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MAGAZINE

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Law Alliance Court Tour Program

Search for a Perfect System of
Public Education

"Get the Legal Facts of Life" from
the California State Bar

Law School Scholarships



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

SEPTEMBER

- 20 Family Law Section**
"Transactional Issues"
RCBA, 3rd Floor – Noon
MCLE
- 22 RCBA/Barristers Installation of Officers**
Mission Inn, Music Room – 5:30/6:30 p.m.
- 24 Riverside County Law Alliance 50th Anniversary Gala**
Mission Inn, Monterey Room – 6:00/7:00 p.m.
- 27 Pro Tem Judge Training**
"Family Law & Ethics"
Larson Justice Center – 1:30 p.m.-4:30 p.m.
MCLE
- 29 Jt. SBCBA/RCBA General Membership Meeting**
"Breaking the Glass Ceiling"
San Bernardino Hilton – Noon
MCLE

OCTOBER 2005

- 4 Environmental & Land Use Law Section**
"Emergency Response Plans"
At Gresham Savage, 550 E. Hospitality Lane
San Bernardino – Noon
MCLE
- 5 Bar Publications Committee**
RCBA – Noon
- 5 Court of Appeal Celebrates Justice Ward's Career**
Court of Appeal – 4:00 p.m.
Reception Immediately Following
- 10 HOLIDAY**
- 11 PSLC Board**
RCBA – Noon
- 11 RCBA/SBCBA Landlord/Tenant Law Section**
El Sarape Restaurant – 6:00 p.m.
MCLE
- 12 Mock Trial Steering Committee**
RCBA – Noon
- 14 Jt. RCBA/PSLC General Membership Meeting**
RCBA, 3rd Floor – Noon
MCLE
- 18 Family Law Section**
RCBA, 3rd Floor – Noon
MCLE
- 21 RCBA 3rd Annual Golf Tournament**
Canyon Crest Country Club –
8 a.m.-4 p.m.



by Theresa Han Savage

It was a warm and humid evening on July 5, 1974. I was just seven and a half years old. My family and I walked off an airplane in Guam. That day, we left behind our lives in Korea to venture into our new lives as immigrants. Who would have thought that – 31 years later – I would be sworn in as president of a bar association? It is with great honor and excitement that I embark on this year of service to the Bar. Thank you for giving me this opportunity.

As many of you know, I have served on the RCBA Board for over seven years – as Barristers President, Director-at-Large, Secretary, Chief Financial Officer, Vice-President, and President-Elect. During my tenure on the Board, I have had the opportunity to serve under many past Presidents – Diane Roth, John Vineyard, Craig Riemer, Dan Buchanan, Brian Percy, Mary Ellen Daniels, and most recently, Michelle Ouellette. (Did you know that we have had three female presidents in the last seven years?) I want to thank each of them for their leadership and dedication to the Board. They have taught me much. I especially want to thank our most recent past President, Michelle, for her hard work. She is the model of an effective and efficient leader.

What I have learned during my tenure on the Board is basic – the foundation for a strong organization is financial health. The Bar struggled with its finances during my first two to three years on the Board. Therefore, most of our resources were spent on figuring out how to stabilize the Bar's finances. Through the hard work of the past presidents and others on the Board, we were able to achieve financial stability. Only then were we able to achieve our goals.

For example, this year, we were able to support the Family Law Court by contributing \$4,000 to its drug testing program, when the original funding

for this program was no longer available. We hope that we can continue to support worthwhile causes in our legal community. We can do so only if the Bar maintains its financial strength. As a result, my goal is to establish a reserve for the Bar, so that the Bar can operate for up to three months in the event of an unforeseen event or tragedy. Obviously, we will be unable to fund the entire three-month reserve this coming year; however, we can get a good start. Although this goal may not sound exciting, I know that through financial stability, the future of the RCBA can be assured.

I look forward to this coming year because of the great board members with whom I will be serving – David Bristow, Dan Hantman, Aurora Hughes, Janet Nakada, Harry Histen, John Brown, Harlan Kistler, Dan Katz, and Robyn Beilin. I want to thank our outgoing board member, Jay Orr. Jay has provided invaluable assistance to the Board the last couple of years. Jay has promised to stay involved; I look forward to his continued involvement in organizing the golf tournament and efforts toward reviving the Criminal Law Section.

This is also going to be a very exciting year because a past president of the RCBA was sworn in as the State Bar President on September 10 – our very own Jim Heiting. We are so proud of him. In Jim's honor, the RCBA is planning a big celebration this fall – date and place to be announced. Please join us in congratulating him.

Now, turning to this month's theme for the *Riverside Lawyer* – education. As lawyers, we all know the value of education. Not only did we finish our undergraduate degree, we embarked on an additional three-year journey through law school because we knew that we would be rewarded with a juris doctorate in the future. Unfortunately, many children in the United States – and even in our own community – have limited opportunities. As financial strength is the cornerstone for an organization's effectiveness, education is the foundation for an individual's success. As lawyers, we should support programs that promote education. The Bar, through the volunteer efforts of its members, strongly supports the Mock Trial Program. We can help in other ways: helping out at our children's schools, supporting our local libraries, supporting local organizations – such as the YWCA – that provide educational programs to our youth. We can help by volunteering our time, or if we are too busy with work, family, etc., by writing a check. Try to do one thing *this* month that you can say helped to promote education. If you need help thinking of what to do, please call me and I can help!

I want to commend the editors, Jacqueline Carey-Wilson and Mike Bazzo, and the members of the Bar Publications Committee for putting together our monthly *Riverside Lawyer*. I look forward to receiving and enjoy reading my copy each month, and I recognize that it is a labor of love. Thank you for your continued hard work and dedication to the Bar.

(continued on page 24)

CURRENT AFFAIRS: CHISELED IN STONE

by Richard Brent Reed

“Thou shalt have no other gods before me.” — Jehovah

“Thou shalt not display the Ten Commandments.” — Souter

Pursuant to an order of the legislative bodies of McCreary and Pulaski Counties, Kentucky, those counties' courthouses posted big, poster-sized copies of the Ten Commandments on their walls. The ACLU sued to enjoin the displays as violating the Establishment Clause of the First Amendment. Subsequently, each county flanked the Decalogue with the Star-Spangled Banner on one side and the Declaration of Independence on the other, thus hoping to satisfy the Reindeer Doctrine¹. The matter was brought before the United States Supreme Court in *McCreary County, Kentucky v. American Civil Liberties Union of Kentucky* (2005) ___ U.S. ___ [125 S.Ct. 2722].

Justice Souter, writing the majority opinion, was unimpressed by Pulaski County's attempt to sanitize Moses by diluting him with Francis Scott Key and Thomas Jefferson. “Despite the intuitive importance of official purpose to the realization of Establishment Clause values, the Counties ask us to abandon *Lemon's* purpose test [see the three-pronged test in *Lemon v. Kurtzman* (1971) 403 U.S. 602], or at least to truncate any enquiry into purpose here. Their first argument is that the very consideration of purpose is deceptive: according to them, true ‘purpose’ is unknowable and its search merely an excuse for courts to act selectively and unpredictably in picking out evidence of subjective intent. The assertions are as seismic as they are unconvincing.”

