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# CITATIONS

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PRESIDENT'S COLUMN:

## “RAISE A GLASS TO TURNINGS OF THE SEASON”

*Don't Carry It All*—Colin Meloy/The Decemberists, 2011

by Bill Grewe



We open the season with a swearing-in ceremony of new admittees on June 9 at 4 p.m. in Courtroom 22. We close the month on the morning of June 27 with the Law Day 5k and 1k fun run. [runsignup.com](http://runsignup.com). **Joe Strohm** and his team of volunteers are hard at work/fun putting all the pieces in place to make it an enjoyable morning for all. The run supports VLSP, which is changing its name. Watch for Ventura County Legal Aid. Credit **Charmaine Buehner**, VCBA Vice President, for the change. “*Call it what it is.*” There will be volunteer opportunities, so stay tuned, and come on out to Kimball Park (Ventura) on June 27.

Speaking of change, there is a new Case Management Attorney handling the MWF 22B calendars: **Genalin Riley**, a registered nurse in both New Jersey and California, by the way. UCLA Law. A 1996 admittee who began with a small Century City firm before spending thirteen years with LASC as a research attorney and most recently, as counsel for the State Bar Court. As a Rutgers undergrad, she roots for the Scarlet Knight along with the Bruins, NY Giants and NJ Devils. If you are unfamiliar with Rutgers pride, let's just say that while UK boasts that it can fill its arena at midnight for the season-opening basketball practice, Rutgers can fill a stadium when it lines the football field. And don't let Genalin's calm demeanor fool you. She cut her teeth selling concessions at NY

Giants games in the Meadowlands, so she is capable of taking it up a notch if need be.

**Have Fun Will Travel. Women Lawyers of VC.** Joint meeting with SBA Women Lawyers. Carpinteria. June 3. 6:00 to 8:00. Carpinteria Women's Club, 1059 Vallecito Road. Mixer and Elim. of Bias program. MCLE. [wlv.org](http://wlv.org) or flyer. **Kathi Smith** pulls together good program after good program.

**Not Your Typical Fish Story.** The Natural Resource Section's June program is certain to pique your interest. *You're Building a \$40 Million Fish Passage...for how many fish, again?!* It's about the challenges of protecting and restoring the SoCal steelhead population in the Santa Clara River and in Piru Creek while balancing all other interests. Complicated, sure, but **Gisele Goetz**, who is presenting this program, is bringing in the source: The speaker will be Catherine McCalvin, Conservation Manager of the United Water Conservation District. June 17, 12-1:30, Bar offices, MCLE. [vcb.org/flyer](http://vcb.org/flyer).

**Thank you**, on behalf of all VCBA members, to our local judges who have spoken at a 2015 CLE programs: **Judges Tari Cody, Manuel Covarrubias, Matthew Guasco, Glen Reiser** and **Rebecca Riley**. (*And it's only June 1!*) Much more than the courtroom clock comes into view from a seat on

the bench, and sharing the perspective is appreciated.

**He's Pretty Much Seen it All.** Brown-bag it with **Judge Donald Coleman**. “Do's and Don'ts for Attorneys and Civility in the Courtroom.” June 24, noon, Dept. 36. MCLE fee, only. [vcb.org](http://vcb.org); flyer; or RSVP to Nadia at [bar@vcb.org](mailto:bar@vcb.org). This is another in a very good series, *open to all*, presented by **Barristers**. If you are new to the practice of law, you should check out this group, but be sure to wear your running shoes. Whole lotta energy with this bunch.

**Heck, the window works for me.** “Bringing Clients in the Door.” June 22, 12-1:30, Bar Offices. MCLE. \$30 VCBA members/\$45 non-members (lunch included). \*PR and How it is Implemented\* Jennifer Goodard Combs and R.W. Ziegler, Jr., Esq. [vcb.org](http://vcb.org); flyer.

