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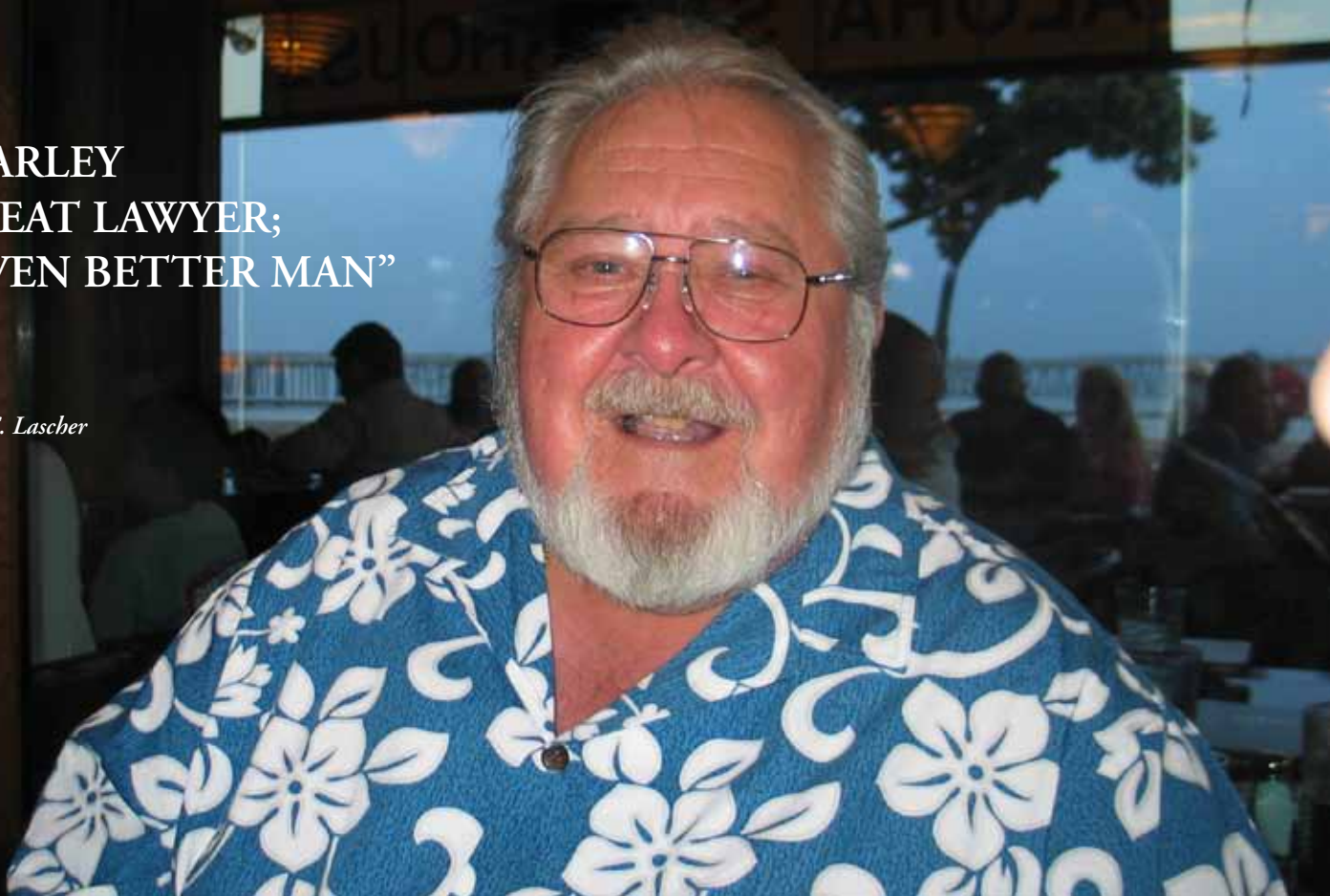
CITATIONS

F E B R U A R Y - T W O T H O U S A N D F I F T E E N

JIM FARLEY "A GREAT LAWYER; AN EVEN BETTER MAN"

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By Wendy C. Lascher



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Yes. This is for you! The 32nd Ventura County High School Mock Trial competition is slated for the evenings of Feb. 23-26. More than 23 high schools and 650 students from across our county will compete in an educational introduction to advocacy, the law and our judicial system. Our students have embraced the program like no other. Ventura schools have captured the state crown four of the last seven years. The teams are coached by volunteer lawyers.

The program needs lawyers like you to serve as scorekeepers – *it doesn't have to be all evenings*. A lunchtime meeting is set on Feb. 11 in Department 10. These kids are doing all our community could ask. You might see: well-seasoned teams who have sharpened their skills; talented kids who are nervous and catching their breath, fearful they will momentarily forget all they know; students in clothes borrowed for the occasion, all so that they can put themselves in a challenging environment in which they are not yet at ease. You can support these competitors by volunteering as a scorekeeper. Instructional materials will be provided. Email John E. Tarkany, Coordinator for the Ventura County Office of Education at jtarkany@vcoe.org to volunteer, or see the volunteer form alongside the VCBA calendar at vcba.org.

Late add Mock Trial: *Attn. Mock Trial Coaches...* Ventura County Trial Lawyers Assoc. has established an emergency fund of \$1,000 to help out if you know of a team or student who needs a modest financial bridge. VCTLA knows that there can be individual or team costs associated with participation that not all are in a position to cover. VCTLA just wants to do what it can to assure all sprouting advocates can participate! Coaches should confidentially email VCTLA board member **Kerry Kinney**

PRESIDENT'S COLUMN:

“Ask Me How I know, and I’ll Tell You So”

(“Use ta be my Girl” The O’Jays, 1979)

by Bill Grewe

kkinney@calattys.com, the only member of VCTLA who will know the name of the submitting school or coach. Do not identify any student by name. VCTLA asks that you please “keep it confidential.”

The Formal Installation of the **Honorable Michael S. Lief** will take place on Feb. 13 at 4:00 p.m. in Courtroom 22. The public is invited. Judge Lief will preside in Courtroom 10 beginning this month. He fills the seat formerly held by retired **Judge James P. Cloninger**, who was appointed to the superior court by Governor Pete Wilson in 1995 when **Judge Richard D. Aldrich** was named to the Court of Appeal.

