



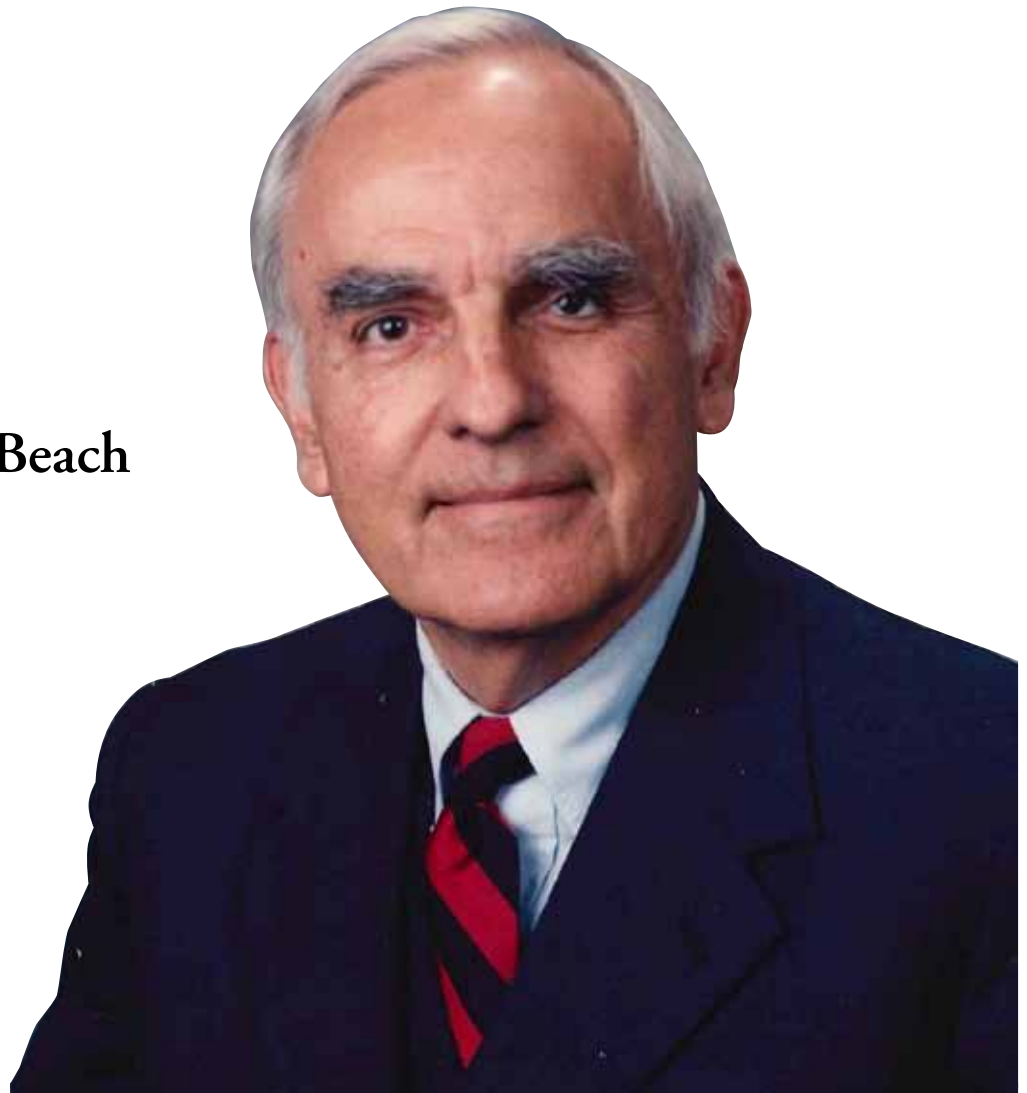
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CITATIONS

AUGUST - TWO THOUSAND TWELVE

In Memoriam: Edwin Fernando Beach

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DIEN LE

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President's Message: New & Revived Specialty Sections – Breathing New Life into the VCBA

By Dien Le



Jack Seal, Jasmeen Ubhi, Katie Hause, Michael Lavenant, Joe Herbert, Kevin Daly

Among my goals this year as Ventura County Bar Association President has been encouraging more participation by those who want to get involved, but aren't necessarily finding an existing outlet that meets their interests and needs. One way this has been accomplished is to support members interested in starting up new sections and recruiting new leaders wishing to revive dormant/inactive sections of our bar association.

ADR Section

Earlier this year, VCBA started its search for a new chair of the alternative dispute resolution section. As luck would have it, I came across someone on Facebook – **Kevin Daly** (dr.kevin.daly@sbcglobal.net), who posted that he recently joined the VCBA and has a full-time mediation practice. Who better than Kevin to revive this section? Since April, this section has held a few steering committee meetings to discuss ideas and to strategically plan for upcoming events. Some attorneys who will assist Kevin in this effort are **Catherine Inbar, Jim Lingl, Lol Sorensen, and Deborah Birenbaum**. This section is planning to organize informal lunch and breakfast meetings so that members can network and discuss interesting mediation topics such as elder law and family law. Because ADR/mediation can easily cross over with other practice specialties, this section proposes

having joint meetings with other VCBA sections such as the labor/employment section, Family Law Bar Association, and estate planning/probate section about every quarter, and to offer MCLE credits. The locations for any of these meetings will be fairly divided between the west and east county to encourage the most participation.

