



# CITATIONS

DECEMBER - TWO THOUSAND TWENTY FIVE



## “HOW CAN I HELP?” A PROFILE OF JUDGE AMY VAN SICKLE

By Wendy Lascher

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## PRESIDENT'S MESSAGE

By Guillermo "Bert" Partida

### Reflections Over This Past Year and a Very Fond Farewell!

It has been my honor and privilege to serve as your Ventura County Bar Association (VCBA) President for the year 2025. Thank you to all who attended the bar dinner and my upmost gratitude for all attendees who braved the storm, power outage, candlelight and delays to make a memorable fun filled evening of awards, dancing, and gaming.

My advice to the incoming president would be to invest in a generator. Joking aside, the VCBA is in good hands with incoming president **Kristine Tijam** and **Damon Jenkins** and **Alex Tron**, and returning VCBA board members. The new leadership will continue with the bar's mission to promote legal excellence, high ethical standards and professional conduct in the practice of law; to improve access to legal services for all people in Ventura County; and to work to improve the administration of justice. VCBA will offer to the public a referral program, A.S.K. program on sharing legal knowledge in the community, and offer the court tour program for students. For our members, we continue to provide a referral program, MCLE events, and communication through our Citations Magazine and bar functions/events.

As I began this year, I focused on the volunteer role of attorneys in the community and pro bono hours. This is a rewarding way to give back to underserved members of our community. Further, attorney reporting requirements to the California Bar of your pro bono service hours will begin next year. Currently, there is no minimum pro bono service hour requirement, but you will need to report your hours. As mentioned previously, one way to get pro-bono hours is to volunteer at your local legal aid clinic. I like to volunteer when I am able at the Ventura County Legal Aid Clinic at the Colleges of Law Ventura Campus, which usually takes place on the first and third Tuesday of the month, from 4:45 p.m. to 7:00 p.m. Please also consider volunteering for mock trial competition, high school law academy interviews, and A.S.K. program.

We were then confronted by an attack on the rule of law, and we continue to grapple with this issue. We as a profession were, and

are, under attack. We are obligated by our profession to protest injustice in all forms. We are called to protect our bedrock of justice. Many of us have spoken out and continue to do so in solidarity with all other bar associations in support of the Rule of Law.

Our bar voted that the most popular law movie was "My Cousin Vinny."

Our superior court presiding **Judge Matthew Guasco** and the ADR committee members **Judge Ronda McKaig** and **Judge Charmaine Buehner** have implemented and developed court-connected mediation programs. The unlimited civil mediation program will require the parties to mediate cases worth less than \$50,000.00 and make available three-hours of free mediation. The Court is seeking volunteer mediators with training in mediation and experience to volunteer for this program. The Court also introduced a pilot unlawful detainer mandatory settlement conference program to assist litigants in resolving their cases before trial. VCBA has developed a committee to assist the Court in vetting and providing volunteer settlement master(s) to assist in this program.

Then the lights went out, but we raged against the dying of the light to celebrate our awardees at our annual bar dinner. A most memorable evening had by all!

Best Wishes and Happy Holidays!



**Guillermo "Bert" Partida** practices law at *Slaughter, Reagan & Cole, LLP* in the areas of *Personal Injury Defense, Premises Liability, and Habitability Defense.*

He can be reached at (805) 658-7800, or by email at [partida@srllplaw.com](mailto:partida@srllplaw.com).

## HAVE YOU HEARD?



Megan Rayburn has joined Arnold LaRochelle Mathews VanConas & Zirbel LLP as an associate attorney in the firm's litigation department. Before joining A to Z Law, Megan served

as a Deputy District Attorney with the Ventura County District Attorney's Office and later as a Deputy Attorney General with the California Office of the Attorney General. Megan has extensive jury and bench trial experience and will bring her thorough preparation, persuasive advocacy, and commitment to A to Z Law. Megan earned her Juris Doctor from the University of Washington School of Law and graduated cum laude from Baylor University with a Bachelor of Arts in Philosophy and Religion. She lives in Ventura with her husband and two children. A to Z Law is proud to have Megan as part of the firm, which this year celebrates 35 years of providing exceptional legal services.

