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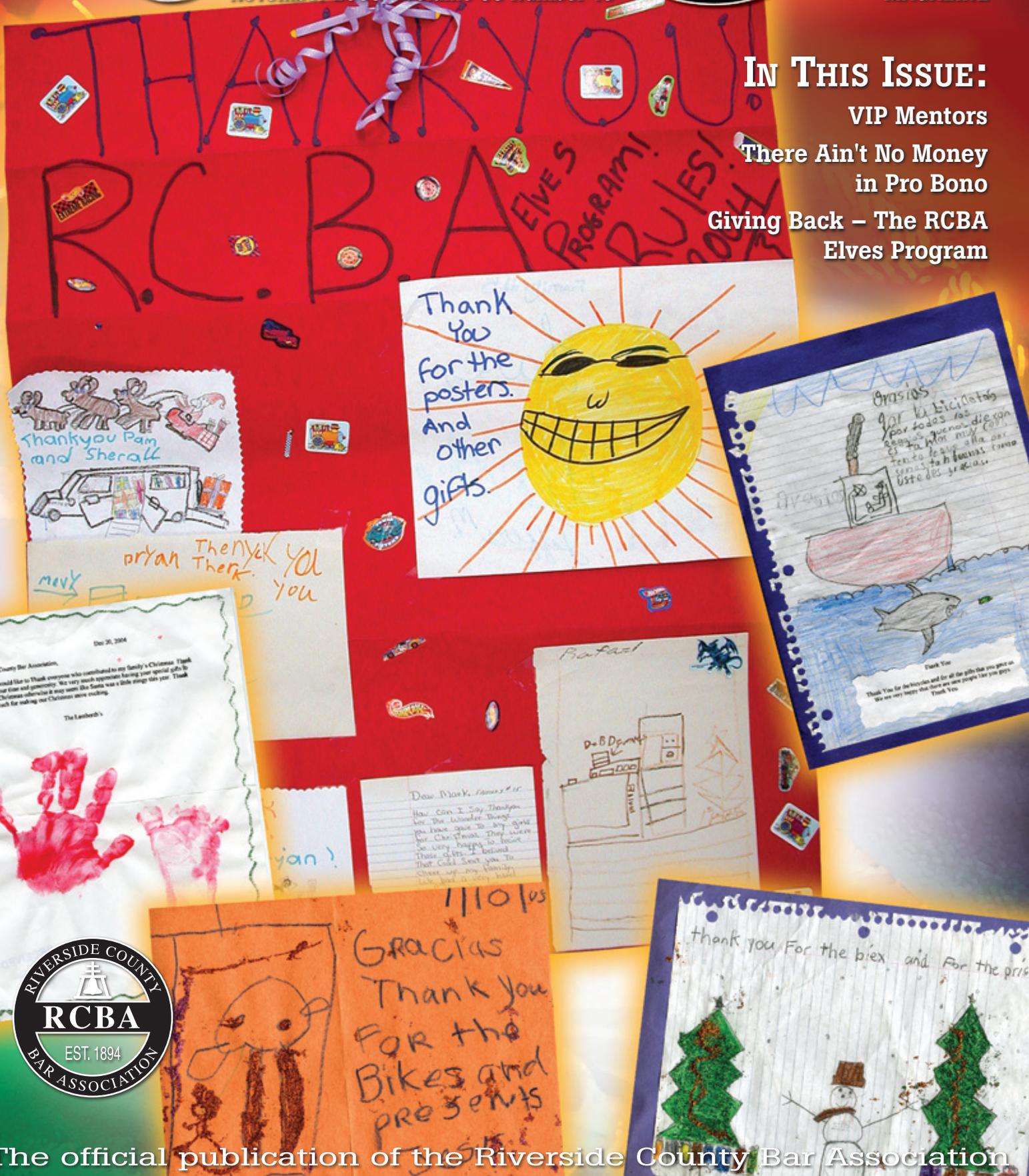
MAGAZINE

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VIP Mentors

There Ain't No Money
in Pro Bono

Giving Back – The RCBA
Elves Program



The official publication of the Riverside County Bar Association

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RIVERSIDE LAWYER

MAGAZINE

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MISSION STATEMENT

Established in 1894

The Riverside County Bar Association, established in 1894 to foster social interaction between the bench and bar, is a professional organization that provides continuing education and offers an arena to resolve various problems that face the justice system and attorneys practicing in Riverside County.

RCBA Mission Statement

The mission of the Riverside County Bar Association is to:

Serve its members, and indirectly their clients, by implementing programs that will enhance the professional capabilities and satisfaction of each of its members.

Serve its community by implementing programs that will provide opportunities for its members to contribute their unique talents to enhance the quality of life in the community.

Serve the legal system by implementing programs that will improve access to legal services and the judicial system, and will promote the fair and efficient administration of justice.

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Public Service Law Corporation (PSLC), Tel-Law, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Inland Empire Chapter of the Federal Bar Association, Mock Trial, State Bar Conference of Delegates, and Bridging the Gap.

Membership meetings monthly (except July and August) with keynote speakers, and participation in the many committees and sections.

Eleven issues of Riverside Lawyer published each year to update you on State Bar matters, ABA issues, local court rules, open forum for communication and timely business matters.

Social gatherings throughout the year: Installation of RCBA and Barristers Officers dinner, Annual Joint Barristers and Riverside Legal Secretaries dinner, Law Day activities, Good Citizenship Award ceremony for Riverside County high schools, and other special activities.

Continuing Legal Education brown bag lunches and section workshops. RCBA is a certified provider for MCLE programs.

MBNA Platinum Plus MasterCard, and optional insurance programs.

Discounted personal disability income and business overhead protection for the attorney and long-term care coverage for the attorney and his or her family.

Riverside Lawyer is published 11 times per year by the Riverside County Bar Association (RCBA) and is distributed to RCBA members, Riverside County judges and administrative officers of the court, community leaders and others interested in the advancement of law and justice. Advertising and announcements are due by the 6th day of the month preceding publications (e.g., October 6 for the November issue). Articles are due no later than 45 days preceding publication. All articles are subject to editing. RCBA members receive a subscription automatically. Annual subscriptions are \$25.00 and single copies are \$3.50.

Submission of articles and photographs to Riverside Lawyer will be deemed to be authorization and license by the author to publish the material in Riverside Lawyer.

The material printed in Riverside Lawyer does not necessarily reflect the opinions of the RCBA, the editorial staff, the Publication Committee, or other columnists. Legal issues are not discussed for the purpose of answering specific questions. Independent research of all issues is strongly encouraged.

CALENDAR

NOVEMBER 2005

22 RCBA/SBCBA Landlord/Tenant Law Section

“Government Housing”

Nena’s Restaurant, 642 N. “D” St.,
SBdno

6:00 p.m. – 8:00 p.m.

24 – 25 - THANKSGIVING HOLIDAY

30 EPPTL Section

“Organization & Management of a
Probate Practice”

RCBA Bldg., 3rd Floor - Noon
MCLE

DECEMBER

1 Bar Admissions Ceremony

Historic Courthouse, Dept 1 – 10:00
a.m.

5 CLE Committee

RCBA – Noon

6 RCBA/SBCBA Environmental & Land Use Law Section

Law Ofcs. of Gresham Savage Nolan
& Tilden - Noon

550 E. Hospitality Lane, Suite 300,
SBdno

MCLE

7 Bar Publications Committee

RCBA – Noon

8 CLE Brown Bag Seminar

“To Do or Not to Do: What’s Ethical in
a Mediation?”

Speakers: Robert Dobbins and Susan
Exon

RCBA Bldg., 3rd Floor – Noon
MCLE (Ethics)

13 PSLC Board

RCBA – Noon

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President's Message

by Theresa Han Savage

Happy Thanksgiving. As we celebrate this great American tradition, we focus on the things for which we are grateful. I personally am most grateful for my family (immediate and extended), friends (old and new), and our health. I am also grateful that Phil and I are able to provide for our three children – food, clothing, shelter, and the “un-necessities,” such as books, toys and trips to the zoo.

As I give thanks, however, I am mindful that there are many people – right here in Riverside – who are not as fortunate. The most helpless of these are the children. Through no fault of their own, countless children are deprived of a stable home, food or shelter. They also lack role models in their lives. I hope that the Bar will be able to make a difference in the lives of some of these children by “giving back.” I am planning to partner the Bar with an elementary school in a low socioeconomic area of Riverside to sponsor a day of reading and giving. To make this program work, we would like you to set aside a couple of hours for just one day to read to students at the designated school. You would also be encouraged to bring books or other necessities (such as socks, shirts, etc.) for students at the school. Other bar associations that have adopted this program report that the response from the students has been overwhelmingly positive. When the program was first implemented, students were asked what they thought of attorneys. Many responded that

attorneys are people who take their parents or other persons to jail. A couple of years later, the students responded that attorneys are people who care about them because they come to read to them. Wow. When we get our program started, I hope that you will help us bring a little joy to some of the children in our own backyard. I am sure that we, too, will find this program to be rewarding, not only to the students, but also to us as well.