**The Great Communicator?** VCTLA June 23, 6 p.m., Tower Club. MCLE. [vctla.org](http://vctla.org); flyer. **Greg Johnson** is bringing us speaker **Wendy York**, noted trial lawyer out of Sacramento, who is a special talent, and we are fortunate that she is making the trek to our county. “What Trial Lawyers Need to Know About the Neuro Linguistic Programming Model of Communication.” Not the same thing, but it reminds me of something Don Mattingly, I think it was, once said about a hitting slump. You look at endless video, you dissect the mechanics, you call in the experts, you wait, and then somebody says, “See it, hit it,” and somehow that works.

**This is a WE problem/challenge.** Mega-firm Orrick, Herrington & Sutcliffe will now offer paid parental leave of 22 weeks to nine months in an effort to retain women lawyers who, in exit interviews, have cited the inability to balance career and family. [Orrick.com](http://Orrick.com).

**The VC Family Law Bar Assoc.'s** program originally set in May was moved to June 23 at 6:00, Courtyard by Marriott, Oxnard.

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## BARRISTERS' CORNER

by Rachel Coleman

So far, there are no new babies to announce on behalf of Barristers in this edition of CITATIONS. We do have several announcements regarding fun upcoming Barristers events. Barristers will host Third Thirsty Thursday on June 18 at 5:30 -7:30 at Discovery in Ventura, 1888 East Thompson Blvd. Come mix and mingle with local attorneys at this free (if you drink only water) event. All attorneys, judges, and friends are invited to attend.

On June 24 at 12:00 at the Ventura County Superior Court, Barristers will present our second MCLE program hosted by **Presiding Judge Donald Coleman** titled “Do’s and Don’ts for Attorneys and Civility in the Courtroom.” This is a brown bag event where you can earn one general MCLE credit. The cost is \$15.00 for Barristers and \$25.00 for all others. Law students may attend the event for free. For all the young attorneys or attorneys who do not practice criminal law, this is also an opportunity to get to meet the Presiding Judge in a more informal setting. This is a program that you should not miss. You can RSVP to Nadia at [bar@vcba.org](mailto:bar@vcba.org) or you can just pay at the door.

On July 16, the Barristers will host our 8th Annual Bowling Night to benefit Make-A-Wish Tri-Counties. The event is from 5:30-7:30 at Harley’s Camarillo, located in the Ponderosa Shopping Center at 305 Arneill Road. This event is open to all attorneys, judges and all friends and family. Your \$10.00 donation, which will be requested at the door, includes your bowling shoes and lots of fun! There is also a bottle of Wild Turkey for the first person to bowl three strikes in a row. The team with the highest score will go home with the coveted Barristers Bowling Ball Trophy to keep in your office on display until the next year. It’s time for that ball to find a new home, so come on out and bowl! We are still looking for sponsors for the event. Please contact **Melanie Ely** at [mely@ec2law.com](mailto:mely@ec2law.com) if you are able to sponsor or for more details about the event.

*Rachel Coleman handles both civil litigation and criminal defense at the Law Offices of David Lehr in Ventura.*

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**PRESIDENT'S COLUMN:**

*Continued from page 3*

MCLE. **Jill Friedman** talks about *In re Marriage of Friedman* (yes, one and the same) and post-marital agreements, as well as how the experience influenced her professionally. What puts Jill over the top as a speaker is her willingness to laugh at herself. *vcba.org; flyer.* **Shane Loomis** is teeing this up for you.

**Thirsty Third Thursday.** Barristers invites EVERYONE (that means you) on June 24, 5:30-7:00, *Discovery*, 1888 E. Thompson, Ventura. *discoveryventura.com.* Drop in.... and then abstain until after the Law Day 5k on the 27th!

**"Ethically Managing an Estate Planning Law Office,"** June 25, noon. Wedgewood. Speaker is **Mary Kulvinskis, Esq.** EP&P section. MCLE-ethics. *vcba.org; flyer.* There are a lot of moving parts and pitfalls under this topic. As always, **Katie Becker** has put a good program together.

**Well, if the White House is not immune, I guess Ventura County could be a target, too.** "Cyber Crime Hits Home: Identity Theft Trends and Recent Scams in Ventura

County and Beyond." June 26, noon. Spanish Hills Country Club. **Enrique Schaerer**, on behalf of the CPA/Law Society presents **Ventura County DDA Howard Wise**, whose background is far-reaching, both in terms of white-collar crime and consumer protection, as well as geographically. Should be good. MCLE. *CPAlawsociety.com; vcba.org;* or flyer (the flyer is packed with info.)

