



CITATIONS

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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.



By Brian H. Nomi
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DK Law Group & Creative Dispute Resolution Summer Internship Program 2016.



Now in the program's 2nd year, the DK Law Group and Creative Dispute Resolution offices located in Thousand Oaks have invited interested Mock Trial team members of the Semi-Finalist and Finalist rounds of the Ventura County Superior Court's 2016 Mock Trial programs to interview for a position working with DKLG and CDR and participate in their Summer Internship Program: "Project Advocacy 2016".

The program consists of a part-time job (15-20 hours weekly for 8 weeks) in a real law firm doing real work during June and July, 2016, being placed in a real world environment, helping real lawyers working on real cases, all while honing advocacy skills. See dk4law.com for the firm's history and practice, along with a description from last summer's internship participants.

Interested qualifying team members have now applied and will be interviewing in April, internships decided in May. On behalf of the DK Law Group and Creative Dispute Resolution — Congratulations to all those participating in the VCSC Mock Trial Program!

Law Firms interested in participating in next year's 2017 internship program may contact:
Senior Partner, David M. Karen for further information:

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VCLA's Managing Attorney, Cesar Libanati.

The client came into Ventura County Legal Aid's Free Legal Clinic with her son, who looked like he was about twelve years old. After she filled out the Clinic's one-page intake sheet and was assigned a lawyer, the client presented a worn copy of a complaint and summons, together with a notice for an upcoming hearing. She, together with her son's school, had been sued as a result of allegations that her son threw an object that hit and injured another student. For the last several months, she had no idea what to do or make of the complaint and summons. The family had reached the point where not knowing the importance of the paperwork was more stressful than the issues underlying it. After twenty minutes with a lawyer, however, she not only understood what the documents meant, but had a plan of action for addressing them. Her lawyer noted that, as he talked with her, she became visibly less stressed. The client was incredibly gracious and thankful as she left.

Legal Aid – also known as VCLA and formerly as the Volunteer Lawyer Services Program or VLSP – has provided needed pro bono legal services in Ventura County since 1996. Historically, VCLA has operated a “direct representation” program. Income-qualified Ventura County residents or persons with cases pending in Ventura County, are assigned a pro bono lawyer after their applications are submitted to the attorney-manager and screened by one of VCLA's nine emeritus attorneys. As of February, VCLA also operates a legal clinic, which has held seven sessions

PRESIDENT'S COLUMN

VENTURA COUNTY LEGAL AID: CLINIC SUCCESS & WELCOME CESAR LIBANATI!

by Charmaine H. Buehner

this year, 4:00-7:00 p.m. on the first and third Tuesday of the month at the Ventura County Law Library. Since February, the clinic has provided free legal advice to approximately 125 people through the generosity of our lawyer, interpreter and law student volunteers. Approximately half of clinic clients need assistance with family law matters, with the remaining half presenting issues including immigration, landlord tenant, criminal property, social security, workers' compensation, and a general need for legal advice. Often, clients just need someone who can “think like a lawyer” and identify the relevant facts of a particular problem. Sign up to volunteer for the clinic, take a pro bono case, or both, at www.vclgalaid.org.

While VCLA is a separate non-profit charitable organization from the Ventura County Bar Association, VCLA relies heavily on the strong relationship between the two organizations. In particular, VCLA operates through the volunteerism and financial support of Bar membership, and also pays VCBA for administrative support and management. **Steve Henderson** has served both as VCBA's long-time Executive Director, and as Executive Director of VCLA. The two organizations' boards of directors are distinct from one another. VCLA's board is chaired this year by President **Kevin Staker**. VCLA is also guided by an advisory committee ably managed by **David Shain** for many years.

This year, the direct representation program has undergone some exciting changes under the direction of President Staker. Most notably, VCLA hired local immigration and family law attorney **Cesar Libanati** to manage the program on a part-time basis. Libanati's energy and enthusiasm

for pro bono work and commitment to community is evident not only from my conversations with him about VCLA, but also from his resume. Libanati's experience includes work as the program manager for Goodwill Industries for Expanded Subsidized Employment, and extensive volunteer work with children, including for the Southwestern Immigration Legal Clinic and as an on-call translator for Kids in Need of Defense.

