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CITATIONS

S E P T E M B E R - T W O T H O U S A N D T W E L V E

MEET VENTURA COUNTY'S CEO: MICHAEL POWERS, ESQ

By Jon Schwalbach

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PRESIDENT'S MESSAGE: MABA – GOING STRONG FOR 34 YEARS



Most if not all VCBA members have heard about the Ventura County Mexican American Bar Association (MABA) or have attended its events. But how many of us know about MABA's origins going back to 1978? MABA was started by a core group of attorneys who were living and practicing law in Oxnard – **Robert Guerra, Herman Mora, Frank Urias, Eloy Molina, Joseph Gallegos, Jose Ontiveras, and Judge Manuel Covarrubias** – as well as other areas of Ventura County, like **Ray Garcia** in Thousand Oaks. Each of these founders rotated to serve as MABA president. In these early years, MABA and its members felt more like outsiders and so this organization served as a sort of refuge. The original purpose of MABA was to foster networking and socializing among the small group of ten or so in the area who would meet informally on a monthly basis in the evening at places like Sal's Mexican Inn and the Ranch House. These meetings would allow members to share ideas and address common issues. While this remains constant, MABA's mission is now focused on the advancement of the legal profession and the empowerment of the Latino community through advocacy and the promotion of equal justice. As more Hispanic/Latino attorneys came into Ventura County, MABA's membership gradually increased, and MABA members eventually got more involved in the VCBA and other sections, committees and affiliates.

As with other organizations, MABA had a short period of dormancy from the mid to late 1980s. Then, **Oscar Gonzalez** spurred MABA's resurgence by serving as president for six years starting in 1990. As Oscar noted, "MABA has come a long way since then, and will continue to play an important role in advocating for diversity on the bench; the just allocation of legal resources; shedding light

on the injustices; and, of course, scholarship dinners." Judge Covarrubias sees MABA's importance and direction as promoting collaboration, diversity, addressing poverty issues, maintaining scholarships and "serving all segments of society."

The future of MABA looks bright, led by current President **Renee Dehesa** and other officers: Vice President **Louis Kreuzer**; long time Treasurer **Andres Garcia**; Secretary (and Facebook extraordinaire) **Claudia Calderon**; and Immediate Past President **Rebeca Mendoza**. One thing that makes MABA unique from other bar organizations is that it has board members who are non-attorneys, like other financial professionals (e.g., Carlos Delgado, Gustavo Macias). MABA currently has an active roster of over 35 paid members. Renee's focus this year has been to attract and increase membership of newer and younger members through social mixers aimed at introducing MABA and elevating its visibility in the community. As such, MABA is working on developing a membership directory on Facebook. MABA Board meetings are open to all, and are held the first Friday of each month at Renee's office. Another goal by Renee has been to focus more on causes such as diversity on the bench through collaboration with other groups and being an active member organization in the Ventura County Diversity Bar Alliance. One particular idea that Renee hopes that MABA will be able to implement in the future is on the education front – that is, a law academy to develop a curriculum in the high schools to encourage students to think about law school early on and to provide opportunities such as internships and mentoring with MABA members.

Another development in the past few years has been the formation of the Education Foundation of Ventura County MABA, Inc., which was incorporated through the assistance of longtime MABA board member (and VCBA past president) **Ron Harrington** and **Steve Feder** and then certified as a 501(c)(3) nonprofit organization by Santa Paula attorney **Ben Schuck**. The Foundation was created to better facilitate fundraising by attracting more corporate sponsors and donations for scholarships. Having a separate foundation also gives MABA the

freedom to make judicial endorsements and do more community activism without running afoul of the charitable status of its foundation. The foundation has its own separate board headed by Rebeca Mendoza. The foundation has no members per se, but relies on MABA committee members to support and consult on all aspects for the annual Scholarship Dinner.

One thing that has remained consistent over the years is the great response and reception by the bench, bar and community to the cornerstone of MABA's mission – the Scholarship Dinner. Typically, the dinner would raise several thousand dollars through ticket sales. Now, through the foundation, MABA hopes to award even more scholarships to worthy students and future leaders. In addition to scholarships, MABA has honored individuals who have made a difference and inspire all of us. There would also be a keynote speaker at these dinners, often distinguished judges, public figures, and prominent activists in the Hispanic/Latino community. As stated by **Al Vargas**, "MABA events are always a group effort. When I was president in 2009 we honored **Alice McGrath, Justice Moreno** and **Justice Stone**."

This year's MABA Scholarship Dinner will take place on Oct. 19 at the Courtyard Marriott in Oxnard. Mike Farrell of "M*A*S*H" fame will be the keynote speaker and will receive the President's Award for his efforts on human rights and immigration reform. For all their tireless community work over the years, MABA will also be honoring **Carmen Ramirez** (a past president of MABA and VCBA) with the Access to Justice Award, and **Tina Rasnow** (a past president of VCBA) with the Alice McGrath Warrior for Justice Award. It will be an evening you won't want to miss!