### Nominations for 2026 FLBA Board Positions are Now Open

The Family Law Bar, a section of the Ventura County Bar Association, provides annual programming to members of our Bar with networking and educational opportunities. The board meets monthly at noon on the second Thursday of every month. The 15-member board organizes events and hosts MCLEs.

Do you know someone who would be a great addition to the FLBA Board? Would you like to be a member? If you are interested, nominations may be emailed to [sandra@vcba.org](mailto:sandra@vcba.org) and must be received by 11:59 p.m. on December 31, 2025. Nominations may only be made by attorneys in good standing with the State Bar and are VCBA Members.

If you would like more information, please e-mail [sandra@vcba.org](mailto:sandra@vcba.org).



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## ADOPTION DAY

Adoption Day ceremony was held last month. The Family Law Board at the Oxnard Juvenile Justice Center provided decorations and snacks.



## NEWS FROM THE COURT

### EARLY CLERK'S CLOSURE DATES IN DECEMBER

The Ventura Superior Clerk's Offices will be closed at 2:00 p.m. on Wednesday, December 24, 2025, and on Wednesday, December 31, 2025.

### VENTURA SUPERIOR COURT LAUNCHES COURT-ORDERED CIVIL MEDIATION PROGRAM

Beginning November 10, 2025, civil lawsuits with amounts in controversy of \$50,000 or less per plaintiff may be ordered to mediation at the Court's discretion. Subject to the Court's approval, parties may also voluntarily agree to participate in court-ordered mediation regardless of the amount in controversy.

Once ordered to mediation, parties will select a mediator from a panel of experienced court-approved mediators. Parties will be provided three hours of mediation services at no cost.


For more information on the Court-Ordered Civil Mediation Program, links to forms, and other resources, please visit the Ventura Superior Court website at <https://www.ventura.courts.ca.gov/CMP.html>. The website includes information on how to apply to be a Court-approved mediator.

### FAMILY LAW CLERK'S OFFICE TO DISCONTINUE APPOINTMENTS

Effective December 8, 2025, appointments will no longer be required for the Family Law Clerk's Office. Customers may bring completed and ready-to-file documents for processing during regular business hours. The Family Law Clerk's Office hours will be 8:00 a.m. to 4:00 p.m.


Filings are limited to three (3) per counter visit. You must get back in line for additional filings.

Documents may also be submitted through eDelivery, mail or placed in drop boxes located outside of the Hall of Justice in Ventura. Documents placed in the drop box by 4:00 p.m. will be deemed deposited for filing that same business day.



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# TIPS FROM THE ASSESSOR'S OFFICE FOR PRACTITIONERS REGARDING REAL PROPERTY TAX FILINGS ON DEATH



When a client dies, most of us jump straight into probate or trust administration and start sorting out assets and debts, while the property tax fallout sits quietly in the background until a supplemental assessment suddenly lands in the mail. To spare your clients those surprises, the Ventura County Assessor's Office shares guidance for legal practitioners. The tips below spotlight the issues the Assessor most often sees in post-death real property reporting and how a few intentional adjustments in your workflow can prevent delays, minimize avoidable reassessments, and make the process smoother for both your clients and the Assessor's staff.

## 1. Promptly file required forms at owner's death.

A Change in Ownership Statement Death of Real Property Owner (DEC) should be submitted to the Assessor anytime a decedent holds an interest in real property.

Even if the beneficiaries plan to sell the property, it's important that the death be reported as soon as possible to avoid delays in processing the updates. Unless an exclusion or exemption applies, the death itself is actually a reassessable change in ownership on the date the death occurs. The subsequent clearing of title may or may not be a reassessable event, depending on the facts.

Another often-missed step is reporting the death to the State Board of Equalization (BOE) on a BOE-100-B (Statement of Change in Control and Ownership of Legal Entities) when a decedent owns a real property interest through a legal entity and the death triggers the filing requirement.

An Affidavit of Death should also be recorded with the Clerk-Recorder's Office.

## 2. Don't skimp on ink.

A statewide team has thoughtfully assembled the questions on all of the BOE forms, each for a specific purpose. Often this is to inquire if an exclusion from reassessment might apply. This means that, when information is missing, the Assessor will need to default to reassessing the property. This could cost your client thousands of additional dollars, which could have been avoided if all the information was provided at the time of the initial filing.

Common exclusions, without limitation, include transfers between spouses, from parent to child, and from grandparent to grandchild.