On the subject of “giving back,” I hope to enlist your help, again, for our Elves Program. During the holiday season, the Bar provides gifts to families who would otherwise have no gifts for their children. It has been one of our most successful and heartwarming programs. We hope to make this year as successful as the past years. You can help by writing a check, shopping for the gifts, wrapping the gifts, and/or delivering the gifts. Thank you for your continued support!

On a different note, I hope you were able to attend the beautiful ceremonial session held at the appellate court on October 5 in Justice James Ward’s honor. Justice Ward, as many of you know, was appointed to the Riverside Superior Court in 1993 and to the Court of Appeal in 1996. I have had the privilege of working for Justice Ward since 1999. It has been an amazing six years in my legal career, and I will miss him! When Justice Ward was elected as Bar President in 1973, an article in the Bar Bulletin said this about him: “James D. Ward, newly elected President, is one of those rare individuals who combines a delightful personality with sincerity, wit and professional competency.” This holds true even today. I wish him well in his new endeavor.

I want to thank Judge Sharon Waters for speaking at our October meeting on the state of the courts in Riverside. Given the budgetary constraints, Judge Waters has done an amazing job for the courts. Thank you, Judge Waters!

It has been a fun and busy couple of months since the installation in September. I have been touched by many of you who have sent me warm wishes for a successful year. I want to encourage you to contact me if you have any suggestions on how the Bar can better serve you.

On a final note, let’s keep the victims of Hurricane Katrina, Hurricane Rita, and the earthquake in Pakistan, as well as others in need around the world, in our thoughts and prayers this Thanksgiving. Have a safe and wonderful Thanksgiving.

Theresa Han Savage, president of the Riverside County Bar Association, is a research attorney at the Court of Appeal, Fourth Appellate District, Division Two.



By Robyn Beilin-Lewis, Barristers President

Like many of us in the aftermath of Hurricanes Katrina and Rita, I could not seem to tear myself away from the images of devastation that the media bombarded us with from the Gulf Coast. As a transplant from the East Coast, I have not really been accustomed to the occurrence of natural disasters. I think the closest that I ever came to experiencing a natural disaster myself was Hurricane Gloria back in 1985, which was extremely uneventful in my neck of the woods, along with some northeasters and blizzards. But those were the extent of my prior experiences with that kind of thing. So I could not imagine what those poor people from Louisiana, Mississippi, and Texas were going through.

I happened to be talking about the recent hurricanes with a friend of mine who is from New York and mentioning to her my shock that those types of natural disasters could happen. She sat in disbelief and then chided me for my naïvety when she reminded me that I now live in Southern California – home to landslides, fires, and earthquakes.

Of course, this terrified me – what if something of similar proportions happened to us right here, instead of us watching it on our televisions or on the Web? Given the frequency and scale of disasters in California, it could happen to us at any time.

That led me to think about the disruption of legal services throughout the affected areas. Consider the courts that lost evidence in criminal cases, the attorneys who lost client files, and the citizens who have no legal structure to turn to for assistance. Following a disaster, tenants' rights and housing matters, consumer protection matters, insurance claims, replacement of legal and other documents, and administrative appeals from the denial of disaster assistance are the most common legal issues that need to be addressed. What is our plan for disaster legal services? So I did a little investigating.

Generally, there is FEMA, or the Federal Emergency Management Agency, which is the federal government agency charged with coordinating disaster response, emergency planning, mitigation and recovery.

The Governor's Office of Emergency Services (OES) is the California equivalent of FEMA and is based in Sacramento with regional offices throughout the State. OES administers the state's response to disasters and coordinates closely with FEMA after a presidential declaration of disaster.

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), which is federal legislation, free legal services are provided to low-income and other qualifying disaster victims. This would include legal counseling and advice, referrals to the appropriate sources of disaster assistance, representation in non-fee-generating cases, volunteer attorney staffing and services, and referrals to State Bar-certified lawyer referral services.

FEMA also entered into an agreement with the American Bar Association Young Lawyers Division ("ABA YLD") to establish the Disaster Legal Services Program. The agreement provides that the ABA YLD will mobilize local attorneys to provide volunteer legal services to disaster victims when requested by the FEMA Regional Director. Depending on the capacity of the private bar in the disaster region, the ABA YLD may associate with the state bar and/or local bar associations and their young lawyers or barristers sections to organize and provide disaster legal services.

Right now, for instance, if you go to the American Bar Association website at www.abanet.org, you can sign up online to volunteer professional services to hurricane victims. There is also a legal services hotline that has been set up by the ABA YLD in connection with FEMA.

On the state level here in California, staff from the Offices of Bar Relations and Legal Services help facilitate the provision of local disaster legal services throughout the state. Those disaster efforts are known as LAW-HELP-CALIFORNIA and are supposed to provide the following services:

- 1.) A fax network providing up-to-date information about where survivors can apply for federal and state disaster assistance, training events for volunteer attorneys and various local legal services efforts to assist disaster victims.

- 2.) The facilitation and coordination of meetings and conference calls between representatives of local bar associations and legal services providers to help coordinate their activities and services and to help prevent duplication of efforts; and

- 3.) The development and distribution of resources and training materials to train volunteer attorneys and legal services advocates.

Intrigued as to what we have in place here in California, I contacted the State Bar Association. I was informed by a representative from that agency that there has not been any mass organization on the statewide level since an initiative

was undertaken back in 1997. She explained that taking proactive measures to have a volunteer staff of attorneys in place to mobilize in the case of disaster has been left up to the local bar associations. According to the State Bar, "Volunteer recruitment is the key to a successful disaster effort."

I have since learned that there was a committee formed by the Riverside County Bar Association known as the "Disaster Response/Emergency Preparedness Committee." That committee, which was headed by J.E. Holmes of Thompson & Colgate, was designed to organize a roster of RCBA members to act as disaster legal response attorneys in case of an emergency. In a prior *Riverside Lawyer*, then-RCBA President Geoffrey Hopper explained that the volunteer attorneys would be called on a rotation basis: "We believe this will provide a vehicle under very limited circumstances with a minimal commitment of time, which will have a positive effect on our profession." What a great idea!

As of the date that this article was written, the Barristers organization is doing more research to determine the status of this committee. The Barristers executive board members are very much interested in learning what we can do to get this committee up and running again so that we are prepared in the event of a natural disaster that hits close to home.

Please keep this important matter in mind. I hope that each of you will consider the importance of this endeavor and volunteer your services if any further organizational efforts are made with respect to this committee.

On a different note, we would like to thank Theresa Savage, Diane Roth and Mary Ellen Daniels for their wonderful comments and the presentation that they provided at our October 12, 2005, Barristers meeting. That presentation, "Membership Has Its Privileges – Being Involved in Your Legal Community," made for a successful first meeting of our season. We hope that more of you continue to join us on the second Wednesday of each month at the Cask 'n Cleaver on University Avenue in downtown Riverside. And keep your eyes open for word about the second annual Barristers/RCBA Holiday Social – details will soon be announced!

Finally, I would again like to thank our outgoing Barristers president, Jeremy Hanson, for all of his efforts over the last several years. Jeremy was a dedicated member of our organization and his presence at Barristers will be missed.

If you would like more information regarding Barristers, please do not hesitate to email me at beilinro@yahoo.com. You can also contact me at my office at (951) 686-8848. Happy Holidays!



JUDICIAL PROFILE: COMMISSIONER MATTHEW PERANTONI

by Diana Renteria

Attorneys in the family law community were asking, "Who is Commissioner Matthew Perantoni?" Well . . . he is a family man, a single family man, who prefers to use a 12-inch-square piece of cardboard from a pizza box as his personal weapon of choice to . . . swat flies.



Commissioner Matthew Perantoni

Commissioner Perantoni began his new assignment on June 9, 2005, in training to sit in Dept. F-3 at the Riverside Family Law Courthouse. My initial interview with the Commissioner occurred on July 14, 2005, roughly five weeks into his new assignment. He stated that he enjoys sitting as a family law commissioner. The position is "not like anything" he has done before. "Family law is a different animal. It is never dull and almost always interesting."

I asked Commissioner Perantoni how many times he had been on the bench prior to being appointed. Surprisingly, his response was that this was his first time ever, with his first day actually being June 17, 2005. Past opportunities to pro-tem never seemed to coalesce.

In agreeing to the take on this new challenge, Commissioner Perantoni initially did not realize how public the position would be and what a lifestyle change it would require. For instance, recently in a restaurant, the waitress commented, "Oh hey, I'll see you on Tuesday," meaning she would see him in his courtroom. This is the basis for Commissioner Perantoni's adamantness on privacy regarding his children and other family members, and also the reason why their names are not mentioned in this article. His view on it is, you are making decisions that impact people's lives and, because you can't please all the people all the time, there may be circumstances where individuals allude to holding you responsible personally, when really it's not you who has created the situation they are in, but them, and it's the laws that govern, not you. You, as a commissioner, have a duty to remain impartial no matter how you may feel. It's something that all commissioners and judges alike experience. When the more vexing situations arise regarding potential conflicts of interest, courtroom procedure, legal analysis, etc., advice is sought from fellow judges.