Though only on the job for a matter of weeks, Libanati, who is fluent in Spanish, has implemented a number of ideas to update and streamline the direct representation program. No longer are program applicants mailed a paper copy of the application, which can now be filled out online at www.vclgalaid.org. Applicants who are not computer savvy can still call the program's message line at (805) 650-7592. Libanati has digitized almost the entirety of the pro bono case files and volunteer database, making the process easier to track and maintain, all of which will reduce the administrative load on our overworked VCBA staff. He has also made it possible for the program's Emeritus Attorneys to contact and screen potential pro bono clients remotely.

Libanati observed that the direct representation program has assigned about 60 matters annually for the last several years. Libanati estimates he receives approximately 30 calls or online applications per week, of which five to ten qualify for free legal services. Libanati and I also discussed a process for streamlining clinic referrals for clients who need ongoing pro bono representation to the direct representation program.

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PRESIDENT'S COLUMN
Continued from page 3

Of Libanati's hiring and the opening of the clinic, President Staker commented, "I am very pleased with how well our programs are running. Our Emeritus Attorneys and our new managing attorney, Cesar Libanati, are doing a great job finding attorneys to assist needy individuals. **Charmaine Buehner, Mark Kirwin** and a host of other attorneys have gotten the VCLA Legal Clinic off to a rip roarin' start. The key to happiness is serving other people, and so we have a bunch of happy attorneys in this county assisting others."

If you have not done so, consider signing up to volunteer – join us!



Charmaine Buehner is a Senior Civil Attorney and Assistant County Counsel for the County of Ventura. You can reach her at charmaine.buehner@ventura.org.

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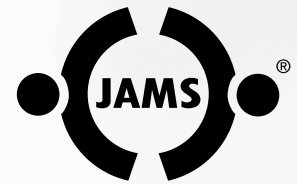
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LETTERS TO THE EDITOR

A Fine Gentleman

Thank you, **Bill [Paterson]**, for writing such a nice article about **Dick Regnier**. Sadly I was out of town and missed the church service. Bill, you eloquently put into words a beautiful sentiment. Yes, Dick was all those things.

My first of many encounters with Dick was when I first arrived on the scene in the late 1970s and accompanied on the piano your very funny scripts in the satirical bar shows of old. I didn't know any of the characters that you fearlessly roasted. Who shoots the piano player anyway? (So I thought.) After one particular show where Dick was portrayed, he sought me out and paid me a compliment on my participation. Since I hadn't yet met the gentleman I was very impressed with his manner, sincerity and genuineness. Future contact with him supported my original feelings about this fine gentleman.

Lou Vigorita

Trying

I am able to grab a moment from my very busy personal injury litigation practice to reflect on my almost 40 years of practice, most in Ventura County since 1983. I am able to remember litigating with **Becky McCarthy**. Remember her, one of the first female partners in a Ventura law firm? Let's see, I have also litigated with **Heather Bale**, **Colette Ansel**, **Michelle Katch**. Old home week includes **Kate Neiswender**, **Diane Becker** and **Donna Santo**. **Susan McCarthy** just finished some trial and currently serves on the Board of Directors of the Ventura Trial Lawyers Association with me, the immediate Past President. Not taking anything away from those great women featured, but the front and back cover of the last CITATIONS could have been covered with many, many more women who have devoted their lives to litigation and law. And the title, really??

Chopped Liver (Deirdre Frank)

Women Who Try

As co-author with **Rabiah Rahman** of last month's article which CITATIONS' editors labeled "Women Who Try," I write to complain about the title. As Yoda from Star Wars said, "Do or do not. There is no try."

When we first conceived this article, the editorial board brainstormed about women who regularly have jury trials, which is a rarified universe in Ventura County. This could be one universe which contains promising candidates for judgeships, and we recognized that Ventura County's bench has only four women among its 24 judges.

If you read "Women Who Try," you learned about five women in our community who have jury trials on a regular basis. These are women known for trying harder than the average lawyer, and as a result, they do succeed.

Kathleen Smith

Member of CITATIONS Editorial Board

Editor's Response

Many talented women have been trial lawyers over the years and many more are practicing now. CITATIONS welcomes other profiles, not just those of women who try cases, but of anyone in the local legal community who might be interesting to read about.

As for the title, I am solely responsible. I thought it was better than "Trying Women" or "Trial Lawyers Who Happen To Be Women." The editor is not always right, but she does **try** to come up with things you will read.

On that note, CITATIONS would welcome more authors and more editorial board members. Please let assistant editor **Cari Potts**, VCBA exec **Steve Henderson**, or me know if you'd like to contribute.

