



VCBA MISSION STATEMENT
 To promote legal excellence, high ethical standards and professional conduct in the practice of law; to improve access to legal services for all people in Ventura County; and to work to improve the administration of justice.

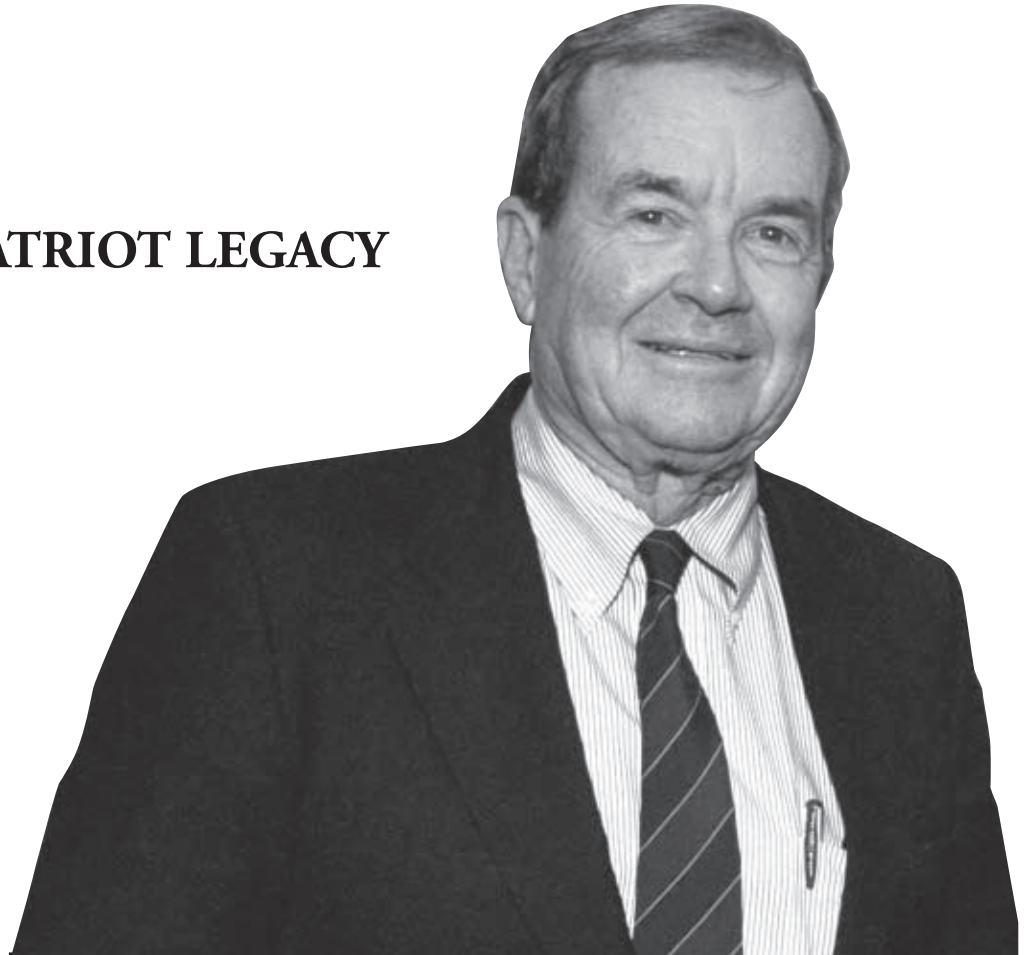
CITATIONS

J A N U A R Y - T W O T H O U S A N D F O U R T E E N

BILL CLARK'S PATRIOT LEGACY

by Richard Regnier

Page 7



LAURA V. BARTELS

MICHAEL R. SMENT

LAWRENCE C. NOBLE

GREGORY W. HERRING

KATE M. NEISWENDER
 MARK NEISWENDER

DAVID LAUFER

RACHEL COLEMAN

STEVE HENDERSON

PRESIDENT'S MESSAGE: WHAT FIFTY YEARS BRINGS	3
EMINENT DOMAIN, CALIFORNIA CITIES AND "UNDERWATER" LOANS	8
EAR TO THE WALL	10
A REPLY TO COUNTY BAR PRESIDENT JOEL MARK'S RHETORICAL QUESTION	11
SEPARATED UNDER THE SAME ROOF?	15
LIES HAVE CONSEQUENCES: PART II	16
RECOVERY AND THE INDEPENDENT WHOLESALERS REPRESENTATIVE LAW	18
IMPORTANT TORT AND TRIAL NEWS	19
BARRISTERS' CORNER	20
CLASSIFIEDS	21
EXEC'S DOT...DOT...DOT...	22

Are you sitting on
a huge referral fee?

Refer your CA and NV
personal injury cases to us.

QUIRK
LAW FIRM, LLP

(805) 650-7778

Recent Referral Fees PAID:

\$400,000 Motorcycle Accident, Riverside County

\$360,000 Slip and Fall, Riverside County

\$54,486 Auto Accident, Clark County, NV

\$40,500 Slip and Fall, Monterey County

4222 Market Street, Suite C, Ventura, CA 93003



PRESIDENT'S MESSAGE: WHAT FIFTY YEARS BRINGS

by Laura Bartels



Fifty years ago we watched the assassination of a president. Iconic still-frames are etched in the memory: Jackie lunging over the trunk; Lyndon Johnson being sworn in as President on Air Force One; and John John in his short blue jacket saluting the casket of his dead father. The Kennedy assassination and the tumult of the 50s and 60s was the culture of “The Warren Court” that framed much of how we as attorneys practice today.

Fifty years ago was also the landmark *Gideon v. Wainwright* ruling which forever changed criminal justice in our country by providing every person charged with a felony the right to counsel as guaranteed under the Sixth Amendment (“In all criminal prosecution, the accused shall...have the assistance of counsel for his defense.”) Before *Gideon*, defendants had the right to an attorney only in the prosecution of federal felonies. *Gideon* applied the right to state felonies.

Fifty years later, 2013 will be remembered for the landmark Supreme Court case regarding the Defense of Marriage Act

decision in *Windsor v. United States*. Justice Kennedy invoked the due process clause and the equal protection principles of the Fifth Amendment (“No person shall...be deprived of life, liberty, or property, without due process of law...”) holding that states have the power to define marriage, not the federal government, and if a state marriage is valid, then it is legally recognized by the federal government. California is one of seventeen states legally recognizing same sex marriage.

Fifty years after the passage of the Voting Rights Act, 2013 saw the Supreme Court strike down a key part of the act, removing a critical tool to combat racial discrimination in voting. In *Shelby v. Holder*, plaintiff Shelby County had a history of racial discrimination in voting and because of its history needed “preclearance” from the federal government before it made changes to its voting procedures. Ruled unconstitutional, Congress now holds the keys to enact legislation addressing voting access and barriers to guarantee the 15th Amendment protections.

Fifty(ish) years after the Warren Court’s *Miranda* decision gave us the ubiquitous “right to remain silent,” in 2013, the Supreme Court decided *Salinas v. Texas*, which contemplated whether one can invoke these “rights” without actually stating them. The Fifth Amendment does not actually contain a “right to remain silent.” Rather, this right is extrapolated from the Fifth’s privilege against self-incrimination: “No person shall be...compelled in any criminal case to be a witness against himself...” In *Salinas*, the defendant voluntarily walked into a police station, answered questions, and then when asked about the murder, looked down at the floor and went silent. The government used his silence as an indication of guilt. The Supreme Court opined that if the defendant wanted the protection of the Fifth Amendment when he walked in and talked to police, he should have spoken up and actually invoked it.

Fifty years from now, it will be interesting to see if pop culture will have popularized *Salinas* the way it did *Miranda*. How will people know they must invoke this right? What about: people without TV; people unfamiliar with the culture; people who speak languages other than English; different linguistic usages of invoking the right (“Yo, I know my right about that silence stuff”); or even technological changes? Can one text: “i have a rt 2 b silent?” How would a newcomer to the United States know they had a right to remain silent if they hadn’t seen reruns of *Law and Order*?

