



CITATIONS

FEBRUARY - TWO THOUSAND TWENTY ONE



JUDGE CHARMAINE BUEHNER: A STEP IN THE RIGHT DIRECTION FOR OUR LOCAL BENCH

by Sara Peters

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Photo credit: Victoria Borjesson

MARC D. ANDERSON

LINDSAY NIELSON

WENDY LASCHER

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PRESIDENT'S MESSAGE

by Marc D. Anderson

The 2021 VCBA Board of Directors had its first meeting on Jan. 13. Our Executive Director, Sandra Rubio, introduced herself and her staff, Associate Executive Director Nadia Avila and Member Relations Assistant Nayrin Banuelos. We welcomed new board members **Monica O'Hearn**, **Kristine Tijam** and **Sara Peters**. We re-introduced ourselves and our areas of practice and shared our best pandemic binge watch and our best pandemic skill. A lot of us have enjoyed *The Queen's Gambit* and have become better cooks and bakers!

I am proud of the diversity of the lawyers on the Board and the kaleidoscope of viewpoints that diversity brings to our meetings. I miss meeting in person, but our Zoom meetings give us the opportunity to peer into each other's homes, see and hear children and pets, and occasionally remind each other that we are on mute.

In 2021, the VCBA has three working committees in addition to our standing committees. **Joshua Hopstone** chairs the Member Services and Support Committee. His Committee members are **Linda Ash**, **Rachel Coleman**, **Peters** and **Lauren Wood**. **Stephanie Johnson** chairs the COVID Recovery and Access to Justice Committee. Her committee members are **Margaret Coyle**, **Carla Hartley**, **Trevor Quirk**, **Rick Seigenfeld** and **Tijam**. **Vanessa Frank** chairs the Community Outreach Committee. Her committee members are **Damon Jenkins**, **Kata Kim**, **Louis Kreuzer**, **O'Hearn** and **Bert Partida**.

Our committees will work hard to advance the mission of the VCBA:

- 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.

Each of our committees will be able to develop and implement specific goals to color in the broad outline of the VCBA's mission. I'm excited to see the final picture.

Committee membership is open to any member of the VCBA. Despite the pandemic (or maybe because of it!), we have plenty of work to do this year and we could use your ideas and service as we recover from the pandemic. I encourage you to reach out to Joshua, Stephanie, Vanessa or Sandra and become involved in one of our committees. Don't be surprised if we reach out to you!

Access to justice and the administration of justice are key missions of the VCBA. Events in 2020 brought attention to the importance and relevance of these issues.

Last May, a police officer, sworn to uphold the law, killed a black man on the streets of my hometown. I watched the nine-minute video of George Floyd dying under the knee of Minneapolis Police Officer Derek Chauvin with horror and disgust. With a hand in his pocket, Officer Chauvin killed Mr. Floyd in broad daylight while three other officers stood by and bystanders pleaded for restraint.

In the days that followed, law enforcement agencies across the nation and the world condemned Officer Chauvin's conduct. In the weeks that followed, organizations and groups spoke out against the broader issue of systemic racism. These groups included bar associations and state supreme courts across the country.

The Washington Supreme Court said in its statement, "The injustice still plaguing our country has its roots in the individual and collective actions of many, and it cannot be addressed without the individual and collective actions of us all."

The California Supreme Court said, "We have an opportunity, in this moment, to overcome division, accept responsibility for our troubled past, and forge a unified future for all who share devotion to this country and its ideals."

Go online and read these statements from our Nation's courts. Go online and reread the *Statement Regarding the Killing of Unarmed Black People* by Black Lawyers of Ventura County in the September 2020 *CITATIONS*. It outlined four steps our community, public agencies and elected officials can take to bring about sustainable and systemic change throughout Ventura County. Reflect on these statements and consider what actions you can take this year to eradicate racism.

Equal justice under law is our ideal. But, there is the justice system we strive for and the justice system we have. It is our moral obligation as lawyers to condemn racism, to acknowledge and confront injustice, and to have the strength and courage to make equal justice under the law reality.



