

# RIVERSIDE LAWYER

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MAGAZINE

## In This Issue

**Chivalry Amid COVID-19**

**This Takes Bravery**

**Caveat Pandemic: COVID-19  
and Family Law**

**Bankruptcy by Telephone:  
Remote Meetings of Creditors**

**Telecommuting During the Pandemic**

**Immigration & COVID-19**

**Workplace Safety and COVID-19 as  
Employees Get Back to Work**

**Unlawful Detainer Actions  
in the COVID-19 Pandemic**

**When Everything Changes  
and We Need Help**

**The New Challenges for Riverside County  
Superior Court Amid COVID-19**

**At the Court of Appeal During COVID-19**

**Individuals and Organizations More  
Vulnerable Than Ever  
to Ransomware Attacks in the Midst of the  
COVID-19 Crisis**

**Life in the Jails in the Time of Pandemic**

**Our Mission**

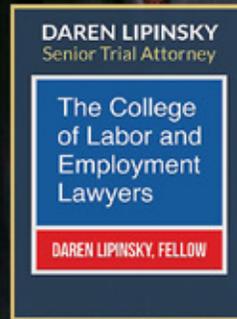
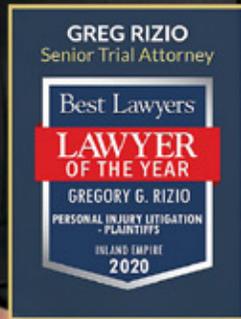


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# RIVERSIDE LAWYER

MAGAZINE

## C O N T E N T S

### Columns:

- 3 ..... **President's Message** by Jack Clarke, Jr.  
 6 ..... **Barristers President's Message** by Paul Leonidas Lin

### COVER STORIES:

- 8 ..... **Chivalry Amid COVID-19**  
 by Boyd F. Jensen, II
- 9 ..... **This Takes Bravery**  
 by Steven L. Harmon
- 10 ..... **Caveat Pandemic: COVID-19 and Family Law**  
 by Goushia Farook
- 12 ..... **Bankruptcy by Telephone: Remote Meetings of Creditors**  
 by Abram S. Feuerstein
- 14 ..... **Telecommuting During the Pandemic**  
 by Geoffrey Hopper
- 16 ..... **Immigration & COVID-19**  
 by Aggie Dolinska
- 18 ..... **Workplace Safety and COVID-19  
 as Employees Get Back to Work**  
 by Jamie Wrage
- 20 ..... **Unlawful Detainer Actions in the COVID-19 Pandemic**  
 by Barry Lee O'Connor
- 21 ..... **When Everything Changes and We Need Help**  
 by Greg Dorst
- 22 ..... **The New Challenges for Riverside County  
 Superior Court Amid COVID-19**  
 by Assistant Presiding Judge John Monterosso
- 23 ..... **At the Court of Appeal During COVID-19**  
 by Gabriel White
- 24 ..... **Individuals and Organizations More Vulnerable Than Ever  
 to Ransomware Attacks in the Midst of the COVID-19 Crisis**  
 by Sunny Huynh
- 26 ..... **Life in the Jails in the Time of Pandemic**  
 by Juanita E. Mantz.
- 27 ..... **Our Mission**  
 by Michael A. Hestrin

### Features:

- 25 ..... **The Leo A. Deegan Inn of Court  
 Community Service Team 2020-2021**  
 by Sophia Choi

### Departments:

- Calendar ..... 2      Classified Ads ..... 28

# 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 our members, our communities, and our legal system.

## Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Riverside Legal Aid, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Mock Trial, State Bar Conference of Delegates, Bridging the Gap, and the RCBA - Riverside Superior Court New Attorney Academy.

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, 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.

*The 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 6<sup>th</sup> 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 \$30.00 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 the Riverside Lawyer.*

*The material printed in the 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