Fifty years ago, I grew up without television in a house perched on the side of Oregon’s Neahkahnie Mountain 500 feet above the Pacific Ocean with a view 50 miles down the coastline. Ours was the first home-site on the newly platted “development,” and the power company told my father that in order to provide electricity to the lot, Edison would be putting the power pole in the center of his view of the ocean. My father declined the impact to our view and so we built the house by hand and lived without electricity until I was 12, when all power was

Continued on page 5

**2013 VCBA
BOARD OF DIRECTORS**

OFFICERS

President
Laura V. Bartels

President-Elect
Alvan A. Arzu

Secretary-Treasurer
William Grewe

Past President
Joel Mark

Executive Director, CEO
Steve Henderson, CAE

Jessica Arciniega	Jill L. Friedman
Bret G. Anderson	Douglas K. Goldwater
Linda K. Ash	Kata Kim
Charmaine Buehner	Mark Kirwin
Michele M. Castillo	Susan L. McCarthy
Kathryn E. Clunen	Christina S. Stokholm
Rachel Coleman	Michael A. Strauss
Renee R. Dehesa	Andy Viets
Erik B. Feingold	

CITATIONS EDITORIAL BOARD

Managing Editor
Wendy C. Lascher

Publisher, CEO
Steve Henderson

Graphics/Production
J.P. McWaters

Assistant Editor
Bill Lascher

Karen B. Darnall	Rachel Coleman
Michael L. McQueen	Mark E. Hancock
Michael R. Sment	Panda L. Kroll
Louis J. Vigorita	Gregory Herring
Al Vargas	Glenn J. Campbell
Kathleen J. Smith	Lauren E. Sims
David T. Stowell	Carol Mack

CITATIONS is published monthly by the Ventura County Bar Association. Editorial content and policy are solely the responsibility of the Ventura County Bar Association.

Submit all advertising, classified and calendar matters to:

VCBA
4475 Market St.,
Suite B,
Ventura, CA 93003
Attn: Executive Director
t: 805.650.7599
f: 805.650.8059
e: bar@vcba.org
w: www.vcba.org

Submit all editorial matters to:

CITATIONS
1050 S. Kimball
Ventura, CA 93004
t: 805.659.6800
f: 805.659.6818
wlascher@fcoplaw.com



MEDIATION/ ARBITRATOR

Richard M. Norman

- 40 years litigation experience-AV rated.
- Personal injury, business, construction, employment, real estate, probate/trust, partnership and corporate disputes and dissolutions
- Member: American Board of Trial Advocates
- Past president Ventura County Bar Association and Ventura County Trial Lawyers Association
- American Arbitration Association and NASD arbitrator
- Trained Mediator- Pepperdine University Straus Institute
- Reasonable fees and flexible scheduling. No administrative charges.

Richard M. Norman
Of Counsel
Norman Dowler, LLP
840 County Square Drive
Ventura, California 93003-5406
(805) 654-0911 RNorman@normandowler.com



CISLO & THOMAS LLP®
Patent, Copyright and Trademark
Attorneys at Law



Super Lawyers
2013
Serving Businesses in Southern California Since 1979

Procurement, Licensing and Enforcement of Intellectual Property - Patents, Trademarks, Copyrights, Trade Secrets, Domains Names, Unfair Competition

<p>Westlake Village 2829 Townsgate Road Suite 310 Westlake Village, CA 91361-3006 Tel: (805) 496-1164 Fax: (805) 496-1880</p>	<p>Santa Monica 1333 2nd Street Suite 500 Santa Monica, CA 90401-4110 Tel: (310) 451-0647 Fax: (310) 394-4477</p>	<p>Santa Barbara 1332 Anacapa Street Suite 120 Santa Barbara, CA 93101-2090 Tel: (805) 962-1515 Fax: (805) 962-1544</p>
--	--	--

Visit us at www.cislo.com or contact us at admin@cislo.com
Call 1 (866) CISLO LAW or File a Provisional Patent at www.PatentFiler.com

Hon. David W. Long
 RETIRED



*Continuing the
 tradition of excellence
 in mediation and
 arbitration since 1986*

Creative Dispute Resolution

EST. BY PAUL D. FRITZ, ESQ. (1941-2011)

877-237-4237

CDRJudgeLong.com • CDRJudgeLong@gmail.com

PRESIDENT'S MESSAGE:

Continued from page 3

undergrounded. We had kerosene lamps and candles for light; a wood stove for heat; and a propane water heater, refrigerator, and range. After high school, I received a degree in history from Mount Holyoke College in Massachusetts. With my husband, Bill, we migrated to Fillmore in 1986 to learn his grandfather's orange business, and two years later I started working for **John Scoles** of Taylor & Scoles. Ventura College of Law allowed me to work and attend school. After the bar, I started my transactional practice in Fillmore in estate planning, probate and trust administration. I am also the Director of the Santa Clara Valley Legal Aid, which is open to all needy people every Thursday evening in Fillmore and staffed by all volunteer attorneys. The orange orchards that brought us here have now been replaced by fields of jalapeño peppers which we grow for Sriracha Chili Sauce. Our children are the fifth generation growing up in our historic home in Bardsdale.

Fifty years ago, the last Ventura County Bar president from Fillmore was selected after allegedly drawing the short straw at a raucous, generously scotch-filled annual county bar meeting in Ojai. Thirteen years before that in 1950, Fillmore's **John Galvan** became Ventura County Bar's first president. Mr. Galvan's office is the one I have occupied for the past couple of decades. Also in the fifties, Supreme Court Chief Justice Earl Warren penned a thank you note, hanging on my wall, to our founding partner, Art Taylor, reminiscing about their times as roommates at Berkeley. I honor the connections of our heritage and thank you for the honor of being your president, fifty years after the last president from Fillmore.



11TH HOUR MEDIATION

It's never too late to mediate.



DAVID M. KAREN, ESQ.

Mediator and Active Trial Attorney

26 year Plaintiff And Defense Litigator

dk@dk4law.com

(805) 988-4728

**DK Law Group
 CAN'T SETTLE?
 GOT TRIAL?**

Accepting Civil Trial
 Referrals/Associations of Counsel

DK4LAW.com

11THHOURMEDIATION.COM



*Laura Bartels practices
 in Fillmore at Taylor
 Scoles & Bartels.*

BAR LEADERSHIP

ADR SECTION	
David Karen	988-4848
ANIMAL LAW	
Katherine Hause	525-7104
ASIAN BAR	
John Fukasawa	383-2788
BANKRUPTCY	
Michael Sment	654-0311
BARRISTERS	
Rachel Coleman	477-0070
BENCH/BAR/MEDIA COMMITTEE	
Kendall VanConas	988-9886
BENCH-BAR RELATIONS COMMITTEE	
Hon. Matt Guasco	256-4972
BLACK ATTORNEYS ASSOCIATION	
Alvan Arzu	654-2500
BUSINESS LITIGATION SECTION	
Erik Feingold	644-7188
CITATIONS	
Wendy Lascher	659-6800
CLIENT RELATIONS	
Dean Hazard	988-9886
COURT TOUR PROGRAM	
Thomas Hinkle	656-4223
CPA LAW SOCIETY	
Douglas Kulper	659-6800
DIVERSITY BAR ASSOCIATION	
Jill Friedman	644-7188
EAST COUNTY BAR	
Doug Bordner	496-0111
EMPLOYMENT LAW	
Joe Herbert	482-5340
FAMILY LAW BAR	
Patricia Mann	371-4066
IMMIGRATION LAW	
Jack Seal	650-1100
INTELLECTUAL PROPERTY	
Chris Balzan	658-1945
J.H.B. INN OF COURT	
Lindsay Nielson	658-0977
JUDICIAL EVALUATION COMMITTEE	
Linda Ash	654-2580
LAW LIBRARY COMMITTEE	
Eileen Walker	444-6308
LGBT Alliance	
Ed Elrod	644-4486
MEXICAN AMERICAN BAR ASSOCIATION	
Lou Kruezer	381-4131
NATURAL RESOURCES SECTION	
Gisele Goetz	895-5338
PRO BONO ADVISORY BOARD	
David Shain	659-6800
PROBATE & ESTATE PLANNING SECTION	
Amber Rodriguez	643-4200
REAL PROPERTY	
Ramon Guizar	981-8555
SOLO SECTION	
Adam Pollock	818-991-7760
VCBA/VLSP, INC.	
Joel Mark	644-7111
VC TRIAL LAWYERS ASSOCIATION	
Susan McCarthy	988-9886
VC WOMEN LAWYERS	
Charmaine Buehner	654-2580
VCBA STAFF	650-7599
Steve Henderson - Executive Director	
Sandra Rubio - Associate Executive Director	
Nadia Avila - Members Relations Director	
Verna Kagan, Esq. - VLSP Program Manager	
Peggy Purnell - CTP Coordinator	



WAGNER FINANCIAL

"A disciplined approach to investment management"

STEPHEN H WAGNER, CFP®
SERVING THE LOCAL COMMUNITY SINCE 1979

CALL US FOR YOUR COMPLIMENTARY CONSULTATION
(805) 339-0760

1001 Partridge Drive Suite 110
Ventura, CA 93003
wagnerfinancial.com

- FINANCIAL PLANNING
- INVESTMENT MANAGEMENT
- WEALTH PROTECTION STRATEGIES
- 401K/PROFIT SHARING EXPERTISE
- PUBLIC SPEAKING FOR YOUR GROUP OR ASSOCIATION

Securities and Investment Advisory Services through Transamerica Financial Advisors, Inc. (TFA) member FINRA, SIPC and a registered investment advisor. Wagner Financial and TFA are not related.