Despite the seismic nature of these tectonic arguments, Justice Souter remained unmoved: “Examination of purpose is a staple of statutory interpretation that makes up the daily fare of every appellate court in the country.” (Imprudently, Pulaski County had removed any doubt as to their legislative intent by declaring that Jesus Christ was the “Prince of Ethics.”) Justice Souter went on to

write, “With enquiries into purpose this common, if they were nothing but hunts for mares' nests [e.g.: snarks, hen's teeth, submarine races, or the ever-elusive *ignis fatuus*] deflecting attention from bare judicial will, the whole notion of purpose in law would have dropped into disrepute long ago.” Thus, the court's majority decided that posting the Decalogue in a courthouse was just too much of an endorsement of religion.

In the same session, the Supreme Court decided the Texas case *Van Orden v. Perry* (2005) ___ U.S. ___ [125 S.Ct. 2854], in which a transient Texas attorney was offended by a forty-year-old monument (erected on the lawn of the capitol in Austin by the Fraternal Order of Eagles in 1961) emblazoned with the Ten Commandments. The landmark decision in *Stone v. Graham* (1980) 449 U.S. 39 had held that a Kentucky statute requiring the posting of the Decalogue in public schoolrooms was unconstitutional, since the Establishment Clause was, evidently, designed to protect impressionable school children from Old Testament rhetoric. However, the plurality opinion in *Van Orden*, written by Chief Justice Rehnquist and joined by Justices Scalia, Thomas, and Kennedy, declined to extend such protection to the Texas legislative chambers or to the capitol grounds, presuming Texas legislators to be susceptible to biblical admonitions. In contrast to the mounted posters in the Kentucky courthouses, the Texas outdoor monolith was deemed to be “a far more passive use” of the Decalogue.

So, the Texas monument stays, the Kentucky plaques must go. The two decisions, taken together, suggest a corollary to the Reindeer Doctrine – the Lawn Doctrine: the place for the Ten Commandments is not in a public building, but out on the grass. If you want to discuss religion, take it outside.

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



¹ The Reindeer Doctrine states that a municipality may erect a manger scene at Christmas time as long as it is surrounded by elves, snowmen, and reindeer.

JUDICIAL PROFILE: HON. JUDITH CLARK

by Donna Thierbach

Judge Judith Clark graduated from Metropolitan State College in Denver with a major in Criminal Justice and a minor in Addictions. After graduation, she worked for Vision Quest in Arizona and then as a Juvenile Treatment Counselor in Denver. Although the work was interesting, she felt the need for something a little faster paced and she had become interested in the law after going to court with the minors from the facility.

Judge Clark began law school at the University of San Diego School of Law with an eye toward pursuing international corporate law. In the fall of her second year of law school, Judge Clark participated in a criminal law moot court competition. The issue was the legality of using two juries. She won the competition (also winning the award for writing the best brief for the defense) and Justice Huffman of the Court of Appeal suggested she think about a career as a district attorney. The following summer, she clerked for the Los Angeles District Attorney's office, presenting two trials and numerous preliminary hearings. After that, she was hooked on criminal law.

Needless to say, when she graduated from law school, Judge Clark decided to apply at a district attorney's office. She select-

ed the Riverside County District Attorney's Office, because at that time it was a small office and she saw a lot of opportunity. Of course, this also allowed her and her husband to split the commute between Riverside and San Diego by living in the Temecula area.

When Judge Clark started, there were about ten other female attorneys in the Riverside County District Attorney's Office. Interestingly, almost half of them are now judges. She said this was her "first and only" job as a lawyer. While working for the office, she specialized in prosecuting sexual assault, child abuse and career criminal cases. She also supervised the Hemet and Banning branch offices and helped establish the Adult Sexual Assault Unit. Her last assignment was supervising the Training, Writs and Appeals and Asset Forfeiture Divisions. (As an aside, just before I left the Public Defender's Office, I did my last trial with Judge Clark as opposing counsel. Even though my client was convicted, I always appreciated her sense of justice, calm demeanor and professionalism.)

Judge Clark was appointed to the bench in May 2005 and is currently assigned to criminal trials in the Southwest Justice Center in Murrieta. The moot court competition in law school proved beneficial in that her second trial had two juries. She



Judge Clark with her parents Don & Joan Crandall of Aurora, Colorado



Being sworn-in by Justice Tom Hollenhorst

said she loves being a judge and "Justice is very important to me." She likes the idea of determining what evidence is admissible and what the appropriate sentence should be after balancing all the relevant factors.

Judge Clark's husband is now retired. They enjoy camping and are very active in scouting with their two children. She spends her free time scrapbooking and helping her children with homework. (Maybe this article will make its way into a scrapbook!)

Donna Thierbach is formally a deputy public defender with Riverside County and is currently the assistance director of the adult division of the Riverside County Probation Department.



OPPOSING COUNSEL: JACK B. CLARKE, JR.

by William A. Diedrich

Jack B. Clarke, Jr. first gained an affinity for the law from his father, former Riverside City Councilman Jack B. Clarke, Sr. Mr. Clarke, Sr. lived for a significant period of his life in an era of legal segregation and viewed the law as a vehicle for equality and opportunity. Jack, Jr. remembers that his father would not say “the law”; he would say “THE L-A-W,” to underscore the importance of the word and what it stood for.

While Jack was a student at the University of California at Riverside, he decided that the law might be a good career for him. Jack’s decision was a practical one, as he believed that the law would provide him with career flexibility. However, before he began his legal career, Jack became a youth counselor at the California Youth Authority Training School in Chino, California. Eventually, Jack went to McGeorge School of Law and earned a law degree in 1985.

Jack didn’t have any lawyers in his family, so he asked his mother if she knew of any attorneys from whom he could seek career advice. His mother told him to contact the

late Nathaniel Colley, a highly regarded Sacramento attorney who attended the Tuskegee Institute (now Tuskegee University) at the same time as Mrs. Clarke. Jack contacted Mr. Colley and asked him where he thought a young lawyer should practice law. Mr. Colley advised Jack to try Fresno. Mr. Colley explained that Fresno had enough business for a new attorney, that it was a place that would certainly grow, and that if a person wanted to, he or she could also get involved in the community much more easily than in a large metropolitan area. Jack thought that description also fit Riverside. He returned to Riverside and joined Best Best & Krieger LLP as an associate in the civil litigation department.



Jack B. Clarke, Jr.

Jack began his legal career as a civil litigator, representing private parties and public agencies. While he still represents private parties and several public agencies, Jack has developed an expertise in representing school districts in hearings regarding the education of students with disabilities under the Individuals with Disabilities Education Act or “IDEA.” Jack comments on his field of practice, “I enjoy the intellectual challenges that this area of the law presents, although I have come to question whether using essentially a courtroom format of resolving disagreements regarding a child’s educational needs is really in our best societal interest. I think perhaps other ways of resolving such disagreements should be explored.”

