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CITATIONS

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A YEAR TO REMEMBER AND TO THANK ALL THOSE WHO MAKE VCBA GREAT

By Dien Le

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PRESIDENT'S MESSAGE: A YEAR TO REMEMBER AND TO THANK ALL THOSE WHO MAKE VCBA GREAT

By *Dien Le*

As I look back on my year as Ventura County Bar Association President, I can't help but reflect on the 130+ meetings and 3,374 miles (but who's counting?) driving back and forth from East and West Ventura County to attend all those meetings and events. It's hard to believe that my "reign of terror" (as Steve puts it) is finally over.

Like everything else, VCBA has *not* been immune to the downturn in the economy. This has been a challenging year faced with a significant budget shortfall caused by a \$36,000 decrease in revenue from four line items: membership (\$5,000); arbitrations (\$3,000); Lawyer Referral & Information Service (LRIS) client fees (\$15,000); and LRIS personal injury awards (\$13,000). Unfortunately as a result, we have had to make some difficult decisions and have implemented some cost saving measures, which have had a serious impact on VCBA staff, including: 20 percent workforce reduction in terms of office hours (VCBA office is now closed all Fridays and is only open until 4 pm Monday through Thursday); eliminating health benefits; eliminating training, travel and professional development; and reducing the number of pages in *CITATIONS*. While some of these budget problems are outside our control, one thing that we can focus on and do something about is membership. A few months ago, VCBA formed a new Membership Committee chaired by **Doug Goldwater** to come up with strategies to retain and more importantly to increase membership. This committee is comprised of many current VCBA Board of Directors as well as Barristers Board members who bring with them a lot of enthusiasm and ideas.

Similarly, VCBA's award-winning pro-bono program, Volunteer Lawyers Services Program (VLSP), has been struggling over the years to maintain its level of funding due to the elimination of one key grant source (the Annenberg Foundation) that had previously kept VLSP operating. Thanks to the generosity of many local firms and individuals who have made annual contributions to our capital raising campaign (spearheaded by **Jon Light** in 2011), VLSP is now completely funded by private

donations. Because VLSP cannot survive long term on donations alone, a Grants Committee was formed this year, chaired by VCBA past president **Don Hurley** with the assistance of **Christina Stokholm** and **Alyse Lazar**. We hope that production of a DVD showcasing VLSP will be helpful in seeking future grants. Christina is also working to secure our share of a previously untapped funding source through the State Bar's Interest on Lawyers' Trust Accounts (IOLTA).

I am confident that VCBA and VLSP will overcome these continuing budget issues and become even stronger under the leadership of incoming president **Joel Mark** (2013), followed by **Laura Bartels** (2014), and then **Alvan Arzu** (2015). I know that the future of VCBA is bright in their extremely capable hands.

If there is one thing that I've enjoyed the most this year, it's been getting to know VCBA's 35 sections, committees, affiliates and friends. It's been a privilege and wonderful opportunity to meet all the dedicated and caring leaders and members of our bar, and to witness first hand all their efforts in making a difference. I am impressed and proud by what all of us have been able to accomplish by working together: from reviving inactive sections, forming new sections, committees and the Ventura County Diversity Bar Alliance, to developing partnerships with the bench, law enforcement and local officials to keep open the East County Courthouse and ensure access to justice. All of this has been possible due the strong spirit of collaboration that exists in our community. We are truly fortunate to live and work in Ventura County.

This memorable experience could not have been possible without the many people who made my job much easier this year. First and foremost, I want to express my heartfelt and sincere appreciation to our fearless Executive Director **Steve Henderson** and his loyal and hardworking staff – **Alice Duran**, **Alex Varela-Guerra**, and **Nadia Avila** (who recently returned to fill the position left by **Celene Valenzuela**). While

