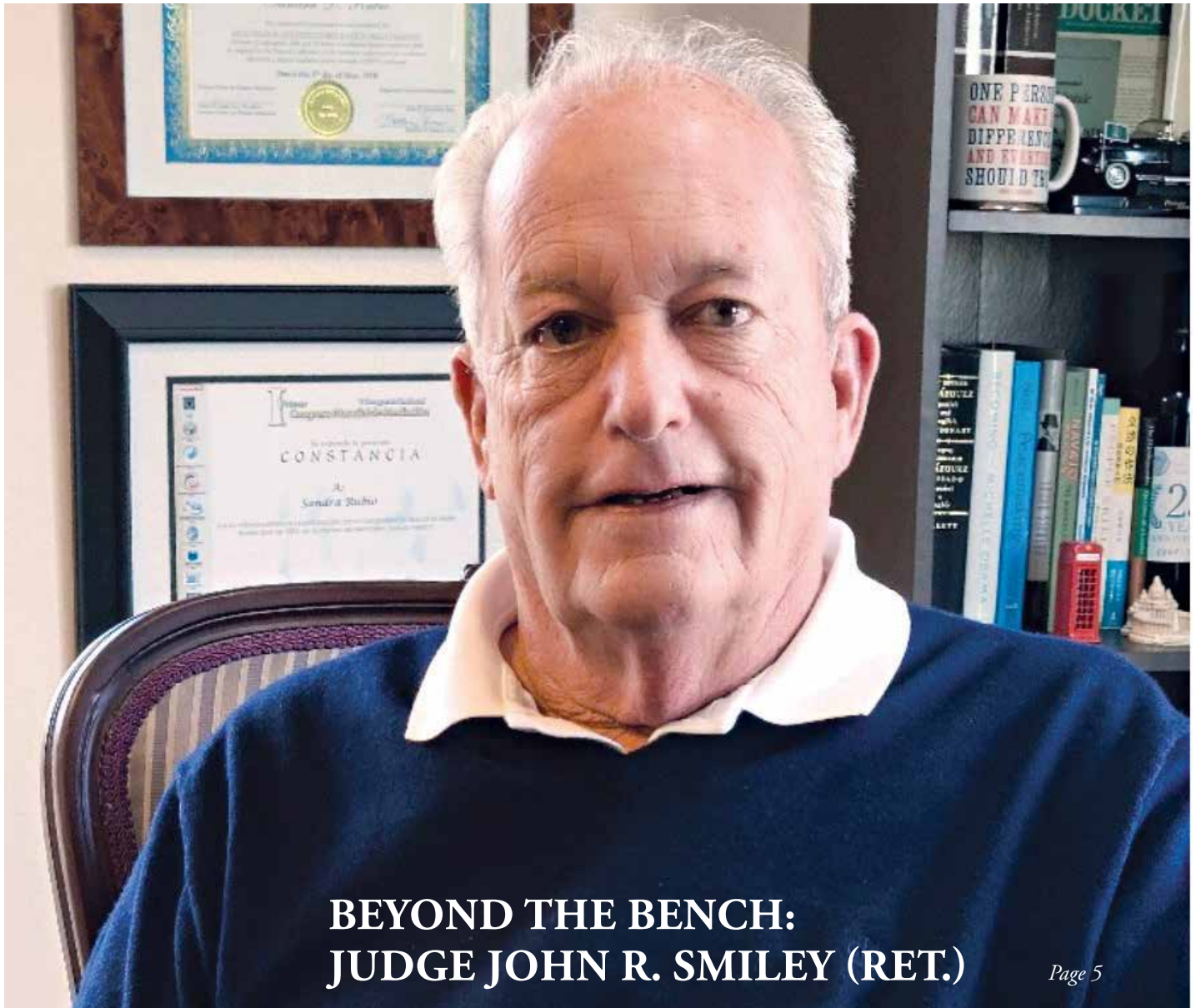




CITATIONS

MAY - TWO THOUSAND TWENTY SIX



BEYOND THE BENCH: JUDGE JOHN R. SMILEY (RET.)

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PRESIDENT'S MESSAGE

By Kristine Tijam

May is Mental Health Awareness Month. According to the Substance Abuse and Mental Health Services Administration, Mental Health Awareness Month was established in 1949 to increase awareness of the importance of mental health and wellness in Americans' lives and celebrate recovery from mental illness. The following are upcoming mental health events in Ventura County that have been advertised so far:

■ **June 6, 2026, 10:30 a.m. to 4:30 p.m.: Mental Wellness Festival at Ventura Harbor Village** (1583 Spinnaker Drive in Ventura). This free public event is “a full day of uplifting activities, resources, and experiences designed to support mental well-being. Hosted by local nonprofit Turning Point Foundation, the festival aims to raise awareness and provide tools for maintaining and improving mental health for individuals and families alike.” www.mentalwellnessfest.com.

■ **November 13, 2026: Ventura County Office of Education Youth Mental Health Conference** (additional details pending). This annual event is open to all high school students in grades 9 through 12. It will consist of various workshops addressing mental health topics, support, and resources, as well as music, food, prizes, self-care tools, and other activities. www.vcoe.org/Comprehensive-Health-and-Prevention-Programs/Mental-Health/Youth-Mental-Health-Conference

I have always been a firm advocate for prioritizing wellness and mental health. While attending college at UCSB, I interned with the university's Health and Wellness department as a Healthy Eating and Living specialist. It opened my eyes to the importance of prioritizing mental health and the disparities that continue to exist between physical and mental health. Through my own experiences, I have seen how mental health can impact physical health, lead to physical illness, and deprive our ability to function and perform to the best of our abilities. In our profession, this is especially important as neglecting mental health can affect our ability to abide by our professional and ethical obligations.

