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kindness – giving, receiving, or even just seeing or hearing about it

IS GOOD FOR YOU

by Rande Sotomayor

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PRESIDENT'S MESSAGE

by Jacquelyn D. Ruffin

Immediately upon exiting the office, we encountered a sticky, thick wall of moisture and heat.

"It's humid," remarked my coworker **Michael Pellegrini**.

"It feels like we're in Houston or Atlanta," I agreed. Since he recently moved from northern California, I assured Pellegrini that Ventura is not "normally" hot and humid any time of year, but especially not at 7:00 p.m. in late September. Our subsequent conversation about extreme weather conditions, drought severity and recent wildfires prompted me to conduct some research.

A quick Google search revealed numerous sources, including the National Oceanic and Atmospheric Administration and the U. S. Geological Survey, citing record-breaking heatwaves, storms, floods and droughts around the globe, including in California in recent years. For example, in early September, triple digit temperatures broke records throughout Ventura County – 101 in Oxnard, 109 in Camarillo, 110 in east Ventura and 112 in Fillmore.

According to the U.S. Drought Monitor, 100 percent of California is presently classified as abnormally dry, 99.8 percent is in moderate drought, 94.1 percent is experiencing severe drought (grazing land is inadequate; fire season is longer; fires are hotter and larger; trees are stressed and wildlife disease increases), 40.9 percent is in extreme drought (livestock need supplemental feed; little pasture remains; fire season is year-round; water is inadequate for urban needs, agriculture and wildlife), and 16.6 percent of the State suffers from exceptional drought (fields are fallow and/or yields are low; number of fires and areas burned are extensive; forest mortality is high; wetlands dry up; survival of plants and wildlife is low). (National Integrated Drought Information System, "Current U.S. Drought Monitor Conditions for California," <https://www.drought.gov/states/california>.)

Moreover, twelve of California's twenty largest wildfires have occurred in the last five years, including the Thomas Fire



in December 2017; only two predate 2000. (California Department of Forestry & Fire Protection, "Top 20 Largest California Wildfires," https://www.fire.ca.gov/media/4jandlhh/top20_acres.pdf.) Similarly, thirteen of California's twenty most destructive wildfires took place within the last five years, including 2018's Woolsey Fire. (California Department of Forestry & Fire Protection, "Top 20 Most Destructive California Wildfires," https://www.fire.ca.gov/media/t1rdhizrl/top20_destruction.pdf.)

The Environmental Protection Agency states that the Earth's climate is changing because of an accumulation of greenhouse gases in our atmosphere and notes that "[c]arbon dioxide is the primary greenhouse gas contributing to recent climate change. Carbon dioxide enters the atmosphere through burning fossil fuels, solid waste, trees and other biological materials and as a result of certain chemical reactions . . ." (United States Environmental Protection Agency, "Basics of Climate Change," <https://www.epa.gov/climatechange-science/basics-climate-change>.) In response to concerns about climate change, Newsom signed five bills into law on Sept. 16.

AB 1279 codifies California's existing policy goal of reaching carbon neutrality by 2045. Carbon neutrality is a balance between carbon added to and removed from atmosphere.

Carbon capture, removal, utilization and storage (CRUS) is a process that captures

carbon dioxide emissions from sources such as oil refineries and reuses it for some other purpose or stores it underground so that it does not enter the atmosphere. SB 905 requires the California Air Resources Board to assess the efficiency, safety and practicality of CRUS technologies; adopt regulations for such projects; and create a public database to track their implementation.

While SB 905 focuses on engineered methods of reducing greenhouse gas emissions, AB 1757 emphasizes nature-based solutions. Specifically, AB 1757 requires the California Natural Resource Agency and other State agencies to establish targets for "natural carbon sequestration" activities, such as preservation and restoration of wetlands; implementation of restorative agricultural practices such as crop rotation, compost application and cover crop plantings that support healthy soils; planned grazing; restoring kelp in the ocean; and planting more trees. These kinds of activities promote ecosystems that naturally remove carbon from the air and store it in plants, sediments and soil.

