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## A Student's Day Lobbying for Judicial Independence

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## PRESIDENT'S MESSAGE

by P. Mark Kirwin

In my international disaster and educational work, I have met teachers who struggle with the challenges of budget cuts (or no budget) for school supplies and books. These teachers are inspiring because they fight against the odds to help children and teenagers from impoverished communities learn how to read and write, do math and science and generally be more capable people in their communities. When I was in Port-au-Prince after the deadly 2010 earthquake, I asked my team of volunteers, "What do you think would help the Haitians most in the long term?" They all gave the same response: education.

In our country, teachers also face many challenges which they work hard to overcome in order to educate our youth. While doing Thomas Fire relief work and DACA renewal clinics in Santa Paula, I was fortunate enough to meet one very inspiring teacher who makes a difference in and out of the classroom. His name is Rick Castaniero. Rick agreed to share with us his remarkable story:

He is a passionate educator and civil rights activist. He was born in Oxnard, the son of hardworking immigrants from Chihuahua and Durango, Mexico. Rick is currently serving as the Director for the Ventura County League of United Latin American Citizens, District 17.

Rick received his Bachelor of Arts degree in English Literature from UC Berkeley and a Masters of Fine Arts in Film Production from the UCLA Film School. In 2012, he received a California teaching credential from Cal Lutheran University. In 2011, Rick created the first ever Migrant Program Science Fair in Ventura County. Since then he has served as a board member for Future Leaders of America and co-founded

and coordinates the Youth Empowerment Initiative with members of Santa Paula Latino Town Hall.

Rick has taught special education in Santa Paula for the past six years. He is currently teaching both global science and biology. It is his belief that every student is a reflection of their environment. That's why Rick works very hard at teaching his students which, in turn, improves his community.

Rick's students live in Santa Paula. Rick told me that Santa Paula has the highest poverty rate per household in the county. Some of his students are immigrants, trying to achieve residence status; some live in homes shared by three families; many are raised by grandparents; some have fathers who want their sons and daughters to get an education to escape the fields where they toil; and some work in the fields until 11 p.m. Every student has their story and a list of challenges life has dealt them. In this space where resources are scarce, a teacher has an amazing opportunity to be of service and make a difference.

According to Rick, he gets to meet ambitious and resilient young people with the desire to pursue the American Dream. These students are inspiring young magicians who turn their poverty into a mission to pursue a middle-class life where one is "not always in dire need." This is a daunting challenge because these individuals' needs can be never-ending due to generational poverty.

For instance, Rick told me about Raul, a student who lived with his mother in a garage. At night as they shared a couch, his mother would tell him and his little sister that one day she would find a job where she could make enough money to move them into their own apartment. Raul said, "After

some time, we realized that we were going to be poor."

Raul could have accepted this. But he wanted something better for his family. Raul decided to be a role model for his little sister. He got a job to help contribute to his family's income. Raul also started to focus on his studies. He is now studying at the University of California. Although his family still lives in the garage, Raul plans to someday earn enough money to move them into an apartment.

As a teacher and co-founder of the Santa Paula Youth Empowerment Initiative, Rick told me that his goal is to develop young community leaders like Raul by creating interventions and opportunities, and building students' self-esteem. Rick and his team train youth to plan, organize and implement leadership conferences, career seminars and community service projects. By using a peer-to-peer mentorship model, their students are empowered to own their self-destiny. When Raul succeeds, he will create a better life for his mother and little sister. This is how a good education can transform a community one family at a time.

Thank you, Rick, and all of you teachers who make a tremendous difference in the lives of our youth!

*Mark Kirwin is the 2018 VCBA President and the 2018 Acting Ventura County Legal Aid President. He is a civil litigator with Kirwin & Francis, LLP in Ventura.*

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# THINKING THINGS OVER: – IMPEACHMENT

by Lindsay Nielson

Impeachment. The very word sends shivers of delight to many of my progressive Democratic friends. (Whatever happened to the “L-word”? It seems to have disappeared from the lexicon. Can’t say “liberal” any more. I know my Republican friends aren’t offended by the “C-word”. Oh come on now! I’m talking about the word “conservative”.

But I digress. I am speaking about the kind of impeachment any lawyer worth his or her salt absolutely would love to be able to pull off in a trial. But sometimes it can implode. Here’s my impeachment story.