Wendy Lascher



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MINIMUM WAGE INCREASE: WHAT YOU AND YOUR CLIENTS NEED TO KNOW

by *Laura S. Withrow*

On Monday, April 4, Governor Jerry Brown signed (SB 3), which increases California's minimum wage by 50 percent over the next five years. Employers, and those who advise them, need to be aware of the effects this will have in their workplaces.

A number of California cities, including San Francisco, Los Angeles and Santa Monica, had already approved gradually raising their minimum wages to \$15 an hour. However, California is the first state in the nation to raise the minimum wage to \$15 per hour statewide. California employers must comply with the state's minimum wage, rather than the lower federal minimum wage (currently \$7.25 per hour).

As of Jan. 1, California's minimum wage is \$10 per hour. The additional increase will happen gradually and at different rates for larger and smaller employers.

For employers with 26 or more employees, SB 3 provides for an increase of \$0.50 per hour effective Jan. 1, 2017, and an increase of another \$0.50 per hour commencing Jan. 1, 2018. Thereafter, the rate will increase \$1 per hour each year until 2022, at which time it will be \$15 per hour.

Smaller employers (25 or fewer employees) will begin the scheduled increases one year later, on Jan. 1, 2018, and will be at \$15 per hour as of Jan. 1, 2023.

Once the minimum wage reaches \$15 per hour for all businesses, the Director of Finance will continue to adjust the minimum wage annually for inflation, pursuant to a specified formula that could continue to increase the minimum wage up to 3.5 percent (rounded to the nearest \$0.10) each year.

Until the minimum wage reaches \$15 per hour for all employees, the Governor has discretionary authority to temporarily suspend minimum wage increases for a one-

year period based upon current economic conditions. The Governor may suspend scheduled minimum wage increases no more than two times.

Exempt employees

Although the increase in the minimum wage will have the greatest impact on minimum wage workers, it will also affect exempt employees and many commissioned salespeople.

California imposes a two-part test to determine whether an employee may be classified as exempt from many of the requirements of the Labor Code. To qualify under the administrative, executive or professional exemption, the employee must (1) be "primarily engaged" in duties that qualify for the exemption, and (2) earn a monthly salary equal to twice the equivalent of full-time minimum wage employment. An employee loses their exemption if they perform the duties of the exemption but fail to satisfy the salary test.

Currently, an exempt employee must earn at least \$3,466.67 per month, or \$41,600 per year. The minimum salary for an exempt employee will continue to increase incrementally as the minimum wage increases year by year. By the time the minimum wage reaches \$15 per hour, exempt employees in California must be earning a monthly salary of at least \$5,200, and an annual salary of no less than \$62,400.

Employers must be mindful of the effect minimum wage increases have on their exempt employees and ensure that exempt employees' salaries are increased accordingly to satisfy the salary test during each annual minimum wage increase. Otherwise exempt employees will lose their exemption if their salary falls below the minimum requirements of the salary test, thereby exposing the employer to liability for unpaid overtime, missed meal and rest breaks, and other violations of the Labor Code.

Salespeople

The minimum wage increase also impacts the inside salesperson exemption. Pursuant to Wage Orders 4 and 7, employees whose earnings exceed one and one-half times the minimum wage, **and** receive more than half of their compensation from commissions, are exempt from the overtime requirements of the Labor Code. Currently, to be exempt from overtime, inside salespeople must earn at least \$15.01 per hour. The minimum hourly rate for qualified salespeople will continue to increase annually as the minimum wage increases. By the time the minimum wage reaches \$15 per hour for all employees, inside salespeople must be earning at least \$22.51 per hour to continue to be exempt from overtime requirements. Outside salespeople do not need to meet the minimum salary requirements.

The obligation to pay minimum wage cannot be waived by an agreement between the employer and employee, including a collective bargaining agreement. Furthermore, it applies to all employees who are based in California and out-of-state employees working temporarily in the state.

Notice requirements

California employers are required to post the official Minimum Wage Order in a conspicuous location frequented by employees. The most recent notice includes the increase that went into effect Jan. 1; however, a new notice will be needed for 2017.

Labor Code section 226(a) provides that every employer shall furnish employees with accurate itemized statements, at the time wages are paid, setting forth wages earned, total hours worked, etc. The itemized wage statement must include all applicable hourly rates in effect during the pay period and the corresponding number of hours the employee worked at each hourly rate. Employers will need to ensure that wage statements are accurate, otherwise they may face statutory penalties.

