



CITATIONS

J U N E - T W O T H O U S A N D S E V E N T E E N

VCBA MISSION STATEMENT
 To promote legal excellence, high ethical standards and professional conduct in the practice of law; to improve access to legal services for all people in Ventura County; and to work to improve the administration of justice.

TRIAL LAWYER OF THE YEAR



ERIK B. FEINGOLD
 WENDY C. LASCHER
 BRIAN ISRAEL
 JAY C. SMITH
 MARK E. HANCOCK
 STEVE HENDERSON

PRESIDENT'S MESSAGE	3
BRING YOUR OWN REPORTER	5
BARRISTERS CORNER	8
A VIEW FROM THE WATERSHED	9
DON'T BELIEVE EVERYTHING YOUR INSURANCE ADJUSTOR TELLS YOU	18
EXEC'S DOT...DOT...DOT...	22



CREATIVE DISPUTE RESOLUTION



HAVE JOINED FORCES

Hon. David W. Long
Judge of the Superior Court County of
Ventura, Ret.
Judgelong@cdrmediation.com

**CONTINUING THE EXPANSION AND TRADITION
OF EXCELLENCE IN MEDIATION & ARBITRATION**
ESTABLISHED IN 1986 BY PAUL D. FRITZ, ESQ. (1941-2011)

David M. Karen, Esq.
32-year Trial Attorney and
Pepperdine Trained Mediator
dk@cdrmediation.com

MEDIATION OF ALL CIVIL DISPUTES

- *Business Litigation
- *Personal Injury
- *Professional Negligence
- *Employment
- *Probate Litigation
- *Medical Malpractice

805.498.9494

CDRMEDIATION.COM

Highly Skilled and Effective Mediators

HEARD ABOUT OUR INTERNS?!

FOLLOW US ON TWITTER! #DKLAWGROUP



DK LAW GROUP, LLP—TRIAL AND LITIGATION REFERRALS WELCOMED • 805.498.1212

**DAVID M. KAREN - MEMBER
AMERICAN BOARD OF TRIAL ADVOCATES**

dk@dk4law.com



PRESIDENT'S MESSAGE

by Erik B. Feingold

Lawyers have an image problem. It seems no matter how hard we try to improve the image of ourselves and our profession, amongst my non-lawyer friends there seems to be an endless stream of anecdotes about the stereotypical greedy and self-serving lawyers bilking their clients, committing misdeeds, and being arrogant. As part of an ongoing attempt to improve our image, last year the American Bar Association endorsed a "National Love Your Lawyer Day" resolution. Here's part of it:

WHEREAS, Lawyers have consistently been the target of verbal bashing, derogatory portrayals and literature is rife with lawyer-bashing dated back hundreds of years; and WHEREAS, A 2013 Pew Research Center survey found lawyers last among ten professional categories for "contributions to society"; WHEREAS, According to a 2014 Gallup survey, the public perception of lawyers on honesty and ethics is an unsatisfactory 21 percent; and WHEREAS, The portrayal of lawyers in American popular culture, including on television and cinema, is largely negative, which promotes a negative stereotype of lawyers in society; and WHEREAS, National Love Your Lawyer Day was initiated in 2001 by the American Lawyers Public Image Association as a day to celebrate lawyers for their many positive contributions, and to encourage the public to view lawyers in a more favorable light; and WHEREAS, National Love Your Lawyer Day is celebrated annually on the first Friday of November; and WHEREAS, The American Bar Association has as its mission to uphold the honor of the profession of law and to this end should promote a positive public image of lawyers in the nation; and WHEREAS, The American Bar Association Law Practice Division desires to promote a positive public image of lawyers by celebrating National Love Your Lawyer Day...

The resolution is a step in the right direction, but I doubt it will do much to improve

our image without work from us. That can only be done by first changing the way we behave as professionals towards our clients, each other, and the courts. But the best way to improve our image is to cast ourselves in a more positive public light by being more visible to the public doing good things for society.

David Ball, the author of the personal injury trial lawyer's bible, *David Ball on Damages*, writes, "You must let the public see that you are different from the indelible stereotypes that many now have on your profession." The easiest way we as professionals can do this is to help people in our community by doing good deeds in ways that do not profit us and to find ways to let the community know about those good deeds.

Luckily for us, the Ventura County Bar Association and its members are a step ahead of the game, and I like to think that the VCBA and its members enjoy a highly favorable public perception within our community. Indeed, baked right into the VCBA's Articles of Incorporation is its mission to, among other things, be a source for the "exertion of influence of good on the life of the community."

Many of us do this by volunteering for community events. For instance, several members of my law firm and other law

firms throughout the county are members of service organizations such as Rotary International and Kiwanis International, organizations which do countless good deeds throughout our community and around the world. Many of us volunteer as coaches for our children's sporting teams and engage in charitable pursuits such as assisting veterans, participating in canned food drives, volunteering at homeless shelters, and even traveling around the world at the drop of a hat when disaster strikes to assist with disaster relief (think Mark Kirwin).

We all do these things selflessly because it helps others and, in turn, exerts a good image of us and the VCBA on our communities. The problem is that because these are selfless acts, we oftentimes do not publicize our good deeds. But we need to. When we don't let the public know about the good things we as attorneys do in our community, the image of attorneys as a whole is further tarnished when some bad act by some rotten apple attorney makes the news, which happens far too often.

Luckily we live in a world of social media. We all have websites or LinkedIn accounts or Facebook pages where we can and should let it be known to friends, colleagues, and the public all the good each of us do in our communities. We owe it to the community, our profession, and ourselves.

ELDER LAW SERVICES

VETERANS BENEFITS

VA NON-SERVICE CONNECTED PENSION BENEFITS

- VA Accredited Attorney
- Custom Designed Eligibility Analysis for Veterans and Surviving Spouses
- Preparation & Filing of Pension Claims
- Representation of Claimant during claim process

MEDI-CAL ELIGIBILITY

- Custom-Crafted Eligibility Analysis & Qualification Plan (Asset Protection)
- Application Preparation & Representation
- Medi-Cal Recovery Claim Avoidance
- Appeals of benefits denial/loss

Services focused on assisting individuals obtain Veterans/Medi-Cal benefits for Long Term Care

THE LAW OFFICE OF CRAIG R. PLOSS

290 MAPLE COURT, SUITE 118, VENTURA, CA 93003
TEL: (805) 642-8407 FAX: (866) 379-2149 EMAIL: PLOSS@TDS.NET
WWW.ELDERLAWVENTURA.COM

**2017 VCBA
BOARD OF DIRECTORS**

OFFICERS

President

Erik B. Feingold

President-Elect

Mark Kirwin

Secretary-Treasurer

Douglas K. Goldwater

Past President

Charmaine Buehner

Chief Executive Officer

Steve Henderson, CAE

Marc D. Anderson	Kata Kim
Linda K. Ash	Lane J. Lopez
Katherine Hause Becker	Alfonso J. Martinez
Kathryn E. Clunen	Susan L. McCarthy
Rachel Coleman	Rabiah A. Rahman
Margaret J. Coyle	Jacquelyn D. Ruffin
Juan M. Higuera	Kathleen J. Smith
Joshua S. Hopstone	Jaelyn S. Smith
Thomas J. Hutchinson	Kevin G. Staker
Amy Dilbeck Kiesewetter	Andy H. Viets
Rod L. Kodman	

