



CITATIONS

JANUARY - TWO THOUSAND TWENTY FOUR

THINKING THINGS OVER - ON BEING ADOPTED

by *Lindsay Nielson*

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Laurie Nielson on the left with his mining engineers.

JOSHUA S. HOPSTONE

KATHLEEN MAHEU

KRISTINE TIJAM

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PRESIDENT'S MESSAGE

by Joshua Hopstone

I moved to Ventura in the summer of 2010 with no prior connection to the community. Born in New York and raised in the San Francisco Bay Area, I had never set foot here beyond a pit stop traveling between home and college at UC San Diego. In the summer of 2010 though, I had recently graduated from the University of Michigan Law School, survived the bar exam, and had somehow convinced the fine people at Ferguson Case Orr Paterson LLP to take a chance on me as an entry-level associate.

The evening before my first day of work, at the invitation of my new colleague **Doug Goldwater**, I attended the Barristers Wine and Cheese Mixer at the law offices of Lascher & Lascher on Poli St. The first person I met was the gracious host, who I remember as being warm, funny, interesting, and genuinely interested in what I had to say.

Before long the house was brimming with lawyers and judges, each more welcoming and encouraging toward me than the last. It soon became apparent that these people knew each other, liked each other, and for some bizarre and inexplicable reason, seemed genuinely happy in their careers as attorneys. I did not yet know all that was in store for me. But after a glass (or two) of pinot and a panoramic sunset glistening off Pierpont Bay, it was hard to avoid feeling that I had chosen the right place to begin my career.

In the ensuing years I grew professionally and personally. I was fortunate to be affiliated with a firm comprised of attorneys of the highest caliber. Mentorship is so important to professional growth of any person, and I feel lucky to have been surrounded by mentors who I look up to and respect, including **Michael Case, Wendy Lascher, David Shea, Neal Maguire, Joe Strohmman, David Tredway**, and many others.

I also have enjoyed the opportunity to work in a variety of areas of the law, and appreciate the flexibility to craft a practice that is broader than most and admittedly a little eclectic. After a few years practicing exclusively in family law, I transitioned to general civil litigation. Today, my work is predominantly business and real estate

litigation but also includes construction and land use, trust and probate litigation, employment, and civil appeals.

On the personal side, I married my then-fiancée Michelle who at the time was training in medical residency, which for the record is every bit as burdensome as the rumors suggest. We moved to Encino, and spent seven years commuting in opposite directions to demanding jobs while trying to raise our two young children, Benjamin (now 10) and Natalie (8).

There admittedly were moments in this period, juggling many large and different burdens, when I considered pulling up the shallow roots I had begun to grow in Ventura and transitioning to a firm in L.A. Less time on the road would mean more time for family, and the pay would probably improve. But ultimately, Michelle and I both knew in our hearts that this is where we wanted to settle down.

Notwithstanding my home zip code, I persisted in remaining active in the Ventura legal and business communities, including through Ventura County Barristers (I served as President in 2017), Inns of Court, the Ventura and Greater Conejo Valley Chambers of Commerce, and volunteering at the Volunteer Lawyer Services Program (now Ventura County Legal Aid). When Michelle's residency and fellowships (yes, plural) concluded, we relocated to Thousand Oaks where we live today.

My parents and siblings (I am the oldest of four sons) visited often throughout these years, and began to appreciate how wonderful Ventura County was. Two years ago, my brother and his family relocated to Newbury Park after more than 15 years in San Francisco. Not long after that, my parents announced that they too were moving here, eventually settling in Camarillo after more than 30 years in Walnut Creek where I grew up. After decades of being the long distance son and sibling, in a short period of time, most of my extended family has gravitated to me.

I could not be happier. Through 14 years of twists and turns, the Hopstone clan

has firmly laid down our roots in Ventura County and will be here for decades to come. It is my honor and privilege to lead the Ventura County Bar Association in 2024. The Bar is in a stronger position today than ever before, and I look forward to presenting a year full of programs and initiatives to build on this momentum, expand our membership, and increase the value the Bar brings to each and every one of us.

From my family to yours, I wish each member of the Ventura County Bar Association a happy holiday season and new year.



Joshua S. Hopstone is a partner at Ferguson Case Orr Paterson LLP. His practice focuses on business and real estate litigation, trust/probate litigation, and appeals. He can be reached at jhopstone@fcoplaw.com or (805) 659-6800.

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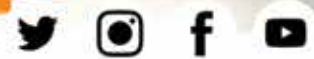
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THINKING THINGS OVER – ON BEING ADOPTED

by Lindsay Nielson



Photo: Dr. Rudi Moser

I was adopted. I learned this when I was a young teenager. It was a total shock. It also proved to be some sort of badge of shame to my adolescent mind.