Studies have repeatedly shown that depression, anxiety, and substance use disorders are consistently higher among law students and lawyers when compared to the general population. One study found that lawyers suffer from depression at a rate of roughly 3.6 times higher than the general public. Another poll found that over 70% of attorneys suffered from anxiety. Other research revealed that rates of depression and anxiety among lawyers have increased over recent years, especially post-pandemic.

According to a February 2023 study titled “Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk,” lawyers have been shown to have an elevated risk for suicidal ideation. Suicidal ideation is defined as thoughts, ideas, or ruminations about ending one's own life and is the first step to suicide and predicative of suicide attempts. According to the study, the odds of having suicidal thoughts were 2.2 times higher among attorneys with “high work overcommitment,” and 2.8 times more likely among lawyers who reported being lonely. Moreover, lawyers who have been diagnosed with at least one mental illness were 1.8 times more likely to report suicidal thoughts.

Notably, 8.5% of lawyers in the February 2023 study endorsed suicidal ideation, which was twice as high as the rate in the general working population. The odds of contemplating suicide were 22 times higher among lawyers with high (versus low) stress on the study's Perceived Stress Scale. Lawyers experiencing high levels of loneliness were nearly three times as likely to experience suicidal ideation compared to those experiencing low levels of loneliness. Notably, attorneys who felt a sense of belonging at work strongly correlated with having improved wellbeing.

Perhaps unsurprisingly, lawyers with high levels of work overcommitment were twice as likely to endorse suicidal ideation. The study defined work overcommitment as involving a desire to control one's work environment and an inability to disconnect from work. Evidence of work overcommitment includes thinking about

work immediately upon waking, being told that you sacrifice too much for work, and an inability to relax and switch off work, among others.

A study in 2021 titled, “Stress, Drink, Leave: An Examination of Gender-Specific Risk Factors for Mental Health Problems and Attrition Among Licensed Attorneys” reported the following findings on mental health and substance use:

■ Over half of the attorneys screened positive for risky drinking, and 30% screened for high-risk hazardous drinking (which is interpreted as alcohol abuse or possible dependence).

■ Women were experiencing meaningfully worse mental health than men and were drinking more hazardously.

■ 25% of women attorneys and 17% of male attorneys were contemplating leaving the legal profession due to mental health problems, burnout, or stress.

The key factors commonly cited as responsible for lawyer stress and burnout are heavy workloads, intense pressure to meet deadlines and billable hours, high standards imposed by our professional and ethical obligations, inability to disconnect from work, dealing with demands from other attorneys and clients, and a focus on maximizing profits.

Many of the ideal solutions that would help decrease our individual stressors are often out of our control. However, there are steps we can take to try to increase our wellness and prioritize our mental health. Aside from engaging in our hobbies and interests to unwind and reset, professionals also recommend the following:

1. Prioritizing living a healthy lifestyle and exercising;
2. Setting boundaries to the extent possible to allow yourself to disconnect from work and avoid overworking;
3. Understanding that constantly striving for perfectionism is unrealistic and leads to burnout;

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PRESIDENT'S MESSAGE

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4. Recognizing when you're feeling overwhelmed, and taking a break from work to engage in wellness activities such as by taking a walk outside;
5. Attending counseling or other support groups;
6. Getting enough sleep; and
7. Staying connected with family, friends, and colleagues.

On April 21, 2026, VCBA hosted an MCLE on "work-life balance." That event, presented by Dr. Sarah Swan, was a research-informed presentation on preventing burnout by strengthening boundaries, clarifying purpose, and building sustainable stress-management habits. The California State Bar has recognized the need for addressing attorney mental health and substance abuse issues and specifically includes those subjects as part of its MCLE requirements for all lawyers. However, the profession still has a long way to go.

In getting to know the attorneys, judges, and other legal professionals in our county over the last few years, I have been pleasantly surprised to learn about the broad variety of hobbies they engage in to unwind and relax. Among those interests are playing instruments or making music, performing in improv/comedy shows, attending sporting events, running and participating in races, attending concerts, going to the spa, hiking, skiing, rock climbing, traveling, and spending time with loved ones. Some of my favorite ways to unwind are by dancing, going to the gym, spending time with loved ones, attending concerts and other live entertainment, going to the pool, and watching Laker games (though admittedly, the latter can sometimes be a source of added stress).

Many mental health and substance abuse resources are available online and through some health insurance providers. Some online resources are listed below:

■ Well-being Toolkit for Lawyers and Legal Employers: www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_well-being_toolkit_for_lawyers_legal_employers.pdf

■ Substance Abuse and Mental Health Services Administration: www.samhsa.gov/find-help/helplines/national-helpline

■ California State Bar Lawyer Assistance Program: www.calbar.ca.gov/legal-professionals/legal-resource-center/lawyer-assistance-program

■ The Other Bar (a network of recovering lawyers, law students and judges throughout the state, dedicated to assisting others within the legal profession who are suffering from alcohol and substance use/abuse disorders or problems): <https://otherbar.org/>

Mental health and substance abuse issues will unfortunately continue to plague our industry. Although certainly easier said than done, I encourage those of you who are thinking of making positive lifestyle changes to go for it now and make the conscious effort to prioritize your health. I think we can all agree that being in a good headspace makes us better attorneys and people, and leave us more equipped to handle the stressors of work and life.