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

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LETTERS TO THE EDITOR

The Wisdom of Judge Ed Beach

It was 1969. I was testifying as an expert in a condemnation case in the courtroom of recently elevated Judge (later Justice) **Ed Beach**. It seems that the county was cutting down a windbreak to make way for a new flood control channel.

Representing the Flood Control District was a young assistant county counsel, **Edwin M. Osborne** (later to become Judge Osborne). The landowner was represented by **Charles McGrath** (also later to become a judge).

Osborne had me on voir dire. "So you are an appraisal expert?"

"Yes, sir."

"What makes you an expert, Mr. Nielson?"

"I studied a great deal and have read numerous books on appraisal theory." Osborne pounced.

"Mr. Nielson, I would like you to give me a list tomorrow morning of every book you've read that allows you to sit there and claim to be an expert."

Panic crossed my mind when Ed Beach showed why he was such a wise judge. He came to my rescue right on cue. "That's an interesting question, Mr. Osborne. Tell you what. I'd like you tomorrow to give me a list of every book you've read that allows you to ask that question."

Game, set and match. I was plucked from the abyss. That's why Ed Beach is still one of my favorite judges.

Lindsay Nielson

Beach will be Missed

Thanks so much for the great article about Ed Beach in the August *CITATIONS*. Ed was truly a giant in the legal community (and the community at large) in great part because he never thought of himself as any sort of big deal. And whether he was sitting by special assignment on the Supreme Court, subbing as a pro-tem in traffic court, or

working on a local community committee, he afforded respect to everyone, listened patiently, and never lost his sense of humor. He'll be missed.

Robert Sawyer

Open to Everyone

July 4, 2012 was the day Justice Edwin F. Beach died. For many others and me the date of his passing bestirs many memories. It was at his July 4th Open To Everyone Celebration 1977 that I and my wife began to love this man.

I first became acquainted with Justice Beach when he presided over the Justice Court in Santa Paula that was held in a large recreation room at the City Hall. Folding chairs and a warm and friendly Judge were the order of the day. This man cared about the people of Santa Paula. As a young Public Defender I was impressed by his openness and radiant warmth. I immediately liked this man. This

was not expected because I was previously informed that he was a, gasp, Republican and, a further gasp, a Reagan appointee and therefore obviously a tough judge. He was great and all the rulings that I witnessed were fair and delivered in a caring manner. He was a terrific judge for the people.

One day I was out on the lawn with my family of our old Victorian located on a corner. Judge Beach and his wife were walking by and we greeted each other. He then stated: "Now were having a July 4th party at my house and you all are invited. This is the only invitation you are going to get. I hope you can make it."

So that July 4th we attended and so did every other citizen of Santa Paula who wanted to be there. This man, this judge, was incredibly kind and warm. He possessed a true love of people. Each and every one of us felt special.

It was a pleasure and a privilege to know him.

Richard Loy



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MEET VENTURA COUNTY'S CEO

By Jon Schwalbach

Michael Powers became Ventura County's County Executive Officer in April of 2011. As our county's CEO, Powers oversees a budget of \$1.7 billion and more than 8,000 employees in 27 agencies and departments.

This Ventura native and Ventura High alumnus received his undergraduate degree in Economics and Business from the University of California, Los Angeles. Like

many of this magazine's readers, Powers proceeded to obtain his law degree. After graduating from Loyola Law School in 1989 Powers returned to Ventura to start his legal career. He began as an associate at Nordman, Cormany, Hair & Compton, where he predominantly handled real estate and commercial litigation disputes. Powers then served in the County Counsel's office, where he was able to work on environmental law, construction law, and a wide range of other complex issues. While with the County Counsel, Powers first became familiar with health care issues. At this point he realized that he loved the legal profession, but he also loved the mission of the health care system.

Powers developed a passion for health care and transitioned to eventually become the director of the Ventura County Health Care Agency. He is extremely proud of the access to and quality of health care in Ventura County. While with the VCHCA, Powers admired the strength of the commitment of

the individuals he worked with. Powers has strived to mirror that commitment in his role as CEO.

Legal experience has benefited Powers in his role as CEO, he says, because it has helped him to analyze difficult situations and communicate as an advocate for the County system.

"My legal background has helped me build analytical skills to identify the key issues of a project or opportunity and the importance of being organized and prepared," Powers says. "In that same sense, it has helped me in communication to be sure to get to the heart of the point or points you need to make."

Powers also says that the broad spectrum of issues and experiences he had as an attorney have helped him approach and solve problems.