And yet, it turned out to be the most miraculous thing that ever happened to me. You see, I was born in Manila, in the Philippine Islands, and was adopted by Laurie Nielson, a British citizen and entrepreneur (he built the first civilian airport in Manila, Nielson Field) and his American wife, Annette Nielson, a businesswoman in her own right (she owned unique shop called “The Caravan” where she sold personally designed items handcrafted in pre-Communist China and antiques. General MacArthur and his wife were customers.)

I learned later that my biological father was a medical doctor. The connection between him and the Nielson family was the head of the Manila medical society, Dr. Lindsay Fletcher. The Nielsons did not have children, but this was July 1941. War clouds were accumulating. Six months after I was adopted into a life of privilege, the Japanese Imperial Army arrived, and my mother and I were transferred from our home on Manila Bay into Santo Tomas University which was converted into an internment camp for 3,800 Americans. My father, being a British subject, was sent to a prison camp for British citizens

in Hong Kong. He did not survive the war. For the next three-and-a-half years my mother and I were prisoners of war and were treated as such by our captors. As a very young child, I was spared much of the horrors and agony of being a POW in captivity by an occupying army.

We were freed when General MacArthur’s First Cavalry Division landed on Luzon Island and he ordered the 44th Tank Battalion to proceed directly to Santo Tomas and liberate the American captives. The U.S. military had intercepted a message sent by the Japanese high command to kill the prisoners if things went wrong. That was on the night of February 3, 1945. It took another month to liberate Manila and then we were placed on a merchant cargo ship (the USS *Moremacsea*) that had a couple of guns added to it. It took three weeks to get to San Francisco. Being adopted saved my life.

The Search for my roots:

Fast forward over 70 years. I knew my biological father was a doctor (a radiologist). I had a name – Dr. Rudi Moser – written on a piece of paper on the Judge’s Order approving the adoption (I have that Order). That was it. I thought Dr. Moser was a Jewish refugee from Austria. I wrote the Austrian medical group to see if I could learn anything. That was a dead end. One weekend in 2017 while I was home with a bad cold, I typed in his name – Dr. Rudi Moser – on my computer. Within a few seconds up popped the name Dr. Rudi Moser Strasse, referring to street in a small town in east Germany called Apolda. I was very surprised. I immediately wrote the mayor (Burgermeister) of Apolda to ask why they had named a street after my biological father. The mayor wrote back and said there was a Lutheran Pastor in Apolda who had written a small book about Dr. Moser and I should contact him. I did and my wife and I decided to go to Germany to meet him and the mayor of Apolda. It seems that my father was the town doctor. He had the first x-ray machine in that area and was highly regarded. But he was a Jew, and this was Germany in the early 1930s.

When the German government adopted the infamous Nuremberg Laws, it became unlawful for Germans to rent property to Jews, to do business with them including receiving medical treatment. Dr. Moser had to move his office into a private home, but it was unlawful for most of his patients to seek his medical assistance. He saw the handwriting on the wall, and relocated his family to England and later traveled to Portugal. Eventually, he made it to Manila where he was able to continue with his radiology practice and teach as a professor at Manila Central University.

In 1953, the city of Apolda saw fit to name a street after him due to the treatment he and his family had received from the Nazi government in partial atonement.

The pastor said I might be interested to learn that a medical student at Leipzig University wrote his medical degree thesis on my father. I had this doctor’s name and wrote the medical librarian at Leipzig University. They don’t keep medical students’ thesis, but she suggested I contact Dr. Greiser directly. He is a radiologist outside of Munich. I did – and what a bonanza. While writing his paper, he had contacted my father’s brother, the family archivist. Dr. Greiser sent me my father’s medical degree from the University of Berlin (it was in Latin). He sent me photographs of my father with his students in Manila. He even had his prescription tablet.

We became correspondents. He told me that my grandfather was also a doctor and had been elected to the German parliament in the Weimar Republic in the 1920s. He was a progressive and tried to promote a national women’s health day. But he was a Jew. He died in a Nazi extermination camp at Thereinstadt in 1942.

He also said that I have a cousin, Paul Nemitz, who is a senior legal advisor to the E.U. in Brussels. I contacted him and he informed me that I have an older sister who lives in London. At Christmas, 2019, my family and I went to London to meet my lost sister. Her son and his family flew up from Australia and Paul Nemitz came

from Brussels. He hosted a lunch in the legal district of London in my honor that was most exciting.

And so, my journey from being ashamed of having been adopted, to finding my amazing background and roots is complete. I am so very grateful to learn this history and I now think that adoption is an incredible way of giving a person a whole new life. It was for me.