When asked what family law attorneys should do to prepare for court, or more specifically, how best should they prepare when appearing in front of him, "I have no predispositions in this area of law," he replied. "I will listen to the facts, I will listen to argument, and then make a decision."

Commissioner Perantoni is a single father of two daughters. His daughters are currently attending preschool and kindergarten and were adopted by him when they were infants. He has a sister and brother, also living in California. Commissioner Perantoni's sister has been a wealth of support, and continues to be invaluable, on a daily basis, in assisting with the children during the Commissioner's work hours.

His parents, now deceased, were the pillars that held up the roof of their family household, the cornerstones in the foundations. They remained married their entire lives, and he and his siblings learned all the important lessons that come with growing up in a strong family. His father was an advertising executive for a major chemical firm and his mother managed the home and family. They led very traditional lives. His father would be home for dinner three weeks out of the month, and the remaining week would find him on the road traveling for his work. However, it should be noted, this did not prevent his father from participating in his children's many extra-curricular activities. "If there is one thing I learned from my father more than anything else, it would have to be patience." It's obvious the admiration Commissioner Perantoni has for his father. When he speaks of him, his eyes appear to be smiling and he becomes rather calm. He describes him as a very decent and patient man who cared very much for his family and was able to express his love in many ways.

Commissioner Perantoni grew up in Wilmington, Delaware in an upper-middle-class neighborhood. He continues to stay in contact with family and friends who remain there. He had a pretty typical upbringing, attending public school and getting a driver's license at 16. His mode of transportation was a 1967 Dodge station wagon, which would now probably be considered a muscle car and be worth a fortune. It was great for packing the friends into and driving "pretty fast" to the Delaware shores.

Of course, there were those few times that the Commissioner eloquently referred to as "getting into various forms of boyhood trouble," universal for a young man coming of age. But with a wink and a smile and a little

chuckle, he deftly avoided elaborating on the particular types of trouble being referred to.

During his high school and college years, he worked in various fast-food establishments, ushered at a movie theater, and, in 1980, he was employed as a census taker (do they actually get paid?).

Commissioner Perantoni went to school at the University of Delaware and graduated with a political science degree. As the end of college approached, having no immediate prospects of employment, he decided to continue his education by going to law school. Although this decision was primarily brought about by not having a clue about what to do with his life (a not too uncommon scenario amongst the youth of the day, when adulthood approached more quickly than anticipated), his eventual career choice was probably made more likely by having had the fortuitous benefit of two mentors, both political science professors. To this day, he remains in touch with both his mentors.

After spending 22 years growing up and living on the east coast, Commissioner Perantoni decided it was time to live on the west coast, where he had relatives. Upon his arrival, he attended and graduated from Whittier Law School, located in Los Angeles. "My greatest personal achievement was obtaining a law degree," says the Commissioner. "I'm the first individual in my family to become an attorney." When asked what type of work he would be doing if he were unable to work as an attorney, he stated either teaching or psychology.

His first job upon passing the bar was for a civil law firm, which concentrated heavily in landlord/tenant work. The firm's major client was the Los Angeles Housing Authority. After two years of dealing with unruly tenants and overzealous landlords, it was time to move on.

Next up was the Riverside County Public Defender's office, where he stayed for the next 15 years. His initial assignments for the P.D.'s office included misdemeanor trials in Hemet. Later, his assignments took him to Perris, and also downtown Riverside, where he was engaged with the career criminal calendar for a year. He was then transferred within the department to felony trials, where

he stayed for two years. After that, it was on to the Juvenile Courts, defending juveniles charged under Welfare and Institutions Code section 602 (delinquency). The Juvenile Court duty was Commissioner Perantoni's longest assignment while working for the Public Defender's office. He briefly forayed out to felony preliminary hearings, but after three months, he returned to manage the juvenile division of the office.

As for hobbies, the Commissioner enjoys traveling and seeing different parts of the world. Included in his many travels have been

(continued on page 24)

OPPOSING COUNSEL: STEVEN M. ANDERSON

by Robyn Beilin-Lewis

It's not often that I get the opportunity to get to sit down and talk with an attorney from Best Best & Krieger. As an associate at a small personal injury firm, my path usually will cross that of a member of the BB&K staff only at a social function or bar association event.

Recently, I had the pleasure of meeting Steve Anderson, a partner at Best Best & Krieger, whose practice emphasizes environmental, water, and natural resources law. Steve Anderson is incredibly impressive, not just as an attorney but as a member of our community who is committed to giving back.

Steve received his undergraduate degree in history from the University of California, San Diego. While in college, he spent some time abroad in Mexico City, where he developed a passion for international affairs. "But I always wanted to do environmental stuff," he explained. "I knew, even in college, that I wanted to do something environmental. I was the kid in elementary school who collected all the cans and the bottles for recycling."

After graduation, Steve took some time off between university and law school. First, he worked for an international company that exported sports equipment from South America. He was given the opportunity by a friend to work in eastern San Diego County, teaching migrant workers English as a second language. Later, he taught immigrants in downtown Los Angeles. Having enjoyed that experience, and wanting to see more of the world, Steve spent some additional time in Madrid and Prague, teaching English to students in those countries.

Upon his return to the United States, Steve enrolled at the University of California, Hastings College of Law, where he soon committed to focusing on environmental law. There, he served as the executive editor of the Hastings International and Comparative Law Journal. He also authored several articles for the International Law



Steven Anderson

Journal and The Back Forty, which is a newsletter of land conservation law.

While in law school, Steve participated in an internship at the Department of Development and Codification of International Law of the Organization of American States in Washington, D.C. Steve explained to me that that organization was formed to improve relations among the countries of the Western Hemisphere. Still in existence, it focuses on drafting multilateral treaties and other international activities. When Steve worked there, the organization was considering drafting a treaty for all the nations of the Americas that would be similar to the Freedom of Information Act. "I spent the summer researching the [Freedom of Information Act]-type laws of those countries and then they were going to take all that and put it into a convention or treaty."

Steve also interned for the Natural Resources Section of the California Attorney General's office, where he was involved in a complex ground-water action.

When Steve graduated from Hastings, he had the opportunity to clerk for a year for Chief Justice Miriam Shearing of the

Nevada Supreme Court. At the time, Chief Justice Shearing was not only the first female chief justice for that state but she was also the first female justice appointed to Nevada's highest state court. "I loved that experience because she had a really interesting perspective." Steve had the opportunity to attend oral arguments and the State of the Judiciary Address, which was presented by Chief Justice Shearing to the Nevada Legislature, and to be involved in the authoring of opinions.

Steve joined the staff of Best Best & Krieger in 1997 as an associate attorney. Since then, he has represented public agencies and private clients in administrative proceedings and civil litigation in both state and federal courts. His practice exposes him to issues involving the Endangered Species Act, the National Environmental Policy Act, the Porter-Cologne Water Quality Control Act, the California Environmental Quality Act and other state and federal environmental laws. "It's interesting work because it is very dynamic," Steve explained. "Water law and endangered species law have a strong academic component so it is always interesting. Something differ-

Steve Anderson is incredibly impressive, not just as an attorney but as a member of our community who is committed to giving back.

ent will come up every day.” He was made a partner at Best Best & Krieger in January of 2005.

Steve’s credentials are truly impressive. But what struck me most about him was his humility. And what was even more impressive was his involvement in our community in two very worthwhile organizations.

Steve is the current President of the Board of Directors for the Inland Empire Latino Lawyers Association (IELLA) and received an award as that organization’s Attorney of the Year in 2001.

Steve explained that IELLA provides legal services to qualifying indigent individuals through legal aid clinics, staffed by volunteer attorneys, in both Riverside and San Bernardino Counties. Subsidized by some funding from the United Way and by Inland Counties Legal Services, these clinics are designed to make legal services available to the poor and underprivileged, whether they speak Spanish, English or any other language.

Volunteer attorneys have several locations to choose from at which they can devote their services. On Monday afternoons from 5:00 p.m. until 8:30 p.m., the clinic is held at the Lawrence Hutton Community Center in Colton, which is located at 660 Colton Avenue. On Wednesdays from 5:00 p.m. until 8:30 p.m., the clinic has hours in Riverside at the César Chávez Community Center, which is located at 2060 University Avenue, Suite 113. On the second Thursday of each month, the clinic is open between the hours of 4:30 p.m. and 7:30 p.m. in Ontario at the VFW (Post 2085, Dewey Pap Hall), located at 1341 East D Street.

Those attorneys who volunteer their time can expect to entertain inquiries from clinic clients on family law matters, such as domestic violence issues, custody, support, and dissolutions. Volunteer attorneys also answer questions on housing and consumer issues and assist clients in preparing documents so that the clients can represent themselves in pro per. There are also plenty of seasoned volunteer attorneys and staff to help those just starting out there. If a vol-

unteer attorney is interested, he or she can assume representation in a case from the clinic on a pro bono basis.