Animal Law Section

I'm sure all of you read the interesting article by **Katie Hause** (katiehause@baslawoffice.com) in last month's *CITATIONS* about "The Growing Field of Animal Law." My curiosity was certainly piqued. What most people don't realize is that animal law is more than just animal rights and dog bite cases, but encompasses many other fields such as civil, criminal, property, wrongful death, custody and farming (which is still prevalent in Ventura County). Because this area of law is still developing, is often on the cutting edge and involves creative arguments, Katie, as the founder and chair of this section, wants to start things as a casual open forum for people to get used to the idea and to foster a discussion/dialogue into some of the upcoming issues. Other founding members of this section are **Tom Adams** and **Deborah Parker**. To learn more, be sure to attend the section's first speaker presentation of "Animal Law 101" on October 10 during lunch at the VCBA office. Otherwise, look for flyers

in *CITATIONS* about quarterly meetings featuring interesting topics presented by guest speakers.

Immigration Law Section

The idea for the Immigration Law Section came about through the initiative and efforts of **Matt Bromund**. **Jack Seal** (sealjd@gmail.com), who used to work with Matt but is now on his own, has volunteered to be the chair of this section. Matt will continue to be an active part of making sure this section thrives. Other local attorneys who have attended meetings and have expressed interest in getting involved in this section are **Lilian Jiang, Michael Pezzuto, Gabriella Navarro-Busch, Vanessa Frank Garcia, Susana Goytia-Miller, and Carmen Ramirez**. This section will have regular monthly lunch meetings at Sugar Beets Restaurant in Oxnard. Then, about every quarter, they plan to invite guest speakers such as prominent practicing attorneys, representatives from one of the government agencies, or even immigration law judges to speak to the group. Eventually, they would also like to host some community outreach forums so that important updated information (e.g., new government policies) can be passed along to the public and help answer any questions.

Labor & Employment Law Section

The revived labor & employment law section will have two co-chairs: **Michael Lavenant** (michael@landeggeresq.com), who also serves on the VCBA Board of Directors, and **Joe Herbert** (joe@joeherbertlaw.com). **Roxanne Torabian-Bashardoust** has also expressed interest in being involved. This section plans to hold MCLE meetings featuring guest speakers at the VCBA office during lunch time. In the coming months, the section is planning a joint meeting with the ADR Section. Other timely topics for future meetings include an annual update on the law as well as the impact on employers of the Supreme Court's recent decision upholding the Patient Protection and Affordable Care Act.

Continued on page 11

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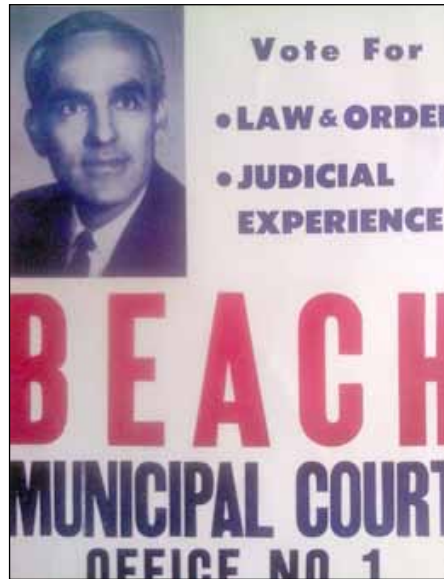


Edwin Fernando Beach, retired Associate Justice of the Second District Court of Appeal, Division Two, died at his Santa Paula home on July 4 with his beloved wife Barbara at his side. He was 88.

Born in May 19, 1924 in Lima, Peru, he moved with his mother and sister to California in 1930. Beach attended high school in Pasadena and while attending Pasadena City College volunteered for the U.S. Army Air Corps during World War II.

Returning to civilian life after military service, he resumed his education, graduating from USC's School of Law in 1950. After graduation, he and his first wife, Janet, moved to Santa Paula, where they raised seven children. He and Janet were married for over 50 years. Beach had first visited Santa Paula as a college gymnast, and was charmed by the city's tree-lined streets and surrounding farms and ranches. After passing the bar exam, Beach shared office space with a local attorney.

"I made myself a nice sign that I lettered myself and I still have it.... 'Edwin F. Beach, Attorney at Law,' and it was a foot and a half long and two inches high, and I was very proud of that," he said in an interview conducted by retired Presiding Justice **Steven Stone** for the California Appellate Court Legacy Project. <http://www.courts.ca.gov/documents/ACLP-2-Edwin-Beach-Video.html>. Stone had begun his own law practice as an associate for Beach, and later



became his law partner. Stone notes that "to the extent I have ever had any success, it is largely due to Ed Beach, who taught me how to be a lawyer." Beach demonstrated the importance of listening carefully ("being a cushion") and "how to be respectful and straight with people, whether a client, a clerk or an opposing party..."