CITATIONS EDITORIAL BOARD

Managing Editor

Wendy C. Lascher

Assistant Editor

Cari Ann Potts

Assistant Editor

Heather Deffense

Publisher, CEO

Steve Henderson

Creative

J.P. McWaters

Alice Arnold	Michael L. McQueen
Rachel Coleman	Rabiah A. Rahman
Karen B. Darnall	Lauren E. Sims
Rachael J. Kimball	Michael R. Sment
Panda L. Kroll	Kathleen J. Smith
Carol Mack	Al Vargas

CITATIONS is published monthly by the Ventura County Bar Association. Editorial content and policy are solely the responsibility of the Ventura County Bar Association.

Submit all advertising, classified and calendar matters to:

VCBA
4475 Market St.
Suite B
Ventura, CA 93003
Attn: Lisette Hernandez
t: 805.650.7599
f: 805.650.8059
e: bar@vcba.org
www.vcba.org

Submit all editorial matters to:

CITATIONS
1050 S. Kimball
Ventura, CA 93004
t: 805.659.6800
f: 805.659.6818
wlascher@fcoplav.com

BONGIOVI MEDIATION

Mediating Solutions since 1998

Mediator • Arbitrator • Discovery Referee

*“There is no better
ambassador for the
value of mediation than
Henry Bongiovi.”*



HENRY J. BONGIOVI

AV Preeminent Rating
(5 out of 5)

AVVO Rated ‘Superb’
(10 out of 10)

Conducting Mediations
throughout California

805.564.2115
www.henrybongiovi.com

**Experienced.
Trusted.
Proven.**

Mediator and arbitrator for the resolution of cases including:

- Business/Commercial
- Contracts, Employment
- Environmental and Real Estate
- Construction
- Wills and Trusts
- Family Law
- Personal Injury

Retired Judge, Elinor Reiner



Judge Elinor Reiner

MEDIATOR AND ARBITRATOR

To schedule a consultation, please call **805-879-7517**
211 East Anapamu • Santa Barbara, CA 93101
elinor@elinorreiner.com • WWW.ELINORREINER.COM

BRING YOUR OWN REPORTER

by Wendy Lascher

Since 2012, the Ventura Superior Court's Local Rule 18.00(F) has notified you that official court reporters are not available in most civil and family law matters, and some probate matters. The rule was revised somewhat in 2016, but it still requires parties to arrange for privately-paid reporters in most instances. See <http://www.ventura.courts.ca.gov/court-reporting.html> (but note that it links to an older version of the local rule). The policies in other counties vary, so check their local situations in advance.

Because clients often do not want to pay for court reporters (and many cannot afford them), attorneys need to be aware of the risks of proceeding without a reporter.

Rhule v. WaveFront Technology, Inc. (2017) 8 Cal.App.5th 1223 is the most recent of a series of cases penalizing a litigant who appealed without providing a reporter's transcript or an adequate substitute. The plaintiff mistakenly admitted two RFAs and moved for relief from the admissions. A minute order shows that the court granted the motion but set a future hearing on attorney fees at which the court awarded \$8,125. There was no reporter at either hearing. On appeal the plaintiff claimed there court had authorized defendant to seek only "nominal" fees for opposing the RFA motion.

The Court of Appeal affirmed because there was no reporter present. "Without a reporter's transcript or an agreed or settled statement of the proceedings at the two pertinent trial court hearings, we do not know the basis of the trial court's reasoning in awarding fees, nor can we assess the merits of plaintiff's contentions about certain rulings or statements made by the trial court during the hearings in question." (8 Cal.App.5th at 1228-1229.)

What are the alternatives? Mr. Rhule could have persuaded the trial court to issue a formal order at the first hearing imposing conditions on the fee award, and a formal order at the second hearing spelling out its reasons for the fee award. But an explicit order will not always do the trick. The no-transcript, no reversal rule is not limited to law and motion or attorney fee hearings. An appellant who does not provide a reporter's transcript of trial testimony, or an agreed or settled statement in place of a reporter's transcript, waives the right

to claim there was insufficient evidence to support the judgment. (E.g., *Foust v. San Jose Construction Co., Inc.* (2011) 198 Cal. App.4th 181, 186-187, citing eleven examples of proceedings where a party lost because there was no transcript.) The waiver principle stems from "the cardinal rule of appellate review that a judgment or order of the trial court is presumed correct and prejudicial error must be affirmatively shown." (*Id.* at 187.)

One other alternative to a reporter's transcript is an agreed statement. (Cal. Rules Ct., rule 8.134.) Since this requires a stipulation from opposing counsel about the issues and facts, a settled statement is difficult to come by. The rules also permit a party to use a settled statement. (Rule 8.137.) At best, obtaining a settled statement is slow and consumes significant attorney time.

One possible way to prepare one is from a recording (digital, audio or video) of courtroom proceedings, assuming a recording is available. In that case, someone would have to transcribe the recording, or at least listen to and paraphrase it, accurately enough that the trial judge would be willing to use the transcription or summary as the basis of a settled statement.

There are many reasons, political as well as strictly legal, that it is so expensive to obtain a proper appellate record. Maybe a CITATIONS reader will find a way to solve the problem. Meanwhile, litigators beware: Saving money by skipping a court reporter may prove expensive in the long run.

Wendy Lascher, the managing editor of *CITATIONS*, is a State Bar certified specialist in appellate law. She is a partner at *Ferguson Case Orr Paterson, LLP*



Richard M. Norman, Esq.

MEDIATOR/ARBITRATOR

PERSONAL INJURY AND BUSINESS,
CONSTRUCTION, REAL ESTATE
AND PROBATE/TRUST DISPUTES
AND LITIGATION.

- *Trial Attorney – AV Rated*
- *Member: American Board of Trial Advocates (ABOTA)*
- *Past President and Member of Ventura County Bar Association, and Ventura County Trial Lawyers Association*
- *Trained Mediator - Pepperdine University Straus Institute & Negotiation Strategy Institute*
- *American Arbitration Association and FINRA Arbitration Panel*
- *Reasonable Fees - Flexible Scheduling - No Administrative Charges*

Richard M. Norman, Esq., *Of Counsel*
Norman Dowler, LLP.

