



CITATIONS

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JUDGE DAVID LONG A MEDIATION MAVEN SETTLES INTO RETIREMENT

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CREATIVE DISPUTE RESOLUTION

After almost 46 years in the *law business* (paralegal, civil trial lawyer, Court Commissioner, Municipal Court Judge, Superior Court Judge and private ADR practitioner) it is with a great sense of satisfaction that I have contributed to my community but also with a sense of anxiety, I announce my full retirement from active ADR practice effective on my 81st birthday, May 16, 2022. My affiliation with Creative Dispute Resolution will remain.

I have deeply enjoyed that journey, the last 43 years of which would not have been possible without the love, support, encouragement, and the occasional, “*You’re going to do what???*” from my beloved Shirley Critchfield. I’m still trying to keep up with her!

As well, in the 11 years of ADR practice, I could not have been as successful as I have been without the support of the judges and lawyers in our community, for whom I have great respect, admiration and affection. We have done good work together and have had many good times, good laughs, chagrins and other experiences.

As I formally leave active mediation practice, Creative Dispute Resolution remains in extraordinarily good hands with my “partner” of the last 7 years, David Karen. I express my great affection for him, professionally as well as personally. He and the CDR staff have made those years ones of great joy for me.

I also acknowledge the late Paul Fritz, Esq. who founded CDR in 1986, when civil trial lawyers just didn’t do that. He was a pioneer in the ADR world and I trust that I have well honored his legacy.

Finally, to my colleagues of the Ventura County Bar Association, I have enjoyed our association over all of these years and am glad that Creative Dispute Resolution remains a vital and vivid part of our ADR community. Creative Dispute Resolution looks forward to continuing to serve your ADR needs.



And, my golf game is continuing to improve!

Semper fidelis,

DWL



With great thanks and appreciation to Judge Long for his many years of support and direction, after 37 years as a trial attorney, I am pleased to announce my complete transition to mediating and arbitrating full-time with CDR through Judicate West. I look forward to continuing to assist this great legal community both in-person and virtually, with great gratitude for all the past support!

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PRESIDENT'S MESSAGE

by Jacquelyn D. Ruffin



Jacquelyn's 3-year-old nephew Leo who's fascinated by space drew the planets.

Mysterious, ever expanding and potentially infinite. Its beauty is incomparable: the soft turquoise of the dawn sky, the azure of midday, the sapphire backdrop of a sunset, the obsidian of night that reveals the majesty of the celestial. No wonder it has been a source of inspiration across the arts – music, film, literature, painting and photography all have notable tributes. No wonder that in mid-April stargazers traded sleep for late night glimpses of the Lyrid meteor shower and early morning views of a rare conjunction of Mars, Venus, Saturn, Jupiter and the moon. Indeed, from ancient cultures to the present, from young to old, people have been captivated by outer space.

Of course, space is not just an object of rumination or the setting for our favorite pieces of science fiction. We use satellites for telecommunication, banking and other financial transactions, television and internet, GPS navigation, monitoring the environment, predicting the weather and mitigating against natural disasters. Multiple medical advancements – such as artificial limbs, insulin pumps, LASIK surgery and voice-activated wheelchairs – derive from space technology. Additionally, space exploration has brought us everything from flame-retardant firefighting suits to wireless headsets to shock absorbers for buildings. Moreover, though clearly inaccessible to the masses, and whether celebrated, chastised or ridiculed, space tourism is now a reality. The recent suborbital and high Earth flights are just the beginning. The first commercial space hotel is slated to open in 2027. Reputable journalists report that private companies are exploring the possibility of creating space colonies. In other words, the tangible connection between humanity and space is only likely to continue to grow.

Is the law ready for the “final frontier”? Most commentators think not.



Eclipse by Tom Mueller.