If you are interested in volunteering your time to this worthwhile and rewarding cause, you can contact IELLA’s Executive Director, Mercy Guzman, at (951) 369-5846. Steve explained that attorneys can expect to volunteer their time once a month for approximately two to three hours. And don’t worry if you are not Spanish-speaking, as IELLA has translators on staff to assist you in aiding those clinic clients who speak only Spanish.

Steve is also a board member of the Riverside Land Conservancy. That organization is a land trust, which acquires land to ensure that it remains as open space. For instance, the Conservancy received a donation of 165 acres in the San Timoteo Canyon from the trust of movie producer Gale Anne Hurd. It also purchased an additional 710 acres to make way for a state park that would be primarily in Riverside County. Those land holdings, in conjunction with efforts by the California Department of Parks and Recreation, will protect endangered species, such as the kangaroo rat, and will offer members of the community thousands of acres in which to hike, horseback ride, and otherwise enjoy that planned park as a recreation site. The Conservancy also facilitates other types of transactions that are designed to protect our environment.

If all of that is not enough, Steve just recently became a father! He is the proud daddy of a beautiful three-month old girl, and I am sure that he dotes on her.

I hope that you have the opportunity to meet Steve, who is an exemplary member of our Bar Association and of our community. And again, please consider donating your time and skills to providing legal services through IELLA to help those less fortunate.

Robyn Beilin-Lewis, president of Barristers and a member of the Publications Committee, is with the Law Offices of Harlan B. Kistler in Riverside.



SPECIAL CEREMONIAL SESSION FOR JUSTICE JAMES WARD

The following remarks were given by Judge Victor Miceli (Ret.) at the retirement ceremony for Associate Justice James D. Ward (Court of Appeal, Fourth District, Division Two) on October 5, 2005.

Photographs by Michael J. Elderman

I am honored to have this opportunity to say a few words about Ward, whom I have known for about 40 years. I call him Ward today, not out of disrespect, but as a kind of a payback. All the time we have known each other, Ward has rarely called me by my first name. I am sure Ward knows it, because Ward is a pretty bright guy. At first, I was a little miffed, but then I realized that many famous people are known by only one name, not that I am one, but it puts me in a special class – Madonna, Cher, Hitler, Stalin.

You will hear from others of Jim's many accomplishments, and if you are patient, you will also hear of them from Jim. I will mention a few that really are not given the regard they deserve.

For the lawyers among us, how many know where sanctioning lawyers came from? Every time you are faced with the prospect of monetary sanctions for a possible discovery transgression, whether you are seeking or attempting to avoid, think of Jim and all the great work he did with the Civil Discovery Act of 1986. What Jim did was create more work for the courts, because now lawyers look for the sanctions to cover their office overhead.

How many of you younger associates at Thompson & Colegate had to endure the seemingly innocent invitation to stroll up Mount Rubidoux on a weekend, which is and should be your private time, ostensibly to bond

and get a bird's eye view of Riverside, especially if you were new to the city? This was not as chaste a gesture as it appeared. Do you remember your arriving, dressed in casual clothes, probably wearing sneakers, and finding Jim outfitted in hiking gear? Recall how he started up the hill slowly, and when you were irrevocably committed, he increased the pace and left you panting and gasping for air trying to keep up with him. Now the truth be told. This was a sinister plan he devised to let you know who was alpha in the office and a subtle and insidious reminder that you have to work harder and longer to keep up.

When you hear the expression, "Be the first on your block," who is the first person to come to mind? How many have had the first Jaguar sedan, Cadillac Escalade, BMW convertible coupe, Toyota Prius? Jim would have gotten a Vespa, but Charlie beat him to it. Fortunately or otherwise, Jim's attention span is as long as I am tall. He soon tires and looks for new things.

Many of you are probably not aware that Jim is a prolific writer. Some of you may have seen his works in the Riverside County Bar journal, the L.A. Journal, the Press-Enterprise, as well as the State Bar magazine. In addition to these, he has written numerous article under a pseudonym. I asked what was his nom de plume. He confided that he writes under the name of John Grisham. I have to relate the one and only time Jim asked me to review something he had written. In my naïveté, I thought he really wanted some critical input. When I made what I thought to be a minor suggestion on a minuscule matter, he became indignant. I should have known what he wanted



Robert Swortwood, of Thompson & Colegate, and Judge Victor Miceli, Ret.



James Heiting, State Bar President, and Justice James Ward



(back row, left to right) Justice Jeffrey King, Presiding Justice Manuel Ramirez, Justice Bart Gaut, Justice Betty Richli, Justice Art McKinster; (front row, seated) Justice James Ward, Justice Thomas Hollenhorst



Justice James Ward and Presiding Justice Manuel Ramirez

was praise. In all seriousness, he has done some good stuff.

Enough of the good stuff, let's talk about the real Jim Ward.

Jim very recently returned from a conference in Jordan, where the main topic was the new constitution for Iraq.

Previously, Jim was a panelist and lecturer at the Central European and Eurasian Law Institute in Prague, the Czech Republic. I was concerned that the attendees might not be able to understand the subtleties of sanctions and plain speak. I asked Jim if he was able to speak the Czech language, to which he replied, "After three glasses of wine, I can speak Czech in four different dialects." I asked some of the other Justices how and why Jim could be gone so often and for so long. Their reply was, "We send him away, so we can get our work done."

By now, many of you are suffering, or soon will be, with the new "plain speak" civil jury instructions. They are so plain and simple that few, if any, know what they mean. Jim doesn't know this, but one of his colleagues on the committee told me about Jim wanting to start one of the instructions with "youse guys." When questioned about it, Jim replied, "I like that line in 'Cousin Vinnie' and thought it would do well in our new instructions." Much to Jim's chagrin, it was left out.

Jim and Carole are inveterate travelers, having traveled all over the world. Jim boasts that he has been to Italy ten times, staying at villas, absorbing the local culture, drinking the native wines. I asked Carol what is the attraction of Italy for Jim. Carol confided that Jim wants to be like me.

I would like to mention a few things that Jim has been instrumental in other than his legal career.

The Statute of Laments has now expired, so I can mention that your being at this location is in a very great part due to Jim's efforts in securing a location in Riverside for a new Court of Appeal building. Jim convinced the Board of Supervisors that an appellate court would be a great asset and that the county should allow some of its land to be used for the

construction of a building housing the court. Although Jim may have had a hand in facilitating the move to Riverside, this magnificent structure is the handiwork of Presiding Justice Manuel Ramirez. What a fitting tribute to his leadership of this court.

The U.S. Bankruptcy Court and the U.S. District Court are in large part due to Jim's perseverance and guidance in relocating and establishing in Riverside. Jim helped to convince the local electeds of the value to the community of having such a wide range of courts. In this vein, Jane Carney ably assisted Jim. I am proud to say I was a small part of those efforts. Jane has the brains, Jim has the contacts, since he professes to know everybody, and I was the squeaky wheel. As a result of all these efforts, Riverside has modern facilities for both federal and state courts in its Justice Center.

Jim has more work to do, and now that he is retiring, will have even more time to pursue his dream and goal of having an ABA-accredited law school in Riverside. The dream is not dead, but at the present is slowly simmering on the back burner. There is no doubt that Jim will get his law school.

I am giving up my remaining 45 minutes to the other speakers, and want to close by saying that it is and has been a special privilege to be working with Jim all these years. Whatever he has done has been with grace and integrity. Wherever he has been, he has left it better than when he arrived. He will always be remembered for his big smile and collegiality, and in particular to me, his universality. He is truly a Renaissance man. Ladies and gentlemen, Jim Ward is not retiring. He is seeking a new world to conquer. I can't wait until I get the telephone call from Jim saying, "Miceli, we have to," and he then tells me what I have to do. I stand ready to serve.



Justice Ward with his wife Carole Ward



Theresa Han Savage, RCBA President, and Wilfred Schneider, Jr., SBCBA President



Carole Ward, Kelly Thulin (daughter), and Diane Ward (daughter-in-law)

It is my pleasure and honor to call him my friend. I wish you all of the very best in your next venture.

Thank you.

Judge Victor Miceli retired from the Riverside Superior Court in 1991.



VIP MENTORS

by Judy Davis

VIP Mentors is a nonprofit statewide organization founded by attorneys in 1972. U.S. Chief Justice Warren E. Burger challenged attorneys to help develop the American correctional system into “something other than a revolving door process.” VIP is the only nonprofit in the state that recruits attorneys, and only attorneys, to mentor men and women on parole. VIP Mentors help individuals on parole successfully reintegrate back into society through the power of positive influence. The main goals of the mentoring relationship are to help the parolee become self-reliant, self-respecting, and self-supporting.

The Riverside County VIP Mentors program, which represents one of the fifteen sites in the state, began operating on April 4, 2000. The parolee applicants enter into the program voluntarily. Once the match has been established, the volunteer attorney mentor and parolee spend three to six hours a month on activities of mutual interest.

Various social events are held throughout the year by VIP Mentors in support of the matches. The third annual “Thanks for Giving” potluck was held at the Riverside County Bar Association Building on November 17, 2005, at 6:45 p.m. This gathering represented a great opportunity to take a closer look at the accomplishments of VIP and to consider personally getting involved with this worthwhile cause. To get

more information about VIP Mentors, please contact Judy Davis at (951) 782-4479, ext. 242, or at vip-riverside@mindspring.com.