**A peek at July. Panda Kroll, Esq.** is not going to let you rest easy. Her string of elimination of bias programs is either *on the cutting edge* or just *edgy*. The April 29 "Bias & Blasphemy" program was presented just days before the Texas cartoon contest and was right on the money. Here's another in the series: Wednesday, July 1, noon, Bar offices. "Bias & Religious Garb: The Headscarf (Hijab) Collides with Abercrombie & Fitch." *Vcba.org; flyer.*

**Get Your Programs Here!** I am sending Monday morning reminder emails to VCBA members listing each week's CLE programs just in case someone did not hear about something, or like me, forgot to register.

**A Reminder that Everything You Need, You Already Have.**

*"If I could send a message to anybody, it's not about pole vaulting, and it's not about track. It's about finding something that makes you happy despite whatever obstacles are in your way."*

17-year-old Texas high school senior Charlotte Brown, who is blind, is the 2015 Texas HS Bronze Medal winner in the pole vault at 11-6. She counts seven strides with her left foot, listens for a faint beep, plants and soars as her guide dog watches. She stood on the podium. Wow.

From Faria to Fillmore, tip your cup, or cap, to the first month of summer, and thanks for your support of our VCBA!



*Bill Grewe handles wrongful death, personal injury, employment law and workplace injury cases at Rose, Klein & Marias, LLP in Ventura. and can be reached at w.grewe@rkmlaw.net*



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# MAYBE “IPAD JUDGES” ARE NOT SUCH A GOOD IDEA

by Greg May

This article was adapted from Greg May's blog, The California Blog of Appeal (<http://www.calblogofappeal.com>). Reactions to the original post can be found at <http://tinyurl.com/linkedin-ipad-judges> or [www.linkedin.com/grp/post/6538009-6003618975127261187](http://www.linkedin.com/grp/post/6538009-6003618975127261187).

Footnotes are omitted from the print version of CITATIONS, but they are available in the online version at [vcb.org](http://vcb.org).

Another version of this article appears this month in the Appellate Law Journal.

With e-filing firmly entrenched in federal courts and making headway in state courts, the presumption is that an ever-increasing number of appellate judges are reading briefs and records on screens of some sort. Articles like *Writing a Brief for the iPad Judge* or *Maximizing Your Appellate Brief for the iPad* recommend certain departures from traditional brief formatting in order to accommodate differences between reading from a screen and from a printed page. Fonts, heading styles and numbering, organization and use of footnotes all deserve special consideration if one is to maximize the on-screen navigability and visual appeal of a brief.

Such tips are helpful, insofar as they go, but are there deeper differences between reading from a printed page and from a screen that cannot be overcome by formatting? Some studies on the subject line up with what I have felt intuitively for some time: for comprehension and retention, the printed page beats the screen.

Consider this summary of a Norwegian study, from the website ScienceNordic:

Neo-Luddites rejoice: numerous studies show that when you read a text on paper your understanding is deeper and longer lasting than if you read that same text on a computer.

Of course, if you read the text on a screen you can probably recount what you read. But you cannot as readily make use of the content in other contexts. You haven't comprehended it as deeply and assimilated it as substantially.

Digital information isn't just a fleeting phenomenon on your computer screen. It disappears more quickly from your memory, too. Screens are best for superficial and speedy reading.

ScienceNordic specifically noted an iPad aspect of the study: “[The authors of the study] compared reading of a short narrative text on an iPad with reading it on paper. The test subjects who read on paper became more deeply involved with the story than those who read it on the tablet.”

These findings correlate well with my experience. Reading from a screen always bothered me on an intuitive level. It is not just the difficulty of navigating a document on screen. (If anyone figures out how to read an online newspaper page by page, like a paper copy, please let me know.) It is that I never feel I get as much out of reading from a screen as I do from a printed page. I find my iPad and Kindle (and even my iPhone) just fine for reading blogs, short articles and fiction - even novel-length fiction. On the other hand, getting through a non-fiction book on an iPad or Kindle feels like a struggle. If I need to read something analytically, I get a printed copy so I can read off the paper and mark it up with a pen as I go. Call me a tree killer, but I am not about to give up this practice. I have tried reading PDFs on my screen, annotating them with PDF editing software as I go along, but it is just not the same for me.