“May I approach the witness, your Honor?”

“Of course,” came the curt reply. I think I woke his Honor up. It was after lunch and this was an easement case. The only thing possibly more mind-numbing would be a condemnation case.

I strode to the witness, clutching my copy of the witness’s deposition.

“Mr. Smith, do you recall having your deposition taken at my office two months ago?”

“Yes, sir.”

Confidently, I placed the deposition in front of the witness.

“Please read aloud to the jury page 23, lines 17 to 28.”

I walked back to my counsel seat with the confident stride of a combination of Perry Mason and Atticus Finch rolled into one. I had him!

“Go ahead, Mr. Smith, please read the words on that page.”

SILENCE

“Mr. Smith, is there something wrong?”

“Yes.”

“And what’s that, sir?” I asked, thinking that he realized how badly this was going for him.

“I can’t read.”

I looked at his attorney. He mouthed the words “I didn’t know”

I also felt the stony glare of 24 juror eyeballs drilling minute darts into my back.

“Well, I’ll read it for you.” My supreme moment melted.

I did win the case, but after trial the jurors told me that they were disgusted with my treatment of the witness. How could I have humiliated him that way? It didn’t matter that neither his attorney nor I knew of this slight impediment to achieving what would have been a crowning achievement in the annals of jurisprudence. One shining moment, as the March Madness song goes, almost turned into the agony of defeat.

So ends today’s lesson on the vagaries of the practice of law.

*Lindsay Nielson is a lawyer and real estate appraiser in Ventura.*

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# A Student's Day Lobbying for Judicial Independence

by Arrian Ebrahimi



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Last Thursday, I woke up at 4:45 a.m. to catch a three-hour train ride from the Bay Area to Sacramento. I wasn't there to receive an honorary recognition from my state representatives for some high school accomplishment. Nor was I there for a student tour of the Capitol. I was there for one purpose: To lobby an amendment to the Constitution of the State of California.

For the past six months, I have advocated a state constitutional amendment to limit judicial recall to only cases of proven judicial misconduct as determined by the independent state Commission on Judicial Performance. Why am I doing this? In 2016, when I was a rising junior at Saint Francis High School, the ruling of Judge Aaron Persky in the case of Stanford swimmer Brock Turner first made national headlines. Turner was given what was considered by many to be a light sentence for the sexual assault of an unconscious woman after a party. Being a Democrat and a feminist, I initially took the mainstream opinion that this ruling was so egregious that the judge clearly must be recalled, and I held this opinion for over a year. However, when the recall campaign finally launched, my cousin, a female Santa Clara County public defender, took me aside for a conversation.

She warned me about the repercussions that would result from recalling Judge Persky. First, she laid down a basic fact: The judge's ruling was within the boundaries of California law and does not exhibit bias. This fact is echoed by the nonpartisan state Commission on Judicial Performance, [Santa Clara County] District Attorney Jeff Rosen, and [Santa Clara County] Public Defender Molly O'Neal. From my cousin's point of view as a public defender, if a judge is recalled for making an unpopular but legal decision, that would send a dangerous message to judges throughout the state that they must factor the political fallout of their rulings into their decision-making process. Furthermore, because the public generally favors "hard on crime" rulings, such a political predisposition will likely result in harsher sentencing practices that most adversely affect poor and minority defendants. In a liberal county like Santa Clara, judges would be incentivized to dole harsher sentences for sex crimes; while in a conservative county like Orange, drug crimes would likely be punished more harshly.

I still disagreed with Judge Persky's ruling but found myself in philosophical opposition to the recall out of concern for

judicial independence. As a strong believer in restorative justice and skeptic of harsh sentences, I became gravely concerned that fear of unpopular rulings would corrupt judges to favor politically expedient draconian sentences.

I wrote a statement laying out the reasons to limit judicial recall to only cases of legal misconduct through a state constitutional amendment. I circulated this statement among members of the California legal community, and the support shocked me. As a high school senior, my statement received over 75 signatures from influential legal professionals, including ten law professors, four superior court judges, two deputy district attorneys, nine private attorneys, and 54 public defenders. Encouraged by the support of rank-and-file individuals fighting in the frontlines of courtrooms and universities for social justice, I began to broaden my scope to attain organizational support. Most recently, my statement received the official support of the California Public Defenders Association and Napa County Young Democrats. Additionally, seventeen county bar associations and several civil rights organizations have scheduled votes on their



agendas this month to consider endorsing this proposal.