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November

1



Keynote: Preparing Your Business for the Future

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Speaker: **Kyle Enger**, Founding Partner & Principal, *BBI Financial, Inc.*

Workshop: Diagnose the Financial Health of Your Business R_x

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November

7



Keynote: Thinking Beyond “Likes”

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Speaker: **Matt Hicks**, Former Communications Manager, *Facebook*

Workshop: Facebook 101 for Business

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MEET VENTURA COUNTY'S CEO

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“The background also helps of course in those operational areas where laws play a big role, such as contracts, property, human resources, risk management, and complex regulatory areas and general business transactions,” he says. “I have also found that just having litigated influences the way you approach problems and disputes.”

Powers credits his legal background for providing him with invaluable opportunities to practice relationship-building and partnerships. Although being a lawyer certainly can have its contentious moments, Powers found that actively seeking opportunities to cooperate with others was more productive. “My legal background has helped me understand the importance of finding common ground as a way to build partnerships,” Powers says. “Some say it’s not personal, it’s business. But I have always believed all business is personal – it’s about relationships. To build partnerships, especially where there may be disagreements, it is important to keep an open mind and try to understand all sides of an issue and to develop trust. You might not always agree, but it is important to avoid conflict where possible and to try to reach agreement and get things done.”

I asked Powers what aspect of his job he enjoyed the most. Without hesitation, Powers said, “the people I work with.” He clarified that since becoming CEO of the county, he has come to admire the caliber of people who work for the county and the collaborative efforts among the various organizations in the county.

“Our people go above and beyond, because it’s not just a job for them,” Powers said. He has been amazed at how county employees are able to take limited resources and use them to do good in the community. While Powers acknowledges that these are difficult economic times and that the demand for county services is at its highest, he remains confident that the people of this county will get the help they need because of the tireless efforts of county employees.

When he is not working as our county’s CEO, Powers can be found playing tennis, surfing, and spending time with his wife,

Erin, and their two young sons, 3-year-old Charlie and 1-year-old Zacky. As a new dad, Powers finds himself unabashedly incorporating his kids into many of his presentations and speeches. He is currently teaching Charlie how to swim. Like his father, Charlie has taken a liking to the water. Powers has come to admire the fearless attitude his son displays when he jumps into the water, even if the pool is an unfamiliar and challenging new domain for him. Powers believes that he and other county employees will need that same gusto to lead

the county through its future obstacles. Having county employees with such sincere enthusiasm for serving the public, Powers is confident that the county is ready to face any new challenges.

Jon Schwalbach was an associate at Ferguson Case Orr Paterson LLP until commuting from Los Angeles got the better of him. He is now an associate at Reback, McAndres, Kjar, Warford & Stockalper, LLP in Manhattan Beach, where handles malpractice litigation.

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CAVEAT EMPTOR: A NEW LAWYER'S TALE

By Ed Elrod

CAMBODIA, 1979 – Young Sokhom Ly flees his country along with hundreds of thousands of other refugees. Pennsylvania, Ohio, Norwalk, California. Eventually, he ends up in Fillmore, where he raises three children while selling donuts on the main drag with his wife, Cheada.

Jump to 2011, when a “helpful man who is providing low-cost credit card processing services to minority-owned businesses in YOUR area” contacts Ly. The man persuades Ly he can grow his business by accepting credit cards. Ly believes the claims of the rep, who explains that the costs practically nothing, with a super-low discount rate of only 1 percent for qualifying purchases and 2.99 percent for non-qualifying purchases. The name Wells Fargo Bank makes Ly feel comfortable. The fees on the contract are low, 9 cents per transaction, 20 cents batch fee per item, and other non-recurring charges he won't likely incur. Nearly everything else on the contract Ly signs has been marked through in ink with a big bold “X.” Ly wants to expand into catering and specialty cakes, something his customers have been asking for. Ly signs and waits for his first wedding cake order! He is more than surprised when his first bank statement arrives and his account has been debited in the amount of \$102.63 by Lease Finance Group with the designation “Lease Payment.” Total credit card sales for the first two months: zero.

Ly calls the helpful young man who sold him this great “deal,” but is informed that “Payment Systems” and “Merchant Processing Solutions” are no longer involved. His contract has been sold and re-sold. He is referred to Lease Finance Group, LLC, in New York, New York. Ly calls and asks to cancel. His daughter writes a very lawyerly letter after reading the fine print on the back of the last page (with a magnifying glass). The contract is not subject to cancellation, he is told, and he receives a copy of the contract very different from the one he signed. The contract was later modified to include the equipment leasing charges for which he is now being debited. Ly protests and later receives a copy of contract, with a new set of charges manually entered and

“verbally agreed to” a few days after the initial visit. The early termination fee stated is 299 dollars but the fine print, in six-point type on the last page, states that breach results in the following: the entire lease comes due, there are liquidated damages of 25 percent penalty for legal fees, interest, and the recapture cost of the equipment, as well as an agreement to litigate in New York City! Of course, none of this is clear to Mr. Ly, whose English is limited and who has canceled the contract in writing with the help of his daughter, and closed the bank account that was being debited.