Appreciation and recognition go out to the following people who are on the local advisory committee: Vicki Broach (Chair), Lynn Mawhorter (Chair-Elect), John Vineyard (former Chair and current State Board of Governors Chair), Hon. Stephen Larson, Hon. Craig Riemer, Paul Abril, Joe Mendoza, Mike Hestrin, Darryl Exum, David Philips, Doug Johnson, Jeff Van Wagenen, Liz Benner-Wick, Yoginee Braslaw, Jackie Carey-Wilson and Kathy Manis.

Appreciation and recognition also go out to the following attorneys who are mentors currently in the VIP program: Jim Heiting, Pat Harvill, David Philips, Albert Johnson, Doug Edgar, Mike Hestrin, Anthony Beaumon, Terry Asnes, Kathy Manis, Yoginee Braslaw, Jim Bostwick, Elisa Castro, David Bristow, Jody Isenberg, Carol Greene, Darryl Exum, John Vineyard, Forest Wright, Amanda Owen, Ramona Petersen, James Kearney, Ryan Poe, Jennifer Prado, and John Isaacs.

Additional information about VIP Mentors can be found at www.vipmentors.org.

Judy Davis is the Program Director for VIP Mentors.



THERE AIN'T NO MONEY IN PRO BONO

by Kirby F. Combs ("K.F.C.")

The needs of the indigent are often greater than those of the paying client. – Ward Albert

There ain't no money in pro bono. There ain't no money in volunteering at the Public Service Law Corporation (PSLC) of the Riverside County Bar Association, neither. Nevertheless, the "omission of pay" aspect of volunteering is what most lavishly remunerates. Astonishingly self-centered people like myself (and regular people, too) get the chance to have moments when our left hands do not know what our right hands are giving. This must be distinctly understood, or nothing wonderful will come of this story that I am about to relate to you:

It was a particularly cold Thursday night in December. The wind was whipping up the dust around the palm trees that are in front of the RCBA building. As I walked into the building, I noticed that the lobby was already packed with family law clients. (Each Tuesday and Thursday evening, the PSLC has its own mini-superdome of families with a flood of worries. All of them seek to rebuild their lives. Many of them are desperate.)

I said hello to Charlene Nelson and Mimi Geiser. These are two of the wonderful people who work there. I asked Mimi if any other volunteers were coming. She said that tonight it was just me and Herb. "Frig!", I said to myself. With only two lawyers, we would have to move fast. I grabbed my first blue paper, which read, let's say, "Lupita Lagrimas – Spanish-speaking." I shouted, "Lupita Lagrimas!"

Then a mother stood up, with three young kids hanging all about her. I greeted them. All five of us headed down the hallway and entered the smallest of the RCBA offices. The room, as Mark Twain once said, "was so small that you could swing a cat in it, perhaps, but not a long cat."

We all sat down. My client, Lupita, gave me some background information. I figured that she would want child support and perhaps a divorce.

Now, some might say I can't do a divorce in English. In Spanish, it becomes even more difficult. In any event, since there were so many people waiting in the lobby, I went straight to work.

Lupita pulled a pile of paperwork out her purse and laid it on the desk. As I tried to read it, her two-year-old began untying my shoe. I read on. Then the five-year-old showed me the "estrella" that she got on her homework.

PSLC Acknowledgements

Many people have contributed hundreds of hours over the years to help the less fortunate and those who need but cannot afford legal representation. Without these legal professionals, the Public Service Law Corporation could not continue to provide services to the low income and indigent. At this time we would like to give special recognition to the following attorneys who have donated at least 50 hours of time during the past year to pro bono services through the PSLC:

David Akintimoye
Tom Derryberry
Ralph Hekman

Kirby Combs
Katie Greene
Diana Renteria

These attorneys were presented with the State Bar's Wiley W. Manuel Award for Pro Bono Legal Services at the RCBA general membership meeting on October 14, 2005.

I noticed a large star on her paper. In my best Arnold imitation, I told her, "You bedda keep up da good vork or *I'll be back!*" She giggled. The baby just sat in her mother's arms, sucking a pacifier. Occasionally, however, and without provocation, the baby would start laughing at me.

Well, I did not want the bigger kids to hear some of my questions, so I asked Lupita if she could have the kids sit on the sofa just outside the door. I can watch them there.

Next, Lupita tells me that her husband left them a few weeks ago. (According to her, he is shacking up with a gringette in Newport Beach.) She does not yet want a divorce because she hopes he will return. She begins to cry. She does not know how she will pay the rent. She does not know where she will go. She does not know a million things. She cries some more. I have no tissue.

Her other children come back in the room. The kindergarten holds the two-year-old in her arms. They see Lupita's tears. I would have shut the door, but I wanted to keep an eye on them. We take them back outside. I discuss child support. I tell Lupita about community property. She says everything is in his name. I tell her that much is part hers – no matter what he says. I finish the paperwork. I give the paperwork to our skilled para-

(continued on page 28)

PAST PRESIDENT'S COLUMN

by Brian C. Percy

Giving Back – The RCBA Elves Program

When asked to write an article for this month's Past President's column, I pondered over what I should write about. My term of office was much too recent to provide any type of retrospective on the "way things were" that would be of much interest to any reader. So after much thought, I am going to take this opportunity to discuss a community-service-based program of the Riverside County Bar Association that has nothing to do with the practice of law; rather, it has to do with good community service and respect for the citizens of the county we practice in.

As I write this column, it is still much too hot out to imagine frosty air, leaves that have turned orange and brown, the smell of fresh rain on the grass, and yes, maybe snow. Hopefully, by the time this hits your mailbox, an inkling of the holiday season to come will have crossed your mind. If not, then before the other media outlets overwhelm you with retail store advertising, let this be the RCBA's official thump-upside-your-head that says, "Okay, time to start thinking about the holidays and those less fortunate than you – time to start thinking about the Elves Program."

What is the *Elves Program*? The Elves Program is your opportunity to become one of Santa's Elves. As an RCBA Elf, you can adopt and support some local families that would otherwise be unable to provide gifts for their children during the holiday season.

For our first two years, we assisted grandparents acting by necessity as guardians of their grandchildren. Last year, we worked with the Child Abuse Prevention Center, which identified children with special needs. As this is being written, the agency we will work with has not yet been finally selected. However, the criteria for the agency will require that the families assisted by the Elves Program be unable to provide their children anything more than the barest of essentials. The Elves Program's goal is to give several families a Christmas they only dream of.

Over the past three years, the RCBA has been able to assist 36 families, consisting of 138 kids and adults. We have touched communities throughout the county, including Corona, Hemet, Lake Elsinore, Mead Valley, Moreno Valley, Perris, Riverside, and San Jacinto. The feedback from the Elves and the families they have served is overwhelmingly positive. This year, our goal is to try to assist between 20 and 30 families. The feeling of joy that washes over a person walking into a home and watching the eyes

of a young child light up with the recognition that Santa's Elves have arrived is indescribable.

Recognizing that our membership has a variety of time, talents, and interests, we have four Elf participation opportunities. I am sure at least one will be a good fit for you.

Shopping Elves: On Tuesday, December 6 (and possibly the 7th, if needed) at 6 p.m., you and a group of your fellow Shopping Elves will meet at the Big K-Mart on Alessandro Blvd in Orangecrest, where you will be provided a Christmas "Wish List" from the children of the families we adopt. Your job will be to stroll through the store and fill your basket with as many gifts as possible within the pre-designated dollar amount you have been assigned to spend.

While some of the requests of the past have been very specific, surprisingly, many of the kids indicated (in their own hand) that they wanted gifts from general categories such as clothes, educational toys, and music. It is the Elf's job to satisfy these wishes for the adopted family within a set budget.

To be a Shopping Elf, you should have a good working knowledge of kids and what kinds of gifts and clothing sizes and styles are age-appropriate. Some of our previous Shopping Elves brought their families along. Their children not only learned the joy of giving to the less fortunate, they were of great assistance in helping determine what would be "cool" gifts.

Wrapping Elves: The Wrapping Elves will meet at the RCBA's boardroom on designated evenings and wrap all the gifts after the Shopping Elves have finished their job. This is scheduled for three early evenings, right after work, on December 13, 14 and 15. Wrapping and organizational skills are welcome, since Wrapping Elves must ensure that all the gifts are tagged, bagged and assembled by family for easy pickup and distribution by the Delivery Elves. This, too, has evolved into a family affair for some of our Elves, with real camaraderie, so the Wrapping Elves' motto has become, "The more the merrier!"

Delivery Elves: Depending on the total number of families we are able to support financially, teams of two to four Delivery Elves will personally deliver the wrapped gifts to our adopted families. The deliveries are made over the course of a few days during the week before Christmas. To accommodate the Elves' schedules, you may be assigned to deliver to more than one family in your personal sleigh. Although potentially the most time-consuming task, deliv-

ering gifts to the families is by far one of the most rewarding, because you get to actually meet the adopted families.

