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Judge DeNoce Launches Website to Assist Attorneys

By Rachel Coleman

PAGE 5

Judge Kevin G. DeNoce

Ventura County, California [more...](#)



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JOHN CORRELLI

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PRESIDENT'S MESSAGE	3
HOW MANY OF THESE PAST VCBA PRESIDENTS CAN YOU NAME?	3
RANSOMWARE - KIDNAPPING THE KILOBYTE	7
RON GILL	13
BOOK REVIEW: INTO THE LION'S MOUTH	14
CLASSIFIEDS	17
EXEC'S DOT...DOT...DOT...	18

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PRESIDENT'S MESSAGE

by Erik B. Feingold

Love him or hate him, Donald John Trump is the 45th President of the United States and our Commander in Chief. Most people have very strong opinions either for or against our new President. Regardless of how you feel about him, one thing I think we can all agree upon is that our new President has sparked a surge in activism that this country has not seen in a long time. I'm not talking about people whipping out their phones and expressing their opinions on the internet (aka the "bathroom wall" of the new millennium). I'm referring to people taking to the streets and becoming genuinely engaged in our democracy. In my lifetime the closest thing I can recall is witnessing protests around

the Gulf Wars, but never anything at this level. And the administration is barely one month old.

It all started the day after President Trump's inauguration when an estimated two million people worldwide protested the first full day of President Trump's tenure. Nearly one million people fanned out across the United States alone, including several protests here in Ventura County. These protests – mobilized initially as the Women's March on Washington – ultimately attracted women and men alike. These protests were followed only days later by a series of protests at several airports stemming from President Trump's

Executive Order on Immigration and the ensuing Ninth Circuit litigation. Most recently, on Feb. 20 (Presidents' Day) there was a series of "Not My President's Day" rallies throughout the United States. The latter rallies were not nearly as popular nor their purpose as specific as the protests during the past several weeks, but they still drew thousands of people across the United States to voice their discontent with the administration's stance on issues ranging from climate change and the environment, to Russia and free speech. If the President's words and actions continue to provoke, I'm sure this is not the last we will be seeing of the protests.

The common denominator with all of these protests is that we are witnessing a concerned citizenry exercising their constitutional right to assemble and protest. In other words, this is democracy in action. As a lawyer with a daughter in the eighth grade studying government and politics, this is particularly fun for me because I get to talk about issues such as the First Amendment and the balance of power during our dinnertime discussions, with real world examples, all in real time. To my great surprise, when I bring up issues fascinating to me, such as free expression and the separation of powers, my daughter does not share my enthusiasm. But I am grateful for this time in our nation's history to have the opportunity to discuss these important issues with her outside of the abstract examples in her textbooks. And it makes me proud to live in a country where we can freely protest, debate and discuss these issues, and where I can play a tiny role in its system of justice.

Erik B. Feingold is a litigator with Myers, Widders, Gibbs, Jones & Feingold in Ventura.

How many of these past VCBA presidents can you name?

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Judge DeNoce Launches Website to Assist Attorneys

By Rachel Coleman

Judge Kevin DeNoce, who currently sits in Courtroom 43 handling civil trials and law and motion calendars, created a website specifically designed to assist attorneys appearing in his courtroom. In civil litigation, there are many rules that attorneys must follow to prepare for a trial, pertaining to such subjects as voir dire, jury instructions, verdict forms, timing and content of motions, and ex parte applications. Many judges, including Judge DeNoce, have their own rules or policies in addition to the Rules of Court and Code of Civil Procedure. Because finding this information could require looking in several places on the Ventura Superior Court's website as well as in various statutes, Judge DeNoce decided to create a website that can serve as a one-stop source for information necessary for attorneys practicing in his courtroom. As it appeared on Feb. 21, the website opens with a biography of Judge DeNoce so that attorneys and clients have the benefit of understanding the judge's background before appearing in his courtroom. Below the biographical information is a "Court Rules & Rulings" tab. Clicking on that brings up several more easily accessible links, followed by tentative rulings and the daily calendar for Courtroom 43.