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



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Changes to California Civil Discovery Act in 2024 – “Initial Disclosures” On Demand

Starting January 1, 2024, civil litigants represented by counsel will be *required* to exchange “initial” disclosures, similar to those required under the Federal Rules of Civil Procedure, *upon demand* by an opposing party also represented by counsel. Governor Gavin Newsom signed SB 235 last year, amending two sections of the Code of Civil Procedure. The more significant of the changes requires parties in most California civil actions to provide initial disclosures under **Code of Civil Procedure section 2016.090**.

Section 2016.090, as modified, will require initial disclosures – upon demand – in newly filed matters (excepting family law, unlawful detainer actions, small claims, probate, and actions entitled to preference under Code of Civil Procedure section 36). Subdivision (a)(1) describes the content of each initial disclosure:

(a) The following shall apply in a civil action unless modified by stipulation by all parties to the action:

(1) Within 60 days of a demand by any party to the action, each party that has appeared in the action, including the party that made the demand, shall provide to the other parties an initial disclosure that includes all of the following information:

(A) The names, addresses, telephone numbers, and email addresses of all persons likely to have discoverable information, along with the subjects of that information, that the disclosing party may use to support its claims or defenses, or that is relevant to the subject matter of the action or the order on any motion made in that action, unless the use would be solely for impeachment. The disclosure required by this subparagraph is not required to include persons who are expert trial witnesses or are retained as consultants who may later be designated as expert trial witnesses, as that term is described in Chapter 18 (commencing with Section 2034.010) of Title 4 of Part 4.

(B) A copy, or a description by category and location, of all documents, electronically stored information, and tangible things that

the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, or that is relevant to the subject matter of the action or the order on any motion made in that action, unless the use would be solely for impeachment.

(C) Any contractual agreement and any insurance policy under which an insurance company may be liable to satisfy, in whole or in part, a judgment entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(D) Any and all contractual agreements and any and all insurance policies under which a person, as defined in Section 175 of the Evidence Code, may be liable to satisfy, in whole or in part, a judgment entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Only those provisions of an agreement that are material to the terms of the insurance,

indemnification, or reimbursement are required to be included in the initial disclosure. Material provisions include, but are not limited to, the identities of parties to the agreement, the nature and limits of the coverage, and any and all documents regarding whether any insurance carrier is disputing the agreement's or policy's coverage of the claim involved in the action.

A party shall make its initial disclosures based on the information then reasonably available to it and will not be excused from making the disclosure because it has not fully investigated the case, because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures. (Code Civ. Proc., §2016.090(a)(2).) Parties will be permitted to propound a supplemental demand twice before the initial setting of a trial date, and subject to time limits, once after the initial setting of a trial date. (Code Civ. Proc., §2016.090(a)(3)(B).)



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A party's obligations under this section can be enforced by a court on its own motion or the motion to compel brought by a party. (Code Civ. Proc., §2016.090(a)(4).)

Interestingly, section 2016.090, as modified, is set to expire on January 1, 2027, suggesting that the Legislature will be watching the progress of civil discovery practice during this three-year period to consider the effects of this change on California civil litigation. This may be a first step towards mandatory disclosures akin to Rule 26 of the Federal Rules of Civil Procedure.



Kathleen "Kat" Maheu is *CITATIONS* Editor and attorney with the Ventura County Superior Court.



Judge Bruce A. Young retired on December 6, 2023, from the Superior Court of California, County of Ventura after more than 20 years of dedicated service. At a retirement ceremony held at the Court on October 13, 2023, elected officials, current and former Court judicial officers, friends, colleagues and members of Judge Young's family honored the Judge's many years of service. Judge Young was selected by the Ventura County Superior Court Judges as a Court Commissioner. He was formally sworn into that position on December 11, 2002, and began his position on February 10, 2003. He was appointed as Judge of the Ventura Superior Court by Governor Arnold Schwarzenegger on August 20, 2007, and was administered the oath of office the same day filling the vacancy of Judge Barry Klopfer.

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BARRISTERS' CORNER

by Kristine Tijam

It was my pleasure to serve as the 2023 President of the VCBA Barristers Board. Looking back at the past year, I am pleased and proud of the work that the Barristers have accomplished. Throughout 2023, we again hosted a variety of events for the legal community and participated in outreach events to serve the public.

In January 2023, we hosted our Bridging the Gap MCLE event. In March, we hosted Game Night (which actually went from a *March Madness* night, to board game night, to almost no one playing any games or watching any games due to having too much fun just talking and enjoying each other's company). Trivia Night then took place in May, wherein The Alvarez Firm was crowned as the winners. In August, we hosted our annual Wine and Cheese event. October brought us Meet the Bench, where attorneys and law students mingled with our local judges, commissioners, and other professionals from Ventura County Superior Court. Finally, we held our Holiday Board Dinner in December. Aside from our events, a few Barristers volunteered their time throughout the year to provide free legal resources to the public, speak at schools, and volunteer as mock trial scorers. Collectively, the Barristers also discussed a lot of new ideas and plans for the future.

