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PRESIDENT'S COLUMN

GEARING UP FOR THE NOVEMBER 19 ANNUAL DINNER

by Charmaine H. Buehner



For the last fifteen years or so, as far as I'm concerned, the best running shoe – the *only* running shoe – is the Asics GEL-Cumulus model. I still recall putting on my first pair around 2001 – they felt like springy clouds on my feet that all but made me fly along the road. Then, and in the years since, it is hard for me to imagine running in any other shoe.

Presumably, however, a person's body and feet go through a number of changes over time that might warrant a different kind of shoe. So, last year, before purchasing yet another pair of Cumulus, I did some research and tried to keep an open mind. The result, after weeks of reading about pronation, supination, arch support, and visiting a variety of specialty running shoe stores to use their fancy metrics and try on about twenty different pairs? I purchased the exact same shoe. Was the whole effort a waste of time? Not at all. I think it necessary, every once in a while, to take a hard look at the status quo and ensure the chosen option is the best one. Happily for me, I continue to put on mile after mile in my beloved Asics.

As the Bar Association gears up for the Annual Meeting, held each year as a dinner, and scheduled for Saturday, Nov. 19 at the Mandalay Bay Embassy Suites (please mark your calendars!), I've thought about my recent running shoe selection process. Just about every year since I moved to Ventura County in 2009, I have enjoyed attending the Annual Dinner. Each year, the dinner seems to follow the same format generally. This year, I convened an Annual Dinner Committee comprising

me, **Steve Henderson, Kevin Staker, Tom Hutchinson, Amy Dilbeck-Kieswetter** and **Don Hurley** to ensure the event is a continued success and evaluate whether changes are needed. I also surveyed the VCBA board: Where shall the dinner take place? Is the format right? Is it too formal? Not formal enough? Should we go with a theme? Should there be dancing? Live music? And on and on.

As always, your VCBA Board provided helpful feedback. A few board members recalled pre-Nordman-Award dinners when the event was a bit rowdier and included skits and roasts by members of the bar. In 1986, however, the format and purpose of the dinner took a dignified turn with the advent of the annual **Ben E. Nordman Public Service Award** (the "Award"), bestowed at the dinner. In the years since, the presentation of the Award has become an important centerpiece of the dinner. To more fully understand the history of the Award and its relationship to the Annual Dinner, I spoke with **Laura McAvoy**, a 1993 Award recipient and the ex officio secretary of the Award's trust. McAvoy, who remains close with the Nordman family, recalled Nordman's intent and purpose when he created the Award just prior to his passing.

Nordman believed strongly that all lawyers have an obligation to engage in public service. As important, Nordman believed the majority of Ventura County lawyers fulfill this important obligation even though the public did not necessarily recognize their efforts. Nordman envisioned that the Award would "recognize outstanding contributions made by a lawyer to his or her community by means of community, charitable, or other public service activities. By such recognition to publicize and encourage such activities by members of the legal profession." (Proposal to United Way of Ventura County for the Establishment of a Public Service Award Fund.) With input from past Award recipients, the awardee is selected annually by the VCBA President, the Chair of the Ventura County Board

of Supervisors, and the President of the United Way.

Marc Charney, who preceded McAvoy as secretary to the Award's trust, commented that the Award's originating documents do not specify that the Award should be given at the Bar's Annual Dinner. Rather, as Charney explained, bestowing the Award at the Dinner was a product of the Bar's membership outgrowing the more casual "skit" format to one that made the Dinner unique to Ventura County. In other words, the Award helped the Dinner evolve to befit the dignity of the Award, better honor the legal profession, and elevate the public's view of it.

In my January column, I announced my intention to focus my presidency on the "helpers" in our legal community and to highlight those who go above and beyond to provide public service. After learning more about the history of the Award, it seems to me that its relevance remains an important constant in our community. Accordingly, while Dinner attendees can expect a somewhat broader focus on the volunteerism of our membership and a few tweaks to the auction component of the dinner, it also seems to me that the format and formality of the Annual Dinner is just about perfect the way it is. Sometimes, after inquiry, one learns that the shoe still fits.

