be referred to a securities attorney. These cases tend to be factually complex and require extensive legal research in relevant case law (which can only be described as tortuous – as opposed to tortious).

Most often I believe the civil trial attorney in our community will run across a potential case involving a passive investment in a business or a troubled investment portfolio in a retail brokerage account. I don't believe that those cases should be referred to a securities litigator unless there are operative facts which make the case time-intensive for the non-securities litigator. Try them; you will like them.

Greg Tevis is an attorney and practices in Thousand Oaks. He blogs at gregtevis.blogspot.com

“NOTES FOR A LAW LECTURE”

By Abraham Lincoln



The following are notes of a speech delivered by Abraham Lincoln in 1850. Lincoln had recently returned to the practice of law after a term in the United States House of Representatives. He would remain in practice until 1860, when he received the newly-formed Republican Party's nomination for President.

These notes appeared in “Little Masterpieces,” a multi-volume collection of writings published in 1901 by Doubleday & McClure and edited by Bliss Perry, then-editor of the *Atlantic Monthly* and later a professor of literature at Harvard University.

I am not an accomplished lawyer. I find quite as much material for a lecture in those points wherein I have failed as in those wherein I have been moderately successful. The leading rule for the lawyer, as for the man of every other calling, is diligence. Leave nothing for to-morrow which can be done to-day. Never let your correspondence fall behind. Whatever piece of business you have in hand, before stopping, do all the labor pertaining to it which can then be done. When you bring a common-law

suit, if you have the facts for doing so, write the declaration at once. If a law point be involved, examine the books, and note the authority you rely on upon in the declaration itself, where you are sure to find it when wanted. The same of defenses and pleas. In business not likely to be litigated – ordinary collection cases, foreclosures, partitions, and the like – make all examinations of titles, and note them, and even draft orders and decrees in advance. This course has a triple advantage; it avoids omissions and neglect, saves your labor when once done, performs the labor out of court when you have leisure, rather than in court when you have not. Extemporaneous speaking should be practised and cultivated. It is the lawyer's avenue to the public. However able and faithful he may be in other respects, people are slow to bring him business if he cannot make a speech. And yet there is not a more fatal error to young lawyers than relying too much on speech-making. If any one, upon his rare powers of speaking, shall claim an exemption from the drudgery of the law, his case is a failure in advance.

Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser – in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough. Never stir up litigation. A worse man can scarcely be found than one who does this. Who can be more nearly a fiend than he who habitually overhauls the register of deeds in search of defects in titles, whereon to stir up strife, and put money in his pocket? A moral tone ought to be infused into the profession which should drive such men out of it.

The matter of fees is important, far beyond the mere question of bread and butter involved. Properly attended to, fuller justice is done to both lawyer and client. An exorbitant fee should never be claimed. As a general rule never take your whole fee in advance, nor any more than a small retainer.

When fully paid beforehand, you are more than a common mortal if you can feel the same interest in the case, as if something was still in prospect for you, as well as for your client. And when you lack interest in the case the job will very likely lack skill and diligence in the performance. Settle the amount of fee and take a note in advance. Then you will feel that you are working for something, and you are sure to do your work faithfully and well. Never sell a fee note – at least not before the consideration service is performed. It leads to negligence and dishonesty – negligence by losing interest in the case, and dishonesty in refusing to refund when you have allowed the consideration to fail.

There is a vague popular belief that lawyers are necessarily dishonest. I say vague, because when we consider to what extent confidence and honors are reposed in and conferred upon lawyers by the people, it appears improbable that their impression of dishonesty is very distinct and vivid. Yet the impression is common, almost universal. Let no young man choosing the law for a calling for a moment yield to the popular belief – resolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave.

Note: CITATIONS thanks the SLO County Bar Bulletin and R. Michael Devitt for exhuming these notes and publishing them in the Bulletin's September-October 2009 issue.



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BOOK REVIEW: THE WAXMAN REPORT

By *Louis J. Vigorita*

Otto von Bismarck is credited with the warning that one should be wary of what goes into making laws and sausage. The outcome rarely reflects the ingredients in appeal and savoriness. Congressman Henry Waxman from Beverly Hills might say that no one should be surprised what goes into making laws because that feat requires nothing less than hard work over a long period of time, taking advantage of every opportunity to appeal to the political greed of the opposition while convincing them to cooperate. Given the current health care reform machinations, "The Waxman Report" provides the background and ground rules that help us truly understand what is going on. It's as if we are entering the stadium of politics and are handed a program.