The website is already helping to resolve issues and cases. For example, when Judge DeNoce writes a decision (or a tentative ruling), he can publish it immediately. The ruling/decision is then readily accessible by counsel. The attorney can decide whether to submit to the court's decision or appear for argument. If an attorney decides to submit on the decision, the website has a link that will allow attorneys to send an email directly to DeNoce's staff (with instructions to copy opposing counsel). That way, attorneys can avoid driving all the way from Westlake or Los Angeles to make a quick appearance for the sole purpose of submitting to the ruling. This procedure saves both the attorneys and the court time.

Since Judge DeNoce put up the website about six months ago, he noticed that

the court staff saves a significant amount of time fielding calls with questions for information that is readily available on the website. Whenever the court staff receives questions from attorneys that are not already addressed, Judge DeNoce updates and adjusts the website to include that information. He reports that he has received many positive responses from attorneys who use the website.

One major change that the website affords relates to jury instructions. Usually attorneys provide hard copies of jury instructions and jury verdict forms to the Court. Judge DeNoce has the attorneys submit electronic copies that the court can make changes. Additionally, the jury questionnaire that Judge DeNoce uses to examine potential jurors is available on the website. Attorneys can read the questionnaire in advance so that they can

formulate different questions for jurors to assist in the jury selection process. The website also offers a one page list of selected trial stipulations that can be agreed to prior to trial to further expedite the trial process.

If you haven't already done so, please visit the website at www.denoce.com. If you have any suggestions for additional information that you would like included on the website, please email your suggestions to Courtroom43@ventura.courts.ca.gov.



Rachel Coleman is an associate at David Lehr Law in Ventura, where she handles criminal matters and civil litigation. She is a member of the CITATIONS editorial board.

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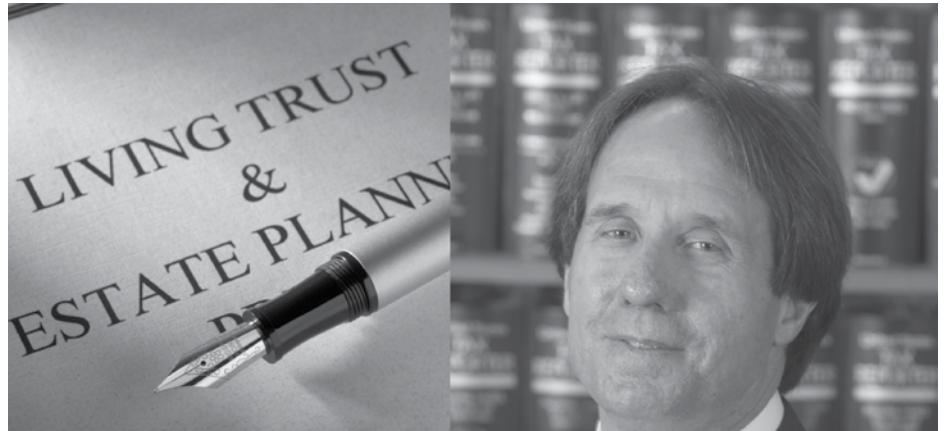
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RANSOMWARE – KIDNAPPING THE KILOBYTE

by John Correlli

In a highly publicized ransomware attack in February 2016, Hollywood Presbyterian Medical Center was forced to pay a \$17,000 ransom in the form of Bitcoin to recover access to its own data. A number of other publicized ransomware attacks against other healthcare providers quickly followed. And the healthcare industry is not alone.

Security firm McAfee reports a 50 percent increase in ransomware incidents in 2014, and a five-fold increase in the first half of 2015. And security experts have declared 2016 the year of ransomware. Individuals and organizations of all types and sizes, from small businesses to municipalities and even police departments, either have or will fall victim to ransomware.

What is Ransomware?

Ransomware is essentially digital extortion. When downloaded, it allows a hacker to gain access to a computer system, making an organization's system and/or data inaccessible, usually through encryption. In a sense, it "kidnaps" the information, seriously threatening the organization's data privacy. After achieving encryption, the hacker then immediately attempts to extort payment from the organization in return for providing the organization with access to its own data. Failure to pay the ransom by the hacker's deadline may result in the victim's permanent loss of access to its data.