presidents come and go, it is Steve and the VCBA staff that we can always depend upon to make the transition and process seamless. They often do not get the recognition they deserve for everything they do (and always with a kind smile) to ensure that things run smoothly. Then, there is **Verna Kagan** (VLSP Program Manager) and her team of Emeritus Attorneys who volunteer countless hours assisting the public with numerous pro bono matters. Thanks to my fellow Executive Committee – President-Elect Joel, Secretary-Treasurer Laura, Immediate Past President **Joe Strohman**, and again Steve – for all their supporting efforts, guidance, and encouragement in helping me achieve my goals. I would be remiss if I didn't thank Managing Editor **Wendy Lascher** and her *CITATIONS* Editorial Board, including our graphics/production guru **J.P. McWaters**, for all the leeway in my president's message (despite often exceeding the allotted word count), and never failing each month to produce a well-polished, fresh and interesting publication. It has been a pleasure working with all of these fine folks. I also would like to thank my firm partners for putting up with me for being out of the office and for all my non-billable hours in order to fulfill my bar responsibilities. Finally, special thanks to my wife for her patience, understanding, and for always supporting me no matter what.

Thank you again for the humbling honor of representing our members and serving as president of this amazing organization!



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.

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Family law attorney **Harveen S. Simpkins** shares the honor of recipient of the **James D. Loeb** VCBA/VLSP Inc. Pro Bono Award with Santa Clara Valley Legal Aid's **Leslie McAdam**.

"What I do is so rewarding, I feel rather embarrassed to receive this award because as lawyers, we should all be helping people," Harveen says. As a child in India watching a Perry Mason-like movie on television, Harveen was so inspired by seeing a lawyer protecting the rights of the poor, the oppressed and the powerless that the bold ten-year-old declared to her mother, "Mom, I'm going to be a lawyer."

"Well," her mother concluded, "You like to argue enough, that's probably a good job for you!"

After earning a bachelor's degree in psychology, it was during Harveen's career in counseling and social work where she was exposed to children's issues. Often as a children's social worker she would be called to testify in court for the children. These experiences built Harveen's interest in custody and visitation issues and prompted her to pursue a law degree from the Ventura College of Law, so she could really advocate what was right for the children, who often were being used as pawns by their divorcing parents.

Harveen feels very honored to be able to help those in need. Out for dinner with her husband recently, after being seated Harveen was approached by the waitress.

SIMPKINS SHARES IN PRO-BONO PRIZE

By *Laura Bartels*

"Oh my god, Harveen, do you remember me?" the waitress exclaimed. "Six years ago, when no one would help me, and my ex-husband was going to take away my children, you helped me. The children are thriving now. Thank you so much!"

Harveen's background helps her handle family law issues, says Emeritus Attorney **Verna Kagan**.

"Her experience gives her a position to give advice that is both sociological and legal," Kagan says. "Harveen has taken 20 cases in the past four years. Harveen is an example of the kind of person who embodies the VCBA/VLSP Pro Bono Award. An attorney who does so much pro-bono work she should be recognized."

Harveen concludes that you reap what you sow.

"The people who really should be thanked and acknowledged are the people of the Ventura County Bar Association who work so hard to persuade attorneys to take cases," Harveen says. "Really, I get so much more from this than I give."

Married to Hyrum for over twenty years, with two sons, Harveen has a private family law practice in Oxnard.



Laura Bartels is the current Secretary-Treasurer of the Bar Association with a practice in Santa Paula.



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DEAD LAWYERS SOCIETY

By Michael McQueen

In generations past, the specter of lawyer advertising was repugnant to the fine sensibilities of a profession that behaved as a class of professional guild members. As the second oldest profession, we constantly endeavor to retain the shreds of our dignity. The manner in which one practiced was highly constrained to ensure that our shirt cuffs were never stained with the soil of commerce. In the days of Cicero, lawyers could not charge for their advocacy, living on gratuities like waiting tables at the local bistro. But a new variety of ambitious, marketing inclined lawyers started nibbling away at this long-established protective crust of conservatism. Advertising has become prevalent, less repugnant, though no less odious. The establishment Bar still looks with sour distaste at those lawyers on the fringes who engage in shameless self-promotion.

As the profession reluctantly embraced the realization that the law is, at the end of the day, a commercial endeavor, the resolve of the gatekeepers weakened and they allowed the barbarians to insinuate themselves into the inner sanctum of the law. Conduct that was once beyond the pale now is commonplace. Now even the oldest and most established firms are not immune from the shameless compulsion of self-promotion. Like enticingly packaged prostitutes lounging in window displays, we make promises few can keep.

