RICHARD HEATON

by Judge Harry Walsh

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Last month’s column grew out of my invitation to speak at the recent swearing in of new attorneys in Ventura County. While I was honored just to have had the opportunity to speak to these new admittees, I felt obligated to give advice to these new counselors at law. I reminded them of the importance of practicing law with integrity. As financial guru Warren Buffett said, “It takes 20 years to build a reputation and five minutes to ruin it. If you think about that, you’ll do things differently.” If an attorney consistently conducts himself or herself with integrity – toward the Court, his/her clients, and opposing counsel – then that professional should never be found in the midst of those five minutes that can ruin a reputation.

From very early in my career, I learned that Ventura County is a special place to practice law. As a first-year attorney, I was discussing issues of a case with an opposing counsel over the telephone. Following the call, as a dutiful young attorney, I prepared a “confirming letter” detailing what each of us said in our conversation. Not long after that opposing counsel received the letter, I received another telephone call from her. She started off the call by stating that she understood why I sent the letter. From there, however, she gave me an introduction to practicing law in Ventura County.

“This is a relatively small legal community,” she explained. “As a result, to succeed here, your word needs to mean something to other attorneys.” I sat quietly on the other line absorbing everything that she had to say. She continued, “If your word means nothing, then you are doing a disservice to your current client, to your future clients, and, most importantly, to your career.” This attorney – who was my opposing counsel and a partner at a different firm – spent time tutoring me on how progress is made for clients more economically and efficiently when the attorneys on each side of the case practices with integrity is an invaluable part of resolving cases for our clients.

This is not only something that should be comprehended by attorneys new to the practice of law, but also those who may have practiced for years in larger legal communities but are new to Ventura County. When lawyers come into our county and begin to practice with the sort of ruthless abandon that is often exhibited in areas where an attorney may not run into the same opposing counsel or judge again, they often run into difficulty in advancing their practices locally. As indicated above, Ventura County is a relatively small legal community and when a practitioner demonstrates that he or she does not practice with the level of integrity that is expected, word travels fast.

Similar to the urging in last month’s column to lend a hand to new attorneys as they advance in their careers, we should extend our hands to those seasoned attorneys who enter our legal community. Each of us should endeavor to communicate the same message that the opposing counsel gave to me early in my career – in Ventura County, your word is everything.
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At this year’s Law Day 5k, District Attorney Greg Totten announced that, after three years of meeting with government service providers, non-profit organizations, local law enforcement, victim advocacy and civil legal assistance agencies, on March 1 the District Attorney’s Office launched a startup Family Justice Center at the courthouse. Authorized by Penal Code 13750, the FJC provides “one-stop” services to victims of domestic violence, child abuse, sexual assault, human trafficking and elder or dependent adult abuse – and to their families.

The FJC process begins at the DA Victim Advocate’s window, room 311 in the Ventura Hall of Justice. After screening, a DA Victim Advocate navigates the client through the services offered. At that point the client stays put as the partner agencies come to the client for individual services as needed. The FJC assists eligible clients at no charge, with non-overlapping services, and aims to never turn away an applicant without some assistance, information or referral.

The Alliance for Hope International’s FJC model has affiliated over 100 centers throughout the country. California alone currently has a total of 22 affiliated centers. In the first three months of the FJC’s soft opening in Ventura, a total of 537 clients received assistance of one form or another.

The startup FJC – or FJC 1.0 – is preparing to scale up thanks to grant funds acquired by the DA’s Office. The funds will allow the collaborative to move to a new and substantially larger space – from 900 sq. ft. to 14,775 sq. ft. Many more of the partnering agencies will be co-located and available to assist clients as they arrive. FJC version 2.0 opens in the fall of this year, or as soon as the paint dries. It will house over forty partner agencies, all independent of each other, striving to assist FJC clients, including:

- Coalition for Family Harmony
- DA Victims’ Assistance Program
- DA Prosecution and Investigation
- Interface Children & Family Services
- VC Human Services Agency
- VC Area Agency on Aging
- VC Behavioral Health
- Safe Harbor (SANE Nurse, Medical Director)
- Oxnard Police Department
- VC Sheriff’s Office
- Ventura Police Department
- VC Department of Child Support Services
- Líderes Campesinas
- Mixteco/Indigena Community Organizing Project (MICOP)
- Victim Legal Assistance Program via VCLA, Inc.
- Other Agencies by appointment

The FJC is a work in progress with many more partnering agencies (e.g., VC Library, Ventura County Arts Council) joining weekly to provide programming expertise to mitigate childhood trauma.

Mr. Totten, the visionary behind this effort, explained that the prosecutorial model has traditionally been reactive. The FJC is proactive in its creation of a welcoming space to support survivors of all ages, and their families, through comprehensive, holistic services focusing on the whole person. Too often, those facing violence or abuse suffer in silence. Fear, confusion and lack of access discourage victims from getting help and support, resulting in a continuation of the cycle of violence for the abused and the next generation. The FJC simplifies the process by providing a safe, caring environment where victims and their families can truly access the resources needed to recover not only for themselves but also for trauma-exposed children. That first step to recovery begins, for the moment, at the window in room 311.

The FJC governance includes the Director, Leadership Team, On-Site Partners Board, Advisory Board, Voices of Ventura County, FJC Volunteers, and the Ventura County Family Justice Center Foundation. Funding for the non-profit FJC comes from donations and grant funds.

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ONLINE DATING: REALITIES AND LEGALITIES
by Carol Mack

Online dating, you may have noticed, has become increasingly common. A 2017 Stanford University survey reported that about 65 percent of same-sex couples and 39 percent of heterosexual couples that year met online.

If you are single, you have probably seen the Facebook ads for online dating sites. They show pictures of attractive people right about your age and encourage you to sign up for free so that you can find a mate. You can, in fact, sign up for free, but it turns out that in order to see photos, respond to messages, or otherwise take advantage of the potential dates offered, you need to “upgrade” at a hefty fee. And your membership will be renewed automatically for the rest of your life.

Once you have paid your fee, you gain access to a catalog of potential dates, but, of course, these real people may look nothing like the models in the ad. Also, the profiles offered may or may not bear any relation to reality. Frequently, the pictures are outdated and the age is a lie. In addition, many of them are not even in your time zone, much less close enough to actually date.

Online dating is not for the faint of heart. With only a blurry photo and short bio, you decide whether this person is a potential mate.

There are also scammers, some of whom specifically target older adults like me. I am learning, however, to recognize when something just doesn’t add up. One man, for example, claimed an advanced degree from the California Academy of Mathematics and Science, which just happens to be the high school that my daughter attended! Another man sent me an email with a long bio, you decide whether this person is a potential mate.

As online dating sites are in the business of connecting people for companionship and, yes, sex, there are laws that apply to the sex trade that may also apply to these websites. For example, the Records Keeping and Labeling Law, Title 18 U.S.C. § 2257 may be implicated if the site allows images depicting nudity or sexual activity. One online site I visited allows female participants to post pictures on their message board, but does not allow males to do so because, well, “nudity.” It seems that some male members were overly proud of their male members.

Another reason for sites to limit explicit sexual content has to do with FOSTA-SESTA, a law comprised of a combination of House and Senate bills related to sex trafficking. This law raises additional issues for dating websites because it weakens Section 230 of the 1996 Communications Decency Act, which in part protects websites from liability for what their users post. In fact, when FOSTA-SESTA passed, Craigslist responded by shutting down its Personals section, and some other websites have also removed all similarly triggering material from their sites. However, the language of the law is vague, and websites are responding by either becoming more restrictive in the content that they allow or ceasing to monitor content at all, lest they be held liable for “facilitating” or “contributing to” sex trafficking. It’s worth noting that at least one lawsuit has been filed to challenge FOSTA-SESTA on First Amendment grounds.