Before addressing the obstacles, a brief overview of current space law, which centers on five key international agreements, may be useful. The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies (the “Outer Space Treaty”) (1967) is widely considered the paramount doctrine. It provides that countries shall explore and use outer space for peaceful purposes (Articles I and III); prohibits national appropriation of outer space and celestial bodies (Article II); bars nuclear weapons and other weapons of mass destruction in orbit or on celestial bodies or otherwise stationing such weapons in outer space (Article IV); specifies that countries shall consider astronauts “envoys of mankind” and render them assistance in the event of accident, distress or emergency (Article V); and requires nations to be liable for their space activities and damages caused by their space objects (Article VIII). The Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space (1968) elaborates on Articles V and VIII of the Outer Space Treaty. The Convention on International Liability for Damage Caused by Space Objects (1972) expands on Article VII of the Outer Space Treaty. The Convention on Registration of Objects Launched into Outer Space (1976) requires launching nations to keep a registry of their space objects and provide that data to the U.N. The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (the “Moon Treaty”) (1984) reiterates that nations must use the moon exclusively for peaceful purposes; states that all activities on the moon must comply with international law; and provides that a collaborative international regime should govern the exploitation of the moon’s natural resources when such exploitation is feasible.

Experts opine that these laws are a strong starting point, but insufficient. A few examples follow.

First, the treaties are disparately implemented. For example, while more than 100 countries are parties to the Outer Space Treaty, only eighteen are subject to the Moon Treaty.

Furthermore, space law has not kept pace with rapidly changing socioeconomic and technological circumstances. The Outer Space Treaty and its counterparts were negotiated decades ago, when private space travel was not practicable. As drafted, it is unclear whether and how those laws apply to private individuals and entities. Several analysts suggest clarifying that they do. Do we want confusion as to whether the non-appropriation clauses apply to corporations? Do the clauses only apply to attempts to claim ownership over an entire celestial body (*e.g.*, a moon) or do they extend to extracted resources?

Another gap in current law concerns space debris, which is any nonfunctional humanmade object in space. Culprits include broken pieces of satellites; fragments of spaceships; screws, nuts and bolts; and lost tools. (NASA’s Orbital Debris Program website includes eerie computer-generated depictions of the voluminous amount of space debris that is currently orbiting Earth. See <https://orbitaldebris.jsc.nasa.gov/gallery/>.) When hurtling through space at a high velocity, even tiny bits of space junk – such as paint chips – can be extremely hazardous, threatening spaceflights, robotic missions, space stations and operative satellites. A year ago, a chunk of space debris plunged into Earth and crashed into the Indian Ocean. The year before, a block of space junk collided into the West African coast. Thankfully no one was harmed in these incidents and these kinds of events are relatively rare. However, the impact of space debris on Earth has the capacity to be catastrophic. Some space law experts therefore urge new laws that require prompt removal of existing large space debris from orbit, establish best practices for prevention and minimization of space debris and provide consequences for space pollution.

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Finally, some critics are concerned that although Outer Space Treaty bans nuclear weapons and other weapons of mass destruction, it does not address other weapons, weapons testing or military bases. In her first visit to Vandenberg Space Force Base on April 18, Vice President Kamala Harris announced that the U.S. would no longer conduct destructive anti-satellite missile testing. This pronouncement was prompted by Russia's ground-launched destruction of an old satellite in Nov. 2021, an incident that created more than 1,500 pieces of debris and prompted security concerns.

These various space law issues may seem the province of international lawyers, advisors in D.C. and scientific experts. They may appear literally distant and removed from our daily lives. However, if space tourism, space hotels and space colonies come to full fruition, I wonder how space law might seep into our current legal practices. Crossovers into employment/labor, intellectual property, personal injury, contract, insurance, family law, criminal law and human rights/civil rights law are

easy to imagine yet hard to reconcile. A California-space colony custody battle may seem far-fetched now but consider the technological advances that have manifested in just the last ten years.

The month of May has several "space-themed" holidays, including Star Wars Day, National Astronaut Day and National Space Day. While debating which trilogy is best, remembering the first person to walk on the moon or marveling at Eta Aquarids in the early May night sky, may we remember to honor the great unknown. And may well reasoned laws be our guidepost as we venture into it.