Loving Arms Family Care



Providing loving & personalized caring assistance at home while maintaining your dignity & independence.

805.248.6970

- ♥ Assistance with All Personal Care
- ♥ Medication Supervision
- ♥ We Provide Hourly, Live in & Live Out Care
- ♥ Hospice Support
- ♥ Assistance with Household Duties
- ♥ Alzheimer's & Dementia Care
- ♥ Nutritional Evaluation & Meal Preparation
- ♥ Companionship & Recreational Activities
- ♥ Errands & Medical Appointments
- ♥ Respite & Relief Care & Much More

Info@LovingArmsFamilyCare.com

www.LovingArmsFamilyCare.com

Call For Our Nurse Case Manager To Provide a Free in Home Consultation.

Our Private Caregivers are carefully screened, licensed and bonded.



BILL CLARK'S PATRIOT LEGACY

by Richard Regnier



On August 10, 2013, a member of the Ventura County Bar went to his eternal reward. He was the senior partner in the Oxnard law firm of Clark, Cole and Fairfield when Gov. Ronald Reagan appointed him to the San Luis Obispo County Superior Court bench in 1969. In his ensuing extraordinary public service career, **Bill Clark** proved to be an outstanding American.

Two years ago my wife Georgie and I visited Bill at Shandon, his 1,000 acre ranch near Paso Robles. He was confined to a wheelchair as a result of Parkinson's disease. Bill's two caregivers, Maria and Tosca, lifted up the tall, determined crusader for freedom, then eased him into an armchair in his modestly-sized ranch home. Many memorabilia were evident, including an impressive commendation from Secretary of Defense Caspar Weinberger for Bill's four years of service as Assistant Secretary of Defense. For the next hour and a half we reminisced. Cheerful and displaying the visage of a wise man, his mind remained sharp, his handshake firm.

Bill and I first met in 1965 as members of Oxnard Council 750, Knights of Columbus. Our law offices were just a few blocks apart on A Street. Back in those halcyon days Bill gave a stirring speech at a KC meeting about his Ventura County roots. His grandfather Bob Clark, as Ventura County Sheriff, busted the back of criminal activities centered in Oxnard's notorious China Alley in the 1920s. After President Franklin Roosevelt selected him in 1933 to be the U.S. marshal for Southern California, Bob Clark's reputation as the top lawman in the

taming of the Wild West became legendary.

Bill also told the KCs about his father, Bill Sr., who herded cattle as a teenager, became a deputy sheriff, then under-sheriff for four years. But ranching and running cattle was his first love, so he returned to that until Oxnard Mayor Ed Carty offered him the job of chief of police to straighten out Oxnard's corrupt eighteen-man police department. This he did, restoring law and order to Oxnard in the process. Brimming with patriotic fervor, Bill spoke passionately about the strength, courage, and integrity of his father and grandfather. These attributes were in his genes too.

When Ronald Reagan was elected California's governor in 1966, Bill Clark became his executive secretary. He then progressed through the judiciary ranks to the California Supreme Court. Bill became known for his conservative stance and the succinctness of his judicial opinions.

After Reagan became America's fortieth president, Bill's service included roles as National Security Advisor and Secretary of the Interior. A devout, exceptionally generous Catholic, Bill had personally met Pope John Paul II. In 1982 he arranged for the president and the pope to meet. This led to weekly teleconferences involving Soviet President Mikhail Gorbachev, the pope, and Reagan. During our Shandon ranch visit, Bill told me the pope's wisdom, influential thinking, and commitment to peaceful solutions were instrumental in averting a nuclear Armageddon.

"Several times it was touch and go. Nuking was barely avoided."

Subsequently arms control agreements were reached. Steadily increasing pressure was put on the Soviet Union's economy in a strategy Bill helped to develop. Ultimately, the USSR collapsed.

"The President," as Bill respectfully referred to Reagan, shared with Bill a renowned love of ranching and horsemanship, abiding mutual trust, and love of country. Bill's role in Reagan's presidency was that of his top hand, as detailed in his biography *The Judge*. In 2008, Bill inscribed my treasured copy: "Best regards to Dick Regnier, dear and loyal friend of similar beliefs and causes – God bless him and his family! Bill Clark."

After serving as one of Reagan's closest advisers for two decades, Bill returned to ranching. He designed and had built on a Shandon hilltop a picturesque Spanish-style chapel complete with barbecue facilities to accommodate an entire community. He was a founding trustee of the Reagan Presidential Library. The Catholic Church bestowed on him its highest honor for a lay person – the Cross Pro Ecclesia et Pontifice (for Church and Pope).

Despite the onset of Parkinson's, increasing physical limitations, and the death of his beloved wife, Joan, Bill provided ongoing pro bono legal services at his Paso Robles law office. Modest, genuinely humble, soft spoken, an undaunted man of sturdy and reliable character, he played a key role in keeping our nation safe and strong, in bringing down the Iron Curtain. Because of men like Bill Clark we live the lives and enjoy the freedom with which we are blessed.

A Ventura County cowboy and lawyer, one of our own, was truly a great American.



Richard Regnier is a personal injury attorney based in Camarillo.

EMINENT DOMAIN, CALIFORNIA CITIES AND “UNDERWATER” LOANS

by Michael R. Sment

Most areas of California and the United States have been recovering, slowly and in differing ways, from the Great Economic Recession and related real estate loans, low home values and foreclosure problems.

With low interest rates and higher values, more residential properties have gone on sale in a normal way, without foreclosures, short sale restrictions or loss of principal. During 2012 and early 2013, Ventura County residential real property sales significantly increased over sales in 2011 and before.

But, not all of California's hard-hit regions have recovered quickly. In California, around 20 percent of home loans are still estimated to be underwater, while in Ventura County the total is about 14 percent.

Underwater loans are typically more likely to go into default and foreclosure, and lead to an abandoned or unrepaired property. Borrowers often see no realistic way out of their present loan or high payments, except to just abandon the property (“If we can't sell it or refinance it, because there is no equity, and the lender won't discount amounts owed, we will just walk away. At least we get out of that high payment, fees and interest rates...”). Resulting additional municipal expenses make things worse for already-strained city budgets. Cities may be forced to file, or at least consider, bankruptcy, as Stockton and Detroit did.

To avoid these potential underwater loan problems, some argue that a lender should agree to take a discount on old, high-rate loans; residents could then obtain a lower-payment loan from a city or new lender, and thereby stay in their homes. This would mean fewer foreclosures, fewer residents forced to move, fewer abandoned properties, and thus less abandoned property expenses for cities to pay. In 2012, a San Francisco company, Mortgage Resolution Partners “MRP”, promoted that idea, suggested by a Cornell University Law School professor, to California cities (including Fontana and Ontario) by. MRP proposed that California cities create an independent agency that would buy troubled loans from lenders at a discount and refinance them into new lower payment loans for homeowners. If the

lenders do not sell the loans to the cities for “far less than owed” amounts, cities would use their eminent domain powers to seize the loans/mortgages.

One example: A house worth \$200,000 is in default and foreclosure. A city offers to buy the \$300,000 first-priority loan on the house for \$150,000. If the lender agrees, the city and MRP obtain a \$150,000 loan to buy the old loan. They then offer the homeowner a new \$190,000 loan with lower monthly payments. If the lender refuses to sell, the city invokes its power of eminent domain, seizes the mortgage, and offers/pays the lender “fair market value” for the mortgage.

In 2013, MRP agreed to implement that plan for the City of Richmond. MRP would receive a fee for each loan, pay necessary funds and pay the city's legal expenses. In late July, Richmond gave notice to trustees and loan servicers regarding 620 underwater loans on homes within the city, asking that the loans be sold to the city. Richmond approved the creation of a joint-powers authority (possibly to include other cities, like El Monte) to buy back the underwater loans, but it has not yet approved the use of eminent domain to actually seize loans. Other cities, including Newark (NJ), North Las Vegas (NV) and Seattle (WA), have made similar demands.

Lenders and investors should not be expected to just sell real estate loans at a discount, even to a city. In early August, mortgage trustees for institutional investors, including Pacific Investment Management, sued in the U.S. District Court in Northern California seeking preliminary injunctions against Richmond, MRP and others. Another federal action, also seeking injunctions, was filed by California's Wells Fargo Bank and other financial institutions. The lawsuits allege violations of the “takings” clauses of the U.S. and California constitutions and of California's eminent domain laws. Wells Fargo has noted that lenders do not have contractual authority to sell underwater loans, particularly as those loans have been pooled with other mortgages to back bonds sold to investors.

The federal government, through HUD,

the Federal Housing Authority and Federal Housing Finance Agency, has also opposed municipal mortgage-seizing. It has said that the eminent domain plans “present a clear threat to the safe and sound operations of FannieMae, FreddieMac and the federal Home Loan Banks.” The cities' plans could cause lenders to not make loans in, or to not buy loans from, those places. The federal government could also restrict lending or make the city-resident homeowners ineligible for new government-insured loans.