The Bar's one barricade against this commercial depravity is the prohibition against false or deceptive advertising. One state bar prohibits TV commercials promoting a law practice from using good looking actors, since that would be deceptive. This rule was a boon to a quite attractive lawyer couple who are now in high demand as actors for lawyer TV ads. Certainly, the Bar's quest to stamp out

deceptive advertising and practices is laudable, but it raises a perplexing question. With these rules against deceptive practices, why does the State Bar allow all these dead lawyer law firms?

The Rules of Professional Conduct do not allow a lawyer to make a false statement regarding admission to the State Bar [CRPC §1-200]. The definition of a "lawyer" requires that the member be in good standing [CRPC §1-100 (B) (3)]; one may not employ a lawyer who is on "involuntary inactive status" [CRPC §1-311]. And a lawyer may not engage in advertising (which includes stationery), that is false or deceptive, or that tends to confuse, deceive or mislead the public. [CRPC §1-400 (D) (2)].

We all recognize the importance for any product or service of achieving "brand" recognition. Levis®, Prada®, O'Melveny & Myers. But Mr. O'Melveny and Mr. Myers have not been around for years. And there

are other firms in which every lawyer listed on the stationery is quite irretrievably dead.

We are a gullible society. A recent newspaper article reported that over one-third of Americans actually believe in ghosts and UFOs. It appears that law firms are attempting to woo this underserved segment of the population, who may believe that a long-departed law partner can still contribute to litigation strategy or resolve nasty probate issues. Many of these firms are professional corporations, which – unlike partnerships do not dissolve when a shareholder departs, but carry on in perpetuity.

Isn't listing those departed lawyers on one's stationery somewhat deceptive? Would it not be less deceptive just to name the firms for what they do, e.g. Insurance Denials R-Us; Big Oil Mart, Tree Huggers, P.C.? It seems that law firms are obsessed with the number of lawyers in their regiments, which may explain their reluctance to alter their stationery to reflect natural attrition. The

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A STRICT ASSIMILATIONIST: PETER J. CELESTE, 1939-2012

By Lou Vigorita

A few weeks ago I met up with a lawyer in Seattle who shares my last name. Amy Vigorita is no relation but her family immigrated to New Jersey on the left side of the Hudson while my roots germinated on the right side, first Manhattan, then Brooklyn. Amy told me her father was a linguistics professor at Cornell and his mother was such a “strict assimilationist” that she and her father before her were raised to be everything American without keeping any Italian traditions and cutting all ties to their European heritage. She and her father pursued the American Dream and through hard work and education became very American. They were educated in American schools and universities and became successful and well integrated into the new culture on this side of the Atlantic.

I first met **Pete Celeste** years ago during the 1980s at the Pierpont Racquet Club, where we played a few matches. I was a new member and he was very cordial and friendly towards me. Earlier this week Spencer Garrett, owner of the club, mentioned to me that Pete and Virginia were members since the club opened 35 years ago. Just a few weeks ago at the 35th anniversary celebration of the club Garrett gave Pete a mug that was given to all the 35 year members. Pete really appreciated this.

These were my thoughts as I sat in Our Lady of the Assumption Church in the traditional Catholic funeral Mass for Pete on Oct. 26. Pete, a local attorney who passed away peacefully at his home in October, was eulogized by his eldest son, who made the point, several times, that his father’s main goal was to raise a “typical successful American family.” He was able to leave his home back in Saint Louis, Missouri and travel to Los Angeles, California, where he settled down, married, worked for the IRS,

attended law school at night, met his future wife Virginia, became a lawyer, father and grandfather, educated his children and saw to the eight grandchildren getting a good start in life. A typical American dream.

Along the way Pete served his country. He joined the US Navy in 1956. Upon completion of his military service he attended and graduated from the University of Missouri. His son told us that his least favorite job was working in the family chicken market in Saint Louis when he was nine years old. Everytime a customer wanted to purchase a “fresh” chicken Pete had to go in the back, catch one, slaughter it, dress it, and bring it into the store. This memory

apparently drove him to look west and toward a new life, away from the chicken market and all that it entailed.