Kristine Tijam is a civil litigation attorney at Procter, Shyer & Winter, LLP and an adjunct law professor at The Colleges of Law. Her practice focuses on representing cities, businesses, and individuals in various types of lawsuits. She can be reached at kristine@proctershyer.com or (805) 603-8623.

BEYOND THE BENCH: JUDGE JOHN R. SMILEY (RET.)

So....Howz Retirement ?

Every retiree is asked the question and each of us has a pat answer. Mine is "I loved every day of the 36 years I was on the bench. I loved the last day I worked and I've loved each day I've been retired." It is incredible to realize that it has now been four years.



Judge John R. ("Jack") Smiley (Ret.) and wife, Lynn Smiley, estate planning attorney.

The weeks just tumble by. I'm handy enough and our 60-year-old house has constant needs. Ten grandchildren have birthdays. And, though I'm not a multi-tasker, my workbench is filled with a dozen ongoing projects. There is a certain pleasure in taking more time than is necessary to plan and undertake a task or project and a triumph in doing something for which there is no Internet video. Retirement has a certain absence of deadlines. And there is always time for breakfast with my son, lunch with my daughter and, in the spring, the delight of my Grandson's "Miracle League" baseball games.

Golf with great friends remains my personal passion, though arthritis has hampered the abilities I once enjoyed.

I live vicariously through the Seven Seas adventures of a Grandson graduating from the United State Merchant Marine Academy and another who is sophomore in rocketry at Princeton.

But above all else is the joy of being at home with my wife, **Lynn**, who runs a busy probate practice at her office nearby

in Camarillo. Evenings and weekends, she works in her home office, which, for reasons beyond my understanding, has three dog beds for one dog - Mika, our blonde Labradoodle, who much prefers the vantage point of the street from an easy chair arranged for that purpose. I simply cannot imagine a day of retirement without the constant love from both of them.

Once in a while Lynn will find me and announce, "I have a legal question." I used to be good at those and she seems to appreciate my answers. Last week, I surprised both of us by correctly describing the solution to her client's situation to be an action in replevin (a word even my spell-checker doesn't recognize).


Retirement gives time for reflection. I think about the chaotic pleasure of the arraignment calendars in Municipal Court and the satisfaction that came at the end of a busy day in Family Court. I delight in remembering the fun of picking a jury, the new lawyers for whom my explanation of the hearsay rule brought an expressed gleam of understanding and teaching the intricacies

of Community Property to more than 500 future lawyers. I remember those of my law students who became Judges, teaching new Presiding Judges at CJER and Small claims at the National Judicial College. I remember sitting at dinner with a dozen judges from other states and exchanging our respective Court's backroom mottos. Believing that I had won the evening's competition with the motto of the Ventura Municipal Court, "Arrive on Vacation, leave on Probation", I was beaten out by the Judge from South Dakota, "Twenty below keeps the Riffraff out".

I remember 36 years of resolving conflicts - of running a dispute resolution center each day at 800 South Victoria. I remember the lawyers and my bailiffs, the secretaries and each of my courtroom clerks. It was truly the best and most satisfying job I could ever imagine having.

To *CITATIONS* and Rachel Coleman, thanks for asking.


John R. Smiley
Judge of the Superior Court, Retired



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CAN THE BAR (EN)FORCE US TO PLAY NICE?

By Russ Charvonja, Esq.



Civility isn't "just playing nice" or avoiding difficult topics. It is a necessary ingredient to discussing thorny but critical subjects and in resolving disputes.

So why is the law often viewed as one of the most *uncivil* professions? Must vigorous client advocacy require abandoning civility?

This year, California became the first state to require attorneys to assent annually to a civility oath, promising to "conduct themselves with dignity, courtesy, and integrity." The text reads, in part: *"As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity."*

Dignity, courtesy, and integrity—defined this way—are the Bar Association's shorthand for "civility." In 2013, alarmed by rising incivility in society, several colleagues and I set out to stem the tide, eventually forming the Worldwide Civility Council (UrgencyOfCivility.org). Our first task was to define the word "civility." After several months of futility, we did what we should have done at the outset—we Googled it. Our search on Wikipedia (the fount of all knowledge) returned "SEE INCIVILITY." This was a revelation, demonstrating that civility is often best defined by what it is not. (There is now a definition of *civility* in Wikipedia thanks to our efforts. Check it out.)

Incivility is visceral when we experience or witness it. It saps productivity, exacts emotional and physical tolls, and can irreparably harm professional and personal relationships. Even in congenial communities—Ventura County's bar among them—attorneys often walk away from interactions stunned and unsure how to respond. Worse, we often feel helpless to improve the situation.

Of course, judges can sanction misbehaving attorneys, but most of our interactions with one another and the public occur outside the courtroom.

Will an annual assent to an oath of civility improve relationships and the profession's reputation?

Not on its own. Restoring civility to society generally—and to our profession in particular—requires two things:

- 1) building greater awareness of, and accountability for, our own conduct; and
- 2) having practical tools and resources to manage the difficult people and situations that are certain to arise.

The "Civility Oath" advances the first objective by prompting reflection, as we are at least annually forced to read and consider its words. But intent without skill is insufficient. Each attorney must commit to treating others with dignity and respect.