If a question isn't relevant to your specific situation, just mark "no" or the most appropriate response. Be sure to include a phone number and/or email address in the spaces provided on the form so the Assessor can follow up, if necessary, without undo delay.

## 3. Yes, the Assessor needs a full copy of the trust and the trust distribution.

Anytime there is a transfer to an irrevocable trust, and often when beneficiaries clear title to themselves after the death of their loved one, the Assessor will request a copy of the trust to determine who the beneficiaries were at the time of death. For example, if there were five kids and five houses, the reassessment determination would be different if the trust gave all five children a share of all five properties versus if the trust specified the property each child would inherit. A trust distribution list is required if requesting a non-pro rata distribution.

It is appreciated if you simply include a copy of the trust and trust distribution when you send in the DEC.

## 4. The Assessor does not control legal title.

Often attorneys submit a DEC to the Assessor and assume that title has been updated because the tax bill will reflect the change. It's important to understand that the Assessor may assess property to the person or entity that owns, possesses, or controls the property. This means that while the assessee is often the same as the legal titleholder, they are not necessarily one in the same. To update legal title to the property, a document must be recorded with the Recorder's office.

The Assessor can't provide legal advice but we're happy to answer the questions we can, point you to the relevant Revenue and Taxation Code sections, or direct you to relevant guidance on the BOE's website for more information. If you have a question about potential exclusions from reassessment, please ask!

For more information on how death affects taxes, contact the Assessor by phone at (805) 654-2181 or by email at [Assessor.Transfer@ventura.org](mailto:Assessor.Transfer@ventura.org).

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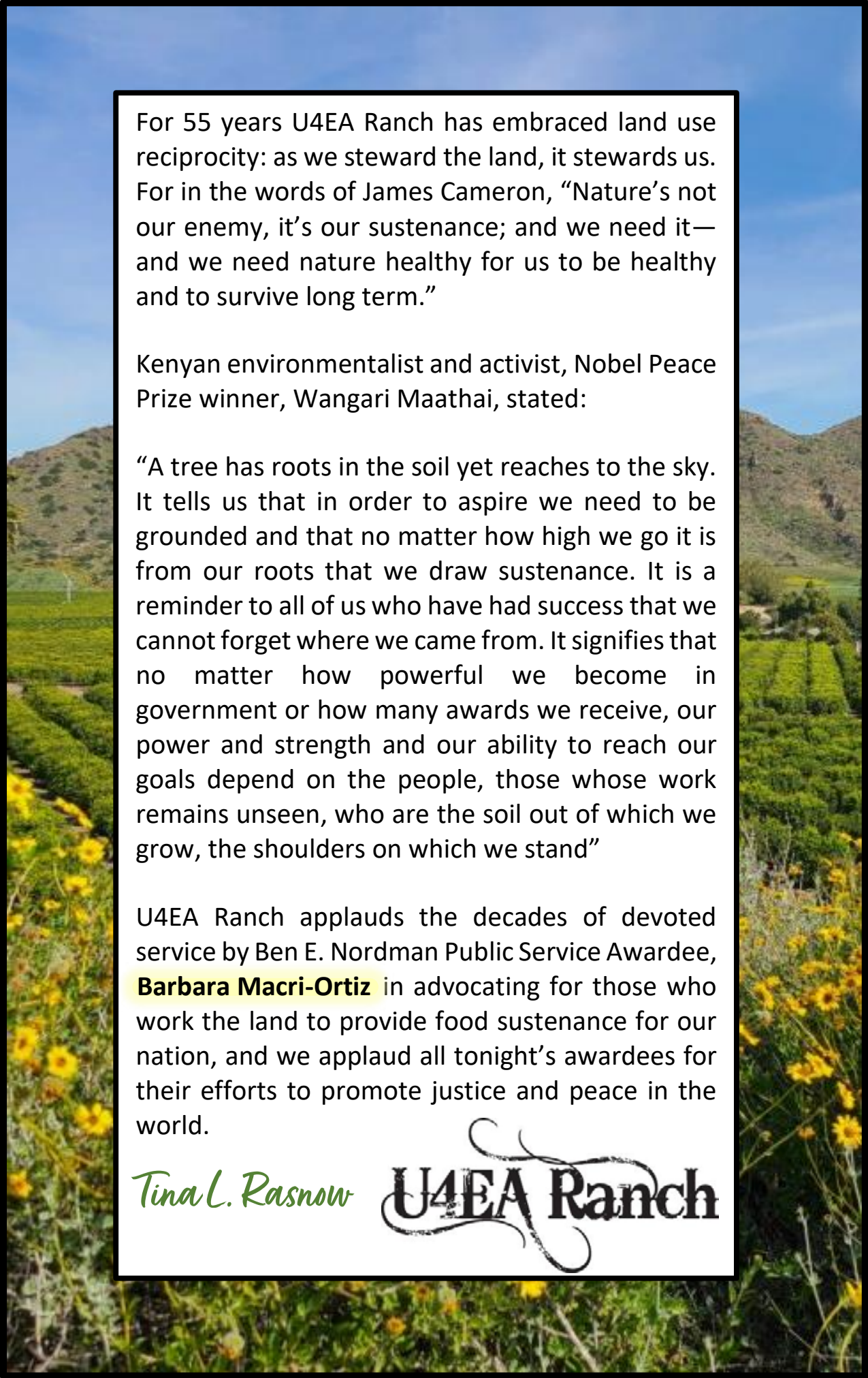
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U4EA Ranch applauds the decades of devoted service by Ben E. Nordman Public Service Awardee, **Barbara Macri-Ortiz** in advocating for those who work the land to provide food sustenance for our nation, and we applaud all tonight’s awardees for their efforts to promote justice and peace in the world.

