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# CITATIONS

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## PRESIDENT’S MESSAGE

by Erik B. Feingold

The 90-year anniversary of the Ventura County Bar Association is right around the corner, in 2019.

When the VCBA was established, the entire county of Ventura had a population of about 54,000 residents, almost half of whom lived in the City of Ventura. The County was known primarily for lima beans and crude oil production. The VCBA had only a handful of members then. The portraits of judicial officers from 1929 are located in the courthouse, and the early VCBA composite portraits reveal the bench and bar was 100 percent male and Caucasian at the time.

Fast forward 90 years and the county population now exceeds 840,000 residents. The VCBA has over 1,300 members, and our bench and bar are diverse.

A lot has changed over the years, and there is a push by some of the senior members of our bench and bar to make sure the newest crop of VCBA members and future generations can get a rich appreciation for the VCBA’s past.


**Justice Steven Perren** and VCBA immediate past-president **Charmaine Buehner** have launched a campaign to educate and entertain with stories and anecdotes of some memorable VCBA characters and some of the more colorful cases they handled over the years.

This year’s **Ben Nordman** dinner on Friday, Nov. 17 at the Camarillo Ranch House (mark your calendars!) will be like no other. In addition to a phenomenal night of dining and entertainment in a classy setting, we will have a “show and tell” Q&A presentation by the notorious **Bill Paterson** with stories about some of the more colorful VCBA characters and their infamous cases, past and present. Following the Nordman dinner, the VCBA will be rolling out an ongoing speakers series in collaboration with the Ventura County Museum to feature additional bar history. If you have

memorable pictures or video footage of past bar leaders or events, please get them over to me or Bill.


After listening to a few of Justice Perren’s anecdotes recently, I was reminded of Mark Twain’s famous quote: “History doesn’t repeat itself, but it often rhymes.” When you hear and read about some of the VCBA stories and historical figures over the years, I

think you will agree that while many things in our county and the VCBA have changed (most for the better), the vibrancy and longevity of the VCBA can be attributed to the founding spirit of its pioneers and those who have faithfully carried the torch over the years.



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# FROM THE PROBATE SECTION... JUDGE REISER'S 2017 PRESENTATION AND OTHER NEWS

by Amber Rodriguez

Some of you may have been expecting my annual article on **Judge Glen Reiser's** presentation to our section. This year, however, there is no putting in to words the elaborate presentation he made. Judge Reiser has created a legal summary of *Heggstad, Kucker* and the related cases that weaves together facts he gathered directly from the parties, satellite pictures of the properties and people involved, historical references dating back to old English laws and much, much more. If you missed it, you should keep your eye out for his next "Evolution of *Heggstad*" presentation, which he has been rolling out to judges and attorneys all over the state. It is well worth seeing – which probably explains why we had our biggest turnout ever for his presentation.

Before Judge Reiser launched into the Evolution of *Heggstad*, he was kind enough to give us a raise. He has announced that beginning Jan. 1, 2018, the maximum hourly amount for attorneys will be increased to \$375 per hour and \$185 per hour for paralegals. Of course, all of his

standard guidelines apply, which means this is the maximum amount he will allow for *experienced* attorneys and paralegals. Those with less experience in probate, or overall, should expect a lesser hourly fee to be accepted by the court. And, as always, each case is reviewed based upon the overall reasonableness of the fees requested, taking into consideration the work completed and the size of the estate.

We are still not sure what will happen when Judge Reiser leaves us next year as he retires from the bench. We are hopeful the court will assign an experienced probate judge to our courtroom (say, perhaps, **Judge Roger Lund?**). All Judge Reiser could tell us for certain is that the future is uncertain.

We cannot thank Judge Reiser enough for these annual presentations. Our section is grateful and fortunate to have a judicial officer who takes time on a regular basis to keep us informed (not to mention entertained). Although we do not know who will be on the bench when it comes time for next year's presentation, we hope

that this annual presentation tradition will be continued by our next probate judge.

Finally, in case you missed it (as I did until recently), there are two new, **mandatory** Judicial Council forms for our section. The first is a Notice of Death of Conservatee (GC-399). The second is a Request to Waive Court Fees (FW-001-GC), which appears to replace the general civil fee waivers we used previously. Both forms are available on the Judicial Council's website.