Charmaine Buehner is a Senior Civil Attorney with Ventura County Counsel's Office. This month, she looks forward to celebrating her daughter's ninth birthday and learning to make shrimp and grits and fried-green tomatoes at Chef Darin's Kitchen in Savannah, Georgia with some of her favorite friends. You can reach her at charmaine.buehner@ventura.org.



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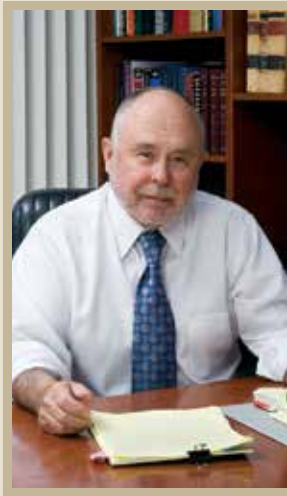
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COMMISSIONER DEREK D. MALAN

by Laurie Peters

Newly-appointed Ventura Superior Court **Commissioner Derek D. Malan** was born and raised in Sacramento with an eye on a life in Ventura County. Although he grew up in Sacramento, he has strong ties to Ventura and regularly visited his grandparents here. He is an only child, and for the first fourteen years of his life, he was the only grandchild on his father's side.

Commissioner Malan's plan had always been to live in Ventura. Growing up, he first envisioned himself as a first baseman for the Los Angeles Dodgers. In addition to loving baseball, he also played basketball. Commissioner Malan's involvement with sports helped him develop discipline and trained him to work well with others. He knows how to be a team player and understands the value of good sportsmanship.

Although not drafted by the Dodgers, Commissioner Malan succeeded by earning his law degree from Pepperdine Law School in Malibu in 2000. He began his legal career in the Ventura County District Attorney's Office. He was originally hired as law clerk, and began to prosecute cases as Deputy District Attorney as soon as he passed the Bar Exam. In 2007, Commissioner Malan became a Senior Deputy District Attorney and a member of the District Attorney's Major Crimes Unit. He will take over from newly-appointed **Judge Michele Castillo**, in what is arguably the most demanding courtroom in Ventura County, dealing with family law issues and claims of domestic violence by primarily self-represented litigants who do not understand how to properly present the evidence. Commissioner Malan seems eager to take on the challenge.

Commissioner Malan and I discussed how different it is to go from prosecuting crimes in a courtroom with two attorneys to becoming a neutral decision maker where most of the parties are self-represented in a completely different area of law. Commissioner Malan probes for relevant evidence from unrepresented litigants while disregarding pro pers' attempts to include inadmissible evidence. He takes pains to explain what he didn't consider, and why, so that the parties can understand. It is a

difficult task, but Commissioner Malan seems to have a talent for sifting through the facts and focusing on what he needs to make a just decision.

Although Commissioner Malan's entire career before taking the bench was in the District Attorney's Office, he is not a stranger to family law custody issues. He was a child of divorce himself. Commissioner Malan's parents worked well together at sharing that responsibility, and he enjoyed the time he had with both his parents. His parents would tell him the plan, and he was fine with the adults' decision. Commissioner Malan said he was happy to be able to spend equal time with both his parents.

Commissioner Malan is also a parent himself. He and his wife have a daughter born last year. Commissioner Malan had attempted to plan his schedule around the anticipated birth of his daughter; however, seemingly inheriting her father's eagerness, she arrived in December instead of February. She is doing well, and just the mention of her brings a smile to the Commissioner's

face that would light up an entire stadium. This only heightens Commissioner Malan's awareness of how important it is for family law jurists to focus first and foremost on the best interest of the child. Commissioner Malan takes that task very seriously.

I asked Commissioner Malan about his pet peeves. He would like the litigants and attorneys to respect the process and each other. Unlike criminal law, all litigants are not entitled to legal representation in his court. Zealous advocacy includes respect and candor toward the court, which can be difficult in a department with primarily self-represented litigants. Commissioner Malan is patient because he understands that we need to ensure that everyone has access to the legal process.



Laurie Peters handles family law, real estate, and criminal cases in Camarillo.



Richard M. Norman, Esq.

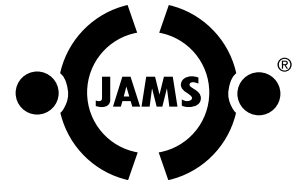
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BARRISTERS CORNER

Nominations for board positions for 2016 are now open.