## June

- 4 Zoom**  
10:00 a.m.  
Morning Coffee Book Series Club  
Speaker: Joel Trachtman  
Author of "The Tools of Argument: How the Best Lawyers Think, Argue, and Win"  
MCLE
- 15 Zoom**  
Noon  
Civil Litigation Roundtable with Judge Craig Riemer  
MCLE
- 17 Zoom**  
Noon – 1:30 p.m.  
CLE Webinar presented by the Barristers  
Speaker: Mike Wakshull  
Title: "Little Known Facts about Altered Documents"  
MCLE
- 18 Zoom**  
10:00 a.m.  
Morning Coffee Book Series Club  
Speaker: Lee Holcomb  
Author of *Lifestyle Lawyer: The Female Attorney's Guide to Designing a Law Career You Love*  
MCLE
- 24 Zoom**  
Noon  
Appellate Law Section  
Speakers: Felix Shafir and Steven Fleischman of Horvitz & Levy LLP  
Topic: "Appellate Updates Regarding the Anti-SLAPP Statute"  
MCLE
- 25 Zoom**  
10:00 a.m.  
Morning Coffee Book Series Club  
Speaker: Jill Norgren  
Author of *Stories from Trailblazing Women Lawyers: Lives in the Law*  
MCLE

## July

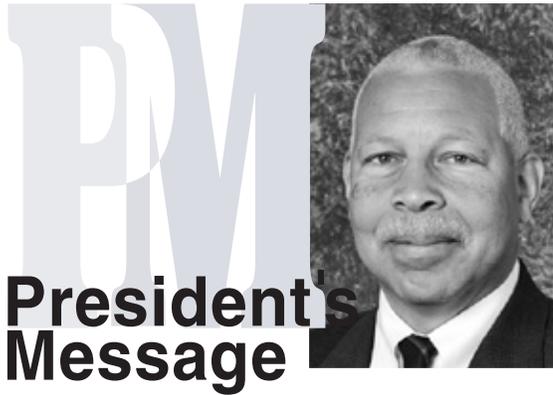
- 9 Zoom**  
Noon  
Speakers: Jarrett Green, Esq., M.A. Psychology, and Rebecca Simon Green, Esq., Topic: "Turning Your Coronavirus Stress into Personal Growth and a More Meaningful Life"  
MCLE
- 16 Zoom**  
10:00 a.m.  
Morning Coffee Book Series Club  
Speakers: Jeremy Richter and Webster Henry  
Topic: "Level Up Your Law Practice: The Ultimate Guide to Being a Successful Lawyer"  
MCLE
- 28 Zoom**  
10:00 a.m.  
Morning Coffee Book Series Club  
Speaker: Michael F. Melcher  
Topic: "The Creative Lawyer: A Practical Guide to Authentic Professional Satisfaction"  
MCLE

*Please see the calendar on the RCBA website ([riversidecountybar.com](http://riversidecountybar.com)) for information on how to access the Zoom meetings.*

### EVENTS SUBJECT TO CHANGE.

*For the latest calendar information please visit the RCBA's website at [riversidecountybar.com](http://riversidecountybar.com).*





# President's Message

by Jack Clarke, Jr.

## Work Hard and Take Care; But Get Help If You Need It

*'Tis the best use of fate to teach a fatal courage. Go face the fire at sea, or the cholera in your friend's house, or the burglar on your own or what danger lies in the way of duty, knowing you are guarded by the cherubim of destiny. If you believe in Fate to your harm, believe it, at least, for your good.*

Emerson, Ralph Waldo  
*Essay on Fate*

I hope everyone is in good health and good spirits as we proceed through this extremely difficult time. This month, I am focusing on programs and supports that can provide assistance to us in various domains.

First, on June 18, the RCBA will be sponsoring a timely program, as part of the Coffee Book Club Series, featuring author and attorney, Lee Holcomb. She will be addressing the subject matter of her book *Lifestyle Lawyer: The Female Attorneys Guide to Designing a Law Career You Love*.

Here is an excerpt from her book:

*This book will help you develop concrete goals and a vision for your life that you can articulate to yourself and others. It will let you preview different career paths for attorneys, identifying aspects of each that can help you realize your vision or take you further away from it. On my website, [www.lifestyle-forlawyers.com](http://www.lifestyle-forlawyers.com), you'll find a workbook you can download with the questions we explore in this book, pulled together for your easy reference. My hope is you will use this resource to stay focused on what's important to you, even after you*

*finish the book. Once you've connected to your internal vision and are familiar with the variety of career paths available today, then it's time to let your courage and confidence guide you to make the right choices throughout your life.*

This should be a very interesting session and I hope you all will make time to attend a great distance learning opportunity.

Upcoming Coffee Book Club Series events include:

- Jill Norgren, *Stories from Trailblazing Women Lawyers*, on June 25;
- Jeremy Richter, *Level Up Your Law Practice*, on July 16; and
- Michael Melcher, *The Creative Lawyer*, on July 28.