There are legal risks for online dating participants as well. They lie in engaging with minors and in cyberstalking. It is crucial to make every effort to verify the age of any potential match because flirting with a minor could be construed as attempted solicitation. Also, sexting, or the exchange of sexually explicit messages, with a minor may result in a charge of trafficking in child pornography. In addition, continuing to send anyone annoying or unwanted messages might open the sender up to a charge of cyberstalking, which can be either a misdemeanor or a felony under California law. It pays to be cautious in the online world.

So let’s be safe out there! And by the way, I’m still single.
When I first started my legal career in Ventura County in 1971, Judge Richard Heaton was one of the six Superior Court judges, and to a newly minted lawyer, he was a kind man. Not exactly a mentor, but someone who just exhibited patience with a new lawyer and offered a helpful suggestion now and then. He died in 1980, and I will get back to that, but by 2019, he had become the invisible man.

The first safe step when you are researching someone is to Google them. I did that, and got back absolutely nothing. I thought at least an obituary, but absolutely nothing. The next step was for one of our court executives, Victoria Borjesson, who had a few things, but not much. My final resort was some of the older members of our legal community, and there I was able to find some useful recollections.

Dick Heaton was from New England. He was graduated from Harvard Law School in 1932, and so far as I can tell, is only the second judge we have ever had who was a Harvard graduate. (We have several from the Harvard of the West, aka the Ventura College of Law.) He practiced law in the Boston area for a couple of years, and then went to work for the Attorney General’s Office in Washington until 1937, and then private practice there until 1938, when he relocated to Los Angeles. I would love to know why.

Judge Heaton was admitted to practice in California in 1938, bar number 16122. My dad was a lawyer, but one whose job was not going to involve practicing law. He was, however, prideful, and wanted to have a license in the state where we now lived. He took and passed the attorneys’ exam, and in 1960 his bar number was 30408. My point is that in the 22 years from 1938 to 1960, California admitted just over 14,000 lawyers, about 650 per year. What is it now? Must be thousands every year.

Back to Judge Heaton. He and his family moved to Ventura County in 1958. What he did in the previous twenty years I have not been able to pin down; I think he represented a couple of oil companies, but it is not clear whether he was in a firm or was a solo. In June of 1958, Gov. Goodwin Knight (how many remember that name?) appointed Judge Heaton to the Municipal Court.

The Municipal Court was very much the people’s court. In 1963, Judge Heaton presided over the first trial involving the County’s newly-enacted leash law. Maxine Stufflebeam, a Saticoy resident, was cited for refusing to leash her dog. She pleaded not guilty, demanded a jury and acted as her own lawyer. The jury hung, and Judge Heaton determined it would be a waste of money to try it a second time, so he dismissed the charge after Ms. Stufflebeam promised to leash her dog.

In December of 1966, Judge Heaton was elevated to the Superior Court by Gov. Pat Brown, and that is where he stayed until he retired in 1979.

What was a very real part of Judge Heaton was that he was an alcoholic. A highly functioning one, but a major league alcoholic nonetheless. One of the stories I heard was that he would wake up sometimes in the morning and not know how he got there, or sometimes even where he was. To deal with this, he always had a notebook in his pocket. He would always write down where he parked his car so that, when waking up, he had a reference point.

At some point, Judge Heaton took the cure through the efforts of Alcoholics Anonymous. One of the AA precepts is “one day at a time.” As an observation of that, when he left home in the morning, he had a fresh flower in his lapel. Usually it was a carnation. That was his symbol that he had made it another day without alcohol.

As a recovering alcoholic, Judge Heaton was solicitous to criminal defendants who were charged with alcohol-related offenses, so much so that the DA would regularly paper him on any case involving alcohol (mostly drunk driving cases). In giving a probationary sentence, he would almost always include regular – sometimes daily or even twice daily – attendance at AA meetings.
If you know anything about AA, you know that if you are in the program, you are assigned to a “sponsor,” someone you call if you are in a circumstance where you think you are in danger of falling off the wagon. The sponsor is obligated to do whatever is necessary to keep you on the wagon, be it just talking through the problem, or arranging to meet, or telling the alcoholic where to go for the next AA meeting. As a sponsor, Judge Heaton arranged with his secretary that if he got a call from a troubled soul, she was to tell him immediately. He would leave the bench to deal with the problem.