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Ventura Superior Court Judge **John R. Smiley** officially retires August 1, 2022. Judge Smiley's last day on the bench will be May 4, on his birthday.



And speaking of retirement, **Kate Wood** has left California Rural Legal Assistance (and the CITATIONS editorial board) to accept a job as an assistant professor at NYU School of Law. Wood relocated to New York City in April. Best of luck!



The MoneyTalk podcast recently featured another editorial board member, CSUCI adjunct professor **Panda Kroll**, discussing time share litigation. <https://tinyurl.com/wwvnts5>.

Repo'd pets? A Massachusetts case claiming that a California-based financial services company illegally leased dogs settled in April. Owners of expensive pets have been shocked to find their dogs or cats repossessed when they miss a payment. <https://www.nytimes.com/2022/04/14/us/dog-leasing-massachusetts.html>. Dog and cat leasing is illegal in California; in addition to other remedies, Civil Code section 1670.10 provides that consumers taking possession of a dog or cat under an illegal leasing contract "shall be deemed the owner of the dog or cat and shall also be entitled to the return of all amounts the consumer paid under the contract."

Amended Code of Civil Procedure section 377.34 now allows **emotional distress damages** to be awarded in survival actions on a decedent's cause of action "if the action or proceeding was granted a preference pursuant to Section 36 before January 1, 2022, or was filed on or after January 1, 2022, and before January 1, 2026."



Last month, the Women Lawyers of Ventura County and Latinx Bar Association held a social mixer celebration in honor of Women's History Month. We reflected on the achievements of women and girls across the centuries, and how we would not be where we are today without the courageous women who have carved a path for the next generation of women. Despite hardship, exclusion and discrimination, women have strived and sacrificed for equity and equality in communities across the nation. It was an honor to celebrate some of the amazing women in our community and those who have made history and cultivated change that will continue to live on forever.



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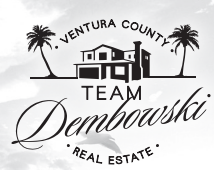
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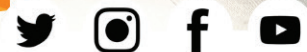
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THINKING THINGS OVER: THE TRIAL OF SOCRATES

By *Lindsay Nielson*

He never committed a crime. He never wrote a book. He was what the Athenians called a Sophist, someone who taught pupils for money. That had a negative connotation in those tumultuous times in Athens (399 B.C.), with antagonism from the city-state Sparta. Pericles, who had a reputation for ruling in a fair but authoritarian manner, died in 404 B.C. After that, a group called the 30 Tyrants ran the show in Athens, dismaying the majority of citizens. There were riots and some bloodshed.

During this period, it was said that Socrates, who would walk the streets at times in his bare feet, was above the fray. He took no position on things of a political nature. Indeed, Socrates believed that politics was a moral failing that led to corruption of the mind and soul. No truly morally and honest man would ever become a politician. The great playwright Aristophanes wrote two plays, “The Clouds” and “The Birds,” that portrayed a central figure to be apolitical and without beliefs. The protagonist was neutral on the issues of the day and therefore was dangerous. The play-going citizens of Athens knew whom Aristophanes was writing about.

In those ancient days, there were no public prosecutors or district attorneys. Any citizen could bring charges against anyone. A magistrate would determine whether the charge warranted a trial, and if so, a jury would be empaneled. There was an interesting caveat to making a false or weak accusation. If the accuser could not obtain at least 100 votes to convict, the accusers would be fined a very substantial amount to discourage false or weak charges.

Juries consisted of 500 citizens who were paid a meager sum (about enough to buy lunch). Once they were ordered to gather, the whole trial – the accusers, the defendant and sentencing – were to be completed in **one day**.

Socrates had detractors. It was easy to find disgruntled citizens who felt that this busybody had to be stopped. This 70-year-old, crumpled little old man who constantly asked questions was a threat to a large portion of the good citizens. Socrates’s main philosophical idea was, “He is wise who knows he doesn’t know.” Socrates constantly questioned anything and everyone. As liberal and free-flowing ideas were the mainstay of Athens, this simple Sophist was a threat. He didn’t even believe in the same gods as the majority of Greeks. He had to be stopped.

