



# CITATIONS

JANUARY - TWO THOUSAND TWENTY ONE

## FROM MAYOR TO SUPERVISOR

by *Rabiab A. Rahman*

Page 8



MARC D. ANDERSON

**PRESIDENT'S MESSAGE**

**3**

**HAVE YOU HEARD?**

**5**

**PROPOSITION 19 (2020) UPDATE**

**5**

TARYN REID

**BARRISTERS' CORNER: AN ERA OF INTERNET ATTORNEYS**

**7**

**EDITORS' NOTE**

**7**

JUDGE GILBERT ROMERO

**MOCK TRIAL**

**12**

**ASIAN-AMERICAN BAR ANNOUNCES REVIVAL AND 2021 SLATE**

**13**

CLAUDIA SILVERMAN

**MINDFUL CHILD CUSTODY PRACTICE IN THE NOVEL CORONAVIRUS AGE**

**14**

JUDGE JOANN JOHNSON

**TO THE FAMILY LAW BAR**

**16**

**¡FELIZ AÑO NUEVO!**

**19**

**CLASSIFIEDS**

**19**

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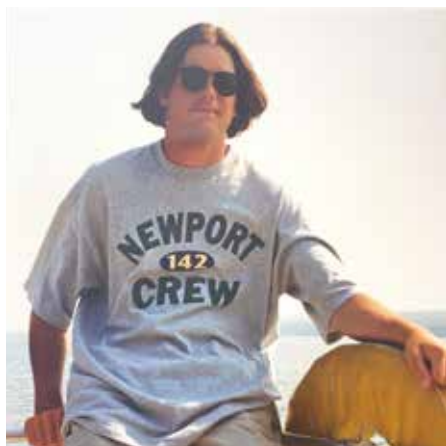
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## PRESIDENT'S MESSAGE

by Marc D. Anderson



Wills and trusts was my worst class in law school. So, of course, the July 1994 bar exam had a wills and trusts question. Everything I know about wills and trusts I wrote in that exam booklet. A codicil is an addition or supplement that explains, modifies or revokes a will. That's what I remember.

Two days after the bar exam, I hauled most of what I owned to a storage unit in Los Angeles, put the rest in my car and drove home to Minnesota. I didn't have much money. I didn't have a job. I didn't have any prospects. I didn't have a plan. And I didn't want to think about it.



A few days after I got home, my dad and I packed our things and drove north to Bayfield, Wisconsin. Dad's sailboat was at Port Superior, a postcard-perfect marina on Lake Superior. We were going to spend a week cruising Michigan's remote Keweenaw Peninsula.

The second stop on our voyage was the small town of Ontonogan, Michigan. After dinner, I sat on our boat playing three-handed cribbage with sailors from a

neighboring boat. I was as far away from Los Angeles as I could get.

This was just what I needed: the routine of sailing, listening to halyards thumping against masts in small marinas as I fell asleep, reading, writing, eating every meal with my dad, and walking the streets of small towns. Dad was the captain and I was the first mate, as it had always been during our years sailing Lake Superior together. He would gracefully dock the boat, step ashore and immediately start a conversation with anyone in the marina while I got everything shipshape. It was a comforting familiarity.

The twin towns of Houghton/Hancock were the biggest "cities" we visited. One night dad came back from the movie theater having just seen Jim Carrey in *The Mask*. I had stayed in that evening because I had already seen the movie in Los Angeles. When dad got back he couldn't stop laughing as he described the movie to me, especially the scene where Jim's dog wears the mask. My dad's laugh was contagious and soon we were both laughing as we recalled our favorite scenes.

When we were in the beautiful town of Copper Harbor, Michigan, we hiked from the marina to the Lake Superior shore. It was seven or eight o'clock at night but still light in those northern latitudes. I remember standing on the shore listening to the wind with the waves breaking at my feet and it seemed like I could feel the earth spinning I was so in the moment.

I had a lot of time to think on that trip sailing along at six or seven knots. I couldn't believe that for the first time in many, many years I would not be returning to school that fall. I had no idea what I was going to do but I could feel my future looming ahead of me and I was both anxious and excited to get back to Los Angeles and get started.

Looking back after all these years, I wish I would have talked to my dad more on that trip. Of course, we spoke and told stories and laughed together, but I wish I would have shared with him my excitement and worry, my hopes and fears. He was a

salesman, not a lawyer, but I know he would have given me insight, advice and comfort if I had just asked. I'm sure he could sense my uncertainty and nervousness as I stood at the precipice of my future. He didn't ask me about my plans but let me be with my thoughts. We were Minnesotans – comfortable with quiet togetherness.

We visited Black River Harbor, Ontonogan, Houghton/Hancock, Grand Traverse Bay, Lac La Belle and Cooper Harbor on that trip. We saw the Porcupine Mountains and beautiful lighthouses. We sailed, hiked, went to the movies and listened to the Indigo Girls – dad was singing *Least Complicated* by the end of the trip!