Beach had always wanted to be a judge. While maintaining his private practice, he served on the Ventura County Justice Court starting in 1958. The court shared an agricultural building so small that the lawyers and the judge had to leave the building to make room for the jury. Beach said, "it was amusing sometimes, because the train at that time still serviced that agricultural building. They would stop and get fruit that had been fumigated and so forth, and so the train would come chugging in, making a lot of chugging noise and blowing the whistle, right in the middle of a trial. So we'd take a recess for maybe half an hour while they unloaded commodities from the train."

The Justice Court had a branch in Fillmore, where the quarters were likewise cramped. Beach said that "to add to the indignity of it all, there was no restroom for the jury to use. So when the jury wanted to go to the restroom, the bailiff would line them all up, walk them half a block to the corner... Union Oil station."

Many professional colleagues remark on Beach's ability to work with people. By reading body language Beach "could really seek a solution to a problem [clients] might not have a handle on," Stone explained. He always made sure clients were part of both transactions and litigation, and he taught Stone early that "just because trials are adversarial it doesn't mean at all that solving problems requires an adversarial approach."

Oxnard attorney **Bill Hair**, who met Beach when Hair left the Navy in 1955, also praised Beach as a mentor. He is grateful that Beach told him about the U.C. Hastings program for qualified applicants without undergraduate degrees, for setting up the interview with former District Attorney **Roy Gustafson** that resulted in Hair's first job out of law school, and for a lifetime friendship.

In 1968 Beach was elected to the Municipal Court, but before his term began Governor Ronald Reagan appointed him to the Ventura County Superior Court. Beach enjoyed the local bench and hesitated before accepting elevation. He did not want to move to Los Angeles (Division Six of the Second District, now sitting in Ventura, was not created until 1981). Also, Justice Beach thought the Court of Appeal seat should go to Ventura Superior Court Judge **Jerry Berenson**. Only after the governor's office made clear it would not appoint Berenson, and after Supreme Court Justice **William Clark** explained how Beach could commute to the Court of Appeal did Beach agree to join Lester Roth, Macklin Fleming and Lynn "Buck" Compton on Division Two.

Former Court of Appeal research attorney Ed Horowitz says Beach "never put on 'airs,'" and "despite his overall conservative views, never appeared to prejudice any case." Kent Richland describes Beach as "a real sweetheart." Rosalyn Zakheim remembers driving to Santa Paula in the days before email to deliver court materials to Beach. One of her fondest research attorney memories, apart from working on cases, is when Beach joined Zakheim's family for a Passover Seder.

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BARRISTERS' TRIVIA NIGHT

By Amy R. Dilbeck

The Barristers hosted their first Trivia Night at Garman's Pub in Santa Paula in June, raising \$400 for the Volunteer Lawyer Services Program, and stumping some of the best and brightest attorneys in town, including a prime selection of local judges in the team affectionately named "Judicial Counsel." Participation was exuberant, and facial expressions were priceless.

These brainy attorneys battled it out for four rounds of ten questions each. **John** and Sue **Mathews** and **Tony** and Kathy **Trembley**, the dynamic foursome known as the "Steelheads," were declared the victors, earning a score of 20 questions answered correctly out of the 40 asked.

Think you could have done better? See if you can answer the following actual questions from Trivia Night:

1. Which military rank does James Bond hold?
2. This item is made from thermo-plastic paper and the manila hemp used to make rope and is designed to withstand boiling water, what is it?
3. John Jay, John Marshall, Roger B Taney, and Salmon P. Chase were all chief justices of the U.S. Supreme Court. What other distinction did they share?

The next Trivia Night is tentatively scheduled for October, so make sure to mark your calendars, and start watching more Alex Trebek!

Amy Dilbeck is an associate at the Strauss Law Group in Ventura, handling estate planning.

ANSWERS

1. James Bond was a commander.
2. A teabag is made from thermo-plastic paper and the manila hemp used to make rope and is designed to withstand boiling water.
3. John Jay, John Marshall, Roger B Taney, and Salmon P. Chase were all Chief Justices of the U.S. Supreme Court, and they never went to law school.



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LETTER TO THE EDITOR:

“It’s No Coincidence That Man’s Best Friend Cannot Talk”

Dear Editor:

While perusing the May, 2012 edition of *CITATIONS* my ears perked up when I read my name in Mr. **Robert McMurray’s** confessional article on animal rights. It would appear that poor Mr. McMurray has been shamed, bullied and intimidated into professing solidarity with the maniacs in the animal rights movement. I am sensitive to Mr. McMurray’s intellectual and emotional capitulation. Bearing the brunt of the illogical and hysterical condemnation and opprobrium of the claws and fangs crowd has caused Mr. McMurray to sacrifice his ideals, intellectual integrity and even sanity in order to avoid the pain of being ostracized from the hallowed halls of the Inns of Court. I feel his pain. Aside from Mr. McMurray’s ill-considered mating proclivities described in his article, his legal instincts were absolutely right on. Essentially, animals are property, except for those sneaking around in the woods that you can’t catch while *ferae naturae*. Unfortunately, the concept of “property rights” in our

society seems to have slowly eroded to a wispy and long forgotten myth. The whole concept of a property or possessory right in anything has now completely lost favor in our culture. It wasn’t all that long ago that women were considered chattel or, in other words, a property right. With all property rights there comes a certain amount of responsibilities. But apparently the property in question was uncomfortable with that arrangement.