Barristers “Meet ‘n Greet Mixer” at Surf Brewery on Feb. 17, 5:30-7:00. Law students, new admittees, Barristers and attorneys one-and-all, are invited. See vcba.org for flyer. Also, see **Katie Becker’s** article in this issue about the Jack Berman Award of Achievement recognizing a new or young lawyer for distinguished service to the public.

“Life in the Fast Lane”? – *whoa*. Women Lawyers of Ventura County– Ottavio’s Restaurant, Camarillo, Feb. 13, noon. **Dennis Jones, Esq.** on work-life balance, “Between Rock ‘n Roll and a Hard Place.” Flyer at vcba.org.

Matt Haffner’s Feb. 24 noon program at the VCBA office is “How to Win at Trial.” See vcba.org for details and flyer.

East County Bar Association meet-and-greet slated for Feb. 26 at the Napa Tavern, Westlake Village. See vcba.org for flyer. No cost for first 30 registrants! Others, only \$15...sorry, no MCLE for this one!

“Hey, Mr. Spaceman.” Think you’re the only one who struggles with new-fangled technology? A writer was interviewing Astronaut Buzz Aldrin this fall. Aldrin, who held the door for Neil Armstrong and then followed him out to the lunar surface, drives a hot BMW M3. He gave the writer a thrilling high speed ride. Back home safe, Aldrin popped out of the car and was walking away when it was pointed out that

the car was still running. “I can’t turn the damn thing off!” Aldrin barked.

“Time, time, time is on my side.” 100+ days is plenty of time! The Law Day 5k is **not** just around the corner. It isn’t even down the street yet. If you’ve put off giving it a go, your heart would appreciate it if you’d pencil it in for June 28 this year and begin slowly warming up as the days grow longer. It is a flat course—Kimball Park in Ventura—shared with friends. More details next month.

“I don’t claim to be an A student.” But where did my MCLE slips go? 5500 lawyers, or 8.5% of those reporting, were audited for 2014 MCLE compliance. One in four had problems documenting their units. Ultimately, 136 have been placed on administrative suspension. If you did not complete the required units, or fail to submit by Feb. 2, the state bar will send you a notice requiring a late report by June and payment of \$75.00. When you need units, please consider programs offered by VCBA-connected groups, as the MCLE fee for VCBA record-keeping helps fund our local bar...and the programs are varied and good! Go to vcba.org.

“A run, run, run, run, runaway.” If this kid pursues law, I say spot him 10 bonus points on the ethics exam. North Carolina prep XC runner Sam Grelick was comfortably leading the annual Bay Six Kick-Off Classic Invitational when he made a wrong turn. The second place runner, Gavin Kinkead, alerted Grelick and got him redirected and back on the course. Grelick went on to retake the lead and win. “*He was pushing me to stay with him the entire race and to watch him lose by going the wrong way would not have been right,*” sophomore Kinkead said.

What’s in a name, or a number for that matter? 302193 is the highest bar number of an active Ventura County attorney. It belongs to December 2014 admittee **Christopher Charles Jew** of Moorpark. Who holds the lowest number as a Ventura County active attorney? I’m sure I’ll soon

Continued on page 5

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know...Beneath a wall of distinguished former jurists, 12 new admittees took the oath a few weeks back as reported in the January *Citations*.

That’s my son gazing out at Yosemite Valley in my North Face down vest. I was in Yosemite when I bought it. 1974. Those were cash-only days and I didn’t have much. The thing was expensive but it appeared to be of exceptional quality and if it lasted a few years, I figured, I’d get my money’s worth. I have. All \$26.00 of it.

James Matthew Farley, III (sbn 40162) was laid to rest on Jan. 10. Please see **Wendy Lascher’s** article in this issue. Jim’s compassion equaled the thunder in his voice. One of few who could hold court even in the parking lot, astride his trusty vintage aqua blue Dodge pick-up, of course.

Col. Fred Tschopp, Jr., Marine (sbn 44149) passed away on Dec. 30. Fred, a prominent corporate lawyer with some big outfits—*Unisys* and *TRW* among them—could have put his bar card to rest when he retired. Instead, he put his time and talents to work as a pro-bono attorney with VLSP. He helped a lot of people. He loved the Corps.

Christian Menard (sbn 73560), lawyer, cowboy and sailor, who greeted everyone with a smile and words of welcome, has dropped anchor and closed the corral gate. He passed away on Dec. 22.

Abraham Lincoln. February 12, 1809. During the Civil War, some newspaper men noticed that Lincoln was visiting hospitals where captured Southern soldiers were being treated. Some reporters thought he was giving support to Southern patients to the equal of Union patients. When the time was right, the reporters sprung and cornered the President with what they had learned, demanding an immediate explanation. Lincoln paused, carefully looked at the group before him, and before resuming his walk said, “I am their President, too.”



Bill Grewe is a member of Rose, Klein & Marias LLP, and represents individuals in personal injury and workers’ compensation claims. He is the 2014-2015 president of the

Ventura County Bar Association.

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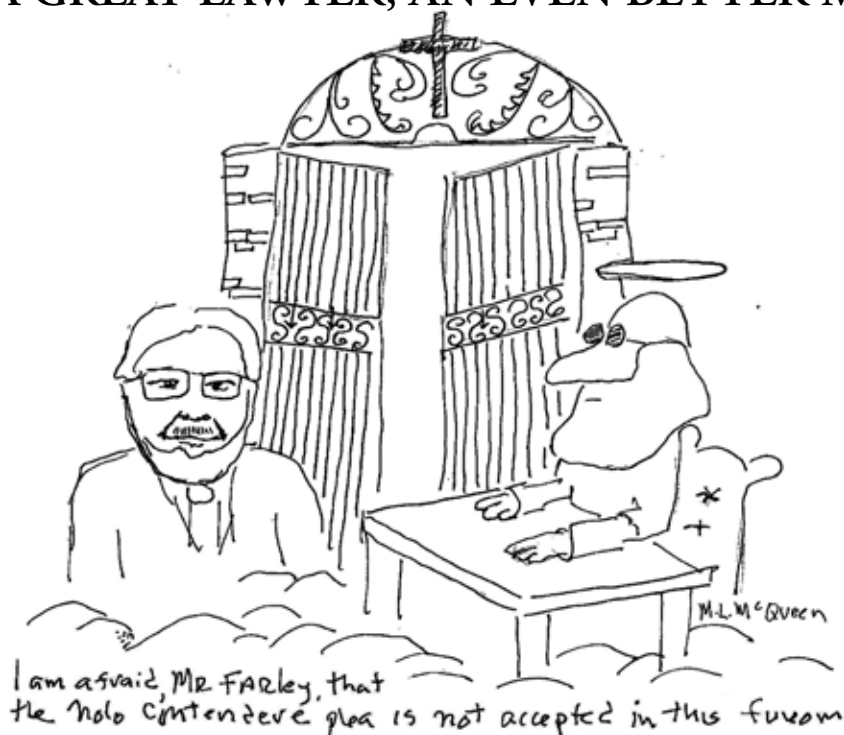
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“Our Lord Jesus Christ did not have representation at the time of his trial, but had Deacon Farley (**Jim Farley**) been there as a public defender, perhaps the plan of salvation would have been substantially different,” said Father Francis Benedict, Jim’s best friend for 38 years at the Jan. 10th funeral mass for Jim. The longtime Ventura County criminal defense and labor lawyer passed away January 2nd. Jim’s law partner **Chuck Cassy** eulogized Jim in these ten words: “He was a great lawyer, and an even better man.”