The ransomware kidnapper generally requires direct payment within hours or days, usually in the form of Bitcoin or some other untraceable cyber currency. To further complicate matters, there is often no chain of custody to point to the kidnappers because the kidnapped data actually stays on the victim's system the entire time. The kidnapper holds the data hostage, but doesn't transport it across state lines.

For those organizations that haven't yet been ransomed, it may just be a matter of time. The risk-reward ratio for hackers is hard to pass up. It's an almost perfect crime. Along with any ransom money and the costs of dealing with the ransom demands (lawyer's fees, consultant's fees, etc.), the

victim suffers other damages. These include lost business while the data is inaccessible, as well as costs to recover, repair or restore the data. It is estimated that over 70 percent of ransomware victims could not access their data for at least two days, and over 30 percent couldn't access their data for five days or more. In a number of incidents, the costs of downtime often exceeded the cost of the ransom.

How to Prevent a Kidnapping

Security experts continue to debate what can be done. Until a solution to prevent or stop extortion is found, ransomware kidnappings continue to threaten the maintenance of sensitive and important private data. At the very minimum, the better a ransomware attack is addressed, the less likely a victim will suffer a repeated attack. Unfortunately, there is presently no sure-fire defense against ransomware. If there were, data kidnappings would likely have decreased over the last couple years. Nevertheless, there are steps that can be taken to proactively reduce the risk:

Training: Immediate staff training should be implemented (don't wait for the annual privacy training cycle, but instead arrange for 'emergency' or 'ad hoc' training). The focus should be on instructing and advising employees how to:

- 1) Recognize phishing scams; and
- 2) Proactively avoid phishing scams (studies have shown avoiding unsolicited

email attachments alone can have a 50 times return on investment).

Software: Keep software up to date to help prevent attacks that exploit known vulnerabilities.

Security: Implement a layered data security approach including firewalls, web scans and anti-virus software.

Preparation: Although prevention of an attack is vital in avoiding ransomware kidnappings, the most important steps in limiting any damage caused by ransomware is mitigation. You need to PLAN AHEAD to limit damage and recover quickly from an attack. An IT department can help limit the damage by segmenting systems and networks and creating a rigorous system of access controls that ensures only proper and authorized users can access the data. Experts agree that the most effective method of response to kidnapping is:

- 1) Backing up all vital data as often as practical;
- 2) Ensuring backups are complete, up-to-date and disconnected from your systems (either physically or in the cloud); and
- 3) Testing backups VERY regularly (AS OFTEN AS PRACTICAL) to be sure that you can successfully and quickly restore from them in the face of a pressing ransomware kidnapping.