**Amber Rodriguez** is the Chair of the Executive Committee for the Estate Planning and Probate section of the VCBA. Her practice focuses on probate and trust litigation and administration, estate planning and conservatorships. She can be reached at [arodriguez@estateattorneycalifornia.com](mailto:arodriguez@estateattorneycalifornia.com), or you can visit her website at [estateattorneycalifornia.com](http://estateattorneycalifornia.com).

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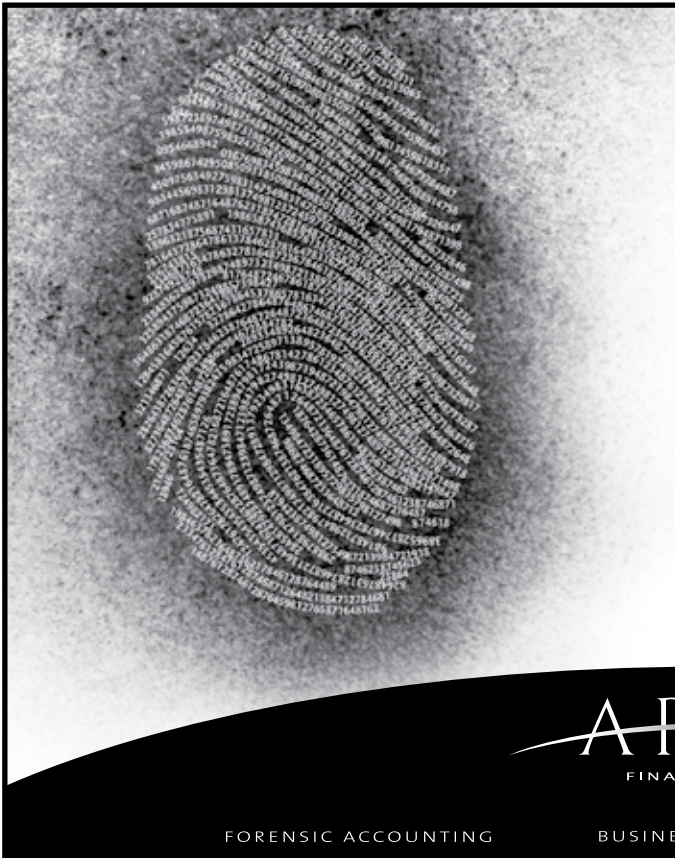
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# STEVE PELL, ON THE GO AGAIN

by Karen Darnell



Sporting a coat, tie and motorized scooter, Steve Pell just argued three restraining orders in a row. You would never have guessed he was recently hospitalized with a spinal cord injury and was totally paralyzed. After hundreds of hours of physical therapy, Steve has learned to walk again. His coordination and fitness are improving through “restorative exercise” plus the work of practicing law.

Back in October 2015, Steve, his wife Dionna, and their two youngest children went to Hawaii for vacation. Steve had been training for marathons and was physically fit. His eleven-year-old daughter wanted to go boogie boarding, so they went to the beach. Then a disaster happened. Steve was caught in a huge wave that slammed him into the sand. His daughter Lenora barely escaped injury. Fortunately, a doctor was standing nearby, and Steve got expert medical care before the ambulance arrived.

Doctors at the hospital asked, “Can you feel this?” “Can you feel that?” For six days, the answer was “no.” Eventually, Steve felt tingling on the bottom of his feet. Two days later, he felt tingling in his hands. That was very good news. His spinal cord was bruised but not torn. He had potential to recover movement. The bad news was uncertainty. Doctors could not say how much progress Steve could make, nor how soon.

For two weeks, Dionna stayed in Hawaii with her husband. Despite his devastating spine injury, Steve’s brain worked remarkably well. He worried about problems at the



Steve with Center for Restorative Exercise (C.O.R.E.)

office. According to one staff member, “He called all the time.”

In early November, Steve was airlifted from Hawaii to Oxnard and driven to CMH by ambulance. Family and friends could finally visit. But they got a cruel dose of reality seeing him swaddled in bed, unable to nod his head... “like a penguin.” Even so, Steve was eager to get back to work. A paralegal from the office brought files for him to review each day.

Dionna Pell – Certified Paralegal and Steve’s right-hand-person for 27 years – had the foresight to purchase business insurance. She reported the accident, and the company paid “every penny.” This made it possible to augment the workforce. **Clifton Reed** (who was already working on an urgent basis) was hired as an associate attorney.

By late November, Steve could wiggle his fingers and toes. He was then transferred to St. John’s Rehabilitation Center in Oxnard. After two months, Steve went home.