MARCH 31, 2012 – Enter Ed Elrod, newly-admitted attorney (11/22/2011) who receives a call from Ly's daughter, Monica. Monica is the girlfriend of Ed's nephew, Nick. I jot down some brief notes and agree to review some correspondence and a “funny looking document from the Civil Court of the City of New York.” I receive a PDF document with demand letters, statements, a helpful letter from an attorney who will offer “debt relief services in default judgment cases.” Most important is a Summons and Verified Complaint filed Jan. 31, 2012. I have about one day to file an answer or get an extension! My call to the attorney for the plaintiff is not returned, but I do get a call from the attorney liaison at the offices of the plaintiff. The caller refuses to speak to me in the absence of a letter of representation, which I can't arrange until the next day. Mr. Ly has no fax machine or computer. A quick Google search shows the offices located in the same building as the attorney for the plaintiff. I fax off a quick letter requesting an extension of time to file an answer, and get another call back from the Lease Finance Group employee. I explain that Mr. Ly will file an answer as soon as possible, and I quickly point out some of the problems I see with the contract that I plan to incorporate into my answer. The employee, a self-styled “child of African immigrant parents,” chides my client for not “reading the fine print” and boasts of his highly successful first generation immigrant parents, who are by his claim “a lot smarter than my client.” Swallowing my gall, I reiterate my plan to file an answer and assure him that I will be happy to travel

to NYC myself to appear, if necessary, and visit another nephew I have been meaning to visit who lives in Brooklyn.

I make a few hurried phone calls to Cambodian immigrant groups in New York, and to the NY State and City Bar associations. Ironically, I find that there is no “pro bono referral service” like the marvelous one headed up by **Verna Kagan** here in Ventura County. Emails to the City Bar Justice Center leads me to another legal aid group, but they sadly only provide assistance to NYC residents, and only in non-civil matters. The courts own website offers a helpful packet for pro per litigants showing how to file an answer, and even a pre-drafted motion to set aside a default judgment! A call to the clerk provides some interesting information. This plaintiff has clogged this branch of the court with countless lawsuits against small business owners in dozens of states around the country, with the docket-filled default hearings. I quickly log on to Westlaw, check the New York Civil Practice Law and Rules, draft an answer and forward it to one of the attorneys in New York who has agreed to review it. Mr. Ly, as a pro per defendant, files his answer and asks for a phone conference with the judge at the court's convenience. I sign up for email case updates and check the docket, relieved to find that the answer is filed and no request to enter default has been filed.

Jump to May 1, when I find an email in my box from one of the attorneys in New York involved with the “Consumer Rights Project” which opens my eyes wide. The link is to a press release: <http://www.ag.ny.gov/press-release/ag-schneiderman-sues-business-equipment-company-ripping-35-million-former-customers>. It seems that New York Attorney General Schneiderman has filed a \$3.5 million dollar lawsuit against Northern Leasing Systems and its affiliates, which includes the plaintiff in Mr. Ly's case. The suit alleges that the defendants “fraudulently siphoned millions of dollars from their former customers, including mom-and-pop stores and other small businesses.” I forward the link to Mr. Ly's daughter, my nephew's girlfriend, and ask

her to explain this to her father. Ironically, I receive a call from the Lease Finance Group employee a few days later, asking if I am still Mr. Ly's contact in California. While I am not his "attorney of record" I explain that I am his contact, and further explain that Mr. Ly is willing to settle for the amounts already withdrawn from his account along with return of the equipment at their expense. I further explain that I will request a continuance of any hearings or motions in Mr. Ly's case pending the outcome of the Attorney General's suit. I'm still waiting to hear back from him. Meanwhile, the docket shows no action and I'm hopeful that the matter will come to a resolution to which Mr. Ly will be agreeable. We can't always hope that the facts and events will fall into a storybook pattern like this, and the case is still pending, but I am hopeful. As a 25-year veteran small business owner myself, the advice caveat emptor, and "read the fine print" are always appropriate!

For 22 years Ed Elrod and his partner Kent Weigel ran Ventura Bookstore, and Ed ran Ojai Table of Contents for five years. After the superstores entered Ventura County, Kent's death and a failed attempt to sue Borders and Barnes & Noble (funded by the American Booksellers' Assn.), Ed decided to pursue a career in law. He practices family law and estate planning in Ventura, with an occasional breach of contract case thrown in for good measure.