A section of the Ventura County Bar Association, the Barristers provides programming to assist the newer members of our Bar with networking, mentoring, and furthering their educations. Each year, Barristers puts on a number of events for entertainment (such as Trivia Night and Game Night), MCLEs (e.g., the Judicial Speaker Series and Bridging the Gap), and connects new lawyers (and law students) with attorneys in fields of expressed interest through its mentoring program anchored by Wine & Cheese Night. The ten to fifteen-member Board of the Barristers coordinates these events and is always looking for additional members to assist with planning and to offer new ideas.

Do you know someone who would be a great addition to the Barristers Board? Would you like to be a member? Nominations for next year's Barristers Board for the following positions are now open: Member at Large, Secretary, Treasurer, Vice President and President. Nominations may be emailed to **Lauren Sims** at lsims@fcoplaw.com (subject line: Barristers Nomination) and must be received by 11:59 p.m. on Nov. 10. **Nominations may only be made by eligible Barristers (described below).** If you would like more information or to see a Barristers Board meeting in action, please join us at noon in the VCBA Bar Office on Tuesday, Oct. 4 for our next regular board meeting. Nominations may also be made at the October board meeting.

Nominees will be confirmed for eligibility. A "Barrister" is any member in good standing of the Ventura County Bar Association who, on Jan. 1 of a given year, meets at least one of the following requirements: (i) is under the age of 36 years; (ii) has been admitted to practice law in any jurisdiction for a period of seven years or fewer; or (iii) has been in practice in any jurisdiction for a total of seven years or fewer. Active law students who are members of the Ventura County Bar Association are considered "Student Barristers" and may serve on the Board as a Member at Large, but may not serve as an officer of the Board.

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Dear colleagues in the Ventura County Bar Association,

It has taken me sixteen years, but I have finally completed my opus and feel the time is right to release it into the literary world. Representing an innocent man is the scariest moment in my profession and when that man had been sentenced to forty-four to life in prison for a murder he didn't do, the intensity was off the charts. Thankfully I had help from our District Attorney’s office, local law enforcement, and another defense attorney who is now a judge. "When Darkness Reigns" is a complete expose on a criminal justice system run amok. From the streets of the Colonia in Oxnard California, to Pelican Bay State Prison, to the Hall of Justice in Santa Barbara this book covers it all. It is now available through Amazon / Kindle . I would be honored if you gave it a read.