Civility is easy so long as relationships are going smoothly. It is when conflict or disagreement rears its head that we must rely on what we have learned and the skills we have built; otherwise, we will revert to our primal instincts to react and lash out—and that rarely goes well.

This also means we need to be able to appropriately and civilly counsel others when they act inappropriately. We can't

wait until we are in the heat of the moment to figure out how to respond. We need to learn and practice communication strategies and techniques. Think of it as MCLE for conduct: techniques for de-escalation, clear boundary-setting, and civil correction are professional competencies that merit ongoing attention.

At its root, civility is about relationships. When we value those connections, personal or professional, we are willing to invest in preserving them—and, when they are frayed, to do all in our power to repair them. As attorneys, we pride ourselves on our communication skills and our ability to resolve differences. This bodes well for creating a more civil society.

Perhaps we can restore the reputation of our profession to one that personifies dignity and respect. Combined with our technical abilities as counselors, we can help restore civility to society and begin to repair our world.



*Russ Charvonja is a financial advisor and estate planning attorney with Channel Islands Law Group, a P.C. in Ventura. He is co-author of **The Civility Mosaic** and the children's book **Ayisha for President**.*

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IN MEMORIAM: VENTURA COUNTY LEGAL COMMUNITY MOURNS THE SUDDEN LOSS OF BRENDA MCCORMICK AND MICHAEL J. SMITH

BRENDA MCCORMICK



Brenda Lee McCormick, wife, mother, sister, friend and accomplished legal professional, died peacefully on April 19, 2026, at the age of 63.

Born on March 27, 1963, in North Platte, Nebraska,

Brenda was the daughter of Don and Marymae Seery. She attended Kearney State College where she earned her Bachelor of Arts degree. Driven by a passion for the law, she went on to earn her law degree from the University of Nebraska Lincoln in 1988.

In 1988, Brenda moved to California after accepting a position at Benton, Orr, Duval & Buckingham Law Firm in Ventura, CA, where her dedication and legal acumen quickly led to her becoming a partner. In 1998, she married Kevin M. McCormick, in Sonoma, California.

Brenda embarked on a new chapter in her career in 2003, joining the Ventura County Superior Court. She initially served as General Counsel and eventually rose to the position of CEO, where she worked until her retirement in 2025.

While her professional achievements were significant, Brenda often shared that her favorite role in life began in 2001 with the birth of her twin boys, Aidan and Brendan.

Brenda and her family would like to extend their deepest gratitude to her doctors and healthcare providers at Ventura Community Hospital, USC Keck Medical Center, and Methodist Hospital of Omaha for their compassionate care.

A private celebration of life has been planned by Brenda's family. In lieu of flowers, memorial donations may be made to the Susan G. Komen Foundation, 13770 Noel Road, Suite 801889, Dallas, TX 75380.

A fuller tribute to Brenda McCormick, including reflections from members of the local legal community, is planned for a forthcoming issue of CITATIONS.

MICHAEL J. ("MIKE") SMITH

Family lawyer Mike Smith suffered a debilitating stroke mid-trial. He died on April 14th.

Such a common and pedestrian name, Michael J. Smith. But nothing about Mike was pedestrian. Sometimes loud and brash and outspoken. Other times, he was the long-suffering penitent needing just one small favor from opposing counsel or the court. While most family lawyers are wholly predictable - each in his or her own way - Mike was never that.

He cared deeply about his clients and his cases, sometimes to a fault and even when some of those clients were undeserving of his fidelity. He could be fiery and often short-tempered. He could look up with complete, but feigned incomprehension at an adverse ruling and openly delight in a favorable one. Sometimes, in the third person, he would seem to hear what he was saying, stop, and laugh at himself. Never pedestrian. Mike was a color page in an open book.

Though I never did, he was the kind of guy you would want to play golf with, or have beer with, or take to a Dodger game. He would have known the subtleties and intricacies of baseball. He would have brought his glove.

I sincerely liked Mike even though his courtroom style and maneuvers were often a challenge. Opposing attorneys found him difficult. Sometimes, so did I. Success as a trial judge is anticipating what a lawyer was going to do well before he or she does it, which is doable in a courtroom frequented daily by the same attorneys. Predicting Mike was an impossible task.

He once made one of the finest closing arguments I had ever heard. I knew he had worked hard on its preparation and presentation. So, sometime after my ruling, I sincerely complimented him. It was as if he had won the Masters.

I am retired, but I truly do miss my lawyers and watching them work and I missed Mike before today. Now, knowing that he is gone, I miss him more. The planet needs more people

who are anything but pedestrian. There was simply nothing ordinary about Mike.

There are probably tens of thousands of Mike Smiths in America - perhaps a bunch of them are lawyers, but to the family attorneys and family law judges of the County, there will only be one Mike Smith. He was flamboyant and authentic. He had absolutely no ability to hide his feelings. He couldn't help himself but to be himself. I have always thought that to be a very honest and very human quality. Maybe we need just a touch more of that in all of us.

John R. Smiley, Judge of the Ventura Superior Court (Ret.)

Working at the Ventura County Bar Association has afforded me the wonderful opportunity to not only get to know its members but to also benefit with some phenomenal friendships since my start back in May 1995. In January of 2019, is when I began to get to know Mike Smith through the family law board. I have learned through these meetings that I would not be a good poker player as a result of my facial expressions. Mike Smith was no stranger to making the board meetings anything but dull. I appreciated and enjoyed his humor. An example of Mike's comedic approach, one set of minutes read, Michael Smith nominated for Secretary with second. (Trumpets heard in the distance). He will be missed.