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?



Judge Catherine Voelker officially took the bench on the Ventura County Superior Court Jan. 5. For several years before her election, Judge Voelker, a graduate of the McGeorge School of Law, previously prosecuted homicide, domestic violence, sexual assault and other cases as a Senior District Attorney in the office of the Ventura County District Attorney. Sworn in by **Judge Ryan Wright**, Judge Voelker was elected to the seat vacated by the Jan. 3 retirement of **Judge Vincent O’Neill**. (Judge O’Neill is spotlighted in Barristers Corner, p.13.)



CITATIONS is saddened to learn that Camarillo attorney **Kevin McVerry** passed away in January after a short illness.

Unclear on the ex parte concept? A Kern County Superior Court clerk recently explained to a local lawyer that to set an ex parte in that county, the lawyer should submit the ex parte petition for the court to review. The court selects the date. This process takes one to three weeks. If the attorney wants the court to assign a date sooner, they need to also submit an “ex parte petition to review ex parte petition.”



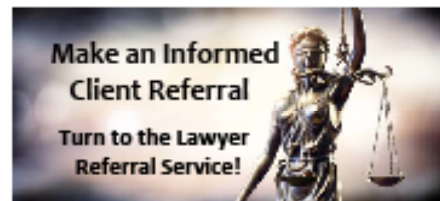
Former Ventura County attorney **Rachel Coleman** has moved to Columbus, Ohio to be closer to family. Coleman continues to handle contract matters for California lawyers.

To reach her, call 805-766-1530 or rachelcoleman@live.com.



Myers, Widders, Gibson, Jones & Feingold, LLP is proud to announce that **Sasha L. Collins**, who joined the firm in 2020, has been elected partner. Collins focuses her practice on estate planning, conservatorship, probate and trust administration matters. She is a board member and past president of Women Lawyers of Ventura County, and has also served on the board of the Ventura County Bar Association. Reach Collins at scollins@mwiglaw.com

CITATIONS sadly notes the passing of the 1974 VCBA President, **John H. “Jack” Fay**. Watch for a remembrance in the March or April edition.




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THE GREAT VENTURA PHILOSOPHICAL AND CHOWDER SOCIETY

by *Lindsay Nielson*

Approximately 25 years ago, I along with my former law partner, **Jo Ann Wedding**, thought there was something lacking in our efforts to interact with intelligent and interesting people. We proposed a loose affiliation of people who would appreciate learning novel ideas. This wasn't going to be a service club; indeed, we decided that there would be no formal club with by-laws, rules, officers, dues, secret handshakes. Membership was based on invitations from people who came to the first couple of lunch meetings. Instead of much structure, we would simply invite interesting people who had something to say. Oh, we did have one rule: no politicians would be invited to have a conversation with our society.

We (actually, I) decided to name the loose affiliation grandly as "The Great Ventura Philosophical and Chowder Society." There was no set schedule for gathering other than when the mood hit us and we persuaded someone of substance with something to share to meet a group of people for lunch at Saticoy Country Club and converse about that someone's particular bit of information or expertise. Lunch was \$20, enough to cover the speaker's lunch and the small marble paperweight we presented in appreciation of our guest's time and insight. The GVP&CS met four or five times a year.

Among the many outstanding guests over the years were the President of Thomas Aquinas University, the Chancellor of California State University Channel Islands, and the manager of the Port Hueneme deep water port, who told us that the port was completed in 1939 but did not appear on maps of California during WWII. **Judge Harry Walsh**, whose father was the legal counsel to the Brooklyn Dodgers, gave a talk on how the team moved west to become the Los Angeles Dodgers. I talked about the early years of my life, spent in the Santo Tomas internment camp in the Philippines. A Ventura County resident who participated in the Beijing to Paris auto race, which occurs every eight years, described his adventures and the

misadventures that arose from the race's rule that your vehicle could not be newer than 1937, the year the first race occurred.