As a reminder, Barristers are hosting another Bridging the Gap MCLE event on **Saturday, January 20, 2024**, from 9:00 a.m. to 3:30 p.m., at the Ventura campus of The Colleges of Law. Our speakers consist of **Justice Hernaldo J. Baltodano**, Ventura County Superior Court Presiding **Judge Kevin G. DeNoce**, **Judge Gilbert A. Romero**, **Judge Von T. Nguyen Deroian**, **Jon F. Light**, Esq., and **Robin L. Oaks**, Esq. Attendees will receive 6 hours of participatory MCLE credits, including 1 Competence, 1 Elimination of Bias (Implicit Bias), 2 Ethics, and 2 General. Coffee, pastries, and lunch will be provided. We are excited for this event and hope to see you there. Registration is open at vcba.org, or by returning the registration slip sent with the December 2023 issue of Citations.

I am incredibly thankful for the Barristers Board, who have dedicated their time and hard work in attending meetings, planning events, and giving back to our community. Instrumental in these efforts were also having the support of VCBA, as well as

VCBA Executive Director, **Sandra Rubio**. A lot of work and time is spent "behind the scenes" to make our events happen, and I am deeply appreciative of the Barristers Board and Rubio for taking time out of their busy schedules to support our group.

Additionally, I want to extend my deepest gratitude to everyone who supported Barristers in any capacity. We have had many people attend our events, spread the word about our organization and events, provide sponsorships, and express willingness to partner with us in the future. Due to these contributions, we experienced a noticeable increase in board membership and attendance at our events this year. The success we experienced in 2023 definitely would not have been possible without everyone's support.

I am confident that Barristers' momentum will continue next year, as it will be in excellent hands. I am pleased to announce that the Barristers have finalized its new board for 2024, as follows:

President: **Ian Elsenheimer**
 Vice President: **Alexander Tron**
 Treasurer: **Michael Crawford**
 Secretary: **Cheyenne Martz**
 Past-President: **Kristine Tijam**
 Members-at-Large: **Ben Baumer**, **Christal Porter**, **Valarie Grossman**, **Ellie Gomez** (law student), **Mackenzie Woo** (law student), **Jessica Ball** (law student), **Bella Tomasetta** (law student)

We would like to thank Barristers past-presidents, **Rick Seigenfeld** and **Leonidas Nicol**, for all their contributions to our Board during the past few years. They have provided us with ongoing support and invaluable guidance even after their respective presidencies, and we will miss having them as part of our organization.

On a more personal level, I am incredibly grateful for the Barristers organization and am thankful to former Barristers President, **Kevin Heimberg**, for having invited me to join Barristers while we were on a break during a deposition a few years ago. I have had the pleasure of meeting many young and new attorneys, from which friendships have developed. It has also been inspiring to see current and former Barristers board members grow professionally and personally. As one example, **Brian Israel**

was Barristers President when I first got involved, and he has now just completed his term as VCBA President. The people I have met through Barristers are nothing short of inspiring and are all-around great people. Based on the Barristers I have gotten to know, I am confident that the future of our local legal community is bright.

If you or anyone you know is an attorney under age 36 or admitted to practice law for seven years or fewer (regardless of age), or has been in practice for seven years or fewer (also regardless of age), we recommend joining Barristers, or at least attending some of our events. We also welcome law students to get involved with our organization.

I truly believe that Barristers does a wonderful job in welcoming and educating new and young attorneys to the profession and our legal community. I have learned a lot about the practice of law and our legal community over the years simply by attending our fun events and engaging in casual conversations with other members and attendees. Importantly, Barristers easily connects the young bar with more experienced attorneys and judges – the younger and newer attorneys are the future of our legal profession, and I think we all agree that it is important to give them the resources, tools, and support to succeed. On that note, we are thankful for the judges, commissioners, and more experienced attorneys and other legal professionals who have supported us throughout the years and continue to do so.

I look forward to seeing what Barristers accomplishes this year. Please feel free to reach out to any of the Barristers board members listed above if you are interested in joining our organization, getting involved in any capacity, or would like to be added to our electronic mailing list. We hope to see you at our events this year!



Kristine Tijam is a civil litigation attorney at Procter, Shyer & Winter, LLP and an adjunct law professor at The Colleges of Law. She served as the 2023 Barristers President and is on the VCBA Board of Directors.



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