In addition, on July 9, we are presenting a free one-hour Zoom webinar entitled "Turning Your Coronavirus Stress Into Personal Growth and a More Meaningful Life." This program will show how this difficult time actually creates a rare opportunity for personal growth and for building a more meaningful life. This will be presented by husband-wife team Jarrett Green, Esq., M.A. Psychology, and Rebecca Simon Green, Esq., who are stress resiliency, well-being, and peak performance consultants to the legal industry and to corporate America. They are the co-creators of the USC Gould School of Law "Mindfulness, Stress Management, and Peak Performance Program" and also co-teach a class at UC Irvine Law School titled "Happiness and Peak Performance for Law Students."

I want to thank RCBA vice president Neil Okazaki for putting together many fine programs for our membership this year. He has been a blessing to us all in a multitude of ways.

Second, please, let's all take care of ourselves in every way possible. Here are some resources board member and immediate past president Jeff Van Wagenen provided:

- Health and Social Services referrals: 2-2-1
- Behavioral Health CARES Line: (800) 706-7500
- Substance Use CARES Line: (800) 499-3008
- 24/7 Mental Health Urgent Care:
  - o Riverside: (951) 509-2499
  - o Palm Springs: (442) 268-7000
  - o Perris: (951) 349-4195

Also, here are five recommendations on "What You Can Do To Help Cope With Emotional Disorders," which are excerpted from the Riverside County Health System – Behavioral Health Division Flyer entitled, "A Reference for Maintaining Health and Wellbeing – Coping with Stress During Infectious Disease Outbreak:"

### 1. Manage Your Stress:

- Stay informed. Refer to credible sources for updates on the local situation.
- Stay focused on your personal strengths.
- Maintain a routine.
- Make time to relax and rest.

### 2. Be Informed and Inform Your Family:

- Become familiar with local medical and mental health resources in your community. Attend community meetings for resources/education.
- Avoid sharing unconfirmed news about the infectious disease to avoid creating unnecessary fear and panic.

Give honest age-appropriate information to children and remember to stay calm; children often feel what you feel.

**3. Connect with Your Community:**

- Keep contact with family and friends.
- Join community and/or faith groups.
- Accept help from family, friends, co-workers, and clergy.
- Reach out to neighbors and friends with special needs who may need your help.

**4. Reach Out and Help:**

- If you know someone affected by the outbreak, call them to see how they are doing, and remember to keep their confidentiality.
- Consider an act of kindness for those who have been asked to practice social distancing, such as having a meal delivered or offering to drop off homework at their doorstep.
- Locate and volunteer at a charity or organization near you.
- Encourage friends and family to get involved with you.

**5. Be Sensitive:**

- Avoid blaming anyone or assuming someone has the disease because of the way they look or where they or their families come from.

- An infectious disease is not connected to any racial or ethnic group; speak up in kindness when you hear false rumors or negative stereotypes that foster racism and xenophobia.

In addition, I want to thank Charlene Nelson for coordinating with Dr. Jim Husen a lawyer and therapist (and longtime RCBA member), to provide a Lawyer Support Group. This will be a safe, private, therapeutic support group for RCBA members. If you are interested, please contact Dr. Husen at (951) 314-6634, or obtain his contact information which will be placed on the RCBA website.

Finally, if this time has caused you to have any concerns about alcohol or substance abuse, please reach out to the consultants at “The Other Bar.” They have helped many of our friends and neighbors in this region. Call them if you feel even a small need to do so at (800) 222-0767. Also, please see Greg Dorst’s article on page 21 of this issue for additional resources in this area.

It appears we are coming into a new phase of our adjustment to and overcoming this time of pandemic. Please take care all. Be well.

*Jack Clarke, Jr. is a partner with the law firm of Best, Best & Krieger LLP.*



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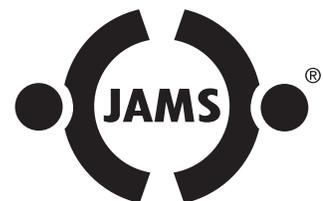
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# BARRISTERS PRESIDENT'S MESSAGE

by Paul Leonidas Lin



**“The night is darkest just before the dawn.”**

Of course, I am quoting Harvey Dent from the movie *The Dark Knight*, not 1700s English theologian and historian Thomas Fuller, because that's not how the Barristers roll. But as we close the chapter on this darkest time in

recent history, let us look back at one of the biggest positives that came out of this pandemic. Time.