In one of Judge Heaton’s civil trials, the plaintiff’s attorney was DeWitt “Red” Blase. A tough customer, Blase fought hard and fought to win. He had little patience with either opposing counsel or with the trial judge. He was trying a case in front of Judge Heaton, and it was not going well. Blase was not getting the rulings he thought he was entitled to, and was getting impatient. After one adverse ruling, he turned to the jury and said, “You know what a judge is? A judge is just a lawyer who knows the Governor.” There are judges who would react poorly to that kind of comment. Not Judge Heaton. He did not react at all, and just let the trial go on.

He was very approachable. There was no formal ex parte process like there is now when you have to get a date from the judicial secretary and give notice. In the 1970s, you just found a judge, gave the judge your papers, and hoped he would sign them (in those days, it generally was not a “she”). Judge Heaton would always ask, “Is this okay for me to sign?” If you said “yes,” he would sign. But if it turned out it was not okay for him to sign, you were toast. He would never again sign anything based on your word.

There was another facet to Judge Heaton’s life. He was a licensed private pilot. In his office, he had a poster that showed a biplane in a tree, with an inscription that I have not been able to track down, but it was something about the consequences of making a mistake, and that was the final irony of his life. He retired in 1979. In 1980 he died in a private plane crash. His plane ran out of fuel over Kingman, Arizona, and crashed, killing Judge Heaton and his wife.

As a final note, I was in Judge Heaton’s office one day when his secretary handed him a decision from the Court of Appeal, reversing one of his decisions. “What do they know?” he commented. I did not fully appreciate that until 25 or 30 years later, when one of my decisions was reversed.

Harry Walsh has been a Ventura Superior Court judge since 1998. Judge Heaton’s poster probably quoted World War I aviator Captain A. G. Lamplugh, “Aviation in itself is not inherently dangerous. But to an even greater degree than the sea, it is terribly unforgiving of any carelessness, incapacity or neglect.”
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Horace famously surmised that the ends of poetry are either to instruct or delight (aut delectare aut prodesse est). Looking back on 25 years of CLE presentations by energetic teams of the Ventura County chapter of the American Inns of Court, members might agree that the goal of this august society is to accomplish both! Acknowledging the chapter’s silver anniversary, CITATIONS asked longtime members to reminisce about the monthly meetings at the Saticoy Country Club over the years.

Inaugural member, Judge Matthew P. Guasco, had this to say: “My fondest memory was when I was president of the IOC chapter and we voted to name our chapter after the late, great Judge Jerome H. Berenson. And he accepted our invitation to receive the honor personally at our monthly meeting. What a joy to have spent just a little time with a living legend and a kind, gentle soul. I’ll never forget that. He was greeted by all present with such love, admiration and respect. That captures the essence of our IOC chapter.”

Outgoing IOC President Katie Clunen – president-elect of the Ventura County Bar Association – recalls that Andy Viets (now Ventura’s Assistant City Attorney) encouraged her to join back in 2006. Her group presentation that year was a Godfather skit with future Judge Guasco about law firm partnership dissolution. Clunen recalls that year as a “great introduction to IOC camaraderie.”

Another inaugural member, Judge Harry Walsh, may be among the most steadfast, having participated without a lapse since 1994. When asked why he renews his membership year after year, he had this to say: “I keep coming back because Inns provides a forum where I can interact with lawyers on an informal basis, which I think benefits both me and them. The programs are usually innovative, and you are never too old to learn new things. I think judges benefit from the social aspect, and we can be useful in giving lawyers an insight into issues they might not otherwise hear.”