There has also been a long world history of slavery involving oppressed peoples, such as the Celts, Jews, Slavs, Romans, Blacks etc. – all considered, at various times, property. Over time, the whole arrangement was discarded in disgust. But it took a while. Slavery became unfashionable, so the concept of indentured servant became popular for a while. In today’s world, we are not indentured, but are simply wage slaves bitching about the one percent.

There was also a time when parents considered one’s children one’s property. Again, you have a certain amount of responsibilities for the little rascals but they belong to you, and you to them. But the “it takes a village” crowd has transferred these parental property rights to the Child Protective Services Agency. A benign, benevolent and wise bureaucracy, to say the least.

And finally, of course, there is the legal fiction that a person actually owns their home. We’ve seen that banks actually own your home, or soon will, and if it’s not the banks, then it’s the homeowner’s association, the officious intermeddling neighbor down the street or the code enforcement officer watching your every move. We don’t even own our cars. You have a pink slip, sure, but you have to pay for the “privilege” of operating the automobile by getting a license and paying an annual tax for possessing the automobile – or boat or trailer or motorcycle.

Continued on page 17

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EDWIN FERNANDO BEACH

Continued from page 5

The most noted of Beach's former research attorneys is Supreme Court Justice Joyce Kennard. She, too, emphasizes that Beach was "wonderful to work for, so thoughtful." Kennard says he was never arrogant and always "knew how to put people at ease."

In the Legacy Project interview, Beach cited *Bouvia v. Superior Court* (1986) 179 Cal. App.3d 1127 as his most noted decision. Ms. Bouvia had lost use of her legs and arms, and was fed by a nasogastric tube. She petitioned for removal of the feeding tube over her doctors' objections. Beach summarized the case as holding that Bouvia "had the right to have the tube removed, that the doctors in the hospitals did not have the say... The decision-making power lay in her hands alone."

In Santa Paula, Beach immersed himself in civic life as well as the law, serving on the boards of several nonprofits and frequently speaking at civic events. In 1989 Beach was honored by the Ventura County Bar Association as the fourth recipient of the Ben E. Nordman Public Service Award.

Beach was an avid horseman and musician, and a talented artist. He greatly respected the stonemasons who created the rock walls around the gardens of his home, and was delighted when they helped him learn their craft. He often spent weekends with a sledge hammer in hand, "chopping rocks" and building walls. He loved poetry, reciting Longfellow at length. He was a fan of S.J. Perelman, the Marx Brothers, Oliver Wendell Holmes, Abraham Lincoln, and Winston Churchill. And Justice Beach was also an exceptional mimic, delivering flawless but always kind impressions of his fellow lawyers and judges.

Justice Ed Beach will be remembered as a man of extraordinary integrity, kindness, generosity, friendliness, intellect, and humility. As Justice Kennard puts it, "gracious" is the perfect word to sum up his character and his career.

*Wendy Lascher, CITATIONS Editor
compiled this obituary.*

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And you thought Inns of Court is boring?



Team # 7 (Back Row) Greg Pyfrom, Jim Armstrong, Marina Ayzenstein, Harveen Simpkins, Andrew Covner, Charmaine Buehner, and Mike McQueen. (Front Row) Stephen Jones, Rebeca Mendoza, and Rennee Dehesa. An application for the Inn of Court is contained inside this issue of CITATIONS.

President's Message:

Continued from page 3

Solo & Small Firm Section

I met **Jasmeen Ubhi** (jubbi.esq@gmail.com) at the beginning of this year after she was assigned to be my new mentee in the Barristers' mentorship program. As any good mentor would do, I "encouraged" Jasmeen to resuscitate the solo/small firm section. She enthusiastically agreed to take on the role as Co-Chair. In April, *CITATIONS* published an article ("Bet on Yourself") by Jasmeen, where she describes her Simi Valley practice and why she decided to go solo. She also offered great insight and tips to others thinking about doing the same. Jasmeen's Co-Chair of this Section will be **Stephen Wood** (stephen@woodlaw.com), who has established his solo practice specializing in estate planning, elder law and probate in Ventura. To start out, the section is planning to have quarterly lunch meetings at the VCBA office to network and create mentoring relationships with other solo practitioners and to discuss ideas for marketing, ways to save money and other common issues. The purpose is for attorneys in different fields of law to connect, help each other out when questions come up, and be potential sources of referral. Once more attorneys get interested and become involved, the Section may then consider having more frequent meetings with speakers and provide MCLE.

Dien Le is a partner at Westlake Village-based Sullivan Taketa LLP, where he represents clients in business litigation, employment litigation, real property litigation and appellate matters in both federal and state courts. He also assists clients with registration of trademarks and copyrights.