In the past three months we were given the gift of time. Time with our families. Whether it is the new parents who were able to witness their child's first steps, which would have been otherwise missed during work hours. Or the empty nesters who had their homes full again with their grown children back from college. Time with our friends, both old and new. From the simple phone calls to just check in on each other, to those hours of long discussions over Zoom after you discover a new common interest.

And finally, time to yourself. No matter what field you are in, the practice of law is stressful and time consuming. Hopefully, these past three months have given you some time to breath and a chance to remember the “why” you are doing it, rather than the “what” you are doing. For me, the yearning to get back in the courtroom has reaffirmed my love of this profession.

But as with all things in life, this too shall pass. As I'm writing this article, Riverside County has received permission to enter into “Stage 2.5,” permitting the opening of retail store, malls, and dine-in restaurants. I hope by the time you are reading this we have returned to some resemblance of life before COVID-19. That said, it is my personal goal to have at least one more Happy Hour Networking Event before the end of my term. And maybe, just maybe the Hike with the Furristers.

## Elections for 2020-2021 Barristers Board

We are postponing the June elections just briefly to **July 8, 2020**, in hopes that we have more of a state of normalcy for this event. If you missed it in last month's article, the following are the candidates for the 2020-2021 Barristers Board:

### President-Elect:

Michael Ortiz

### Treasurer:

David P. Rivera

### Secretary:

Alejandro Barraza

Lauren M. Vogt

### Member-at-Large:

Alejandro Barraza

Ankit Bhakta

Braden Holly

Kevin E. Collins

Patty Mejia

Michael Ortiz

David P. Rivera

Stuart R. Smith

Lauren M. Vogt

Brigitte M. Wilcox

In accordance with our Bylaws, Goushia Farook and Paul Leonidas Lin will automatically assume the office of **President** and **Immediate Past President**, respectively, for the 2020-2021 term.

The current plan is to host the event at the **Brickwood** at 5:00 p.m. for happy hour, with candidate statements and voting around 6:00 p.m. Pizza will be provided! Of course, if things change between now and then, we will update you. Please follow us on social media to stay up to date!

## Upcoming Events:

- **Thursday, June 4** – Virtual Happy Hour via Zoom, starting at 5:00 p.m.
- **Wednesday, July 8** – Barristers Board Elections at the Brickwood, starting at 5:00 p.m.
- **TBA** – Trivia Night at Retro Taco
- **TBA** – Judicial Reception starting at Grier Pavilion
- **TBA** – Escape Room
- **TBA** – Hike with the Furristers at Mt. Rubidoux

## Follow Us!

Stay up to date with our upcoming events!

Website: [RiversideBarristers.org](http://RiversideBarristers.org)

Facebook: [Facebook.com/RCBABarristers/](https://www.facebook.com/RCBABarristers/)

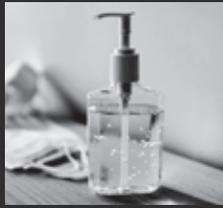
Instagram: [@RCBABarristers](https://www.instagram.com/RCBABarristers)

*Paul Leonidas Lin is an attorney at The Lin Law Office Inc. located in downtown Riverside where he practices exclusively in the area of criminal defense. He is a past president of the Asian Pacific American Lawyers of the Inland Empire (APALIE) and founding member of the newly formed Riverside County Criminal Defense Bar Association (RCCDBA). Paul can be reached at PLL@TheLinLawOffice.com or (951) 888-1398.*





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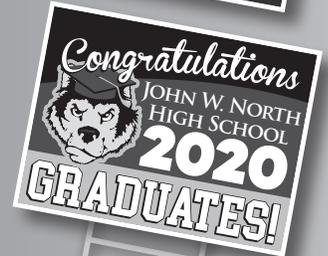
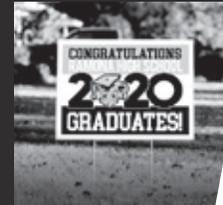
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# CHIVALRY AMID COVID-19

by Boyd F. Jensen, II

“Born in a one room adobe home” in a small town in Utah, Kenneth R. Garrett, founder of Garrett & Jensen, died two weeks ago. Ken was an extraordinary civil trial lawyer, American College of Trial Lawyers “Fellow,” American Board of Advocate “Diplomat,” who flew “B-26 Marauder” and “B-24 Liberator” bombers in World War II, before serving a two year mission in the Hawaiian Islands with the Church of Jesus Christ of Latter-Day Saints. Though he had been retired for 30 years (in an even smaller Utah town), prominent national consumer trial lawyers, Tom Girardi and Wylie Aitkin, who almost always opposed him, were among those who wrote kind notes when they received word of Ken’s passing.