Our last day on the boat was a slow sail back to Bayfield. We had enjoyed sailing Lake Superior together for the past twelve years, but as we pulled into the slip and secured the boat, I didn't know when we would sail together again. I realized I was an adult and had my own life now in Southern California, separate and apart from my parents.

Three days later, I left Minneapolis and drove west to California and the rest of my life. I didn't have much money. I didn't have a job. I didn't have any prospects. I didn't have a plan. But, I was renewed and I was excited for my future.

We all have those moments in life that are so simple and yet so meaningful. That 1994 summer trip with my dad is one of mine.

I'm excited for my term as President of the Ventura County Bar Association. Our Association's mission is to promote legal excellence, high ethical standards and professional conduct; to improve access to legal services for everyone in Ventura County; and to improve the administration of justice. In 2021 we will focus on access to justice and community outreach. I want to meet as many of you as possible (even if on Zoom at first) and I hope we can all get together for the annual dinner at the end of the year.

*Marc D. Anderson is lawyer with Hiepler & Hiepler, APC, in Oxnard. He represents plaintiffs in personal injury and wrongful death cases.*

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## HAVE YOU HEARD?



In January, **Lauren Sims** will be a partner at Ferguson Case Orr Paterson, LLP. Sims practices estate planning, probate, and business law. She has developed particular expertise in property tax matters. And recent Pepperdine Law grad **Alexis Dunne** joins the firm as an estate planning and probate associate the same month. You can reach both at 805-659-6800.



VCBA notes with sadness that **O. Guy Frick** passed away last month. Frick served over 27 years with the Ventura County

District Attorney's office, the last several as the attorney supervisor in the Child Support Division before retiring as a Senior Attorney.



Many VCBA members have learned that Commissioner **Judith Rhodes** has been diagnosed with amyotrophic lateral sclerosis (ALS or Lou Gehrig's disease). Her family has organized an ambitious GoFundMe campaign, <https://gf.me/uzauz4v>, to fight the disease. We wish Commissioner Rhodes strength, success, and continued good cheer.

## PROPOSITION 19 (2020) UPDATE

by Lauren Sims

The California State Board of Equalization issued Letter to Assessors No. 2020/061, dated December 11, 2020 ("LTA"), regarding the passage of Proposition 19 and interpretation of its provisions. As of printing, the LTA may be accessed at *boe.ca.gov/prop19/*. Notably, the LTA includes the following statement: "Proposition 19 limits the parent-child and grandparent-grandchild exclusion to a family home or farm that is the principal residence of both the transferor and transferee, and eliminates the exclusion for any other type of property." (LTA, p. 5.) The interpretation that the family farm exclusion may only be available if a principal residence is located on the family farm differs from my interpretation of Proposition 19 published in a prior *CITATIONS* article, California's Property Tax System May "Be Significantly Altered Through Two November Initiatives" (October, 2020). As indicated in the LTA, we will need further guidance from the California Legislature to fully understand how Proposition 19 will be implemented.

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# BARRISTERS' CORNER: AN ERA OF INTERNET ATTORNEYS

by Taryn Reid

Within the last month, thousands of lawyers from the Class of 2019 completed their first year as full-fledged attorneys – me included. As the year came to a close, I couldn't help but reflect on how my experience, and the experience of my peers, has been significantly different from that of our supervisors, partners and colleagues.

While those who have been practicing for the last several years or decades were forced to adapt to the new and unique challenges of remote lawyering, to an entire group of attorneys, this form of practice is all we know. Working from home has become the default, e-service the expectation, Zoom depositions the standard.

This month, the California Bar is expected to release the October 2020 bar exam results (I know what you're thinking, and yes, the July 2020 bar exam was also a victim of COVID-19 delays). Upon release of the pass list, thousands more attorneys will enter this rapidly changing legal environment.

With one year under my belt, I won't pretend that I can impart much wisdom, but hopefully I can provide some advice to my future colleagues on how to navigate these trying times.

## 1. Roll with the Punches

COVID-19 has raised challenges that the Code of Civil Procedure, Rules of Court and Local Rules were not prepared to handle. Be prepared for new procedural challenges or questions without answers. The law has recently changed (and will continue to change) significantly in the coming months. Be flexible, and embrace the fact that you will need to adapt quickly and constantly in this new environment.

## 2. Blurred Lines

Now that working from home is the new normal, it gets increasingly difficult to determine when your work day starts and stops. Without an evening commute to switch gears, you will need to find an activity to refocus yourself. Cook dinner, go for a walk, take a drive around town – anything that allows you to unwind and refresh for the next day.

## 3. Communication is Key

While communication has always been imperative in the legal profession, now more than ever it is necessary to establish effective communication with your team and your clients. Learn who prefers letters, e-mails, video-calls or phone calls, and provide the information accordingly.