Jack also learned from his father and mother the importance of being involved in the community. After joining the ranks of Best Best & Krieger, he followed the example of other attorneys and leaders, such as Arthur Littleworth and retired Judge Charlie Field, and became active in the community. He is a past Chair of the Board of Directors of the Greater Riverside Chambers of Commerce. He currently serves as President-Elect on the University of California at Riverside Alumni Board of Directors. He is also a member and past President of the Raincross Club of Riverside and a past President of the African-American Attorneys’ Association of the Inland Empire. Jack was recognized as Citizen of the Year by the Greater Riverside Chambers of Commerce in 2003. He is also an alumnus of the Leadership Riverside Class of 1987 and was inducted into the University of California at Riverside Athletic Hall of Fame in 1986.

Jack is also devoted to his wife Sheila Goens Clarke, daughter Chynna (age 8) and son Jack Clarke III (age 5), whose resemblance to his father goes beyond that of name alone! Jack is a fan of jazz music, and is also an enthusiastic, if rather old, student of traditional martial arts.

William A. Diedrich is an Associate in the Riverside office of Best Best & Krieger LLP, where he practices in the areas of School Law and Litigation.



by Gayle Webb

HAVE YOU HEARD . . . ?

Have you heard that starting Tuesday, September 6th, the Law Library in Riverside will open at **7:30 a.m.** on Monday through Thursday, to give attorneys an opportunity for last-minute research before heading over to the courts? We know our reduced hours due to budgetary difficulties have impacted all of our patrons. As a response, some of our staff members who work earlier shifts suggested opening up when they are already here, with no additional cost to the library. While we think this is a great idea, we will need to see if YOU think it is, so this earlier accessibility will be on a trial basis for the rest of 2005. No, unfortunately, we will not be serving (or allowing) coffee!

Hours of Operation (Sept.-Dec. 2005):

Monday-Thursday 7:30 a.m. – 7 p.m.

Friday 8 a.m. – 5 p.m.

Saturday 9 a.m. – 1 p.m.

Have you heard that both the Riverside and Indio Law Libraries offer you FREE access to Westlaw? Because of a very special program offered by Thomson/West to California county law libraries, we are able to offer you a vast number of West databases at absolutely no cost to you, unless, of course, you want to make print copies. In addition to accessing all state and federal annotated cases, codes, and attorney-general opinions, you now have online access to all the Rutter Guides, Transactions Forms, and California Business, Civil Litigation, Family, Real Estate and Workers Compensation Libraries. There are also Construction Law, Municipal Law, and Social Security Libraries, as well as Norton on Bankruptcy, Mertens on Taxation, the Restatements, Wright and Miller on Federal Procedure, Forms and much more. Did I mention you get all this for FREE?!

Have you heard that the Law Library will be moving to a new location in Riverside? Don't hold your breath, as that will not happen until most of us are on Social Security! Yes, we are part of the County's Master Plan for Downtown Riverside and our current location and adjacent parking lot appear to be planned for something other than a law library. And yes, if we have any choice in the matter, we would prefer to be closer to the Superior Courthouse. According to the Business and Professions Code section, the County must provide adequate space for us, so we're just waiting to see what happens.



by Mark A. Mellor

New two-year statute of limitations for personal injuries applies to actions not already time-barred by prior one-year statute. By legislation effective January 1, 2003, the statute of limitations for actions for personal injury was increased from one to two years. *Krupnick v. Duke Energy Morro Bay, L.L.C.* (2004) 115 Cal.App.4th 1026 [9 Cal.Rptr.3d 767] held that the amended statute could not be applied to revive claims that had already lapsed. But *Andonagui v. May Dept. Stores Co.* (2005) 128 Cal.App.4th 435 [27 Cal.Rptr.3d 145, 2005 DJDAR 4229] [Second Dist., Div. Five] held that where the one-year statute had not already run on the effective date of the amended statute, the two-year statute of limitations applied.

After a grant of summary judgment, motion for reconsideration is improper but may be treated as motion for a new trial. Code of Civil Procedure section 1008, subdivision (a) provides that after a trial court issues an order, the losing party may ask the court to reconsider its

decision if certain conditions are met. But such a motion may not be considered after entry of judgment. (See *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 859 [107 Cal.Rptr.2d 841, 24 P.3d 493].) Thus, the motion is improper after a summary judgment has been entered. Rather, the proper procedure to seek reconsideration is to move for a new trial. However, the court has discretion to treat an improper motion for reconsideration after summary judgment has been entered as a motion for a new trial. (*Sole Energy Co. v. Petrominerals Corp.* (2005) 128 Cal.App.4th 212 [26 Cal.Rptr.3d 798, 2005 DJDAR 4042] [Fourth Dist., Div. Three].)

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



THE NINTH (SHORT)-CIRCUIT COURT OF APPEALS

by Richard D. Ackerman

Yesterday [June 17, 2005], I had the pleasure of attending our local Riverside County Bar Association's general membership meeting at the historic Mission Inn in Riverside, California. The salmon and the crême brûlée were fantastic, but the salmon wasn't the only thing fishy in the room. For entertainment, we were provided with a lecture entitled "A View from the Top: Perspectives from the U.S. Court of Appeal 9th Circuit" from Judges Alex Kozinski (conservative) and Stephen Reinhardt (liberal) of the Ninth Circuit. In the introductions, we were duly reminded that Judge Kozinski was a Reagan appointee and that Reinhardt was a Carter appointee. Naturally, I expected a rousing debate between the two about the travails of the Constitution in contemporary society.

For those who may not remember, Judge Reinhardt joined in the Ninth Circuit opinion that found the Pledge of Allegiance to be unconstitutional. It may also be noteworthy that this same judge was married

to Ramona Ripston, the former Executive Director of the American Civil Liberties Union, at the time he wrote this highly controversial opinion.

From Judge Reinhardt's perspective, most of his portion of the seminar was focused on his dismay at the fact that certain members of society seemed to believe that there are "activist judges," that there are public claims of a lack of objectivity on the bench, and that there was any distrust at all of the federal judiciary. He claimed that the judiciary is the most trusted branch of government, according to polls, and that the idea of splitting the Ninth Circuit was the brainchild of some "loser" attorney in the Northwest. We were even told that it was his strong position that the Ninth Circuit is actually moderate to slightly conservative. Finally, we were all reminded that the Ninth Circuit is essentially in lockstep with the public, but that bad Supreme Court appointments

by President Bush and his ilk could destroy civil liberties as we know them.

While my blood pressure had certainly risen dramatically in the 40 minutes or so Judge Reinhardt spoke, I really hit the ceiling when "our guy" spoke. Judge Kozinski went on for some time about how stupid Congress was for stepping on the judiciary's toes in the Schiavo case, and even went on to say that fighting for a reversal of *Roe v. Wade* could be one of the dumbest things the Republican Party could ever do. While one could certainly think that this was provocative in some philosophical way, what he said after that was what really turned my stomach while enjoying an otherwise good meal.