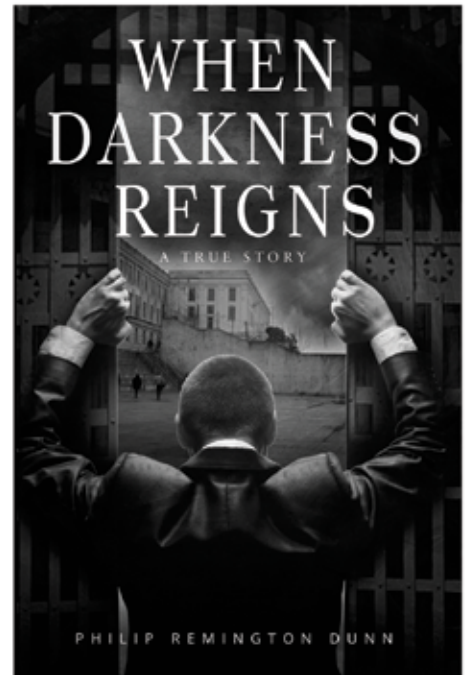
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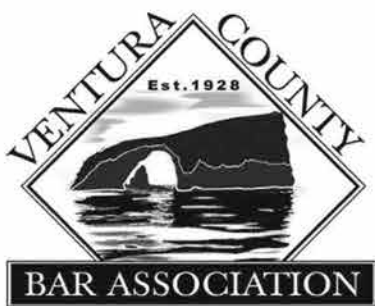
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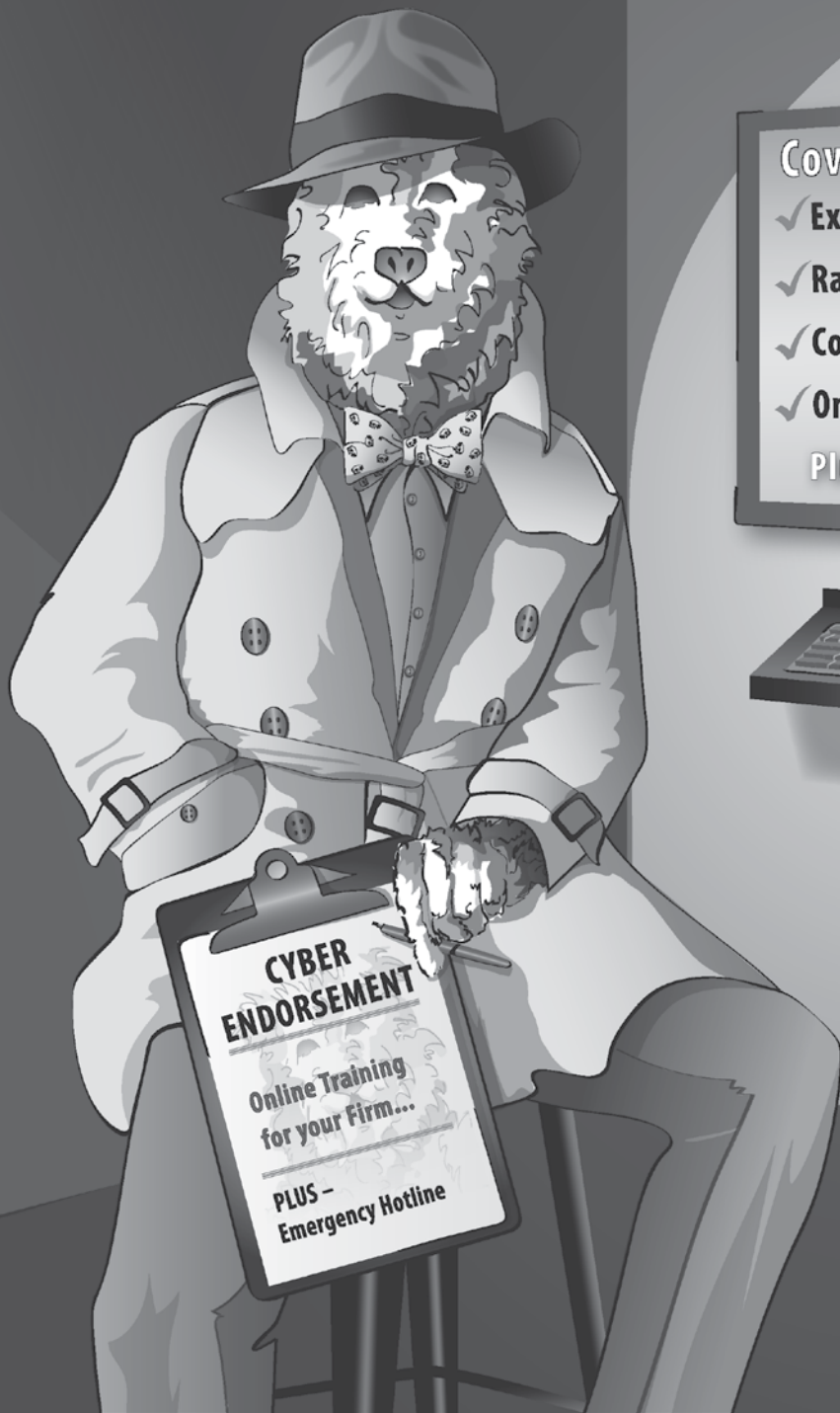


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MOVIE REVIEWS

by Bill Paterson

HELL OR HIGH WATER

“Hell or High Water” is a modern-day Western set in the bleak West Texas outback. Brothers Toby (Chris Pine) and Tanner (Ben Foster) are bank robbers. Adept at covering their tracks, they leave few clues and have a unique way of disposing of their getaway cars. There is only one cloud on their criminal horizon, Texas Ranger Marcus Hamilton (Jeff Bridges).