It is the very act of reaching out to the opposition and getting them to join in

support of some stance contrary to their political leaning that makes Waxman successful. That tactic when pursued diligently makes the difference between a successful legislator and a "do nothing," according to Waxman. One after another, Waxman details the inner workings that led various pieces of legislation to finality over the last 30-some years. Progressives appealed to the self-serving desires of the opposition and were able to garner support for bills that on the surface flew in the face of their seeming interests. Waxman knows when to strike at the underbelly as he identifies his opponents' weaknesses that enable him to latch on and entice them to join him.

Beneath the opposition, sometimes Democrats and sometimes Republicans were convinced that they were able to win favor for their districts or their constituents

or just plain political favor to cash in later. Waxman uncannily seems to be able to jump at openings and strike at the perfect moment, hauling in the prize: a willing opponent. A little self-serving, to be sure, but it is certainly eye-opening. If you enjoy political "how to" books, you will love this manual about how federal legislation is passed and how Waxman sees opportunity in seeming defeat and a silver lining in every political cloud.

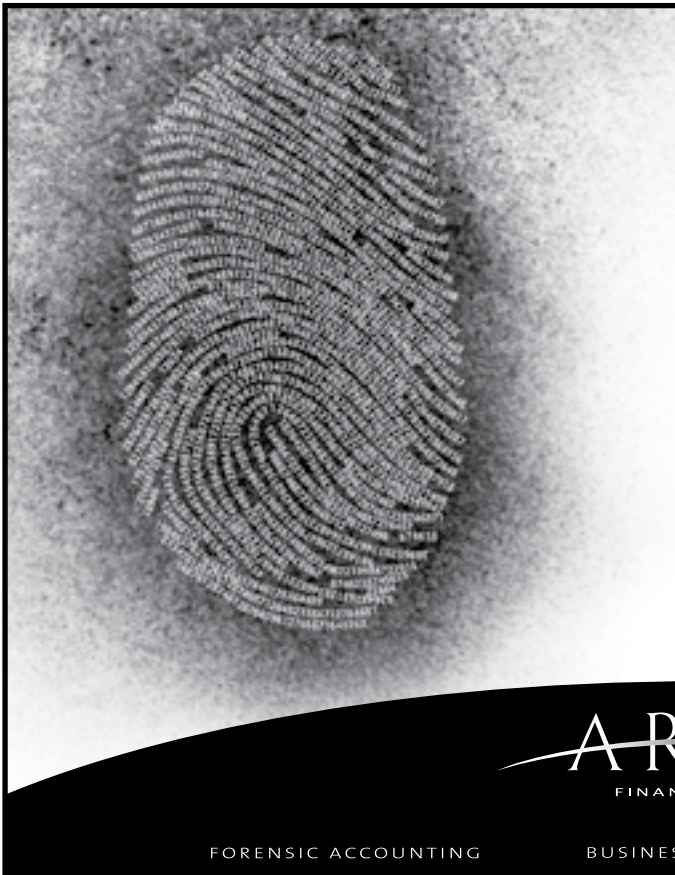
Louis Vigorita is a member of CITATIONS' Editorial Board and an attorney in Ventura specializing in workers' compensation and social security law.

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HELP KIRWIN HELP HAITI

By Kate Brolan



Mark Kirwin, a partner of Haffner Haffner and Kirwin of Ventura, will leave for Haiti in February. Mark and his wife Angela are founders of Kirwin International Relief Foundation (KIRF). Mark finances all of his travel and the expenses for his work with KIRF. Donations go directly to purchasing supplies, transportation, food and other needs on the ground – and directly to the people in need. Mark has been active in hands-on relief work after disasters since the 2004 tsunami.

Now is your opportunity to help. You can donate online through www.kirfaid.org and follow the DONATE link. Or you can mail your donation to KIRF's current sponsoring organization:

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Please note that you want your donation to go to KIRF. Donations to "KIRF/IHC," a non-profit 501(c)(3) organization affiliated with the International Humanities Center, are tax deductible. Tax I.D. # 33-0767921.

Kate Brolan has just opened her own practice in Ventura.