Some California cities have started to use other tools to deal with bad-loan properties, including court orders for abatement, destruction or receiverships. In August, Thousand Oaks asked the Superior Court to appoint a receiver to determine the fate of one home, in foreclosure, that was described as a “growing mess” and “nuisance.” The receivership alternative was apparently sought instead of abatement because the city and taxpayers would have to pay for the repair or cleanup. Ventura and Simi Valley are now considering similar court requests.

California cities face many problems, including slow economies, lower tax revenues, internal issues, layoffs, and their homeowner residents' economic problems. They have been forced to increase fees and decrease services to maintain minimum standards. The added strains of dealing with underwater properties in foreclosure, disrepair or need of costly deferred maintenance or destruction and clean-up, will be too much for those local governments to handle.

But is a city's use of eminent domain the answer? Those local government efforts are admirable, but they fly in the face of a long-time standard for loans – a lender cannot be forced to accept less than the full amount of the principal owed on a debt. Without that standard, existing since Roman times, lenders would not lend. Commerce, business and home sales would stop.

Perhaps cities can follow the “buy/own-to-rent” business model followed now by many banks and investors like Blackstone Group and American Homes4Rent, which

rent out foreclosed homes. Cities' needs for rental housing, low income housing and a profitable use of underwater loan properties could be met with such a stream-lined and income-producing program.

It does not appear that California cities will be successful using their eminent domain power. Besides being contrary to long-standing commercial practices, cities face the combined opposition of the United States Government and the financial "Powers of Wall Street." Some other solution, legislative-based or profit-centered or both, is needed to help protect California cities from potential problems relating to underwater residential loans.



Michael R. Sment is a member of the CITATIONS editorial board, and handles real estate, foreclosure and bankruptcy matters from his Law Offices in Ventura, California.

Expert Investigations

sil-ver bul-let, n. A simple and seemingly magical solution to a complicated problem.



What we do is simple (and seemingly magical): get whatever is needed for our clients save money, save time, and win cases.

Experts at analyzing evidence on hard drives, cell phones and other digital media. Conducting environmental liability investigations for 30 years. Surveillance, asset searches, background checks, fraud, criminal defense, etc. Global reach. Serving Ventura County attorneys since 1988.

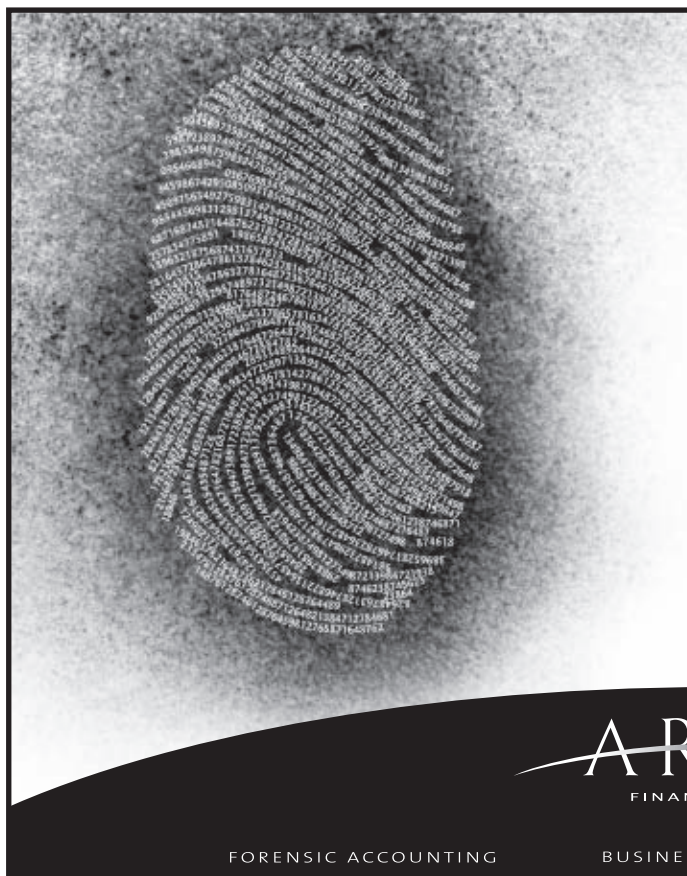
Clients include most major area law firms, and many of the AM Law 100.

VERDICT RESOURCES

Investigations And Professional Research

(805) 445-1997 | www.verdict.net

Get our White Paper: "What Attorneys Should Know About Computer Forensics"



Sometimes numbers are the only prints left behind.

Arxis Financial is a proven forensic accounting and litigation specialist. We will examine the financial data and help you determine the "bottom line." Arxis provides financial and valuation analysis needed to resolve a variety of legal disputes from family court to civil, criminal, and probate courts. In many cases our experts can help you reach a settlement. If trial or arbitration is required we give you the support you need to win.

Chris Hamilton, CPA, CFE, CVA
805.306.7890
www.arxisfinancial.com
chamilton@arxisgroup.com



FORENSIC ACCOUNTING

BUSINESS VALUATION

FRAUD ANALYSIS

EAR TO THE WALL



David Laufer plans to open shop on his own Jan. 1. His new practice, Laufer Specialty I-Risk LLC, will focus on providing risk management and insurance consulting

services to businesses, professionals, insurance brokers and litigants.

Laufer can be reached at ldavidlaufer@gmail.com or (818)437-7096. To avoid conflicts of interest, Laufer will not have an affiliation with his previous or any other law firm.

Explore Your Options

Alternative to Litigation
Business Approach
Result Oriented

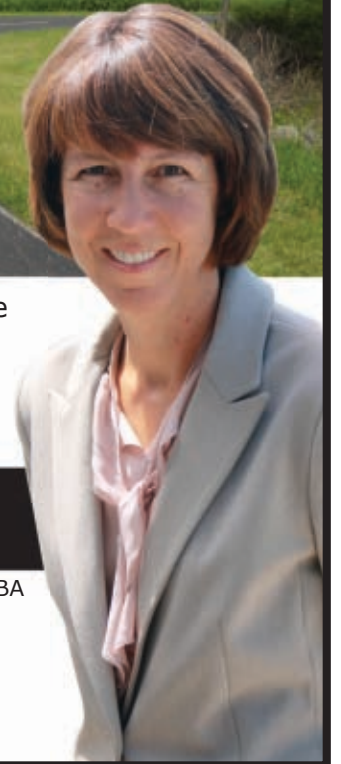
- 25 Years Business Litigation Experience
- 10 Years Oil & Gas Experience
- Experience Advising Boards and Management

Goetz Business Mediations
Gisele Goetz, Esq. Mediator

Member: State Bar of California, CIPA, VCBA, SBCBA

(805) 895-5338

www.goetzbusinessmediations.com
giselegoetz@aol.com



JACOBS & JACOBS

ACCOUNTANCY CORPORATION

CERTIFIED PUBLIC ACCOUNTANTS
TAX PROFESSIONALS SINCE 1944
THERE'S NO SUBSTITUTE FOR
EXPERIENCE & EXPERTISE

- TRUSTEE & EXECUTOR SERVICES
- TRUST & PROBATE ACCOUNTING
- FIDUCIARY INCOME TAX RETURNS
- ESTATE TAX RETURNS
- ESTATE PLANNING
- ELDERCARE SERVICES

OJAI
(805) 646-4321

THOUSAND OAKS
(805) 497-4007

JOHN JACOBS, CPA

GREGG BURT, CPA

PAUL THOMAS, CPA

A REPLY TO COUNTY BAR PRESIDENT JOEL MARK'S RHETORICAL QUESTION

by Lawrence C. Noble

In his November President's Message, then-Ventura County Bar Association President **Joel Mark** asks the rhetorical question: "Gun Control: Haven't we had enough?"

Mark states that "guns certainly make people more efficient in the endeavor of killing." This is true, but efficient killing is not limited to guns; cars, knives, scissors, baseball bats and letter openers will do just fine also. While the killing tool can always change, the mindset of the killer, whether malicious or mentally ill, will not.

Further, there is substantial literature showing that gun violence is responsible for far fewer deaths than auto accidents and many other non-gun-caused deaths. Thus, Mark's focus solely on guns is shortsighted if he ignores the role of the "people" who use these instruments.

So, what solutions does Mark offer for the troubling issue of gun violence? He calls for our "elected officials to return to constructive dialogue and compromise to improve all our lives." But he doesn't provide any approach for them other than by implicitly suggesting that they amend the Constitution. How? By deleting the Second Amendment? Is there a rational, achievable, less burdensome solution instead?