Money Elves: These Elves really make things happen! Because of the Money Elves, we are able to shop, wrap and deliver to the many families we are hoping to assist. Obviously, the more money raised, the larger the number of families we can assist, and the greater the number of listed items we can check off. Although our number of volunteers increased last year for shopping, wrapping, and delivering, we had a proportionate decline in money donations. While we were able to help every family we committed ourselves to, we had to make sure our Shopping Elves were very efficient. Hopefully, we can put this back in balance this year.

Checks should be made payable to the RCBA. Please write “*Elves Program*” in the memo section of the check. Sending in your check EARLY (by December 5th) will help us identify how many families we can help and how much we can budget per family. If you read this article after that date, don’t worry, we can accept checks later; for obvious reasons, however, getting the money sooner really helps us work out the logistics. We thank you for your generosity in advance.

Needless to say, putting this program together is no small undertaking. The sooner we can identify the Elves and the task(s) they would like to accomplish, the more efficiently we can coordinate our resources. If you would like to be a Shopping, Wrapping, Delivery or Money Elf, please

phone or email your name and desired Elf designation(s) to one of the following: Charlotte Butt (charlotte@riversidecountybar.com) or Lisa Yang (lisa@riversidecountybar.com); or my secretary Veronica Reynoso (vreynoso@bpearcylaw.com). Contacting us via email will better enable us to notify and update each group via email on a timely basis.

I must also take a moment to recognize the gracious participation of so many members of our local bench last year. While there is a long list of activities that judicial officers are prohibited from participating in, this isn’t one of them. So to those who have participated in the past, “Thank you.” And to steal an old slogan from a now defunct grocery chain, “Tell a friend!”

So if you are interested in helping your bar association overcome the public’s perception that the legal profession is filled only with takers and not givers, or just want to help out a local family in need, you CAN experience the true joy of giving by joining your fellow members and families of the RCBA and participating in the Elves Program for the holiday season.

Brian C. Percy, president of the RCBA in 2002, is the chairperson of the RCBA Elves Program.



ANNUAL INSTALLATION DINNER

The Annual Installation Dinner was held on Thursday, September 22, 2005, at the Mission Inn in Riverside. Theresa Han Savage was installed as president of the RCBA.

Photographs by Michael J. Elderman.



Commissioner Jeffrey Prevost, Riverside Superior Court



Ann DeWolfe, Bill DeWolfe and Sandra Leer (RCBA President, 1991)



Bryant Villagran, Robert Willey and Jim Manning



Justice John Gabbert, Ret. (RCBA President, 1949)



Louise Biddle (former RCBA Executive Director) and B.J. Burgess (former RCBA Bookkeeper)



Jo Larick, Theresa Han Savage, Rhonda Raine and Sandy Simmons



Judge Gloria Trask, Riverside Superior Court



Diane Roth (RCBA President, 1998), Judy Riemer and Judge Craig Riemer (RCBA President, 2000)



Carol Greene and John Vineyard (RCBA President, 1999)



Magistrate Judge Stephen Larson, U.S. District Court



Ted Stream, Joseph Ortiz and Eugene Kim



Judge Elwood Rich, Ret.



RCBA Board of Directors: (back row) Aurora Hughes, Dan Katz, David Bristow, Dan Hantman; (front row) Janet Nakada, Michelle Ouellette, Theresa Han Savage, Harlan Kistler; (not pictured – John Brown and Harry Histen)



RCBA Presidents: [back row, left to right] Justice John Gabbert, Ret. (1949), James Heiting (1996), Arthur Littleworth (1971), Terry Bridges (1987), Judge Craig Riemer (2000), Steve Harmon (1995), Justice Bart Gaut (1979), John Vineyard (1999), Brian Pearcy (2002); [front row, left to right] Sandra Leer (1991), Theresa Han Savage (2005), Michelle Ouellette (2004), Diane Roth (1998), Mary Ellen Daniels (2003)



Philip Savage III and Lynda Savage (in-laws), Maria Hong (sister), Theresa Han Savage, Agnes Han and Sang Yoon Han (parents)



David Bristow, Judge Tom Cahraman (Riverside Superior Court), Christine Cahraman and Theresa Han Savage



Theresa Han Savage (center) with her son Andrew and Presiding Judge Sharon Waters, Riverside Superior Court



Theresa Han Savage with her son Andrew, Judge Richard Fields (Riverside Superior Court) and husband Philip Savage, IV (right)



Terry Bridges (RCBA President, 1987), Art Littleworth (RCBA President, 1971), Peggy Littleworth and Presiding Justice Manuel Ramirez (Court of Appeal, Fourth District)



(back row, left to right) Jacqueline Carey Wilson, Lisa Visingardi, Patricia Cisneros; (front row, left to right) Donna Carlson, Theresa Han Savage, Irena Leigh Norton



(left to right) Lisa Visingardi and Mike Vahl; Patricia and David Cisneros; Theresa, Andrew and Phil Han Savage; Irena and Mitchell Norton



Michelle Ouellette (RCBA Immediate Past President), State Bar President James Heiting (RCBA President, 1996) and Theresa Han Savage



Barristers Officers: Charles Boylston, Christopher Peterson, Robyn Beilin-Lewis and John Higginbotham



Wilfred Schneider (SBCBA President), Penny Alexander-Kelley (SBCBA President-Elect) and Daniel Katz



Carole Ward, Justice Betty Richli and Donna Carlson

by Richard Brent Reed

Blight Spirit

The elimination of blight has long been recognized as a valid police power of a state, county, or municipality. See *Berman v. Parker*, 348 U.S. 26, 75 S.Ct. 98, 99 L.Ed. 27 (1954). The Supreme Court held in Chicago, *B. & Q.R. Co. v. Chicago*, 166 U.S. 226, 233-235, 17 S.Ct. 581, 41 L.Ed. 979 (1897) that merely following some prescribed procedure did not mean that the requirements of due process were met, since the Due Process Clause regulates both the form and substance of a taking.

With the recent ruling in *Kelo v. City of New London*, ___ U.S. ___, 125 S.Ct. 2655, 162 L.Ed.2d 439 (2005), the Supreme Court abdicated its duty to protect property rights and fobbed the responsibility off on the several states. This quickened the naturally acquisitive spirit of municipalities and emboldened civic officials to grab land while the grabbing is good. Everywhere they look, now, they see blight. No longer must a house be run-down, nor a building rat-infested, nor a vacant field drenched in toxic waste to qualify as blight. Now, in the wake of *Kelo*, any economically depressed neighborhood – like the one in New London – may be condemned. Even an underachieving business enterprise qualifies, even though no one's health, safety, or welfare is being threatened. For example, a productive, popular indoor shopping center can be deemed a "blight" just because it doesn't draw teeming hordes like the outlet mall in the next county or simply because it doesn't sport the trendy architecture and quaint facades of the outdoor complex down the freeway. It's condemnation under the Downtown Disney Doctrine.

To enter the world of eminent domain is to pass through the looking glass into a dimension where "public use" means any conceivable, semi-public use and "blight" means pretty much whatever you want it to mean. Like Lewis Carroll's Humpty Dumpty, ambitious bureaucrats muse to themselves, "Which is to be the master: you or the word?"

Outrage against the *Kelo* decision is sweeping the country and uniting political polarities. Public officials everywhere see a popular uprising against promiscuous redevelopment on the horizon; they

see property-friendly legislation coming down the road; they see their last chance to seize private property receding. Civic leaders across the country see the last train to eminent domain leaving the station; they see blight at the end of the tunnel.

Dwarf Tossing

The pub sport of dwarf tossing is a competition between two or more usually burly, usually drunk, usually men to see who can throw a dwarf the farthest. The tossee is clad with a helmet, a padded harness, and handles. France banned dwarf tossing in the 1990's. As a result, professional projectiles like Manuel Wackenheim lost their livelihood. In 1995, Mr. Wackenheim, all 3'10" (1.14 meters) of him, took his case before France's *highest* administrative court, which held that Mr. Wackenheim's chosen profession was contrary to human dignity. He appealed his case to the United Nations. On Friday, September 23, 2005, the U.N.'s Human Rights Committee ruled that the ban should be upheld to protect public order and considerations of human dignity, that the ban did not amount to prohibited discrimination, and that the ban on dwarf tossing was not abuse, but necessary in order to protect public order, including "considerations of human dignity." In short, Wackenheim lost.

In 1989, Florida passed a law against dwarf tossing, even defining dwarfism as a condition resulting in people of disproportionate size. The Florida law, though untested in the courts, is clearly violative of the Constitution's penumbral right allowing two consenting adults to do whatever they want in the privacy of their own public saloon. As a restriction on diminutive people, the Florida law impairs their freedom to contract – into a ball – and thus violates the Equal Protection Clause. The statute "protects" dwarves and, possibly, midgets, but would not apply to others like Gary Coleman or David Spade. Until the prohibition against being tossed extends to all Americans, no one is safe – unless you're under four feet tall.