EAR TO THE WALL

I am pleased to share that I have opened my own solo practice in Ventura! The Law Offices of **Denise M. Trerotola** is dedicated to family law, criminal law, and juvenile law. My office is located at 674 County Square Drive, Suite 303B, Ventura, California 93003, (805)339-0172; denise@trerotolalawfirm.com

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A STREAMLINED VERSION OF CIVIL CASE MANAGEMENT IS ON THE HORIZON

By *Jeanne Flaherty*

With the belt-tightening measures implemented at the Court and the reduction in staff, civil case management can no longer continue as we know it. High-maintenance is out of style and a streamlined version of the program, still in compliance with state statutes, is in the making.

This will be a win-win situation, with fewer case management hearings overall. Individual hearings to monitor proof of service and default, and the associated work for court personnel, will be eliminated. Instead, the clerk who files the complaint will generate a Notice of Case Assignment and Scheduling Information to be served along with the Complaint. The Notice will contain a date for a case management conference (CMC) in Department 22B at about five months after filing. This will be a mandatory appearance for attorneys and pro per parties (in person or by phone)

where remaining service and default issues can be addressed; the parties will provide the case management attorney with up-to-date information about the status of the case for purposes of trial setting and alternative dispute resolution. In most cases participants will get their trial date at the CMC. The Court believes that this new process will help to minimize the delay that occurs between submission of case management statements and the notification of the trial dates. Further, status hearings in Dept. 22B regarding appeals and bankruptcies will be eliminated.

Attorneys and parties will still be responsible for complying with the service and default timeframes set forth in statutes and rules, but the Court will not be involved up front in looking over anyone's shoulder. Failures to timely comply prior to the CMC without a showing of due diligence will be subject to sanctions.

Our target for implementation is September 4. Questions and comments should be directed to the court program manager responsible for civil case management, **Robert Bayer** at robert.bayer@ventura.courts.ca.gov or (805) 662-6694.



Jeanne Flaherty is Senior Case Management Attorney and Judge Pro Tem for the Ventura Superior Court's Department 22B.

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FORENSIC ACCOUNTING BUSINESS VALUATION FRAUD ANALYSIS

Patented Generosity: Remembrance of Dr. Michael Blaine Brooks, Esq.

By Kathleen Smith



The IP Section said goodbye to patent attorney **Michael Brooks**, JD, PhD, PE(EE) in July. Because of his uncommon generosity of spirit and time, Dr. Brooks, Esq. earned a reputation among Ventura County intellectual property attorneys as “Professor Brooks.” He also taught IP law at Pepperdine Law School, so he was legitimately a professor.

Professor Brooks frequently presented lunchtime topics to the IP Section, spending time organizing his encyclopedic knowledge of hot topics in patent law into one-hour presentations which created better understanding in all who listened. Even those of us who are not patent lawyers benefited from Professor Brooks’ generosity. He had a way of happily tripping through patent vocabulary that brought us along, and illuminating meaning where there had been dark confusion. Sometimes he almost giggled with delight in explaining patent procedures, rules and holdings.

These past few years Professor Brooks helped VC lawyers understand two milestone Supreme Court cases, *Bilski* (business method patents) and *Prometheus* (law of nature patents).

I remember at least three times I asked Professor Brooks to explain to me the *Bilski*

rule – I needed three explanations not because his treatment of the subject was dense but because the rule is so complex it arises for my clients in so many different ways. Professor Brooks was always happy and energetic in explaining “machine or transformation” and in trying to define what the *Bilski* rule was.

Bilski ruled on patent eligibility of a business method in hedging risk. *Prometheus* ruled on patent eligibility of application of a law of nature. In my opinion, Michael Brooks had a patent-eligible nature: he was generous in teaching his IP colleagues while having no fear of business competition from them, and he had a unique, naturally occurring enthusiasm for talking about complex issues in a way that created understanding among his listeners.

Kathleen Smith practices law at Norman Dowler specializing in business and civil litigation.

Bilski v. Kappos 130 S. Ct. 3218, 561 US ___, 177 L. Ed. 2d 792 (2010) held that the “machine-or-transformation test” is not the exclusive rule in determining patent eligibility for a business method or process. The Court nonetheless denied patent eligibility for *Bilski*’s commodity trading hedge method—a concept of hedging risk and the application of that concept to energy markets—because it was a mathematical formula which is an unpatentable abstract idea.

Mayo Collaborative Services v. Prometheus Laboratories 132 S. Ct. 1289, 566 US ___, 182 L.Ed.2d 321 (2012) denied a process patent describing a process to determine the best dosage of medicine by applying natural laws. The Court held that the process did not transform a law of nature into a patent-eligible application of the law of nature.

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DEED IN LIEU OF FORECLOSURE: ANOTHER OPTION DURING THE FORECLOSURE CRISIS

By Michael R. Sment

The Great Economic Recession continues. Among the devastating problems the U.S. economy continues to endure is the ongoing large number of home foreclosures.