We have chatted with a commercial airline pilot instructor, the head of the Nature Conservancy, a brain surgeon, a philosophy professor and a professor of Mid-eastern history, who explained Islam to us. We learned about water storage on the Oxnard Plain. One of the more interesting speakers was a beekeeper Did you know that bacteria cannot survive in honey? It was used for bandages in World War 1. (That is when I became a honey snob, insisting that we only have sage honey at home. It is the best.)

We have also taken educational excursions. For one field trip we chartered a plane and flew to Channel Island National Park for a private tour of Santa Rosa Island. We also toured the County's sanitary land fill in the Timber Canyon area of Santa Paula, and Ventura's new Community Memorial Hospital when it was still under construction.

One meeting, instead of inviting a speaker at all, those in attendance debated what invention in the past 100 years or so has had the greatest impact on modern society. What would you say? Radio? Television? Flight? Automobiles? Computers? Medical advances?

The Covid pandemic has shut down the Great Ventura Philosophical & Chowder Society. We would like to revive the concept when we can. It was open to anyone, not just members of the legal profession. If this is something that may be of interest, we'd like to know. When and if we can meet again, I am sure there are many people who have something interesting to offer and would like to engage people of intelligence in conversation. We will go wherever our curiosity takes us.

If this has any interest to you, please e-mail *nielsonlaw@aol.com*.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA

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21	Judge Jeffrey G. Bennett
22	Judge Kevin G. DeNoce, Assistant Presiding Judge (MSCs)
22B	Genalin Riley, Case Management Attorney (Small Claims, CMC)
40	Judge Mark S. Borrell
41	Judge Ronda J. McKaig – CEQA and Laura’s Law
42	Judge Henry J. Walsh, Supervising Judge Civil Division
43	Judge Benjamin F. Coats
J6	Judge Roger L. Lund – Probate
FAMILY LAW	
31	Judge Jack Smiley
32	Judge Michael S. Lief (Chambers 31)
33	Judge Charmaine H. Buehner
34	Commissioner William R. Redmond
35	Judge JoAnn Johnson, Supervising Judge Family Law Division
JUVENILE	
J1	Judge Tari L. Cody- Dependency, Supervising Judge Juvenile Division
J3	Judge Dino Inumerable
J4	Judge Manuel J. Covarrubias
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10	Jury Trial Courtroom
11	Commissioner Julia Snyder (Unlawful Detainers) (sitting in chambers 10)
12	Judge Patricia M. Murphy (Temporary Assignment - remains in chambers 25)
13	Judge Nancy L. Ayers (Mental Health Court)
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25	Judge Patricia Murphy
26	Judge David M. Hirsch (Temporary Assignment– remains in chambers 12)
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36	Judge Derek D. Malan (sitting in chambers 11)
37	Judge Rocky Baio
44	Vacant
45	Vacant
46	Judge Anthony J. Sabo
47	Judge David R. Worley (Courtroom 13 Backup)
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JUDGE CHARMAINE BUEHNER: A STEP IN THE RIGHT DIRECTION FOR OUR LOCAL BENCH

by Sara Peters



On Sept. 28, 2020, **Charmaine Buehner** became the twelfth woman judge to take the bench on the Ventura County Superior Court. Yes, you read that right: twelfth. In its nearly 148-year history, Ventura County has had only thirteen women judges on its superior court. (Judge **Catherine Voelker** became the thirteenth when she was sworn in on Jan. 4.) According to the Judicial Council of California's latest demographic report, 21 percent of Ventura County's trial court judges were women as of December 31, 2019. In comparison, the state-wide average was 37 percent. Since then, Ventura County has made progress, but still has room for improvement.

Judge Buehner learned more about Ventura County's bench statistics after she joined Women Lawyers of Ventura County in 2011. At that time, WLVC hosted well-attended annual dinners but meetings were somewhat informal and infrequent. In 2012, Judge Buehner became WLVC's president-elect and then president in 2013. During this time, she worked with WLVC's newly formed board, including members **Jill Friedman**, **Jodi Prior**, **Kathi Smith**, **Katherine Becker**, **Jacquelyn Ruffin**, **Robert Guerra**, and **Sacheen Swan**, to revise WLVC's mission statement: To advance the interests of women and girls in law and society.