Two citizens brought charges against Socrates, accusing him of impiety and corrupting the youth of Athens. A jury was summoned. The accusers presented what they thought was damning evidence. But Socrates believed that the definitions of words was very important. He argued the meaning of “impiety” to the jury. He pointed out how absurdly it was applied to his beliefs. Piety, it had been contended, meant something pleasing to the gods, but this teacher pointed out that quite often the gods themselves could not agree on things. How could he, a mere mortal, be convicted of impiety when no one could possibly define it?

To the charge of corrupting the youth, Socrates argued that he was not preaching against the government or the gods or anyone. He was only asking questions. What is justice? What is right and what is wrong? He gave no answers nor did he proselytize. But the jury didn’t agree with his questioning the charges. They took umbrage and voted 280-220 for a guilty verdict. (Imagine if 31 more jurors had voted to acquit rather than to condemn, the world would possibly never be aware of the towering figure of Socrates).

The jury then turned to the penalty phase. The accusers wanted Socrates put to death because of the danger he represented to the good citizens of Athens. According to the writings

of Socrates’ most important student, Plato, who wrote of the trial and his fellow students’ discussion with their mentor after he was sentenced to drink hemlock, Socrates seemed defiant. He proposed that instead of being put to death, he should be awarded lifetime free housing and food, an honor given to Olympic champions. He also argued that he should be fined a large sum, about 60 mena (estimated to be about \$200,000 in today’s currency). His students would be the collateral. They pledged to guarantee payment, as Socrates was not a wealthy man. Socrates also refused to bring his wife and two sons to plead for his life. That would be unseemly and was not a common practice. Socrates could have proposed exile, but he did not see any reason for that (other than to save his own life). No, if the jury wanted to kill him, he would accept their verdict.

The vote to put Socrates to death was 360-140. He succeeded in irritating the jury with his arguments and taunting proposals regarding his punishment. 80 more jurors voted to condemn him to death than voted to find him guilty.

Execution had to be delayed because of a holiday honoring a deity. Socrates’s students came up with a plan to set him free by bribing the jailer and have their teacher flee Athens, but Socrates refused. While his students cried, he calmly drank the hemlock.

There were no actual official written records of the trial. We learned all of this from the writing of Plato in his “Crito” and “Apologia.” He ended by saying that Socrates was “the best, the wisest and the most just of all people.” Plato concluded that Athens would never recover from this stain of injustice.



Lindsay Nielson is a lawyer and reciever. You can contact him at nielsonlaw@aol.com.



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CALIFORNIA'S DENSITY BONUS LAW: WHAT IS IT AND WHY DOES IT MATTER?

by Ian Elsenheimer

California's housing shortage and affordability crises are nothing new. In 1979, the California legislature adopted the State Density Bonus Law (Gov. Code § 65915 et seq.) (the "SDBL") in an attempt to address these very issues. (*Friends of Lagoon Valley v. Vacaville* (2007) 65 Cal. App.4th 823, 826.)

In a nutshell, the SDBL requires local government agencies to grant developers a density bonus and other benefits if the proposed project includes a certain percentage of units for very low income, low-income, or moderate-income households (or other qualifying residents such as seniors, homeless, college students, and others). (Gov. Code, § 65915, et seq.)

This article will briefly summarize select portions of the SDBL and highlight why it continues to be an important part of California's land use law.

What is the SDBL?

A density bonus allows a developer to build more dwelling units on a project site than would normally be allowed under the applicable zoning code. (Gov. Code, § 65915, subd. (f).) The SDBL uses a sliding scale based upon the percentage of affordable units included in the project to determine the amount of the bonus granted. (*Ibid.*)

Projects that qualify for the density bonus are also entitled to a certain number incentives and concessions. (Gov. Code, § 65915, subd. (d)(2); see also *id.*, at subd. (p) [also providing favorable parking ratios for SDBL-compliant projects].) Incentives and concessions include reductions in development standards, modifications of zoning or architectural design requirements, approval of mixed-use zoning, and more. (Gov. Code, § 65915, subd. (k).)