Double-digit increases in foreclosures persist in most California counties. Some are “judicial” (meaning court actions are filed), and intended primarily to obtain post-foreclosure deficiency judgments and liability against borrowers. Judicial foreclosures can be extremely expensive and very delayed, however, often running into the tens of thousands of dollars in fees and costs, and months or years of time. The vast majority of California foreclosures continue to be “non-judicial” foreclosures, meaning that no court action is involved. Instead, lenders use the power of sale contained in the recorded deed of trust, and process a foreclosure through the notice of default and trustee’s sale procedures.

Different options for dealing with real property often exist for California homeowners who have missed payments and are in default or foreclosure. Those options include: a *short sale* (if the property has value, the loan balance is not too high above that value, and the lender agrees); a *non-judicial foreclosure (trustee’s sale)* (creating credit problems, potential tax liabilities, and extra fees and charges); a *judicial foreclosure sale* (the lender’s choice, not the borrower’s, and it can result in personal liability, a deficiency, for amounts owed on the defaulted loan plus court costs); or just a “*give-back of keys*” (surrender of property) to the lender (NEVER a recommended option).

An additional and increasingly offered option is a *deed in lieu of foreclosure* (“Deed In Lieu”) from the borrower to the lender. This procedure essentially involves the borrower merely giving back his title and property to his lender, instead of the lender doing a judicial or nonjudicial foreclosure, and a release of loan obligations. This is accomplished simply through an agreement between the parties and then recording a one- to three-page instrument, the deed in lieu. The process is easy and quick and has minimal costs.

In the past, lenders benefited from deeds in lieu by avoiding the time, costs and delays of a foreclosure, while the borrower avoided the foreclosure’s costs and credit implications. Sometimes, borrowers were given time to move or free rent. Other times, lenders were given repainted or repaired, or cleaned, properties, by a certain date.

But, unlike other deeds or instruments in California, a deed in lieu cannot just be given and delivered to the lender or bank without its consent or agreement. A 1993 statute allows a holder of a security interest (a lender) to record a notice of non-acceptance of a recorded deed, like a deed in lieu. See Civ. Code §1058.5(a). A lender that does not want title to a piece of property on which it holds a security interest may record that notice with required information and decline a transfer of title, by deed in lieu or otherwise.

The practical effect of the statute, and the long-standing customary practice regarding such deeds, is that the lender or bank must agree to accept the deed in lieu. This is generally the biggest obstacle to using a deed in lieu. If the lender agrees, however, it is a matter of trying to achieve some terms or conditions favorable to the borrower, like relocation reimbursement.

Most banks will insist on submission of significant documentation – tax returns, financial statements, bank statements, net worth statements, balance sheets, wills, trusts, and even proof of a property’s listing for sale for a set number of months, etc. – to support an application for the deed in lieu process. Many banks require that returned property be handed over in a “broom clean” or cleaner condition in 30 days or less. When lenders do offer relocation incentives and monies to assist with move-outs, borrowers should ask for cash. There are too many problems with lender checks being stopped after the borrower move-out because of alleged problems.

One issue with respect to using a deed in lieu is whether the recording, and bank’s acceptance, of the deed will be reported

on the borrower’s credit report. Normally, the recording of a deed or instrument is not part of a credit report (unless it relates to collection activities, such as a recorded abstract of judgment). In the past, the lack of credit impact for the borrower was a reason to use a deed in lieu. Recently, however, several lenders are reporting deeds in lieu to credit reporting agencies, and those agencies are showing the deeds on borrower credit reports. This practice is not uniform, however. A borrower should check with and ask their lender if the lender will report the deed. It could, and should, be an element of the negotiations for the deed in lieu (“We are saving you tens of thousands of dollars on a foreclosure. Can’t you save us from a credit reporting?”) Ultimately, it will depend on bank practices and policies. But, whatever the decision or terms, get the lender’s commitment(s) in writing and/or confirm it/them in writing.

There are potential tax consequences from using a deed in lieu, too. Previously, the deed was just that, a “deed.” Now, things are not quite that simple. Generally speaking, the IRS and FTB will treat the foreclosure or short sale of a property as a taxable event, i.e., the cancellation or forgiveness of debt. Current regulations and laws require the issuance of a 1099 income form (FORG/CANC/MISC) in January of the year following the event. Through 2012, qualified U.S. residential borrowers may file an exemption form with their federal and state income tax returns, and avoid paying the taxes generated on the basis of such a 1099 issued to them. See Mortgage Forgiveness Debt Relief Act of 2007.

Borrowers in or facing foreclosure should, of course, consult their personal tax advisors or accountants, and/or other qualified tax professionals, regarding their potential tax consequences and liabilities, and any available exemptions or relief.

Borrowers need to determine, specifically, what the consequences of a deed in lieu process with their lender will be: Will the deed or process be reported to credit-reporting agencies? Will the lender issue a

LETTER TO THE EDITOR

Continued from page 7

1099 tax form? For what amount? On what basis or calculations? Who will prepare and record the deed? Will there be a separate written agreement? And will it state that all liabilities to the lender are being extinguished and released? Does the lender expect anything regarding the cleanliness or condition of the property? How much time can the borrower get to move out? What else will the lender require? Are there any costs involved for the borrower? Will the borrower be given relocation monies? In what form?