Under existing law, 100 percent of retail electricity must be fueled by renewable energy by Dec. 31, 2045. SB 1020 adds interim targets of 90 percent by 2035 and 95 percent by 2040. It also requires all State agencies to utilize 100 percent renewable sources by 2035 (which is ten years earlier than under current law).

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Approximately 2.7 million Californians currently live within the 3,200 feet of drilling sites, 70 percent of which are people of color. (Olga Grigoryants, "Gov. Newsom signs SB 1137, creating a safety buffer between homes and oil wells in California," Daily News, Sept. 16.) Research indicates that people who live close to drilling sites experience a higher incidence of preterm births, asthma, respiratory disease and cancer. (Emma Newburger, "California lawmakers move to ban new oil wells within 3,200 feet of homes and schools," CNBC, Sept. 1.) To reduce these health risks, SB 1137, authored by Sen. Monique Limón, prohibits new oil and gas wells and retrofitting of existing wells within 3,200 feet of homes, schools, hospitals, hospices, nursing homes, community centers, prisons, detention centers and buildings open to the public. This provision of the new law goes into effect Jan. 1, 2023, with impacts primarily anticipated in the Counties of Los Angeles, Orange, Kern, Santa Barbara and Ventura. (*Ibid.*) The law does not ban existing wells from operating within the buffer zone. However, it requires companies with existing wells within the buffer zones to control dust and particulate migration, limit nighttime light and noise, monitor emissions, initiate a groundwater quality testing program and implement a leak detection and response plan within the next few years. Notably, similar laws already exist in Maryland, New Mexico, Oklahoma and Texas.

Although it is widely accepted that institutional efforts and global change are required to combat climate change, there are still small actions that each of us can take to decrease our carbon footprint. I found the below list from the United Nations interesting and helpful.

"Save energy at home

. . . Use less energy by lowering your heating and cooling, switching to LED lightbulbs and energy-efficient electric appliances, washing your laundry with cold water or hanging things to dry instead of using a dryer. Improving your home's energy efficiency, through better insulation for instance, or replacing your oil and gas

furnace with an electric heat pump can reduce your carbon footprint by up to 900 kilograms of [carbon dioxide (CO₂e)] per year.

Walk, bike or take public transport

. . . Walking or riding a bike instead of driving will reduce greenhouse gas emissions – and help your health and fitness. For long distances, consider taking a train or bus. And carpool whenever possible. Living car-free can reduce your carbon footprint by up to 2 tons of CO₂e per year compared to a lifestyle using a car.

Eat more vegetables

Eating more vegetables, fruits, whole grains, legumes, nuts and seeds, and less meat and dairy, can significantly lower your environmental impact. Producing plant-based foods generally results in fewer greenhouse gas emissions and requires less energy, land and water . . .

Consider your travel

Airplanes burn large amounts of fossil fuels, producing significant greenhouse gas emissions . . . Taking one less long-haul return flight can reduce your carbon footprint by up to almost 2 tons of CO₂e.

Throw away less food

When you throw food away, you're also wasting the resources and energy that were used to grow, produce, package and transport it. And when food rots in a landfill, it produces methane, a powerful greenhouse gas. So use what you buy and compost any leftovers. Cutting your food waste can reduce your carbon footprint by up to 300 kilograms of CO₂e per year.

Reduce, reuse, repair and recycle

Electronics, clothes and other items we buy cause carbon emissions at each point in production, from the extraction of raw materials to manufacturing and transporting goods to market. To protect our climate, buy fewer things, shop second-hand, repair what you can and recycle. . . .

Change your home's source of energy

Ask your utility company . . . if you can switch [your home energy] to renewable sources such as wind or solar. Or install solar panels on your roof to generate energy for your home. Switching your home . . . to renewable sources of energy . . . can reduce your carbon footprint by up to 1.5 tons of CO₂e per year.