840 County Square Drive, Ventura, CA 93003-5406
(805) 654-0911 • RNorman@normandowler.com

BAR LEADERSHIP**ADR SECTION**

David Karen 498-1212

ANIMAL LAW

Katherine Hause Becker 525-7104

ASIAN BAR*Vacant***BANKRUPTCY**

Michael Sment 654-0311

BARRISTERS

Josh Hopstone 659-6800

BENCH-BAR RELATIONS COMMITTEE

Hon. Matt Guasco 256-4972

BLACK ATTORNEYS ASSOCIATION

Jacquelyn Ruffin 644-7188

BUSINESS LITIGATION SECTION

Erik Feingold 644-7188

Rabiah Rahman 641-6600

CITATIONS

Wendy Lascher 659-6800

CLIENT RELATIONS

Dean Hazard 988-9886

COURT TOUR PROGRAM

Thomas Hinkle 656-4223

CPA LAW SOCIETY

Lauren Rad 659-6800

DIVERSITY BAR ASSOCIATION

Ed Elrod 644-4486

EAST COUNTY BAR

Doug Bordner 496-0111

EMPLOYMENT LAW

Joe Herbert 482-5340

FAMILY LAW BAR

Heather Kadeg 818-865-8057

IMMIGRATION LAW

Matt Bromund 650-1100

INTELLECTUAL PROPERTY

Chris Balzan 658-1945

J.H.B. INN OF COURT

Kathryn Clunen 497-7474

JUDICIAL EVALUATION COMMITTEE

Linda Ash 654-2580

LAW LIBRARY COMMITTEE

Eileen Walker 444-6308

LGBT ALLIANCE

Ed Elrod 644-4486

MEXICAN AMERICAN BAR ASSOCIATION

Rennee Dehesa 525-7104

NATURAL RESOURCES SECTION

Kate Neiswender 649-5575

PRO BONO ADVISORY BOARD

David Shain 659-6800

PROBATE & ESTATE PLANNING SECTION

Amber Rodriguez 643-4200

VCLA, INC.Charmaine Buehner 650-7599
Cesar A. Libanati - Managing Attorney**VC TRIAL LAWYERS ASSOCIATION**

Marc Anderson 988-5833

VC WOMEN LAWYERS

Kymberley Peck 659-6800

VCBA STAFF650-7599
Steve Henderson - Chief Executive Officer
Sandra Rubio - Associate Executive Director
Brenda Bodie - CTP Coordinator
Rosie Cisneros - Member Relations
Lisette Hernandez - LRIS counselor

MEDIATION SERVICES

R.A. Carrington, Esq. and Victoria Lindenauer, Esq.



Mr. Carrington and Ms. Lindenauer have conducted over 3,000 mediations, 300 arbitrations and have been discovery referees in multiple complex matters. Mr. Carrington (ABOTA Member) has been a full-time mediator since 1999 and Ms. Lindenauer has been mediating since 2011. Their professional association as of 2017 reflects their jointly held commitment to the values of tenacity, creativity, and the highest ethical standards applied to the resolution of every dispute.

*Serving Los Angeles, Orange, Ventura, Santa Barbara,
San Luis Obispo, and Kern Counties*

Contact R.A.: (805) 565-1487
Contact Victoria: (805) 730-1959
ratic@cox.net lindenauer_mediation@cox.net

www.californianeutrals.org/ra-carrington

www.lindenauermediation.com



VENTURA COUNTY TEAM
Dembowski
REAL ESTATE

Your Real Estate Advisor for:

- Bankruptcy and Divorce Sales
- Investment Properties
- Trust and Probate Sales

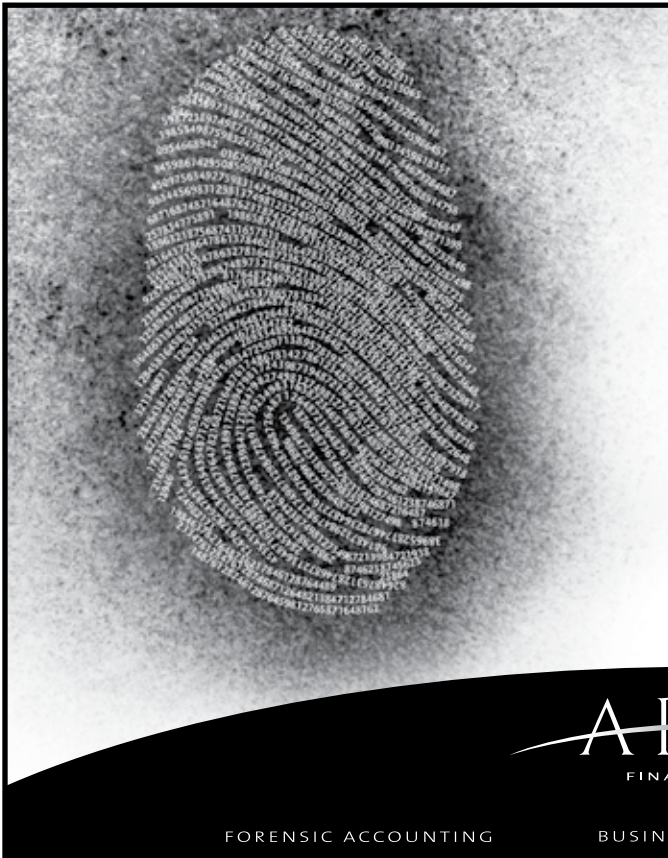
Can provide valuations within 48 hours!
Graduate of the Pepperdine Mediation Program
With over 27+ Years of experience in Mediation!



BRE Lic. #01441424
Cell: (805) 320-1206
Office: (805) 477-4288
team@teamdembowski.com
www.teamdembowski.com