Let's start by asking: What death-causing objects should we eliminate from our society? Are there any arguments for eliminating cars in light of all the annual auto deaths? No. What about all the hard objects that could cause blunt force trauma: baseball bats, bottles, chairs, ordinary household objects? No one would seriously consider this as a solution for ending violence. Further, since the banning of gun ownership in the U.K., there has been a documented spike in traumatic violence by knives, bats, fists and hard objects. The British criminal element is apparently enjoying the disarming of the targeted public. Not so in Switzerland, Norway or Israel, each of which permits gun ownership.

Why not just eliminate guns? Well, Mark says that he "gets" that the Second Amendment grants the right to the "people" to keep and bear arms. He also accepts the *Heller* holding that "the amendment refers to individual

rights to keep and bear arms." While there is no Constitutional proscription on eliminating cars or household items, the Second Amendment specifically bans the government from restricting the right to keep and bear arms. Why?

The Bill of Rights was added to the U.S. Constitution to satisfy the demands of many of the Framers that the government's power against the individual be limited. The Framers, who had already fought the Revolutionary War, were well aware that arms could be used for killing. Yet they especially protected the right to keep and bear arms to protect the freedoms for which they had spilled blood.

By implying the deletion of the Second Amendment, Mark states that "the Framers assumed that there always would be... compromise as we adjusted our most organic document to the changing needs of our times." But compromising recognition of this important American right would not be so easy. The Framers included two ways to amend the Constitution in Article V; either two-thirds of both Houses of the Congress or two-thirds of the Legislatures of the States shall propose Amendments. Article V is prime evidence that the Framers required more than "continuing dialogue and compromise" to amend the Constitution. But by describing the Constitution as an "organic document," Mark implies that the Constitution is a malleable instrument that easily can be changed as the public whim or a despotic ruler demands. Such easy rules-changing would surely undermine the political stability of the Republic.

There may be more achievable ways of limiting gun violence without doing the violence to our Constitutional protections that Mark seems to favor. Why not pay more attention to the types of people that might misuse the protected gun rights? In almost all of the recent mass shootings, there have been disturbing reports of advance knowledge of erratic behavior and mental illness in the shooters. And yet, people who could have effectively intervened – mental health professionals and family members – did not. Gun registration would not have prevented the Sandy Hook shootings; Adam Lanza's mother provided her known,

mentally-ill son with access to guns as a way of bonding with him. How does a rational society stop that? Universal prohibition of guns, one might say. But that is barred by the Second Amendment's protection of the right of free people to exercise their sovereign right of self-defense. Some advocates have argued mental health histories are protected by the right of privacy, thereby balancing in favor of possibly dangerous people and against the possible victims. A far less onerous step than amending the Constitution would be addressing how our society may reasonably treat the rights and the dangers posed by people showing behavioral signs of potential gun violence. But this can be done only after considered deliberation that encompasses the right to keep and bear arms enshrined in our Constitution.

In *Heller*, the Supreme Court ruled that the right to keep and bear arms is not absolute, but is subject to "reasonable regulations;" thus setting the groundwork for deliberation. According to the 2010 Census, California had 9 million gun owners, each one of whom had to pass a State DOJ and FBI background check. The state and federal governments have already placed many restrictions on the ownership and use of guns. This has been the response of our "elected officials" who have balanced the Second Amendment right with the need for responsible gun ownership. Even Governor Brown, a gun owner himself, vetoed the recent state bill outlawing AR-15 rifles, stating that he doesn't believe that such "blanket" legislation would enhance public safety.

But this regulatory scheme has failed to consider the population of mentally ill people who should not have access to guns. Filling this gap in the dialogue might be a big step toward answering Mark's rhetorical question.



Lawrence C. Noble, a sole practitioner, transacts and litigates business and real estate matters, plans asset protection, represents distressed debtors, and advises gun owners about their rights and duties.



AS A SIGNIFICANT BENEFIT TO OUR MEMBERS...THE VENTURA COUNTY BAR ASSOCIATION HAS IDENTIFIED THESE INSURANCE AND FINANCIAL PLANNING PROFESSIONALS TO ACCOMMODATE YOUR INSURANCE NEEDS. THESE BROKERS ARE RECOGNIZED FOR THEIR INTEGRITY, KNOWLEDGE AND EXPERIENCE IN SERVING THE LEGAL COMMUNITY. THEY CAN ASSIST YOU IN THE AREAS OF LIFE, HEALTH, DISABILITY INCOME, LONG-TERM CARE INSURANCE, ANNUITIES AND INVESTMENTS. YOU CAN OBTAIN STATE AND COUNTY BAR PLANS AT DISCOUNTED RATES THROUGH THESE BROKERS.

Barry A. Cane

**Disability Income Insurance
Business Overhead Expense**

(805) 496-5537 Fax: (805) 496-5598

240 Lombard St., #100, Thousand Oaks, CA 91360



Lic. #0740274

Registered Representative Park Avenue Securities (PAS), 7 Hanover Square, New York, NY 10004. Securities products and services offered through PAS, 1-888-600-4667, Member FINRA. PAS is an indirect wholly owned subsidiary of The Guardian Life insurance Company of America. Representative of The Guardian Life Insurance Company of America, New York, NY and other fine insurance companies.

Michael P. Kenney*, CLU

**Group and Individual Health Insurance
Business and Personal Life Insurance**

(805) 497-7407 Fax: (805) 494-1363

www.kenneyins.com



Lic. # 0688916

Securities offered through a registered represented of Royal Alliance Associates, Inc., Member FINRA.
Branch Office: 100 E. Thousand Oaks Blvd., Suite 152, Thousand Oaks, CA 91360 • (805) 496-4600

Lawyers' Mutual Insurance Company

*California's Pioneer Since 1978
Insuring Our State's Lawyers for 35 Years*



**Extensive FREE Online
MCLE Library – Over 50 hours!**

Always at no charge for our members

Solo Practice Resources

Virtual Law Practice Guidance

**Lawyer-to-Lawyer
Loss Prevention Hotline**

Specialty Practice Rates

*ADR, Appellate, Criminal,
Immigration, Insurance Defense*

Easy Renewal Process

Member Dividends*

*LMIC thanks you
for 35 years
of member support*



www.LMIC.com or call (800) 252-2045

LAWYERS' MUTUAL INSURANCE COMPANY 3110 West Empire Avenue, Burbank, CA 91504

Lawyers' Mutual

*LMIC...Exclusively
providing California Lawyers
with trusted service
and innovation since 1978*

Insurance Company

* Dividends are paid at the sole discretion of the Company's Board of Directors and past dividends do not guarantee the payment or amount of future dividends.

Tax Preparation & Planning

Individual ■ Corporate
Partnership ■ Estate & Fiduciary
Offer in Compromise

(805) 641-1040
meulau@sbcglobal.net

Eulau Accountancy Corporation



Michael C. Eulau, CPA
MBA, Finance, University of Chicago
MSc Economics, London School of Economics
Over 18 Years Experience

200 E. Santa Clara Street, Suite 200, Ventura, CA 93001

SEPARATED UNDER THE SAME ROOF? MARRIAGE OF DAVIS EASES THE TRANSITION

by Gregory Herring

A major consideration for “separated” spouses is the final break in the marriage. “Separation” occurs only when the parties have come to a parting of the ways with no present intent to resume their marriage and their conduct evinces a complete and final break in the marital relationship. Sometimes, however, one party thinks or both parties think that they have separated, where a court might find otherwise.

Potential negative effects of failing to clarify a date of separation include an extension of the periods (1) for which a spouse could ultimately be liable for spousal support and (2) during which they could be considered to still be sharing finances (both income and debts) with the other spouse.

An obvious way to clarify these murky situations would be for one of the spouses to move out of the family residence and establish his or her own separate one.

Immediately re-locating, though, could negatively impact the “move-out spouse’s” current and future custody position. If the children’s “home base” is the family residence, then it could be a risky move, literally and figuratively.

Child support concerns would also be linked, as the calculations are largely based on timeshare with the children.

Further, the recent economic downturn has made it tougher than ever to create two households from one.

Thus, move-outs should be carefully considered. This can take time.

A generally unpopular Court of Appeal case, *In re Marriage of Norviel* (2002) 102 Cal.App.4th 1152, held by a vote of 2-1 that “separation” in this context nonetheless requires a permanent physical separation. It noted, “[t]ypically, that would entail each spouse taking up residence at a different address.” The issue of whether cohabitating spouses could still be considered “separated” for purposes of the “final date of separation” was thus unclear.

Fortunately, the First District, in *In re Marriage of Davis* (2013) 220 Cal.App.4th 1109 (petition for review pending), recently upheld a trial court’s ruling that *Norviel* is not dispositive. *Davis* holds that, where the evidence demonstrates “unambiguous, objectively ascertainable conduct amounting to a physical separation under the same roof,” even co-habiting spouses can accomplish and maintain “separation.”