Switch to an electric vehicle

If you plan to buy a car, consider going electric, with more and cheaper models coming on the market. In many countries, electric cars help reduce air pollution and cause significantly fewer greenhouse gas emissions. . . . But many electric cars still run on electricity produced from fossil fuels and the batteries and engines require rare minerals which often come with high environmental and social costs. Switching . . . to an electric vehicle can reduce your carbon footprint by up to 2 tons of CO₂e per year. A hybrid vehicle can save you up to 700 kilograms of CO₂e per year.

Make your money count

. . . choose products from companies who use resources responsibly and are committed to cutting their gas emissions and waste. . . . Make sure your savings are invested in environmentally sustainable businesses can [also] greatly reduce your carbon footprint.

Speak up

[Speaking up is] one of the quickest and most effective ways to make a difference. . . . Climate action is a task for all of us . . . " (United Nations, "Start with these ten actions!" <https://www.un.org/en/actnow/ten-actions>.)



Jacquelyn D. Ruffin is a partner at Myers, Widders, Gibson, Jones & Feingold LLP. Her practice focuses on corporate/business, real estate and land use matters. She can be

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WVLC'S ANNUAL SCHOLARSHIP DINNER RETURNS AFTER TWO YEAR HIATUS

by Karen Oakman

Women Lawyers of Ventura County held its fourteenth Annual Scholarship Dinner and Silent Auction on Sept. 22 in a well-attended event at Onyx Bistro in Camarillo.

In addition to a silent auction and live music from the Raw Honey Band, WLVC paid tribute to late **Carmen Ramirez**, who had been a prior board member of WLVC, past Legacy Award Recipient (2008), and an avid supporter of the organization.

The first awards given were to two local law students, Eleni Cotsis and Kaitlyn Robles, who were honored with scholarship awards of \$2,000 each to help continue their education.

The Holly Spevak Award, which is given to a member of the legal community who has increased access to justice through pro bono legal service, was presented to **Zoya Shenker**. Shenker, a family law attorney by trade, has for years regularly volunteered at the Conejo Free Legal Clinic and Ventura Legal Aid.

Finally, the Legacy Award, given to a member of the community at large who has significantly contributed to the advancement of the aims and rights of women and girls in society, was awarded to Honorable **Tari Cody**, a past-president of WLVC and the Jerome H. Berenson

Chapter for Ventura County Inns of Court. Judge Cody will be profiled in a future issue of CITATIONS.



Karen Oakman is a partner at Clunen and Oakman Law, LLP. Her practices focuses on family law, restraining orders, and criminal defense. She can be reached at Karen@ClunenandOakman.com or 805-273-4200.



BARRISTERS CORNER: NEW ELIMINATION OF BIAS MCLE REQUIREMENT AND A BRIEF HISTORY OF CALIFORNIA'S MCLE PROGRAM

by Kristine Tijam

By **Feb. 1, 2023**, attorneys with last names beginning with “N” through “Z” (otherwise known as “Group 3” for MCLE reporting purposes) will need to affirm compliance with an updated MCLE curriculum. Beginning with this group, attorneys must now obtain *two* credit hours dealing with elimination of bias, one hour of which focuses on implicit bias and the promotion of bias-reducing strategies.

Pursuant to a recent amendment of Rule 2.72 of the Rules of the State Bar of California, members of the Bar who are not subject to any MCLE exemptions will now be required to report compliance with the following:

- 25 total MCLE hours (half of which must be “participatory” MCLE credit), including:
- At least four hours of legal ethics;
- At least one hour on competence issues;
- **At least two hours dealing with elimination of bias. Of the two hours, at least one hour must focus on implicit bias and the promotion of bias-reducing strategies.**

Previously, attorneys only needed *one* “elimination of bias” credit hour (formally called the area of “Recognition and Elimination of Bias in the Legal Profession and Society”). This prior requirement also did not contain a sub-topic devoted to *implicit bias*.