On the lighter side, Judge Walsh’s most memorable moment was watching Judge Tari Cody playing the role of Paris Hilton, sporting a long blonde wig. Judge Cody added, “I had my toy Chihuahua with me!” She agreed with Judge Walsh’s assessment. She said, “It’s a lot of fun to spend informal, social time with such interesting people, and I found the programs entertaining and educational. I hope to return in the not-too-distant future.”

Like other chapters of IOC, our local chapter is divided into teams. Members of all levels and backgrounds are represented on each team, and each team takes a turn presenting a program intended to enlighten and delight the CLE-hungry membership. New members are given an opportunity to bridge the gap between law school and legal practice, while more experienced members sharpen their existing skills, enjoy collegiality with members of the bench, and mentor the newer members.

PHOTO LEGEND

Front Row: Arnie Gross, Don Adams, Russ Takasugi, Greg Ramirez, Judge Matthew Guasco, Judge Harry Walsh, Judge Steve Hintz, Mary Ann Brozowski, Felix Masci, Tina Rasnow, Diana Hancock, Clifton Reed, J. Grant Kennedy, Dick Hanawalt, Judge Barbara Lane, Steve Henderson, Ben Engel

Back Row: Larry Schulner, unknown, Dick Regnier, unknown, Dennis LaRochelle, unknown, Judge Fred Bysshe, Scott Schumer, unknown, Roger Meyers, Hugh Stackman, Sam Huestis, John Howard, Georgianna Pennington Regnier, unknown, Justice Steven Perren, unknown, Steve Millich, unknown, Paul Fritz, Wendy Lascher, Nancy Goldstein, Karen Darnall, Creighton Stephens, Mitch Disney, Pam Grossman, unknown, Jeff Herman, Patrick Loughman, Chuck Samonsky, unknown, unknown, Bob Davidson, Judge Edwin Osborne, unknown, Tom Hinkle, Jim McGahan, Mark Hancock
IOC is a non-partisan association of 25,000 lawyers, legal scholars, judges and law students who share a passion for professional excellence. Chapters across the United States meet regularly to promote integrity, ethics and civility. The first IOC was founded in 1980 in Salt Lake City. There are now more than 350 chapters.

We hope you’ll join or rejoin the Inns this year! Fill out the form in this issue of Citations and return to the VCBA Bar Executive Director (Sandra@vcba.org) no later than August 10 so that you can be assigned a team well in advance of the first meeting on Sept. 12.

Panda Kroll, who is a member of the CITATIONS editorial board, is president-nominee of this year’s Jerome H. Berenson Chapter of the American Inn of Court. She owns a law firm with a practice that focuses on federal court matters and currently serves as cumis counsel in cases pending in Nevada, Florida and California.

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**Corey A. Donaldson**
is recognized as a Rising Star for intellectual property. A partner with Ferguson Case Orr Paterson LLP (FCOP), Donaldson has extensive experience in patent prosecution, as well as design, trademark and trade dress procurement and enforcement. He also works in international intellectual property procurement and litigation. A graduate of UCLA School of Law, Donaldson recently completed his master’s degree in electronic materials engineering, also at UCLA.
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- Brings a wealth of experience in all aspects of civil litigation; earned a reputation from both plaintiff and defense bars as an outstanding settlement judge who relentlessly pursues a fair result in every case.

Hon. Frank J. Ochoa
Santa Barbara County Superior Court, Retired

- Private mediator, arbitrator, referee, special master and hearing officer since 2015, handling civil, family and probate cases.
- Three decades of judicial service includes Santa Barbara Superior Court (1997-2015); presided over wide range of complex, high-profile matters; implemented the court’s CADRE program.

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Mr. Carrington and Ms. Lindenauer have conducted over 4,000 mediations, 300 arbitrations and have been discovery referees in multiple complex matters. Mr. Carrington (ABOTA Member) has been a full-time mediator since 1999 and Ms. Lindenauer has been mediating since 2011. Their professional association as of 2017 reflects their jointly held commitment to the values of tenacity, creativity, and the highest ethical standards applied to the resolution of every dispute.