What used to be a relatively simple process has, like so other real estate matters, become complicated and involved. Yes, there can still be benefits – the savings of time and costs and proceedings, and the creation of certainty. But there may also be drawbacks – a reporting to credit agencies, an issued 1099, potential tax liability, a requirement for cleaning up the property. Still, a deed in lieu is an option that must be explored by

California borrowers who are in foreclosure or who have defaulted on their home loans.

There may be many changes in the laws and procedures for foreclosures, like the recent California “Homeowners Bill of Rights” legislation and companion acts. The deed in lieu of foreclosure alternative gives residential borrowers another option to explore. If used correctly, properly and humanely, California families and borrowers could more easily, economically, and respectfully leave their homes and move beyond their loan problems. And that would be a huge step towards a real economic recovery.



Michael R. Sment
is a member of the
CITATIONS Editorial
Board, practices real
estate, foreclosure and
bankruptcy law in
Ventura.

This steady erosion of property rights has now brought us to this sad situation where Mr. McMurray feels compelled to profess his solidarity with those who have watched way too many Disney documentaries. Mr. McMurray and his python were clearly swimming upstream against a tide of emotional dysfunction. The American culture, with its high divorce rate, dysfunctional families and domestic travails have sought the emotional comfort and reassurance from their pets that one usually receives from another member of the human race. Pets don't talk back, aren't judgmental and won't demand continuing support when they move in with the next door neighbor. We spend an absolute fortune on animals, setting up trusts and health insurance programs, and the animal rights movement is really tapping into the mother lode.

The animal rights movement has some very serious organizations and they don't take prisoners. The Humane Society of the United States (HSUS) and People for the Ethical Treatment of Animals (PETA) have a single-minded, avowed purpose for their meager, narrow and emotionally stunted lives. They want to destroy your right to own a pet. By using documentary propaganda that Goebbels would find admirable, PETA and HSUS are inducing little old ladies to contribute millions of dollars in a panic to save “the animals”(not, however, pythons). By “saving the animals,” PETA and the HSUS intend to save animals from the apparently embarrassing and humiliating experience of being a pet, a circus performer, zoo tenant or used by humans to ride, race or hunt.

I've been observing PETA for 30 years slowly and incrementally gain media support and the enthusiastic embrace of the more lunatic fringe. They have brilliantly used propaganda and abused the regulatory bureaucracy to interfere with the rights of pet owners. PETA and the HSUS have infiltrated the regulatory process, interfered with hunters' rights and even advocated banishing fishing, not for legitimate conservation purposes but just because they are so at one with the animals they are seeking to protect. Any

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Continued on page 19

VCBA's past presidents gather to nominate 2013 slate of new Board of Directors and Officers.



Joe Strohman, Phil Panitz, Don Hurley, David Shain, Joel Mark, Michael Case, Steve Henderson, John Light, Kendal VanConas, Tony Strauss, Laura Bartels, Dick Norman, and Ron Harrington.
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consideration for the traditional values of the American hunter or fisherman is being sacrificed at the altar of animal rights.

The ultimate goal of all activists is to create yet another government entitlement. Recently, the Ventura County Board of Supervisors was bullied into establishing a "no kill" policy for county shelters. I cannot argue with someone's emotional sensibilities. Emotions are not supported by logic, facts or common sense. But when those sensibilities lead directly to my pocketbook and my property rights, I do take exception. As long as a child goes to bed hungry or sick in this country, the diversion of limited tax resources to address some zealot's irrational devotion to animal rights raises questions of one's moral imperatives.

So, poor Mr. McMurray cannot be blamed for having fallen sway to this cult of maniacal, illogical animal worship. PETA and the HSUS profess that this animal rights crusade is the logical successor to the Civil Rights Movement. All I can do is sit back and watch the lunatics take over the asylum.

Michael McQueen is a member of the CITATIONS Editorial Board.



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

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



CITATIONS Editorial board member **Mark Hancock** had a Letter to the Editor published in the July 2012 edition of *California Lawyer*. Something about torts...Antigua? **Michael Grennier** at 643.3900 or grennierlaw@gmail.com...A South Carolina judge has ordered a DUI defendant to read and write a summary of the Old Testament Book of Job. Judge Michael Nettles also sentenced a 28-year-old Cassandra Tolley to eight years in prison after she pleaded guilty in a drunk-driving crash that seriously injured two people. During the hearing on her guilty plea, Tolley told the court she is a Christian. Tolley said she turned to alcohol after being physically abused as a child by a relative. When she was 11, Tolley suffered burns when the relative poured gasoline on her and set her on fire. Tolley's public defender, Amy Sikora, says her client is thankful for the assignment and has already started working on it...The Southern California Institute of Law is seeking a real property lecturer beginning in mid-August. If you are interested, get in touch with **Stanislaus Pulle** at 644.2327...