During 2016, the law office stopped advertising. Steve and Clifton targeted the oldest cases first and then started taking new client calls. Through discussions of cases and prospective clients, they got to know each other better. In December, when the case load was very low, Clifton decided to stay for the long haul. The number of clients increased rapidly and Steve revived the practice with “his usual flair.”

Going back to court was invigorating.

“Let’s go have some fun,” said Steve. But he faced new challenges. He had to maneuver his wheelchair through security and get around doors and tables. For custody hearings, he had to examine witnesses from his chair, so he needed to project his voice. Clifton was available to help, but as time goes on, he will be less present. For travel between home and court, Steve has a full-time driver/caregiver to keep him safe.

New technology has been a great help. Steve uses Dragon in the office and Siri in the car. He uses a wireless mouse and a wireless keyboard. Typing is improving with hand therapy. Walking is improving with hi-tech gait training. Though he can’t walk to the courtroom, he may soon be able to stand and approach the bench.

Steve gets additional support from his family (seven kids), pets (three dogs), music (clarinet), hobbies (boxing aficionado) and many friends. Attorneys asking about Steve have made encouraging remarks. One lawyer whispered in Clifton’s ear, “What a worthy adversary he was. I’m so glad he’s returning.”

If you see Steve in the hallway, please stop by and say hello. He is happy to answer questions.



*Karen Darnell has practiced law in Camarillo since 1990 and enjoys working for health care businesses and licensed practitioners.*

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The courtroom always became a special place when **Ray Garcia** entered the door. Armed with a bright smile and a friendly hello for everyone he met, it became impossible to resist the genuine charm of a gentleman and professional like Garcia. He was a special individual to many of us in the criminal courts and will be remembered with affection and deeply missed by court staff, bailiffs, prosecutors, public defenders and private attorneys.

Raymond Arthur Garcia was born in Chicago on Sept. 30, 1930, graduated from the University of Illinois and received his law degree from Southwestern University. After passing the Bar Exam on his first attempt, Ray and his young wife Yvonne moved to Thousand Oaks, where Ray began his career as an attorney and practiced law for the next 50 years. Ray passed away on May 4.

To all of us, Ray was the epitome of a professional. But his kind demeanor and polite manner concealed a passionate desire to assist his clients in all cases. We knew, and the prosecutors also found out, that Ray welcomed a trial if necessary in any case. As a final victory and only months before his death, Ray was the winning attorney in a four-day DUI jury trial. The jury loved Ray and returned with a “not guilty” verdict in less than an hour.

Ray was always ready with a joke. Although his jokes were PG-13, he could make you laugh out loud and feel better about your day. Everyone enjoyed spending time with Ray because he had that special talent to make you feel better about yourself after every conversation.

Ray could also laugh at himself, and that made him quite an impressive gentleman.

## SPECIAL MEMORIES OF OUR FRIEND RAY GARCIA

by Joe O'Neill

For example, when Ray was introduced to young attorneys, we always mentioned that Ray was a former Mayor of Thousand Oaks. Ray laughed the loudest when they were advised that it was so long ago, the town was known as “Hundred Oaks.” He is remembered with great respect as an important part of the city’s controlled growth, numerous parks and large parcels of open spaces.

Ray was first and foremost a man of faith. He was a founding member of the Redeemer Lutheran Church in Thousand Oaks. He was also an original founding member of the California and Ventura County Mexican Bar Associations. In addition to all of Ray’s activities, we were

impressed that he did 100 pushups every single morning before work.

Ray will be remembered by Yvonne, his wife of 62 years, two sons and their wives, six grandchildren, nine great grandchildren and everyone who laughed at his jokes.