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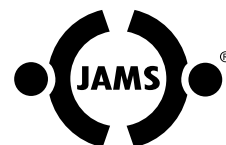
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Judge and Juror

By Judge Jeffrey Bennett

“Call the next name madam clerk,” the judge said. The court clerk announced in a soft voice, “Jeffrey Bennett, J-E-F-F-R-E-Y B-E-N-N-E-T-T.” I stood and walked to my seat in the jury box, wondering how this would work out and what obstacles I might face as a potential juror in an alleged murder case.

I am a judge of the Superior Court of the State of California, County of Ventura. I have presided over nearly one hundred criminal jury trials in the Ventura courthouse and in my previous career as Chief Deputy District Attorney, litigated hundreds more on behalf of the people. Was I surprised to be there? Not really, because I know we all have a duty and obligation to serve as jurors whenever called upon to do so. Judges are not exempt from jury service.

As a judge, I regularly inform jurors of their service obligation and its importance, while noting the right of the public to decide what happened in any case is one of our greatest rights as American citizens. Most countries in the world do not have jury trials in criminal cases. In my mind, the right to a jury trial and the obligation to be a juror are a huge part of what makes America great.

About thirty times each year, when greeting potential jurors and in every jury trial I have conducted, I remind jurors of their responsibility to serve and the importance of the jury trial process. I have never, until now, thought I would have to remind myself of these responsibilities.

Like most people who receive a jury summons, I responded promptly by selecting a week for my service which I thought would be best for my family and me, and at a time when I thought my “one day” of service would have the least impact on my court. I care about the impact of my absence on the court, because the volume of court business these days requires a maximum effort by all judges every day. Someone has to do all the work, and if I am not there, even one day, the work would pile up even more.

A few weeks after sending in my response I was ordered to appear for jury service on a Monday. Like any other juror I went to jury services, listened to the presentation by a judge and handed in my paperwork. While waiting

to be called, I returned to my courtroom and continued to work. Half way through the day, Jury Services called and said I was to report. I made the appropriate arrangements to cover my calendar and walked to Courtroom 45 on the fourth floor. Waiting in the hallway with dozens of other people wearing juror badges was a good experience, but very strange for me. Though I looked like everyone else, nervously pondering what would happen when we entered the court, I had a secret none of them knew – one which I could not share with them at this time. While I was proud to be there with my fellow citizens, I knew this process would surely become complicated as a result of my appearance in court as a juror.

Once inside the courtroom, the trial judge made the usual general announcements about the attorneys, the type of trial and its expected time estimate. The attorneys in the case both looked at me, acknowledging my presence. I knew them both well and I have great respect for each of them. The judge then told the 88 people seated in court, “so, after hearing all that, please raise your hand if you can serve in this case.”

I was seated in the front row, directly behind the attorneys, right in front of the judge. I raised my hand high and held it up straight. I didn’t want there to be any doubt about my willingness and ability to serve. Of course I could serve; I couldn’t ask thousands of others to serve and try to avoid it myself.

Many of my fellow jurors also raised their hands, ready to do their duty. The judge announced, “Those of you who have raised your hands, please step forward, state your name clearly, and we will give each of you a questionnaire to fill out. Go back to jury services, fill out the questionnaire, leave it at the jury services office and return here on Wednesday at one o’clock, ok?” I stood up first, “Jeffrey Bennett” I stated in a loud and commanding voice. My questionnaire in hand, I returned to jury services, and finished my service for the day.

I returned to court as ordered on Wednesday, precisely at 1:30. The proceedings started late, as they often do, and jury selection (*voir dire*) filled the remainder of the afternoon. Jurors were questioned, comments were made, the

attorneys met with the judge at the bench several times. Things went as they do in a jury trial – I just happened to know that...

The following day, after more questions, juror responses, and people being excused, one spot remained to be filled in this case. My name was called and I was questioned. While I had participated up to this point with some sense of anonymity, everyone in the courtroom was stunned when the defense attorney said, “well, good morning, er ah, your honor sir.” The courtroom stirred, as if something very unusual had happened. Now all my fellow jurors knew who I was and what I do – a judge. A woman in front of me in the jury box turned around, looked at me and mouthed the words, “you’re a judge....oh my god” with a smile. I answered his questions and those of the court honestly. I am fair; I am impartial; I will follow the law; I do not know the defendant here and I am ready to serve as needed. Of course I am fair, that is what the voters elected me to do every day in this courthouse.

Both counsel stated I was fair and impartial. The attorneys accepted the panel and my fellow jurors and I took the juror’s oath. I am always a judge, but today I am a juror and proud of my responsibility.

Nb: On Tuesday, July 31, 2012, at 10:25 am, after opening statements and one full day of witness testimony, Judge Bennett was excused from the trial by the judge and a joint stipulation of the parties in open court. He returned to his duties calling the calendar in Courtroom 11 shortly thereafter.