Kozinski wrapped up his 30-minute presentation by indicating that, even if there were a new majority on the Supreme Court that overturned *Roe v. Wade*, recent affirmative action decisions, and privacy rights for homosexuals, our society would not really change in any meaningful way. Society would just keep going the way it is. He indicated that it was unlikely that new affirmative action programs would be instituted, that laws against sodomy would be reinstated or that abortion would be outlawed by the states. While some of the final conclusion might be true because of the general apathy of citizens, the suggestion that these decisions have no real bearing on society is disheartening and demonstrates a complete disregard for Ronald Reagan's optimistic views on the sanctity of life and what that means to all of us.

I left wondering how it could be that fighting for the life of an unborn child through the law could somehow mean the destruction of the Republican Party. Is this to say that most people really do support the idea of surgically dismem-

bering a living child in the interest of a mother who simply doesn't want the child? Or rather, is a culture of life so far removed from what society considers normal that the Republican Party should just support abortion at will? I do really want to believe that the judges who are "on our side" see the value of applying the Constitution in a way that demands that all of us who were created equal by our Maker be accorded a certain level of sanctity. While we may each have an equal opportunity to lose our sanctity and rights by engaging in crime or being lazy in our personal adherence to constitutional postulates, I am fairly certain that we shouldn't be condoning a Supreme Court view of the world that says we don't even come into the world with the untainted value of being a human being.

With respect to the issue of affirmative action, are we really to presuppose the Supreme Court's views on this issue have no bearing on our lives? For anyone who has been denied a job opportunity because of his race, the answer should be obvious. The Supreme Court does indeed set standards that have an everyday bearing on the lives of us who live under the rule of these men and women in black robes.

I was rather taken aback by the repeated references to the affirmative action issue by both judges, since I am still waiting for the Ninth Circuit to issue its final opinion in the matter of Friery v. Los Angeles Unified School District, a case I had argued before the Ninth Circuit years ago. In this case, the Los Angeles Unified School District admitted that it refused to accept a transfer application for a Van Nuys High School teacher because he was of the "wrong ethnic origin." Yes, that's right. The LAUSD actually admitted this was the reason for denying an application, and the Ninth Circuit mentioned the incredible admission in an earlier published opinion in this case. Of course, the only problem is that Mr. Friery is "white" – so I guess the Ninth Circuit just doesn't know what to do with the case, since they might have to find that all racism is wrong.

Finally, on the issue of homosexual rights, I cannot believe a Reagan appointee would conclude that what the Supreme

Court does with this issue will likely have no real impact on our daily lives. While the right of privacy is an important right, we do need to remember that it is not expressly set forth in the Constitution and is much a creature of progressive judicial thinking as was the decision in *Roe v. Wade*. While I can't say I give a whole lot of thought to what homosexuals are doing in the privacy of their own bedrooms, I can say that I really do care a lot about what "marriage" means and whether or not the spread of AIDS or other diseases could kill fellow members of society.

The ability to procreate is one of the most sanctified human characteristics that we possess. Through this act, we are given the opportunity to continue reflecting God's image in the world. This act, even from the most secular of viewpoints, derives from the union of a man and woman. The suggestion that placing this most basic element of our humanity on a par with sodomy is reprobate. The Supreme Court's conscious ignorance of the value of humanity's most essential elements is an invitation for complete disaster. One need only look back to the epic battles between Rome's Senate, reprobate emperors and her armies to see that principles always have an ultimate effect on the individual members of society and on history itself.

To the extent that we should place trust in the judiciary as the highest and final arbiter of these vital legal issues that dictate our most basic connections to each other and the State, I remain convinced that Supreme Court appointments matter enormously to the fulfillment of our American destiny. Democrats know this, and that is why they are

(continued on page 23)

LAW ALLIANCE COURT TOUR PROGRAM

by Janice Boyd

What better way for sixth-grade students to learn about our court system than a hands-on field trip experience involving a mock trial and viewing of an actual trial in progress in court? The students get involved in the mock trial and play all parts, including judge, jurors, attorneys, witnesses, and defendant, and also experience jury deliberations.

Riverside County Law Alliance, a non-profit service organization, is gearing up for the 35th year of our Court Tour Program, which runs from October 2005 to May 2006. Members of RCLA are primarily spouses of local judges and attorneys. Their program is offered to sixth graders in both public and private schools located in Riverside, on a first-come, first-served basis. In mid-September, the schools that wish to participate call in for the approximately 40 available court tours. The program is popular with the schools and there is often a waiting list.

This program started in 1971 under the vision and direction of the late Dottie Garst, Retired Judge Robert Garst's first wife. The initial tours were given to Grant School's fifth and sixth graders and St. Francis de Sales' eighth graders. Over the last 34 years, the program has expanded and, at last count, it included 1,345 court tours given by 117 volunteer guides to benefit 44,385 Riverside students. 46 public schools and 15 private schools have participated over the years in this worthwhile educational program.

For many students, this is their first contact with the judicial system. The program is divided into two parts, the orientation, which normally takes place the day before the field trip, and the actual field trip itself.

A Law Alliance guide, called an Orientator, visits the school classroom and presents a commentary and slide show giving the students an overview of the criminal justice system, including many of Riverside's courthouses. Students may ask questions and are usually quite excited about what they will see the following day.

On the actual field trip day, students arrive promptly at 9:30 a.m. at the Riverside County Bar Association building, dressed appropriately for court. Two other guides, a Narrator and a Projectionist, greet the students and escort them upstairs, where they begin the program, which includes a DVD entitled "Jury Duty." Everyone gets to be part of the mock trial experience. Students have been pre-selected by their teachers to play various parts in the mock trial and those without speaking parts become either

jurors or alternate jurors. The script is a criminal case in which the defendant, John Daniels, has been charged with both vandalism, a misdemeanor, and robbery, a felony. Fairmount Park in Riverside is the setting for the alleged crimes and the students enjoy acting out their parts. This script was updated and improved several years ago with the help of the District Attorney's office. After the trial ends, jury deliberations begin and the student jurors will attempt to reach a decision based on the evidence heard.

After the verdict is read, it is time to proceed to the Riverside Courthouse, usually in the Criminal Courts building, where another guide, called a Runner, has found an appropriate courtroom for the students to spend an hour observing a real trial or other court proceedings. The Runner is assisted that morning by the Court Clerk's office, which provides a court calendar schedule that is helpful in securing a courtroom. The students sit quietly in the audience as they watch the proceedings unfold. Often, a judge will dismiss for the noon recess a few minutes early, and the judge, and sometimes the attorneys, will spend time answering questions the students might have. This is always a highlight for the students and helps them to understand what they have observed in the courtroom.

Over the years we have received many thank-you notes from the students that reflect similar themes:

"I had a fantastic time during our court trip. I always wanted to see what a real court case would look like compared to the movie cases. And this trip inspired me to try and become a lawyer . . ."