Sandra D. Rubio, Executive Director of VCBA

To our readers: Although this issue includes several local remembrances of Mike Smith, CITATIONS invites readers to share additional memories and reflections for possible inclusion in a forthcoming issue.

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Lori M. Dobrin, Esq.

MEDIATOR

Lori Dobrin is a 30-plus year litigator who is recognized for her preparation, empathetic demeanor and knack for building rapport and trustworthiness. She brings this mindset to her mediation practice where she balances patience with perseverance in discovering the underlying interests to forge a resolution. Firm on the substance on the dispute, yet tactful towards the participants, she employs active listening, and asking the right questions to hone into the root issues that move the parties to agreement. In her roles as mediator and settlement officer for various Courts, including the US District Court, and the Superior Courts of Los Angeles, Santa Barbara and Ventura, she is gratified when her encouragement and tenacity results in litigants taking control over the outcomes of their dispute and reaching resolution, sparing them from the inherent uncertainty of protracted litigation and trial.

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WHEN THE STATE TAKES A VIEW: *Pierpont Inn, Inc. v. State* AND THE EVOLUTION OF INVERSE CONDEMNATION

By Kathleen Maheu, Esq.

In 1910, Josephine Pierpont, a prominent Ojai resident, commissioned architect Sumner P. Hunt to design the Pierpont Inn. She anticipated that automobile travel would soon become far more common and believed travelers making the trip between Los Angeles and Santa Barbara would be drawn to a refined coastal stopover. That instinct proved accurate. As car ownership expanded and highways improved, visitors increasingly looked for restful seaside retreats along the route. Little did she know just how great an impact highway travel would have on this iconic spot.



The Pierpont Inn in 1941.

Sitting on a bluff above the Pacific, the Inn once enjoyed unbroken views of the ocean and direct access to the beach below. That all changed in the 1960s, when the State of California built a freeway through the property. The legal aftermath of that intrusion culminated in a 1969 California Supreme Court decision that remains a touchstone in inverse condemnation jurisprudence: *Pierpont Inn, Inc. v. State* (1969) 70 Cal.2d 282.

The facts are classic, almost cinematic. The Pierpont Inn, perched on a 7.37-acre parcel overlooking the sea, had long been a landmark along the coast. Its land was split by San Jon Road, and part of the property west of that road had been deeded to the state decades earlier under a strict condition: the land was to be used “forever” as a state park. But the state never built a park. Instead, it opted to route the Ventura Freeway across the donated land and beyond, physically dividing the hotel property and altering the landscape, and the Inn’s future, forever.

The legal dispute that followed had all the hallmarks of a good inverse condemnation

case: disputed title, claims of public easements, contested valuations, and a fundamental question of timing—when does a taking occur? After the Inn reclaimed title to the land west of San Jon Road due to breach of the park-use condition, it filed suit to recover damages, alleging that the freeway had permanently damaged its property. The State countered that the Inn’s claim was too late under (then) Government Code Section 644, and that it hadn’t really “taken” anything at all.



The Pierpont Inn today.

The trial court, Judges W. Preston Butcher and Louis C. Drapeau presiding, was not persuaded. It found that Pierpont Inn did in fact own the disputed eastern strip and that no preexisting public road easement excused the State’s actions. It awarded damages not just for the land taken, but for the severance damage caused by the freeway’s visual, physical, and economic disruption to the remainder of the Inn’s property. Critically, the court allowed compensation for the loss of ocean views and beach access, treating them as part of the property’s market value.

The Court of Appeal affirmed, and the California Supreme Court took the case, adopting the lower court’s opinion with modest revisions. The high court framed the core question: In an inverse condemnation action, when does the “taking” occur for purposes of filing a claim? Rejecting the State’s rigid two-year deadline measured from the first shovel in the ground, the Court emphasized a more pragmatic, fact-driven approach. Until the impact of the project is stabilized and the extent of the damage is reasonably known, a landowner need not rush to court.

Citing the U.S. Supreme Court’s decision in *United States v. Dickinson* (1947) 331 U.S. 745, the California court underscored that the Fifth Amendment protects practical rights, not procedural technicalities. If the government elects not to initiate condemnation proceedings but instead “leaves the taking to physical events,” then the landowner can wait until those events fully unfold before filing suit.

The case also reaffirmed a landowner’s right to be compensated for real-world harms that affect value, including views, beach access, peace and quiet; not just for square footage. While the State tried to offset severance damages with claims of freeway-related “benefits,” the Court rejected that too. Benefits shared equally by neighboring parcels are general, not “special,” and cannot diminish a landowner’s constitutional right to just compensation.

The ultimate result: an affirmed judgment awarding Pierpont Inn over \$225,000 in damages, plus interest and costs, and a legacy decision that clarifies when a claim accrues in inverse condemnation, when involving continuous and repeated damage incident to a public improvement..

Postscript

Over roughly the last decade, the Pierpont Inn’s story has been one of repeated promises of renewal, followed by a much slower and messier reality. In January 2015, DKN Hotels acquired the property, then operating under the Wyndham Garden flag, and said the hotel would undergo significant renovations in the coming years to preserve its historic character while keeping it competitive in the Ventura market. A few years later, however, the picture had shifted. By 2018, according to later reporting, the City of Ventura had fined the owner more than \$140,000 for unpermitted work at the property. In 2019, the inn left the Wyndham brand and returned to independent operation, another sign that the property was still searching for a stable path forward.