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RETROFITTING ADA LITIGATION

By Tony Falcone

Intimidation. Fear. Lawsuit. Settlement. These are the words that come to mind when business and building owners hear "ADA" or "Accessibility Rights." For them, it is not a matter of *if* they will be sued, but *when*. Now, there is a new way to protect your clients, your company, or yourself from aggressive and often frivolous accessibility-related lawsuits.

California enacted the Construction-Related Accessibility Standards Compliance Act (the "Act") in July of 2009 (Civil Code, §§ 55.51-55.54). The Act extends special legal protections to businesses and building owners who are willing to upgrade and retrofit their facilities to comply with state and federal accessibility laws. Participation is completely voluntary.

What is a business or building owner's incentive to participate? There is no stimulus money involved or any tax credits offered. Instead, the Act awards compliance by insulating participants from frivolous lawsuits. One need only obtain certification from a State Certified Access Specialist, or "CASp."

What protections does the Act create? Once a building or business is CASp certified, the owner is entitled to request a 90-day stay on any accessibility-related lawsuit filed against them. This prevents a plaintiff from accumulating legal fees pressuring the owner into settling. The owner can then request an early evaluation conference with a judge or commissioner trained in accessibility laws to evaluate the merits of the case. The practical effect of the Act is to prevent frivolous accessibility claims that have proven so worrisome (and expensive) in the past by providing an objective assessment.

How does one "certify" a building or business? A CASp must first inspect it. The CASp will then provide a state-numbered "Disability Access Inspection Certification." The certification will read either "CASp determination pending" or "CASp-Inspected." "CASp determination pending" means the inspector found accessibility barriers (problems) in the facility. The business or building owner will then coordinate with the CASp to create a plan for when and how to correct the barriers. Once

all barriers are corrected to the fullest extent feasible, the certification will be amended to read "CASp-Inspected." It does not matter whether your certification is designated as "CASp determination pending" or "CASp-Inspected," the special legal protection granted to you are the same.

How does one become a CASp? Candidates must apply for entrance into the CASp Program and demonstrate minimum employment and work experience in code enforcement, construction or architecture. A successful applicant must pass the CASp Program examination. CASp inspectors must renew their certificate every three years.

A list of specialists is available at the Department of General Services (DGS) website: www.dsa.dgs.ca.gov/access/casp.htm

Tony Falcone is president of a firm specializing in accessibility services throughout California.

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“UP IN THE AIR”

By William E. Paterson

In his brilliant satire “Thank You for Smoking,” director Jason Reitman chronicled the career of Nick Naylor (Aaron Eckhart), a public relations guru in the service of Big Tobacco. Nick was a man at the top of his game, loved his work and was a stranger to any pangs of guilt. He and “Up in the Air’s” Ryan Bingham (George Clooney) are birds of a feather. Ryan spends over 300 days a year flying back and forth across the country to perform a task which “downsizing” companies have cheerfully outsourced to his own employer. On the day the ax is to fall Ryan checks out of his hotel and sets up shop on the company premises. When the hapless employees file in, it is Ryan’s task to convince them to go quietly.

Does Ryan find his job depressing? On the contrary. He has a treasured American Airlines card which whisks him through airports to his first-class seat and hotel service granted only to a select few. Ryan is rarely given to reflection on the emptiness of his existence and loves his life on the road. However, there is a storm cloud brewing. When he makes one of his

infrequent visits to the head office in Omaha, he learns that his days as a road warrior may be coming to an abrupt end.

Newly hired bright young Princeton graduate Natalie Keener (Anna Kendrick), has come up with an idea to slash the company’s travel budget: termination by video conferencing. Ryan is appalled. The thought of living 365 days a year in Omaha chills his soul. Further, the notion that a video monitor could replace his hard won “people skills” is a professional insult. To make his point he convinces the company president to let him take Natalie on his next round of pumping up the nation’s unemployment numbers. He wants to show her how things are done in the real world. Their journey is one you will miss at your peril.

“Up In the Air” is one of my top three films of 2009. (The others are “Up” and “The Hurt Locker”). Allow me to enumerate but a few of its myriad virtues.

The script: Clooney and company have been gifted with the year’s wittiest script. Listening to Ryan expound his cynical views of the business world; describe the tricks of the trade of the constant traveler (for example, why it pays to never get in line behind older people as opposed to Asian business men); or bantering with his adventurous fellow travel junkie (Vera Fermiga as Alex) made me wish I could take notes.