I thought that it might have something to do with the fact that I grew up reading from paper. Online legal research in my 30s was my first exposure to extensive

screen reading. I was in my 40s when the Kindle was introduced and 50 or so when the iPad was launched. But the test subjects in the Norwegian study were 10th grade students, likely in their mid-teens. They have probably done a good portion of their reading from screens already, yet still had greater comprehension reading from paper.

What about those even younger? Might some of today's kids, being brought up reading from screens from an early age, actually comprehend better as adults by reading from a screen than from a printed page? It will take us a while to find out, but this anecdote from *Scientific American* got me wondering:

In a viral YouTube video from October 2011, a one-year-old girl sweeps her fingers across an iPad's touchscreen, shuffling groups of icons. In the following scenes, she appears to pinch, swipe and prod the pages of paper magazines as though they too were screens. When nothing happens, she pushes against her leg, confirming that her finger works just fine - or so a title card would have us believe.

The girl's father, Jean-Louis Constanza, presents “A Magazine Is an iPad That Does Not Work” as naturalistic observation - a Jane Goodall among the chimps moment - that reveals a generational transition. “Technology codes our minds,” he writes in the video's description. “Magazines are now useless and impossible to understand, for digital natives” - that is, for people who have been interacting with digital technologies from a very early age.



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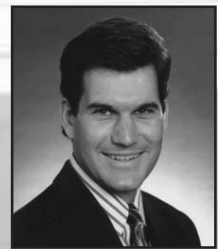
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## MAYBE “IPAD JUDGES” ARE NOT SUCH A GOOD IDEA

*Continued from page 8*

That is a cute story – or maybe a horrifying one, depending on your perspective – but despite that introduction, the article notes that “research suggests that reading on paper still boasts unique advantages” over reading on a screen.

Before you brand me a Luddite, consider this: I own a PC, a MacBook, an iPad, an iPhone and a Kindle. And, I love *filing* documents electronically.


It is *reading* electronic documents that concerns me, especially since many of those depriving themselves of better comprehension and retention may not realize it for themselves, like I did. They will not recognize that portability and easy searching of text comes with a cost, and will pay that price without knowing it. To make that trade-off an informed decision, lawyers should make the most honest evaluation of their reading that they can.

Of course, not everyone is the same, and there are some who get just as much out of reading from a screen as from a printed page. I am sure this includes many appellate judges. I just hope that none of them ever looks at me during oral argument and says, “So, Mr. May, I read your brief on my iPad. You got a problem with that?” Perhaps I will just be grateful that he did not read it on his Apple watch.



*Greg May is an appellate lawyer. He is of counsel at Jones & Lester in Oxnard.*

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# THE “DISENTITLEMENT” SWORD: A LITTLE-KNOWN DOCTRINE THAT PROMOTES CLIENTS’ INTERESTS WHILE ADVANCING JUDICIAL ECONOMY

by Roni Keller

An appellate court has the inherent power to dismiss an appeal by a party that refuses to comply with a lower court order. (*Stoltenberg v. Ampton Investments, Inc.* (2013) 215 Cal. App.4th 1225 [judgment debtor repeatedly frustrated sister-state enforcement of judgment orders; *TMS, Inc. v. Aihara* (1999) 71 Cal.App.4th 377 [defendants willfully refused to respond to postjudgment interrogatories in the trial court].) “A party to an action cannot, with right or reason, ask the aid and assistance of a court in hearing his demands while he stands in an attitude of contempt to legal orders and processes of this state.” (*Id.*, at 1230.) Accordingly, an appellate court may dismiss the appeals of a party who has “an attitude of contempt to legal orders and processes of the courts of this state.” (*In re Marriage of Hofer* (2012) 208 Cal.App.4th 454.)

In *Hofer*, the reviewing court dismissed appellant husband’s appeal outright when it became clear that the reason there might not have been substantial evidence to support a judgment for spousal and child support was that appellant husband had not complied with discovery requests by respondent wife. He was deemed “disentitled” to appeal.