*Tina L. Rasnow*

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# "HOW CAN I HELP?" A PROFILE OF JUDGE AMY VAN SICKLE

By Wendy Lascher

"I would love to say I turn out the lights in my chambers at night and don't think about my cases again, but I do," she says. Ventura Superior Court **Judge Amy Van Sickle** has one primary goal as a member of Ventura County's family law bench: to help the parties.

Van Sickle is a product of Ventura County through and through. She was born at Ventura County Medical Center, grew up in Camarillo, graduated from Rio Mesa High School and then California Lutheran University. And, while still working in her late father's law firm, Van Sickle enrolled in and earned her J.D. degree from the Ventura College of Law. She says her younger self would be surprised at how hard "Judge" Van Sickle worked and how focused she stayed on her long-term goal.

Family law is not for everyone, but it is what Van Sickle always wanted to do ever since – at age 12 – she overheard parents in a restaurant booth behind where she was sitting. The parents were trying to explain to their child, about the same age as she was, that they would be divorcing. Van Sickle's immediate thought was, "the poor boy. What's he going to do now?" And indeed, after law school, the judge went into practice with her father at Van Sickle & Rowley. In 2002 she set out on her own. She served as a Judge Pro Tem while she was in private practice.

After nineteen years representing individuals in family court, Van Sickle was ready for a new way to help families. She applied for a position as a commissioner. Her first interview did not (from her perspective) go well. But six months later the judges of the Superior Court hired her. Because of her extensive practice in family law, the transition to the bench was smooth. She can ask her colleagues for ideas, or consult the court's legal research attorneys, when new issues pop up.

Van Sickle spent two years presiding over domestic violence restraining orders before Governor Gavin Newsom appointed Judge Van Sickle last February. Now hearing family law cases in Courtroom 31, Van Sickle's devotion to helping families continues to grow. Recognizing that the specific motion people are in court arguing

about may not be the root problem, the judge asks herself "what is the real problem here?" in every case that comes to her courtroom. She has no hesitation about ordering therapy or parenting classes, and diligently follows up on the results. Often those results are so good that both spouses thank her for improving their lives.

Not that everything is rosy. Van Sickle has been surprised by the number of unethical attorneys who appear in family court, including lawyers who treat their own clients unfairly. She becomes impatient when attorneys seek excessive fees calculated at bloated rates and for unneeded work. She is regularly frustrated by the lack of resources – lawyers, therapists, and classes – for family law litigants who cannot pay for them. She and her colleagues work at their desks through lunch because there are not enough judicial officers.