"When I went to court that day I had a bunch of fun. This was my first time going into a real court room . . . I hope it's the last time I go to court too."

"Thank you for letting us come and learn how the court works. I also thank you for letting us talk to the judge and see a real case."

This program would not be possible without our dedicated volunteers as well as the support and assistance we receive from the Superior Court judges and their staff as well as the Riverside Unified School District and the Riverside County Bar Association. Thank you to each and every one of you. If anyone is interested in the Court Tour Program, please contact our Court Tour Chairperson, Christine Cahraman, or our Law Alliance President, Janice Boyd, through the RCBA. Together we can make a difference.



LAW SCHOOL SCHOLARSHIPS

by Jacqueline Carey-Wilson

In 1991, the Foundation of the State Bar of California began giving scholarships to California law school students who demonstrated a strong commitment to giving back to the community.

Today, the Foundation's Law School Scholarships are awarded to select law students who demonstrate financial need, are currently enrolled in a California law school, have a GPA of 2.5 or higher, and are in good standing during the academic year in which their Law School Scholarship Application is filed. Scholarships are awarded on a competitive basis, based on merit. Not all candidates will be awarded a scholarship.

The \$7,500 Exceptional Merit Scholarship is given to law students who demonstrate superior academic achievement and a sustained and extensive commitment to public/community service, often while overcoming serious personal hardships and obstacles. The Superior Merit Scholarship and Merit Scholarship, for \$5,000 and \$2,500, respectively, are given to law students whose

strong academic records and public/community service activities exceed those of the average student.

Since 1991, the Foundation has awarded more than \$1.8 million through its three Scholarship Programs. The Law School Scholarship has become the largest program, with more than 300 scholarships awarded to date.

As the cost of attending law school continues to rise, the Foundation is firmly committed to supporting future lawyers who have financial need and have demonstrated a strong commitment to nonprofit legal services and public/community service.

Law School Scholarships are awarded for the academic year beginning in the fall of the year in which the award is made. For more information on these scholarships, please visit the Foundation's web site at <http://www.foundationstatebarcal.org/programs/lawschool.html> or call (415) 856-0780.

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THE SEARCH FOR A PERFECT SYSTEM OF PUBLIC LEFT BEHIND ACT AND RESULTING LITIGATION

by William A. Diedrich

The Federal No Child Left Behind Act ("the NCLBA" or "the Act"), passed in 2002, is designed to increase the quality of education for all students. President Bush said of the Act, "these reforms express my deep belief in our public schools and their mission to build the mind and character of every child, from every background, in every part of America." The NCLBA has many powerful provisions, many of which are currently being challenged in the nation's courtrooms.

I. The Four Pillars of the No Child Left Behind Act.¹

According to the Federal Department of Education, the NCLBA stands on four pillars. The first is "Accountability for Results." To this end, the Act requires states to implement accountability systems for all public schools and students. These accountability systems include the creation of state academic standards and mandatory testing for all students in grades 3-8. The goal is for *all students* to reach state-determined "proficiency" within twelve years. Schools that cannot meet these state goals are marked for improvement, corrective action, or restructuring.

Along with state standards, the NCLBA requires that teachers and paraprofessionals be "highly qualified." By the end of the 2005-2006 school year, all teachers must:

- (1) Have a bachelor's degree;
- (2) Be fully certified, as defined by the state department of education;

¹ Information on the four pillars is taken from "Four Pillars of the NCLBA," United States Department of Education, at <http://www.ed.gov/nclb/overview/intro/4pillars.html>.

(3) Be able to demonstrate subject-area competence in any core subject taught.

The second pillar is "More Freedom for States and Communities." The Act gives school districts considerable flexibility in how they use federal funds.

The third pillar is "Proven Education Methods." This means that the Act requires schools to implement educational programs and practices that "have been proven effective through rigorous scientific research."

The fourth pillar is "More Choices for Parents and Students." If a school does not meet state standards for two consecutive years and is marked for improvement, corrective action, or restructuring, students attending that school must be permitted to transfer to another school within the district. The district must pay the costs of transporting these students.

If the school is persistently failing (three or more years), low-income students must be permitted to use federal funds to obtain "supplemental educational services," which includes private tutoring, after-school services, and summer school. Finally, students who attend a school considered "persistently dangerous," and students who are the victims of violent crimes at school, must be permitted to transfer to a safer school within their school district.

While the NCLBA's goals are commendable, perceived flaws in the Act have resulted in litigation throughout the nation.

II. Funding.

School District of the City of Pontiac v. Spellings, No. 2:05-CV-71535 (E.D. Mich.)

In April 2005, the Pontiac, Michigan school district, the National Education Association and others filed a federal lawsuit challenging the NCLBA. Essentially, the lawsuit contends that school districts are mandated by the NCLBA to implement new educational programs and to provide training to make teachers "highly qualified," but the funding behind the NCLBA is insufficient to implement these programs. The lawsuit estimates that funding for the NCLBA is several billion dollars less than what is necessary to implement all of the programs. The Department of Justice has filed a motion to dismiss the action, claiming that the plaintiffs lack standing and have ignored a provision of the law protecting districts from having to use state funds to implement federal programs.

Additionally, in July 2005, the Connecticut state legislature voted to support the efforts of the Connecticut attorney-general to pursue a similar lawsuit against the federal government.

III. State Standards/Accountability.

Coachella Valley Unified School District v. State of California, No. CPF-05-505334 (San Francisco Sup. Ct.)

EDUCATION: A BRIEF OVERVIEW OF THE NO CHILD

Board of Educ. of Ottawa Township High Sch. Dist. 140 v. U.S. Dept. of Education, No. 5-C-655 (N.D. Ill)

Closer to home, a number of California school districts, including the Coachella Valley Unified School District, have filed a lawsuit against the state of California, claiming that it is violating the NCLBA because it requires the testing in English of 1.6 million English learners (students who are not proficient in the English language) for accountability purposes before those students are English-proficient. The districts allege that this practice violates both the NCLBA and the California Constitution, which guarantees equity in public education to all students.

The NCLBA's mandate of state standards also affects special education. In Illinois, the Ottawa Township High School District challenged the NCLBA, alleging that the NCLBA state standards mandate conflicted with the provisions of the Individuals with Disabilities Education Act ("IDEA"). Unlike the NCLBA, the IDEA provides that each special education student's educational program be determined by an Individualized Education Program, making the two laws, in the eyes of the plaintiffs, inconsistent. However, on July 20, 2005, a federal court dismissed the case, holding that the District did not have legal standing and could not prove its case. The court held that the IDEA and the NCLBA are in fact not at odds, but rather are united in the purpose to improve student achievement. The judge wrote, "as federal defendants correctly note, nothing in the NCLB keeps school district plaintiffs from implementing changes that take into

account the [individualized education programs] of students with disabilities – and indeed, the text of both the NCLB and the IDEA suggest the exact opposite conclusion."