It is understandable when someone passes to look back with condolence. Yet, I have often observed this very remarkable and laudatory circumstance during the last two months. If there was ever “climate change,” I have personally witnessed it among us as professional advocates, where truly respecting the adversary process has yet acquiesced to extraordinary litigation and other timing and process considerations.

Having pending cases in Riverside, Orange, Los Angeles, and San Diego counties, it has been very difficult to follow the changing court rules and orders. However, it has also been very satisfying to see the generous and considerate methods of those involved. Lawyers have offered their home phones and addresses. Extensions have been liberally given. Depositions have been postponed or modifications agreed upon, which do not inhibit the adversary process, while respecting the possibility of human error resulting in sickness or worse. New digital access to presentation via the internet used for statements, depositions, client meetings, and court appearances has proliferated and will undoubtedly effect us forever going forward. Our world has become more “virtual” – literally!

I realize that there are difficult challenges and valid weaknesses publically presented, primarily about many governmental executive branch officers. However, while this may be consuming upon digital and broadcast airwaves, behind those public scenes, court clerks and judicial officers have acted with fairness and openness. Phone calls to clerks have been treated with patience, and courts and litigation vendors have provided copious directives and orders to accommodate the experienced and those in *pro persona*. We all received an “order” way back on March 20, where “**(U)pon** the request of Presiding Judge John Vineyard” (bold added for emphasis), Riverside obtained early litigation authorizations. Riverside went on the offense to fashion relief, at a time when we knew less and needed stabilizing strictures.

Obviously, that is not in all cases. Some advocates have used the pandemic to delay and impede legitimate discovery. It must be recognized that the California Rules of Professional Conduct do not stop during a pandemic. The decision in *Smith v. State Bar* (1987) 43 C3d 525, provides that in the face of serious personal problems, an attorney has a professional responsibility to fulfill duties to clients or make appropriate arrangements to protect their interests. In the *California Rules of Professional Conduct*, rule 5.1, requires lawyers with managerial authority in a law firm, make reasonable efforts to ensure that the firm has effective measures giving reasonable assurance that all lawyers of the firm act ethically as “effective advocates.” Other rules require – as needed – direct supervisory authority maintained over other lawyers;<sup>1</sup> and that applies to non-lawyer assistants, billing clerks, paralegals, and assignments outsourced or performed by vendors.

The ethical duty to clients is not abated by COVID-19, but this pandemic will end. When it does the history of each one of us, as intense adversaries will be preserved. How did we respond during this extraordinary time? All will have a record of their professionalism, during a time when all of us were not only officers of the court, but neighbors and colleagues under pressure to not only perform and succeed, but do so ethically.

I am reminded of the relationship between lawyers Abraham Lincoln and Usher Linder, referred to in Carl Sandburg’s epic multi-volume Lincoln biography, *Prairie Years*, Volume 2. Their relationship was in the courtroom, nominating Linder for elevation to the bench and protecting his criminally accused son, Dan. Usher Linder stated before his death the following, “I am constrained to believe friend Lincoln that you have ever cherished the kindest feelings for me as I know I have for you . . . although we have been often thrown in opposition to each other . . . ”<sup>2</sup>

The word “kindness” is not to be found in the 50 pages of the *California Rules of Professional Conduct* (Effective November 1, 2018.) Neither did my search discover the word COVID-19 or “pandemic.” However, I did find the words integrity, meritorious, candor, truthfulness, and duty. They will do just fine.

*Boyd F. Jensen, II, a member of the Bar Publications Committee, is with the firm of Jensen & Garrett in Riverside.*



<sup>1</sup> *California Rules of Professional Conduct*, rule 5.3.

<sup>2</sup> Letter from Usher Linder to Abraham Lincoln, March 24, 1865. See many places including [mrlincolnandfriends.org](http://mrlincolnandfriends.org).

# THIS TAKES BRAVERY

by Steven L. Harmon

Every day we all go about our lives – personal and business – winning and losing small to big battles. We are happy at times, sad at times, confused at times, inspired at times, and even bored at times. We expect there will be ups and downs, highs and lows. For the most part we have come to understand how to balance all of this and we pretty much have it all under control.