Richard Reed, a member of the Bar Publications Committee, is a sole practitioner in Riverside



by Gayle Webb

It's That Time of Year Again

The holiday season and all its festivities (and eating!) are beginning once again, and the Board of Law Library Trustees, the staff and I wish you and your family good health, good times and good memories.

We want to express our gratitude to the generous donors who gave us books, cash and other items this past year. Whether these items are added to our collection or used in our exchange and resale programs, gifts serve as a positive and personal way to help the Law Library carry out its mission.

During fiscal year 2004-2005, the Law Library received donations valued at approximately \$5,000; some replaced battered copies in the library and others brought in \$2,911 in sales. A big thank you goes to:

Curtis Aldenifer (La Quinta)	Victor Miceli (Riverside)
Peter Amschel (Hemet)	Susan Lindsey Nash (Nuevo)
California Rehabilitation Center (Norco)	
Riverside County Board of Supervisors	
Lazaro E. Fernandez (Riverside)	Jeanne Saperstein (Piedmont)
John W. Holcomb (Riverside)	Peter Scalisi (Riverside)
Bernard and Linda Lewis (Del Mar)	Mary Willmon (Riverside)

This time of year also forces us to think about things we *don't* want to celebrate, such as paying income and business taxes. If you find yourself needing a few more deductions, *please remember that donations to the Riverside County Law Library are tax-deductible according to IRS Code section 170(c).* Your contribution or gift will benefit programs and projects at the Law Library and your tax liability. We would love to have you consider the Law Library as part of your year-end tax planning! Your generosity is greatly appreciated.

The Law Libraries will be closed to observe the following holidays:
Thursday, Nov. 24 - Sunday, Nov.27
(Thanksgiving)
Monday, Dec. 26 (Christmas)

Gayle Webb is the County Law Library Director.



by Mark A. Mellor

Court may not “correct” arbitrator’s award for legal or factual errors.

Code of Civil Procedure section 1286 empowers the trial court to correct an arbitration award where the arbitrator exceeded his or her powers. But, as long as an issue is within the scope of the arbitration, arbitrators do not “exceed their powers” so as to entitle the losing party to have the court “correct” the award. Therefore, where the arbitrator awarded attorney fees in erroneous reliance on a statute, the trial court could not “correct” the award on the basis that the arbitrator exceeded his powers in making the award. *Taylor v. Van-Catlin Construction* (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690, 2005 DJDAR 7983] [Sixth Dist.].

No relief from untimely request for trial de novo after fee arbitration.

After a lawyer sued a client for fees, the client demanded that the dispute be arbitrated under the provisions of the mandatory fee arbitration act (Bus. & Prof. Code, § 6200 et seq.). The client lost in the arbitration. Under the act, a losing client is entitled to a trial de novo by requesting such a trial within 30 days after issuance of the arbitration award. Because of miscommunication between the client’s lawyer and the lawyer’s secretary, the request for trial de novo was filed a week late. The California Supreme Court held that Code of Civil Procedure section 473, subdivision (b), which provides relief from defaults entered because of “mistake, inadvertence, surprise, or excusable neglect,” did not apply and affirmed the trial court’s denial of the relief sought. *Maynard v. Brandon* (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558, 2005 DJDAR 8338].

Traps for the unwary: motion for reconsideration may not extend time for appeal.

Appeals from post-judgment orders must be filed within the time limits for appeals generally. This time starts to run when the minute order reflecting the ruling is entered, *unless* this minute order reflects that the court ordered preparation of a formal order. In the latter situation, time starts to run from the entry of the formal order. (Cal. Rules of Court, rule 2.) Although the filing of a motion for reconsideration may extend these time limits, this is true only if that motion is heard and decided

before the time has run to appeal from the original order. Once the time for appeal has run on the original order, it cannot be revived by the subsequent ruling on the motion for reconsideration. *Annette F. v. Sharon S.* (2005) 130 Cal.App.4th 1448 [30 Cal.Rptr.3d 914, 2005 DJDAR 8380] [Fourth Dist, Div. One]. Cases are split on whether the ruling on the motion for reconsideration is itself appealable. See *In re Marriage of Burgard* (1999) 72 Cal.App.4th 74, 80-81 [84 Cal.Rptr.2d 739].

Even if licensed during part of the project, unlicensed contractor is not entitled to be paid.

The Contractors’ State License Law (Bus. & Prof. Code, § 7000 et seq.) prohibits contractors from maintaining any action to recover compensation for “the performance of any act or contract” unless they were duly licensed “at all times during the performance of any act or contract.” (Bus. & Prof. Code, § 7031(a).) Appellate decisions were inconsistent as to the effect of this provision where the contractor was licensed during part of the time of performance. The California Supreme Court has now made it clear that the statute means what it says.

The court reached the following conclusions: “(1) Where applicable, section 7031(a) bars a person from suing to recover compensation for *any* work he or she did under an agreement for services requiring a contractor’s license unless proper licensure was in place *at all times* during such contractual performance. (2) Section 7031(a) does not allow a contractor who was unlicensed at any time during contractual performance nonetheless to recover compensation for individual *acts* performed while he or she *was* duly licensed. (3) The statutory exception for substantial compliance is not available to a contractor who had not been duly licensed at some time *before beginning* performance under the contract. (4) However, if fully licensed at all times during contractual *performance*, a contractor is not barred from recovering compensation for the work solely because he or she was unlicensed when the contract was *executed*.” *MW Erectors, Inc. v. Niederhauser Ornamental etc., Inc.* (2005) 36 Cal.4th 412 [30 Cal.Rptr.3d 755, 2005 DJDAR 8415].

(continued on page 27)

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WHAT IS A VET?

He is the cop on the beat who spent six months in Saudi Arabia sweating two gallons a day and making sure the armored personnel carriers didn't run out of fuel.

He is the barroom loudmouth, dumber than five wooden planks, whose overgrown frat-boy behavior is outweighed a hundred times in the cosmic scales by four hours of exquisite bravery near the 38th parallel.

She – or he – is the nurse who fought against futility and went to sleep sobbing every night for two solid years in Da Nang.

He is the POW who went away one person and came back another – or didn't come back AT ALL.

He is the Quantico drill instructor who has never seen combat – but has saved countless lives by turning slouchy, no-account rednecks and gang members into Marines, and teaching them to watch each other's backs.

He is the parade-riding Legionnaire who pins on his ribbons and medals with a prosthetic hand.

He is the career quartermaster who watches the ribbons and medals pass him by.

He is the three anonymous heroes in the Tomb of the Unknowns, whose presence at the Arlington National Cemetery must forever preserve the memory of all the anonymous heroes whose valor dies unrecognized with them on the battlefield or in the ocean's sunless deep.

He is the old guy bagging groceries at the supermarket – palsied now and aggravatingly slow – who helped liberate a Nazi death camp and who wishes all day long that his wife were still alive to hold him when the nightmares come.

He is an ordinary and yet an extraordinary human being – a person who offered some of his life's most vital years in the service of his country, and who sacrificed his ambitions so others would not have to sacrifice theirs.

He is a soldier and a savior and a sword against the darkness, and he is nothing more than the finest, greatest testimony on behalf of the finest, greatest nation ever known. So remember, each time you see someone who has served our country, just lean over and say, "Thank you." That's all most people need, and in most cases it will mean more than any medals they could have been awarded or were awarded. Two little words that mean a lot, "THANK YOU."

Remember November 11th is Veterans Day. "It is the soldier, not the reporter, who has given us freedom of the press. It is the soldier, not the poet, who has given us freedom of speech. It is the soldier, not the campus organizer, who has given us the freedom to demonstrate. It is the soldier, who salutes the flag, who serves beneath the flag, and whose coffin is draped by the flag, who allows the protester to burn the flag."

– Father Denis Edward O'Brien, U.S.M.C.



Judicial Profile: Commissioner Matthew Perantoni *(continued from page 7)*

Mexico, Canada, pretty much the entire European continent, and even the Great Wall of China.

In 1991, when he was 30 years old, Commissioner Perantoni had the astonishing luck of witnessing one of the more stimulating and thought-provoking events in recent history, the failed coup d'état of the Soviet government. Upon hearing the news on the radio, he went down to the Russian parliament building, also known as the White House. There were all sorts of soldiers, tanks and guns controlling the crowds while the coup was in progress. It was thrilling to watch the Moscow populace during their time of change, and yet disconcerting not to know whether it would be possible to return home.

Commissioner Perantoni continues to travel, but now it's a little different; he travels with his children, and it's with their interests in mind that vacations are now planned. Earlier this year, his family went on their first cruise; they chose Alaska. Sometime next year, he's planning another cruise. This time, though, the influence is obvious: it'll be on the Big Red Boat – a Disney cruise, to the uninitiated. Of course, visiting Disney World will be an integral part of that trip.

He loves his children and everything he does is for them. Like most parents, his only interest is in their happiness and health. This has interjected only some very slight changes into his free time. He now has to attend dance/gymnastics classes, go to t-ball and soccer games, and be present at parent/teacher meetings, and of course he finally gets to frequent the long-awaited and eagerly anticipated Hillary Duff concerts. Prior to having children, he got to . . . well . . . do none of that.