*Joe O'Neill practices criminal law in Oxnard.*

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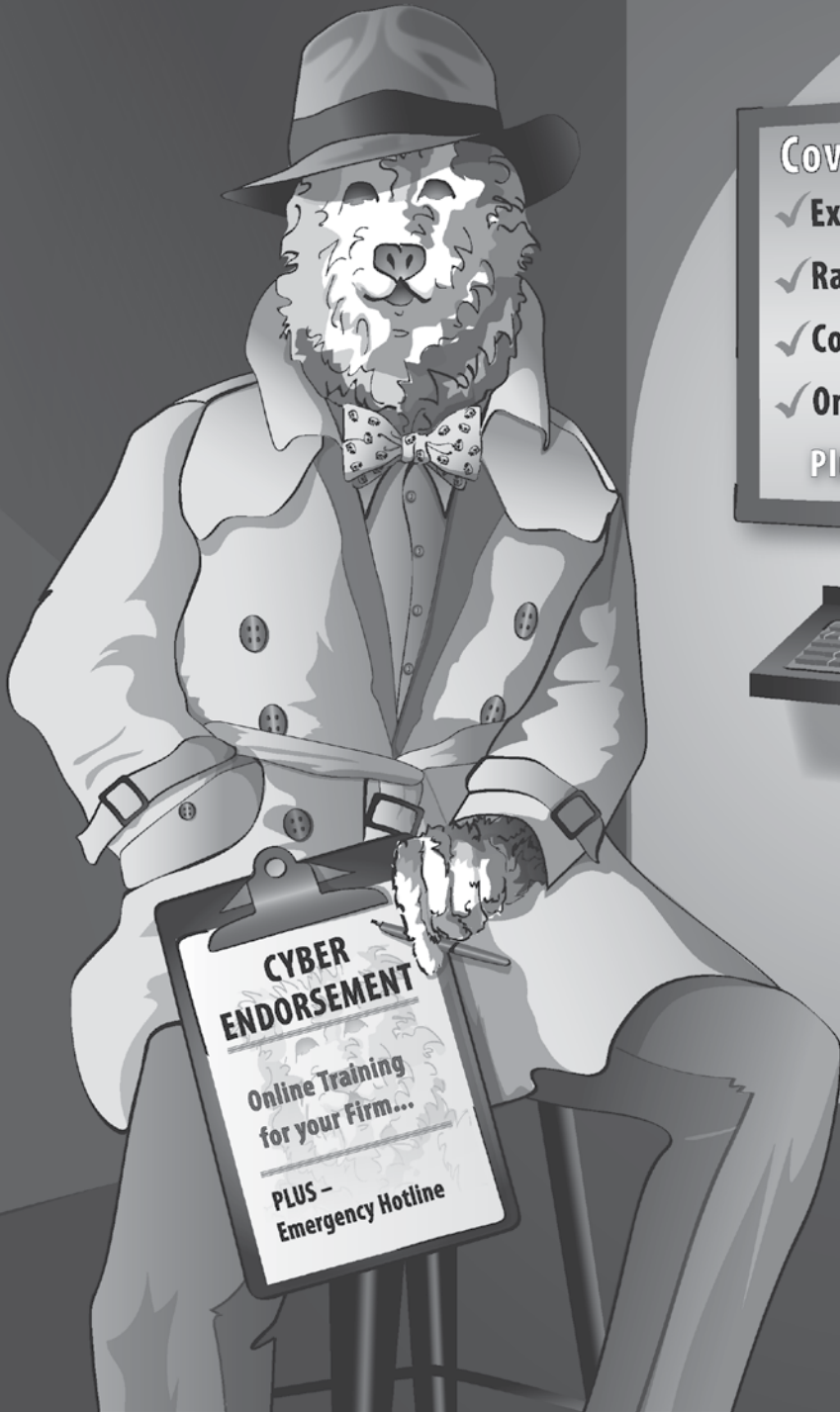


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# CALIFORNIA'S GUN VIOLENCE RESTRAINING ORDER LAW

by Carol H. Mack



On May 23, 2014, 22-year-old Elliot Rodger went on a killing spree in the college town of Isla Vista, leaving six dead and fourteen injured before killing himself. In this widely publicized case, not only did the shooter telegraph his intentions, but he also detailed them in the form of a written manifesto and a YouTube video.

When Elliot's parents received his manifesto and watched the video, they became alarmed. Elliot's mother, father, and stepmother began frantically racing from Los Angeles to Santa Barbara. On the way, they phoned the Santa Barbara police, but the police could do nothing. They also began to hear news of the rampage, but it was not until they arrived in Santa Barbara that they were able to confirm that the killer was their son.

Ironically, the police, alerted by his family, had interviewed Elliot earlier, but he seemed fine, and they did not have probable cause to search his apartment, which already contained the handguns he used in the shooting. After the tragedy, Elliot's father, Peter Rodger, and the father of one of the victims, Richard Martinez, met and began to lobby for stricter firearms restrictions laws.

California already had a law prohibiting the owning of firearms and ammunition by anyone convicted of domestic violence. Also, a person involuntarily admitted to a mental health facility is barred from owning or possessing firearms. The proposed

change would extend these restrictions to those posing a clear danger to themselves or others, even if they were not hospitalized.