Interviewed by **Carmen Ramírez** after he won the Ben E. Nordman Award in 2004, Jim said he chose criminal defense because, “I just don’t like big guys, dumping on the little guys, the government can be oppressive and someone like me has to keep it under control.” Jim explained that although many people equate the defense attorney with the accused and complain that “the criminal defense attorney is trying to get his client off,” people don’t understand that this is not improper, but necessary to make sure that the system is kept in balance and that the presumption of innocence is preserved.

Jim was born in Albany, New York in 1934. He moved to Los Angeles in the 1960s, where he met his wife Mary Ellen in acting school. Seeking a steadier line of work, Jim graduated from Southwestern University School of Law in 1967. His first job was as an associate for a title company where he spent

his first six months of practice reviewing trust documents. Towards the end of that stint, Jim was ready to seek mental health counseling, he quipped. But a stroke of luck presented him with his first criminal case in private practice. He found it challenging and exciting. And the client paid him, to top it off.

Jim’s first court experience in Ventura County led him to move his family here. While representing a client in a criminal matter, he won an order that prevented the prosecution from speaking to a witness. Learning that the prosecution violated the order, Jim sought judicial relief from the late **Judge Bert Henson**. Then-Public Defender **Richard Irwin** saw Jim’s courtroom performance and offered him a job on the spot. Jim was working at the Public Defender’s office within two weeks. He opened his own office two years later.

In the 2004 CITATIONS profile, Carmen wrote, “[t]he first time I saw Jim Farley was when he was at Mass at Our Lady of the Assumption Church in Ventura many years ago, giving a sermon. His strong voice intelligently called upon the parishioners to consider their daily lives and obligations to live with the light of justice, mercy and compassion towards their fellow human beings...” Jim has been a deacon since 1979, performing weddings, baptisms, and many graveside services. Carmen recalled

Jim’s sermon about criminal defense work, in which “he told the parishioners that even those not arrested or convicted of a crime may be just as guilty as the one who does wind up in the courtroom. “When you have murder in your heart or you covet something that cannot be yours, you are no different that the person who is facing the judge.”

Jim defended many death penalty cases, believing that “it’s the best thing that you can do, to try to save a person’s life.” My late husband, **Edward Lascher**, and I had the privilege of serving as Jim’s co-counsel in a colorful murder case arising from two Santa Cruz Island drownings. In the courtroom daily to handle motions as they arose, we were dazzled by Jim’s keen grasp of the facts, his sensitivity to human foible, and his innate sense of justice. Although the jury convicted our client of first degree murder with special circumstances (unfairly, I still maintain), Jim’s flair for the stage came through when, during closing argument, he stepped into the Boston whaling dory filling the well in the courtroom and exhorted the jury to spare our client’s life. It did.

Former **Presiding Justice Steven Stone** called Jim “a very, very important factor in the Southern California justice system for 50 years.” He noted that Jim was “one of the few who gave voice to the voiceless. In the courtroom he gave clients the respect and dignity they deserve as human beings.”

Jim was well known not only for his criminal defense practice, but for his representation of public employee unions in collective bargaining. At the bargaining table, he achieved a reputation as a tough but invariably fair and honest negotiator.

Jim is survived by his wife, Mary Ellen; his daughters, Shannon and Mary; two grandchildren; and a multitude of friends and grateful clients.



For the past 35 years, **Wendy Lascher** lived up the street from the Farley family in Ventura. She specializes in handling appeals and writs, and drafting motions for trial lawyers. Lascher is the editor of CITATIONS. She would be delighted to yield the position to a qualified successor. wlasher@focoplaw.com



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**CALIFORNIA YOUNG
LAWYERS ASSOCIATION
SEEKS NOMINATIONS FOR
JACK BERMAN AWARD**

by Katie Becker

Each year, the California Young Lawyers Association (CYLA), a committee of the California State Bar Association, recognizes a young or new lawyer for distinguished service to the public sector, the judiciary, or the public by bestowing the Jack Berman Award of Achievement.

The State Bar established this prestigious award in 1992 to recognize the individual achievements of a lawyer who is either in their first five years of practice or age 36 and under. The award is named in memory of Jack Berman, a young lawyer who demonstrated outstanding service to the profession and the public, who was tragically killed in a San Francisco shooting. This annual award honors his dedicated service to issues of concern to the profession, especially its young lawyers.

CYLA is seeking nominations for the award. If you know of a young lawyer who is doing great work for his or her community, our profession or the state, please nominate them for the Jack Berman Award. The deadline for submission is Feb. 20. The award will be presented by Chief Justice Cantil-Sakauye in October during the State Bar Annual Meeting in Anaheim.

For more information regarding criteria for the award, submission details and past recipients, please visit <http://cyla.calbar.ca.gov/CYLA/JackBermanAward.aspx>. If you have any questions, or would like the nomination forms emailed to you, feel free to contact Katie Becker, katie@venturaestatelegal.com, or CYLA directly at cyla@calbar.ca.gov.



Katie Becker is a partner at Ben Schuck & Katherine Becker, LLP in Santa Paula. She practices in the areas of estate planning, probate, trusts, conservatorships and business law. She is a current Board Member of CYLA and the President of the Ventura County Barristers. She and her husband Rick are expecting their first child in July.