Van Sickle herself has been happily married for 26 years. She and her husband – who is *not* a lawyer – enjoy waterskiing and boating at Lake Nacimiento and Lake Havasu, where they gather with relatives at a second home, notwithstanding three-digit temperatures. But as much as she loves the job, when Monday morning arrives, Judge Van Sickle is one of the happy few who are glad to be going to a job they love. And at the end of each day, she asks herself two questions: "What else could I have done?" and "What could I do better tomorrow."



**Wendy C. Lascher**, a partner at Ferguson Case Orr Paterson LLP, is a **State Bar-certified specialist in appellate practice**, as well as a private pilot. She is a former editor of CITATIONS.



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# HONORING A COMMITMENT TO SERVICE: NANCY ARONSON PRESENTED WITH HOLLY SPEVAK AWARD FOR PUBLIC SERVICE

By Jodi Prior



During this year's Women Lawyers of Ventura County (WLVC) Annual Scholarship dinner on September 25, our legal community came together to celebrate one of the profession's defining values: service to others. At its best, the practice of law is an act of service – a commitment to fairness, dignity, and the belief that our work can help transform lives. Few moments embodied that spirit more fully than the presentation of the Holly Spevak Award for Public Service, created in memory of an attorney whose dedication continues to illuminate the path for all who follow.

**Holly Spevak**, the award's namesake, was a law student and attorney whose dedication to WLVC, the Ventura Superior Court's Family Law Self-Help Center, and the Ventura County Bar Association's Volunteer Lawyer Services Program set a powerful example. Even as she faced cancer, she continued to volunteer, mentor,

and advocate. She believed deeply in expanding opportunities for women in the legal profession and credited that support with shaping her own career. Her courage, generosity, and leadership inspired the creation of this award and continue to empower those who strive to carry her legacy forward.

This year's recipient, **Nancy Aronson**, reflects that ideal of purpose and generosity. A graduate of Pepperdine University School of Law, she distinguished herself by winning the Moot Court competition at Oxford University, earning top honors in the Women's Law Journal writing competition, and being chosen as her class's Baccalaureate Speaker. After law school, Aronson began her legal career with the Los Angeles County District Attorney's Office before moving into criminal defense work with Conflict Defense Associates. With experience in both prosecution and

defense, she recently transitioned to a full-time position with Ridley Defense. Throughout her career, she has earned respect not only for her skill and rigorous advocacy, but for the empathy she brings to clients, particularly those struggling with mental health challenges.

It is Aronson's volunteer work, however, that truly sets her apart. For more than 20 years, she has served as the Judge Pro Tem in the Ventura Superior Court's Homeless Court and Stand Down programs, providing support and encouragement to individuals working to rebuild their lives. She is known for thanking veterans for their service and urging participants to stay strong in their treatment and recovery.

Her colleagues consistently highlight her willingness to go above and beyond. Deputy Public Defender, **Katia Benthale** observed that when Homeless Court backlogs began to grow, Aronson regularly volunteered for extra sessions, giving up evenings and lunch hours so more people could be served. Through her willingness to step in, thousands of individuals gained access to opportunities that enabled them to begin rebuilding their lives.

Retired Senior Deputy Public Defender **Rod Kodman** described the steady, compassionate leadership Aronson brings to Stand Down and Homeless Court. He remarked, "she serves our veterans and other struggling with trauma, PTSD, mental illness, substance use disorders, and homelessness – not by judging, but by seeing their service and sacrifice. While holding them accountable, she coaches them with dignity, creating a courtroom where fear melts away." Aronson fosters a space where judgment gives way to understanding, and where individuals who have long felt invisible finally feel seen. For many, the experience becomes a turning point.

Aronson's service reaches even further. She has volunteered as a Judge Pro Tem in Teen Court, Mental Health Court, and Small Claims Court, contributing thousands



of hours to ensuring that justice remains accessible to all. She often shares that her commitment is rooted in her Jewish faith, which calls upon her to pursue justice and support those in need. Her work reflects both her professional values and her personal beliefs.

Aronson is also a loving mother to Mollye, devoted partner and spouse to Scott, and proud mom of Fergus, her beloved “doggie paralegal,” who sometimes makes an appearance during remote Homeless Court sessions. Her family and her faith have been a constant source of strength and support, enabling her to give so much to the community.