By 2023 and 2024, the effort had become less a simple hotel refresh than a full historic rehabilitation project. The City of Ventura

reviewed and then approved a renovation plan designed to preserve the inn's use as a hotel while bringing the aging landmark into compliance and repairing major portions of the property. Yet even with those approvals in place, the most detailed recent reporting described an inn that had been only partially open for years, with major work still pending on roofs, facades, plumbing, electrical systems, landscaping, the pool area, guest rooms, stairs, and elevator access. That same report said the main lobby and restaurant remained closed, and that the restaurant had been red-tagged by the city.

Today, the Pierpont Inn appears to occupy an in-between state: still standing, still welcoming guests, but not yet fully returned to the grandeur that made it an iconic Ventura landmark. Online booking platforms and the inn's own website show that rooms remain available, yet recent reporting indicates that the long-discussed rehabilitation has remained incomplete, with major restoration work still pending and key public spaces not fully back in service.



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THE DEVIL IN THE FINE PRINT: TIMESHARES, MONSTERS, AND THE LAW

By Panda Kroll, Esq.

This article has three parts, loosely tied together by one unlikely theme: timeshares. For over a decade, **Wendy Lascher**, CITATIONS' former editor, nudged me to write about my niche practice, so I'll start there. Then I'll indulge my academic side with a short detour into monster theory — yes, really. Finally, I'll flag a bipartisan bill that could actually change how timeshare contracts are sold.

My Timeshare Law Journey

I fell into timeshare law years ago under **David Karen's** tutelage. The firm's career client, Timeshare Relief, helped “exit” more than 85,000 timeshare owners from contracts with “in perpetuity” language — reminiscent of that dreaded law school lecture on the Rule Against Perpetuities.

In 2012, David and I filed in Ventura County Superior Court what was probably the first lawsuit of its kind on behalf of an exit company against a developer: *Timeshare Relief v. Westgate Resorts*.¹ We argued that although the Florida developer had promised buyers (including California buyers) that their timeshares were freely transferable, it later imposed restrictions making transfer nearly impossible. The case was removed, remanded, survived forum challenges and a motion to compel arbitration, and ultimately settled.

Since then, I've represented more than twenty timeshare exit companies — not against their customers, but against the developers themselves. The pattern is consistent: owners feel trapped in contracts they no longer want or can afford. Developers resist letting them go, and sue the exit company. One of the more memorable cases involved defending Timeshare Exit Team alongside my former Benton, Orr, Duval & Buckingham partner **Bruce Finck**, who passed away in 2022. We were appointed as Cumis counsel and traveled to Las Vegas to coordinate with panel counsel on a series of lawsuits against our client, filed by five developers simultaneously — RICO, Lanham Act, tortious interference, the works. Anti-SLAPP attorney fees were assessed against

one of the developers, and eventually we brought all five cases to resolution. Bruce was great to work with, and I still miss him.

These cases have taken me all over the country, which is how I ended up sitting for — and passing — the Florida Bar in 2022. I'm currently litigating timeshare cases in California, Florida and Tennessee.

A Faustian Bargain

My husband, Kevin Volkan, and I moved from Boston to Camarillo in 2002 when he joined CSU Channel Islands as one of its founding faculty and chair of the Psychology Department. I've been teaching Business Law and Ethics at CUSCI for more than 20 years, and for the past decade I've also taught Biotechnology Law and Regulation — which is how *Frankenstein* ended up on my syllabus. (We pinpoint where the Doctor went wrong: He failed to gain the trust of his peers, and failed to provide guidance and care to his creature.)

In recent years, Kevin and I have both participated in UC Santa Cruz's Festival of Monsters, an academic conference hosted by the Center for Monster Studies. The tagline: “We take monsters seriously.” I was tickled that my presentation last year — “So You've Been Accused of Cannibalism...” — got a mention in a *National Review* piece covering the festival.

This year's conference theme is “Language,” and my pending proposal compares timeshare “in perpetuity” contracts to a Faustian bargain. In the Faust legend, Mephistopheles doesn't compel Faust — he seduces him. The horror of the pact lies not in violence, but in the slow realization that the promises that led you to sign the contract no longer matter. The bargain is binding.

That structure should feel familiar to anyone who's seen a timeshare case.

Modern timeshare contracts often follow the same arc. Buyers are persuaded through elaborate presentations and enthusiastic promises. But once the contract is signed, the law focuses almost entirely on the written document. These agreements routinely

include clauses stating that the buyer did not rely on any oral representations, and the parol evidence rule reinforces that result. In practical terms, the sales pitch is erased from legal memory.



Meanwhile, the average consumer is conditioned to believe that “my word is my bond.” Even when the law *permits* walking away from a bad deal — efficient breach, strategic default — many buyers experience such an option as a moral failure. The result is a telling asymmetry: the seller's promises can be disclaimed, but the buyer's promise stays binding.

Courts occasionally push back. In *Palmer v. Flagship Resort Development Corp.*, the New Jersey Appellate Division rejected a developer's attempt to use contractual disclaimers to escape responsibility for its sales representations. The court warned that such an approach would amount to “a legal bait-and-switch” — effectively giving “license to the use of the parol evidence rule as a sword to aid and abet deceitful sales practices.” In other words: no, a developer isn't permitted to use the written contract to erase the very promises that induced someone to sign it.