Labor Code section 2810.5 went into effect on Jan. 1, 2012 and requires that employers provide notice to non-exempt employees at the time of hire that includes their rate(s) of pay, designated pay day, the employer's intent to claim allowances (meal or lodging allowances) as part of the minimum wage, and the basis of wage payment (whether paying by hour, shift, day, week, piece, etc.), including any applicable rates for overtime. An additional written notice must be provided within seven calendar days after a change is made to any information in the notice. However, a separate wage notice is not required if the change is only to the employee's rate of pay, and the change is reflected on a timely itemized wage statement. Employers subject themselves to liability if they fail to provide this notice to new employees.

There are often hidden consequences to changes in the Labor Code. Employers must be prepared to adjust their compensation levels to comply with the new minimum wage requirements and should audit the pay rates of exempt and inside sales employees on an annual basis. Furthermore, employers need to ensure they comply with all related notice requirements.



Laura S. Withrow is an employment law partner at Nelson Comis Kettle & Kinney LLP in Oxnard, where she provides day-to-day employment law advice and litigation representation to Southern California employers. She can be reached at (805) 604-4100 or lwithrow@calattys.com.

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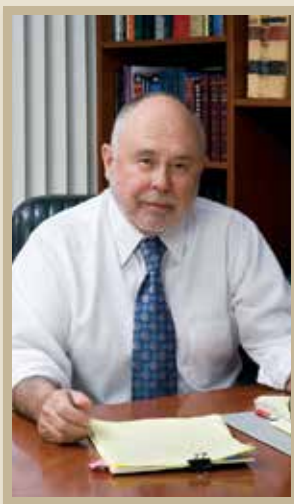


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A FAMILY LAW LESSON

by *Brian Nomi*

I am not a family law attorney. Nonetheless, I have been dragged into family law quite a bit. Some of you know that I serve in the Army as a JAG attorney, and in that role there are often family law issues that come up when a Soldier and spouse split up. Over a thousand clients have come through my door to seek advice in that sort of situation during my time in the Army.

Anyway, there are two stories I wanted to share with you. They portray very different sides of the legal system and how family law impacts ordinary people.

Story #1. A young Soldier came to see me in 2009 when I was serving at Joint Base Balad, Iraq. He was a tall, sturdy guy with a somewhat less than intelligent look to him. This Soldier had been in trouble a few times in his short military career; most recently he had been disciplined for losing his rifle by leaving it behind at a movie theater on the base (yes, they had a big theater and also two swimming pools on this particular base; check out <https://briannomi.wordpress.com> for more info.)

The Soldier had been married. He had a child. His wife was a South African national. The two split up. The wife simply got on an airplane with the child and went back to South Africa, refusing to communicate with him in any way or allow any contact with the child. The Soldier asked me for help.

I told him that he would need to hire a team of international family law lawyers, some in the U.S. and some in South Africa. He should plan on spending a five-figure amount of money to make any progress. I was not able to go to court in South Africa, and indeed I could not figure out a way to find a pro bono legal clinic in that part of the world even with the help of Google. The Soldier was not in a position to pay anything. Indeed he had recently forfeited half a month's pay as a private first class due to the lost rifle incident. He walked out of my office dejected, and I was also sad because I could not think of any way to help him.

Story #2. The second story involves a client who came to me for bankruptcy help in my Camarillo office. This case has nothing to do with my military service. She told me that over twenty years ago, she and her husband split up. They had a four-year-old daughter with whom they shared custody in Ventura County.

One day, my client (Mom) went to pick up daughter from Dad's place, and found that Dad had left for Minnesota. No forwarding info, no returned communication. Another case of parental kidnapping. She went to lawyers, who demanded \$25,000 to start an inter-state custody proceeding to get return of the daughter. These lawyers might as well have asked for \$25 million dollars, as Mom was making close to minimum wage at that time.

Mom eventually found out where Dad was through mutual contacts, and was able to locate an address in Minnesota where Dad and daughter were living. Mom then went to the preschool where daughter was for the day, and simply walked out with daughter. Mom then told daughter that they were going to play a game, where daughter would wear boy's clothing for make-believe. Of course, this was done to evade the police search that quickly began after the preschool realized that daughter was gone. Mom and daughter (disguised as a son) rode in a taxi through Minneapolis while evading the police, somehow getting around a few checkpoints, and made it to the Minneapolis/St. Paul Airport. Soon they were on an airplane together back to California.