A year later, Governor Brown signed Assembly Bill 1014, the Gun Violence Restraining Order (GVRO) law, which took effect Jan. 1, 2016. This law restricts the ownership or possession of firearms and ammunition when "a law enforcement officer asserts and a judicial officer finds that there is reasonable cause to believe that the subject of the petition poses an immediate and present danger . . . to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another." This is a temporary restraining order that is initially limited to a 21-day period.

Under the law, there are three methods available to obtain a GVRO. These are: the emergency GVRO, the ex parte GVRO, and the GVRO issued after notice and hearing.

## EMERGENCY GVRO

The emergency GVRO can be obtained immediately by a law enforcement officer who has reasonable cause to believe that the person presents an immediate and present danger to self or others by having a firearm in his or her possession, and less restrictive alternatives have not been effective. This order can be obtained outside of court hours, since the law requires that at least one judge

or commissioner be reasonably available to issue the order at any time. This temporary restraining order is limited to 21 days.

## EX PARTE GVRO

Alternatively, household members or law enforcement officers can petition the court ex parte during regular court hours. This action requires a sworn affidavit and clear and convincing evidence, and there are penalties for falsification of the information or the intent to harass. Again, the order is good for 21 days. After 21 days, the court may hold a hearing to extend the order for up to one year.

## GVRO AFTER NOTICE AND HEARING

Third, a GVRO may be issued after a notice and hearing. In this case, an immediate family member or a law enforcement officer may request a court to issue a GVRO for a period of one year. At the hearing, the petitioner has the burden of proving his or her case by clear and convincing evidence. If the order is issued, then the restrained person must surrender all firearms and ammunition but also has the right to request a termination of the order.

If the restrained person does not surrender all firearms and ammunition in his or her possession, a law enforcement officer with a proper warrant may conduct a search and confiscate any firearms or ammunition found in his or her possession. An exception to the seizure would be any firearms

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or ammunition present that are legally owned by another person and to which the restrained person has no access.

**ISSUES**

This law was opposed by the National Rifle Association (NRA) and other gun lobbyists, who referred to the bill as the “How to Turn in Your Neighbor” Act. They cited the potential for abuse and lack of due process. There are, however, safeguards built into the law. For example, as stated above, falsifying a petition for a GVRO constitutes a misdemeanor. In addition, the order, if issued, is temporary, and the restrained person has the right to petition to have the order terminated.

Although the law does not seem to infringe on Second Amendment rights – the Supreme Court has upheld laws restricting gun possession for specific persons, notably felons and the mentally ill – an amendment in the form of AB 950 has made the law more palatable and earned the support of the NRA. This amendment allows a restrained person to turn their firearms over to a licensed dealer, rather than the police, for safekeeping.

It is debatable whether the current law would have stopped the Isla Vista shooter, but there have been other cases in which a GVRO might have prevented deaths. Arguably, a similar law might have made a difference in the shooting in Tucson that seriously wounded Representative Gabrielle Giffords. In that case, the shooter had long been a source of concern to his family, who had taken away his shotgun, but he was allowed to buy another. An additional consideration is that California has about 4,000 deaths by suicide a year, and research demonstrates that fewer suicides are completed without ready access to firearms. At the very least, a GVRO might save the life of a suicidal family member and allow time for that person to seek help.



*Carol Mack is a lawyer and registered nurse. She teaches at Cal State Channel Islands.*

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# COMMUNICATING BY BLOG

by James Perero



Word of mouth referrals work for some attorneys. But sometimes old-school does not cut it. With so many people asking Google for legal advice, you have decided on a more technological approach. You are starting an attorney blog.

After a few months of regular blog posts, your SEO metrics are improving. You have received inquiries, and even a client or two you might have missed. Your blog is getting you noticed.

But potential clients are not the only ones paying attention. One day, you get a letter from the State Bar stating that your blog violates attorney ethics rules. In the words of Kai Ryssdal, cue the sad music. If you want attorney blog bang without State Bar pang, consider the following.

This past year, the State Bar's Standing Committee on Professional Responsibility and Conduct issued Formal Opinion No. 2016-196 (the "Opinion"). It discusses various attorney blog scenarios in light of California Rules of Professional Conduct, Rule 1-400 (the "Rule"), and Business and Professions Code sections 6157- 6159.2.