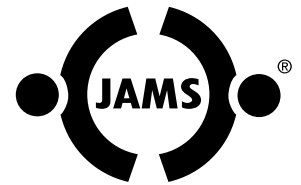
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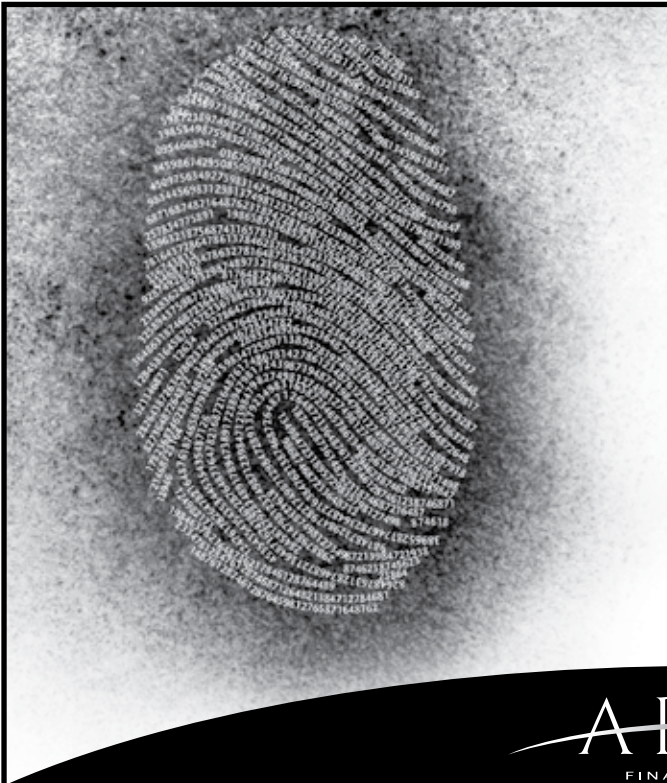
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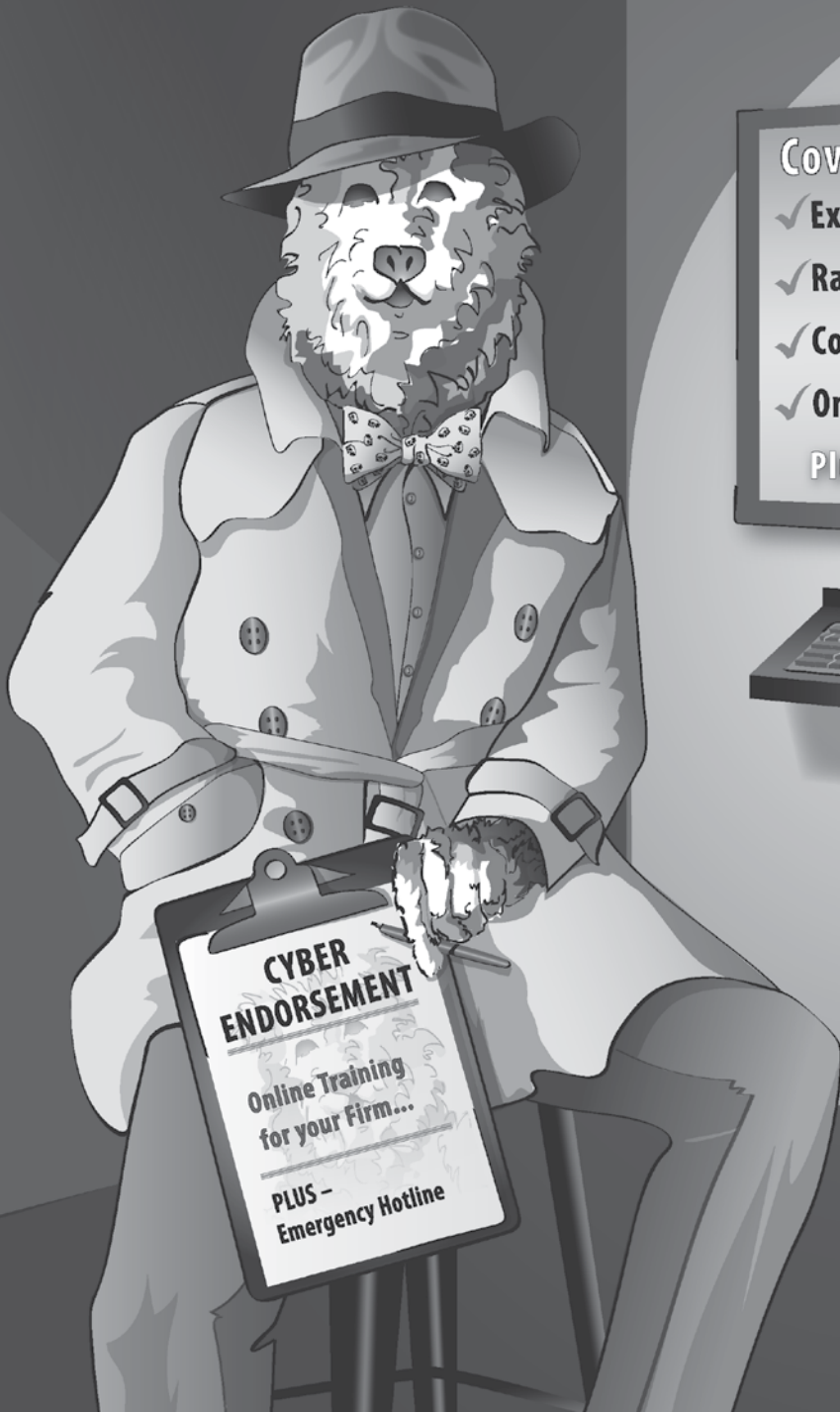