Marcus and his stoic and long-suffering partner Alberto (Gil Birmingham) have little to go on as they investigate the first robbery. The bank’s security camera is on the fritz and the only description they have is of two masked men cleaning out the cash drawers. But then the brothers storm another bank, and Marcus gets his first inkling of what is going on. He can’t quite connect the dots until the volatile Tanner pushes the envelope a little too hard one day. Then the pieces of the puzzle start coming together. Marcus thinks the brothers have something more in mind than simple bank heists. But whether his theory is correct and if it will lead to their capture is an open question.

“Hell or High Water” is an instructive example of how one can make a compelling film with a limited budget and an original idea. The storyline and crisp dialogue come from the pen of the screenwriter of one of my favorites of last year (“Sicario”) and the acting and sense of place are as good as it gets. Jeff Bridges (no doubt to be forever known as the “Dude” in “The Big Lebowski”) was made for the role of Marcus. An acerbic lawman on the verge of retirement, his drawl conceals an acute intelligence. A lifetime in law enforcement has also made him a trenchant and comic observer of the folkways of West Texas. He is a joy to watch.

All of the other leads are equally up to the task, from Foster’s free-wheeling and hyper Tanner, to Pine’s morose and reflective Toby and Birmingham’s stoic Alberto, who must put up with Marcus’s genial needling of his Mexican/Indian heritage, including a

colorful and invidious comparison between Texas football and Mexican soccer.

The careful casting is especially evident in the host of secondary characters. Whether it is old timers sitting at a restaurant, a burly Comanche at a casino or a blowsy and intrusive waitress, some of them seem so authentic that you wonder if they are professionals or rather locals pressed into service. My favorite is an ancient and surly waitress who takes (well perhaps “takes” is the wrong word) Marcus and Alberto’s order. It is a small jewel of comic invention right up there with such classic diner scenes as those in “Five Easy Pieces” and “When Harry Met Sally.”

There is also another important central character in the film: the stark and lonely landscape of West Texas. (Although, filmed in New Mexico). Endless scrublands, oil rigs and pump jacks, windblown towns with empty storefronts and ever-present billboards offering everything from legal services to debt relief dot the landscape. We may be a long way from the iconic Monument Valley locations of John Ford, but the setting of “Hell or High Water” is no less memorable. A shoo-in for my 2016 Best Ten Film List.

Another Take on the Lone Star State:

When it comes to an off-the-wall view of small town Texas, you cannot do better than “Bernie.” Based on a real life murder, it stars Jack Black as an assistant mortician who is “befriended” by a rich and demanding widow (Shirley MacLaine), the town’s most disliked inhabitant. Featuring some of the real townsfolk in cameo roles, “Bernie” is a priceless comedy.

KUBO AND THE TWO STRINGS

Set in medieval Japan, “Kubo and the Two Strings” is the epic tale of young Kubo’s quest to learn the fate of his missing father and recover his magic sword and armor. From the opening scene of Kubo’s mother battling to survive in a storm tossed sea, to Kubo’s final battle with a huge iridescent fanged serpent, this magical combination of stop action puppetry and digital effects is a work of singular imagination.

Kubo (Art Parkinson) and his mother Miho (Laura Miro) live in a cave at the edge of the sea. A melancholy woman with the features of a porcelain doll, she never ventures far from the cave. But Kubo is an adventurous soul who regularly travels to the nearby village. There he entertains the villagers with stories of ancient heroics which he populates with a host of origami creations, from a giant spider to a Samurai warrior, which magically spring to life as he plays his two string “shamisen.”

Then one fateful day, Kubo disregards his mother’s repeated warning to never leave the cave after dark. She knows something he doesn’t – there are nocturnal forces seeking to harm him in the form of her two spectral sisters (Rooney Mara) and her evil father the Moon King (Ralph Fiennes). It is advice Kubo should have heeded.

One night, he wanders off and soon finds himself pursued by the sisters. He manages to escape, but when the sun comes up, he is in an arctic wilderness. Sitting by his side is his new protector, a white monkey (Charlize Theron). The personification of no-nonsense tough love, Monkey takes charge of Kubo. But danger stalks them at every turn. Then a new savior appears in the guise of Beetle (Matthew McConaughey), a somewhat addled Samurai whom a curse has turned into a hulking beetle. True to his warrior’s code, he helps stave off another attempt to kidnap Kubo.