A few other items to note about the Commissioner:

Has the Commissioner ever been married? No. Once there was a serious relationship with someone; however, she and he didn't work out. Who knows what lies on the horizon? His main focus right now is raising his children to become well-rounded individuals.

What are the Commissioner's favorite movies? Anything with Jack Nicholson.

What is the Commissioner's favorite music? The classic 1970's rock bands and musicians, such as Elton John, Aerosmith, Rolling Stones, Led Zeppelin, and Pink Floyd.

What is the Commissioner's favorite time of day? After dinner before the kids' bedtime. It's when he gets to spend the most quality time with his children.

What is the greatest problem the country faces today? Apathy.

I asked the Commissioner about his comfort level after about two months of being on the bench. "It has improved greatly," he responded. The majority of the trials have been with pro pers, including one with a pro per on one side and an attorney on the opposing side. Thus far, there have not been any trials with two attorneys.

So, in conclusion, if you want to please Commissioner Perantoni: be well-prepared, talk about his children (a lot), rave about *As Good as It Gets* but exuberantly claim that nothing beats *Easy Rider* or *The Shining*, and listen intently to the 1970's rock music playing in chambers. As for fly swatters, I'm sure that after reading this article, Commissioner Perantoni now owns one.

Diana Renteria practices family law in Riverside and San Bernardino Counties and is a board member of the Public Service Law Corporation of the Riverside County Bar Association, which provides legal assistance to low-income individuals.



MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective November 30, 2005.

Karin Watts Bazan –
Office of the County Counsel, Riverside

Glenn Beloian –
Office of the County Counsel, Riverside

Michelle P. Clack –
Office of the County Counsel, Riverside

Anna M. Deckert –
Office of the County Counsel, Riverside

Juan Dotson –
Office of the Public Defender, Riverside

Carole Nunes Fong –
Office of the County Counsel, Riverside

L. Alexandra Fong –
Office of the County Counsel, Riverside

Tanya Galvan –
Office of the County Counsel, Riverside

Dale Allen Gardner –
Office of the County Counsel, Riverside

Dorothy L. Honn –
Office of the County Counsel, Riverside

Ashkan “Ash” Hormozan –
Office of the County Counsel, Riverside

David H. K. Huff –
Office of the County Counsel, Riverside

Julie Koons Jarvi –
Office of the County Counsel, Riverside

Christian T. Kim –
Office of the County Counsel, Riverside

Neal R. Kipnis –
Office of the County Counsel, Riverside

Tawny Lieu –
Office of the County Counsel, Riverside

Stacy A. McCoy –
Office of the County Counsel, Riverside

Beauford “B. T.” Miller, Jr. – Office of the County Counsel, Riverside

Cynthia Morton – Office of the County Counsel, Riverside

Tiffany N. North – Office of the County Counsel, Riverside

Sean Phelan O’Brien – Sole Practitioner, La Quinta

Robert M. Pepper – Office of the County Counsel, Riverside

Carol Perez – Office of the County Counsel, Riverside

Phyllis G. Pollack - PGP Mediation

James L. Price – Law Offices of James L. Price, Moreno Valley

Joe S. Rank – Office of the County Counsel, Riverside

Patti F. Smith – Office of the County Counsel, Riverside

Eric Stopher – Office of the County Counsel, Riverside

Minh Tran – Office of the County Counsel, Riverside

Marsha L. Victor – Office of the County Counsel, Riverside

Don Williams (A) – Sunrise Group Private Investigations, Riverside

Gordon Woo – Office of the County Counsel, Riverside

(A) Designates Affiliate Member



Absent actual knowledge of threat, psychiatrists owe no duty of care to patient's victims.

Where psychiatrists lacked knowledge that their patient posed a threat of harm to others, they could not be liable to the patient's victims, and summary judgment in their favor was affirmed. *Calderon v. Glick* (2005) 131 Cal.App.4th 224 [31 Cal.Rptr.3d 707, 2005 DJDAR 8816] [Second Dist., Div. Six]. (The case also reiterates the rule that, unless a ruling on objections is obtained in the trial court, the objections are not considered on appeal.)

Businesses may not discriminate against registered domestic partners.

Holding that marital status claims are cognizable under the Unruh Civil Rights Act (Civ. Code, § 51), the California Supreme Court determined that a country club must extend the same privileges to registered domestic partners (see Fam. Code, § 297 et seq.) as it extends to married couples. *Koebke v. Bernardo Heights Country Club* (2005) 36 Cal.4th 824 [31 Cal.Rptr.3d 565, 115 P.3d 1212, 2005 DJDAR 9214]. The extension of the Unruh Act to registered domestic partners presumably is not limited to country clubs, but would apply to all businesses that give preferential treatment to married couples.

A pre-dispute waiver of the right to a jury trial is invalid.

In *Grafton Partners, L.P. v. Superior Court* (2005) 36 Cal.4th 944 [32 Cal.Rptr.3d 5, 116 P.3d 479, 2005 DJDAR 9387], the California Supreme Court ruled that pre-dispute contractual agreements to waive jury trial are not to be enforced. Only waivers as authorized by statute (see Code Civ. Proc., § 631) are consistent with article I, section 16 of the California Constitution. The court noted that since arbitration provisions are authorized by statute, they are not affected by the decision. In a concurring opinion, Justice Chin urged the legislature to amend the statute to authorize pre-dispute waivers of the right to a jury trial.

Courts are split on validity of a contractual provision requiring construction defect litigation to be conducted by a general reference.

Many residential purchase agreements between developers and buyers contain a clause providing that any civil action involving a dispute under the contract must be heard by a judicial referee. (Code Civ. Proc., §§ 638 through 645.1.) Such a reference differs from an arbitration in that the referee is required to follow the law, including the rules

of evidence, and must prepare findings that are reviewable on appeal in the same manner as a judgment by the trial court. The main differences between a reference and a superior court trial are that there is no jury trial and, if the parties can agree, they can designate the referee. (If they cannot agree, the court appoints the referee.)

One case had held such a provision to be unenforceable. *Pardee Construction Co. v. Superior Court* (2002) 100 Cal.App.4th 1081, 1086 [123 Cal.Rptr.2d 288] [Fourth Dist., Div. One]. Two other cases had reached a contrary result. (*Greenbriar Homes Communities, Inc. v. Superior Court* (2004) 117 Cal.App.4th 337, 345 [11 Cal.Rptr.3d 371] [Third Dist.]; *Woodside Homes of Cal., Inc. v. Superior Court* (2003) 107 Cal.App.4th 723, 736 [132 Cal.Rptr.2d 35] [Fourth Dist., Div. Two]. The Fifth Appellate District has now weighed in on the issue and held such a reference clause to be valid. *Trend Homes, Inc. v. Superior Court* (2005) 131 Cal.App.4th 950 [32 Cal.Rptr.3d 411, 2005 DJDAR 9339].

Note: Isn't such a pre-dispute agreement for a general reference, in effect, a pre-dispute waiver of the right to jury trial, which the California Supreme Court held to be invalid in *Grafton Partners, L.P. v. Superior Court* (see above)? In *Grafton*, the court pointed out that arbitration agreements are distinguishable from waivers of the right to jury trial in that they represent an agreement to avoid the judicial forum altogether. The same cannot be said of a reference agreement.

Lawyer is subject to discipline for appearing for a party without that party's consent.

Business and Professions Code section 6104 provides that "Corruptly or willfully and without authority appearing as attorney for a party to an action, or proceeding, constitutes a cause for disbarment or suspension." In *In re Marriage of Regan* (2005) ___ Cal. State Bar Ct. Rptr. ___ [2005 DJDAR 9572], the trial court issued a judgment requiring the lawyer as well as his clients to pay the other party's attorney fees. Even though the clients instructed the lawyer that they did not wish to appeal, the lawyer went ahead and appealed on their behalf as well as his own. The Review Department of the State Bar Court affirmed a two-year suspension.

Mark A. Mellor, Esq., is a partner of The Mellor Law Firm specializing in Real Estate and Business Litigation in the Inland Empire.



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There Ain't No Money in Pro Bono (continued from page 13)

legals. I escort the family back to the lobby. They must wait there for their papers. I wish them luck.

I go back to the blue papers stacked on the counter. As I call out the name of my next client, I glance at the big-little girl, still holding her two-year-old sister in her arms. It breaks my heart. She will be damaged by all this. I remember my own childhood as I lead my new clients back to the small RCBA office.

And so, even though I am immutably self-centered, for just one moment there was a resignation of myself; for just one moment, my left hand had no idea what my right hand was giving; and for just those rare moments, the lack of pay becomes a remunerative aspect of pro bono at the PSLC.

Kirby Combs is a sole practitioner in Temecula.



Calendar (continued from page 2)

14 Mock Trial Steering Committee
RCBA – Noon

EPPTL Section
BBK – Noon
MCLE

15 Annual RCBA/SBCBA General Membership Meeting

“State of the State Bar”
State Bar President, James O. Heiting

Mission Inn, Music Room
– 12:00-1:30 p.m.

MCLE