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RON GILL

By Marc Charney

Ronald H. Gill died peacefully in Nashville, Tennessee on Jan. 12, 2017. He moved there with Paula, his wife of 30 years, to be near her daughter and son-in-law, Hillary and Darren, grandson, Cooper, and expected granddaughter. He had been seriously ill and on a waiting list for a liver transplant for several years.

Before he moved to Tennessee, Ron lived for over 50 years in Ventura County. He was a compelling part of the lives of many people in and out of the Ventura County legal community.

I first met Ron when he joined Nordman Cormany Hair & Compton in the spring of 1968. He had practiced as a deputy Ventura County District Attorney for two years before that, and I had just been admitted to the Bar. Ron became my mentor and teacher, and for more than 48 years after that was my colleague, my law partner and my friend.

A photograph hung on the wall in Ron's office at the law firm until he retired in 2006. It showed a young Ron Gill with his eyes wide and a painful, whimsical smile on his lips, while a woman pinched his chubby cheek. That photograph, and the fact that Ron chose to hang it on his wall, define the Ronald H. Gill that I have known all these years.

Ron was a smart, hardworking and successful lawyer. He was a knowledgeable and effective commercial litigator. He was devoted to his clients, provided that the client cooperated with Ron. He was renowned in the firm for having fired a client who failed to follow Ron's advice, telling him, "You're not smart enough to be my client."

These characteristics were always augmented by Ron's wit – often caustic – and his ability to view himself with a self-deprecating humor. Once Ron was so successful in tying up the assets of a debtor

that the debtor threatened to shoot him. A partner had badges made up for the firm to wear. They were in the form of bullseye targets. Across the front was printed, "I am not Ron Gill." Once it was learned that the debtor had fled the state, Ron appreciated the humor of the situation.

Ron's whimsy was sometimes quirky. Ron knew the phrase, and the significance of the phrase, "Gort, Klaatu barada nikto." He recited the Jabberwocky from memory. He often quoted his favorite equitable maxim, "Superfluity does not vitiate," and he taught it, and its Civil Code citation, to his children.

Anyone who knew Ron for any period of time was soon informed that as a member of the UCLA ROTC, Ron played the part of a member of the Roman Legions in the movie Spartacus, co-starring Kirk Douglas.

During the 1970s and '80s Ron was a major participant in the Bar Association's annual libel show. He wrote lyrics, sang, danced and played his trumpet. When the Bar Association eventually discontinued the shows due to an attack of good taste and pressure from the Attorney General, Ron was recognized for over a decade of contributions to this popular event.

Ron lettered in tennis in high school and continued playing tennis well into his years of practice. He belonged to two tennis clubs. But he eventually gave up tennis for golf. He was a member of the Saticoy County Club and played golf regularly with a large number of friends. After he retired from the practice of law, golf occupied a major portion of Ron's time until a physical problem required him to give it up. With typical humor, he described how the deterioration of muscles in his shoulder caused him to hit himself in the head with his club shaft on his back swing.

He frequently laughed at his own aging. One of Ron's favorite stories was about his

visit to a convenience market. While waiting for the cashier, he noticed on the security monitor that the man in line behind him had a huge bald spot on the back of his head. Ron turned around to see what this poor guy looked like and discovered that there was no man in line behind him.

When Ron found himself unable to play golf, he turned to another passion. Ron polished up his trumpet and auditioned for and joined the Ventura County Concert Band. He then bought himself a cornet and joined the Ventura British Brass. He also played in a Camarillo-based dance band and in a ukulele band. After Ron moved to Nashville he joined a concert band in the Nashville area called the Tennessee Valley Winds.