Aronson’s career brings to life Gandhi’s insight that “The best way to find yourself is to lose yourself in the service of others.” Her work shows what is possible when the law is practiced with compassion and conviction, when we recognize that every person who walks into a courtroom carries a story, a struggle, and a hope for something better. Through her dedication, she reminds us

that justice is not only achieved through statutes and procedures, but through the humanity we extend to those we are privileged to serve.

In many ways, Aronson is the epitome of the unsung hero; someone who moves quietly, consistently, and humbly through the community, creating change without seeking recognition. Her service is defined not only by the hours she gives, but by the profound respect she extends to those who most need to be seen. She steps in not for accolades, but because she believes it is the right thing to do. Her work reveals that the most impactful service often happens far from the spotlight.

Like Spevak, Aronson demonstrates that one lawyer’s commitment can ripple outward, touching lives, restoring dignity, and strengthening the fabric of our community. Her example challenges all of us, regardless of our practice area or role, to use our skills in ways that elevate others and expand access to justice.

In presenting the Holly Spevak Award for Public Service to Nancy Aronson, WLVC honors a lawyer whose work not only makes a difference today but helps shape a more just and hopeful future. We celebrate her extraordinary contributions and the aspirational standard she sets for our profession.



**Jodi Prior** is the *Managing Attorney - Professional Services for the Superior Court of California, County of Ventura, overseeing the Family and Civil Self-Help Centers,*

*Family Court Services, and the Children’s Waiting Room. She is also a board member and past President of WLVC, and the 2015 recipient of the Holly Spevak Award for Public Service.*

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# MEMBER SPOTLIGHTS – JANETTE MAGDALENO AND ANDY VIETS

By Kathleen Maheu



**Janette Magdaleno** has been a member of the Ventura County Bar Association since 2021, the same year she became licensed by the State Bar of California. A graduate of Ventura College of Law with

an undergraduate degree from California State University Northridge, she practices family law through her own firm, The Law Office of Janette E. Magdaleno, A Law Corp. Her path into the profession reflects decades of work in the field, beginning long before she became an attorney.

Magdaleno has spent her entire legal career in family law, developing her skills through roles that gave her a broad understanding of the work family law practitioners shoulder every day. She serves on the Board of the Family Law Bar Association, judges Mock Trial, and volunteers at Swap Meet Justice whenever she can. She credits mentors like **Bobette Fleischman**, **Richard Taylor**, and **Patrick Cherry** for pushing, training, and encouraging her at key moments, particularly while she completed law school and prepared for the bar. Their influence helped shape the attorney she is today.

Raised in Oxnard and now settled in Ventura, Magdaleno is the mother of five children: Jasmine, Jannah, Hannah, Joey, and Justin, and the grandmother of J.J. and Jae'lynn. Her family, including her two dogs Ruby and Onyx (her "spoiled" four-legged children), remains her grounding force. She describes quality time with them as the thing she prizes most and the reason she works as hard as she does. Her personal journey, including young motherhood and years of managing responsibilities that might have derailed a legal career, informs both her compassion for clients and her deep appreciation for the opportunities she created for herself.

Magdaleno's decision to enter the legal profession traces back to high school, when she first voiced her dream of becoming an attorney to a principal who shared her

Mexican American background. Although she believed for years that the dream had slipped out of reach, a workplace injury in 1999 unexpectedly altered her path. During a long recovery, she returned to school, worked through nerve pain, earned an associate degree and bachelor's degree, and eventually found her way to law school. Twice she came close to giving up for financial reasons, and twice she fought her way forward. The determination that carried her through those setbacks became central to the attorney she is today. Something most people wouldn't know is that she commemorated her journey and the people who matter most to her with two recent tattoos, including one symbolizing her family. She also holds deep admiration for **Sandra Day O'Connor** and would jump at the chance to sit down with her, a nod to the example O'Connor set and the inspiration she continues to provide. She and her daughters even named a cherished family cat "Sandie" after her.

When she is not working, Magdaleno enjoys hiking, her monthly massages, and watching the kind of reality television that gives her brain a break after long days in court. She swears by the corner cakes and cinnamon rolls at Art's Corner Café and still heads to Johnny's Mexican Food on the Avenue, the place that got her through law school and bar prep. Her tastes run from pizza and hamburgers to lasagna and burritos, her all-time favorite show is *Gilmore Girls*, and she trains regularly thanks to a client who also happens to be a fitness coach. She loves her Audi SQ5 and keeps a growing list of travel destinations after enjoying trips to Greece and France.