Some of the ways parties can do that, even if they might continue to reside “under the same roof,” would be to **refrain from**:

1. Maintaining any unnecessary contact with the other spouse.
2. Using the same address for mail (get a separate Post Office box instead).
3. Sending any flowers, letters or cards.
4. Saying “I love you” or similar sentiments.
5. Filing joint income tax returns without first clarifying in writing that the filing of such a return does not constitute a waiver of rights.
6. Saying or making it look like that they are not separated.
7. Maintaining joint checking accounts or credit cards.
8. Expressing physical affection for the other spouse.
9. Vacationing with the other spouse.
10. Celebrating holidays with the other spouse.

While this might sound cold-hearted, there could be serious legal and financial consequences for failing to maintain a clear date of separation. Should they wish, co-habiting parties can more “safely” re-establish a closer relationship *after* their case is finally over.

Of course, parties, with or without children, eventually move on to new lives in separate residences. Thankfully, *Davis* now provides some time and space for them to accomplish this in a realistic and thoughtful manner, without spouse having to prematurely rush out the door to protect the date of separation.



Greg Herring is a State Bar Certified Specialist in family law and is a partner with Ferguson Case Orr Paterson LLP. He is the current President of the Southern California Chapter of the American Academy of Matrimonial Lawyers. CITATIONS Editor Wendy Lascher represented the successful respondent in *Davis*.

Specializing in Properties that need to be sold due to Divorce, Hardship, Probate and Trust Administrations

Endorsed by: Laura V. Bartels, Esq.,
Leslie A. McAdam, Esq., Jesse E. Cahill, Esq.,
Kathryn E. Clunen, Esq., William E. Winfield, Esq.,
Maria L. Capritto, Esq., Ben A. Schuck, Esq.
and Susan L. Wilson, Esq.

Theresa Robledo, Realtor®, Broker, DRE #01483023
Henry Robledo, Realtor®, DRE #01901932
Email: Agent@DiamondRealtyTeam.com
805.625.4450 direct

Serving Ventura County

DiamondRealtyTeam.com

LIES HAVE CONSEQUENCES: PART II

by Kate Neiswender and Mark Neiswender

In response to November's article on lying in the courtroom ("Lies Have Consequences," November, 2013), we received many phone calls and emails, all in agreement with the premise: lying has become a bigger problem, more common, more dangerous to the health of the system and the integrity of the profession.

Several judges contacted us in response to the article. To a person, they agreed that misrepresentations by counsel had become a commonplace problem. To a person, they agreed that discovery had become a game of hide-the-ball rather than the self-executing system envisioned by the legislature. But all felt constrained in what they could do about it. Most asserted that the unrelenting volume of court business – particularly given significant underfunding of the courts – leaves judges with too little time and too few resources to do in-depth evaluation of discovery disputes. Others mentioned that the training judges receive encourages them to allow all relevant evidence to go to the jury regardless of prior discovery abuses. Under the current thinking, when a judge balances the "bad" of discovery misconduct against the "bad" of not allowing cases to be tried on the merits, allowing all the evidence to go to the jury wins out.

Unfortunately, these responses, one pragmatic and one philosophical, lead to both greater waste of court resources and less fairness in the system, as well as encouraging the disturbing and growing perception among the public that the court system is rigged to benefit lawyers and wealthy institutional clients.

There are two ways one can evaluate these problems. One can take a "micro" view of how attorney misrepresentations and discovery abuses *affect the case at hand*, or one can take a "macro" view of how attorney misrepresentations and discovery abuses *affect the court system at large*. Under either approach, both the "press of business" response and the balancing act justification to abusive practices are counterproductive.

Inside the case at hand, the offending party's misconduct is a direct attempt to secure an

unjustified strategic advantage. It drives up the cost for all parties, diminishes the chances of settlement, and slows down resolution of the case. The only weapon against such misconduct is for the aggrieved party to file a motion to compel, and such motions will proliferate in direct proportion to the amount of discovery abuse. In the short run it may seem that court resources are preserved by a *de minimis* judicial response to attorney misrepresentations and discovery abuses. However, we would suggest that it seems highly unlikely that – with more motions to compel – court time is "saved." Such a judicial response may actually exacerbate the problem. Further, there is a common feeling that the courts are unaffordable for the middle class. While the courts can't solve intractable problems with economic equality, the current sanction regimen doesn't help the perception that our courts favor the rich. For example, assume that AIG is the insurer for the defense. AIG – even after the mess they helped make of the economy – made approximately \$6.6 billion after tax income in 2012. If you sanction the lawyers for that company \$2,000, that amounts to 0.00003% of AIG's 2012 profit – the amount of money made by AIG in roughly ten seconds. On the other hand, consider the same monetary sanction against a construction worker who makes about \$70,000 per year and sues the business that caused him grave bodily injury. To pay that same \$2,000 sanction, after taxes, the construction worker would have to work for two weeks. The disincentive for AIG is obviously next to nothing; for the construction worker it is an enormous hardship. Further, it is a rare day when the actual cost of bringing the motion is reimbursed; a sanction of \$1,000 after multiple discovery abuses is more common than reimbursement of the \$3,000, or more, it actually cost. Even when misconduct is sanctioned by the court, the aggrieved party is damaged.

Likewise, under a macro view, there are several reasons a harsher judicial response is appropriate and in fact necessary. In one discussion we had with a judge, he emphasized that sanctions are not supposed to be punitive, but rather are designed to

secure compliance with discovery law. We disagree. Sanctions in civil litigation, just as in any other area of the law, are intended not only to remedy the current situation but also to deter future bad conduct by the sanctioned party *and others*. Appropriate sanctions can be a deterrent, and should be. Under the current regimen, the dishonest party rolls the dice, tries to pull a fast one, and even if they are caught, the damage primarily falls on the innocent party. The current system encourages dishonest behavior – it makes lying economically rational.

Courts must be open not only to monetary sanctions, but to evidentiary and issue sanctions as well. The incentive to lie – as well as the untoward effects of economic disparity – dramatically diminish when evidence or issue sanctions are a realistic possibility. And we must remember we are talking about utterly unjustifiable behaviors: direct misrepresentations by a lawyer, a sworn officer of the court, and misrepresentations in discovery responses provided under penalty of perjury. Misrepresentations by an officer of the court are inexcusable. Misrepresentations under oath are a felony, and society should not be deferential to criminal behavior. All too often, evasive and inaccurate discovery responses are followed up with last minute attempts to sneak in previously undisclosed evidence on the eve of trial. These should be summarily denied, and the case law gives judges that discretion. If a party objected and failed to answer interrogatories fully, or withheld documents, then the evidence should be excluded, period. If the dishonesty arose with the lawyers, the client has a legal remedy against them. If the dishonesty arose with the client, then the client deserves to be sanctioned.

Over the past two months, we have spoken with dozens of judicial officers, lawyers and clients, all seeking an answer to this problem. Unfortunately, we could not come up with a fix that is self-executing or that takes the burden off the already-burdened judicial system. What we heard from many is that the existing system of monetary, evidentiary and issue sanctions should be enforced more

strictly and more often. As more judges adopt a strict approach, with less reluctance to order issue and evidence sanctions, the less the lying will distort our system. At least, that is our hope.

Kate Neiswender is a Ventura-based land use and environmental lawyer. Mark Neiswender is a trial lawyer in Riverside County who has been practicing for more than 32 years.



Divorce Talk Radio California

**Divorce Talk Radio on AM 1590 KVTA
Saturdays from 3-4pm**




“Divorce–Lisa Zonder Style” airs live and features Westlake Village family lawyer, Lisa Zonder, who brings to the table over 20 years of legal experience, including litigation, mediation, and collaborative divorce. Lisa is a certified family law specialist.* She is a devoted peacemaker and wants to ensure clients have “divor-sanity”.

**Contact: lisa@divorcetalkradiocalifornia.com
www.divorcetalkradiocalifornia.com**

*Certified by the State Bar of CA, Board of Legal Specialization

BONGIOVI MEDIATION

Mediating Solutions since 1998



“There is no better ambassador for the value of mediation than Henry Bongiovi”

Mediator • Arbitrator • Discovery Referee

HENRY J. BONGIOVI

AV Preeminent Rating (5 out of 5)
AVO Rated ‘Superb’ (10 out of 10)

831 State Street
Santa Barbara, CA 93101
Phone 805.564.2115
www.henrybongiovi.com

PRACTICE TIP: RECOVERY AND THE INDEPENDENT WHOLESALERS REPRESENTATIVE LAW

By David Laufer

Facts:

Your client is a California corporation. It sells products manufactured in France to other wholesalers doing business in California, Nevada, Washington and Oregon. Your client has been operating under a unsigned Distribution Contract (DC) for several years. In the last 30 days, your client received a letter from the manufacturer terminating the DC. The termination letter states no commissions are due. Your client claims over \$79,000 is owed for unpaid commissions and thinks other commissions were not calculated properly when each order was filled. You are presented with email exchanges outlining territory, commission rates, charge backs on orders and payments received.