After a year or two, Mom allowed Dad to have contact with their daughter. After many years, Mom allowed Dad to resume visitation with the daughter. Mom came to realize that Dad did not want to hurt daughter, and only did the kidnapping to Minnesota because Dad loved the daughter. So Mom took a pretty forgiving view on the whole incident after enough time had passed and tempers cooled. Fast forward twenty years

to the present, and the now-adult daughter lives close to Dad in Oregon, is married and expecting a child of her own, and daughter regularly visits with both Mom and Dad.

So there you have two pretty different stories. Both involved people who did not use the legal system, but instead resorted to self-help. In Story #2, no judge or team of family law experts could have found a more fair and reasonable end state. In Story #1, no judge could have reached a more unjust result.

Would the results have been better if the parties had used the legal system? Probably yes in Soldier's Story #1, probably no in Minnesota Mom Story #2. But we can never find out because no party to either dispute had the tens of thousands of dollars that an attorney would have charged to do a competent job in those cases.

So what I've learned about family law is that the legal system is a hero to some, and a villain to others. I've learned that money is a huge, mostly insurmountable barrier to the legal system for litigants in complex, inter-state or international cases. I've learned that possession really is nine-tenths of the law. And I've concluded that I should stay as far away from family law as I possibly can. Let the **Marc Dions** and **John Negleys** of this world crusade for justice in that field.



Brian Nomi handles civil litigation, bankruptcy, and landlord-tenant law in Camarillo. He serves as a reserve JAG. briannomi@yahoo.com

TRANSFER ON DEATH DEED: QUICK FIX OR BIG MESS?

by *Sasha L. Collins*

Late last year, Governor Jerry Brown signed into law AB139, which amended the Probate Code to establish new Transfer on Death Deeds (TOD). Effective Jan. 1, the law provides property owners an alternative way of transferring real property upon death without establishing a living trust or going through probate.

Under Probate Code section 5620, an owner may designate a beneficiary of her real property on the face of the deed itself. After the property owner dies, the beneficiary listed on the TOD simply records a death certificate to clear title. The property then passes to the named beneficiary outside of probate.

During her lifetime, the property owner may revoke the TOD by: 1) recording a revocation deed, 2) recording a subsequent TOD naming a different beneficiary, or 3) selling or transferring the property.

A TOD is exempt from the documentary transfer tax under Revenue and Taxation Code section 11930. Since the TOD does not give the beneficiary any present, vested interest, recordation of the TOD does not count as a gift for gift tax purposes. When the property owner dies, the property is included in her estate for estate tax purposes.

While the TOD appears to provide a quick and inexpensive way to transfer real property after death without the need for legal advice, the simplicity of the procedure may lull property owners into a false sense of security. There are several potential issues that may arise when one uses the TOD that are avoidable with a proper estate plan in place.

First, the TOD limits the way in which property owners may transfer property. Property owners must name specific beneficiaries on the deed rather than general classes of beneficiaries such as “my then living children.” In addition, all named beneficiaries must receive equal shares of the property as tenants in common.

If the TOD names only one beneficiary and that beneficiary predeceases the property owner, the TOD is moot. Unless the property owner names a new beneficiary, the property remains in the estate of the property owner, and must go through probate when she dies.

Additionally, the anti-lapse statute does not apply to the TOD. If the property owner names her two children as beneficiaries on a TOD and one predeceases the property owner, the entire property passes to the surviving beneficiary. On the other hand, if the property owner had transferred the property to her two children through a living trust, the share of the predeceased beneficiary could pass to that beneficiary’s own children under Probate Code section 21110.

Next, recording a TOD does not sever a joint tenancy. The key factor that distinguishes joint tenancy from tenancy in common is the right of survivorship. Under the law, the right of survivorship under a joint tenancy prevails over a subsequently recorded TOD. If a person who holds property in joint tenancy wishes to use the TOD to transfer her interest in the property at death, she must first record a deed severing the joint tenancy and then record a TOD. In contrast, recording a deed transferring an interest to a living trust severs a joint tenancy.

Thus, while the TOD provides a quick and easy way to transfer real property, it ignores the larger overall benefits of a complete estate plan. Transferring property on death is but one function of an estate plan. A complete estate plan should include a living trust, pour over will, financial power of attorney, and a health care directive. These documents name agents who act on a person’s behalf with regard to financial and medical issues. The documents work in synchrony to address a number of issues, including those arising before death such as incapacitation. For example, if the property owner has a medical condition and can no longer handle her own finances, a conservatorship proceeding is necessary if the only “estate plan” she has is the TOD.