Per the State Bar’s website, activities that qualify for the “implicit bias and the promotion of bias-reducing strategies” subfield credit “include courses with a focus on implicit bias and the promotion of bias-reducing strategies to address how unintended biases regarding race, ethnicity, gender identity, sexual orientation, socioeconomic status, or other characteristics undermine confidence in the legal system.” Notably, this is the same language contained in Business and Professions Code section 6070.5, which the Bar also credited for the MCLE change.

By way of background, Section 6070.5 was added to the Business and Professions Code by Assembly Bill (“AB”) 242 in 2019, which also amended Section 68088 of the

Government Code. Both these components of AB 242 target implicit bias.

In AB 242, the Legislature defined “implicit biases” as “positive or negative associations ‘positive or negative associations that affect [persons]’ beliefs, attitudes, and actions towards other people.” (AB 242, Chapter 418, Section 1, (a)(1).) The Legislature explained that such biases develop throughout one’s lifetime beginning at an early age, through exposure to messages about groups of people that are social advantaged or disadvantaged. (*Id.* at Section 1, (a)(2).) The bill also identified some “socially stigmatized” groups that face negative biases, including African Americans, Native Americans, immigrants, women, people with disabilities, Muslims, and members of the LGBTQ community, and explained that implicit biases exist in our legal system, one example being that they cause or contribute to a disparate effect on black defendants in criminal actions. (*Id.* at Section 1, (a)(3) to (5).)

As a result of AB 242, Business and Professions Code section 6070.5 codified the State Bar’s implicit bias MCLE requirement. In relevant part, this Code outlined the implicit bias MCLE requirement, including an enumeration of the following minimum requirements for MCLE providers offering this credit:

- (1) The MCLE provider shall make reasonable efforts to recruit and hire trainers who are representative of the diversity of persons that California’s legal system serves.
- (2) The trainers shall have either academic training in implicit bias or experience educating legal professionals about implicit bias and its effects on people accessing and interacting with the legal system.
- (3) The training shall include a component regarding the impact of implicit bias, explicit bias, and systemic bias on the legal system and the effect this can have on people accessing and interacting with the legal system.
- (4) The training shall include actionable steps licensees can take to recognize and address their own implicit biases.

(Bus. and Prof. Code, § 6070.5, subd. (b).)

These developments add to the list of changes the MCLE program has undergone since its inception. In 1989, Governor George Deukmejian signed Senate Bill 905 into law. That bill required the State Bar to begin steps allowing the California Supreme Court to launch a new MCLE program, which officially began on Feb. 1, 1992. At that time, the program required 36 MCLE hours every three years, including at least eight hours of ethics/law practice management, one hour of emotional distress/substance abuse, and one hour of elimination of bias.

In 2000, the State Bar decreased the MCLE total required credit hours from 36 to 25, and maximum self-study hours from 18 to 12.5. In 2003, the Board of Trustees removed “emotional distress” from the substance abuse requirement. In 2008, the Board added “mental illness” to the “substance abuse” requirement. In 2014, the State Bar changed “substance abuse” to “competence issues”, expanded further audits, and further defined participatory/self-study guidelines.

Jumping ahead a few years, the State Bar later required new attorneys admitted after Feb. 1, 2018, to complete ten hours of training under its “New Attorney Training Program” within the first year of admission.

The newest changes to California’s MCLE requirements reflect the State’s ongoing efforts to determine how to not only keep legal practitioners abreast with the law and developments in the legal field, but also how to better serve the communities in which they work. Given the developments that have occurred in the MCLE program over the last 30 years, we should expect the State to continually refine these requirements to align with the changing landscape of society and the legal field.



Kristine A. Tijam currently serves as the Vice President of Barristers and the Ventura County Asian American Bar Association. She is also on the VCBA Board of Directors and serves as Chair for the VCBA Community Outreach Committee. She practices civil litigation at Procter, Shyer & Winter, LLP in Camarillo.