Originally termed the “fugitive disentitlement doctrine,” the doctrine has been tested in the well-publicized cases of Roman Polanski, who fled to Europe to avoid trial for seduction of a minor, and Andrew Luster, heir to the Max Factor fortune, who was convicted in absentia by the Ventura County Superior Court for drugging and raping three women. Luster fled to Mexico, but his attorneys appealed. The appeals court dismissed his appeal because he was a fugitive from justice. Five months after he fled, however, he was caught by “Dog” the Bounty Hunter Chapman, commenced his prison term, and asked the court to grant rehearing and reinstate his appeal. The appeals court declined, writing in an unpublished opinion, “But for his capture, he would be a fugitive to this day. . . . [Luster] knew, or should have known, that his flight could be viewed as a

waiver or abandonment of a statutory right to appeal.” (*People v. Luster*, No. B166741 2003 WL 21509182 at \*1 (Cal. Ct. App., July 2, 2003).)

In contrast to the *Luster* dismissal, a Jane Doe plaintiff was unable to apply the doctrine against Roman Polanski to prevent him from defending her civil suit, notwithstanding his fugitive status in the related criminal prosecution. (*Doe v. Superior Court* (1990) 222 Cal.App.3d 1406). While the court found Polanski’s absence from the country “reprehensible, irresponsible, and unlawful,” it distinguished other cases where the doctrine had been applied because “[i]n each, the relevant proceeding was initiated by the fugitive.” (*Id.*, at 1409, emphasis in original.) The reviewing court found it could not preclude Polanski’s due process right to defend litigation brought by the civil plaintiff, absent failure to comply with discovery requests or a similar violation of a court order. (*Id.*, at 1410.) Twenty years later, however, he was unable to overcome the doctrine when he sought discretionary dismissal of his 30-year pending prosecution. *Polanski v. Superior Court* (2009) 180 Cal.App.4th 507, 532 “[A] fugitive forfeits the right to invoke the jurisdiction of the courts to review a judgment that the fugitive flouts[.]”)

The disentitlement doctrine applies equally to civil disputes, based on the equitable doctrine of unclean hands and the principle that “one who seeks equity must do equity.” (*Gwartz v. Weilert* (2014) 231 Cal.App.4th 750, 758, n. 5.)

“Dismissal is not a penalty imposed as a punishment for criminal contempt. It is an exercise of a state court’s inherent power to use its processes to induce compliance with a presumptively valid order.” (*Stoltenberg, supra*, 215 Cal.App.4th at pp. 1229-1230.) Thus, the disentitlement doctrine prevents a noncompliant party from seeking assistance from the court.

Appellate disentitlement is a discretionary, and not a jurisdictional tool to be applied when the balance of equitable concerns make it a proper sanction. (*In re E.M.* (2012) 204 Cal.App.4th 467, 474.) The doctrine is appropriately tailored by the court under differing circumstances. For example, the court has applied the disentitlement doctrine in the case of *In re E.M.* to deny a mother the right to challenge orders on appeal because her lack of compliance with the juvenile court’s orders frustrated its ability to protect her children. (*Id.*)

In another example, a party had been ordered by the trial court to turn over funds to a court-appointed receiver in protracted litigation but had failed to do so. Citing the appellant’s continuing defiance of the trial court’s orders, the reviewing court stayed the pending appeals for 30 days, with an order that they be dismissed if the conditions for lifting the stay – compliance with the trial court’s orders – were not satisfied within that time. (*Alioto Fish Company, Ltd. v. Alioto* (1994) 27 Cal.App.4th 1669, 1691; see also *Blumberg v. Minthorne* (2015) 233 Cal.App.4th 1384 [Trustee’s refusal to comply with trial court order regarding conveyance of real property warranted dismissal of her appeal under the disentitlement doctrine].)

*Stoltenberg*, applied the doctrine to dismiss an appeal where the appellants had failed to post a bond and were in contempt of a subpoena for financial information in a sister state. A commonly held misconception is that appeals automatically stay trial court decisions. With respect to money judgments, to obtain a stay pending appeal the appellant must post a bond guaranteeing payment in the event the appellant does not succeed. (Code Civ. Proc. § 917.1.)