For these reasons, property owners considering the TOD should still seek legal advice to determine if the TOD is their best option. And, while several other states have enacted similar laws, it is too soon to see how the new law, which is scheduled to sunset Jan. 1, 2021, will pan out in California.



Sasha L. Collins is an associate at Staker Law, where she works on trust administration, probate and estate planning matters. slc@staker.com.

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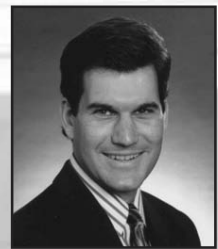
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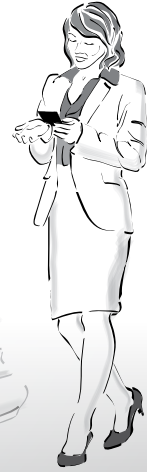
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BARRISTERS' CORNER

by Katie Becker

If you read **Rabiah Rahman's** Barristers' Corner last month, you might recall that she emphasized the importance of networking and volunteering. The Barristers' board works hard to give everyone opportunities to network while having fun. Our next such opportunity is our famous **Trivia Night!** Set for Thursday, May 19 from 5:30-7:30 at the fabulous Garman's Pub in Santa Paula, the night is sure to be fun and educational. The event is always better when we have more participation, so please recruit your firm, colleagues, family and friends, and help us make this a real competition! For more information, please see the flyer insert in this issue.

Spotlight on a Barristers' Board Member: **Renee Renata Dehesa** graduated with her Bachelor's degree from University of San Diego in 2004 and completed her Juris Doctor in only two years from California Western School of Law. Renee became a partner with Schuck, Becker & Dehesa,

LLP in January. She practices in the areas of estate planning, probate, business law and bankruptcy. She has a passion for assisting the Spanish-speaking community, and is excited to be back in Santa Paula, where she was raised.


Dehesa is a long-time board member of the VC Barristers and is the chair of the Barristers' Mentorship Program. She is also Vice-President of the Education Foundation of the VC Mexican-American Bar Association, Inc. Dehesa serves as a member of the Camarillo Chamber of Commerce board of directors, and is past Chair of its CSUCI Connection Committee. She is also a member of Womens Lawyers of VC and is a regular volunteer with Girls, Inc. at the Juvenile Justice Center in Oxnard.

Dehesa lives in Camarillo with her husband, Victor, and son, Oliver. She loves traveling, reading, reality TV and spicy food.

Ventura County Barristers is a Section of the Ventura County Bar Association. Membership is automatic and free if you are a VCBA member. If you are under 36 or have been practicing law for seven years or less, you are a Barrister! For more info on Barristers' events, see our Facebook page, or email our President, **Melanie Ely**, at melanie@beachcoudrey.com.




Katie Becker is a partner at Schuck, Becker & Dehesa, LLP and a member of many boards. Please save the date to join Renee and Katie for the Schuck, Becker & Dehesa, LLP open house on June 15, from 4-7.



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FRIENDS OF THE LAW LIBRARY

by Alfred Vargas



Edward Elrod took the reins of the Friends of the Ventura County Law Library, Inc. in 2016.

Elrod owned the local Ventura Bookstore on Main Street from 1978 to 2000 and Ojai Table of Contents from 1997 to 2003 before transitioning to the practice of law.

Elrod is president of the Diversity Bar Alliance and chair of the LGBT Bar sections. He practices probate, trusts, estate planning and family law. He may be reached at (805) 644-4486.

The board is comprised of Vice-President **Deborah Myers-Morris**, Secretary **Douglas Reeve**, Treasurer **Francesca Hannon**, and board members **Alfonso Martinez** and **Alfred Vargas**.

Donations are welcome at *FVCLL.org* or the Ventura County Law Library's website *ventcolawlib.org*. The law library is looking for sponsorships of book title subscriptions. Sponsors will be acknowledged with plates either on the spine or inside the sponsored book. Contact Library Director **Dolley Moehrle** at (805) 642-8982.



Alfred Vargas, who handles criminal, landlord-tenant, and family law matters, practices in Ventura. He preceded Elrod as president of FVCLL.

HONOREE PORTRAIT *Photo courtesy of Telegenics (805) 981-3994*



Marc Anderson with Ventura County Trial Lawyers Association presented Judge Barbara A. Lane with the honoree portrait at the VCTLA Annual Dinner.