Bolstered by profound support from the legal and political communities, a month ago I began scheduling a lineup of meetings in Sacramento. When I entered the State Capitol at 9 a.m., I began my first of seventeen back-to-back meetings with lawmakers, legislative staff, committee staff, and lobbyists.

Several meetings stand out in particular: Assemblymember Marc Berman, the chair of the critical Elections and Redistricting Committee, listened very intently as I described my own and my supporters' concerns for judicial independence, and he said he would seriously examine the proposal in the next legislative session. At Senator Bob Wieckowski's and Assemblymember Bill Quirk's offices, I was taken aback by the level of support their legislative staff members displayed for the amendment, and they claimed their respective bosses would in concept support the proposal. On the other hand, Darion Johnston at Assemblymember Aguiar-Curry's office held my feet to the fire with pointed questions that have forced me to consider solutions to her concerns regarding the political perception of women's issues that would accompany this amendment, and I preempted my conversation with feminist Senator Connie Leyva's staff by immediately addressing those concerns.

At the Assembly Judiciary Committee and Assembly Elections and Redistricting Committee, staff counsels described the many steps my proposal would require for passage, while at the offices of the Senate Pro Tem and Assembly Majority Leader, I gained a critical understanding of the point of view of the Legislature's Democratic leadership. At the offices of Senator Nancy Skinner and Assemblymember Shirley Weber, I touched base about the important role of the Commission on Judicial Performance, as these two lawmakers are involved in temporarily withholding funding from the Commission in light of an audit, and I stopped by Senator Holly

Mitchell's office to also hear their thoughts on the audit. Fortunately, both Joe Kocurek at Assemblymember Weber's office and Gregory Dresser, Executive Director of the Commission, have confidence that the debacle will be soon resolved.

Finally, in addition to several other legislative meetings, I went to the 12th floor of a nearby building to the office of California Advocates to meet with Mike Belote, Lexi Howard, and Erinn Ryberg. From these well-versed attorneys, I obtained a critical explanation of the lobbyist underbelly of the Capitol and received advice about how best to go forward with my efforts.

I navigated a long but extremely productive day at the Capitol and succeeded in laying the early groundwork that will be critical for the Judicial Recall Amendment to receive traction in the next legislative session. I also learned through one meeting in particular

that this proposal may be more easily passed through a legislative package that also addresses the tangential issue of more equal representation in and more active Commission review of the judiciary. The path to judicial independence in California is only beginning. The pursuit of two-thirds support in the Assembly and Senate and of passage on the ballot will be long and arduous, but, as a student in 2018 just graduated from high school and entering college, I have witnessed the power of young people to make a difference in the otherwise adult world of politics. I will not relent when doors are closed. I will not stop advocating for justice. And I will persist.

*Arrian Ebrahimi will be a student at St. Edwards University in Austin, Texas this fall. He previously posted this article on his LinkedIn page.*



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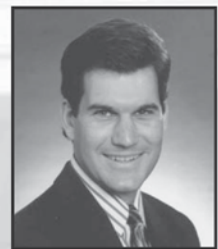
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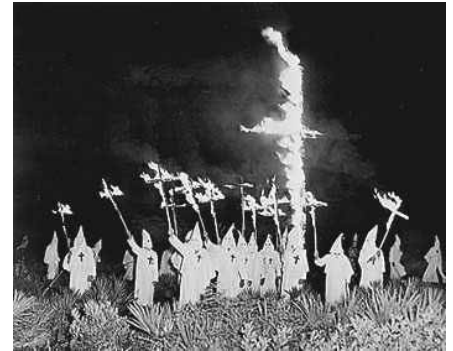
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## “BLACK KKKLANSMAN”

by Bill Paterson



In the late 70s, Ron Stallworth (his book forms the basis of the film) became the first black officer hired by the Colorado Springs Police Department. Like all pioneers, be they racial or gender, he had to navigate the shoals of prejudice. Worse, they stuck him in the records room, a tedious assignment for a man who craved the excitement of police work. But things look up for him when the local black students’ association invites Stokely Carmichael, aka Kwame Ture (Corey Hawkins), to speak to their group. The police chief, worried about “outside agitators,” asks Stallworth to go undercover and attend the rally.