For the moment, he is safe again, but Kubo and his two companions have even more adventures in store for them as they are pursued across snowfields, mountains,

raging seas and at one point locked in a titanic subterranean battle with a giant fiery skeleton with huge glowing red eyes. But with Beetle's fighting prowess, Monkey's cleverness and Kubo's father's magic sword, the forces of evil will meet their match.

"Kubo" is a classic children's adventure/morality story (and NOT just for children) with a compelling cast of characters from Beetle and Monkey to the old village woman (Brenda Vacarro) who is ever ready with sage advice for Kubo. But above all, "Kubo and the Two Strings" is a visual feast. Whether it is origami sculptures which assemble themselves in seconds or such haunting images as a nighttime scene of lighted paper lanterns floating down a river as a tribute to those who have left this life, "Kubo" is a masterpiece of the animator's art. One of a kind.

Final Note: Take a look at the trailer, which you can pull up on the Internet.

Bill Paterson is a retired attorney in Camarillo.

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BOOK REVIEW: EXTRA! EXTRA! SENSATIONALISM AND SELF-REFLECTION

by Rachael Kimball

Trials of the Century: A Decade-by-Decade Look at Ten of America's Most Sensational Crimes by Mark J. Phillips and Aryn Z. Phillips

Father and daughter team Mark and Aryn Phillips have written a remarkably expansive book in a modest 322 pages. Each of ten chapters is devoted to a decade of the 20th century, with the social and political climate of that decade illuminated through examination of a trial that captured the minds of the public in that time. Each chapter is a fully realized vignette of true crime and courtroom drama, with well-developed characters and engrossing detail. But the authors' intent is no mere catalogue of famous trials: read together, the chapters comprise a cutting analysis of the public's timeless obsession with the darkest elements of humanity.

Trials of the Century examines the intersection of law and media and the role of public appetite in how one often affects the other. The authors were self-aware in their title choice: they quickly define the term "trial of the century" as "an overblown bit of media hype so frequently used to label high profile murder trials, the frequency and selection of which are limited only by the prurient taste of Americans and the imagination of editors." This book is not so much concerned with the details of the selected trials (although it is entertaining and informative on that level) as it is with the implications of the titular label.

The authors guide the reader toward active participation in the authors' examination of these themes. Focusing exclusively on criminal murder trials, the authors do not spare gory details. As I read, I found

myself reflecting on my own curiosity of the lurid descriptions of sex and death, juxtaposed with my disgust at the circus-like atmosphere surrounding the cases. I had to ask: how do my choices of media consumption impact what is reported on and what is ignored?

The selected cases share the common thread of media sensationalism. Many, such as the trials of "Fatty" Arbuckle and O.J. Simpson, derived attention from the celebrity or status of the parties; some, such as the trials of the Manson family and Richard Speck, engrossed the public due to the exceptional degree of violence or depravity demonstrated by the crimes. These sorts of cases do not impact our day-to-day lives as much as courtroom battles over water use or civil rights, but they occupy, then and now, an inordinate amount of news coverage.

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The book focuses on the twentieth century, with the last chapter about the Simpson trial. But the epilogue, about the Casey Anthony trial, ties the theme to present day. As members of the legal profession, often consumed by the minutiae of the cases we work on, this book is a reminder to step back and consider how extrinsic factors come to bear on the legal process. And in a presidential election year, where media coverage is dominated by a candidate who capitalizes on his supporters' desire to return to a better time, this book is more broadly relevant in its reminder that there has never been an ideal time to live. However, we may continue to improve if we are conscientious of the information we consume and cognizant of how it shapes our worldview.



Rachael Kimball
is a member of the
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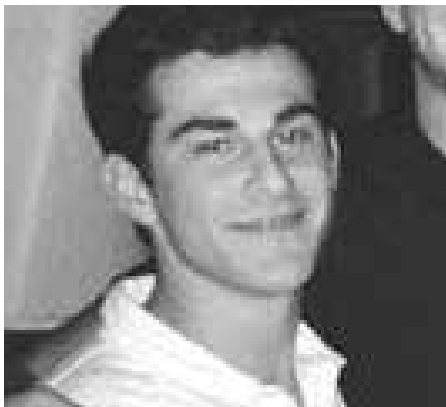
SATURDAY, NOVEMBER 19TH

BLACK TIE OPTIONAL



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

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



On Friday late afternoon, Sept. 23, the **Hon. Michele Castillo** was formally enrobed inside Courtroom #22 to a packed house, including her mother and two brothers...