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“EYE IN THE SKY”

by William E. Paterson

One would not expect a film based on what goes on behind the scenes of a single drone strike to be a riveting thriller. But I doubt many films this year will provide as much suspense and tension as “Eye in the Sky.” It grabs you from the onset and never lets go.

Drones are viewed as surgically precise instruments of war, but there is always the danger of “collateral damage” (euphemism for civilian casualties). That is not a problem for terrorists, as their express purpose is to kill civilians. In contrast, we make every effort to avoid them. However, this was not always so. In World War II, Allied bombs killed over a million German and Japanese civilians, and our bombs and artillery reportedly killed some 20,000 French civilians in Normandy. The mindset which found such casualties to be an acceptable consequence of war has undergone a radical transformation. But the question is still the same: Is the target so critical that innocents may have to be sacrificed for the greater good?

Col. Powell (Helen Mirren) is a British officer who thinks she has finally located a group of terrorist leaders in a safe house in Kenya. Surrounded by computers and multiple screens displaying aerial feeds from a circling drone, she wants to wipe them out with a Hellfire missile from Predator drone. So too does General Benson (the late Alan Rickman), the military liaison to a group of British ministers who have the last word on the strike. However, the ministers are a hard sell.

Thousands of miles away in the Nevada desert, two U.S. Air Force officers piloting the Predator sit in front of an array of consoles awaiting orders to launch. It is a tense and grueling duty. Tenser still and infinitely more dangerous is the task of a Kenyan plainclothes operator who has drawn the risky duty of verifying the identities of the occupants of the home. How close can he get to them without being discovered? Flirting with disaster, this resourceful and quick-witted man makes a chilling discovery.

To Col. Powell and Gen. Benson, the information he has relayed to them makes it imperative to launch a missile strike before

time runs out. But they are slow walked by the British ministers who agonize over the decision. Their fear of “collateral damage” becomes more than an abstract issue when the drone camera beams back a close up of a little girl selling homemade bread at her stand next to the target. Her face is on every screen, and the human consequence of the proposed strike is gut-wrenchingly clear to everyone. Increasingly desperate attempts are made to lure her away from the site, but complications keep arising. It is the classic Hitchcock touch: put someone in terrible danger while we in the audience are powerless to warn them.

The moral calculus is stark. What is more important, the life of this innocent child, who is sure to die in the ensuing blast along with random pedestrians and street vendors,

or the lives of unknown future victims of the terrorists the Predator now has in its crosshair? The ministers go back and forth as the clock agonizingly ticks away. Will they authorize the strike? It is but one of the many of virtues of this film that up until the last minute you are not sure how it will end. The year is still young, but “Eye in the Sky” goes on my Top Ten 2016 film list.

DVD Pick – It was made almost 50 years ago, but the “Battle of Algiers,” a docudrama of the struggle between the French Colonial Army and Algerian rebels (freedom fighters in their view and terrorists in the eyes of the French). It is as timely today as when it originally screened and has been studied by counter-insurgency experts for years. No film has ever more accurately portrayed the terrible logic of terrorism.

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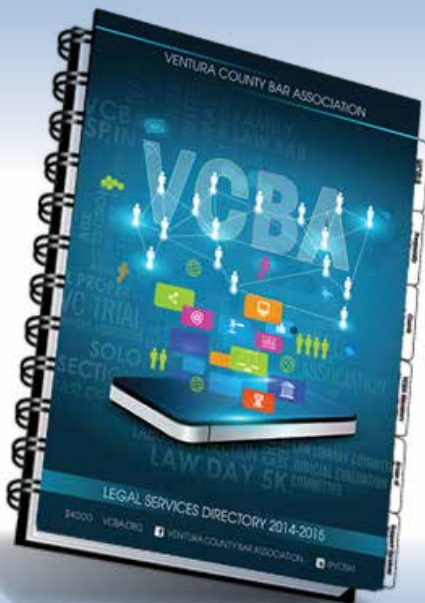
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ATHLETE OF THE MONTH



Joe Strohman competed at the University of Notre Dame in track (1500 meters/mile run) and cross country from 1975 through 1979, #182. He was a three year letterman at Notre Dame. As a freshman in 1975, Joe witnessed the Notre Dame/Georgia Tech "Rudy" game, the last home game of the season. Joe Montana attended Notre Dame at the same time. Montana wasn't fast enough for the track team so he decided to play football instead.



These days, Joe Strohman is the Race Director, for the 33rd year, of the VCBA Law Day 5K, raising money for the Bar and Ventura County Legal Aid, Inc.