To those with one year of legal practice under their belt, I encourage you all to take a moment and reflect on your accomplishments this past year and to keep your head held high as you continue to tackle unprecedented logistical challenges. And to the soon-to-be attorneys, know that you have overcome significant hurdles to stand alongside your fellow colleagues, but by doing so, you've obtained a skill set that will be invaluable to your future in the legal profession.



*Taryn Reid is an associate attorney at the Beach Law Group LLP.*

## EDITORS' NOTE

It has been brought to our attention that the edited version of December 2020's "Barristers' Corner" by H. Frederick Seigenfeld did not convey the message intended by its author. What better way to ensure the author's message is accurately conveyed than to print the original version? We therefore publish below the original first three paragraphs of December 2020's "Barristers' Corner":

*This was not your average year for the Ventura County Barristers. After all, I was the president. A post I gained while secretly having the intent to remove all fun from the year. I realize that sounds like a hefty task, but I like a good challenge and believe I was pretty successful in the end. You be the judge.*

*With the support of the Barristers Board, I cancelled our March Game Night, our May Trivia Night, our August Wine and Cheese Social, Meet the Bench this month and even our upcoming Barrister Board Dinner in December. If not for the impressive Zoom Trivia Night helmed by none other than our Vice President, Kevin J. Heimberg of Slaughter, Reagan & Cole, LLP, I think I would have successfully removed all of the fun. Maybe next year.*

*All kidding aside, this has been a trying year for us all. My thoughts are with everyone reading this and especially those who have suffered the most. We hope to bring back all the aforementioned events next year, but not before it is safe to do so. In reality I consider myself a purveyor of fun and promise you all to pressure Mr. Heimberg into moderating another glorious night of trivia on Zoom. This time we shall dethrone Ferguson Case Orr Patterson LLP, the 2019 and 2020 victors. You have been warned Wendy Lascher.*

# FROM MAYOR TO SUPERVISOR

by Rabiah A. Rahman



Last month, **Matt LaVere** was sworn in as District One's Ventura County Board of Supervisors representative. I had an opportunity to sit down with LaVere at the end of 2020 to discuss his path to politics and listen as he reflected upon his service on the Ventura City Council. I learned that "Mayor Matt," as constituents commonly refer to him around town and on social media, has concrete reasons for why he continues to serve his community and the goals he hopes to achieve in office.

LaVere was born and raised in Ventura and Ojai. With the rise of Nazi Germany and anti-Semitism in Europe, Matt's paternal great-grandparents fled Eastern Europe as refugees and had to start over in America. They came through Ellis Island and settled in Brooklyn in search of better opportunities. LaVere's maternal grandparents were Quakers. They migrated west as victims of the Dust Bowl, and as they traveled, they occasionally stopped to work on cotton farms until they had enough money to make it to their next stop along the way, and ended up moving to Ventura in 1950, when his grandfather began a new job working for Edison.

LaVere comes from a sports-inclined family. Both his father and brother played competitive sports, and his sister starred at Buena High School before receiving a scholarship to play basketball for the University of Notre Dame. LaVere played volleyball and baseball as a kid and he was an All-CIF basketball player in high school. The Ojai Valley News recently named

him one of the best basketball players to come out of the Ojai Valley in the past 30 years! He even met his lifelong best friend, **Andrew Ellison**, on the basketball court when they were just eight years old. Even as a young kid, Ellison recalls "when it was crunch time, you usually wanted the ball in [Matt's] hands."

LaVere attended Villanova Preparatory School, which is a private Catholic school in Ojai with boarding students from all over the world. His high school operated within a rigid system, and his experience taught him how to find his own independent and unique voice while still respecting authority. He was a very gregarious teenager and enjoyed the many friends he made in high school. He could always find the commonalities between himself and others from different walks of life and who had divergent perspectives.

It was also in high school where LaVere developed his love of travel and adventure. He spent the summer between his junior and senior year in Germany as an exchange student. After high school, he attended Pepperdine University, where his thirst for travel and adventure continued. He spent his sophomore year studying abroad in Germany. He procured a rail pass and traveled to 23 countries during that year. LaVere loved discovering the different cultures and unique ways of life in each country. He also realized how similar we all are to one another and cultivated his sense of a shared humanity.

During the spring of his junior year at Pepperdine, LaVere interned at the White House in Washington, DC. He graduated early with a degree in Political Science and moved to DC to work in the capital office of a Congresswoman from New Mexico. It was an opportunity for him to experience politics in action.

Notably, LaVere was working on Capitol Hill on Sept. 11, 2001, when American Airlines Flight 77 crashed into the Pentagon. His office looked toward the Pentagon and he could see the smoke rising from the crash. He remembers it vividly and was in utter shock. The Capital was on lockdown and he was evacuated to a secure location. He could not get home for a number of hours. The Pentagon was still on fire when he was finally released. He recalls driving by the Pentagon on his way home and still being able to smell the jet fuel burning. It is a smell he will never forget. LaVere gained firsthand experience watching leaders lead in a time of crisis and throughout all of the uncertainty during the months that followed. What truly stood out to LaVere was the way leaders brought the country together during this difficult time and the empathy they showed to those whose lives were turned upside down by this tragedy.