In Stuttgart, Germany, a judge must decide on a case of honorable intentions in a situation where a man hired his neighbor to get his wife pregnant. It seems that Demetrius Soupolos, 29, and his former beauty queen wife, wanted a child badly, but Demetrius was told by a doctor he was sterile. So Soupolos, after calming his wife's protests, hired his neighbor, Frank Maus, 34, to impregnate her. Since Maus was already married and the father of two children, plus looked very much like Soupolos to boot, the plan seemed good. Soupolos paid Maus \$2,500 for the job and for three evenings a week for the next six months. Maus tried desperately, a total of 72 different times. Now Soupolos is suing Maus for breach of contract in an effort to get his money back... **Cari Ann Potts**, an assistant editor of this very fine publication and an attorney with **Myers Widders et al.**,



became a first-time mom May 22 with the birth of Everett James Potts who weighed-in at six pounds, nine ounces and twenty inches long. Dad, Jared, is pretty proud too...



The recipients of the **Verna Rose Kagan Award** and the **James D. Loebel Award** respectively are **Kevin Dorhout** and **Melanie Ely**. Our Annual Installation and Awards Dinner is scheduled for Saturday evening, Nov. 19, beginning at 6:00 p.m. at the Mandalay Bay and Resort...

The Illinois Supreme Court has struck down an Illinois law that reduced civil juries from twelve to six people. The court ruled on Sept. 22 that the law violated the Illinois Constitution, which guarantees "the right of trial by jury as heretofore enjoyed," reports the Associated Press, the Chicago Daily Bulletin and Peoria Public Radio... A very succinct and informative piece appeared in the Opinion Section of the LA Times on Sept. 18. It starts like this: "It has been 73 years since the United States Supreme Court ruled that students in public schools couldn't be forced to pledge allegiance to the American flag or engage in other patriotic demonstrations. But some educators obviously haven't gotten the message. In recent days, a principal in Florida told students they would be ejected from sports events if they didn't stand during the national anthem." Enjoy...



Barristers board member and co-chair of the Business Litigation Section, **Rabiah Rahman**, gave the commencement speech for Fresno City College this past June.

You may view this testimonial by our new lawyer at <https://www.youtube.com/watch?v=9fHyTcHyGWM>. Check in at about 43 minutes... An investigation called "Operation Twisted Justice" led to the obstruction of justice charge against a former district attorney in Louisiana who heads to federal prison. The former St. Charles Parish DA, Harry Morel, pleaded guilty earlier this year and was sentenced to three years in prison, the New Orleans Times-Picayune reported. Morel was

investigated for offering to help women in their pending court cases in exchange for sexual acts. thirty-eight women alleged that Morel had either propositioned them for sex, had sex with them, or touched them inappropriately...



There's a new face managing the bar's Court Tour Program which has been managed so well for the past many years by **Peggy Purnell**. The program has been in place for 40 years and will now be led by **Brenda Bodie**, who also happens to be a Commissioner for the Juvenile Justice and Delinquency Prevention Commission. She may be reached at brbodie@aol.com ...



MARK YOUR CALENDARS— An Oct. 18 CLE featuring **Jonathan Light** and **Michael Strauss** entitled, "Demystifying the Private Attorney General Act."

The Estate Planning and Probate Section meets Oct. 27, featuring **Mark Phillips** with his annual presentation on Recent Developments in Trusts and Estates. ALL this can happen by visiting vcba.org or bar@vcba.org or calling Nadia at 650.7599...

Ending with this Quote of the Month: "I have come to the conclusion that politics is too serious a matter to be left to the politicians." Charles de Gaulle...

Steve Henderson has been the executive director and chief executive officer of the bar association and its affiliated organizations for a long time. Henderson will be dining with Vin Scully Oct. 29 and was a close personal friend to Arnold Palmer. 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, Snapchat at [iambendo1](https://www.snapchat.com/add/iambendo1), or better yet, 650.7599.

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Kelly Francis crosses the Law Day 5k finish line!



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