In attendance was **Larry Matheney**, former Ventura County Tax Collector and fellow attorney. Larry had this to say about Pete:

“Pete Celeste was my next-door neighbor for more than 36 years. For a couple of years we had law offices in the same building, across the hall from each other. Over those many years, I had the privilege of watching Pete and his wife raise three great kids and then harvest a bounty of grandchildren. I think a key measure of who we really are, away

Continued on page 11

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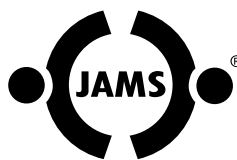


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A STRICT ASSIMILATIONIST: PETER J. CELESTE, 1939-2012 *Continued from page 9*

from the office, away from the courtroom, away from clients, is the character of our children. After tough days dealing with acrimony, how well do we unwind and take on the even tougher job of parent? Pete's kids speak volumes about what a dedicated father he was. Even with a very busy law practice, Pete found the time to be with his kids in meaningful ways. They grew up as intelligent, respectful, caring young adults. A legacy any of us should be proud to have left."

The Celeste family was well represented. Pete, the avid fisherman, insisted that he teach his children and grandchildren to fish. They all caught their first fish with grandpa. The extremely well-behaved eight grandchildren were present, accounted for and well groomed. There was even a volunteer honor guard of "elderly" soldiers, sailors and marines in full regalia. A very impressive formal presentation of the flag to the widow was followed by a bugler blowing taps from the balcony. The reverberation in the church was a perfect blend of sound and nostalgia honoring Pete the veteran. The combination of religion and patriotism seemed perfect in this place and for a man like Pete. After all, weren't all the disciples fishermen? Wasn't the disciple Matthew a tax collector? And wasn't Peter the "rock upon which the church was built?"

A very typical blend of American patriotism and Catholic holiness combined with the love and admiration from Pete's "typical successful American family" set the tone of the day. Just the way Pete wanted.



Lou Vigorita specializes in workers' compensation law at the Law Offices of Louis J. Vigorita, in Ventura.



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(Left to right): Steven A. Meadville, Esq., of Counsel, Richard M. Hoefflin, Esq., and Jason M. Burrows, Esq.

DEAD LAWYERS SOCIETY*Continued from page 7*

mega-firm of Baker & McKenzie has over 3,000 attorneys. Listing all those lawyers would make their letterhead the size of a phonebook. So keeping the dead guys on the stationery is simpler, if not particularly accurate.

I have never quite understood the quality implications of just sheer numbers. Aside from the horsepower a large firm can bring to a legal dispute, I have always believed the true value of legal services is represented by the individual skills of a lawyer, not the phalanx of lawyers large firms tend to throw at cases.

I recently dealt with a San Diego attorney whom I have known for several years. He has been in a number of different associations and partnerships. When "Mr. Marvelous" sent me a letter recently, his stationery set out, in pride of place, "Marvelous & Marvelous." Out of curiosity I called his office and asked if Mr. "Marvelous" was practicing with a relative or had he married a lawyer? Not so simple. Apparently, Mr. "Marvelous" opened a new practice and listed his long-deceased father as a partner. To my knowledge, Mr. "Marvelous" never actually practiced with his father, but he apparently felt pretty lonely about it.

Being a sole practitioner and wanting to create the impression of having a large supporting team of associate lawyers at my beck and call, I have been considering perusing the obituaries and picking out the names of perhaps 20 or so deceased lawyers and putting them on my stationery. My malpractice premium would not go up much, if at all. I'd give the impression to the public of having access, through my Ouija board, to a considerable range of legal experience and historical expertise, and continue the well-established tradition of practicing law with dead lawyers.



Michael McQueen handles business litigation, estate planning and natural resources law. He is a member of CITATIONS' editorial board.



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“I Love Your Shoes!”

By Laura Bartels

At the California State Bar Annual Convention on Oct. 12, **Leslie McAdam** received the highest honor of our state’s pro-bono recognitions, The State Bar President’s Pro Bono Service Award for her efforts at Fillmore’s Santa Clara Valley Legal Aid. In 2011 Leslie enthusiastically volunteered more than 200 hours to provide local families access to justice.

Four days after the rent is due, thugs arrive at 6 A.M. to kick tenants out. As they pull every piece of furniture out to the sidewalk and dump out drawers of clothes, boxes of toys and piles of kitchen utensils, the momentary tenant silently watches with tears flowing down her cheeks at the sight of a tipped gallon of milk running into the gutter. The deflated woman waits on the curb of Legal Aid, wrapped in a blanket and balanced on boxes of the only things she has left in life.