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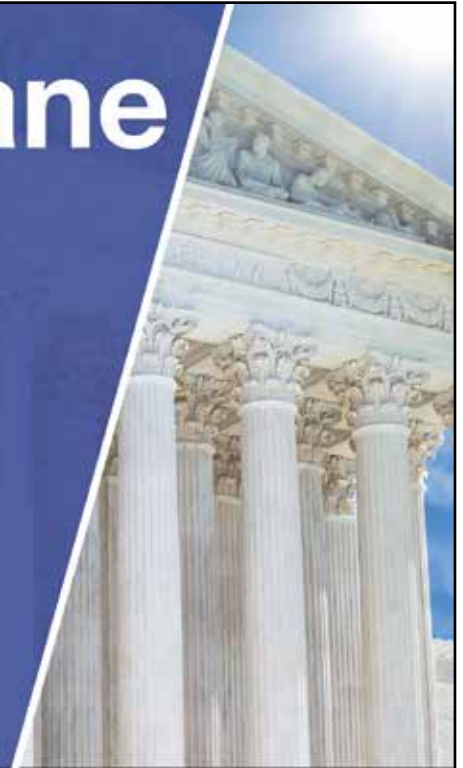
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HAVE YOU HEARD?



A Celebration of Life for Ventura County Supervisor Carmen Ramirez will take place on October 15, 2022. Gates open at 2:00 pm, Mariachi at 2:30 pm and Celebration begins at 3:00 pm at Pacifica

High School's Outdoor Stadium located at 600 E. Gonzales Rd., Oxnard. Community members are invited to attend to honor Supervisor Ramirez's life and legacy. Her family and staff have established a Legacy Scholarship Fund in collaboration with the Ventura County Community Foundation to honor her lifelong work and support the next generation of public service leaders. Donations can be made at <https://bit.ly/Carmen-Ramirez-Legacy-Scholarship-Fund>. Inquiries about the Scholarship Fund may be directed to the District 5 Office at 805-654-2613 or District5@ventura.org.



Valerie Grossman is challenging the incumbent in the election Pleasant Valley's Recreation and Parks District Board for District Two. This district includes the area north of Las Posas Road in Camarillo. More information can be found at <http://www.grossmanfordistrict2.com>.



JHB Inn of Court president and CITATIONS editorial board member **Panda Kroll**, has passed the Florida Bar examination and will be admitted to practice there soon. She's not moving offices from Ventura County, however.

Lindsay Nielson has revived the Great Ventura Philosophical and Chowder Society, a discussion group of lawyers and others who gather occasionally to eat lunch and hear fascinating speakers. Among others, we have heard from a neurosurgeon, a driver in the Beijing-Paris race of

pre-1936 cars, and a professor of religion comparing Sunni and Shia Muslims. In September Kyra Ankenbruck from Rincon-Vitova Insectaries spoke about best practices for using beneficial insects in commercial and home agriculture, complete with free samples of green lacewing eggs and how to use them. Interested in a future meeting? Contact nielsonlaw@aol.com.



Rabiah Rahman is running for Port Hueneme City Council! A former member of the VCBA Board of Directors, Rahman currently serves on the VCLA Clinic Board of Directors and is a member of the CITATIONS editorial board. She serves as the co-chair of the Ventura County Public Safety Racial Equity Advisory Group and vice-chair of the Social Justice Fund for Ventura County. You can learn more about her platform and how to support her by visiting www.VoteRabiah.com



Brian Israel and Carolyn Kircher-Israel (and big brother Levi) welcomed baby August "Gus" William Israel in to the world on July 28. Israel is an attorney at Norman Dowler, LLP and President-Elect of the Ventura County Bar Association. Grandpa **Michael Israel** is also thrilled and looks forward to office visits from Gus.



Congratulations to **Judge Tari Cody** on receiving the Legacy Award from Ventura County Women Lawyers at the Sept. 22 Annual Dinner. Judge Cody spoke about ways for lawyers to be excellent in their practices as well as her love for helping families through her Dependency Court assignment.