BERKSHIRE HATHAWAY
HomeServices
California Properties



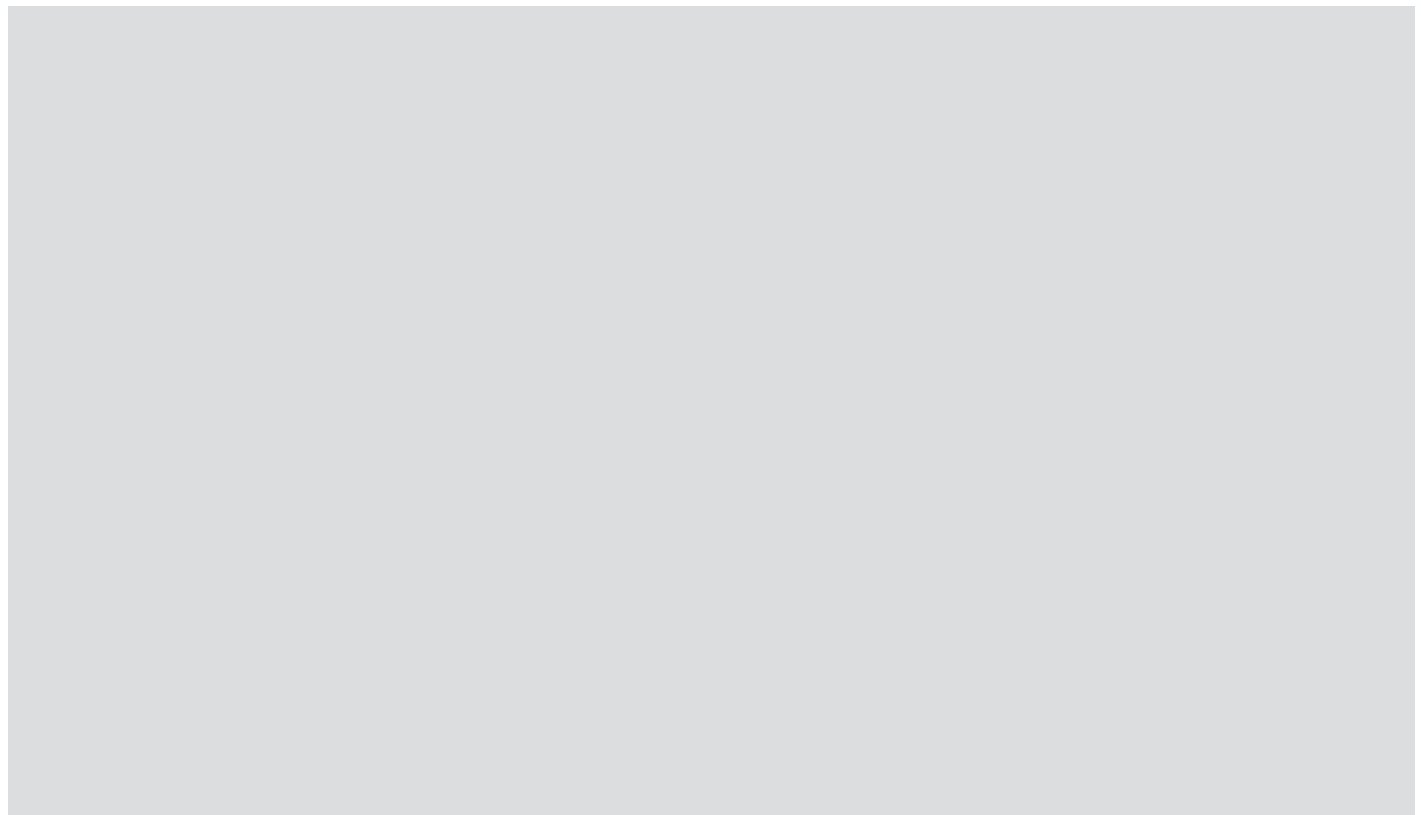
Sometimes numbers are the only prints left behind.

Arxis Financial is a proven forensic accounting and litigation specialist. We will examine the financial data and help you determine the “bottom line.” Arxis provides financial and valuation analysis needed to resolve a variety of legal disputes from family court to civil, criminal, and probate courts. In many cases our experts can help you reach a settlement. If trial or arbitration is required we give you the support you need to win.

Chris Hamilton, CPA, CFE, CVA
805.306.7890
www.arxisfinancial.com
chamilton@arxisgroup.com

ARXIS
 FINANCIAL, INC.

FORENSIC ACCOUNTING BUSINESS VALUATION FRAUD ANALYSIS



BARRISTERS' CORNER

by Brian Israel

This year's "Meet the Bench" MCLE series, presented by Barristers, commenced April 20 with the Honorable Kevin DeNoce speaking to a crowded courtroom 43. The 40-plus Ventura County Bar members and friends were able to soak in Judge DeNoce's knowledge of civil pre-trial and trial procedural issues.

If you ever have a matter going to trial in Courtroom 43, you are required to sign a copy of his Civil Jury Trial Memorandum. This all-encompassing document is an incredible resource for those who practice before Judge DeNoce. Rachel Coleman's article on Judge DeNoce in the March issue of Citations tells you more about the memorandum and the man. Thank you for your support, and we hope to see you at the next Barristers event.

Ventura County Legal Aid

As summer begins to round into form, Barristers are actively continuing their commitments to Ventura County Legal Aid. Though Legal Aid soon takes a break (it runs on the VUSD school year calendar), you will continue to see Barristers volunteering when Legal Aid begins again in August. If you have not already volunteered for Ventura County Legal Aid, please consider doing so. Not only will it give you the "feel goods" helping members of our community out; it is a valuable legal and social experience. Yes, social! When not helping a client, the networking and chitchating is top notch.

Save the Date

The Business Litigation section, along with Barristers, is set to host attorney Robert A. Curtis from Foley Bezek Behle & Curtis, LLP on Tuesday, July 11 beginning at 12 p.m. Mr. Curtis will be speaking on trial preparation, including taking effective depositions in preparation for trial. This is a must-attend, especially if you are thinking to yourself, "my case hasn't settled, am I ready to go to trial?"

Brian C. Israel is an associate at Norman Dowler, LLP in Ventura. He serves on the Barristers Board as its Secretary.

Mediation

Where common sense and the law intersect.

Business/Contract	Personal Injury
Employment	Oil & Gas
Real Property	Other

Gisele Goetz, Esq.
Mediator

Serving Ventura and Santa Barbara Counties
Member: State Bar of California, CIPA, VCBA, SBCBA

(805) 895-5338

www.goetzbusinessmediations.com
giselegoetz@aol.com

Real Estate Appraiser

Certified Residential Real Estate Appraiser
Serving throughout Ventura County for nearly 15 years

A partial list of valuation services provided:

- Estate planning and estate settlements
- Tax assessment review and advice
- Expert witness testimony
- Dispute resolution
(divorce, estate settlements, property partition suits, foreclosures)

Bob Given
(aka Appraiser Bob)

805-857-3311
bob@appraiserbob.com

AR030865

A view from the watershed

I swear it's true, or ought to be.

by Jay C. Smith

I hope you had a pleasant July 4th. Here's the third half of my column on the practice of law and small-t truth.

I started this column because of a change in the Uniform Interstate Family Support Act, from requiring affidavits from out-of-state witnesses to allowing the use of declarations under penalty of perjury.

State Headquarters for my employer, DCSS, has a unit that analyzes changes in the law and puts on training sessions for county-level folks to be trainers back at the local offices. I was sent to Sacramento to become such a trainer on UIFSA 2008. The goal at the State level is to make the training simple and clear.

I'm sure you know that sometimes a lawyer goal is to make complicated things simple, but other times it is the lawyer's job to make simple things complicated. I can work at either approach, but my talents tend to lean toward the complicating things side of the profession. "It all depends," is my watch word, and I don't consider "nitpicker" a criticism. I also fully accept something Roger Randall once told me: if you're going to be a real lawyer, don't refer to "loopholes" or "technicalities." They are provisions of the law, and they either apply or they don't.

The folks at the State Headquarters training are smart people, but most of them I encountered were in the job they were because they didn't much cotton to dissent and uncertainty. Of course, dissent and uncertainty—and worse—is the life of attorneys who go to court. I didn't mesh as well as I should have.

Don't get me wrong. I like "simple and clear" well enough; it is just that I am biased toward "accurate," that deadly enemy of simple and clear. As science fiction writer Poul Anderson said, "I have yet to see any problem, however complicated, which, when you looked at it in the right way, did not become still more complicated."