Importantly, developers can also request a waiver or reduction of any development standard that would physically preclude the construction of the SDBL project. (Gov. Code, § 65915, subd. (e).) Development standards that can be waived or reduced include height, number of stories, setbacks, and others. (See *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329.)

Why Does it Matter?

An agency can only decline to grant an incentive, concession, waiver, etc. in the following limited circumstances: (1) the incentive or concession would not result in identifiable and actual cost reductions to provide for affordable housing costs (Gov. Code, § 65915, subd. (d)(1)(A)); (2) there would be a specific, adverse impact upon public health and safety (Gov. Code, § 65915, subd. (d)(1)(B)); (3) there would be an adverse impact on a historic resource (*ibid.*); or (4) the request would be contrary to a state or federal law. (Gov. Code, § 65915, subd. (d)(1)(C).)

On Feb. 2, in the unpublished case of *Bankers Hill 150 v. City of San Diego* (Case No. D077963), the Fourth District Court of Appeal upheld the trial court's decision that the City of San Diego did not abuse its discretion when it voted to approve the development of a 20-story mixed-use building with 204 dwelling units (17 of which are affordable) over objections that the "building's design improperly obstructs views, fails to complement neighboring Balboa Park, and towers over adjacent smaller-scale buildings."

The appellate court reasoned that even if the proposed project was inconsistent with the City of San Diego's design standards, the City lacked discretion to deny the project because there were no facts that supported a finding that the project fell within the limited circumstances for denial set forth above.

The *Bankers Hill* case serves as an example that, in the clash between the need for affordable housing on the one hand, and a community's desire to protect the existing scale and character of a neighborhood on the other hand, the State's mandate for more affordable housing wins.

Conclusion

California Assembly Bill 2345, which took effect on Jan. 1, 2021, increased the maximum density bonus award from 35 percent to 50 percent and lowered certain thresholds for obtaining incentives and concessions. As a result, there could be a rise in SDBL-compliant projects.

The furthered use of the SDBL will likely lead to an increase in the number of affordable housing units, but will also restrict local ability to protect the existing scale, character and/or architectural designs of neighborhoods and cities.

Regardless of any cons associated with the SDBL, it looks like it will continue to be an important part of California's land use law for the foreseeable future.



Ian Elsenheimer is a real estate, land use and business attorney at Ferguson Case Orr Paterson LLP.

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Takes pleasure in announcing that **Sheri L. Valley** and
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Sheri L. Valley joined Myers, Widders, Gibson, Jones & Feingold, LLP in February 2022. Her practice focuses are Personal Injury Law, Civil and Business Litigation, and Insurance Law and Claims. Ms. Valley brings with her extensive experience in all aspects of civil litigation matters, representing both the prosecution and the defense. Ms. Valley also managed a multi-state product liability litigation where she organized and analyzed hundreds of applicants and inquiries nationwide.



Michael J. Pellegrini joined Myers, Widders, Gibson, Jones & Feingold, LLP in March 2022. His practice focuses are civil litigation, including business litigation. Prior to joining the firm, Mr. Pellegrini practiced criminal defense for over nine years. In his practice, Mr. Pellegrini represented clients in state and federal court at the trial court level, appeal, and in habeas corpus proceedings. Mr. Pellegrini has substantial experience defending complex white-collar financial cases, including successfully securing the total dismissal of a \$200 million fraud case against a prior client.