The cast: What more good things can one say about George Clooney? As either a fugitive from a chain gang who mistakes his grab bag of big words and rhetorical ornamentation for intelligence (“O’ Brother, Where Art Thou?”), or a jack of all trades fixer for a silk stocking law firm (“Michael Clayton”), Clooney exudes a unique screen presence. As Natalie, Anna Kendrick has a perfect take on a bright and lovable young woman you want to reach through the screen and hug. As the not-so-innocent Alex, Fermiga puts thoughts other than hugging into a male viewers’ mind. She is a sleek, brainy and tart-tongued woman who casts a spell over Ryan.

The cast-off employees: During the film we sit across the desk from employees at the time they are blindsided with the news that it will be their last day on the job. We also meet them in later interviews as they describe their attempts to cope with life without the purpose work provided them. Some are actors but many were recruited by Reitman from the pool of real life unemployed. These riveting vignettes perfectly capture the sad and wrenching reality behind today’s unemployment statistics.

“Up in the Air” seamlessly interweaves comedy, social commentary and a rueful take on the human condition. Years ago when I saw “ Fargo” and “ Goodfellas” I was stuck by the thought that I could not think of a single frame in those films that I would want to change. I felt the same way when the lights came up at the end “Up in the Air.” Reitman is now three for three (“Thank You for Smoking,” “Juno” and now, “Up in the Air”).

Bill Paterson, a partner at Ferguson, Case, Orr & Paterson, has been sharing film reviews with his firm and a select group of friends for many years.



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PRO BONO HIGHLIGHTS

By Verna R. Kagan

We have just come through the holidays. During that period the press and charitable organizations remind us about compassion. They give us stories about the less fortunate who need everything – food, shelter, clothing, toys for children, medical care and legal services.


What is most important to remember is that these needs exist throughout the year.

So, my dear pro bono friends, all year long the emeritus attorneys team has been calling upon you to assist us by providing service for the many applicants who come through our program. We depend upon your continued compassion and concern.


How do I thank you for all your service? I cannot write this article often enough to fulfill my desire to thank you. This year we will again and again come knocking at your door and hope that my team and I will be invited in. In the meantime, I want to take this opportunity to wish you and those you love all the joy and good health that life can bring for the New Year.

Verna Kagan is VLSP Senior Emeritus Attorney.

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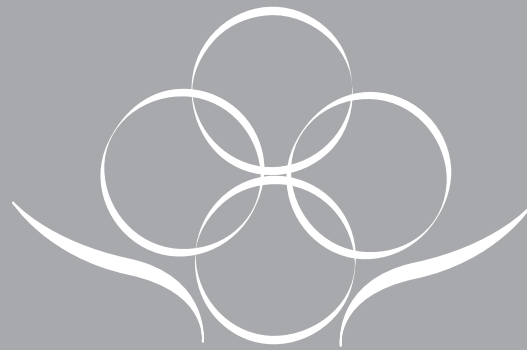
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FOOD AND WINE IN THE VENTURA BACK COUNTRY

By Antonio Verdiny

How many times have you found yourself on the backroads of nowhere on your way to or from some trip, getting hungry and wishing you could feast on something besides the usual fast-food haunts and greasy spoons you find on the road? On one of those trips, coming back from Basque festivals and rodeos in Bakersfield, we took an alternative scenic route (as opposed to I-5 through the Grapevine) and went west on the 166 through Maricopa, dropping down to the 33 south through Ventucopa. Yes, Ventucopa, a picturesque area you would not mistake for the suburbia of Ventura, Oxnard, Camarillo and Thousand Oaks.

Now, you may wonder, "Why go out of your way through a backroad?" Well, for one, I am city born and raised, but my heart has always been in the country. I love nature, of which one sees plenty when going through Ventura's back country. Anyone who has driven the 33 up through Meiners Oaks above Ojai and past Rose Valley will eventually behold a beautiful, big valley in the upper highlands of Ventura County teeming with pistachio groves, ranches and even vineyards. If you want to breathe fresh air and see some of the best of the county's flora and fauna, this is a good place to go.