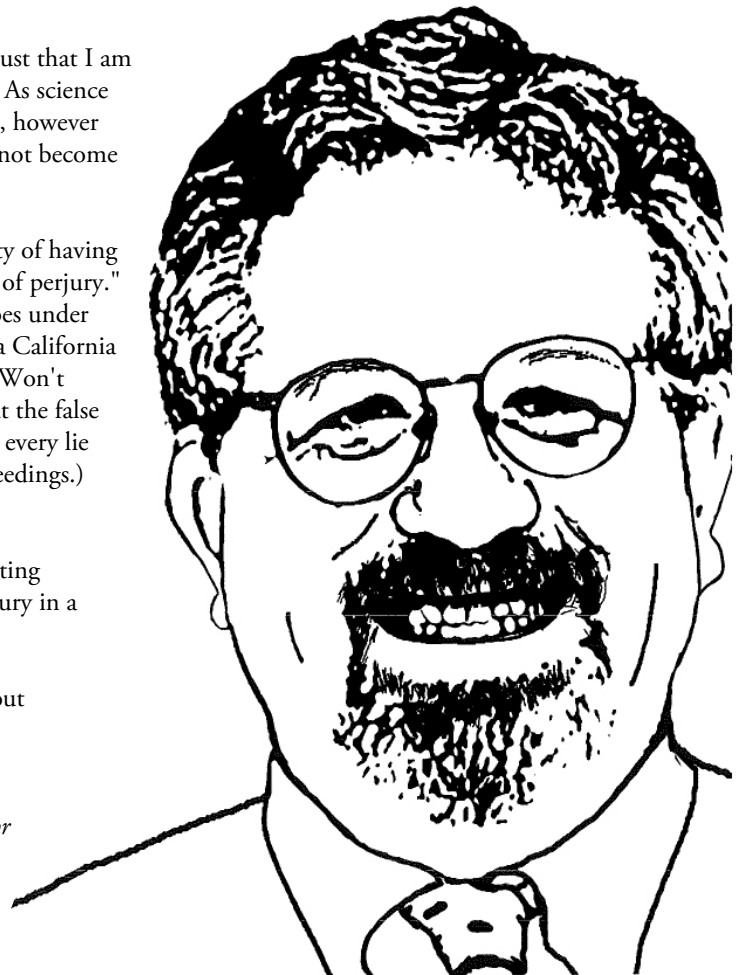
For example, I was not as sanguine as my trainers about the utility of having out-of-state witnesses present declarations signed "under penalty of perjury." I had concerns about complications. If an Ohio resident subscribes under penalty of perjury to a (false) declaration intended to be used in a California court case, do we try the person in California or Ohio or either? Won't the evidence that it was false be in Ohio? Won't the evidence that the false statement was material to the proceedings be in California? (Not every lie in a declaration is perjury; it has to be a material fact in the proceedings.) And so on.

My trainers were too nice (or too naive) to say "Why are you wasting our time talking about this? No one ever gets prosecuted for perjury in a family law case! Why would it start now, over state lines?"

That might be the truth, but it's not the whole truth. I'll talk about that next column. Have a nice August.

About the author: Jay C. Smith is an attorney at the Kern County Department of Child Support Services. He was in private practice for 25 years before that.

Published with permission of the Kern County Bar Association and Executive Director Bobbie Lee.





AS A SIGNIFICANT BENEFIT TO OUR MEMBERS...THE VENTURA COUNTY BAR ASSOCIATION HAS IDENTIFIED THESE INSURANCE AND FINANCIAL PLANNING PROFESSIONALS TO ACCOMMODATE YOUR INSURANCE NEEDS. THESE BROKERS ARE RECOGNIZED FOR THEIR INTEGRITY, KNOWLEDGE AND EXPERIENCE IN SERVING THE LEGAL COMMUNITY. THEY CAN ASSIST YOU IN THE AREAS OF LIFE, HEALTH, DISABILITY INCOME, LONG-TERM CARE INSURANCE, ANNUITIES AND INVESTMENTS. YOU CAN OBTAIN STATE AND COUNTY BAR PLANS AT DISCOUNTED RATES THROUGH THESE BROKERS.

Barry A. Cane

**Disability Income Insurance
Business Overhead Expense**

(805) 496-5537 Fax: (805) 496-5598

240 Lombard St., #100, Thousand Oaks, CA 91360



Lic. #0740274

Registered Representative Park Avenue Securities (PAS), 7 Hanover Square, New York, NY 10004. Securities products and services offered through PAS, 1-888-600-4667, Member FINRA. PAS is an indirect wholly owned subsidiary of The Guardian Life Insurance Company of America. Representative of The Guardian Life Insurance Company of America, New York, NY and other fine insurance companies.