The Opinion discusses when an attorney blog is subject to regulation as attorney advertising. The key inquiry is whether the blog is a "communication" under the Rule. Spoiler alert: if an attorney blog expresses "availability for professional employment," either directly or indirectly, it likely is subject to regulation. (See Rule 1-400(A).)

In this event, an attorney blog must not present "or arrange any matter in a manner

or format" that is false or deceptive. (Rule 1-400(D)(2).) Nor can the blog have any tendency to "confuse, mislead, or deceive the public[.]" (*Ibid.*) The Rule includes an extensive list of communications that are presumed to be deceptive or misleading. (Rule 1-400, "Standards.")

Additionally, the blog must clearly indicate, expressly or by context, that it is a "communication." (Rule 1-400(D)(4).) A blog on a standard law firm website (which website features information related to the practice of law) implicitly indicates the firm's availability for professional employment, and thus does not require an express statement that the blog is a "communication." (See Opinion, at p. 5.)

Use caution when promoting your success. A blog post about "the ultimate result of a specific case or cases presented out of context without adequately providing information as to the facts or law giving rise to the result" is presumed to be false, misleading, or deceptive. (Bus. & Prof. Code § 6158.1; *cf.* Rule 1-400(D)(2).)

When in doubt, include a disclaimer. State that the result portrayed "was dependent on the facts of that case and that the results will differ if based on different facts." (Bus. & Prof. Code § 6158.3.)

When it comes to attorney blogs, follow these guidelines and study the rules. You won't have to worry about State Bar inquiries, and you can focus on building a successful practice. Then, when it's time to do the numbers, you can play the happy music.



*James Perero is an associate at Myers Widders Gibson Jones & Feingold, LLP, in Ventura. He handles community association matters, business law and litigation, and employments. jperero@mwgjlaw.com.*

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## BARRISTERS CORNER

by H. Frederick Seigenfeld

What can the Barristers of Ventura County do for you? I moved to Ventura County in 2010. I had every intention of practicing law at the time but not of remaining in the area. We practice in a special place, and the landscape of the local legal community is not any different. Those new to the area and to practice may be surprised by the unique dynamics presented.

So what can the Barristers of Ventura County do for you? Our chief responsibilities are to provide continuing education and networking opportunities and to present a mechanism for delivery of valuable information necessary to thrive professionally here in Ventura County.

At a certain point, I decided this county was the spot for me. As a result, I decided to attend Ventura College of Law. During my time in law school, I learned how different it is here from major metropolitan areas. This county is about relationships and reputation from the beginning, two things a new professional has little of. Clients and

*Continued on following page*

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**Jennifer Yates**  
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employers want someone they can trust and trust to be an asset for years to come. For this reason, the faster and more you are involved with more than just your current position or searching for the next one, the more your career will benefit.

With all the above in mind, the Barristers' mission is clear, but we are always open to suggestions. If you have any specific ideas or recommendations for continuing education or an event, feel free to let us know. And if you feel the need to get more involved, please know we are always open to more help.

Right now, we are looking forward to big events just around the corner. On July 11 at 12 p.m., the Business Litigation section is set to co-host attorney Robert A. Curtis from Foley Bezek Behle & Curtis, LLP. Mr. Curtis plans to speak on trial preparation and depositions. On Aug. 17 we will be holding our annual Wine and Cheese Mixer at Ferguson Case Orr Paterson. On Oct. 20, we will be hosting the very popular Meet the Bench (fka Judges Pizza Night), location TBD. I think I'll stop here. We look forward to seeing you in the future.

*H. Frederick Seigenfeld is an associate at Michael & Associates, Inc. in Thousand Oaks.*

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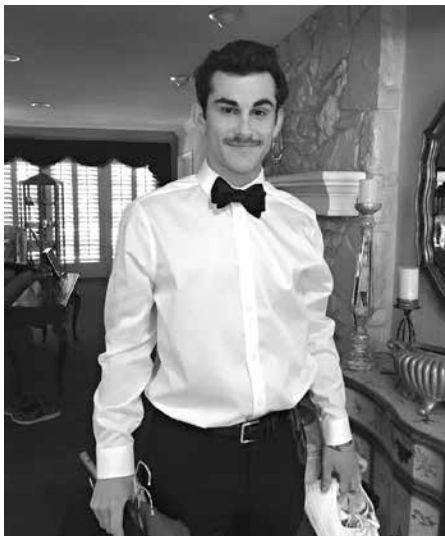
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# Exec's Dot...Dot...Dot...

by Steve Henderson, M.A., CAE



Guard Bureau, Office of Chief Counsel, Employment and Litigation Division. He was placed on active duty military orders 12.30.16 through 10.1.2017. His focus is on drafting and publishing military policy based on recent executive orders. He got himself admitted to the SCOTUS June 19 and congrats in order...Speaking of the VC Superior Courts, it is currently recruiting for a Research Attorney and paying \$98K-\$120K. [www.ventura.courts.ca.gov/careers.html](http://www.ventura.courts.ca.gov/careers.html)..