I just noticed that D.A. **Greg Totten** is on the Editorial Advisory Board of *California Lawyer*...A Tennessee judge has been publicly reprimanded for publishing an order on a Montgomery County court website that referred to claimed fact outside the record

and accused attorneys of unethical conduct. The order concerned recusal motions made by lawyers who had recently left a law firm at which the wife of Judge John Gasaway was a partner. One of the departed lawyers and the judge's wife were involved in what the Court of the Judiciary terms "a significant dispute" at the time. The reprimand says that the judge's conduct violated rules requiring a judge to avoid the appearance of impropriety by acting in a manner that promotes public confidence in the judiciary and not allowing family relationship to influence the jurist's conduct or judgment...**Cameron Norris** has joined his father's law practice, **The Law Office of Gary W. Norris**, in Camarillo, the city in which he was raised... He may be reached at 482-1170 or Cameron@garynorrislaw.com.

Movie Quote of the Month: "One thing, Claus. Legally, this was an important victory. Morally, you're on your own." Alan Dershowitz (played by Ron Silver) bids his client Claus von Bulow (Jeremy Irons) adieu after securing his acquittal of attempted murder charges in "Reversal of Fortune" (1990)...Seoul, South Korea and Shanghai? **Steven Lehat** at 258.9487 or sblehat@msn.com...

Justice **Arthur Gilbert** officiated at the wedding of **Susan Simmons Seemiller** and James Krueger on May 22, exactly two years from the day the couple met at the Law Day 5K. Justices **Ken Yegan** and **Steven Perren** also attended the ceremony and reception. Susan is a research attorney for Division 6 and may be reached at susan.krueger@jud.ca.gov...A prominent Utah defense attorney was stabbed in the vicinity of his home July 5, which is not far from his law office. Steven Killpack, 63, survived, and authorities are hoping he will be able to tell them more about what happened. Killpack returned to private practice last year after heading the federal public defender's office in Utah for a decade...A high-profile Maine criminal defense lawyer is himself charged with two misdemeanor counts of terrorizing after police say he called two elementary schools on a cell phone and made bomb threats that resulted in an evacuation. Ron Hoffman, 52, who practices in Rumford, is accused of making what Mount Blue Regional School Unit Superintendent Michael Cormier described as "bizarre" threats. Cormier said authorities were able to trace the call because the school secretary who received

it did not hang up...**Denise Trerotola** has gone solo with her new practice at 674 County Square Drive in Ventura. She may be reached at 339.0172... Shakespeare Festival? **Cheri Elson** at 654.0911 or celson@normandowler.com...

License Plate of the Month: RDHOTMM on a nine-seat van driven by **David Lehr**. I can only deduce that it actually belongs to his wife...One Florida judge recently had a rule on the importance of being earnest. St. Petersburg lawyer Frank Louderback asked U.S. District Judge Steven Merryday for time off from a murder trial so that he could participate in the Florida Keys' upcoming Hemingway look-alike contest. Although Louderback cited nonrefundable hotel deposits and travel plans of friends and family, Judge Merryday not only denied his odd request, he cited Hemingway's own zeitgeist to shoot it down. In the judge's order, he wrote: "Between a murder-for-hire trial and an annual look-alike contest, surely Hemingway, a perfervid admirer of 'grace under pressure,' would choose the trial."...Our Court of Appeal, Division 6, would like you to know that the statutory fee for filing a civil notice of appeal or civil writ petition is increased to \$775 (Gov. Code 68926). The filing fee for the first document filed in a civil case by a party other than the appellant or petitioner is increased to \$390 (Gov. Code §68926).

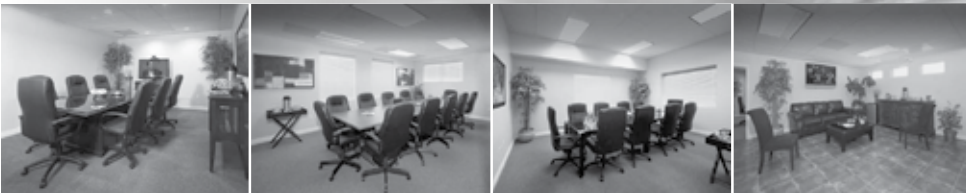
Inside this edition of *CITATIONS*, you will find a promotional brochure soliciting nominations for the annual **Ben E. Nordman** Public Service Award. We all know lawyers doing many fine things in the community, so I encourage to send in your nomination! Mark your calendar – Barristers Annual Wine and Cheese Mixer scheduled for August 23, beginning at 5:30 at the FCOP courtyard. This special event promotes the Barristers Mentor Program. Simply call Celene at the bar offices (650.7599) or bar@vcba.org...

Steve Henderson has been the executive director and chief executive officer of the bar association and its affiliated organizations since November 1990. Henderson will be participating this summer in the London Olympics in Badminton. Henderson may be reached at steve@vcba.org, FB, Twitter at [stevehendo1](https://twitter.com/stevehendo1) or [vcba1](https://twitter.com/vcba1), or better yet, 650.7599.

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