After two and a half years in DC, LaVere was ready to move on to his next adventure. When he looked around at all of the people he had come to respect in the workplace, he noticed they were all lawyers. He figured that if he wanted to be where they were, he should attend law school. LaVere moved back home and attended Pepperdine University School of Law.

Once again bitten by the travel bug, LaVere spent his 1L summer clerking for a Barrister in London. He spent his second-year summer working for the United States Attorney's Office in Las Vegas, Nevada. He worked on the Organized Crime Strike Force. LaVere initially intended to stay on with the U.S. Attorney's Office after law school, but he realized his heart remained in Ventura and he wanted to come home. He clerked for Ventura law firm Myers, Widders, Gibson, Jones and Feingold, LLP while he waited for his bar results. After receiving his results, Myers Widders offered him a full-time litigation associate



position, and his legal career began. LaVere also passed the Nevada Bar. He worked between Myers Widders's Ventura and Reno offices, primarily doing construction defect litigation. He worked closely with **Dennis Neil Jones**, who recalls, "Matt passed the Nevada Bar on his first try and helped me litigate some cases in Nevada, as well as in California. He was a valued member of our firm and I am not surprised by his subsequent success."

LaVere stayed with Myers Widders for four years before moving on to Goldenring and Prosser. He worked for Goldenring and Prosser for a little under three years before he made the decision to hang up his own shingle. Today, LaVere continues to practice law with his law partner **Paul Huff** in downtown Ventura. LaVere and Huff were already friends when they decided to open a firm together, and Huff had always found LaVere to be "tenacious, dependable, trustworthy and easy to get along with." Huff continues to believe "partnering with [Matt] turned out to be a great decision -- he has always been all those things as a partner." LaVere's practice primarily focuses on business transaction law, with a specialization in the agricultural industry.

Throughout his professional career, LaVere remained very active in the community. In addition to various community service initiatives, LaVere served on the Ventura City Parks and Recreation Commission for two years, and on the Barristers Board of Directors.

In 2016, LaVere decided to enter the political arena. He ran for a seat on the Ventura City Council. He recognized a lack of opportunities for young people in the community. He realized that the current council was made up of individuals from different seasons in their lives, and felt that the interests of individuals in his age group and future generations were not being fully considered. Once in office, LaVere began to fully appreciate the fact that many people in the community were struggling and experiencing varying degrees of food insecurity, poverty and homelessness. While serving on the City Council, LaVere learned that he enjoyed the service components of elected office and that he could contribute to policies that will last for years to come

to help those most in need. He is proud that, during his tenure as Mayor, Ventura was able to open the County's first 24-hour emergency homeless shelter.

On Dec. 4, 2017, LaVere found himself thrust into a historic crisis for the second time in his life. On the night of his appointment as Ventura's Deputy Mayor, the City of Ventura was on fire. The Thomas Fire burned approximately 281,893 acres before being fully contained on Jan. 12, 2018, and was the largest wildfire in modern California history at the time. LaVere reflected and relied on the crisis leadership lessons he learned during his time in Washington, DC during 9/11. He stepped up to the plate and leaned into his new leadership role. His own home was in the fire zone. First, he had to ensure his family made it out of harm's way. His wife, Alicia, was nine months pregnant with his youngest daughter at the time. His home was in the evacuation zone for a week and experienced significant smoke damage; however, he fully acknowledges his good fortune to have not lost his home during the fire, a fate suffered by so many.

LaVere recalls driving through town with the Fire Chief and witnessing the fire's devastating effects. It looked like a bomb had gone off. He knew that community members would all be facing different sets of unique needs, and there was no single solution that would fix all of the problems which lay ahead for the families directly impacted. He honed his practice of deep listening. Often times he realized that people understood that there would be no easy fix, but they needed to be heard and know that their unique sets of concerns were being considered by their elected officials in the plans to come.

City Hall was also in the evacuation zone, so the council was operating out of the police headquarters in mid-town Ventura. At that time, the City of Santa Rosa had recently experienced their own devastating fire. On his own accord, the Santa Rosa City Manager came down to Ventura to assist and to be an informational resource for the local leaders. LaVere welcomed the assistance and advice. The first piece of advice the City Manager offered was for leaders to communicate frequently, and to

be open and honest with the community. Therefore, LaVere made it a point of going out into the community as often as possible in order to keep the community informed. He wanted to be fully transparent and ensure the community knew that local leaders were working on their behalf. They designated a space for the community to receive information and other essential services. He reached out and personally spoke directly with as many fire victims as possible. He knew that the only way the city would recover, was if everyone worked together to recover as a community.