“Let me help you,” says Leslie, embracing the woman. No one had ever said that to her before. Leslie offers a gift of hope and care.

Leslie gave hope to a family who lost their home.

Knowing he really wanted “The American Dream” of home ownership, a pushy broker, ignores negligible income and insists the first-time buyer can qualify for a loan. Not speaking English and feeling obligated to provide this opportunity to this family, the man is perfectly able to make his initial loan payments until the loan “adjusts” from \$1,500 per month to more than \$6,000 per month. Still trying to hold the dream together, he pulls cash advances from credit cards to make monthly payments. Unable to make ends meet, the family loses the house and files for Chapter 7 protection for their credit cards. Big Bank Lender challenges anti-deficiency protection.

Now he has to defend himself against Big Bank in bankruptcy court. Leslie agreed to help him. Never having set foot in bankruptcy court in her life, she learned the bankruptcy rules, procedures and a myriad of complex peculiarities to bankruptcy litigation. Buried by volumes

of documentation on Big Bank, Leslie found that when Big Bank acquired buyer’s loan, missing from the voluminous “robo-signed” MERS mortgage documents was any assumption of the tort. Big Bank actually has no right to the tort action. Leslie has moved this buyer’s path from fate to hope.

Working with legal aid clients is not always about egregious violations of the law. More often it is small touches of reassurance, opportunity and hope. Sometimes it is helping a 90-year-old woman fill out a life insurance form so she has peace of mind that her funeral expenses will be covered; it’s about drawing pictures with the little children who patiently wait while their mother gets information about child support; it’s about telling the 13-year-old who is translating for his dad that he has a real gift of language and that he should consider being an attorney when he grows up. It’s about the humanity, honor, and compassion coupled with the knowledge, experience and tools of the law that Leslie gives to people’s lives.

When people are scared and have lost their home or their children or their job, Leslie is there. From her years of service she knows that she gives of her time, her legal knowledge and herself. But there is nothing more valuable to a person who is suffering than knowing that a person who doesn’t know

them at all, who’s just a member of their community, cares.

Leslie’s accomplishments were recognized in the *Daily Journal*, the *California Bar Journal*, the *Ventura County Star* and many others. The highlight for her was not meeting the Chief Justice or winning ribbons for both her paintings in the State Bar art show, or having her entire family with her for a lovely celebration. The unforgettable moment was Chief Justice Tani Cantil-Sakauye, who sat facing Leslie’s chair telling her how much she loved her shoes!

Congratulations, Leslie McAdam, lawyer, writer, and painter.

Leslie lives in an elegant Craftsman home on a small orange tree farm in Bardsdale with her husband Tom and children Joseph, six, and Fiona, four. Leslie is a partner with Ferguson Case Orr Paterson LLP, where she is a civil litigator and employment lawyer. Oh, and Nice Shoes.



Laura Bartels is the current Secretary-Treasurer of the Bar Association with a practice in Santa Paula.

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

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



252 folks packed the Hyatt Westlake Plaza Ballroom for the bar's Annual Installation and Awards Dinner Nov. 17. **Judge Brian Back's** salute to the **James Loebel** Award Recipients **Harveen Simpkins** and **Leslie McAdam** was simply splendid. **Michael Case's** introduction of **John Orr** was compelling and **Don Hurley's** organization of the Silent Auction generating \$6,000 for the VLSP, Inc. was just classic. Finally, President **Dien Le** was right. Flocks of west-end attorneys will actually travel across the Conejo Grade to attend a function and Dien and his committee raised over \$20,000 to help underwrite the event. Event Chair **Eric Reed** deserves a standing O, too. Bone-head seating arrangement of the year goes to yours truly. Complete oversight and my bad. Hats off to all!... **Charmaine Buehner** has taken her talents to the County Counsel's Office effective Dec. 3 after three plus years with Myers, Widders, et al....