Illinois Audubon Society to help establish a wildlife refuge near Dixon. He purchased the stock 70 years ago for about \$1,000 and has been in the same home for 95 years. His last car was a 25-year-old Dodge and prefers oatmeal to “fancy foods.” His calling? A lawyer of course...I don't know who this

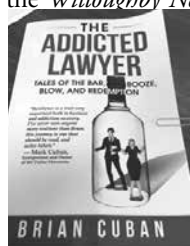


plate belongs to, but you can win a lunch on the CITATIONS Editorial Board

if you are the first to let me know...



On June 15 Barristers board member **Brier Miron Setlur** completed her one-year term as Chair of the Camarillo Chamber of Commerce and was honored by the City of Camarillo, Ventura County Board of Supervisors and the California State Assembly for her efforts...An Ohio judge known for creative sentences is ordering convicted drunken drivers to download ride-hailing apps as a condition of their probation. Municipal Court Judge Michael Cicconetti of Painesville, northeast of Cleveland, orders convicted drivers to download Uber and Lyft and to enter a credit card number on the apps, reports the *Willoughby News-Herald*...Book of the Month: “The Addicted Lawyer—Tales of the Bar, Booze, Blow and Redemption,” by Brian Cuban, brother of Mark Cuban. Post Hill Press Book. 2017. Amazon, \$12.02.



A to Z Law welcomes **Alec Yarbrough** to the firm. A Ventura County native (Thousand Oaks) Yarbrough is happy to be back here with his wife, Danielle, and their year-old son, Hudson. Welcome him at [ayarbrough@atozlaw.com](mailto:ayarbrough@atozlaw.com) or 988.9886...A Napa County judge faces reprimand for allegedly stealing – and later returning – several princely business card holders from a San Francisco social club. A commission accused Judge Michael Williams of willful misconduct, prejudicial conduct that brings disrepute to the judicial office and improper action. William blamed his actions on an “unexplainable impulse.” License Plate of the Month: RBM ATTY piloted by **Robert Blinn Maxwell**, an attorney practicing in Ventura and at it 40 years December 21...



**Justice Martin Tangeman** swore in seven new members of the bar in a ceremony June 6 in CR#22. Why so few? Pass rate was 33% ...On May 31 the fine Docents of our Court Tour Program held a 41-year celebratory luncheon where Program Director Brenda Bodie was honored as Docent of the Year. The CTP has been led by **Tom Hinkle** for many years along with many other captured here in this photo...



On June 13 Public Defender **Steve Lipson** was honored for his 30 years of service to Ventura County by proclamation. After a brief stint with Tulare County, Steve went to work for the PD's office in 1986 and was awarded the **Joyce Yoshioka** Lifetime Achievement Award in 1993. Thanks to his offensive skills, Steve led the Public Defender's Office over the District Attorney's Office in 1997 with a blazing outside jumper. That year, the DA's Office was led by now sitting **Judge Vince O'Neill**...Russ Gremel, 98, of Chicago, gave nearly 28,000 shares of Walgreens stock, valued at more than \$2 million, to the



My friend **Alfonso Martinez** checks-in with me all the way from Washington, D.C. The Family Law Facilitator for the Ventura Superior Court is currently assigned to the National

**Steve Henderson** has been the executive director and chief executive office of the bar association and its affiliated organizations since Nov. 1990. He anticipates becoming a Lakers fan when LeBron and Paul George join the franchise in 2018. Incidentally, he selected the Beavers of OSU to win the College World Series. Henderson may be reached at [steve@vcba.org](mailto:steve@vcba.org), FB, Twitter at [stevehendo1](https://twitter.com/stevehendo1), Instagram at [steve\\_hendo](https://www.instagram.com/steve_hendo), or better yet, 650.7599.

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