GOLD COAST COLLABORATIVE

by Jon Light

You hire a paralegal, administrative assistant or legal secretary and their skills aren't what they should be. It's frustrating, time-consuming, and costly!

We may have a solution, however. VC Innovates is nested within Ventura County Office of Education and is a State grant-funded collaboration of school districts, community colleges, businesses and community leaders in Ventura County. VC Innovates is committed to targeting middle, high school and junior college curriculum to address these shortcomings, creating clear and focused pathways of education throughout the education system and introducing the opportunity for students to have exposure to different work-based experiences.

The initial round of funding (through California Career Pathways Trust) did not support charter schools and so, alongside VC Innovates, the Gold Coast Collaborative formed to address the needs of this sector. They need help from a few good lawyers. Both are applying for grants in the next round of funding (submission date Feb. 6) to fund professionals to take the laboring oar in creating this new curriculum by working closely with school officials and local businesses. What they each need from us are letters of support for the grant submission and a commitment of a few hours a year in time – to mentor, to assist in looking at curriculum choices, to speak to students, and perhaps law office and attorney shadowing.

It's not a huge commitment and best of all, they don't want our money! If you're inclined to write a letter of support, please email Hilary Howard at HHoward@vcoe.org (VC Innovates) or Claudia Weintraub at claudia.weintraub@roavc.com (Gold Coast Collaborative). Or call or email Jon Light at 805.248.7214 or jligh@lightgablerlaw.com.



Jon Light represents and counsels employers. He is a principal at Light Gabler in Camarillo, and a former VCBA president.



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U.S. BANKRUPTCY COURT CHANGES FOR 2015

by Michael R. Sment

As a new year comes, so do changes to existing laws, court rules, procedures and court-mandated forms.

The federal bankruptcy system is no exception. For the past few years, the Judicial Conference of the United States, the American Bar Association, the local U.S. Bankruptcy Court for the Central District of California and their various advisory committees have been reviewing existing statutes, rules, procedures and forms with the intention to update and streamline court processes.

On Dec. 1, amendments to the Federal Rules of Bankruptcy Procedure (FRBP), the Official Bankruptcy Forms, and the Bankruptcy Miscellaneous Fee Schedule went into effect. Among other changes, the following forms have been revised: B 3B- Application to Waive Chapter 7 Filing Fee; B 6- Summary of Schedules; B 17A- Notice of Appeal, Statement of Election; B 17B- Appellee Statement of Election (District Court); B 22A-1- Chapter 7 Statement of Monthly Income; B 22A-2- Chapter 7 Means Calculation; B 22C-1- Chapter 13 Statement of Current Monthly Income and Commitment Period; B 22C-2- Chapter 13 Calculation of Disposable Income.

In addition, the Bankruptcy Court's local bankruptcy rule (LBR) forms, including the various petition packages and the court manual, have been updated to reflect the new nationwide requirements relating to the new Chapter 7 "means test" forms (B-22-A forms).

These forms are available for free on the Bankruptcy Court's website (www.cacb.uscourts.gov), and printed copies may be purchased from the intake windows at all court division offices. More information regarding the official forms changes and the committee notes about the form revisions are available from the U.S. Court's website (www.uscourts.gov). (See also, local Bankruptcy Court Public Notices 14-015 and 14-016.)

In addition, the Bankruptcy Court announced two changes to its Miscellaneous Fee Schedule: a new \$25 fee for a motion to

redact previously filed documents (certain private information is required to be redacted from bankruptcy pleadings); and an increased fee of \$207 for authorization for a direct appeal to the Court of Appeals.

The Bankruptcy Court also released a summary of new CM/ECF docket events and codes, "CM-ECF Dictionary Updates" (for the mandated electronic filing of bankruptcy pleadings and forms) to coincide with the Amendments to the FRBP, Official Forms and Fee Schedule. New CM/ECF docket events were announced for, *inter alia*, a motion to redact, motion to reopen bankruptcy case, summary of schedules, notice of appeal and Chapter 7 "means test". The CM/ECF Case Opening Module has also been updated to reflect changes to the forms. Questions or inquiries may be directed to the Bankruptcy Court's ECF Help Desk (213/894-2365) or by email (ecf_support@cacb.uscourts.gov).

The Board of Judges for the Bankruptcy Court has approved new and revised Local Bankruptcy Rule forms, which have been posted online and went into effect Dec. 30. These new forms include, among others: Order to Approve Joint Administration of Cases; Chapter 7 Trustee's Motion to Dismiss Bankruptcy Case; Plan Ballot Summary; Status Conference and Scheduling Order; and Declaration of Debtor Regarding Post-petition Income. Additional LBR forms were renumbered and removed from "Other Forms", including: Verification of Master Mailing List of Creditors; Substitution of Attorney; and Requests to Activate/Update/Deactivate Electronic Noticing.

The new and revised LBR forms are also available on the Bankruptcy Court's website (under "Forms/Local Bankruptcy Rules Forms" tab). The online PDF versions of the forms are PDF-fillable and can be completed and saved to any computer with Adobe Acrobat Reader, which is available for free from the Bankruptcy Court's website.

Moreover, the Bankruptcy Court announced that its Local Bankruptcy Rules (LBR) have been revised, effective Jan. 5. The LBRs were revised to add new procedures, match current protocols, and clarify service requirements.

New procedures, approved for 2015, include those for Joint Administration, Summary Judgment, Removal and Electronic Noticing. The revised LBRs and a redline of the LBR procedural changes are also available from the Bankruptcy Court's website (under "Rules and Procedures" tab) (See also, local Public Notice 14-020.)

The Bankruptcy Court has also issued a notice regarding its closing on certain 2015 federal holidays, including Martin Luther King Day (Jan. 19), Presidents' Day (Feb. 16), Memorial Day (May 25) and Independence Day (July 3). (See also, local Public Notice 15-001.) Unless announced, the Bankruptcy Court's electronic systems (CM/ECF, VCIS, LOU and PACER) will continue to operate during Court holiday closures. Additional Bankruptcy Court closures may be announced in subsequent public notices.

Change is good, usually, or so they say. That is especially true for U.S. court systems and procedures. Staying current, staying compliant, staying relevant is always needed. At the same time, however, it is imperative that practitioners and counsel stay informed about, and become familiar with, the current Bankruptcy Court and other U.S. court changes. Information and knowledge are key, particularly as more bankruptcy law changes can be expected in the future.