LaVere is extremely proud to serve a community that came together during a time of crises to rebuild their City. "I think we're very lucky to have LaVere bringing his considerable energy and thoughtfulness to the County," says Ellison. "[Matt] is skilled at identifying critical issues, proposing creative solutions, and he's motivated by a sense of fairness and inclusivity," Ellison continued. LaVere wants people to know he considers it a privilege to serve this resilient community, and he wants people to know he truly cares about their experiences and perspectives.

LaVere is now looking forward to beginning his first term on the Board of Supervisors. LaVere often reflects upon what Ventura County will look like for his daughters and whether it will provide the opportunities necessary for his and others' children to come home and raise their families. He has chosen to continue to serve his hometown communities because he hopes to help implement creative solutions to difficult issues and to build an equitable and thriving environment for generations to come.

None of us know all that LaVere will encounter in his new position, but if the past is any indication, there is little doubt that he will rise to meet the challenge.



**Rabiab A. Rabman** is an employment law attorney, and her firm exclusively represents employees in employment litigation. She can be reached at (805) 626-8337 or

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## MOCK TRIAL

by Judge Gilbert Romero

The Ventura County Superior Court and the Ventura County Office of Education believe that in this time of COVID-19, it is more important than ever for the Ventura County Mock Trial Competition to take place during the 2020-21 school year.

This year's competition will be both familiar and a bit different. We are working hard to keep the components of Mock Trial in place while keeping everyone safe and healthy. The big difference will be, instead of everyone meeting in person to compete, students, coaches, scoring attorneys, judges and parents will all be meeting virtually.

That means that our competition will be moving to an online platform that will host video conferencing and real time scoring. We will be much more reliant on technology to bring us together and provide us with feedback.

We have selected our online platform and are currently creating easy to use instructions and trainings for you to make the transition to a virtual event as smooth as possible.

I would like to ask that you please consider joining us as a virtual scoring attorney or judge for the 2021 Mock Trial. To register as a virtual scoring attorney or judge, and for the latest information on Mock Trial, please visit: (<https://www.vcoe.org/Competitions/Mock-Trial/Judges>).

This year's Mock Trial Schedule is:

**Round 1:**

Thursday, Feb. 18th, 5:00 PM – 9:00 PM

**Round 2:**

Friday, Feb. 19th, 5:00 PM – 9:00 PM

**Round 3:**

Monday, Feb. 22nd, 5:00 PM – 9:00 PM

**Round 4:**

Tuesday, Feb. 23rd, 5:00 PM – 9:00 PM

**Final 8 Round 1:**

Wednesday, Feb. 24th, 5:00 PM – 9:00 PM

**Final 8 Round 2:**

Thursday, Feb. 25th, 5:00 PM – 9:00 PM

**FINAL:**

Friday, Feb. 26th, 5:00 PM – 9:00 PM

Please join us on any dates that work for you. And please forward this information to anyone else who may be interested in participating in your firm or in your legal circles. Since it is a virtual format volunteers are not limited to persons who can make it to the courthouse. With this new format we will need all the help we can get.

Spreading the excitement of exploration, learning and growing is a cooperative education effort. Without the help and support of our sponsors, volunteers, parents and teachers, these worthwhile events would not be possible.

On behalf of the Ventura County Office of Education, I thank you for taking the time to consider supporting this amazing Ventura County tradition. I look forward to hearing from you.

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## ASIAN-AMERICAN BAR ANNOUNCES REVIVAL AND 2021 SLATE

The Ventura County Asian American Bar Association (“VCAABA”) is pleased to announce its revival, led by the following board members for 2020-2021:

President: **Jessica M. Wan**  
 Vice-President: **Kristine A. Tijam**  
 Secretary and Treasurer: **Reema Kapoor**  
 Members-at-Large: **Mark Fang** and **Dien Le**

VCAABA was initially established in Feb. 2005, in response to the growth of the Asian American population and the number of Asian American attorneys in Ventura County. VCAABA aims to be the voice of Ventura County’s Asian American legal community and an advocate and ally for civil rights, representation, and equality.

On Dec. 7, 2020, VCAABA, in partnership with the Ventura County Bar Association and VC Alternative Dispute Resolution section, hosted its first event since its revival, entitled “Navigating Virtual Mediations & Arbitrations.” This virtual MCLE presentation consisted of a panel featuring two experienced and distinguished Asian American dispute resolution professionals, Kelly A. Knight, Esq. from Judicate West, and Hiro N. Aragaki, Esq., FCI Arb, from JAMS. Knight and Aragaki discussed the pros and cons of virtual alternative dispute resolution, key practical considerations to ensure a successful process, and trends regarding the same since March 2020.