Faust's mistake wasn't that he was forced into a bad deal. It's that he trusted the promises that led him to make it. Malcolm Gladwell, in *Talking to Strangers*, argues that humans are hardwired to default to truth — we are constitutionally bad at detecting deception because we are built to trust. That's not naivety; it's how social creatures function. But it also makes us extraordinarily vulnerable to a confident stranger with a polished pitch.

1. *Westgate Resorts* is the largest privately owned timeshare company in the world. In 2012, the same year David and I brought the lawsuit, “*The Queen of Versailles*,” a documentary about Jackie and David Siegel, the wealthy couple who owned Westgate, swept the Sundance Film Festival. A Broadway musical starring Kristin Chenoweth and F. Murray Abraham based on the documentary premiered in 2025.

The timeshare sales room is practically a case study in Gladwell's thesis. The buyer isn't gullible — they're human. They default to truth. They assume the person across the table means what they say. And by the time the gap between the promise and the contract becomes clear, the ink is dry and the law has moved on.

Timeshare doctrine reminds us that in modern contract law, the most powerful force isn't coercion — it's persuasion followed by a pen. Mephistopheles knew that. So does every timeshare salesperson.

The Timeshare Transparency Act, S. 3502

Late last year, Congress introduced a bill that may be the first federal effort to regulate timeshare contracts directly, rather than treating abuses as a subset of fraud or telemarketing violations. Senators John Curtis (R-UT) and Adam Schiff (D-CA) — yes, in a bipartisan effort — introduced the Timeshare Transparency Act to address long-standing concerns about high-pressure sales tactics and hidden obligations. Senator Marsha Blackburn (R-TN) is also a sponsor.

The bill requires clear disclosure of all costs in a single document, provides a 14-day penalty-free cancellation window, and mandates upfront disclosure of any available exit options. The goal isn't to eliminate persuasive salesmanship — that's not going away — but to give buyers time and information to reconsider once they're out of the sales room and unpacked from their vacation.

The legislation has drawn support from AARP, whose representatives have noted that timeshares often involve "complex terms and high-pressure sales tactics," and that consumers have collectively lost tens of millions of dollars to timeshare-related fraud in recent years. On December 16, 2025, the bill was referred to the Senate Committee on Commerce, Science, and Transportation.

Whether it passes is anyone's guess. But its introduction reflects something practitioners in this space have been observing for a long time: the core problem isn't just that buyers get a bad deal. It's that the law is often willing to disregard what the seller *said* in order to enforce what the buyer *signed* — while the buyer's experience

is exactly the reverse. The promises *were* the deal. The contract is what undid it.

If persuasion and obligation have drifted apart, the Timeshare Transparency Act is at least a modest attempt to bring them back together. That's not nothing.



Panda Kroll represents timeshare exit companies in federal litigation nationwide. She is a member of the CITATIONS editorial board and has been adjunct faculty at CSU Channel Islands since 2002.

For more information visit:

<https://timesharelawlibrary.com/victory-for-timeshare-owners/>

<https://www.congress.gov/bill/119th-congress/senate-bill/3502>

<https://www.curtis.senate.gov/wp-content/uploads/2025/12/Timeshare-Transparency-Act-Senate-Endorsement-Letter.pdf>

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MEMBER SPOTLIGHTS: IAN ELSENHEIMER AND DEBORAH L. BARTLETT

By Kathleen Maheu, Esq.



Ian Elsenheimer brings both local roots and broad bar involvement to his practice. An Oxnard native who now lives in Oak View, Elsenheimer has been a VCBA member since 2021 and has built an active presence in the legal community through service on the VCBA Board, past leadership with the VC Barristers, prior board service with the Santa Barbara County Bar Association and Santa Barbara Barristers, participation in the UCSB Pre-Law Mentorship Program, and work on the advisory board for the Ventura Family YMCA. He practices business and real estate law at Ferguson Case Orr Paterson LLP.

Elsenheimer says the law appealed to him because it combined many of the things he had always loved, including reading, writing, advocacy, public speaking, and government. But he also credits a more personal turning point. He said the impending birth of his daughter, along with encouragement from his mother-in-law, finally pushed him to pursue a legal career.

Outside the office, Elsenheimer prizes time with his family most and shared that he and his wife are raising two children, Chloe, 11, and Eli, 8, along with a chocolate lab named Major and an orange tabby cat named Pumpkin Pie.

His interests lean heavily toward the outdoors. Elsenheimer said he relaxes by getting outside, whether that means hiking, surfing, mountain biking, camping, fishing, or snowboarding. Surfing is also his favorite form of exercise, and when asked to name a favorite Ventura County locale, he kept it simple: any of the county's amazing beaches.

If he had not become a lawyer, Elsenheimer said he could easily have seen himself gardening or landscaping because he loves tending to plants and working outside. He also shared a detail that may surprise people: after graduating from college, he managed the Metro 4 Theater in downtown Santa Barbara and oversaw the transition from 35mm film to digital projectors. He said he still remembers how to splice 35mm film reels and thread a projector.

His food favorites include Middle Eastern food and Taqueria Cuernavaca, and he says Biarritz, France, is his favorite vacation spot. His top sports pick for watching is basketball, with a nod to the Lakers, while his favorite car is a 1970 Cadillac De Ville convertible. On the entertainment side, he listed *View from a Blue Moon* as a favorite film and *Breaking Bad* as a favorite television show. He is currently reading the Harry Potter series to his children and recently read *Demon Copperhead* by Barbara Kingsolver, which he said ranks near the top of his list.