Educational standards are not the only NCLBA provision that affects special education. The NCLBA exempts only 2% of all students, those with severe handicaps and developmental delays, from its testing provisions. It is estimated, however, that approximately 10% of all students are eligible for special education. Consequently, the NCLBA requires mainstream testing of many special education students. This troubling gap could result in future litigation.

IV. Highly Qualified Teachers.

Californians for Justice Education Fund v. California Commission on Teacher Credentialing, No. CPF-05-505517 (San Francisco Sup. Ct.)

Some NCLBA lawsuits are actually against educators. On August 2, 2005, a California grassroots group, known as Californians for Justice, sued the California Commission on Teacher Credentialing. The Californians for Justice allege that the Commission wrongfully qualified instructors with emergency credentials who lacked adequate training and supervising as "highly qualified." The lawsuit also alleges that the wrongfully qualified instructors tend to be from schools in low-income and minority communities.

V. Future Litigation.

Not all of the NCLBA's provisions are immediately felt. For example,

the school choice provisions of the NCLBA permit students to transfer to a different school if the school they attend fails to meet state standards for two or three years. In the future, if schools fail to meet these standards and students take advantage of the opportunity to transfer, it is likely that more lawsuits will be filed challenging these provisions.

William A. Diedrich is an Associate in the Riverside office of Best Best & Krieger LLP, where he practices in the areas of School Law and Litigation.



"GET THE LEGAL FACTS OF LIFE" FROM THE CALIFORNIA STATE BAR

by Jacqueline Carey-Wilson

“G et the Legal Facts of Life” is a series of legal educational pamphlets published by the California State Bar on a variety of topics. The State Bar publishes the pamphlets and other publications, such as “When You Become 18,” to educate the public about the law. The pamphlets and other publications can be printed or ordered from the California State Bar website at <http://www.calbar.ca.gov>. The materials can also be obtained by calling the Consumer Education Pamphlet Hotline at 888-875-LAWS (5297). To order one pamphlet, send a self-addressed stamped envelope to The State Bar of California, Attn: Pamphlets, 180 Howard Street, San Francisco, CA 94105. If you want to order 2 to 99, the pamphlets are 50 cents each, and 100 is \$40.00. If you are a non-profit organization and you order 100, the cost is \$20. However, the pamphlets are free of charge to non-profit service providers serving low-income Californians.

“Get the Legal Facts of Life” Pamphlets:

1. How Can I Find and Hire the Right Lawyer?
2. What Should I Know If I Am Arrested?
3. What Should I Do If I Have an Auto Accident?
4. How Do I Use the Small Claims Court?
5. What Can I Do If I Can't Pay My Debts?
6. What Should I Know About Divorce and Custody?
7. Can the Law Help Protect Me from Domestic Violence?
8. What Should I Know Before I Rent?
9. What Should I Know Before I Sign?
10. What Should I Know Before I Buy a House?
11. Can the Client Security Fund Help You?
12. How Is Your Client Security Fund Request Handled?
13. What Should I Do If I Am a Crime Victim?
14. What Should I Know About Hate Crimes?
15. What Can I Do If I Have a Problem with My Lawyer?
16. Do I Need a Will?
17. Do I Need Estate Planning?
18. Do I Need a Living Trust?
19. What Are My Rights as an Employee?
20. What Can a Lawyer Referral Service Do for Me?
21. What Do I Need to Know About Serving on a Jury?

Other Publications:

- Seniors & the Law: A Guide for Maturing Californians
(For print copies: seniors@calbar.ca.gov)
- Kids & Law – An A-Z Guide for Parents
(For print copies: kids@calbar.ca.gov)
- Guide to Legal Literacy
(Available online only)
- When You Become 18
(For print copies: 18@calbar.ca.gov)
- The State Bar of California – What Does It Do, How Does It Work?
(Available online only)



RCBA PAST PRESIDENTS' DINNER – JUNE 9, 2005

Photographs courtesy of Edward Mackey and Sandra Leer



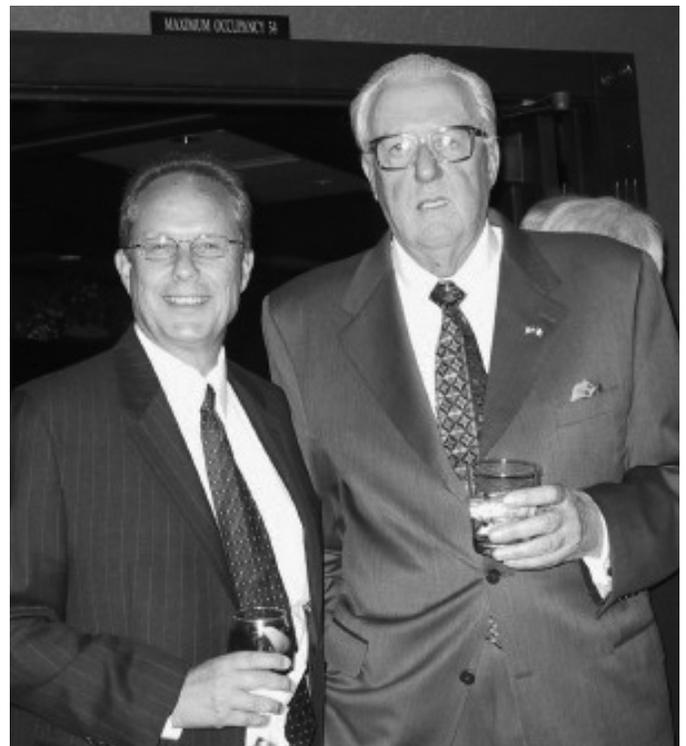
*Past Presidents Diane Roth (1998) and
Judge Craig Riemer (2000)*



Past Presidents Boyd Briskin (1986) and Richard Swan (1977)



*Past President Justice James Ward (1973) and
current President Theresa Han Savage*



*Past Presidents Steve Harmon (1995)
and Michael Clepper (1983)*



Past Presidents Justice James Ward (1973), Sandra Leer (1991), Judge Dallas Holmes (1982) and Judge Stephen Cunnison (1981)



Past Presidents Justice John Gabbert, Ret. (1949) and Judge Dallas Holmes (1982)



Judge William Sullivan, Ret. (Past President, 1968)



Past President James Heiting (1996) and Former Executive Director Louise Biddle



Past President Dan Buchanan (2001)

HUMOR: THE NEW BOARD À FAIRE

by Michael J. Cappelli

I have been deposing witnesses all over the country in the past six months. It seems like I've been on every airline and, despite their claims of novelty and innovation, they are still basically the same (particularly when you fly on the cheap like moi). I know many of you are in constant flight (for a variety of reasons which will not be commented on here). Nevertheless, in the event you have not traveled for some time, particularly alone, here are some of my latest discoveries and observations to make your flying experience bearable:

Check In: Get "E" tickets. No, not the ones you still have from Disneyland 40 years ago that got you on the kewl rides. Rather, paperless travel, with E tickets and boarding passes that you download from the airline web site, will save you a huge amount of time, even if you have to check luggage. The E tickets come with a bar code that you can slip into a computer at the terminal to check yourself in and also to obtain and/or change your seat assignment. I know many of us still distrust all the junk that comes over the net. Nevertheless, E tickets are true time-savers. Avoid "hard tickets," the kind you used to get "back in the day." You know, the ones that had all that crap printed on them, with perforated tear-off sections, and assorted hieroglyphics that no one could read (kind of like Ninth Circuit opinions). If you insist on these because you long for the way things used to be, just remember this equation: "back in

the day" = "back of the interminably long line." You will be in a line along with all other "problem passengers" who want to renegotiate every aspect of their flight plan with the sole attendant at this "problem counter." Expect delays of hours, weeks, months, perhaps even years.