Some weeks later that assignment gives Stallworth a brainstorm. Why not go undercover with the local chapter of the KKK? Since his pigment would blow his cover, he enlists a fellow white officer, Flip Zimmer (Adam Driver), to be his tag team partner. Stallworth will be the phone contact and Zimmer will attend the meetings. It is a high-wire act, and watching these two in action is one of the years’ most entertaining movie going experiences.

As Stallworth, John David Washington (Denzel Washington’s son) has a gift of gab that would make him the perfect con man were he not a man in blue. His phone calls with the local Klan leader and the Klan’s national leader, David Duke (Topher Grace), are inspired. Zimmer may not have Stallworth’s skill at rhetorical riffs but he

*Continued on page 17*

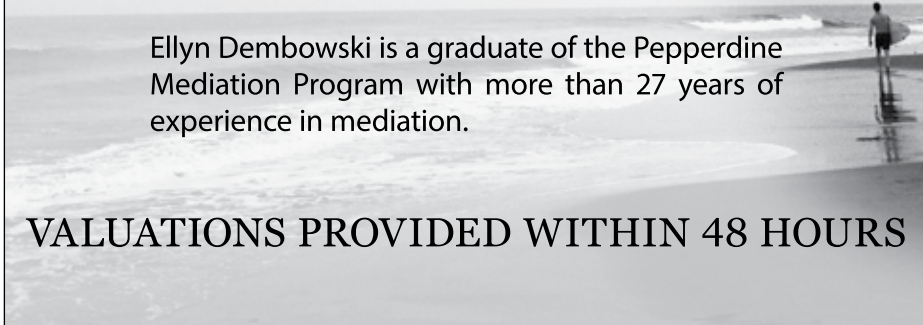
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# WE READ SO YOU DON'T HAVE TO

A frustrated federal judge confronted “the latest in a long-running dispute between the parties over home appraisals, mortgage lending, and trade secret non-disclosure agreements.” He began his order, “As the Court, with the assistance of counsel, begins the search for the truth in this matter ...” Then the good judge annotated his reference to counsel in a footnote, “Many of whom no doubt have academic credentials of *cum laude*. When the chief financial officers of the parties receive the bills, they may say, “Lordy, how come?”

For the sake of space, CITATIONS is omitting the court’s six-item list of what is going on in the case. But our readers may enjoy seeing some other parts of the order.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**HOUSECANARY, INC.,**

**Plaintiff,**

v.

**QUICKEN LOANS, INC., ONE REVERSE  
MORTGAGE, LLC, AND IN-HOUSE  
REALTY, LLC.,**

**Defendants.**

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**CIVIL ACTION NO. SA-18-CV-0519-FB**

**ORDER SETTING AN INITIAL STATUS CONFERENCE, HEARING REGARDING  
JURISDICTION, VENUE, REQUEST FOR INJUNCTIVE RELIEF  
AND OTHER RELATED MATTERS**

**Truth is like the sun. You can shut it out for a time, but it ain't going away.**

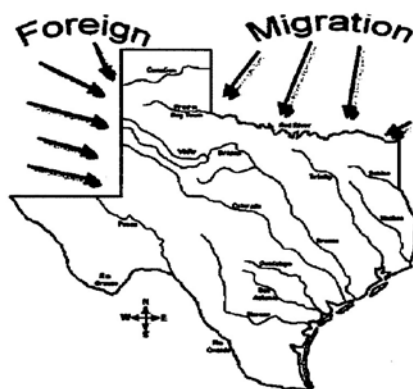
Elvis Presley

Although the Court expects vigorous advocacy and does not expect counsel to hold hands and sing Kumbaya, the consequences of unprofessional conduct or acerbic shrillness in the pleadings can also include revocation of *pro hac vice* privileges, sitting in timeout in the rotunda of the courthouse and opposing counsel kissing each other on the lips in front of the Alamo with cameras present. (The latter only had to be threatened for the misconduct to stop. The two former sanctions have been imposed.) As did Sergeant Joe Friday, the Court expects “Just the facts, ma’am.”

A long time ago in a galaxy far, far away, the San Antonio litigation legal community consisted of about 300 lawyers who knew each other on a professional and social level, some of whom are quite capable of trying

these kinds of cases and whose handshake agreements were kept, making court orders often unnecessary.