The trial court has parallel power as sanctions in discovery, and the sanction of disentitlement is likely to be extended. With the interests of judicial economy in trial courts at an all-time premium, savvy trial lawyers may raise the doctrine in cases prosecuted

## BRINGING CIVILITY TO CIVIL LITIGATION

by *Sasha L. Collins*

Many of you are probably familiar with the story of Chris Prewitt, the Ventura educator who was struck and killed in April 2014 by Shante Chappell, a young woman driving under the influence of Xanax.

Although cases like this frequently involve prolonged criminal proceedings, this one was quickly resolved after Chappell pled guilty to felony gross vehicular manslaughter while under the influence of alcohol or drugs. Her plea came just a few days after her arrest.

At Chappell's sentencing, Chris's widow, Erin Prewitt, urged the judge not to sentence Chappell to prison. In years past, Prewitt worked for the Office of Child Abuse Prevention, where she developed a familiarity with and understanding of the prison system in California. Despite the fact that Chappell killed her husband, Prewitt's understanding of the prison system led her to feel strongly that sentencing Chappell to prison was not the best resolution. According to Prewitt, it was *her* husband. Why shouldn't she get to have the final say in the sentencing decision? In the end, despite Prewitt's requests that Chappell receive probation, **Judge Ryan Wright** sentenced Chappell to four years in prison, which she is currently serving.

Although Prewitt did not get the results she wanted in the criminal trial, she is now exploring her options in the civil arena. As a widow whose husband was killed by an intoxicated driver, the logical next step might be to bring a personal injury lawsuit against Chappell. Under traditional circumstances, Prewitt would bring a wrongful death action against Chappell seeking monetary damages for loss of income, loss of consortium and the like. However, Prewitt has a knack for doing things in the non-traditional way.

With the help of her attorneys, **Trevor Quirk** and **Alethia Gooden** of Quirk Law Firm in Ventura, Prewitt decided to forego civil litigation. Instead, she has decided to enter into a civil contract with Chappell. Two primary factors facilitated this decision.

First, although Chappell had automobile insurance, she carried only the minimum insurance required by California law: \$15,000 for injury/death to one person and \$5,000 for property damages. Of course, Prewitt could try to collect more than the insurance

amount by suing Chappell for any damages in excess of the policy. Yet, her chances of actually recovering anything above the policy limits through civil litigation would be slim. Although Chappell was previously employed at a bank, she is in her early twenties and does not have significant net worth. After Prewitt got a judgment against Chappell, she could try to garnish her wages and levy her assets. Chappell would not be able to bankrupt the judgment since she operated the vehicle while intoxicated.

Second, Prewitt was not interested in the money as much as she was interested in Chappell taking responsibility for her actions. Throughout this whole process, Prewitt has always sought the truth. In her own words, Prewitt considers herself "authentically pragmatic." Prewitt has openly and repeatedly expressed forgiveness towards Chappell. Yet, despite her ability to forgive, Prewitt still has a strong desire to know exactly what happened to her husband and why. Why did Chappell choose to take Xanax that day? Why did she choose to drive under the influence of Xanax that day? And most importantly, what is Chappell going to do to fix it?

The strong desire to effectuate change and to uncover the truth is primarily what has driven Prewitt to pursue alternative routes to the standard course of civil litigation. Currently, Prewitt's attorneys are in the process of negotiating the terms of a contract between Prewitt and Chappell. In essence, the contract will likely be akin to parole terms: Chappell will abstain from using drugs and alcohol, she will attend counseling, and she will participate in other activities to benefit

the community, such as speaking to youth about domestic violence or drug use. But if Chappell fails to uphold her end of the bargain, Prewitt would have a cause of action for breach of contract, at which point she could seek monetary damages. Although Prewitt is open to working with Chappell to encourage her to change her life for the better, Prewitt is also pragmatic.

Simply bringing a civil lawsuit against Chappell for the death of her husband just didn't feel right to Prewitt. Instead, Prewitt's ability to create and mold the terms of her own contract with Chappell has been empowering. It is a way for her to infuse a tragic situation with meaning and purpose. Not only that, but it gives Chappell a second chance to make a positive impact on her community, despite everything that has happened. Perhaps most interesting is that all of this can be done outside of the normal parameters of protracted civil litigation.