Magdaleno's favorite legal principles come from the *Maxims of Jurisprudence*, especially the rules that one must use their rights without infringing on another and that anyone who accepts a benefit must also accept the burden that comes with it. She sees both as essential truths in family law. Her favorite quote, which she repeated to her children every morning for years, is "You are free to choose but not free from the consequence of your choice." It captures both her personal philosophy and the steady realism she brings to her family law clients.



**Andy Viets** has been a member of the Ventura County Bar Association since the late 1980s and has practiced law in California since 1986. A graduate of SUNY Buffalo School of Law with an undergraduate

degree from Hofstra University, he now serves in the City Attorney's Office for the City of San Buenaventura, focusing on municipal law. His work blends public service with the practical problem-solving that comes with advising a busy local government.

Before settling into municipal practice, Viets spent years in civil litigation and stayed active in the local legal community. He is a former VCBA Board member, a former member of the Inns of Court, and a continuing member of the Ventura County Trial Lawyers Association.

Originally from East Meadow, New York, Viets now lives in Camarillo, where his family remains the center of his world. He is the father of two daughters and the grandfather of four, a role he clearly cherishes. His household also includes an unexpected companion: a desert tortoise, which might surprise people more than anything about him. In truth, though, he jokes that he is an open book, and that there isn't much about him that people don't already know.

His path into the law started early, thanks to a blunt but accurate observation from his ninth-grade social studies teacher. The teacher told him he argued so much in class that he ought to become a lawyer. Viets took the comment to heart. Decades later, he still credits that moment as the spark that pointed him toward the profession. When asked what he would be doing if he weren't practicing law, he replies dryly that he has "no other talents," a line that says as much about his sense of humor as it does about his commitment to the work. If given the chance to sit down with a historic figure, he would choose Founding Father, Benjamin Franklin.




Viets enjoys a quiet approach to relaxation. A mid-day nap is his ideal reset, and when he goes out, Latitude 34 is his go-to restaurant. He loves Chilean seabass, watches baseball, and prefers walking as his primary form of exercise. His favorite film is *Casablanca*, his favorite series is *The Americans*, and his favorite book is *The Sun Also Rises* by Ernest Hemingway. Travel remains a passion, and Africa stands out as his favorite destination.

His favorite statute is Code of Civil Procedure section 1985.4, a choice that aligns with a career spent in litigation and municipal work. He closes with a favorite quote that fits his understated demeanor: "Live long and prosper."



**Kathleen "Kat" Maheu** is an associate attorney practicing family law with Pachowicz | Goldenring, a PLC, and Managing Editor of CITATIONS. She can be reached at [kat@pglaw.law](mailto:kat@pglaw.law).




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# WHERE DO BABIES COME FROM, AND IS IT LEGAL IN CALIFORNIA?

By Carol Mack



It has been widely reported that the number of births in the United States is decreasing and hit an all-time low in 2024. There is a corresponding increase in the incidence of infertility, with about 11% of women and 9% of men of childbearing age reported to have infertility.

Of course, these figures depend on the definition of infertility, which, according to the World Health Organization (WHO) is “a disease of the male or female reproductive system defined by the failure to achieve a pregnancy after 12 months or more of regular unprotected sexual intercourse.” Clearly, this definition excludes same-sex couples.

In 2023, however, the American Society for Reproductive Medicine (ASRM) updated the definition to be: “the need for medical intervention, including, but not limited to, the use of donor gametes or donor embryos in order to achieve a successful pregnancy either as an individual or with a partner.”

## **In Vitro Fertilization (IVF)**

Couples experiencing infertility often turn to assisted reproduction using a variety of techniques to conceive and bear a child. In vitro fertilization (IVF) is the most common method used. In IVF, fertilization takes place in vitro, or “in glass,” that is, outside of a woman’s body. The resulting embryo is then transferred to the woman’s uterus to develop. In the United States, approximately 2.6% of all births are from IVF.

There are several legal issues that arise with the use of IVF. For one, extra embryos are necessarily created in the process, and they may not be used, which raises issues of ownership and personhood. A number of court cases have centered on who owns and controls the disposition of unused embryos when the couple divorces or one partner dies. Courts have generally held that both the right to procreate and the right to avoid procreation are protected, and have ruled for the partner who wishes not to have the disputed embryos used for reproduction. Some courts have ruled that the embryos in question must be destroyed.