Effective Jan. 1, the Barristers new President will be **Rennee Dehesa**. Her officers include **Rachel Coleman**, vice-president; **Amy Keisewetter**, treasurer; and **Tom Adams**, secretary. Member at Large positions will be held by **Katie Hause**, **Josh Hopstone**, **Brier Miron**, **Melanie Murphy**, and **Andrew Reid**...Kudos to out-going president **Robert Krimmer**, who led a parade of Barristers

hits this year...A 61-year-old Army veteran is suing the U.S. government for \$10 million, claiming negligent care resulted in severe frostbite on his penis, leading to its partial amputation. Michael D. Nash of Louisville, Kentucky, filed suit in federal court Oct. 1. He is asking for damages for what his lawyer calls "significant mental and emotional distress and traumas as a result of his injuries." In October, 2010, Nash underwent surgery at the VA Medical Center in Lexington, Kentucky. Doctors were removing and replacing a malfunctioning penile implant. After the surgery, according to court documents, a nurse applied ice packs to Nash's penis to reduce pain and swelling. The ice pack remained on Nash's penis for 19 straight hours, "in violation of the standard of care." As a result, Nash's penis was severely frostbitten, which led to gangrene. Ok, I'm done with this story...

Ventura Superior Court **Judge Frederick Bysshe** has been elected to the Executive Board of the California Judges Association. He was sworn-in by Chief Justice Tani Cantil-Sakauye on Oct. 13. He is the first Ventura County Judge to serve in this capacity...A research lawyer for a Kansas appeals court has been suspended pending an investigation into her critical tweets about the state's former anti-abortion attorney general during a supreme court ethics hearing. The lawyer, Sarah Peterson Herr, posted tweets calling former Attorney General Phil Kline a "naughty, naughty boy" and criticizing his facial expressions. "Why is Phil Kline smiling?" she wrote. "There is nothing to smile about douchebag..." **Dennis LaRochelle** was installed as the Vice President of CAL-ABOTA by California Supreme Court Chief Justice Sakauye (boy is she busy swearing-in people) on the Big Island at the Mauna Kea Beach Hotel...

The recipient of the 2012 Boss of the Year was **Randall George** at the Ventura County Legal Professionals Association's 50th Annual Bosses Night Oct. 10. The letter of nomination was submitted by Kris Chatari. The recipient of the 2012 Legal Secretary of the Year was Lupita Castor. She was nominated by **Sylvia Soto**. That's called a sweep by Nordman Cormany et al. The Honorable **David Long** MC'd the affair with his usual distinguished flair...A

district attorney in upstate New York called an unusual news conference on Nov. 16 to respond to allegations he had acted in porn films in the 1970s. Cortland County District Attorney Mark Suben admitted that the charges are true. Suben called the news conference after WSTM-TV published a story about a YouTube video of adult film clips claiming that the actor in the videos, Gus Thomas, was the DA. "The allegations are true. I was an actor in adult films in the early 1970s." A few weeks ago, when asked, he had denied this to the members of the press. Additionally, Thomas had denied the porn-film allegations before the recent elections...Do not forget the Annual VCTLA Holiday Party scheduled for Dec. 4 atop the Tower Club and beginning at 6 p.m. **Dennis Jones** and his band, Sgt. Pepper, will provide the entertainment. Pay your 2013 dues beforehand and your admission is free. www.vctla.org for deets and registration info...

The New Admittee Swearing-In Ceremony is set for Dec. 4 inside CR#22 beginning at 4 p.m. and presided over for the very first time by Judge Brian Back...A disbarred Louisiana attorney who didn't disclose the sanction to WorldCom and Verizon while working in their legal departments has now been permanently disbarred. The Louisiana Supreme Court disbarred James David Turnage on Nov. 16 after he failed to respond to the ethics charges. He was previously disbarred in 2002 for commingling and converting client and third-party funds...Lastly, the Barristers board of directors will be having their holiday party Dec. 4 starting at 6:30 p.m. inside the Aloha Grill in Ventura. And, no, you are not invited...

Steve Henderson has been the executive director and chief executive office of the bar association and its affiliated organizations since November 1990. He will be attending the Obama swearing-in ceremonies with the Limbaughs mid-January while vacationing the month of December with the Petraeus family in Virgin Gorda. He may be reached at steve@vcba.org, FB, Twitter at [stevehendo1](https://twitter.com/stevehendo1) and [vcba1](https://www.facebook.com/vcba1), or better yet, 650.7599.

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