For reasons known only to the parties who pay the bills, the more recent phenomenon is for equally capable counsel to immigrate into Texas as shown in this illustration:



As another old school San Antonio lawyer, Hobart Huson, Jr., was fond of saying, “Texans, you are guarding the wrong river.”

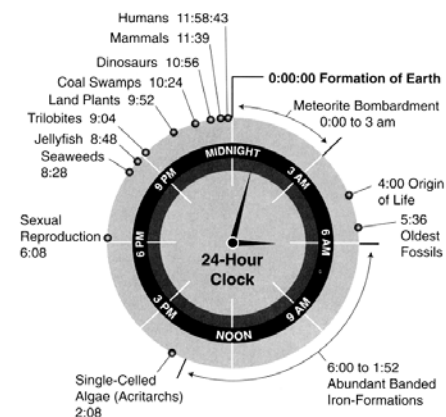
### Keeping Things in Perspective

Condensing 14 billion years into a twenty-four hour time line reveals that our ancestors showed up at about a minute before midnight, which means that our biblical three score and ten and the time of this litigation is a nanosecond blink of an eye.<sup>8</sup> Accordingly, may we move toward a reasonable conclusion with or without a trial whether in this Court or some other.

It is so ORDERED.

FRED BIERY  
UNITED STATES DISTRICT JUDGE

<sup>8</sup> The History of Earth in 24-hour Clock below is adapted from Carl Sagan's Cosmic Calendar.





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## "BLACK KKKLANSMAN"

*Continued from page 15*

has a special genius for deflecting suspicion whenever it looks as if his cover is about to be blown. Their fellow cast members are equally up to the task. They run from Grace's take on the bland but toxic David Duke, to Jasper Paakkoner (believe it or not a Finnish actor) as a local Klansman whose very being radiates fanaticism and Corey Hawkins as a spellbinder working the crowd.

What I most enjoyed about "Black KKKlansman" was the way Director Spike Lee balanced a "message" with moments that would gladden the heart of a standup comic and, towards the latter part of the film, the tension of a thriller. It is no coincidence that one of the producers is Jordan Peele, the director of last year's stellar "Get Out".

Some of the scenes which are of special note are:

The introduction to the film featuring clips from "Gone with the Wind" and D.W. Griffith's infamous silent film "Birth of a Nation," a glorification of the Klan as a defender of southern "womanhood" and white "civilization."

- Harry Belafonte's cameo playing an old man recounting a lynching he witnessed as a young boy fearfully peeking out of a window. Lynching was just the final step in the torture endured by the innocent victim while scores of onlookers cheered the tormentors on.
- David Duke's appearance at the local Klan chapter. Standing before his white robed and hooded acolytes he spews forth a cascade of "white pride" bromides, ending with a chilling statement as to why he will never be labeled Holocaust denier. The embodiment of evil cloaked in the demeanor of a shoe clerk.
- The manner in which Lee elected to end the film – footage from last year's Charlottesville, Virginia white

*Continued on page 20*

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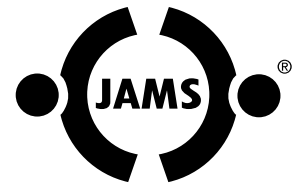
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“BLACK KKKLANSMAN”

*Continued from page 17*

nationalist rally. Many of the marchers displayed Nazi regalia, and their placards and chants proudly announced their Anti-Semitic and racist creed. Amped up, one of them drives his car into the crowd of counter-protesters, killing one woman and injuring scores of others. The scene then switches to President Trump declaring that there were “very fine people on both sides”. Not a comment you would expect to hear from a man whose office is in the shadow of the Lincoln Memorial.

- The very last frame of the film. A heart-breaking image.

One last comment. The audience I saw the film with broke out in applause at the end. A friend of mine saw the film at another theater and the audience at his showing reacted the same way. The applause was earned. “Black KKKlansman” is in wide release.



*Bill Paterson is a retired partner from Ferguson Case Orr Paterson, LLP. He lives in Camarillo.*



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# EXEC'S DOT...DOT...DOT...

by Steve Henderson, M.A., CAE

tomfoolery, Professor M. Todd Henderson (no relation) of the University of Chicago Law School quit Twitter in a huff. Well, he's back and if his goal was to rehabilitate his image, he probably should have stayed gone. Henderson Tweeted, "I'm old enough to remember when a second-class intellect like Sotomayor got onto the court because of her Latinness gave us insight into her soul."