There is also a question about whether embryos have “personhood” or legal status as a human being. This question is, as yet, unresolved. However, in 2024, in *LePage v. Mobile Infirmary Clinic*, the Supreme Court of Alabama heard a wrongful death suit brought on behalf of couples whose frozen embryos had been accidentally destroyed. Quoting scripture, the court held that frozen embryos are children under state law and the suit could go forward. Consequently, a number of Alabama IVF clinics suspended operations until Governor Kay Ivey signed into law a bill providing them with broad immunity.

Another legal issue is whether or not health insurance should be required to cover IVF expenses, which can amount to more than \$30,000. Twenty-five states have laws governing infertility, with 15 mandating insurance coverage of IVF. A recent law

in California mandates large group health plan coverage for fertility care, and uses the ASRM definition of infertility, thus including same-sex couples.

Depending on the type of infertility, the IVF process may use a donor egg or donor sperm for fertilization. Sperm donors have long been protected from paternity claims. In California, egg donors are also similarly protected. The same law, California Family Code §7613 recognizes unmarried people using assisted reproduction as parents on the same terms as married parents.

## **Surrogacy**

Another way that infertile couples may have babies is through surrogacy. Surrogacy is a process where a woman gestates a fetus for another. Surrogacy may be altruistic, as when a woman carries a baby for her sister, or commercial. Commercial surrogacy may or may not be legal.

*In Re Baby M* (1988), heard in New Jersey, was the first contested surrogacy case. The gestational mother, Mary Beth Whitehead, was impregnated by the intended father’s sperm and signed a contract to turn the resulting baby over to the intended parents, William and Elizabeth Stern. However, upon giving birth, Whitehead changed her mind and fled the state with the baby. In the resulting court case, the New Jersey Supreme Court held that paid surrogacy was illegal and ruled for the Sterns but gave Whitehead visitation rights (which were terminated by the child Melissa when she turned 18).

The *Baby M* case used traditional surrogacy, in which the surrogate is impregnated by the intended father’s sperm. After this case, a different procedure, called gestational surrogacy, became more common. Gestational surrogacy involves transferring an embryo created by the intended parents to gestational mother, who then has no genetic tie to the baby. In such cases, California courts have held that the gestational mother has no claim to be the baby’s mother.

Today, as there is no federal law governing surrogacy, laws vary within the United States. For example, commercial surrogacy is legal in California, but surrogacy contracts are unenforceable in neighboring Arizona.

With surrogacy, California law allows intended parents to obtain a pre-birth order establishing their parentage so that their names appear on the birth certificate and the baby can be released to them. No distinction is made for same-sex parents or parents who have used donor eggs or sperm.

### **Future Reproductive Technologies**

In vitro fertilization and surrogacy have become common ways for infertile couples to have babies. The future may bring other reproductive technologies. Two methods that have received worldwide attention include human reproductive cloning and genetic engineering or “designer babies.”

Although human embryos have been cloned in the laboratory, human cloning

for reproduction is banned throughout the world. In the United States, although Congress has debated a ban on reproductive cloning, there is no federal law against it. However, 19 states have banned it, while no state explicitly allows it. The California Health and Safety Code specifically bans human cloning for reproduction.

“Designer babies,” created by the gene editing of an embryo’s DNA, have also been achieved, but not legally. In 2018, a Chinese scientist, He Jiankui reported that he had edited the genes of three embryos for implantation in an attempt to protect the resulting children from contracting HIV. His work violated Chinese law and was universally condemned as unethical. Today, germline genome editing is still banned throughout the world.

There is so much interest in these methods, however, that they continue to be researched and may eventually be approved for use in making babies. Stay tuned!



**Carol Mack** is a member of the CITATIONS editorial board, a registered nurse, retired attorney, and holds a PhD in nursing from UCLA. Her nursing practice

was exclusively in the field of oncology nursing, and although she has not been at the bedside for a number of years, she believes in the truism “once a nurse, always a nurse,” and maintains an active license. Mack was formerly a volunteer attorney for Grey Law of Ventura County and now serves on its Board of Directors. She is also a retired health science professor at California State University, Channel Islands.

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