On Oct. 19, the Los Angeles Superior Court sponsors a virtual workshop on the judicial vetting and appointment process. Panelists, including Judges Audra Mori (Judicial Mentor Program Chair), Sergio Tapia II and Helen Zukin (Judicial Selection Advisory Committee Chair), as well as attorneys Adam Hofmann (Judicial Nominees Evaluation Commission Chair) and Catherine Barrad (LA County Bar Association's Judicial Appointments Committee Chair), will share the role of their respective office or committee in the vetting and appointment process and will take questions from the audience. Register by 5 p.m. on Oct. 18, 2022. <https://www.surveymonkey.com/r/HM2G8R5>.

As of Sept. 12, the Ventura County Superior Court has lifted its mask mandate. However, in the jury assembly room and in courtrooms, individuals will be seated in every other seat (except for counsel and parties at counsel tables).



Congratulations to **Mark Kirwin**, the 2022 **Ben E. Nordman** Award honoree. Kirwin will be featured in the November issue of CITATIONS. The award will be presented at VCBA's Annual Dinner on Nov. 19.

Effective November 1, 2022, the Court will be using Zoom exclusively for remote appearances in Department J6. For information on the Zoom procedures, and for general information regarding **Judge Lund** and his courtroom rules and procedures, please visit: <http://www.judgerogperlund.com>.



We help people.



Richard Endreszl (l) with his attorney, Trevor Quirk (r), at the Long Beach Courthouse, June 2, 2022.

Richard Endreszl is 42 years old. He has a wife and two young daughters. He was born with cerebral palsy.

On October 6, 2017, he was driving a bobtail truck for his employer delivering medical supplies on Van Owen in Los Angeles. A young man was driving a Mercedes behind him weaving in and out of traffic. The young man struck another vehicle, fishtailed and then struck Richard's truck. Richard finished his route that day, but developed back problems eventually resulting in surgery. He lost his commercial driver's license.

The Mercedes' insurance company said it's not our fault, for four and a half years. They blamed his back surgery on his cerebral palsy.

On June 2, 2022, a Long Beach jury delivered justice by rendering an **\$8.3M** verdict.

Richard and his beautiful family deserve every penny!

We would be honored to talk to you about your personal injury referrals. We pay attorney referral fees.

THE BUSINESS OF KINDNESS

by Rande Sotomayor

Last year, someone did the kindest thing for me. I was visiting some friends at their mountain home. We embarked on what was to be a 15-minute walk. Always up for exploring and a challenge, I scrambled up a huge chute of boulders. When I decided it was time to go back, I thought I saw another way out. Before I knew it, I was stuck. Stuck on the side of a mountain on earth that felt like sand slipping hundreds of feet below. For the first time ever, I was scared. I decided that my husband and friends should call Search and Rescue.

After a long wait, I decided I had to try to slide down in stages to get out on my own. And I succeeded. Enduring the anger and disappointment of my husband and friends, I ran down the trail and out to the parking lot, where I found a fully-equipped six-member team ready to mobilize.

I started pouring out my apologies – “I broke every rule in the book. I’m so sorry I worried and infuriated my husband and friends. I’m so sorry I made you leave your jobs for your volunteer rescue work. I’m embarrassed, ashamed, and know better.” At the end of my stream of contrition, one of the team members simply said, “In other words, you’re human.”

I can’t think of any greater kindness in that moment. It changed how I remember the experience – with less shame and a big lesson. That act of kindness gave me a powerful understanding of how my actions affect others. And, of course, another great adventure story.

Kindness as a business skill

Small acts of kindness have enormous impact in ways we cannot even imagine. Noticing and practicing these skills are necessary for business people, lawyers (and anyone really) who are expected to cultivate relationships to generate revenue, demonstrate successful teamwork, and “win” the case or negotiation.