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RISING STARS continued.

Marissa Garcia, managing attorney of Gold Law APC in Camarillo, is named a Rising Star in the area of estate planning and probate. Garcia is a Certified Specialist in estate planning, trust and probate law. mg@goldlawcorp.com.

Also a partner with FCOP, Joshua Hopstone is named a Rising Star for his work as a civil litigator. Hopstone’s practice focuses on issues affecting real property. He is also a respected appellate advocate, having successfully argued cases before various state and federal appellate courts, including the California Supreme Court and the Ninth Circuit Court of Appeals. Hopstone earned his law degree from the University of Michigan Law School.

Jacquelyn D. Ruffin, a partner with Myers, Widders, Gibson, Jones & Feingold, LLP, has been named a Rising Star for schools and education law for 2017, 2018 and 2019. Ruffin concentrates her practice in the areas of education law, real estate/land use matters and business transactions. She earned her Juris Doctor from UCLA in 2011 and externed with the Honorable Harry Pregerson.

An FCOP associate, Jessica Wan is honored as a Rising Star in business litigation. Wan focuses primarily on complex civil and commercial litigation, appeals and employment matters. She is admitted to practice in Hawaii as well as California. She earned her Juris Doctor summa cum laude from the William S. Richardson School of Law and practiced law in Hawaii for three years before joining FCOP.
On June 22, 2019, nearly 329 participants gathered for the Ventura County Bar Association's Annual Law Day 5k Race. At stake for the participants? For some, it was the first-place prize of $10 gift card and a 5K logo bag. For others, it was bragging rights at the office for a year. For others still, it was simply to run a personal best time. But for one participant, the stakes were higher: her mother’s honor.

When Stephanie “Stevie” DeSoto-Suchy first heard of Law Day, she thought of her mother, Kathleen DeSoto, who recently passed away while rehabilitating in a nursing home. At the nursing home, Kathleen is alleged to have fallen because she needed at least two people to perform a “bed bath” (she was bed-bound) but there was only one person helping her that day. As the lone attendant was putting lotion on Kathleen, she simply rolled off the bed, allegedly because no one was there to stop her from falling. Kathleen dislocated both her shoulders, broke both her arms, had lacerations on her forehead, and developed a hematoma on her right leg. She died the following day. She was 74 years old.

Having been bed-bound from a recent leg injury, Stevie remembers her mother wanting nothing more than to walk again. When Stevie saw the Law Day event was described as a “Walk/Run” 5K, she knew this was her opportunity to remember her mother by walking in her honor. But Stevie had never participated in any event like this before, and walking was difficult for her due to her own disability. She knew she needed to train and began a cardio-walking regimen and, eventually, she was walking three miles three days a week.

When Law Day came around, she was armed with her hiking stick in hand and her supportive husband by her side. She and her husband finished the race in Kathleen’s honor. They even went back to the racecourse to do one more lap after the awards ceremony.

I ran into Stevie while participating in Law Day myself. I am an attorney at Johnson Moore, the firm representing Kathleen and her family in a lawsuit against the facility where she fell. I was thrilled to learn Stevie had found a way to celebrate her mother’s life through Law Day. Stevie knew she wasn’t going to compete with anyone that day but herself and, while she hoped she would not come in last, it really didn’t matter to her. All that mattered was she finished the race in honor of her mother Kathleen, the strongest woman she has known.

Stephanie A. Johnson is an associate attorney at Johnson Moore. Her practice focuses on elder abuse and neglect and wrongful death cases in nursing homes and assisted living facilities. She can be reached at (805) 988-3661 or at stephanie@johnson-moore.com.
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Help Wanted

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Law Clerk position available for part/time temporary work. In the Downtown Oxnard office. Attorney needs a person with good writing skills, ability to conduct legal research of labor laws, and willingness to learn general civil litigation skills. Email your résumé to: morrow@morrow-lawoffice.com

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