VCAABA intends to continue hosting events, participating in community outreach, working with other diversity organizations such as the Ventura County Diversity Bar Alliance, Multicultural Bar Alliance of Southern California and National Asian Pacific American Bar Association, and helping promote Asian American professionals in our legal community.

We invite everyone to join us at our next event or become involved in any capacity. If you would like to be added to our mailing list or have any questions or suggestions, please contact us at [venturacountyaaaba@gmail.com](mailto:venturacountyaaaba@gmail.com). Our website is <http://www.vcaaba.com>. Please contact the VCBA if you are interested in becoming a member of VCAABA. We welcome all who are interested!

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## MINDFUL CHILD CUSTODY PRACTICE IN THE NOVEL CORONAVIRUS AGE AND BEYOND

by Claudia Silverman

I have come to the realization that the most rewarding aspect of lawyering is my role as a counselor, rather than as a mere advocate.

I reached this realization as I near my fourth decade as an attorney – over three of them spent as a family law attorney – in a time of a collective global reflection on the meaning of community, family and our shared values. All of this has prompted me to reflect on the purpose of my practice. This article centers on child custody matters, as I believe them to be the most complex, fascinating, wrenching and consequential of any law practiced on a day-to-day basis in our court system.

The pandemic has taken me out of the high rise and high heels and into an office at one end of my home where I can work in my stocking feet. But that is not what is prompting my inward reflection. Like the rest of us, I am confronted each day with the awesome realization of the preciousness of life. Many of our friends and relatives have become ill; some have died from the novel virus. Since the onset of this intense period, many of us have taken to including in our communications some form of “be well,” when addressing anyone – from clients, opposing counsel and colleagues to mere acquaintances. We all feel the urge and the obligation to protect others, by social distancing and wearing masks. We worry constantly about our loved ones, and wonder whether they are safe. We worry, we wait and hope for a cure, for an effective vaccine, and for an end to the economic, political and social upheaval around us. We hope for a better world for our children, for all children.

These newly and acutely heightened sensibilities have led me to the conclusion, long in the making even before COVID-19, that my purpose as an attorney is more highly fulfilled when I assist my child custody clients to reach the best possible long-and short-term result for the welfare of their children, not necessarily simply a “winning” result.

As family law *litigators and advocates*, we are trained – indeed required – to use the law and the rules of procedure and evidence to win for the client, regardless

of absolute right or wrong, and heedless of the overarching justice or injustice of the result. (Rules 1.1 and 1.3 of the Code of Professional Conduct requires “reasonable diligence,” and “competence.”) Simplified, in child custody cases, the “winning result,” means obtaining for the client more time with and control over the children.

But the attorney’s obligation as an *advisor and counselor* is different than, and I would argue more important than, that of an advocate. As seasoned and sage advisors, we are trained and required to use the tools of compassion, wisdom and experience to guide clients to a just result that eschews raw scorekeeping for mindful resolution. For example, California Rule of Professional Conduct 2.1 (Advisor) states: “In representing a client, a lawyer shall exercise independent professional judgment and render candid advice.” Comment [2] to the Rule states, “[T]his rule does not preclude a lawyer who renders advice from referring to considerations other than the law, such as moral, economic, social and political factors that may be relevant to the client’s situation.” Thus, as advisors, versus advocates, we are permitted to guide our clients to a just and moral result. In child custody matters, the just and moral result is one that puts the child’s needs and interests first.

It has long been recognized by many practitioners that family law litigation – particularly in the context of child custody – is not a zero-sum game. When parents are fighting over their children, it is often said, there are no winners (except for the lawyers), and the children are the inevitable losers. This observation has led to the push for Collaborative Law in 1990 by Minnesota attorney Stuart Webb, as well as work by Isolina Ricci (*Mom’s House, Dad’s House: Making Two Homes for Your Child*) and others. I have incorporated these observations into my practice for many years.

As family law attorneys, we can help our clients to find solutions through mediation, use of parenting coordinators and co-parenting counselors, therapists and other professionals dedicated to finding constructive parenting resolutions. One

excellent resource is the Association of Family and Conciliation Courts ([www.afcnet.org](http://www.afcnet.org)), an organization centered around “improving the lives and children through the resolution of family conflict.” This organization is an excellent resource for family law professionals as well as parents and offers myriad tools for helping to find solutions that are in the children’s best interests.

The Ventura County Superior Court is dedicated to assisting families to find resolution of child custody disputes. The court has long instituted Child Custody Recommending Counseling, a process utilizing experienced family counselors, all of whom have Master’s Degrees in fields such as Marriage and Family Therapy and Social Work. These highly trained professionals seek resolution that puts the child’s needs first. Court-ordered mediation can help parents forge a solution, and, where agreement is not reached, the counselor’s recommendation helps guide the judicial officer to a workable set of solutions. This process keeps many families out of heated litigation that can become destructive to a family.