The client asks: Can we sue for an accounting of the commissions that we are owed, damages and our attorney fees and costs?

You respond: I need to review all the communications including the emails, letters and DC to see if California's Independent Wholesalers Representative Law (IWR), Civil Code section 1738.10, et seq. applies to your case.

You review the statutory elements to allege a cause of action under the IWR to recover damages, treble damages and attorney fees. You document the following in a pre-litigation analysis for your client:

1. The manufacturer failed to sign and deliver the DC to your client.
2. The manufacturer refused to sign the DC after receiving a request from your client that is documented in an email.
3. Each commission payment did not contain a breakdown of each invoice, each order and a separate calculation of each commission.
4. The client did not buy the product for its own account.
5. The client did not sell the products directly to California consumers.
6. The client understands that sales in Nevada, Washington and Oregon may be covered by the IWR.
7. The client's accountant verifies that the business records maintained in accordance with generally accepted standards will support the claim for commissions not paid and damages.
8. You reviewed common law causes of action to include in the complaint and identified causes of action that may trigger a duty to defend under the manufacturer's GL, D&O and EPLI coverage.
9. You investigated the defendant's ability to pay a judgment and any enforcement of judgment issues.
10. You reviewed the sales agent laws of Washington and Oregon to see if they provide additional relief to your client.

Authority

Reilly v. Inquest Technology, Inc. (2013) 281 Cal.App.4th 536, 545-551.

The IWR was created to protect sales representatives who receive commissions from, but who are not employed by, a manufacturer. (Civ. Code, §1738.10.)

The IWR requires the manufacturer to enter into a written contract with their sales representative to provide for security and clarify the contractual relations between the parties. (Civ. Code, §1738.10.)

A manufacturer found to be in willful violation of the IWR shall be liable to the sales representative in a civil action for treble damages proved at trial. (Civ. Code, §1738.15.)

The prevailing party shall be entitled to reasonable attorneys fees and costs in addition to any other recovery. (Civ. Code, §1738.16.)

A manufacturer who is not a resident of California, and who enters into a contract regulated by the IWR, is deemed to be doing business in California for purposes of personal jurisdiction. (Civ. Code, §1738.145.)

Any provision waiving compliance with IWR is deemed void as against public policy. (Civ. Code, §1738.13, subd. (e).)

Baker v. American Horticulture Supply, Inc. (2010) 186 Cal.App.4th 1059,1073.

The definition of manufacturer must be read in the context of the entire statute, created to protect nonemployee wholesale sales representatives who are not selling to the ultimate consumer.

"Willfulness" is not a prerequisite to prevailing under the Act but it is an element required for an award of treble damages. (*Id.* at p. 1072.)



David Laufer is the former VP and GC of a public company. He practices at Laufer Specialty I-Risk LLC, where he provides risk management and insurance consulting services to businesses, professionals, insurance brokers and litigants.

IMPORTANT TORT AND TRIAL NEWS

If your practice includes any civil cases, plaintiff or defense, VCTLA's January 21 program is a must! To practice successfully in 2014, you need to know about last year's statutes and judicial decisions that affect tort liability and civil procedure. Please join us for comprehensive review presented by a knowledgeable panel of both plaintiff and defense attorneys. Like all VCTLA functions, this one is open to all attorneys, regardless which side of the "v" you practice on. All participants will also receive a booklet of all key 2013 cases and their holdings. Please see the enclosed flyer for sign up information or visit www.vctla.org. Earn 3 MCLE credits, including 1 for ethics.

IRWIN R. "ROB" MILLER ESQ. MEDIATION • ARBITRATION



IRWIN R. "ROB" MILLER ESQ.
MEDIATION • ARBITRATION

Want to settle that case?

A trial lawyer for over 35 years, I have successfully *tried* and *settled* million and multi-million dollar cases.

My experience and training will help settle your cases.

- J.D. Univ. of Cincinnati-Law Review Editor
- "AV" Rated Martindale-Hubbell
- Pepperdine Univ. School of Law-Straus Institute
- Arbitration Panel Ventura County
- Ventura Center for Dispute Settlement
- Member of VCBA, LACBA
- Past President Hollywood Bar Association
- Million and Multi-Million Dollar Advocates Forum

(805) 485-2700 Fax (805) 485-2751

Email: irmmediation@aol.com • Web: IRMLaw.net

300 Esplanade Drive, Suite 1760 • Oxnard, CA 93036

NEED CLIENTS?

Become a Member and let the LRIS get clients for you!

LAWYER REFERRAL & INFORMATION SERVICE

For more information call

(805) 650-7599

www.vcba.org

Accident Reconstruction



Marc A. Firestone
Ph.D.

"I approach forensic engineering not as a narrow vocational activity but as a scientific inquiry."



Von Haenel & Associates, Inc.

FORENSIC ENGINEERING

Objective Analysis and Scientific Integrity

Combines over 20 years of experience as a professional research scientist with a 40 year old forensic engineering firm. I have handled hundred of cases in:

- Vehicular accident reconstruction
- Slip/Trip falls ■ Product defects
- Fires ■ Unusual cases requiring a broad scientific background

**2510-g Las Posas Rd.
#513 Camarillo, CA
93010**

Phone: **(805) 388-7123** E-Mail: fireball@mailaps.org

Barristers' Corner

By Rachel Coleman

2014 Barristers Officers will be: **Rachel Coleman**, President; **Thomas Adams**, Vice President; **Melanie Ely**, Secretary and **Andrew Ellison**, Treasurer. New Members at Large are Past-President **Renee Dehesa**; **Robert Krimmer**, **Joshua Hopstone**, **Lauren Sims**, **Katherine Hause Becker**, **Amy Dilbeck Kiesewetter** and **Brier Miron**. One Member At Large seat remains open. To run, please attend our January 7 meeting at the VCBA office.

Barristers will host a meet and greet for new Bar admittees, all local Barristers and current law students on Tuesday, January 28, 5:30 to 8:00 p.m. at Surf Brewery, 4561 Market Street in Ventura (conveniently located near the Ventura College of Law.)

On March 9 from 4:00 to 7:00 p.m. Barristers will host our first-ever Paintball Tournament at Stryker PA in Santa Paula. This event is open to everyone in the legal community as well as the general public. More details and a flyer coming soon, or you contact Amy Dilbeck Kiesewetter at ard@strausslawgroup.com.



Rachel Coleman
practices criminal law
at the Law Offices of
David Lehr in Ventura.

tracycollins
LAW OFFICES OF

ERISA Disability and Life Insurance

Representing claimants in the denial of group disability and life insurance claims.

Tracy Collins
Attorney At Law
5739 Kanan Road,
Suite 415
Agoura Hills, CA 91301
tracy@tracycollins.com
(818) 889-2441

Referral fees paid in accordance with Professional Rule of Conduct 2-200.

MEDIATION SERVICES

www.californianeutrals.org

*Serving Orange, Los Angeles, Ventura,
Santa Barbara & San Luis Obispo Counties*

- BUSINESS
- EMPLOYMENT
- INSURANCE
- PROBATE
- PERSONAL INJURY
- PROFESSIONAL NEGLIGENCE

Mr. Carrington is "very knowledgeable. Insurance companies respect his opinion. Extensive trial experience (ABOTA), excellent mediator, fair, objective arbitrator. Extraordinarily capable and forthcoming with efforts and involvement. He is very thorough and fair." Quote from 2006 Consumer Lawyers Evaluations

R.A. CARRINGTON
565 Sheffield
Santa Barbara, California 93108

805.565.1487 • Fax: 805.565.3187 • RATC@cox.net

Kay Wilson-Bolton

Broker Since 1976

Hoarder Homes/Clearing & Cleaning
Distressed Properties
Estate and Trustee Sales
Probate Sales
Property Management
Si Hablo Espanol

- ♣ Contract Broker for Public Administrator of Ventura County
- ♣ Broker Price Opinions with Photos
- ♣ Covenant Mediation Services
- ♣ Probate Sales, Evaluation & Marketing

- ♣ Bankruptcy Trustee Broker
- ♣ REO and Shortsales
- ♣ Skilled with Multi-Trustees and Co-Sellers Transactions
- ♣ Notary and E-Signing Agent

CENTURY 21 Hometown Realty
805.340.5025 Efax 805.258.7028
Real Estate Broker BRE 00577863 Property Management BRE 01767325
kay@realestatemagic.com www.kaywilsonbolton.net
www.kaywilsonboltonblog.com
www.facebook.com/justcallkay

CLASSIFIEDS

Help Wanted

Exciting opportunity for the right attorney with excellent work ethic, credentials and desire to be an integral part of a well-established (30 years) AV-rated small firm in Westlake Village. Should have minimum five years' experience in civil litigation and transactional in areas of business, real estate, corporate/partnership. Email résumé in confidence to sam@silverandarsht.com.