Presently, Prewitt and her attorneys are in the process of ironing out the specifics of her contract with Chappell. They encourage other attorneys to look into this approach as well. The loss of a loved one is a terrible tragedy, but it doesn't have to turn into years of civil litigation. Instead, this story has shown us that an open mind and the right set of circumstances can be an opportunity to turn a tragic situation into an empowering one.

*Sasha L. Collins is an associate attorney at StakerLaw Tax & Estate Planning Law Corporation in Camarillo. She focuses primarily on probate, trust administration, and estate planning slc@staker.com.*

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Continued on page 13

by chronically disobedient litigants. The trial court has “broad authority to levy the ultimate sanction when prior efforts yielded no results.” (*Liberty Mutual Fire Ins. Co. v. LcL Administrators, Inc.* (2008) 163 Cal. App.4th 1093, 1105.) Where a party fails to obey a prior order, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction or a terminating sanction. (Code Civ. Proc. § 2030.290.) Specifically, the court may impose a terminating sanction against a party who misuses the discovery process by an order “[d]ismissing the action, or any part of the action, of that party.” (Code Civ. Proc. § 2030.290, subd. (d)(3).)

Stonewalling is not appropriate to a litigant who hopes to have access to the courts, and this power of terminating sanctions is ripe for expansion to other misconduct in the trial court that seeks to frustrate, through lack of cooperation, the right to due process of law for all parties. Where a party fails to obey a prior discovery order, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction or a terminating sanction. (Code Civ. Proc., § 2030.290.) Specifically, the court may impose a terminating sanction against a party who misuses the discovery process by an order “[d]ismissing the action, or any part of the action, of that party.” (Code Civ. Proc. § 2030.290, subd. (d)(3).)

Creative trial lawyers may wish to consider use of the disentitlement doctrine as a sword. On appeal, that sanction, while not widely known, is readily available to prevent an appeal from going forward, *pre-briefing*. The disentitlement doctrine can be used both to encourage and guarantee compliance with court orders, as well as to discourage or cut short protracted litigation by a less-than-savory party.



**Roni Keller, Esq.**, is the principal of Law Offices of Roni Keller in Newbury Park. She is a Civil Appellate Specialist who is regularly appointed by the Judicial Council to brief dependency and other matters.

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Slaughter, Reagan & Cole, LLP has named **Megan Winter** a partner of the firm, effective May 1, 2015. Slaughter, Reagan & Cole, LLP is also pleased to announce that Ms. Winter has been selected to the 2015 Super Lawyers Southern California "Rising Star" list by California Super Lawyers magazine. Ms. Winter has also been recognized as a 2015 Top Women Attorneys in Southern California



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

by Steve Henderson, Executive Director, M.A., CAE



The first judge to register for the 32nd Annual Law Day 5K was the **Hon. Rocky Baio**. Register at [www.runsignup.com](http://www.runsignup.com) and enjoy all the festivities this event has to offer, including \$2,000 in cash prizes and stays at Biltmore Four Seasons and Fess Parker's Resort.



To volunteer, contact race director **Joe Strohman** at 659-6800 or [jstrohman@fcoplaw.com](mailto:jstrohman@fcoplaw.com). Proceeds benefit our newly named Ventura County Legal Aid (the old VLSP, Inc.)...Marc Garcia, the youngest and first Latino Superior Court judge in Merced County, agreed to step down in mid-May to end an investigation into \$250,000 he received from his former defense law firm...



For a year now, bar staffer **Michael Pamplona** has been working in our offices doing all sorts of menial (grabbing lunches for 40 from Royal Bakery and schlepping it back to the offices), handyman (building file cabinets) and administrative duties (making a dozen LRIS appointments in one day). He was notified Friday evening, May 15, at 6:07 p.m., that he had indeed passed the State Bar exam. You may now refer to Michael as Counselor. Being sworn-in during ceremonies June 9 at 4:00 p.m. inside Courtroom #22...