Michael R. Sment is a member of the CITATIONS Editorial Board and Chairman of the VCBA Bankruptcy Section. Mr. Sment handles bankruptcy, bankruptcy mediation and real estate matters from his offices in Ventura. *Il est Charlie, too.*



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IN INSURANCE, CONDITIONS CAN BE IMPORTANT

by Mark E. Hancock

One of the things they teach students in insurance college is to remember “D-I-C-E.” This is a mnemonic for the four basic components of an insurance policy: declarations, insuring clause(s)(or agreement(s)), conditions and exclusions.

The take-away from this should be that conditions are an important part of an insurance policy. Often, however, like a middle child, they may be overlooked. Declarations, insuring clauses and exclusions often get more attention. Sometimes, this can have bad consequences.

What are conditions? In the general legal sense, a condition is a term or requirement stated in a contract that must be met for the other party to have the duty to fulfill his or her obligation(s). In the realm of insurance, conditions impose duties or requirements on the insured in order to obtain the coverage provided by the policy. (*North American Capacity Ins. Co. v. Claremont Liab. Ins. Co.* (2009) 277 Cal.App.4th 272, 289-290.)

As they teach law students in contracts class, conditions in insurance contracts can either be precedent, or subsequent. A condition precedent is an act, condition, or event that must occur before the insurance contract becomes effective, or binding. (*North American Capacity Ins. Co. v. Claremont Liab. Ins. Co.*, *supra*, 277 Cal.App.4th at 289.) Failure of a condition subsequent can possibly void otherwise valid insurance.

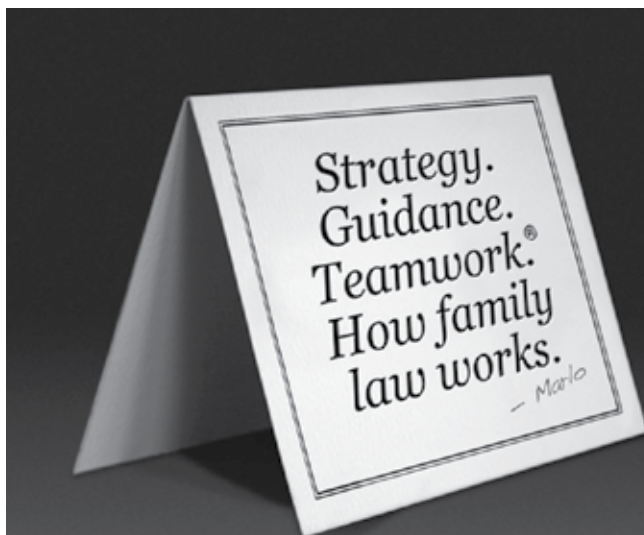
What kinds of duties must be satisfied? Property insurance often imposes conditions such as timely notice of loss, timely proof of loss and access to and/or exhibition of the property. Liability policies often state that the insured shall make no voluntary payments and incur no expenses without insurer consent and that the insured will cooperate with the defense. One, of course, has to read his or her policy to know what conditions are imposed in his or her particular case, as there certainly may be different/other/additional conditions imposed.

One reason for a client to hire and consult with a lawyer early on is to make sure that

policy conditions are complied with – and in a timely fashion. Clients can certainly muddy, delay and even defeat their claims by such things as failing to give timely notice, failing to give proper, full and/or timely proof of loss, failing to exhibit the property and to allow (insurer) access to it and/or giving the insurance company room to argue that the insured(s) failed to cooperate. There may be a big difference between how a lawyer acquainted with insurance would provide notice and proof of loss and how a non-lawyer insured would. If the goal is to make things more black and white and less gray, legal help may be in order.

Clients can also get in trouble by not being careful and/or honest in filling out applications for insurance in the first place. Conditions precedent may sometimes be in the nature of warranties and may need to be strictly complied with. (*Chase v. Nat'l Indem. Co.* (1954) 129 Cal.App.2d 853, 858.)

A recent case emphasizing that conditions, and especially conditions precedent, are important is *American Way Cellular, Inc. v.*



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EAR TO THE WALL

Travelers Prop. Cas. Co. of America (2013) 216 Cal.App.4th 1040. In that case, an application was submitted to Travelers indicating that the insured had smoke detectors and sprinklers. Accordingly, Travelers issued a commercial property policy that stated several things. The policy gave Travelers the right to inspect the premises, but said it was not obligated to do so. It also said that as a condition of the insurance, the insured was required to maintain the protective devices or services listed, and excluded loss resulting from failing to maintain such listed safeguards.

After a fire, Travelers's investigator reported that fire protection consisted of an alarm system and fire extinguishers, but no sprinklers. Travelers denied the claim, the insured sued and the Court of Appeal affirmed summary judgment in favor of Travelers. The appellate court held that in the area of property insurance, the insurer does not have the duty to investigate the insured's statements, or to verify their accuracy. The insured must divulge what he or she knows. **Maintaining sprinklers was a condition precedent to coverage in this case.** The failure to satisfy that condition of coverage meant there was no coverage. Given this, clients may want to double-check their applications for their property insurance, before they suffer a loss.

While the *American Way Cellular, Inc.* case showed that failure to comply with conditions can have fatal coverage consequences, the tricky thing is that not all conditions may be treated that way. As to some conditions, courts may require only substantial compliance, and in the case of other conditions, courts might require a showing of prejudice to the insurance company before it will deny coverage on the basis of non-compliance. Insurance companies can, in some situations, be held to have waived conditions. In some kinds of insurance other than property, the insurance company may have a duty to do its own investigation of the situation and/or be barred from bringing it up later. The take-away is that, though conditions are important, not all conditions and situations are treated equally. There may be differences

in result between lines, or types of insurance. This means that an insured can and should consult with an attorney when the insurance company tries to justify its denial of a claim on failure/breach of a condition, as the insurance company may be overstating the failure and/or the effect of the alleged failure of the condition in question. It may not always be fatal.



Mark E. Hancock is an attorney with offices in Ventura. He assists and represents insureds in all kinds of insurance claims and defends them in cases of conflict with their insurance company and/or where there may be excess exposure.