Ron could be temperamental and short tempered, and obsessive and obstinate, but he was a compassionate person and someone you could depend on. Not long before Ron retired, I had a surgery at UCLA. My wife, who had been waiting with me for the surgery since about 7:30 in the morning, was informed about midnight that I had a serious problem, and was asked for my recent x-rays and other medical records. Ron Gill volunteered to help. He went to the local doctor's office and persuaded them to release copies of my records and he hand-delivered them to my wife at UCLA that morning. Ron was a good friend.

For over 48 years I knew I could count on Ron. The world is a little less bright and warm now that he is gone. But my life is brighter because I knew that wide-eyed boy in the photograph.



Marc Charney practices environmental and real estate law in Oxnard.

BOOK REVIEW:

INTO THE LION'S MOUTH

By *Cassandra Wolf*

Early one morning at Casino Estoril in Portugal, a frequent patron approached the baccarat table. He initiated a high-stakes bet. No one accepted the dare, but everyone was in awe. One witness was Ian Fleming, who recreated the scene in *Casino Royale*. The patron was Dusan "Dusko" Popov.

Into the Lion's Mouth: The True Story of Dusko Popov: WWII Spy, Patriot, and the Real-Life Inspiration for James Bond, by lawyer and law professor Larry Loftis, tells Popov's story.

Popov practiced law with a business attorney in Dubrovnik, Yugoslavia, the country in which he was born. He led an affluent life. WWII had started about one year earlier, and Popov had tried to avoid getting involved in the war, until he received an urgent cable from his best friend. For the remainder of WWII, Popov served the Germans, the British as a double-agent and, briefly, the FBI.

Loyalty and patriotism motivated Popov to risk his life multiple times. One of his brothers had joined the Resistance movement in Yugoslavia. After pro-Axis Yugoslavian forces imposed death sentences on his family members, Popov secretly helped them escape. Though he knew his German superiors suspected him of being a double agent, Popov willingly met with them and endured hours of interrogations. Popov convinced his interrogators otherwise each time and remained the best agent at Abwehr, allowing him to continue leaking German military secrets.

Into the Lion's Mouth is filled with extensive references to primary and secondary sources that make more credible how Popov managed to work as a triple-agent throughout Europe, North America and South America, how Popov became the inspiration for James Bond, how espionage technology developed during WWII, and how Popov continued being a spy after his cover was revealed.

Cassandra Wolf

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Continued from page 7

Response

If you are attacked by ransomware, don't panic! Do this:

- 1) Don't turn off the systems. Instead, isolate the affected systems from the network **and the Internet**.
- 2) Research online the kind of malware/ ransomware that has attacked your system. You may find decryption and other tools available to help restore your systems.
- 3) Don't let scare tactics push you into paying ransom. Be sure you've fully explored other options and explore backed-up data.

So should you pay ransom? The FBI says don't do it – success breeds success, so payment only further encourages ransomware.

Remedies

Organizations seeking relief as a result of a ransomware incident could base their claims on common law privacy tort theories where viable. Additional remedies may be available if there is evidence of a state or federal computer crime. (See Bus. & Prof. Code, §§ 22947, et seq. [Consumer Protection Against Computer Spyware Act], 22948, et seq. [Anti-Phishing Act of 2005]; 18 U.S.C. § 1030 [Federal Computer Fraud and Abuse Act].) Conversion, fraud, fraudulent inducement and trespass to chattels may also provide bases for relief.

Also, cyber insurance should be considered as part of any risk management plan. Cyber insurance is in its relatively early stages, so breadth of coverage, premiums, deductibles, selection of panel members, etc. are likely negotiable, depending on a business's risk management needs and proactive data privacy efforts.



John Correlli has practiced law for 29 years. He is also a CIPP (Certified International Privacy Professional) and a certified HCISPP (Health Care Information Security and Privacy Professional). JMCGroup@roadrunner.com.



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

by Steve Henderson, M.A., CAE



Past Bar President **Laura Bartels** (2014), also the recipient of the Ben E. Nordman Public Service Award in 2015, was presented with the Fillmore Chamber of Commerce Citizen of the Year Award on July 27...