Office Space

Beautiful Class A Office Space: \$600 - \$1400 (Westlake Village) – Available immediately for professional tenants to share with a law firm. Two window offices and one workstation area – take one or all. Turnkey: shared internet, kitchen, copier and executive conference room. VOIP phones. 31111 W. Agoura Road, Westlake Village, CA 91361. Call (818)995-8787 and ask for Armond.

Brian Nomi Office to Lease – Camarillo Professional Office available for rent in an attorney's suite. Perfect for another attorney or any other professional. Across from Marie Callender's in Camarillo. The suite has a receptionist, bathroom, and sink/fridge. Rent \$400. I'm not sure on square footage, but my estimate is it's about 200 square feet. The office includes use of the 400 square foot reception / common areas. If you are just looking for a place to occasionally meet clients and have a sign, this is also open for discussion. Please contact me for details. You are most welcome to come by and have a look any time. Brian Nomi, (805)444-5960 (215 E. Daily Dr. #28, Daily & Las Posas.)

WALK-IN CONFERENCE ROOM



RENT PER HOUR

EASY, NEUTRAL, PRIVATE & PROFESSIONAL MEET @ POSTNET IN THOUSAND OAKS, CA. ROOM - SEATS 9, WIFI, VIDEO CONF. ON 40" TV, ONLINE PRINTING, NOTARY, MAILBOX RENTALS & MAILING. SEND YOUR DOCS. BEFORE YOU COME!
File Upload: WWW.POSTNET.COM/CA162

CALL: 805.777.8866

Victoria Lindenauer, Esq. MEDIATOR



**Streamlined Approach
Results
Cost Effective**

*Over 25 years PI litigation
on the Central Coast*

Trained Mediator:
Straus Institute
Pepperdine Univ.

Mediation Panelist:
Santa Barbara, Ventura
San Luis Obispo,
Resolute Systems, LLC

**805.730.1959 | www.lindenauermediation.com
lindenauer_mediation@cox.net**

GREGORY PHILLIPS, ESQ.

Formerly of the Law Offices of John H. Howard and the Ventura County District Attorney's Office

IS PLEASED TO ANNOUNCE THE OPENING OF THE

LAW OFFICE OF GREGORY PHILLIPS

FOCUSING ON CIVIL LITIGATION AND CRIMINAL LAW

TOPA FINANCIAL PLAZA

500 ESPLANADE DRIVE, SUITE 600

OXNARD, CA 93036

TEL: 805-604-7065 FAX: 805-983-6321

E-MAIL: GPHILLIPS@GREGORYPHILLIPSLAW.COM WEB: WWW.GREGORYPHILLIPSLAW.COM



Referral fees paid in accordance with Professional Rule of Conduct 2-200

Exec's Dot...Dot...Dot... by Steve Henderson, Executive Director, M.A., CAE



The Barristers held their annual Holiday Celebration Dec. 5 at the home of board member **Amy Kieswetter** in Santa Paula. The theme, "Ugliest Sweater Contest," was competitive and view winner **Melanie Ely's** outfit right here...



Citations Editorial Board member **Rachel Coleman** now serves as President of Barristers. She may be reached at 477.0070 or Rachel@davidlehrlaw.com...A

rape trial of a Tulsa, Oklahoma, man came to a screeching halt when the defendant repeatedly punched his court-appointed lawyer in the face. Earnest Padillow, 47, was on his way to the witness stand to testify in his own defense when he turned on his own lawyer. Mark Cagle, Padillow's lawyer, suffered a busted lip, but said he was otherwise unharmed. Cagle's co-counsel, Stephen Lee, ended the assault by placing Padillow in a headlock. Sheriff's deputies then used a stun gun to subdue the defendant. The judge ordered the trial to continue without the defendant present...



FCOP announced that **Lauren Clark Rad** has joined the Business Litigation group. After college, she worked at a juvenile detention center in Cusco, Peru. She attended Harvard Law and may be reached at 659.6800 or lrad@fcoplaaw.com...

If you are in need of CLEs, the Barristers are hosting Bridging The Gap™ on Saturday, Jan. 25 at the County Government Center. The activity comes just in time for those of you have waited until the last minute to pick up your continuing education. There are 6 CLEs for the day, including Bias, Substance Abuse and Ethics. 2013 Barristers President, **Rennee Dehesa**, is running the show and you may register by calling Nadia at the bar offices at 650.7599 or bar@vcba.org. Additionally, the event flyer is included in this issue of CITATIONS...

When Jack MacDonald showed up at grocery stores with an armful of coupons to buy cases of discount orange juice, employees might have expected he was a hoarder. And he was, sort of. Frugal to no fault, the Seattle attorney accumulated a vast fortune, and now, upon his death at the age of 98, he has left \$187 million to benefit Seattle Children's Hospital, the University of Washington School of Law and the Salvation Army. MacDonald lived in a modest one-room apartment and wisely invested the money he received through family inheritance, but he had no biological children of his own...

Welcome to new VCBA Board Members **Charmaine Buehner**, **Mark Kirwin** and **Andy Viets**. **Bill Grewe** is our new Secretary-Treasurer, while **DDA Alvan Arzu** is President-Elect and **Laura Bartels** is the new President. They were installed at the annual dinner and their duties begin January 1. Special thanks to outgoing board members **Jessica Arciniega**, **Kata Kim** and Immediate Past-President, **Dien Le**.

The 24th Annual VCBA Strategic Planning Breakfast of Bar Leaders is scheduled for Saturday, Feb. 1, beginning at 8:30 a.m. inside the Courtyard by Marriott. All section, committee and affiliated heads are expected to attend and help us design 2014...The Florida Supreme Court has suspended a lawyer for two years for rude conduct and recommended that the case be studied "as a glaring example of unprofessional behavior." According to the court, attorney Jeffrey Alan Norkin accused a judge at being at the "beck and call" of his client's opponent in a civil case, yelled in court, and "incessantly" disparaged and humiliated opposing counsel in the litigation. The opposing counsel, Gary Brooks, was 71 years old at the time and was suffering from Parkinson's disease and kidney cancer. He was a Harvard Law grad with a "lengthy and unblemished career," the court cited. Norkin sent emails to Brooks that said Brooks was lying and disingenuous, his motions were "laughable and scurrilous," and he will come to regret his "incompetent, unethical and improper litigation practices." Other emails threatened to seek sanctions against Brooks and advised him to notify his malpractice carrier...

Steve Henderson has been the executive director and chief executive officer of the bar association and their affiliated organizations since November 1990. His money is currently riding on Manning, Brady and Wilson. His visit with Pope Francis over the holidays was eventful. He may be reached at steve@vcba.org, Twitter at [stevehendo1](https://twitter.com/stevehendo1), LinkedIn, FB, or better yet, 650.7599.

ELDER LAW SERVICES

VETERANS BENEFITS

- Veterans' Non-Service Connected Pensions for Aid & Attendance; Homebound; etc
- Non-service Connected Pensions for Surviving Spouse; children; and parents
- Veterans' Service Connected Compensation
- Spousal Death & Indemnity Compensation
- VA Appeals

MEDI-CAL ELIGIBILITY

- Custom-designed Eligibility Analysis & Qualification Plan (Asset Protection)
- Application Preparation & Representation
- Medi-Cal Recovery Claim Avoidance
- Appeals of benefits denial/loss

Services focused on assisting individuals obtain Veterans/Medi-Cal benefits for Long Term Care

THE LAW OFFICES OF CRAIG R. PLOSS

290 MAPLE COURT, SUITE 118, VENTURA, CA 93003 TEL: (805)642-8407 FAX: (866)379-2179 EMAIL: PLOSS@TDS.NET

Before you fill these seats.....



Find out what they are thinking.....

Conduct a Jury Focus Group

Holding a Jury Focus Group before trial can give you the advantage by affording you the opportunity to test your case in front of a panel of mock jurors. Holding a focus group in the early stages of your case can expose potential problems as well as help point your case in the right direction.

We take all of the hassles out of the process as well. Our facility provides dedicated focus group rooms with closed circuit viewing and video recording for viewing later.

We provide the Jurors, A/V Equipment, food and beverages, all for a price that is surprisingly affordable.

**Call today for details
and Client discounts**



800-43-DEPOS

www.personalcourtreporters.com



Personal is my "go to" source for all of my Jury Focus Groups and Court Reporting needs. They surpass all my expectations.

~Michael Alder

CITATIONS Ventura County Bar Association 4475 Market Street, Suite B Ventura, California 93003

PRSRT STD
US POSTAGE
PAID
PERMIT NO. 507
OXNARD, CA 93030



We appreciate your criminal law referrals!

WWW.DavidLehrLaw.COM

805 477-0070