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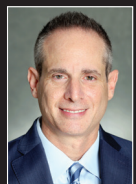
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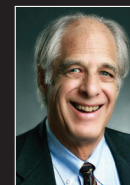
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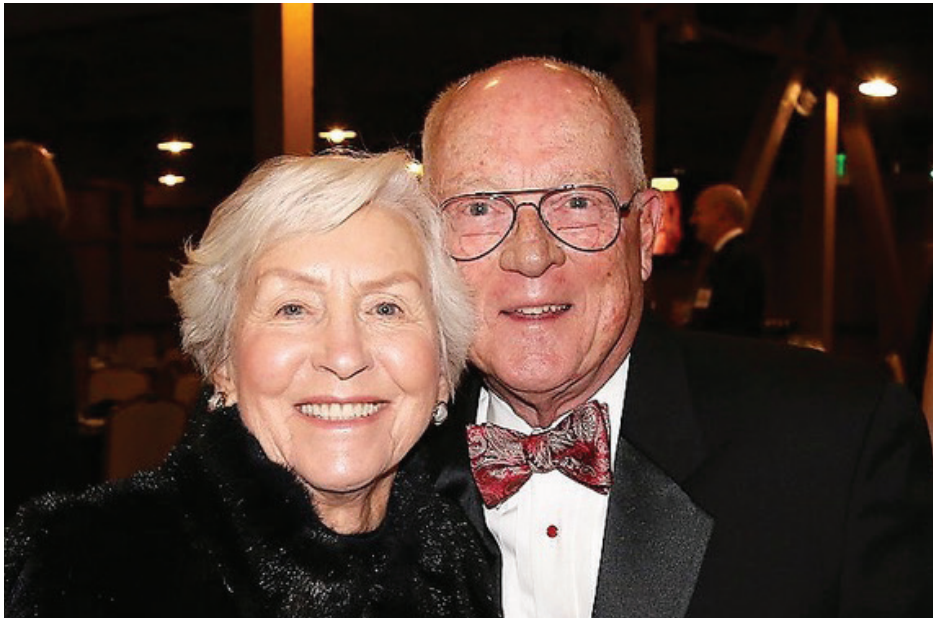
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JUDGE DAVID LONG - A MEDIATION MAVEN SETTLES INTO RETIREMENT

by Lori M. Dobrin



The exact origin of the phrase “time efficiency” may be unknown, but no one humanizes the concept more completely than retired Ventura Superior Court **Judge David Long**. To commemorate his turning 81 on May 16, we celebrate Long’s official retirement from the helm of his Creative Dispute Resolution (“CDR”) mediation practice. With a disciplined precision influenced by his Marine Corps service, Long perfected the art and science of opportunity. He moonlighted as a radio DJ and sports commentator while working his day job as a casualty claims adjuster. His boss had no idea of Long’s nightshift gig and once asked him, “Did you hear what the commentator was saying on the radio last night?!”

Long’s ability to handle multiple claim files simultaneously with a keen eye and thorough evaluation first caught the attention of the late **James McGahan**, a partner at the former Benton Orr Duval & Buckingham, then the county’s oldest law firm, founded in 1882. McGahan, one of Long’s mentors and genuine heroes, hired Long as a paralegal and can be credited with fast-tracking Long’s path to becoming a lawyer. The journey is beautifully chronicled in **William Grewe’s** 2014 CITATIONS article, “A Portrait of David Long.” https://www.vcba.org/wp-content/uploads/2018/03/March_Web-2014.pdf

With only eleven undergraduate credits, Long was admitted to the Ventura College of Law with Special Student status. He aced

the Baby Bar on the first try, graduated cum laude in 1982 and passed the Feb. 1983 bar exam, which had one of the lowest passing rates ever. When Long told his late uncle John Long, the dean of the family law bar in Washington, D.C., Uncle John opined that it was either the toughest bar exam in history or the dumbest class that ever sat for a bar exam.

In law school, Long deepened his blossoming relationship with the love of his life (and now adoring wife) Shirley Critchfield Long. They had met in 1970 but did not marry until Long was a licensed attorney. They planned to honeymoon in Yosemite’s majestic Ahwahnee Hotel. As they made the lengthy drive, Long worked on his case files, gleefully exclaiming when they arrived at their hotel room that they had been on their honeymoon for exactly nine hours, and he had billed for six of them!

Long swiftly distinguished himself as a superior lawyer with a photographic memory of every detail and nuance of his cases. After ten years of primarily civil practice, he was selected over 126 applicants to become a court commissioner.