Michael P. Kenney*, CLU

**Group and Individual Health Insurance
Business and Personal Life Insurance**

(805) 497-7407 Fax: (805) 494-1363

www.kenneyins.com

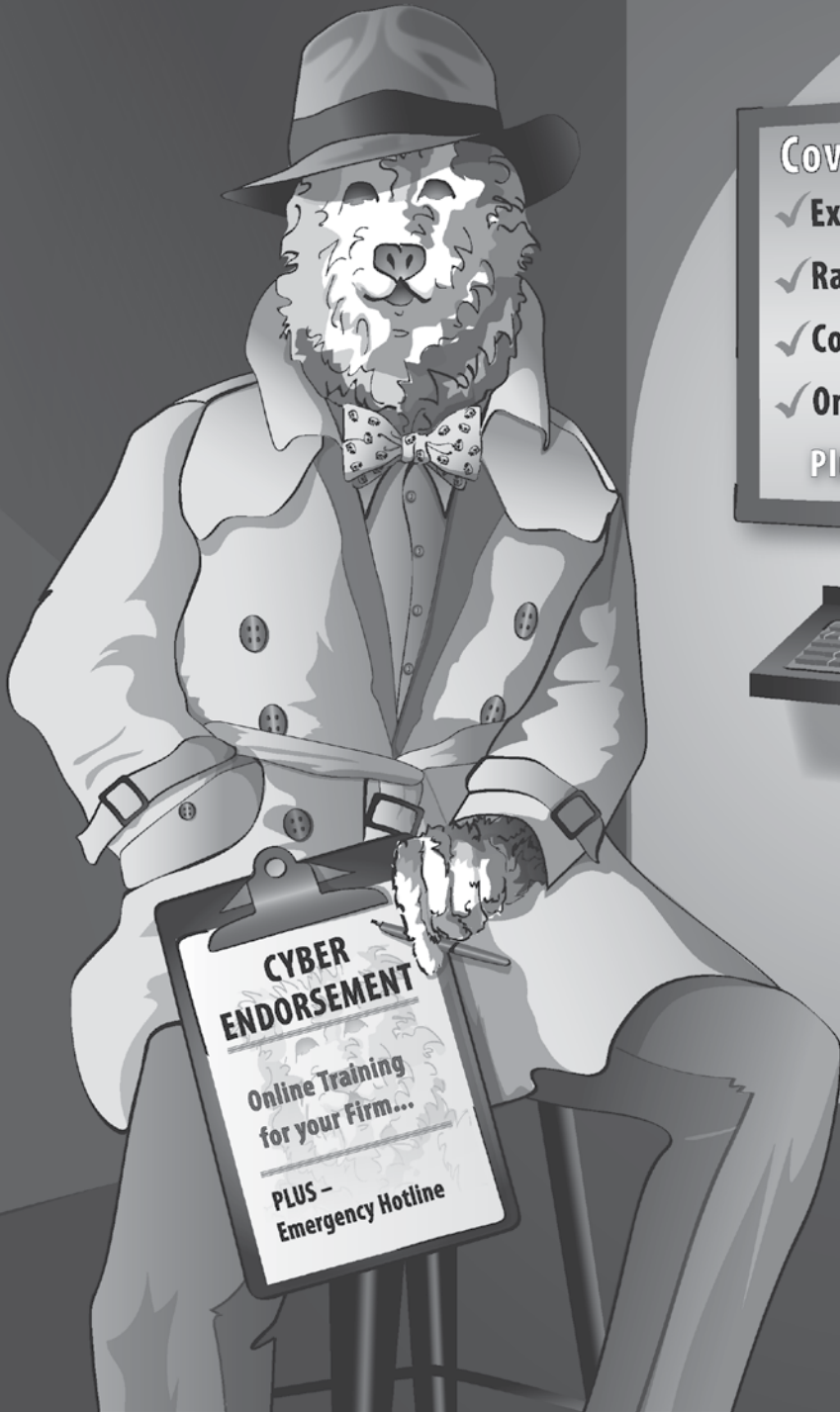


Lic. # 0688916

Securities offered through a registered represented of Royal Alliance Associates, Inc., Member FINRA.
Branch Office: 100 E. Thousand Oaks Blvd., Suite 152, Thousand Oaks, CA 91360 • (805) 496-4600

Before *cyber crime devastates* *your law practice ... be ready!*

FREE \$100,000 in Cyber Coverage – Our Latest Benefit –
Included When You Buy a Malpractice Policy* with LMIC



...be safe
...be secure

LMIC

*All Programs except Bar Associations

Lawyers' Mutual Insurance Company, The Premier Legal Malpractice Carrier



LMIC.COM or call **(800) 252-2045**



34th Annual Law Day 5K

Saturday, July 1, 2017

Ventura Community Park
 (901 South Kimball Rd, Ventura, CA)

8:30 A.M. – 5K RACE; ONE MILE FAMILY FUN RUN AT 9:30 A.M.

GO TO WWW.RUNSIGNUP.COM
 FOR REGISTRATION & INFORMATION

Proceeds Benefit VCBA and Ventura Co. Legal Aid, Inc.

\$2,000 IN Raffles Prizes!!
CHIP TIMING, GREAT FOOD & MORE!!

LIMITED TO FIRST 500 ENTRIES!!

REGISTRATION ENTRY FORM (OR ENTER AT WWW.RUNSIGNUP.COM)

SPONSORED BY



Lawyers' Mutual Insurance Company

STARTING LINE SPONSORS



Arnold LaRoche Mathews VanConas & Zirbel, LLP

Ferguson Case Orr Paterson, LLP

Slaughter, Reagan & Cole, LLP



Lowthrop Richards McMillan Miller & Templeman, APC

Tri-Counties Local Government Attorneys Association



FINISH LINE SPONSORS



Strauss & Strauss, APC

Myers Widders Gibson Jones & Feingold

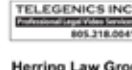
Nemecek & Cole

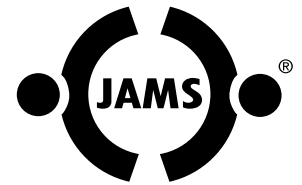
SoCal IP Law Group



RAFFLE & GIFT SPONSORS

Kirwin & Francis, LLP





Neutrals Like No Others

Access to the best mediators and arbitrators practicing today—
that's the power of difference™ only JAMS delivers.



**Jeffrey G.
Benz, Esq.**



**Bruce A.
Friedman, Esq.**



**Joel M.
Grossman, Esq.**



**Hon. Melinda A.
Johnson (Ret.)**



**Barbara A.
Reeves, Esq.**



**Hon. Steven J.
Stone (Ret.)**



**Hon. Diane
Wayne (Ret.)**

800.352.5267 | www.jamsadr.com | Resolving Disputes Worldwide



Quirk Law Firm, LLP is proud to announce the hiring of its newest Associate Attorney,

LEONIDAS NICOL

Quirk Law Firm, LLP is a plaintiff's personal injury law firm.

RECENT SETTLEMENTS & VERDICTS:

- \$1.25M** (Ventura, Feb. 2017)
- \$3.5M** (Santa Barbara, Jan. 2017)
- \$1M** (Los Angeles, Dec. 2016)
- \$1.3M** (San Bernardino, Sep. 2016)

Trevor Quirk
Attorney



We pay referral fees per the California State Bar. We always appreciate your referrals.

Aletheia Gooden
Attorney



QUIRK LAW FIRM, LLP
EST. 2006

(805) 650-7778
www.quirklawyers.com

SOLD!

Aerial Photography



Assisted Client with Complete Clean out



SOLD at
\$350K
in 15 days in CASH!

PROBATE, TRUST & DIVORCE REALTOR

José and his crew handled our probate sale. It was a can of worms and José handled every aspect of it, giving us reassurance not to worry. He secured the property, tactfully removed the squatters and arranged for every professional. I would definitely recommend José and his team. They are awesome!

- Jill Hufford



OVER 50 PROBATE AND TRUSTS REPRESENTED

MORALES GROUP
PROFESSIONALS IN REAL ESTATE

BRE #01891119




JOSE LUIZ MORALES

OFFICE: 805.228.4671
CELL: 805.832.2432


MRG@MORALESREGROUP.COM | WWW.MORALESREGROUP.COM

Specializing in Properties that need to be sold due to Divorce, Hardship, Probate and Trust Administrations



Endorsed by: Laura V. Bartels, Esq., Leslie A. McAdam, Esq., Jesse E. Cahill, Esq., Kathryn E. Clunen, Esq., William E. Winfield, Esq., Maria L. Capritto, Esq., Ben A. Schuck, Esq. and Susan L. Wilson, Esq.

Theresa Robledo, Realtor®, Broker, DRE #01483023
 Henry Robledo, Realtor®, DRE #01901932
 Email: Agent@DiamondRealtyTeam.com
 805.625.4450 direct



Serving Ventura County



DiamondRealtyTeam.com

YOU OFFER CLIENTS EXPERT LEGAL ADVICE. WE HAVE THE PLACE TO MAKE THAT HAPPEN.