Until we don't!

And now we don't. Now, it feels as if we have lost all control of everything we think we know. We don't know what this world of ours even looks like anymore. All we know and feel is that things are bad, and we are scared.

This is what happened to all of us when the asteroid called COVID-19 hit our world. Everything we knew or thought we knew, changed. Now, we are all searching for answers as to how we get through this frightening time.

We will find the right answers. But they will not be found in logic or intellect, or in rules or precedent. The answers we need will be found within us – all of us. They will be found within our good character – within the better part of ourselves that knows right from wrong, good from evil, decency from disrespect, kindness from selfishness, empathy from indifference. However, there will be one more thing we will need, which is also born from our good character – bravery!

This virus presents the Public Defender's Office with great challenges – ones we have never before had to face. As Public Defenders, we are extremely proud to be vigorous advocates in defending the rights of our clients. This is our mission and we have all dedicated our professional lives to this noble work. This is our passion and we have always done everything

possible to help our clients, making untold personal sacrifices to be their champions. We have always rushed to stand beside our clients in their hour of need.

But, now with this virus, to do this we are placed in personal danger. The essence of criminal defense work is establishing a close, confidential, and trusting relationship with our clients. This means spending a great deal of time with our clients and their families, talking to them about their lives, their problems, their futures, and, of course, their case. It also means going to court with them and interacting with them, and many others as we do our work. But, because of how this virus is transmitted, every close point of contact with our clients and others is a point of risk for our lawyers. Social distancing cannot work in the world of the criminal defense attorney. This means that to defend our clients, our lawyers must put themselves and their families at risk.

Duty to our clients versus safety to ourselves and our families has become our challenge and our struggle. This is where our character is being tested every day. I am very proud to say that in the face of this terrible dilemma, our lawyers and everyone else in the Public Defender's Office have met this challenge with grace and dignity. Every day they have chosen to do their duty to help their clients, even as they put themselves at personal risk. Our lawyers realize that our clients need their help. They are locked up in jails where they face great personal danger from this virus. There is no social distancing for them in jail. There is only constant danger everywhere for our clients. Our duty as criminal defense lawyers is to do everything we

can to help and protect them. If that means going to court with them and trying to have them released from the dangers of incarceration, then that's what we do.

As the head of the Public Defender's Office, it is difficult for me to watch as our lawyers every day go off to court to help their clients knowing they are risking their own health. I know they are scared, and they have a right to be scared. But this is where bravery comes in. I have come to realize that bravery doesn't mean you are not afraid – it means you do your duty even though you are afraid. True character is revealed at times like these, and I'm proud to say that the true character of your Public Defenders is golden.

It is my belief that how the people of the Riverside County Public Defender's Office handle this crisis will save lives and will also define our office for years to come. It will be our legacy to this community. Years from now when all of this is long past, we will look back and be able to say that we were brave, and we did our duty.

*Steven L. Harmon is the Public Defender for Riverside County.*



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# CAVEAT PANDEMIC: COVID-19 AND FAMILY LAW

by Goushia Farook

The ongoing COVID-19 pandemic is without doubt one of the most unprecedented times in our history. Impacting every facet of our daily lives, this pandemic has quickly demonstrated that it does not discriminate against race, class, gender, political ideology, or societal institutions. In a few swift days, our judicial system was brought to a halt. To the credit of our supervising judicial officers and judiciary, plans were formulated to deal with the most urgent and pressing types of cases in each area of law. These plans have been further developed and modified over the weeks to account for the needs of litigants, and they continue to evolve to accommodate state mandates and orders.

I very much acknowledge there are several factors and intricacies at play in formulating a long-term plan for the function of our courts of which we as counsel are simply not fully aware. Just as the judiciary has dealt with their own unique circumstances in adapting to the situation, so have counsel. There have been challenges, surprises, an influx of uncertainty, and worried clients in a variety of practice areas.

These aspects hold true for family law practitioners too, as matters regarding child custody, visitation, domestic violence, child support, spousal support, property division, and finalization of cases in general face new challenges. For purposes of this article, it is simply not feasible to discuss each aspect of family law which has been impacted by the present pandemic. In family law, generally, children and money prevail as being of utmost importance to clients. Thus, I am going to focus on issues pertaining to child custody, visitation, child support, and what we as practitioners need to anticipate for the future.