Lindsay Nielson returned from New Orleans where he attended the 72nd reunion of the liberation of Santa Tomas Internment Camp in the Philippines. The reason NO? The National WWII museum is located there. They are building a new addition to the five buildings already on the grounds and one section of the new addition is devoted to the European Theater. He



gave officials there a copy of the CITATIONS issue that featured the tank "The Georgia Peach" on its cover and the story of the trooper from the South who rumbled into Santa Tomas on the night of Feb. 3, 1945...

David Ellison graduated in June 1967 from the University of Colorado and has a bar



number of 40372. He has volunteered for just about anything around here and hand wrote a note to us asking we advertise a building for rent on Telegraph.

You may call his cell at 805.340.4070 or fax him at 805.646.4558. Thanks for your years of service pal...



Small bureaucracy? The State Bar of California Trustees approved a \$164.7 million budget. As you know, a vast majority of the funding goes into attorney discipline...**Presiding**

Judge Patricia Murphy is the 3rd woman to be the PJ of VCSC, following the **Hon. Melinda Johnson** ('94-'95), and **Judge**



Toy White. This comes to mind after hearing that **Judge Patricia Kelly** has been named the 1st woman PJ of Santa Barbara Superior Court...

As of Jan. 1, the DK Law Group is now officially the DK Law Group, LLP. Equity Partners **David Karen**, **Kim Offenbacher** and **A. Scott Brown** now at the helm!... Law firm seeking the whereabouts for the original Will of Herlinda Herrera Sanchez, dated Sept. 21, 2005. It was written by **Frank Urias** (SB#42583). Frank is currently inactive and was a partner with **William Chavez** (SB#174503). Contact me directly if you have any information...

Effective April 15, **Ken Wennergren's** estate planning, probate, trust and conservatorship files will officially transferred to the Law Offices of **Amber Rodriguez**. Ken, who is easing into retirement, will be working Of Counsel in her offices. Those files include those he was in possession of

seven years ago from **Susan Siple** and also include those of **JoAnne Wedding**...A rather funny happening in **Judge Glen Reiser's** J-6 probate calendar February 1. Apparently **Andy Covner** brought a motion for protective order to compel a party's deposition without the attendance of her two therapy goats. Judge Reiser had some prepared goat jokes to deliver to a packed courtroom. One example, he asked co-party's counsel if he "had a goat in this fight?" Everyone laughed...

LOTS of CLE on the calendar this month. Inn of Court on 3.9 at 6:00 p.m. and Women Lawyers 3.10 at noon. Estate Planning & Probate on the 23rd and the ADR Section on the 30th at noon. That not enough? The Ventura County Paralegal Association is convening a day-long event featuring presenters like **Carmen Ramirez**, **Brian Nomi**, **Jill Friedman**, **Rennée Dehesa** and **Rod Kodman**. Saturday, March 11 at Courtyard by Marriott. \$100. Five CLEs. vcpamcleconference@gmail.com...

Steve Henderson has been the executive director and chief executive officer of the bar and its affiliated organizations since Nov. 1990. The March Madness bracket is all this year riding the tails of Duke, Gonzaga, Villanova and Kansas. Henderson and DeMarcus Cousins partied after the trade Feb. 20. Alternative Facts may be reach at steve@vcba.org, FB, Twitter @ [stevehendo1](https://twitter.com/stevehendo1), LinkedIn, Instagram at [steve_hendo](https://www.instagram.com/steve_hendo) or better yet, 650.7599.

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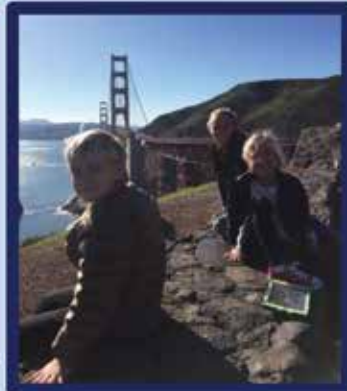
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