Greg Herring, a State Bar-Certified Specialist in Family Law and a Fellow of the American Academy of Matrimonial Lawyers, launched the Herring Law Group Jan. 5. Joining the firm is **Ruston Imming**, formerly with Misho Imming in Santa Barbara. The Herring Law Group's office is at 1000 Town Center



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LIVING ABROAD BUT WORKING IN VENTURA - PART TWO

by Michael Strauss

In the last issue of *Citations*, I told some tales about my family's summer-long trip to Spain, where I worked remotely at my lawyer job back in Ventura. It had long been my dream to live abroad with my wife and two sons, and not only did we make the dream come true, but we also realized that we can do it again in the future.

And so can you. To make your trip a success, I suggest the following:

First, get your law practice on the cloud. We use Google Apps for Business for email, calendaring, and instant messaging. We access third-party apps directly through Google, like Inightly (case and contact management) and Harvest (timekeeping and billing). We use Dropbox for Business for storing our documents on the cloud. All of these apps integrate with each other, and we can access them from a computer or on apps on our smartphones.

Second, make your practice as paperless as possible. Our receptionist scans every document that comes into our office. She then

gives the document to our legal assistant, who makes a duplicate of the scanned file on our Dropbox server and calendars any pertinent dates. The physical document comes back to our receptionist, who gives it to the responsible attorney. The attorney then makes the decision whether to keep the document, recycle it, or shred it. Ninety-nine percent of all documents we receive find their way into the recycle bin. We can therefore access all of our documents from anywhere, including our smartphones. Adopting a similar scanning protocol is absolutely critical if you want to practice from abroad (or occasionally from your home, for that matter).

Third, get used to internet phone calls. I made daily calls to the United States, but I never paid a dime for them. Using a laptop with a headset, I placed and received voice calls through Google's instant messaging service (formerly "Google Talk" or "Google Voice"). I could even make free calls with my smartphone through Google's Hangouts app. Ironically, using these services, calls from abroad to the United

States are free, while calls to European numbers are not. The sound quality of the calls was not always perfect, and there was sometimes an echo or static, so I would never use the service from abroad to make a telephonic appearance in court back home. (I had other attorneys in my firm make the appearances for me.)

Fourth, make sure that wherever you go has good internet service. Gijon, even though it has 250,000-plus residents, had subpar internet infrastructure. The next time I go to Europe for the summer, I will make my home base a capital city, such as Paris, London, Munich, or Zurich, to ensure fast internet speeds. Also, being near a capital city means there will be a greater variety of foods at restaurants and grocery stores; 95 percent of restaurants in Gijon served Spanish-food, and we longed for ethnic cuisine.

Fifth, have an open flow of communication with your staff and coworkers. Everyone will automatically assume that you are on


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THE SECRET WEAPON FOR TRIAL

by Matthew Haffner

A trial is a procedurally complex endeavor. Virtually every aspect of the process is strictly controlled by precise rules. One mis-step triggers objections from opposing counsel and possibly corrections by the judge. Intentions can be derailed, evidence may be excluded and lines of important questioning cancelled, with the judge even instructing the jury to disregard a witness's testimony, or other evidence.

While planning for trial, there is an aspect that is frequently overlooked as if an after-thought, or even ignored. This part of the trial is not tightly controlled by the Code of Civil Procedure or the Rules of Court. In fact, the process itself varies between courthouses and even courtrooms. The method is only dictated by fairly loosely interpreted guidelines. Yet, the amorphous process of jury selection is, arguably, the most important aspect of the trial process.

The "wrong" jury for your case may find against your client, despite overwhelming evidence in support of your case. The jury may misunderstand or misinterpret the evidence, if the jury is even paying attention while you are seeking to emphasize critical matters. Regardless of the strengths of your case, the character of your evidence, the jury may find unanimously against your client.

Selecting the jury, then, becomes critically important. Why is it that there are no rules, no guidelines, no well-established method for such a weighty decision? There are few practice guides, limited codified parameters, and usually no direction provided by the trial judge. Without any route, jury selection is at best approached with no purpose and at worst carried out poorly, resulting in alienating jurors.

How many times has this exchange occurred?

Lawyer: Hello Mr. Smith. Are you willing to follow the law as the judge gives it and reach a fair and just resolution for the parties in this case?

Potential juror: Yes.

Lawyer: No further questions.

The lawyer then sits down smugly, satisfied with his jury selection.

What did the lawyer learn about the potential juror? Absolutely nothing. Did the lawyer discover the juror's bias, predispositions or prejudices? Not at all. The lawyer cannot even be confident that the juror's answer meant anything. The question meant nothing, packed with legal terms so that the inquiry simply triggered an assent that reveals literally nothing about how the juror will interpret the lawyer's case. Yet many lawyers conduct jury selection in this manner, with no articulated purpose and no understanding of what makes a successful jury selection.

The other method frequently used by trial lawyers is either to ask questions of the entire jury panel (which are seldom answered and may not even be listened to) or to lecture the jury, asking few questions, or offering rhetorical questions. The intent is to educate the jury regarding the case in the guise of questions; however, not only is jury indoctrination discouraged by the judge, but it is ineffective in determining the nature of the jury. Telling a juror who is predisposed to dislike your case all about your case will not allow you to discover the juror's predilections and is unlikely to change the juror's approach to your case.

Instead, jury selection should be specific, with intent, addressing (at least) credibility, bias, introduction of sensitive issues, and acknowledgement of the lawyer's purpose.

Credibility

Juries universally do not reward a litigant who is not credible. The veracity of the parties is absolutely critical to the case. The issue of disputed credibility is best brought out immediately, in the form of specific juror questions about how they will receive contrary evidence or impeachment.

Bias

Uncovering bias is obviously paramount in jury selection. A potential juror who is biased against a party or facts is obviously rejected; however, equally important is a potential juror who has a bias *towards* part of the case or the parties. For example, a juror who owns a small business that has been repeatedly subjected to what he or she considers frivolous lawsuits is not likely to be receptive to the plaintiff's case. How

will the plaintiff's lawyer discover that bias if the lawyer does not ask that juror specific questions?

Sensitive issues

Virtually every case has sensitive issues that may offend a juror, or trigger an emotional response. The juror's reaction *cannot be changed*, despite the lawyer's questioning. It is far better to discover the sensitivity and excuse the juror than delude yourself that you can change this opinion in a few minutes, with a few questions.