Each time we go through there we make a new discovery. This time we wanted to check out a little spot called Sagebrush Annie's. Driving by, you may not pay too much attention to this unassuming establishment, but once you walk in, the aromas of gourmet cuisine captivate your olfactory senses as you take in the rustic trappings of an old farm house/hunters' lodge. You can't help but notice a wine bar manned by the proprietor, Larry Hogan, surrounded by bottles of his award winning Pine Estate and Sagebrush wines. Scurrying back and forth between the kitchen and dining room is Larry's lovely wife Karina, master chef and classically-trained musician. This cozy wine bar/gourmet eatery features locally grown Cabernets, Zinfandels and Merlot from two appellations: Barnwood, from the Santa Barbara highlands, and Stone Pine, from Quatal Canyon in the Cuyama/Ozena Valley (on either side of the Santa Barbara /Ventura County line).

Aside from turning heads at several international and U.S. wine competitions and winning several awards, including the double gold in 2007, these wines are the perfect complement for the mouth-watering dishes prepared by

Karina. They include grilled mushrooms and garden salad followed by a juicy, hardwood-fired barbecue steak, filet mignon or ribeye, in a setting surrounded by the vines that produce the same wine as poured into your glass with this unforgettable dinner.

Larry proudly gave us a tour of his vinification facility, which leads to a large banquet room that can cater to grand banquets or receptions. Where else can you go where your every culinary desire can be satisfied and you can drink wine made just for the food you will be eating? If you want to get away from it all and see the beauty of Ventura's back mountain region while at the same time enjoy excellent cuisine with exquisite service, this is the place to go! Reservations required. (661) 766-2319 or visit www.sagebrushannies.com.

Antonio Verdiny is a state certified court interpreter who teaches wine classes, conducts tours and writes a column for advice.com.



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Law Firm has an Opening for an Associate Attorney. We have a busy civil litigation practice. We are seeking an associate, new graduate to 3+ years experience. Will train, trial experience possible. Salary DOE, military experience a plus. Knowledge of Wordperfect and Westlaw important. Must be able to type and write competently. Fax resume to (805) 482-8879, or email to: ggoebesq@earthlink.net. Writing sample and verifiable references a must.

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- *Member of The American Immigration Lawyers Association
- *Member of The National Lawyers Guild
- *Member of The Ventura Center for Dispute Settlement
- *Member of The Association for Conflict Resolution

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Ramon Guizar went to work January 11 for NCHC after spending the previous 19 years with FCOP. Ramon spent many years as chairperson of the Real Property Section of the bar. **John Hribar** has joined FCOP and comes by way of O'Melveny & Myers in LA. Heck of a volleyball player in the day. All American Honors at Stanford and played three seasons on the AVP Tour – www.bvbinfo.com... Unbundled legal services are one way to close a justice gap that is growing as more people find themselves unable to afford a lawyer, according to the chief justices of California and New Hampshire. Writing in the *New York Times*, Chief Justices Ronald George of California and John Broderick Jr. of New Hampshire note that 41 states have adopted an ABA model rule that allows lawyers to take only part of a case. The practice is known as “limited-scope representation”. www.nytimes.com – 1.3.10...

Rome? Switzerland? **Panda Kroll** at panda@pandaesq.com...A Georgia judge has resigned from the bench after questions surfaced about his Facebook relationship with a defendant. Chief Judge Ernest Woods of Mountain Judicial Circuit Superior Court, 54, told the *Fulton County Daily Report* that he is retiring from the job. “I just got tired of living under a microscope,” he said. Woods’ resignation follows allegations about an inappropriate relationship with a defendant, Tara Black. The relationship was chronicled in what appear to be Facebook emails that were turned over to the circuit’s district attorney and obtained through an open records request by the *Fulton County Daily Report*. According to the emails, Woods apparently initiated the relationship with Black when he contacted her through Facebook and said he noticed that she worked at a hair salon and he was seeking a new person to cut his hair. Later Black borrowed money for her rent and was released on her own recognizance on order by Judge Woods...

Exec’s Dot...Dot...Dot...

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

Sam Gasowski has gone to work at DTS, Inc. in Calabasas. Sam was a member of the Barristers’ board of directors several years ago. He may be reached at sam.gasowski@dts.com...