Judge Jeffrey Bennett was elected to the Superior Court in June 2008. He took office on January 5, 2009, after serving twenty years in the Ventura County District Attorney’s office as a Trial Deputy, Chief

Investigator and Chief Deputy. Judge Bennett is also a retired law enforcement officer. He lives in Ojai with his wife Diana and two daughters. Judge Bennett currently presides over the misdemeanor arraignment calendar in the court criminal division.

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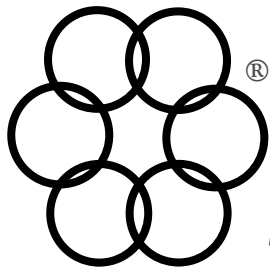
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2012 FORECLOSURE UPDATE

By William E. Winfield

Under California Code of Civil Procedure section 580b, homeowners who borrow money to purchase their homes are protected against creditors seeking to recover on the deficiency that may result if the lender forecloses. This protection is lost when the mortgage is refinanced, as the loan is no longer a "purchase money loan" because the borrower is changing the loan *after* the property was acquired.

A new law championed by the California State Bar's Insolvency Committee adds subsections 580b(b) and 580b(c) to extend the statute's protection to credit transactions after January 1, 2013 that are used to refinance a purchase money loan, "except to the extent that in a credit transaction, the lender or creditor advances new principal... which is not applied to any obligation owed or to be owed under the purchase money loan, or to fees, costs, or related expenses of the credit transaction."

Caveats:

1. The original refinance must not have closed before January 1, 2013. This means loans that close this year will not be covered by this new law.
2. The law applies only loans that were originally "purchase money loans" and not to guarantees, construction loans, home equity lines taken out after the purchase of the home, etc.
3. The law does not provide protection against second trust deed lenders unless that loan was originally a "purchase money loan."



William E. Winfield
practices business, bankruptcy and creditor-debtor law at Nordman Cormany Hair & Compton LLP, (805)988-8326 or (805)988-8324.

MCLE AUDITS INCREASE: A FIRST HAND ACCOUNT

By Alfonso Martinez

Unless otherwise exempt under the California Rules of Court, all active members of the State Bar are required to complete at least 25 hours of legal education within a 36-month period. CRC, Rule 9.31. Recently the State Bar announced a more aggressive approach in the MCLE audit process. This change would increase audits to 5 percent (roughly 3,000 to 4,000 lawyers) instead of the 1 percent (635 lawyers) it has audited historically.

This enforcement step-up stems from the 2011 audit, which revealed over 15 percent non-compliance. Of the 635 audited attorneys in Compliance Group 3, 96 did not meet full compliance – and only 1 percent of the Group was audited. Of the 96 in noncompliance, five were suspended for inability to show proof of compliance. Twenty-five of the remaining 91 were referred to the Office of Chief Trial Counsel for disciplinary action for false reporting.

Last month I was one of the lucky five percent who received an MCLE audit letter from the State Bar. Needless to say I had no clue what to do. I asked a few colleagues for guidance, but none had ever received such a letter nor had they heard of an attorney receiving one. Fortunately, completing an MCLE audit is an easy two-step process that anyone could follow. You first have to log on to a secure State Bar website and complete the online MCLE Summary Log. The electronic log allows you to input your total hours according to category (e.g., legal ethics, bias, substance abuse, and general). After you complete the summary log you click on the submit link. Next, you must mail or fax copies of your attendance certificates to the State Bar. The entire process took me about fifteen minutes.

If anyone has any question regarding the MCLE audit process you may contact the State Bar's MCLE Audit unit by email at MCLEAudit@calbar.ca.gov or call (888)800-3400.



Alfonso Martinez is an associate at the Dion Law Office, APLC in Westlake Village, representing clients in family and criminal law matters. He is a certified mediator. Mr. Martinez may be reached at al@dionlawoffice.com or at 805-497-7474.

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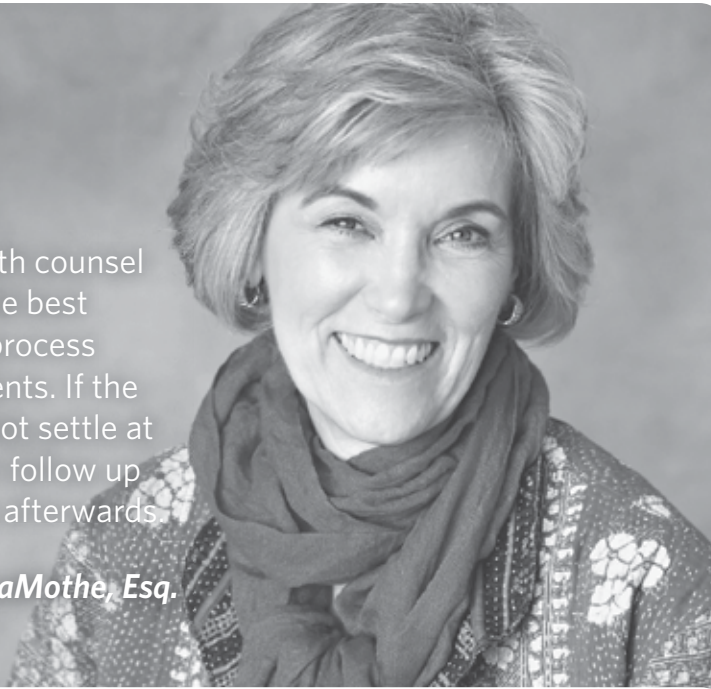