**ATTORNEY TO THE RESCUE!** Family law attorney **John Negley** was a key figure in the capture and neutralizing one of the culprits in a smash and rob attempt in the Thousand Oaks Apple

store August 18. Without hesitation, John grabbed the ALLEGED thief with a scissors lock until authorities arrived to complete the task. CBS ran with the story August 20 with a pretty kool video of the shenanigans. Chances are this perp won't be hiring John for any family law assistance (photo sent via email 8.22 am)...A veteran attorney in Cleveland has lost his law license for six months after berating his paralegal for more than two years, calling her a dirt bag and claiming she was stupid. The Ohio Supreme Court suspended the license of Howard Evan Skolnick of the Skolnick Weiser Law Firm for one year with six months stayed after he was caught on tape on more than 30 occasions insulting the woman, whom he also called a "ho." Skolnick, in his defense, claimed he learned the derogatory remarks from rap and hip-hop performers while working in entertainment law...



Assistant City Attorney for the City of Ventura, **Andy Viets**, has participated in 30 consecutive Law Day 5K races including our recently held run July 7. Andy has experienced

lots over the years, including the inability to win one single raffle prize, though the race prides itself every year by handing out dozens of prizes each and every race. So Andy, who has won a number of categories of the running event, will have to wait until next year to try again for a raffle win... After his last round of racially charged



**J. Roger Myers** led a team of lawyers once again assisting veterans during the annual Stand Down event held recently. I'm not entirely sure how long Roger has been dedicated to this, but longer than I have been employed here, which is a quarter of a century. Helping out through the course of the day were



**Jodi Prior, Brian Nomi, Glen Campbell and Bill Redmond**



Stories in the Ventura Breeze and The Star reporting lawyer **Deborah Myer Morris** is campaigning for a seat on the Ventura Unified School District, District 4. [Deborah4vusd4@gmail.com](mailto:Deborah4vusd4@gmail.com) or [deborahmeyermorris.com](http://deborahmeyermorris.com)...

3,600 hours! That's how many hours Daniel Bliss, an intellectual property partner at Howard & Howard, billed last year. That means he averaged 70 billable hours every single week. That's ten hours every day – for a year. He's quoted, "You know what? "When the sun shines, you have to make hay..." An Oklahoma judge has agreed to resign after he was accused of using his contempt powers to jail people for minor infractions. Judge Curtis DeLapp resigned August 20 and agreed never again to seek judicial office. The petition for removal alleged that DeLapp has ordered people to jail in more than 200 direct contempt citations since 2016. He gave a six-month jail term to a woman talking in his courtroom. In another case, DeLapp jailed a woman for four days after she apparently left sunflower seeds on the courtroom floor...

You have until September 24 to nominate an attorney for the **Ben E. Nordman Award**, which will be presented during the annual bar bash November 17...LOTS of CLEs scheduled for this month as you would be smart to notice the September calendar located inside CITATIONS...

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COMMUNITY ORGANIZATIONS AND OFFICES now or previously held by the nominee: \_\_\_\_\_  
(Include separate sheet if needed)

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2002 Charles B. Boyd	1986 Bruce Swanson

An ABAJournal.com reader recently questioned the publication's editorial judgment when a story told of two women who pleaded guilty to criminal charges. "This may be a hanged versus hung question," said the reader using the name OKBankLaw, "but shouldn't pleaded in the fourth paragraph be pled?" According to Black's Law Dictionary, "pleaded is the predominate form in American English." On the other hand, Westlaw research shows the U.S. Supreme Court used "pleaded" more than 300 times and "pled" only 26 times...

*Steve Henderson has been the executive director and chief executive of the bar association and its affiliated organizations since November 1990. He celebrates his 55th birthday on the tenth in the Maldives and accepting cerveza in the form of Modelo or Chihuahua. Shy of said offering, a donation to Ventura County Legal Aid, Inc. is wholly appropriate. Henderson may be reached at [steve@vcba.org](mailto:steve@vcba.org), FB, LinkedIn, Twitter at [steve\\_hendo1](https://twitter.com/steve_hendo1), Instagram at [steve\\_hendo](https://www.instagram.com/steve_hendo). Better yet, call 650.7599.*

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