Two years later, Governor Pete Wilson appointed Long to the Municipal Court in 1995 and elevated him to the Superior Court after another two years. Long chose **Judge Jack Smiley** as his mentor judge and tried to emulate Smiley’s consistently unflappable demeanor. Smiley never told him what to do or what to think; rather

he encouraged Long **how** to think about a legal problem. Long reciprocated his deep appreciation for Smiley’s guidance and support when he officiated Smiley’s marriage to his impressively accomplished and dynamic wife **Lynn Smiley**.

As Supervising Civil Judge, Long principally conducted mandatory settlement conferences in Courtroom 22, the former domain of the late and highly respected **Judge Jerome H. Berenson**. Berenson supplied Long’s credo: There is no such thing as good luck—good luck is opportunity meeting at the crossroads of preparation; you will do fine.

Long’s deep appreciation for Berenson was demonstrated while Long served as two-term president of the local chapter of the American Inns of Court, renamed (at Long’s urging) the Jerome H. Berenson Chapter. And Long was an engaging team participant in many creative presentations. In the process he met **Kata Kim** in 2012, when she was a newer attorney. Now a partner with Compliance Law Group, Kim is inspired by Long’s exceptional level of work ethic and dedication to every aspect of the learning process, describing him “as the kind of person you meet once in a lifetime.” The feeling is mutual; Long is as impressed with Kim’s intellect as her ability to hit her golf ball farther off the tee than he does. And during Kim’s tenure as a Ventura College of Law professor, Long was a featured guest lecturer for her Legal Analysis and Writing students. The highlight was when Long would pass out “Round Tuit” medallions to the students, giving the recipient the ability to get everything done that otherwise would have been put off until the “got around to it.”

During his judicial tenure, Long also served two 3-year terms on the Appellate Division. He had the pleasure of sharing the panel with **Judge Tari Cody**. Whenever they were initially on the opposite sides of a ruling Long would employ his art of persuasion to get her on his side and marvel as he watched her mind work. He credits Cody as being one of the brightest bears in the woods and one of very few people that had the intellectual fortitude to outwork him. Plus, she is a lot of fun to hang out with.

In Courtroom 22 Judge Long discovered his true passion and innate gift for settling

cases. There he presided over more than 7,500 settlement conferences, often working well past 5 p.m., which Long considered “just the hands on the clock.” He did not cease his efforts until the case settled or the rhythm was lost. His tenacity and perseverance are rooted in his Marine Corps experiences, teaching him that there is nothing that the group cannot accomplish, and it does not matter who gets the credit. Focus on the objective and do not quit, because “even if the body says you can’t go further, the hell you can’t.”

To streamline the number of cases scheduled for trial, Long enlisted *pro tem* assistance from an all-star cadre including **David Karen**, **Dick Norman**, **Tom Hinkle**, **Bob Bayer**, McGahan, and the late **Paul Fritz**. Fritz had established Creative Dispute Resolution in 1986 and eventually wooed Long into joining him when Long retired from the court, consummating the deal after a spirited lunch at the now-shuttered Sportsman in downtown Ventura. Just days later Fritz passed away, leaving ten mediations already booked. Long stepped in and continued the mediation practice, with Karen joining in 2015.

As a private ADR practitioner, Long presided over more than 200 mediations and multiple binding arbitrations and discovery referee appointments. He attributes his effectiveness to the three Ps: Preparation, Persistence and Patience... and did he mention Preparation? That needs to be foremost. The beauty of being a mediator was that while he was as well-acquainted with the case as the advocates, it ultimately was not his case. When Long saw the momentum of a mediation waning, he would tell them that he was going to make his scheduled tee time whether the case settled or not, but it would be a much warmer and fuzzier tee time if the case settled.