WLVC's board then began to act on the new mission. As part of that process, and with the idea that a bench and bar that is reflective of the community it serves will

provide better access to justice, WLVC sought to encourage well-qualified and diverse candidates to apply for judicial positions, and to make recommendations for appointment when such candidates were identified. In deciding to apply for her own appointment, first under the Brown administration in 2017, and then again under Governor Newsom's in 2019, Judge Buehner figured she would be satisfied with the process even if her application set the floor for the pool of judicial candidates.

As you might expect, Judge Buehner has had an impressive career – and has an interesting background as well. Originally from Southern California, her parents moved to Oregon with her and her two sisters when she was five years old. They owned and operated an auto repair shop in Medford and lived about five miles outside of the small town of Jacksonville – a rural area with no appreciable TV reception or many other urban conveniences. To this day, she still appreciates being able to order pizza for delivery.

She earned her bachelor's degree from the University of Oregon and worked in marketing and as a teacher before deciding to attend law school at American University in Washington, DC. During her 1L year, she and her husband James lived on a 40-foot sailboat docked at a marina in Southwest DC.

After law school, she spent seven years practicing civil litigation in San Diego: first as an associate at Klinedinst PC from 2002 to 2005, next as a senior associate at Baker & McKenzie LLP from 2005 to 2008, and then as a partner at Fleming PC from 2008 to 2009.

In order to live and work in the same community, in part to reduce the number of hours spent commuting on the freeway, Judge Buehner and her husband relocated to Ventura in 2009. She was an associate at the firm now known as Myers, Widders, Gibson, Jones & Feingold LLP from 2009 to 2012 before joining the Ventura County Counsel's office as an Assistant County Counsel in 2012.

Judge Buehner looks forward to this new chapter on the bench but will also miss

the practice of law. One of the things she appreciated most was continually learning new and interesting things and advocating for clients based on that new information. For example, before she was appointed, she defended constitutional challenges in federal court to the County's COVID-related public health order as similar challenges were litigated and orders and opinions issued nationwide.

Judge Buehner was not only a terrific litigator, but also did a lot for the community. In addition to her involvement with Women Lawyers of Ventura County, she also served on the boards (including terms as president) of both the Ventura County Bar Association and Ventura County Legal Aid. During that time, she decided the west part of Ventura County should have a free legal clinic and worked with VCLA and VCBA to make that happen. In 2016, they launched the VCLA Free Legal Clinic, which she chaired until last September when she took the bench. Prior to the COVID-19 restrictions put in place in March, the clinic met twice monthly at the Ventura County Law Library. As someone who had the privilege of volunteering alongside Judge Buehner at the clinic, I can say that her dedication and genuine concern for the people it served was commendable.

She is also a mother of three: a son in high school, a daughter in middle school, and a son in elementary school. All spent five years learning taekwondo together. Judge Buehner, her husband, and two older children are blackbelts. In 2016, Judge Buehner and her daughter qualified to compete in the district championship of the American Taekwondo Association for Arizona, California, and Nevada; Judge Buehner's daughter earned third place in sparring, and Judge Buehner won the district title in combat sparring. These days, the family is on hiatus from Taekwondo while the kids have learned to play other sports. Judge Buehner is content to run and walk for exercise, and in non-pandemic times likes to run a couple of half marathons per year.

Judge Buehner was appointed by Governor Newsom last August and took the bench last September. She initially spent her time


hearing traffic trials at the East County Courthouse in Simi Valley, and juvenile and traffic matters at the Juvenile Justice Center in Oxnard. As of February, she will oversee a family law calendar at the Hall of Justice in Ventura.

When I remarked that her family must be so proud of her, she shared what her daughter said after learning about her appointment: "I'm so glad you're going to be a judge now. It will be SO much easier to tell people what you do."