Acknowledgement of the lawyer's purpose

In jury selection, the lawyer should discuss the specific result sought. For example, if the plaintiff intends to ask the jury for a large sum of money, the plaintiff's lawyer should ask several jurors if they would be able to award a large sum for the type of injury suffered. This questioning should be reserved for the end, and should be oriented towards jurors whom the lawyer "feels" will respond positively. Then, the lawyer not only receives the anticipated acknowledgment, but the response will be heard by other potential jurors, intended to support the lawyer's cause.

Juror inquiry, of course, depends upon the parameters allowed by the judge and the time allotted. Trial judges vary about time and scope of juror inquiry. The lawyer must decide which issues are most important to raise, in the time provided. Of course, if more time is allowed, additional categories should be examined.

Regardless, it is strongly recommended to attempt to inquire of each potential juror, even if the time only allows for a question or two, as opposed to attempting to lecture the entire panel about your case or wasting your time on "general questions to the entire panel."



Matthew Haffner
practices civil litigation as
part of Ventura's Haffner
Law Group.

LIVING ABROAD BUT WORKING IN VENTURA - PART TWO

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vacation and do not want to be bothered. You need to convince them beforehand that you will be working, even though you may be in a foreign country. While you are gone, you need to constantly check in with your staff to show them that you are indeed working. The Google instant messaging service shows a green ball next to the names of active users. I always wanted my staff to see that I was working, so I was always signed into the instant message platform. I checked in frequently to my legal assistant and receptionist by sending instant messages or emails or calling in. When I went on vacation to France or planned to take a long weekend, I put my absence on our shared calendar, so that everyone back in the office would see when I was really on vacation.

Sixth, get used to disruptions and delays. Because my workday only overlapped by an hour or so with the workday of those in my office, I often sent emails to my coworkers when they were asleep. In this day and age of demanding instant responses from everything, it was frustrating at first to have to wait hours, sometimes a full day, for a response to my emails. I had to accept the fact that such delays are inevitable when working from a time zone so far away from the home office. Once I accepted it, I came to enjoy being removed from the typical pace of my law practice. I was able to be more productive than normal while my coworkers were asleep, because I received fewer emails and messages.

Seventh, while it was amazing that Pablo offered up his house for the summer, expecting the same in the future is unrealistic. Plus, we would have enjoyed having our own space. Next time, we plan on doing a house exchange so that we can avoid paying our mortgage and rent at the same time.

Eighth, when you return, you will have a letdown period, because you are tired, jetlagged, and used to a very different schedule. It is very important that you do not slow down. Before leaving, I was able to push mediations and trial dates until after my return. Now that I have been back for a few months, I am absolutely swamped with

work. I could have avoided being so busy now if I had come back up to speed more quickly after returning.

Lastly, enjoy every second of your trip. Two-and-a-half months seems like a long time, but it passed much faster than I expected. Although the time passed too quickly, actually living in Spain and immersing my family and myself in the culture was way better than any episode of House Hunters International.

And when you return, let me know how your trip went and where you will spend your next summer abroad.



Mike Strauss handles plaintiffs'-side employment litigation at the Palay Law Firm in Ventura. His email is mike@palaylaw.com.

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“The Imitation Game”

by Bill Paterson

In 1941, Britain was reeling. Convoys sent from America to supply Churchill’s embattled nation were regularly being sent to the bottom by German U-Boats, and the Nazi juggernaut seemed unstoppable. Then the British got a lucky break. The Poles managed to smuggle a German coding machine out of Berlin. Dubbed the “Enigma,” it was a fitting name for a fiendishly complex coding device considered to be unbreakable. Enter Alan Turing (Benedict Cumberbatch) and his small, handpicked group of linguists, mathematicians, chess wizards and cryptographers.

A brilliant, lonely, and socially inept mathematical prodigy, Turing sets about the task of constructing a machine (the forerunner of the computer), which he is convinced will enable them to read every possible Enigma code combination. Single-minded to the point of obsession, he is indifferent at best and hostile at worst to both his governmental overseers and his staff. His arrogance almost scuttles the project until Joan (Keira Knightley), the only woman on the project, manages to convince him that he cannot expect help from people he regularly alienates. However, trying to be “likeable” is almost as difficult for Turing as trying to break the Enigma code.

Imagine the pressure of trying to break a code with over 159 million, million combinations of words and numbers, which the German code writers changed every day. The stakes were enormous, as failure could lead Britain down the road to defeat. But no matter how many excruciating hours they put in, or how many adjustments Turing makes to his primitive computer’s masses of wires and switches, they are getting nowhere. Then a chance comment by a woman in a pub provides Turing with the key to unlock the Enigma code. A triumph to be sure, but breaking the code solves only part of the problem. How will the decoded information be used without alerting the Germans to the fact that Britain can now read their secret dispatches? Put more simply, who will live and who will die to protect one of the greatest secrets of the war?

The Imitation Game is a compelling tale of an intelligence coup that saved millions of lives

and shortened the war in Europe by several years. At its center is the tragic figure of Alan Turing. A shy and lonely boy who was regularly picked on by his fellow students at boarding school, he had only one friend – Christopher. In that friendship, Turing felt the first faint stirrings of homosexual attraction. It paid to keep those feelings at bay. Homosexual conduct was a felony and Turing had to keep the fact that he was gay almost as secret as the Enigma Project itself. But years after the war, he is involved in a homosexual encounter. Arrested and charged, he is given an unpalatable choice of punishments, and the country that owed him an incalculable debt of gratitude abandoned him to his fate. It would take more than 50 years after the war before Britain would posthumously honor Turing’s service to the nation. Cumberbatch’s portrayal of this proud and tortured soul is a performance you do not wish to miss.

Small Nit to Pick: I wish the film had taken the opportunity to set up a scene that

would have allowed Turing to give a brief explanation of how his machine worked.



Bill Paterson is a retired attorney and film buff. He lives in Camarillo.

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BARRISTERS' CORNER

by Juan Higuera

At the Barristers first meeting of the New Year on Jan. 6 , the following were officially announced as our officers and members at large for 2015: **Katie Becker**, president; **Melanie Ely**, vice-president; **Josh Hopstone**, treasurer; and **Brier Miron**, secretary. These individuals were elected members at large: **Rachel Coleman**, former president; **Renee Dehesa**; **Tom Adams**; **Andrew Ellison**; **Lauren Sims**; **Amy Dilbeck Kiesewetter**; **Crista Hermance**; **Robyn Weiss**; **Juan Higuera**; **Steve Marshall**; **Lauren Wood**; and **Brian Israel**.