Fundamentally, in all contexts, we are on an eternal quest to determine how we can **engage meaningfully and successfully with other people.**

No problem, global, local, or individual, can be resolved by a specific strategy or policy. I do believe that resolutions are gradual and deeply personal, on a one-to-one and day-by-day journey. And I contend that this

journey can be enhanced by “kindness.” So do countless scientists, psychologists, human resources professionals, business advisors, and educators, among so many more.

The practice of kindness is not a “soft skill.” These days, computers can do what we once thought only intellectually elite humans could do. But only humans can create human connections. And business is all about relationships, right?

What is kindness?

Kindness is **intended to benefit another, without expecting anything in return.** People value kindness, both in receiving it and giving it. Even though working people may use this skill to enhance relationships to their own benefit, the benefit of prioritizing the other person is a “bonus” outcome. Interestingly, the more we study the practical effects of kindness, the more it appears that **people have belittled its importance in business, politics and most relationships.**

What’s the problem?

In our interactions with others, I think **we have become too quick to infer – or assume – or even look for – malevolent intent, agenda-izing, others’ self-centeredness, or others’ disrespect.** For 22 years, the Edelman Trust Barometer has conducted an international global survey of more than 36,000 participants in 28 countries. They report societal indicators of trust among business, media, government, and NGOs. The 2022 report concludes that **distrust is the new default.** “Edelman’s data found only one-third of the world believes most people can be trusted, fear of fake news is at an all-time high (76 percent), and globally more than half (51 percent) of respondents in the countries studied do not believe their families will be better off five years from now.” And 64 percent agreed that people lack the ability to have constructive and civil debates about issues they disagreed on.

How does “kindness” help resolve our problems?

Kindness – giving, receiving or even just seeing or hearing about it – is good for you.

Science has demonstrated that kindness

improves your health and wellbeing. Whether we are the giver or the receiver, or if we just observe other people doing kind things, we are more motivated to be kind ourselves. This is the **contagious nature** of kindness.

Kindness actually:

- Increases the production of oxytocin, often referred to as the “love hormone,” which improves strength, energy, calmness, blood pressure, self-esteem and optimism
- Stimulates the production of serotonin, a natural anti-depressant
- Produces endorphins, a natural painkiller.

Pleasure and reward are even greater when you have an idealistic attitude and expect others to be kind.

In 2021, a team at the University of Sussex in England conducted a survey of more than 60,000 participants in 144 countries. It was simply called The Kindness Study. Researchers concluded, among other things, that kind acts are very common; in fact, two-thirds of responders said the pandemic has made us kinder. It is noteworthy that the top reason that responders do **not** do something kind is that they are afraid their kind act would be misinterpreted.

Small Acts of Kindness Pack More of A Positive Punch than You Think

In a study published in the August 2022 Journal of Experimental Psychology, researchers concluded that those who perform acts of kindness systematically underestimate their positive impact on recipients. Recipients’ positive reactions are boosted by the warmth conveyed by a kind act. Givers, however, are relatively insensitive or unaware of the warmth conveyed by their kind acts. Givers’ underestimated expectations also lead to underestimating the “contagious” effect of kindness, that is, underestimating the chain reaction of kind acts spreading widely as a result.

These are important conclusions because underestimating the positive impacts of small gestures can act as barriers to making human connections, and thereby inhibit wider positive social, political and religious interactions.

We are more attractive and approachable when we are kind

Kindness allows – or forces – us to remove a mask of invincibility, eminence and superior expertise to reveal more of our souls and demonstrate vulnerability. The image we like to project is elevated and dignified, not to mention powerful. But we all have fears, and we all feel weakness, uncertainty and, at times, “less than” others. Showing that we are vulnerable is extremely endearing and relatable. In mediation, every single participant wants the mediator to understand what they are going through.

Kindness is not weakness, and it is not niceness. It is bold and risky business.

In his book, *Love Kindness*, Dr. Barry Corey describes a life of kindness as “a life with a firm center and soft edges.” This is a valuable statement that demonstrates that we can stay true to our core convictions, but at the same time be more open and more accepting of others, including those who disagree with us on core values and fundamental issues. Having a “firm center with soft edges” reveals our strength in accepting that they are there and our ability to figure out how to communicate without denigration.