Sara Peters practices family law and civil litigation in Ventura. She has a background in employment law and is a former Special Education Teacher. She can be reached at (805) 200-7418 or

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WHAT DO CLIENTS NEED TO HEAR?

by Wendy Lascher

After almost 50 years of law practice, I am still not used to how often a potential client tells me, “My case is different.” Maybe different to the client, but there is a certain sameness to every matter a lawyer handles, no matter how “big” or “small,” no matter how sophisticated or how naïve the client may be. And there is a certain sameness to how I reply, aptly summarized by Oregon lawyer Bert Krages, “*There is a difference between what you want to hear and what you need to hear. Part of my job is to tell you what you need to hear.*”

Bert’s statement, and the other italicized observations here (in no particular order) are collected from members of Solosez, a listserv sponsored and maintained by the American Bar Association’s Solo, Small Firm and General Practice Division.

Sometimes the juice isn’t worth the squeeze. Michael J. Polk, South Carolina

The most senior and feared law professor, who taught Civ Pro and criminal law, repeated these two things: “First, get the money up front. And, remember, sometimes clients will lie to you.” David Masters, Colorado

Don’t tell me it’s about doing what your parents wanted. This case is about money. Robert “Robby” W. Hughes, Jr., Georgia

I need to know everything, not just what you think I need to know. Bobby Lott, Jr., Alabama

It’s totally your call on accepting the plea offer. Whatever happens in this case, I’m going home for dinner. You may not be. Russ Carmichael, Pennsylvania

Sometimes I want to say “I know you’re lying,” but instead what I say is “oh?” or “mmm” and end the consultation with an “I don’t think I’m the right attorney for this issue.” Corrine Bielejeski, California

I’m not your therapist. I’m just your lawyer. Roger Rosen, California

I had this attorney boss who used to say “There are people you can talk to, you know?” Ryan Young, Virginia

From a former partner: “Don’t piss in your own whiskey.” Mitchell Goldstein, Virginia

Judge/mentor to me: “Any day you walk out the front door of the courthouse is a good day.” Deborah Matthews, Virginia

From an old (now deceased) curmudgeon rural attorney to me, the “city” attorney who is in this rural county court for the first time: “Don’t break the ice - melt it.” Micah G. Guilfoil, Kentucky

Any schmuck with \$500 can file a lawsuit. The question becomes whether you can defend it Unattributed, California

And the corollary, as I always tell my clients, “anybody can sue anybody for anything.” Ed Burcham, Kentucky

From a now deceased former partner: “The matter that you only accept only because business is slow is the matter that you will regret taking when business picks up.” From the best man in my wedding, also a lawyer, speaking of clients and their matters: “I did not put your ox into the ditch. I am trying to help you get it out.” Craig A. Stokes, Texas

I can get an order from the court but I can’t fix crazy. Randy Birch, Utah

Every time you go to trial, it is a crap shoot. It does not matter how good your case is, when you put it in front of a judge (or a jury), you never know what is going to happen. The facts are on

your side and the law may be on your side, but the judge wakes up that morning in a grumpy mood; pours sour milk on his Wheaties and gets annoyed at his wife regarding the spoiled milk; trips over his brother-in-law (whom he hates and is staying at his house) on his way out of the house; and you, the client, look like either his brother-in-law or his wife. Every discretionary ruling goes against you and the jury, if there is one, picks up on that and you lose. There are no appeals because the rulings were discretionary and your case is over. This is why it is better to settle than try a case. [¶] Of course, this is one of the reasons that I actually like being a lawyer, the total uncertainty of the law. Frank Kautz, Massachusetts

A piece of paper won’t stop a bullet. Cynthia Hannah-White, Hawaii.

And the corollary: However, not having that piece of paper may come back to haunt you. Get it, but remember that, in the end, it is just a piece of paper. Frank Kautz, Massachusetts

And the simplest advice of all, from Bret Cook of California: **No.**



Wendy Lascher is a co-editor of CITATIONS, a partner in the Ventura office of Ferguson Case Orr Paterson, LLP, and a State Bar-certified specialist in appellate law.