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The Law Offices of **Jody C. Moore** welcomes a new associate: **Michael J. Mauro**. Michael will be assisting Jody in prosecuting elder abuse claims and a groundbreaking class action she is prosecuting along with **Gregory L. Johnson** regarding the use of powerful medications in Ventura County nursing homes without consent.

Michael also has responsibilities for marketing and setting up speaking engagements and publicity.

NEW ADMINISTRATIVE FEES FOR PROBATE MATTERS

By Amber Rodriguez

Some of you may have noticed yet another fee added to the cost of some court filings made in Ventura County.

Pursuant to Government Code section 68086, Ventura County Superior Court has recently added a new \$30 administrative fee for civil hearings under one hour in length. This new fee is meant to help pay for the service of court reporters. The fee will be charged at the time of filing any document which requires a hearing under one hour. “Civil hearings” subject to this new fee include all hearings on the regular Probate and Conservatorship calendars.

In addition, there is now a \$50 fee for the lodging of any Will with the Ventura County Superior Court.

With all of the ongoing budget issues for state and local governments, additional charges may soon be added. Information about these and other changes, can be found on the court’s website at www.ventura.courts.ca.gov.

Amber Rodriguez is the Chair of the Executive Committee for the Estate Planning and Probate section of the VCBA. Her practice focuses on Probate and Trust Litigation and Administration, Estate Planning and Conservatorships. She can be reached at arodriguez@estateattorneycalifornia.com.

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Legal Externship – My name is Brandon Ramey. I am a rising 3L at Gonzaga Law searching for a legal externship with a “non-profit” or government agency for spring, 2013. I must volunteer 36 hours per week for 17 weeks, to earn 14 credits for this program. I am interested in criminal, real estate, and Environmental Law. Please contact me at (805)815-1327 or bramey@lawschool.gonzaga.edu for more information.

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

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



The 20th Anniversary of Stand Down of Ventura County was celebrated the weekend of July 20th. **Roger Myers** has coordinated all 20 of the legal services portions and the VCBA and Roger's troops were given kudos by Congressman Elton Gallegly, State Senator Fran Pavley, the Ventura County Board of Supervisors, and Assemblyman Das Williams. Lawyers volunteering for the mostly Desert Storm, Iraqi, and Afghanistan veterans were **Jean Farley**, **Bill Raymond**, **George Benz**, **Tom Adams**, and **Glenn Campbell**. Thanks all!...If you are an aspiring law student with low grades and scores on the Law School Admission Test, this could be your year. University of St. Thomas law professor Jerry Logan explains why in a post at the *Legal Whiteboard* that chronicles declining enrollments from 2010 to 2011, along with declining credentials of entering classes. He estimates that admission rates could possibly top 80% this fall. Seventy-five of the 197 law schools ranked by U.S. News and World Report, or about 38%, suffered from triple declines in 2011 – in enrollment, and test scores and grades of entering students. Thirty-seven schools had enrollment declines of more than 10%, along with declines in LSAT/GPA profiles of the entering class. They include Duke, Illinois, George Mason and Arizona, all schools in the U.S. New top 50...Barristers Board member **Amy Dilbeck** got herself hitched August 11 at the Ventura Mission...

Turkey? Pamukkale? Cappadocia? Ask **Joanna Orr** at 659.6800 or joanna@fcoplaw.com...The Ventura County Legal

Professional Association is once again having its Annual Bosses' Night – the theme being "Simply the Best" – and are looking forward to all of you nominating your secretaries/assistants and bosses. You do not need to be a member of the VCLPA to be nominated, as anyone in Ventura County is eligible. A portion of the proceeds will be donated to our vlsp, inc. The dinner is October 10 and the **Hon. David Long** will MC. There is a nominating flyer inside this edition...LRIS Call of the Month: "I need a lawyer! There are bugs in my Kellogg's cereal."...Paris? **Keith Schulner** at 818.889.5571 or publiccalbar@neutral4hire.com...