Ok, it’s worthwhile to be kind. How do we learn?

Learn and practice HUMILITY

Everyone is wrong about **something**. We just usually do not know what it is that we are wrong about. Maybe a little **humility** is in order. Researchers are increasingly finding that “intellectual humility” leads people to be more curious, to be more liked as leaders, and to make more thorough and informed decisions.

Replace judgment with CURIOSITY

Most people have to concede that as individuals, we do not and cannot know everything, not even enough to justify all of our opinions and beliefs. Curiosity requires us to accept the discomfort of **uncertainty** as well as the fact that we **rely on others** for information and to form our opinions.

Suspending judgment and asking questions takes *courage*. An inquiring person is more likely to discover commonalities with others than a person who fears asking questions or may otherwise feel insecure engaging with others they do not already know. As with most strength-building, we need to consistently practice “exercising our curiosity muscle.”

How to develop humility and curiosity

There are endless how-to’s for developing humility and exercising your curiosity muscle. Here is a short list:

1. **Cultivate awareness** of those around you. Consider the impact of small acts you may think are inconsequential.
2. Realize **everyone has secrets, burdens, fears and insecurities**, not just you. We all have problems, big ones. Even the worst among us. Especially the worst among us.
3. Work on developing **optimism, idealism and an expectation that others will be kind**. Remember that kindness is contagious and triggers physical reactions that encourage optimism.
4. **Keep in mind that the energy we use in clashing with others is usually self-destructive**. Personally, I’d rather conserve my everdwindling energy than waste it on a fight.

About 35 years ago I miraculously cured myself of road rage. After someone cut me off one day, it occurred to me that the likelihood that every person who cut me off could not possibly be a self-centered jerk. What if that person is rushing because of an emergency, or is just distracted, sad, angry, late, or merely oblivious? We have all been *that* driver.

Every time someone zips into my lane, I say to myself, “It’s his turn to be frazzled. It doesn’t matter.” Because I’m giving someone the benefit of the doubt, I’m trying to help, and I’m cooperating, I relax. **Isn’t it incredible that you can take an experience that normally makes your blood boil and turn it into a relaxation technique?**

Beware of the risks of being kind

One reason kindness requires courage is that kindness is not a utopian, failsafe technique to fix the world, or even a single relationship. Our attempts to be kind **will be** misinterpreted and rejected at times. Do not worry. True kindness does not expect a thank you or an acknowledgment or recognition. It’s not about you, especially if you realize that **we are all** part of the problem.

Moving forward

If we can avoid our rush to judgment, have the courage to say I don’t know or I don’t understand, and ask questions, we can radically change our ability to engage meaningfully and successfully with other people, one at a time. Treat every interaction with an adversary or antagonist as an exploring adventure. Be conscious of the big lesson from my Search and Rescue debacle: Almost everything we do affects others in some way.

Summoning the courage to be kind takes **intention**. It is just like any other business skill that is taught in school, observed in “successful,” highly revered professionals, and targeted to help all of us to meet our goals. Whether it is considered a skill or a quality, people can “learn” kindness. Because kindness is intended to benefit others without expecting anything in return, the unexpected benefits to the actor compel a conclusion that kindness provides added value in any business (or personal) transaction.



Rande Sotomayor is an attorney, mediator and ultrarunner. rande@sotomayorlaw.com. A version of this article with footnotes is available at <https://www.vcba.org/wp-content/uploads/2022/10/sotomayor.pdf>.

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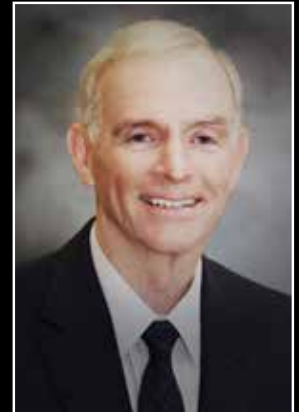

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