Security: If you have a hard time taking off and putting on your shoes, wear thongs, sandals or slippers. It is absolutely guaranteed that if you wear any shoe that laces more than an inch above the ankle, it's coming off and your feet will be checked for everything from explosive residue to corns and bunions. I saw a couple of "bad ass" looking bikers with hip boots, chaps and other assorted paraphernalia attempt to clear security. By the time they were done removing all of their clothing, they looked more like two apostles than they did Hell's Angels. I just got back from Atlanta and St. Louis and must say that the security lines went really fast. They were heavily staffed and moved people through quickly. On the other hand, the lines at O'Hare in Chicago were so long that many people spontaneously combusted or melted into the floor like the wicked witch in *The Wizard of Oz*. There's not much you can do if things are moving slow. However, just as we follow the routine to get into the courthouse, get used to the routine at the airports, and don't take out your frustration on the security people; otherwise you, along with the apostles, complainers, and those bemoaning the system will find yourself in a "special room" where you will be dealing with the real Hell's Angels: security officers who have become experts in torture techniques, bad comedy (same as torture), absurd questions (same as the ones asked by your adversary in your last trial), and electronic gizmos (like the ones your kids have that you can't figure out). These peace officers also have some significant personality disorders and propensities to engage in government rhetoric, gamesmanship, and competition to see whom they can piss off and arrest (not to mention their body order, bad hair, halitosis and other loathsome diseases, which they display proudly as they get in your face).

Boarding the Aircraft: Is it just me, or are there too many “parents with small children” hanging out at airports? I swear – people are hiring midgets just to get to their seats early and fill up the overheads. *Caveat emptor aeronauticus* (flyer beware) of those people who put their unpacked wardrobes in the overheads and expect you to make sure your luggage doesn’t abut, touch or, through some chemical reaction or property of physics, cause clothing to wrinkle. Give me a break? If you don’t want your coat messed up, fly first class or pack it, pal! Don’t buckle up until your row is complete. It is virtually assured that you will be asked to move to a bad seat so the two bearded wrestling twins from Kentucky can sit next to the rest of their kin. Another caution, avoid sitting next to anyone with an iPod or other MP3 player. These people have no eardrums and, consequently, you can hear every selection of bad music known to man as it vibrates across your gray matter. Further, it is not uncommon for these people to play air guitar or the imaginary drums for 2,000 miles. Finally, no matter what the airlines tell you about their new seats with the extra legroom, don’t believe them. I can personally attest to the fact that big butts still require major-league cheek squeezing. Even though I can now buckle my seat belt without the extension, I am still inclined to fly in the fetal position to avoid invading the space of my neighbor (though the Kentuckians sitting next to me obviously didn’t give a rat’s ass when they poured themselves out of their overalls and tee shirts and into my coveted slot).

Luggage: The days of trying to jam the oversize carry-on or backpack into the overhead compartment are fading fast. If it doesn’t “fit in the box,” you better check it. Further, most airlines now have a 50-pound weight limitation for carry-ons. Regardless of the size, if it’s over 50 pounds, check it. Consequences: Flight attendants are getting extremely grumpy. It’s bad enough that they have to push a cart up and down the airplane aisles with the precision of a brain surgeon so as to avoid the overhanging torsos and limbs most of us aisle-sitters attempt to distribute into our perception of the “demilitarized zone” of the aircraft. Trust me, I know that your laptop weighs only 3.5 pounds. But

what the hell else have you put in the case it comes in? After pulling his laptop out and not being able to get his bag in the compartment, one guy was forced to check the bag. He went a little bit nuts over the inconvenience. On the other hand, who would have expected him to pack the hard-bound volumes of *The Complete Works of William Shakespeare*, along with a couple of gallons of Stoli, a couple of Big Macs, super-sized with fries, a year’s supply of assorted toiletries, three French hens, two turtle doves and the Partridge Family?

Entertainment: If you have a laptop, bring your own DVD. If you want to watch a movie on the jet, you’ll need to cough up some cash. Many airlines now have LCD screens on the back of the seat in front of you. You can, for a fee, watch up to 20 or 30 stations or even rent a

marginal movie. Otherwise, you can look at the flight map for six hours for free. I prefer counting the number of passengers with less hair than me and eavesdropping on the conversation of the only happy people on the plane – the trio sitting right behind me!

Food and Refreshments: This is easy: *there ain't none!* Pepsi products (no Coke), Doritos and Sun Chips . . . maybe. If you are ever offered a "Bistro Bag," decline it immediately, for there is nothing close to a bistro to be found in the bag. If you can't wait until you deplane, bring your own spaghetti and meatballs, burgers, fries, submarine sandwiches, pizza, sushi, or whatever suits your palate. I can guarantee this will piss off the entire flight crew and everyone else around you. Nevertheless, you'll avoid the embarrassment of asking for more water or the "whole can" of soda. The most unusual sight on the trip – a Mormon family with a seven-year supply of food on board just in case we got "Lost."

Landing and Getting out of the Terminal: Every landing is a controlled crash, so just deal with it. You will wait as the aircraft parked at your gate sits for an eternity before it leaves so that you can get in. Getting out of the plane is "same old, same old." Getting out of the terminal is an adventure. Making connecting flights is a crap shoot. I think every bankrupt bowling alley has been purchased by the major airports and surreptitiously reinstalled as a purported "gate" to guide you in and out of the terminal's maze of alleyways. Have you taken a look at these "interminable" hallways? Just like bowling balls, people speed through trying to make the 7-10 split between mom and the whining kids. Since I never bowled, I resigned myself to the "gutter" so that I could muddle along the side, bump into the wall and otherwise stay out of the way of every Tom, Dick and "Early Anthony." There is some relief in cities that have shuttles to get you out and about. However, a word of caution: if you miss your stop you could be caught in the "Twilight Zone," spinning in infinity for eternity. Following signs is a lot tougher than it used to be. Similarly, those automatic conveyor belts are not for common folk like me and you. No, these people movers are for exercise nuts who want to get a few miles of jogging in before they skip town. If you don't move over, you'll be mowed under.

The Good News: I'm done travelin' for a while. *Bon Voyage!*

Michael J. Cappelli is a partner in the law firm of Babcock & Cappelli and a member of the Bar Publications Committee.