In addition, the court has developed guidelines for parents to follow during the pandemic, which guidelines have assisted to reduce conflict. (See Administrative Order Re: Mandatory Guidelines for Custody/Visitation Orders in Response to COVID-19 (amended May 18, 2020).) For example, the Guidelines state, “The existence of the COVID-19 crisis is not a sufficient basis for a modification [of existing custody orders] without specific articulable facts,” nor is it “a reason to deny parenting time....” Thus, absent articulable reasons, a parent may not permissibly use COVID fears alone as a basis to disrupt the children’s schedule with the other parent.

Thus, it should be clear that these observations as to the value to families of a low-conflict child custody approach are hardly new or original. It is simply that I have finally taken these observations to the next level and am consciously attempting to focus my practice on assisting clients toward a constructive and positive co-parenting approach without contentious litigation.



However, some issues simply must be litigated. It would be difficult to catalogue all issues likely to be litigated, but they are far more prevalent in families that have experienced domestic violence, child abuse or neglect, mental health issues or substance abuse. In such families, parenting plans are less likely achievable through collaborative solutions. As in any custody dispute, it is important that the client understand that the paramount consideration for the court is the best interests of the children. When preparing for litigation, explore with the client the needs of the children and the best way to meet those needs; then present the facts and law to the court with the best interests of the children (not the parent's rights) as the guiding principle.

Counsel should bear in mind the effect that harsh and pointed accusations in court can have on a co-parenting relationship. Filing pointed and divisive accusations against the other parent (especially where the children are not in true or immediate danger, and especially where the accusations are not able to be corroborated) can have long-term negative consequences. Alleging mental illness, spousal abuse, substance abuse, child abuse and child neglect can and likely will set off years of bitter litigation,

rather than a path toward productive co-parenting. Explain this to the client. Drafting court papers requesting orders must of course include necessary facts and advocacy – and may require recitation of harsh facts especially where the children are or may be in danger – but can be nuanced and tempered where appropriate.

Even when making accusations of abuse, the pleading language can be constructive and thoughtful rather than accusatory. If appropriate, declarations can set an understanding and sympathetic tone. Describe acts and facts, but don't attempt to diagnose or disparage. When stating facts, it may be helpful to set a tone of compassion, acknowledging that the other parent is going through difficult times, may benefit from counseling, or may be helped by a program of sobriety. Where appropriate, focus on the children's needs and behaviors, and the solutions to those, as much as the other parent's failings.

Where custody cases go to contested court hearings, it is important that the parent understand the Ventura County recommended mediation process and how best to achieve the desired results in mediation.

Challenging times can bring out the best in us. Now is an opportunity for family lawyers to reflect with greater focus on our values and the values of society to work for the strength of families and the betterment of children, and to try to find constructive solutions where possible. Helping a client to find constructive solutions can occur at any point in the process, whether the case is litigated or resolved through negotiation and mediation, and whether our role is as a litigator or advisor, or both. I litigate custody issues for clients who I trust, where other alternatives for resolution are not available or not workable. However, for the most part, in these times, the role of advisor seems to fit best for me.

*“Life is Very Short and There's No Time...”*



*Claudia Silverman of Law Offices of Claudia Silverman, APC, is a certified family law specialist and member of the editorial board of CITATIONS. claudia@legalsilverman.com.*

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## TO THE FAMILY LAW BAR

by Judge JoAnn Johnson

I apologize for my lengthy silence, however a lot of things have been in the works and I wanted to wait until I could provide complete information to you.

First, as many of you are aware by now, most MSCs starting with Dec. 14, 2020 through Jan. 2021 have been rescheduled to dates in February and beyond. MSCs with corresponding RFOs that are on the RFO calendar (not trailing) may remain on calendar. This is necessary as the court must limit proceedings to those that are essential to protect the safety and welfare of the public and court personnel. While MSCs are certainly important, they are not essential and can be replaced with voluntary settlement conferences. The good news is that by the time the MSCs resume in February, MSCs will be via Zoom.

Second, as of Jan. 4, 2021, all RFOs will be Zoom appearances. This will be mandatory, subject to certain exceptions.

Third, starting immediately, some Zoom mediations will be available with more in the near future.

Fourth, status conferences remain suspended.

Ex partes will not be by Zoom unless specifically requested for health / distance needs.

For Department 34 restraining orders, Zoom appearances will also be available. Parties assisted by the Family Justice Center (formerly known as the victim advocates) will appear by Zoom from the Justice Center. A staff member from the Justice Center will be present in court for picking up / filing orders and continuances. Elder Abuse cases assisted by the Justice Center will be handled in the same manner.

As to “Why aren’t trial and evidentiary hearings by Zoom?” we are not a paperless system yet. When you submit documents by email or e-filing, the documents must be printed out manually by a clerk. Any trial or hearing with exhibits would not be practical and the judicial assistants cannot take responsibility for storing the exhibits if brought in prior to trial. Each judicial

officer may make the decision to have an evidentiary hearing or trial by Zoom depending on the issues in dispute.