True to his real estate background, Elsenheimer even identified a favorite statute: Public Resources Code section 30211, which provides that development shall not interfere with the public's right of access to the sea. His favorite saying is "To whom much is given, much is expected." The quote fits with the strongest throughline in his questionnaire: leadership and service, whether through bar work, mentoring students, or serving community organizations, all of which reflect a sense that professional success carries real responsibility.



Deborah L. Bartlett has spent much of her professional life doing work that asks a lot of a person. As Executive Director of Assisted Hospice and Palliative Care, she works in hospice, end-of-life care, and elder care, a field that calls for steadiness, compassion, and a real sense of purpose. That same commitment to meaningful service also shaped her path into the law.

Bartlett has been a member of both the Ventura County Bar Association and the State Bar since 2014. She attended Ventura College of Law and brings a notably varied educational background to her work, holding an MBA from California Lutheran University and a BSN from California State Bakersfield. She also serves on the LRIS Committee, continuing her involvement with the local bar beyond her own practice.

Before practicing law, Bartlett's work in hospice administration required her to prepare for and participate in Medicare administrative law judge hearings. What began as necessity quickly became fascination. She found the process intimidating, but also compelling, particularly because she disliked not fully understanding the system she was operating in. That discomfort pushed her to build the knowledge and confidence to navigate it herself. She credits an enthusiastic business law professor at California Lutheran

University with deepening that interest by showing how the law can frame the same circumstances in very different ways depending on the perspective of the parties involved. And, in a detail that plainly still gives her satisfaction, she notes that she succeeded in all of those ALJ appeals before she even had formal legal training.

Even so, nursing remains close to the center of her identity. Asked what she would be doing if she were not practicing law, Bartlett's answer is immediate: working as an RN has been, and continues to be, her first love. That answer fits neatly with the values she says matter most to her. She prizes a life in which she can fully support the people she loves while also doing work that feels worthwhile and meaningful.

Bartlett is originally from Bakersfield and has lived in Ventura since 1979. Her family is large and still growing, with two children, three stepchildren, nine grandchildren, and another grandchild on the way. She also notes that she was "adopted by a stray cat named Beauregard," which tells you something about her sense of humor as well as her household.

People who know her tend to see someone gregarious and outspoken, but Bartlett says what many do not realize is that she is actually a little shy and introverted.

Outside of work, Bartlett loves to relax in the sun with a good book and a cocktail. Her favorite Ventura County locale is the beach, which she acknowledges may suggest a pattern. Her restaurant picks include Lure and Zack's (but only because the iconic *Ferraro's* closed down), and her food loyalties run toward anything with melted cheese, especially Italian or Mexican. Her ideal exercise is walking hand in hand with her husband, and her favorite vacation spot is Hawaii.

She has a fondness for legal thrillers, enjoys movies with a genuine twist ending, and openly admits that her television tastes run to what she calls "garbage TV" when she wants to relax and escape the day. That bit of honesty lands well. So does her answer about a favorite car. Out of all the beautiful shiny options she could have chosen, she picks her first car: a baby blue Volkswagen hatchback.

Asked which historic figure she would most like to interview, Bartlett names Florence Nightingale, a fitting choice given her nursing background and lifelong commitment to care work. Her favorite statute is the First Amendment, and she also singles out the wording from *Terry v. Ohio* that allows an officer to investigate when criminal activity may be "afoot," adding that the phrase makes her laugh every time.

Her favorite quote comes not from a casebook but from her mother, who told her, "Don't buy paint for a bridge, you may not have to paint." Bartlett says that advice has helped her manage worry and anticipatory grief. Her mother had another favorite saying too: "Pull up your big girl pants and get on with it." Taken together, those two bits of maternal advice offer a pretty good window into Bartlett's outlook on life.



Kathleen "Kat" Mahou is an associate attorney practicing family law with Pachowicz | Goldenring, a PLC, and Managing Editor of CITATIONS. She can be reached at kat@pplaw.law.



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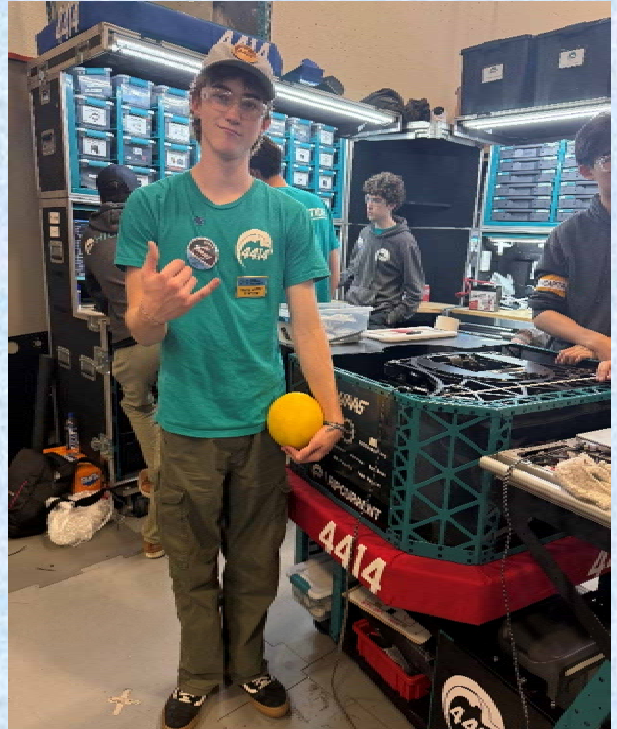
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