River Park
EXECUTIVE SUITES

ONE MONTH FREE FOR A VIRTUAL OFFICE PLAN*
 Hourly Offices • Prestigious Mailing Address • Telephone Services
**(with a four month commitment) www.rpexecutivesuites.com/virtual-offices*

LIMITED TIME OFFER! CALL NOW: 805-351-3700
 1000 Town Center Dr, Ste 300 • Oxnard, California, 93036 • WWW.RPEXECUTIVESUITES.COM

YOUR ESTATE ASSISTANT, LLC
 Senior Move Management & Estate Dissolution Services



Beth Sutherland, MA
 Founder & Principal Assistant

YOUR ESTATE ASSISTANT • LLC

(805) 861-8341

yourestateassistant.com

yourestateassistant@gmail.com

Senior Facing a Move?

- Services include:
 Personalized Move Plan
 Floor Plan / Safety Features
 Downsizing / Donations / Discards
 Supervised Pack / Unpack
 New Home Set Up

"Beth, Thank you so much for assisting me with my move. I can't imagine having done it without you. You are absolutely the best!"

Mike K. — Leisure Village Resident

Estate Dissolution or Clean Out?

- Services include:
 Inventory / Images
 Locating Valuables
 Sorting / Donations / Trash

"Organized. Ethical. Professional. That's my experience with Beth and Your Estate Assistant."

Adam Pollock, Esq.
 Pollock Law Firm—Westlake Village

DON'T BELIEVE EVERYTHING YOUR (PROPERTY) INSURANCE ADJUSTOR TELLS YOU[©]

By Mark E. Hancock

You make a claim under your property insurance for damage to your home. Your insurance company sends people to poke around, cut a hole in your floor, and explore underneath. The adjustor says she's sorry, but the loss is not covered. She cites to policy language. Do you believe her and let things go?

Adjustors usually aren't lawyers. They are often employees of the insurance company. The people who looked at the house were paid by the insurer, too. Especially if your loss is large, spending a little money for legal help is not only a right, but also a good investment. Sometimes even if a policy can be read in a way to exclude coverage, such language may not be enforceable and/or another interpretation does support coverage.

Vardanyan v. AMCO Insurance Company (2015) 243 Cal.App.4th 779 shows how lawyers can help. Policies are different and there really is no substitute for analyzing them. Knowledge of insurance law is also important.

In *Vardanyan*, the insured made a claim for damage to a home he rented out. Among other things, floors had sunk. A structural engineer, hired by the insurer, cut a hole in the floor to gain access to the subfloor. He found the bathtub and toilet leaked. He also found leaks in the roof, rain gutters in disrepair, improper construction of the subfloor area (i.e., no proper ventilation), termite damage and decay. The adjustor denied the claim, citing a number of exclusions, including ones for: seepage of water from a plumbing system, deterioration, wet or dry rot, settling of floors, water damage, and faulty workmanship, construction and maintenance. Slam-dunk for the insurance company, right?

Some people might jump to the conclusion that the loss is not covered because such things sound a little like maintenance and slow leak issues (items often not covered by property policies), but that's not reading the policy and that's not looking up the law either.

The insured went to a lawyer and sued for breach of contract and bad faith. The policy was an all-risk policy. It excluded collapse, other than as provided in "Other Coverages 9," which provided coverage for losses involving collapse of a building "caused only

by one or more" of a list of perils, including hidden decay, hidden insect damage, and weight of people, etc.

The insurance company argued that there should be no coverage if the cause of the collapse involved any peril other than those specifically listed. This would effectively put the burden of proof on plaintiff.

Plaintiff's counsel argued that this was tantamount to directing a verdict in favor of the defendant and, sure enough, the court directed a defense verdict.

The Court of Appeal reviewed de novo, and reversed. It pointed out that the apparent conflict between Insurance Code sections 530 and 532, about coverage where there is more than one cause of a loss **and where an excluded peril may have contributed**, was resolved by *Sabella v. Wisler* (1963) 59 Cal.2d 21, which articulated the "efficient [proximate] cause" rule:

"[I]n determining whether a loss is within an exception in a policy, where there is a concurrence of different causes, the efficient cause – the one that sets others in motion – is the cause to which the loss **is to be** attributed, though the other causes may follow it, and operate more immediately in producing the disaster."

The "efficient proximate cause" has also been called the predominant cause, or the most important cause of the loss. When a covered peril is the efficient proximate cause

of a loss, the loss is covered, regardless of other contributing cause(s); policy exclusions are unenforceable to the extent that they conflict with Insurance Code Section 530 and the efficient proximate cause doctrine. Insurance companies cannot contract around the doctrine. The policy's "only by" language did not control. (*Vardanyan, supra*, 243 Cal.App.4th at 793.)

The *Vardanyan* court emphasized that one can't offer coverage for a certain peril (like hidden decay and/or hidden insect damage) and then exclude coverage for a loss caused by a combination of that covered peril and an excluded one, without determining whether the covered peril was the predominant cause of the loss.

The *Vardanyan* court did more here than just say the loss could be covered. Pointing out that the policy was an all risk policy [where the policy covers all risks save those specifically excluded], the court also stated that the burden was on the insurance company to prove the loss was excluded, rather than on the insured to prove it was covered. (243 Cal.App.4th at 797-798.)

Lawyers, in other words, showed there was more to coverage here than met the eye at first glance.

©2017 by Mark E. Hancock.

Mark E. Hancock is an attorney with offices in Ventura. He enjoys helping people with claims under all types of insurance policies.

tracycollins
LAW OFFICES OF
ERISA Disability and Life Insurance

Representing claimants in the denial of group disability and life insurance claims.

Tracy Collins
Attorney At Law
5739 Kanan Road,
Suite 415
Agoura Hills, CA 91301
tracy@tracycollins.com
(818) 889-2441

Referral fees paid in accordance with Professional Rule of Conduct 2-200.



2016 Dashboard

@VCBA1
805.650.7599
bar@vcba.org
WWW.VCBA.ORG



Publications, eNewsletter

Events, Mixers

Social Media

Membership

991



51 New

387 Followers

facebook

443 Followers

twitter

14



Court Tour Program

43 Tours 1,468 Students



- 02 Affiliates
- 17 Sections
- 08 Committees
- 24 Board Members
- 03 Supported Organizations
- 13 Equals a Quorum for VCBA Board Vote



MCLE Programs



58 Offered

1,419 Attended

Lawyer Referrals



101 Attorneys

410 Appts Set

1,218 Referrals

\$1,507,406.00

Generated in Attorney Fees

Fee Arbitration



22 Cases

23 Volunteers

\$356,597.57 Disputed

eNewsletter

Magazine

Directory



27 Hours



738 Hours



244 Hours

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

by Steve Henderson, M.A., CAE



License Plate of the Month: On a late model Dodge Chal-

lenger piloted by **Cameron Norris**, a Camarillo attorney admitted in May of 2012 with a bar number of 282487... (insert photo here---sent via email 5.22 am) Jurors in Jacksonville, Florida, on May 19 awarded \$100,000 to a woman who said she was severely burned when the lid popped off a cup of Starbucks coffee she received at a drive-through window. Jurors found Starbucks was 80 percent at fault for the 2014 coffee spill that left Joanne Mogavero with first and second degree burns, reports the *Wall Street Journal Law Blog* and the *Florida Times-Union*. The suit had contended that the lids on Starbucks cups are prone to pop off when someone grabs too high on the cup. Naturally, Starbucks will appeal... The Reape-Rickett Law Firm is announcing the addition of **John F. Grannis** to their outfit. (818) 888-1144 for congratulations...