**Additional and more detailed rules and information will be forthcoming**, including the Zoom addresses for each courtroom. **DO NOT DISSEMINATE** these addresses to the general public. Admonish your clients not to do so. Violation of the rules will lead to restrictions from using Zoom.

With continued adherence to health directives and new procedures, we can all have a safe and healthy holiday season.



Judge JoAnn Johnson

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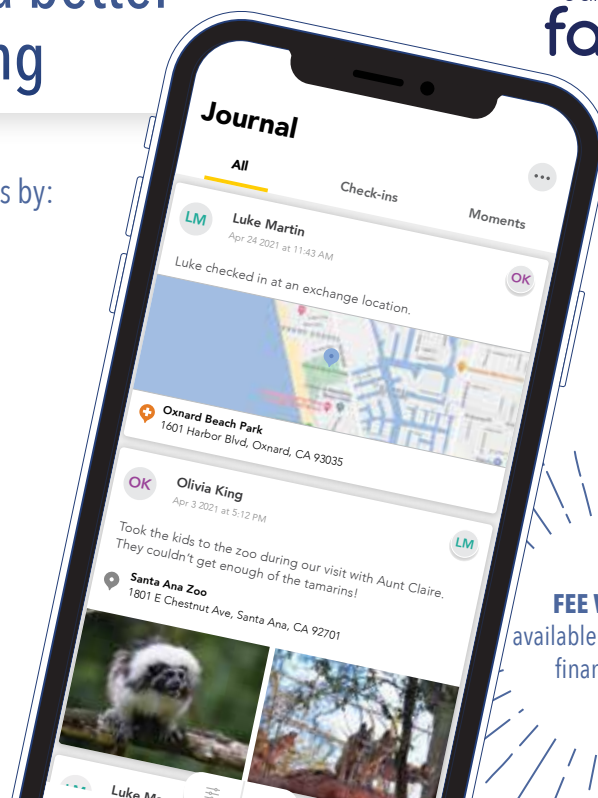


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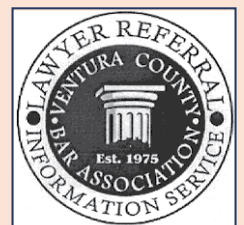
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## ¡FELIZ AÑO NUEVO!

We are pleased to announce the newly elected President for the Mexican American Bar Association Ventura County Chapter. “I am excited by the opportunity to build on the accomplishments of our previous leaders and continue the growth and success of our organization,” said new MABA President **Vanessa B. Valdez**.

Valdez received her law degree from Ventura College of Law, is the parent of four children, and serves as a staff attorney for California Rural Legal Assistance helping California’s low-income individuals and communities with employment law related matters.

MABA is also thrilled to announce the victorious election of one of our founding members, **Carmen Ramírez**, to the Ventura County Board of Supervisors for District 5. **Ramírez** has served the City of Oxnard as a Council member and mayor pro tem since

2010, and is now the first Latina in history elected to serve in the Ventura County Board of Supervisors. Congratulations Carmen!

Since its inception forty-one years ago, MABA’s goal has been to create a diverse community of leaders united around a common goal – supporting and encouraging the growth and success of all families, businesses, and communities of Ventura County. Both **Ramírez** and **Valdez** are great examples of leaders in our community who hold true to these beliefs, and they can be counted on to apply them in 2021 and beyond.

We hope to share more happy news with you in the future, like MABA’s first meeting in 2021!

*Wishing everyone health and happiness!!*

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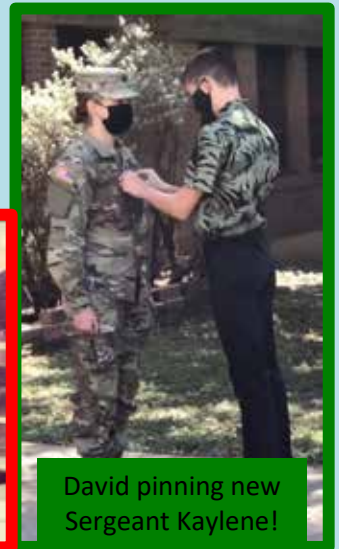




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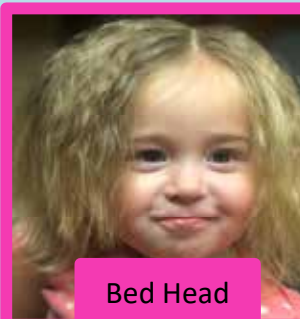
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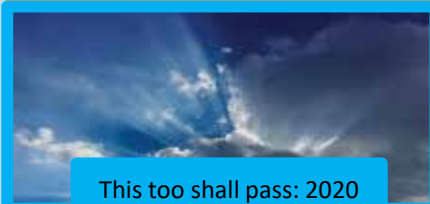
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