If you find examples of bad legal writing you would like to share, please send them to wlascher@fcoplw.com.

BARRISTERS' CORNER

Judge Spotlight: The Honorable Vincent J. O'Neill

by Ben Baumer

Although he is too humble to admit it, the **Honorable Vincent J. O'Neill** is a renaissance man. After he officially retired from the bench on Jan. 3, I decided to find out (1) how Judge O'Neill became one of the most respected jurists in Ventura County and (2) what wisdom he could impart upon new and aspiring attorneys. He answered both questions in one sentence: "Never stop learning and be a straight shooter."

"I love new experiences," Judge O'Neill told me. His career backs that up. From death penalty cases to mass torts, we would be hard pressed to find a case load Judge O'Neill has not managed. But there is much more to him than his public service career. Some of his other passions include the Dodgers, the Civil War and (most surprisingly to me) Shakespearean festivals. Here are some of his favorite quotes:

- "Brevity is the soul of wit." (Hamlet);
- "Have more than thou showest, Speak less than thou knowest, Lend less than thou owest." (King Lear);
- "Cowards die many times before their deaths; The valiant never taste of death but once." (Julius Caesar);
- "The fool doth think he is wise, but the wise man knows himself to be a fool." (As You Like It); and last but not least
- "And do as adversaries do in law, Strive mightily, but eat and drink as friends." (The Taming of the Shrew.)

Finally, I have to admit to some bias here. I first met "Vince" as a Basketball/Baseball Hall of Fame inductee of our alma mater, Saint Bonaventure High School, and was immediately impressed by the grace of his acceptance speech. (He would still be playing basketball but for the pandemic.) Then in law school, I followed my adviser **Kata Kim**'s suggestion and asked Judge O'Neill (as she once did) to mentor me for a summer internship. I then learned



the accuracy of her description of him: "the embodiment of what we aspire to be as counselors of the law: civil, empathetic, competent and patient."

Trial lawyers appreciated Judge O'Neill's disciplined yet approachable demeanor. He stayed on the bench as long as he did (nearly 30 years) because he loved to be in trial. This love infected me when he took me under his wing (as he did so many others) and I know I am not alone when I say that he will be missed.



Ben Baumer is a civil litigation attorney at Lowthorp, Richards, McMillan, Miller and Templeman.




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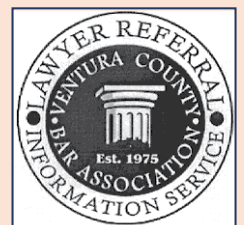
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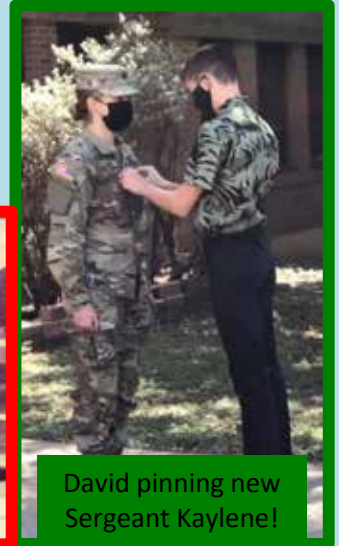
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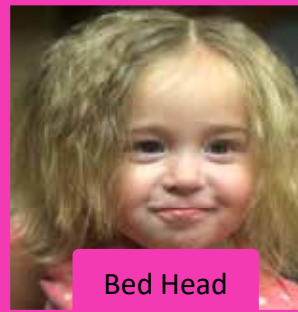
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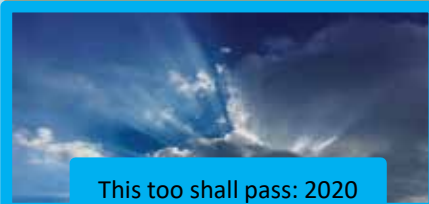
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