Long mentored **Judge Mark Borrell** both during his days on the bench and as a law clerk when Long partnered with Borrell’s father, the late **Roger Borrell**. In fact, Long credits the younger Borrell’s analysis and artfully crafted motion for summary judgment as instrumental in a large settlement on a Jones Act case. Among Judge Borrell’s 40 years of memories of Long, the most poignant was when Long swore him in as an attorney, with his father Roger bearing witness while a City of

Hope patient. Once Long went into private practice at CDR, Borrell sent him ripe-for-mediation cases with the hope that would be the last time Borrell would see the case again – and usually it was.

One of the last pre-pandemic in person mediations Long presided over was with **Darren Burge**. Long has settled every personal injury case Burge brought before him. He credits Long with being a master at his craft, a consummate professional also warm and engaging to whomever is before him, whether a sophisticated insurance representative or a first-time plaintiff.

Long transferred his interests in CDR to Karen in 2015. The two built a flourishing ADR practice. Now Long will have the luxury of time to reflect on the inspiration of his mentors such as his Marine senior drill instructor Staff Sgt. Manford (Chuck) Short, McGahan, Smiley and Berenson, and to take quiet pride in his influential impact on his protégés Judge Borrell and Karen. However, and most importantly, Long will have unfettered time to carry on in his role as a dutiful husband and nurture

his marriage to his beloved Shirley, which he continues to consider the indisputably smartest decision he ever made (the second-best was becoming a lawyer). Shirley is undaunted because retirement only gives Long more opportunities to work on his golf game.

In the words of another avid golfer, Arnold Palmer, “Timing is everything in life and in golf.” Long can set one of his many watches to that slogan as he dons his own “Round Tuit” medallion and settles into many a warm and fuzzy tee time after a satisfying closure to his professional legacy.



Lori Dobrin is a litigation attorney who also serves as a volunteer mediator and settlement officer for the Ventura Superior Court. She can be reached at lorigobrin@gmail.com or 805-698-8602.



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STORIED PROSECUTOR PENS CRIME NOVEL SET IN VENTURA COUNTY

by Edward A. Andrews



With over 200 criminal trials to his credit, Senior Deputy District Attorney **Richard Simon** is a close student of effective courtroom practice. He has worked in turn to pass along his interest in the topic locally, both by mentoring other prosecutors and also coaching a high school mock trial team in Newbury Park. In grappling with new areas of evidence, Simon believes that “basic trial skills are still critical.” So, his interest was caught by a scene in *The Lincoln Lawyer* where a prosecutor attempts to cross-examine a witness and stumbles, badly. Mulling over how he would advise someone to handle an adversarial witness’ courtroom surprise, Simon was inspired to undertake something he had considered for a long time: writing a novel.

Bring Me to Life is a detective story with a twist, a compelling novel that considers Ventura County as an interlocking set of criminal arenas, on the streets and in the courts, telling intertwined tales of two crimes with an eye to accurate portrayal of investigations and criminal proceedings.

While *Bring Me to Life* is fictional, Simon was inspired by the reality of trial, and many of the events are patterned on true courtroom drama. In addition to his display of effective cross-examination, he worked to bring his experience to the novel’s scenes, including mirroring actual courtroom dialogue and asides, and providing fictionalized versions of climactic scenes in actual cases. Simon joined the District Attorney’s Office in 1984 and uses his knowledge not only to detail the trials in the book but also the crimes themselves. In doing so, Simon hopes his novel will not

only entertain but also give an impression of the practice of criminal law to attorneys and students, but also provide a training piece for young lawyers. “The more you see, the more you learn,” Simon remarks.

When asked what it was like to write *Bring Me to Life*, Simon responds immediately, “It was a blast!” He particularly enjoyed the challenge of learning to write in a narrative style for fiction. With a career that has included sustained homicide and arson assignments, Simon has more stories to tell. He envisions future books, including some that delve into the County’s criminal past, an exciting prospect given how his book immerses one in Ventura as a crime locale. In the meantime, he intends to keep his day job, while also pursuing hobbies like table-tennis and remaining deeply involved in community efforts like the Mock Trial competition.

Edward (“Ted”) A. Andrews is a Ventura County deputy district attorney.

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