DK Law Group, LLP proudly welcomes new shareholders **Kim Offenbacher** and **A. Scott Brown**. Welcome them at (805) 498-1212 or www.dk4law.com... A former judge in North Carolina has avoided prison time for offering cases of beer and \$100 cash to obtain his wife's text messages from an FBI task force officer. Former Judge Arnold Ogden Jones II



of Wayne County was sentenced to probation on May 17, reported the AP. Prosecutors said Jones wanted to obtain the texts

because he was suspicious that his wife was having an affair. Go figure... Erwin Chemerinski has been selected as Dean for the University of California Berkeley School of Law. Chemerinsky, the founding dean of the Irvine School of Law, is scheduled to start July 1. The constitutional law scholar previously served as a professor at Duke University and USC Gould School of Law...



By the time you read this column, you'll have heard who won the Ventura County Trial Lawyers Association's Trial Lawyer of the Year held May 23. What you won't know is the list of nominees in its entirety. That prestigious list includes: **John Howard, Stephen McElroy, Irwin "Rob" Miller, Trevor Quirk, Barry Reagan** and the Team of **Dennis LaRochelle** and **John Howard**. Congrats to you all! (insert their photos here---in LSD)...



A federal magistrate judge has sanctioned New York City because one of its lawyers made a "plethora" of objections during a deposition. According to a count by the opposing counsel, Amatullah Booth made more than 600 objections, and they occurred so frequently during the eight-hour deposition that they appeared on 83 percent of the nearly 400 pages of the transcript. U.S. Magistrate Judge Cheryl Pollak of Brooklyn ordered the city to pay the deposition costs as a result of the lawyer's conduct, reported the *New York Law Journal* and the *New York Post*...

Senator Dianne Feinstein's Judicial Advisory Committee process is seeking candidates for the position of U.S. Attorney. If you know of an individual you believe would serve with distinction, please encourage them to submit an application. The application is due June 16 and may be had at this website: <http://feinstein.senate.gov/public/index.cfm/application-d-jud...>

The lawyer who rolled her eyes and complained that the judge's ruling was "f---bull---t" has been suspended from practice in Chicago federal court for 90 days. The Northern District of Illinois imposed the suspension on Chicago-area lawyer Alison Mota in an order made public May 19 by the *Chicago Tribune*. A Nebraska lawyer who responded to his client's Facebook inquiries with statements such as "relax" and "this is complicated" has been suspended from practice for 90 days. The Nebraska Supreme Court approved the suspension of lawyer Dustin Garrison in an April 27 opinion noted by the *Legal Professional Blog* and the *Omaha World-Herald*. Garrison was accused of failing to adequately answer his client's questions and to explain what was happening in the client's PI suit... Southern California Institute of Law Dean Stanislaus Pulle is seeking professors in contracts, legal research and evidence. Contact him at 644.2327.

NOT THAT YOU'LL CARE DEPARTMENT – The California Supreme Court and the State Bar of California have concluded that electing district representatives is no longer necessary and that soon all members of the State Bar of California will be appointed by the Governor and the State Supreme Court. This is the beginning of the end of the State Bar as we have known it. Lots of changes heading our way as the State Bar becomes a regulatory agency only.

MARK YOUR CALENDARS: The Intellectual Property Section, Business Litigation Section and the East County Bar Association are presenting "Intellectual Property Enforcement in China and How Best To Do Business" on June 29 beginning at noontime inside the Los Robles Greens, Thousand Oaks. Speaking: Aaron Hurvitz is Of Foreign Counsel with Kangxin Partners, P.C. Call Lisette Hernandez at 650-7599, register online at vcba.org, or catch the flyer in this month's CITATIONS.

Steve Henderson has been the executive director and chief executive officer of the bar association and its affiliated organizations since November 1990. He won the \$100,000 pool by picking the Cavaliers and a steak dinner with Mike Trout and Clayton Kershaw. Additionally, Henderson will share the spotlight with Katy Perry on the popular television show, American Idol. Henderson may be reached at steve@vcba.org, FB, Twitter at [stevehendo1](https://twitter.com/stevehendo1), Instagram at [steve_hendo](https://www.instagram.com/steve_hendo), or better yet, 650-7599.

Client Trial War Rooms



**Across the street from the Courthouse
Downtown L.A. - San Bernardino - Van Nuys**
Secure conference rooms for you and your clients to strategize,
refresh and relax throughout your trial. Catering, WiFi and Parking
available. It's like having your own office at the Court, **FOR FREE.**

**Call 800-43-DEPOS
or email info@personalcourtreporters.com for details.**



Seven convenient Southern California locations to serve you

Van Nuys

Downtown LA

Ventura

Ontario

Santa Barbara

West LA

San Bernardino

Call us to book your next DEPO! 800-43-DEPOS
www.personalcourtreporters.com

Personal
COURT REPORTERS, INC.

CITATIONS

Ventura County Bar Association
4475 Market Street, Suite B
Ventura, CA 93003



Mother's Day 2017

Happy Mother's Day to all of you mothers out there. Every month, I post a picture of my wife and kids on the back of Citations. I sometimes get questions about Wifey, aka Jennifer, so I would like to share my admiration to her devotion to our children this month.

I post pictures of her beauty because she works very hard to stay fit. Jen has had 10 C-sections in 16 years! After #8, she had a double hernia repair and the doctors had to get the last two babies out in a new route (more cutting). Even after 11 abdominal surgeries, a few months ago, she and her partner took first place in a regional cross-fit competition achieving the highest score in all of the age ranges. (It wasn't even close!) She has competed in four Spartan races, numerous mud runs, countless three-mile rough ocean water swim races and a half marathon. She is currently studying to be a physical fitness trainer.

Meanwhile, Jen cares for our 10 children ages 18, 16, 15, 13, 10, 8, 7, 5, 3, and 22 months. The eight year old, Patrick has diabetes and so Wifey is "his pancreas" 24 hours a day, 7 days a week. She drives kids to three different schools, softball practice, Boy Scouts, Cub Scouts, swimming lessons, piano, cello, and Irish dance practice. She cooks 19, mainly organic, homemade meals each week. She cooks 3 different menus each dinner because Kaylene's swim team diet, and Patrick's diabetic diet, have special requirements. Her menus could easily be found in a five-star restaurant.

Wifey raises and butchers chickens and a turkey each year. We have anywhere from 10 to 35 egg laying hens at a time and this year, she raised a pig. Jen plants and tends three different organic gardens and 20 fruit trees in our back yard. In her spare time, *she sleeps.*

23 years of trial experience
We appreciate your criminal law referrals!

WWW.DavidLehrLaw.COM

805-477-0070