Each new year brings new opportunities to mingle and expand your professional network. Our first such event is on Tuesday, Feb. 17 from 5:30-7:00 p.m. at Surf Brewery, 4561 Market Street in Ventura. The Barrister's Meet-and-Greet event is free to attend (food and beverages not included). The Meet-and-Greet is open to the public, students, judges, attorneys and their friends and families. Start the new year off on the right foot by meeting other young professionals from Ventura County's legal community!

Our next event that is also free and open to everyone is our Thirsty Third Thursday, which is March 19 from 5:30-7:00 p.m. at Dargan's, 593 East Main Street in Ventura. Come have an after-work drink and mix and mingle with the Barristers!



Juan Higuera is a Deputy District Attorney at the Ventura County District Attorney's Office and is currently assigned to the misdemeanor unit where he handles all types of misdemeanor criminal matters.

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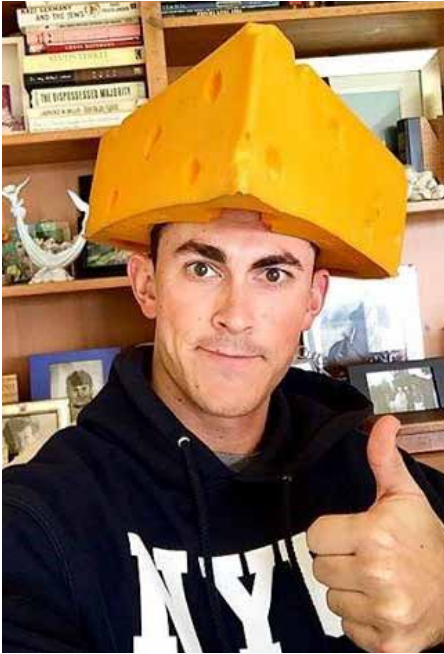
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by Steve Henderson, Executive Director, M.A., CAE



Peter Lemmon is back in town after several years in Nevada City, California, and opened up shop in Santa Paula and Ventura. Lemmonlandlaw.com, peter@lemonlaw.net, or

477-0070. On the way to the hospital after she was involved in a four-car accident last October, Regina Whitehead did what most people do: She called her insurance company. Only she didn't call to report the accident, but to add comprehensive, collision and rental coverage, according to the Pennsylvania Attorney General's Office. Whitehead was charged with insurance fraud and criminal attempt/theft by deception. The 22-year-old woman, who was set free on \$25,000 bail, was charged with third degree felonies punishable by up to seven years in prison...Australia/New Zealand? **Dick Regnier** at 482.3647 or simba1955@verizon.net.

Russell Charvonia credits the Masonic Lodge for the values that have made him the man he is today. As the newly elected Grand Master of Masons of California, he hopes to put those values to work. Russ is a 33rd degree Scottish Rite Mason. Additionally, he serves on the advisory board of the Rubicon

Theatre and is a director on the Midnight Mission board. Russ@renlawgroup.com or 652-6941...Urged by a Massachusetts judge to "be creative" in thinking of a way to persuade the court that he would stop ignoring past-due court costs in a 2012 drug case, a 39-year-old defendant found a way to avoid going to jail. Jason Duval suggested turning over the Nike sneakers he received as a Christmas gift instead of cash bail, and Framingham Judge Douglas Stoddard agreed. The shoes are valued at \$85 and the case will be dismissed, under a plea deal agreed to earlier, once he pays the \$450 he owes in court costs...Amazonia-Brazil? **Michael McQueen** at mmcqueen@mcqlaw.com or 445-9751...



After an exemplary run as President of the Women Lawyers of Ventura County, **Katie Becker** has turned the gavel over to **Kathleen Smith** for 2015.

Kathleen may be reached at ksmith@rstlegal.com or 764-6370...A boozed-up judge driving home from a Christmas party slammed his Jaguar XJL into a car in midtown, fled the scene, then tried to use his position to weasel out of the responsibility. "Come on. I'm a judge," Marc Lust, 62, a justice in the Westchester town of Harrison, whined to police who collared him. "I'll take care of this. I'll take care of it. We don't have to do anything about this. I was at a Christmas party. I only had three drinks." Cops said the arresting officers found the judge pale, reeking of booze, wobbly on his feet and slurring his words. He refused to take a Breathalyzer test...Costa Rica/Nicaragua? **Ambler Rodriguez** at 643-4200 or arodriguez@estateattorneycalifornia.com...

After many, many years at the helm of the CPA-Law Society, **Doug Kulper** has moved to the Santa Ynez area and is teaching full-time at UCSB. He has turned over responsibility and authority for the organization to **Enrique Schaerer** and Lars Rathje. Enrique may be reached at eschaerer@fcoplaw.com or 659-6800...VLSP, Inc. EA extraordinaire,



Col. Fred Tschopp, passed away Dec. 30 in his home in Westlake Village. He volunteered his services to our pro bono program every week for nearly 10 years. OO-RAH!

...**Christian Menard** died Dec. 22 and the services were held Jan. 31. The "Lawyer Cowboy"...

Judge Michael Lief's Enrobing Ceremony will be held Feb. 13, beginning at 4:00 p.m. inside Courtroom #22...The 25th Annual Bar Leaders Strategic Planning session is scheduled for Feb. 28, beginning at 8:30 a.m. and presided over by **President William Grewe**. He may be reached by calling 642-7101...The Law Day 5K Race Committee has changed the month that the 32nd Annual will be held. Race Director **Joe Strohmman** has announced the race date



as June 28 at Kimball Park...Welcome to new members of the Jerome H. Berenson Inn of Court, **Laura Withrow** and **Peter Lemmon**

Steve Henderson has been the executive director and chief executive of the Bar Association and its affiliated organizations since November 1990. Placing BIG Beer \$\$\$ on their deflated balls and the Patriots, he will be spending Valentine's weekend abroad. He would like the membership to know Bob Marley's birthday is the 6th of this month and Ansel Adams' is the 20th. Happy Read-in-the-Bathtub Day on the 9th. Henderson may be reached at steve@vcb.org, FB, Twitter at [stevehendo1](https://twitter.com/stevehendo1), LinkedIn, or better yet, 650-7599.

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