Leslie McAdam receives the 2012 President's Pro Bono Service Award during the State Bar's Annual Meeting October 11-14 in Monterey. Chief Justice Cantil Sakauye will bestow the award on Friday night. Leslie is being honored for her efforts with the Santa Clara Valley Legal Aid and was nominated by **Laura Bartels**, Secretary-Treasurer of our very own bar association...Interesting article appeared in the New York Times July 15 entitled, "An Existential Crisis For Law Schools". In it, Mr. William Henderson of the Indiana University Maurer School of Law notes that only 55% of the 43,735 graduates in 2011 had a law-related job nine months after graduation – nytimes.com...Vanessa Selbst hasn't given up her dream of practicing public interest law. But the newly minted Yale Law School graduate is delaying taking the bar as she pursues another career option – professional poker. Competing in event 52 (six-handed 10-game mix) of the World Series of Poker, she parlayed a \$2,500 buy-in into the top prize of \$244,259. With several years to go before she turns 30, Selbst has lifetime career tournament winnings of \$5.3 million, which places her second on the all-time money list for women players. Once she finishes up at the WSOP, she plans to volunteer at a Los Angeles law firm to get some hands-on legal experience. She says she will take either the New York or California bar exam next year...Roma? Greece? **Jennifer Zide** at 477.0327 or jennifer@zidelaw.com...

Some new happenings in the VC Public Defender's Office. **Todd Howeth** has been promoted from Chief Deputy to Assistant

Public Defender while **John McNamara** was promoted from Senior Attorney to Chief Public Defender...A Texas lawyer on maternity leave told of her frustrations on FB after a justice of the peace in Travis County refused her request for a trial delay. Amber Vazquez Bode had a cesarean section in late April. Just ahead of deadline, she requested a continuance in the misdemeanor trial of her client, a grease recycler accused of taking the material from a restaurant without permission. Justice of the Peace Glenn Bass refused the request, prompting Bode to bring her baby to court for the Monday trial. "My baby was completely freaking out," she wrote on FB. Justice Bass stated she had already had four delays in the case and was "confrontational when addressing the court." Charges were dropped... A Manhattan lawyer admits in a lawsuit that he slapped a Paul Hastings partner in a deposition in August, but says it was justified. Lawyer Kenechukwu Okoli claims he deserves more than \$1 million in damages for the incident in which Okoli slapped Alan Bloom, the co-chairman of Paul Hastings' employment practice. According to Okoli's complaint, Okoli responded with a slap after Bloom rushed him "and began yelling at the top of his lungs and shaking his pointed index finger violently less than one foot from Okoli's face"...**Cheri Elson** has opened-up her own shop in Camarillo as of September 1. She may be reached at 504.4828 or cheri@elsonlawfirm.com...Beginning October 1, **Aris Karakalos** will be working for the Palay Law Firm and the Strauss Law Group... **Tina Rasnow** will be presenting a program to the East County Bar Association on "Embracing Diversity: Beyond Political Correctness" on Friday, September 7 from noon to 1:30 p.m. at the Westlake Village Inn.

Steve Henderson has been the executive director and chief executive office of the bar association and its affiliated organizations since November 1990. His 40th birthday is the 20th of the month and he will be vacationing this month with Rep. Todd Akin. BD gifts may be made payable to vcba/vlsp, inc. or small quantities of Red Stripe or Tecate. Henderson may be reached at steve@vcba.org, FB, LinkedIn, Twitter at stevehendo1or vcba1, or better yet, 650.7599.

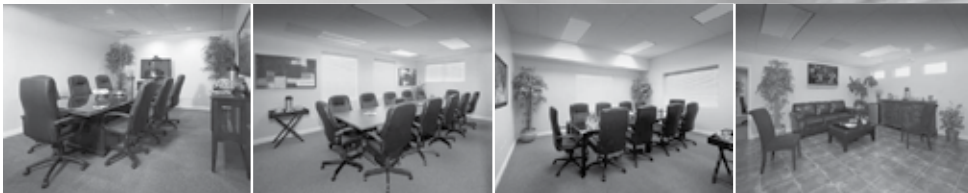
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Rachel Coleman, Esq.

New Associate:

We are happy to announce the arrival of a new associate attorney, Rachel Coleman. Rachel graduated from Ventura College of Law in January 2010. Over the last two years, Rachel published several judicial profiles and legal articles in Citations. In her spare time, Rachel sits on the Citations editorial board and the Ventura County Barristers board. In addition, Rachel teaches at the UCSB Paralegal Extension Program.



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David Lehr, Esq.

New Baby Boy:
David and his wife Jennifer welcomed their eighth baby. In case you are not keeping score that's five girls and three boys.



Joseph Michael Lehr
(12/14/11)

We would appreciate your criminal law referrals.