VCBA board member **Mark Kirwin** is in Kathmandu assessing the earthquake damage and providing roofing

materials and food supplies to several villages. As time wears on and people cannot work, funds for food and rebuilding are running low. People are very worried about the coming monsoons. The Kirwin International Relief Foundation (KIRF) has teamed up with Ventura Rotary and local Nepalese Rotarians for this effort... Donation info to follow.

Thanks to **J. Roger Myers**, I sit corrected. He found an active lawyer who has a bar number much lower than **Bill Hair. Gordon**



**Lindeen**, a graduate of Stanford Law School, was admitted to the State Bar in January 1956. His bar number is 26774. Sorry Bill, and a lunch for Roger!... The dramatic drop in law school applicants – a 40 percent decline between 2005 and 2014 – has many wondering when demand for a law degree will finally rebound. Not this year, at least. The latest numbers released by the Law School Admission Council indicate that the downward spiral is still...spiraling. As of April 17, only 47,172 people have applied to go to an accredited U.S. law school this fall, according to LSAC, which administers the LSAT entrance exam. That's a 2.6 percent fall-off compared to a year ago. Applications are down 4.7 percent from 2014...The Black Attorneys Association is now called the Black Lawyers of Ventura County and the latest affiliate of our bar association. President **Jacquelyn Ruffin** has created an application that may be had at [www.vcba.org](http://www.vcba.org). Click "About" in the menu bar, then click "Sections." Jacquelyn may be reached at 644-7188 or [jruffin@mwgjlw.com](mailto:jruffin@mwgjlw.com)...



**Johnson Moore** is proud to announce that **Stephanie A. Johnson** has joined the firm as an associate. Stephanie did her undergrad at UCSB and attended the Ventura College of Law. She'll be working with the partners at all phases of litigation and screening all potential new cases. She may be reached at 988-3661 or [Stephanie@johnson-moore.com](mailto:Stephanie@johnson-moore.com)...



**LAWYERS**– Pay attention! The State Bar of California takes the MCLE very seriously these days, in case you haven't heard. Case in point: A lawyer from Calabasas was suspended for 30 days and placed on one year probation for reporting to the State Bar that she was in compliance with her MCLE requirements when she knew she was not, an act of moral turpitude...Japan? **Don Greenberg** visited his son, Steven, who has been living there more than twenty years. It all grew out of Don hosting exchange students with the Lions Youth Exchange program for six weeks when Steven was fifteen. His daughter-in-law, Mika, and two grandchildren, ages eleven and eight, speak both English and Japanese fluently. By the way, Don recommends the Shinkansen (the bullet train) as the mode of transportation.

Oops – **Tom Olson** has rightfully corrected me on the recent hiring of **Tina Schoneman** and **Panda Kroll**. Tina comes in as a full shareholder and Panda as an associate... It's movie night at the courthouse. U.S. 9th Circuit Court of Appeals Judge Alex Kozinski, his identification and security tags hanging from his neck, greets dozens of people who have shown up early for a guided tour. Later, the visitors line up in a court hallway to pick up pizza, salad, and beer, wine or soft drinks. Then they'll adjourn for a movie called *Tim's Vermeer* and a chat by the subject of the movie. Kozinski holds the event, known as KFF or Kozinski's Favorite Flicks, three or four times a year at the San Francisco courthouse and likewise at the Pasadena Courthouse – LA Times, written by Maura Dolan...Quote of the Month: "A fish is, of course, a discrete thing that possesses physical form. See generally Dr. Seuss' *One Fish Two Fish Red Fish Blue Fish* (1960)." U.S. Supreme Court Justice Elena Kagan, asserting in her dissent in *Yates v. United States* (2015) 135 S. Ct. 1074 that fish are tangible objects...

**Steve Henderson** has been the Chief Executive Officer of the Bar Association since Nov. 1990. He reminds you all that June 1 is National Leave the Office Early Day and June 15 is Magna Carta Day. A regular on *Mad Men* & *Letterman Show*, he may be reached at [steve@vcba.org](mailto:steve@vcba.org), FB, Twitter at [stevehendo1](https://twitter.com/stevehendo1), LinkedIn, or better yet, 650-7599.

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