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

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



Judge Bruce Arthur Thompson died Sept. 8, 2015, and the obit just appeared in *The Star* April 14. Bruce was admitted to the bar in 1954 and became District Attorney in 1961.

He was appointed to the Municipal Court in 1978. Bruce was also president of the bar association in 1966. After serving his country in WWII as a tail-gunner in Germany and Austria, he entered Boalt Hall School of Law. He was preceded in death by his wife, Barbara...

Suspended from practice in New York for two years over the same conduct that earned him a reprimand in Florida, a New York lawyer has opted to resign from practice in the Empire State. Howard Raab, a matrimonial lawyer, admittedly had consensual sex with a client on one occasion as the representation was drawing to a close. That contravenes what the Appellate Division, First Department in New York described as "New York's strong public policy prohibiting lawyers from engaging in sexual relations with clients in domestic relations matters during the course of their representation," the New York Law Journal reports...



Ventura Superior Court **Assistant Presiding Judge Patricia Murphy** has been selected as one of the recipients of the Oxnard Knights of Columbus Public

Safety Award for 2016. The award was presented at the group's Public Safety Night held on April 11. Each year, the Knights of Columbus recognize and honor about thirteen men and woman from law enforcement, military, fire protection and the judiciary for their service to our community and country...

An investigation of a Florida judge ordered to go home from court by the circuit's chief judge one day last month has led to a suspension recommendation. In a filing with the Florida Supreme Court, an investigative panel of the state Judicial Qualifications Commission reported on two incidents concerning Miami-Dade County Judge Jacqueline Schwartz. In one of the incidents, the judge was impaired while presiding in court over a criminal ticket docket, reported by numerous witnesses to be "unsteady on her feet, slurring her words and unable to concentrate," the filing says. Told to go home by the chief judge, she said she could drive, but the court officers insisted on driving her. However, "on the way to her home, the judge was unable to provide accurate directions to her home and could not remember her address, whose car she was in or who her bailiff was." NOT a good day...



Senior Deputy District Attorney Linda Groberg has been chosen by both the California Department of Corrections and Rehabilitation and the Office of Victim

and Survivor Rights Services for her "exemplary" work attending parole hearings on behalf of the District Attorney, the D.A.'s office said. She was honored in early April at the victim services office's moment of silence ceremony in Sacramento. Groberg has been a prosecutor for more than 30 years and currently travels throughout the state to attend parole hearings where she advocates on behalf of murder victims and their families...

From the LA Times: "The Commission on Judicial Performance, a state watch-dog agency, has concluded reviews of 1,231

complaints about how judges conducted themselves in 2015 and dismissed 90 percent of them after initial checks concluded they were unfounded. The agency's annual report showed an additional 86 complaints were closed without any discipline after investigations concluded they were unfounded or unprovable, or the judge involved provided an "adequate explanation of the situation." The commission imposed some kind of discipline in 41 cases, 26 in which a non-public advisory letter was sent to the judge, and four in which the judge was publically disciplined. The annual report looks at how the commission – whose eleven members include judges, lawyers and six citizens who are not legal professionals – handles complaints filed by the public against California's trial and appellate court justices...

The California Department of Toxic Substances Control is seeking a Chief Counsel. \$12,000 per month and go to www.cpshr.us/documents/ExecSearch/DTSC CC.pdf for application... Closer to home – Mid-sized, Premier AV-rated law firm in our county seeking associate level attorneys with two to five years of experience, for civil and commercial litigation. Top law schools only and Spanish speaking a plus. Email your resume to steve@vcba.org... MARK YOUR CALENDARS! Couple of great events to attend including the last meeting of the 2015-2016 Inns of Court Campaign May 12; Estate Planning & Probate luncheon with **Judge Glen Reiser** May 26; "Naked Discovery", a CLE presentation by **Matthew Haffner** May 18; and the Family Law dinner meeting May 24...



Steve Henderson has been the executive director and chief executive officer of the bar association and its affiliated organizations since November 1990. All his \$\$\$ on a *Cavs v. Warriors* final. Will be spending Memorial Day Weekend with Gronkowski and Manziel at Disneyland. Henderson may be reached at steve@vcba.org, FB, Twitter at [steve_hendo1](https://twitter.com/steve_hendo1), Instagram at [steve_hendo](https://www.instagram.com/steve_hendo), LinkedIn, or best yet, 650-7599.

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