The Ninth (Short)-Circuit Court of Appeals

(continued from page 11)

fighting as hard as they can to prevent the creation of a society that might share my values and the values of our founders.

I am even more convinced that the public ought to be able to trust those appointed to the lifelong task of preserving and defending our Constitution for all who might be subject to devaluation of their lives, racism or destruction of the very family units that ensure the stability of our society. In this vein, I would think that Judge Reinhardt would not want to argue a case as an attorney if he knew that his judge was married to Rush Limbaugh any more than I feel comfortable knowing that the Pledge of Allegiance was put before him while he was married to the ACLU. Would you trust a guy who was married to your worst enemy – an enemy that wanted to destroy all that you consider to be good in the moral and political aspects of your existence?

As for Judge Kozinski, I must beg of him that he come to the realization that what we do in the legal profession does matter, and people really do care about what happens at the Supreme Court. Our profession and what we do can cause the death of a helpless woman, we can cause the bloody dismemberment of a child, we can inflict the lifelong wounds of racism on another, and we have the power to bring down the very institutions that enable us to practice our honored profession. We can only prevent these things from happening by standing for what is right, moral and objective. We must take on the enemy because without our participation the other side wins by default and the entire purpose of a dual-party system is lost.

While I detest many of the values expressed in Judge Reinhardt's opinions, I respect his desire to stay true to his position. The Pledge of Allegiance decision was well-written because it followed the sickly law that had been created by his predecessors and through the lack of vigilance on our side. Stare decisis was preserved and Judge Reinhardt won out because he stuck to principle. Instead of addressing the issue head on and standing for what was right (and coincidentally consistent with the public's views), the Supreme Court skirted the substance of the Pledge of Allegiance by simply claiming that the plaintiff had no standing in the case. From what I can tell, if the matter had been left to Judge Kozinski, the legal analysis may have only focused on whether the stability of our party could be maintained by keeping the Pledge of Allegiance.

Richard D. Ackerman is the president of the Pro-Family Law Center. He has argued and briefed cases before the Ninth Circuit Court of Appeal on the Pledge of Allegiance and affirmative action. He has also briefed many other cases before the Supreme Court on the issues of homosexual rights, affirmative action and bioethical issues.



President's Message

(continued from page 3)

On a final note, I recognize that I would be unable to serve the RCBA without the support of my husband, Phil Savage (of Gresham, Savage, Nolan & Tilden), our three children – Andrew (age 8), Katherine (age 22 months) and James (age 22 months), and my boss, Justice James D. Ward (who, as many of you may know, will be “retiring” from the court). Obviously, my 22-month-old twins cannot voice their objections to Mommy being gone more often than they would like. I wonder if I can deem their failure to object to be a waiver and find that they have lost their right to raise any objections in the future? Our oldest son, Andrew, is excited that I will be President of the Bar, and thinks that being President means that I will be “the ‘boss’ of all attorneys in Riverside.” I did not have the heart to tell him otherwise – so *please* indulge him!

If I have not met you already, I look forward to meeting you soon. Please join the Boards of the RCBA and Barristers for our annual swearing-in ceremony on the evening of Thursday, September 22, 2005, at the Mission Inn, with Jim Heiting as the master of ceremonies, Judge Sharon Waters as the swearing-in officer for the RCBA Board, and Judge Craig Riemer as the swearing-in officer for the Barristers Board. Please call or email me with any thoughts, suggestions or concerns. I look forward to meeting you or hearing from you.

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



CLASSIFIED ADS

Office of Inspector General Position

Special Assistant Inspector General, \$8,798 - \$9,515 per month

The California State Office of the Inspector General, Bureau of Independent Review (BIR) is seeking a highly experienced & highly motivated attorney to join the southern regional BIR office in the city of Rancho Cucamonga, CA. Active membership in the State Bar of California is required. The BIR provides oversight of the internal affairs process for the state correctional agencies.

The ideal candidate will have a minimum of 5 years experience in CA public employment law, criminal prosecution or defense, or civil rights enforcement. Experience conducting or directly supervising complex investigations and/ or litigation is a plus. We are seeking applicants with unimpeachable integrity, excellent references and strong written and oral communication skills.

For further information including salary ranges, duty descriptions, and filing instructions, please visit our website at www.oig.ca.gov.

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Experienced Real Estate Attorney

Lobb & Cliff, LLP is seeking an attorney with solid academic credentials and four to seven years real estate experience. Candidate must have either experience with documenting and negotiating agreements concerning sale, lease, financing of either commercial real estate or land for residential real estate development, or direct and substantial experience with CEQA and other environmental issues and a willingness to become a full-time transactional lawyer. Candidate must be a member of The State Bar of California and in good standing. Salary is competitive with major California metro markets. Lobb & Cliff, LLP is rated AV by the Martindale-Hubbell Law Directory.

Send resume and a copy of transcript and deal list to: JoAnne S. Lokey, Recruiting & Marketing Director; Lobb & Cliff, LLP; 1650 Spruce Street, Suite 404; Riverside, CA 92517; email jlokey@lobbcliff.com, website www.lobbcliff.com. NO PHONE CALLS, please.

Conference Rooms Available

Conference rooms, small offices and the third floor meeting room at the RCBA building are available for rent on a half-day or full-day basis. Please call for pricing information, and reserve rooms in advance by contacting Charlotte at the RCBA, (951) 682-1015 or charlotte@riversidecountybar.com.

MEMBERSHIP

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

Sidney Brounstein (A) – Friedman & Brounstein CPA's, San Bernardino

Robert R. Campbell, II – Perona Langer Beck, et al., Riverside

Thomas R. Chapin – Sole Practitioner, Corona

Sheri M. Dyson – Office of the District Attorney, Riverside

Frank E. Harrigan, III – Sole Practitioner, Riverside

Arthur E. Johnston (A) – Ralph G. Cipriano, A Law Corp., Riverside

Julian V. Lee (S) – Law Student, Riverside

Arthur J. McDaniel – Lobb & Cliff, Riverside

Nanci McMurray (A) – Graceful Resolutions, Redondo Beach

John Molina – Sole Practitioner, Corona

Christopher H. Parker – Sole Practitioner, Temecula

Nathan Perea – Cihigoyenette Grossberg & Clouse, Rancho Cucamonga

Nhaman Phan – Lobb & Cliff, Riverside

Hon. John W. Ouder Kirk, Ret. – ADR Services, Los Angeles

Jaime N. Ries – Stream & Werner, Riverside

Britt J. Rossiter – Sheppard Mullin Richter & Hampton LLP, San Diego

Thomas Lee Schlothauer – Scholthauer & Collins, Los Angeles

Jennifer M. Urquiza – Thompson & Colegate, Riverside

Mary E. Vasquez – Lobb & Cliff, Riverside

Josue A. Villalta – Knobbe Martens Olson & Bear LLP, Riverside

Renewal:

Kenneth W. Minesinger – Sole Practitioner, Corona

(A) – Designates Affiliate Members