Jessica Arciniega and **Oscar Gonzalez** of Wassermann, Comden & Casselman, have been elected as the 2010 President and Vice-President of the Mexican American Bar Association. **Rebecca Mendoza** of the Ventura City Attorney’s Office has been elected as Secretary. CRLA attorney **Andres Garcia** will remain as treasurer... The percentage of law students expecting to graduate with more than \$120,000 in student debt is continuing its upward climb. 29% of law students surveyed said they expect to owe more than \$120,000 at graduation, up from 23% in 2008, 19% in 2007, and 18% in 2006. The findings come from the Law School Survey of Student Engagement, which garnered responses from 26,641 law students at 82 law schools in Spring 2009...Last year was the worst year ever for layoffs at large law firms, but there is one bright spot on the statistics: The pace is slowing. According to the blog LawShucks, 12,196 people were laid off at 138 large law firms tracked last year. In all, 4,633 lawyers and 7,563 staffers lost their jobs. The bad news was concentrated in the first half of the year. 73% of the year’s total layoff had occurred by the end of March, and 88% had happened by the middle of the year...I have copies of the Ventura Superior Court local rules and forms that were revised effective 1.1.2010. Better yet, get your own copy at www.ventura.courts.ca.gov/pdf_files/ventura_county_court_rules_pdf..

Just in case you have not heard yet – the judges of the Superior Court announced **JoAnn Johnson** as the court’s newest commissioner. She fills the vacancy created by the appointment of **Roger Lund** to a judgeship 12.29.09. JoAnn assumed her duties 1.11 another is **Judge William Lynth**...Judge packs a gun in Birmingham, Alabama – Judge Suzanne Childers keeps a silver .38-caliber Smith & Wesson under her bench after county officials let her two courtroom deputies go because of a budget shortfall. “I feel like I need some kind of protection, both for me, my staff, and

the general public,” said Childers, who often has angry people battling over divorce or child custody issues in her courtroom...**Bill Hair** began his 50th year of practice 1.6.10. Obviously he began in 1960 and his SB# is 30134...

Steven Lee, of Myers, Widders, et al., became a partner January 1. Steve has been with the firm since October 2001...A woman had a blood-alcohol level of .708 percent, a South Dakota state record, when she was found earlier this month behind the wheel of a stolen (go figure) vehicle parked on Interstate 90. Her blood-alcohol level was almost nine times the SD’s limit of .08 percent. A state chemist recalled once a sample that tested .53, but nothing higher and she’s been on the job 30 years. Research also indicates that a BA level of .40 is considered a lethal dose for about 50% of the population...

Tom Hutchinson will become president of the noontime Ventura Rotary Club July 1st... Careful of your March Madness pools – Before this year it was either a misdemeanor or a felony “to make a betting pool or place a bet...on the result of any contest or event, including a sporting even, as specified.” As of January 1, there is an exception to the misdemeanor or felony penalty. The bill makes “an infraction punishable by [up to] \$250, for a person, not for gain, hire, or reward, other than that at stake under the conditions available to every participant, to participate in a bet, wager, or betting pool with another person or group of persons are not acting for gain, hire, or reward other than that at stake under conditions available to every participant.”... The Los Angeles Lawyers Philharmonic – “L.A.’s Only Legal Orchestra” - can be found at www.youtube.com. Type in Los Angeles Lawyers Philharmonic Orchestra...

Steve Henderson has been the executive director and chief executive officer of the bar association and their affiliated organizations since November 1990. He correctly picked last month a BCS victory for The Tide and predicts a similar Super Bowl victory for MVP Peyton Manning. Henderson may be reached at steve@vcb.org, twitter.com/stevehendo1, FB, or simply by calling 650.7599.

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*The Law Offices of David Lehr, Inc. are pleased to announce
the hiring of **Jasen B. Nielsen, Esq.***



Mr. Nielsen grew up in Thousand Oaks, and graduated from Westlake High School. He received his Bachelor of Arts from the University of California at Santa Barbara, and his Juris Doctorate from the Santa Barbara College of Law. He received the Witkin Award for Academic Excellence and the CALI Excellence for the Future Award in Remedies, and Academic Achievement Awards for the Highest Grade in Contracts, Legal Writing, Torts and Remedies. As an attorney, Mr. Nielsen worked in Construction Litigation and as a Ventura County Deputy District Attorney, where he received 24 hours of P.O.S.T. Certified Standardized Field Sobriety Test Instruction. Mr. Nielsen is now using his experience to help clients facing DUI charges.

We would appreciate your criminal law referrals.

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