## Panicked Pandemic Parenting

The phones started ringing and an influx of emails with questions started almost immediately as the shelter-in-place orders went into effect. The other parent is a health care provider, do I let them exercise visitation? The other parent refuses to return the child because of the stay-at-home orders, can they do that? The other parent lives in North Carolina and has an upcoming visit for spring break, do I put our children on a plane? The other parent lives in San Diego and has an upcoming regular weekend visit, can I keep our child? I have professionally-supervised visits, how do I see my child if professional supervisors are not supervising visits? My personal favorite, the children are

not in school, so the summer break schedule is now in effect, right?

These are but a few examples of questions clients have asked or have been asked by the other parent. The best answer to any legal question? It depends. On April 24, 2020, the Riverside Superior Court issued a Notice providing guidance that all family law orders must be complied with during the pandemic, including, custody and visitation orders.<sup>1</sup> Understanding that current orders have to be followed, but recognizing the challenges in doing so in certain cases, it became evident that each case must be evaluated on a case-by-case basis to determine the reasonableness of how adjustments to parenting plans could be made.

For many cases, a commonsense approach allowed for quick resolution of issues. Parents who live out of state could be offered makeup parenting time in the future to maintain the children's safety and avoid boarding a flight. Parents who are essential workers can modify their parenting schedule to ensure they are not exhibiting any symptoms of being ill in conjunction with daily telephone or video calls. A general understanding was reached amongst counsel that under existing orders the school schedule would apply even though school was technically out of session.

The Riverside Superior Court released a tip sheet for supervised visits encouraging virtual visits.<sup>2</sup> Despite this guidance and efforts by counsel to facilitate interim solutions, many parties have opted to interpret their family law orders in their own way and how these orders relate to the orders issued by the governor.

One difficulty for counsel has been advocating for clients' parenting time with their children without overwhelming our courts with emergency ex parte motions. In certain circumstances, these motions have been necessary, but the relief requested cannot be guaranteed. Ultimately, we counsel have an obligation to apprise the court of the facts of a case as they are relevant to the determination of modification of orders and whether the parties' actions have worked against the best interests of the child(ren).

## Child Support Obligations

A reality for clients during these times has been a loss of or reduction in income. Clients are no longer able to sustain

1 <https://www.riverside.courts.ca.gov/PublicNotices/Notice-COVID-19-FL-Orders.pdf>

2 <https://www.riverside.courts.ca.gov/PublicNotices/Supervised-Visits-With-Your-Child-During-COVID-19.pdf>

child support obligations as their income has been drastically reduced. Generally, a change in income is grounds for a modification. While that remains true now, due to a delay in processing filings, court dates and the effective date of modification are unknown. In response to this issue, the Judicial Branch released Appendix I: Emergency Rules Related to COVID-19, which includes Emergency Rule 13. Emergency Rule 13 pertains to retroactivity in modification of support orders.<sup>3</sup> Rule 13 applies to modifications of child, spousal, partner, or family support orders. It gives the court the utmost discretion in considering an effective date of modification requests to the date the moving papers are mailed or served on the other party. Rule 13 provides a potential avenue for counsel to address client concerns over their inability to maintain support orders. As of this article, the practical application of Rule 13 has yet to be seen.

### Foreseeing the Unforeseeable

A reality in crafting family law orders is that it is generally not feasible to account for every eventuality. Family law practitioners have an obligation to add specific terms as a case may require which deviate from the standard provisions in orders. What parties stipulated to in January 2020 may not be a feasible agreement had the parties known of an upcoming global pandemic. To avoid the issues faced

<sup>3</sup> <https://www.courts.ca.gov/documents/appendix-i.pdf>

by clients and thus their counsel, we need to consider, as best we can, the unknown future when we craft family law orders. It would be prudent to add provisions of how child custody and visitation orders will be modified, if at all, in the event of another pandemic or government order requiring shelter-in-place provisions. Future judgments should take into consideration how financial orders are adjusted, if at all, in the event of court closures where modifications cannot be made on a regular calendar. While we still cannot account for every eventuality, our new reality includes pandemics impacting our courts. We must exercise due diligence in crafting orders which protect our clients and, most importantly, their children. These protective measures in future orders would also decrease the burden on the courts created by a high influx of motions seeking recourse for grievances related to support or custody issues.

As plans for re-opening the courts are being considered, family law practitioners must remain diligent and be aware of newly issued guidelines, apprise their clients about their pending hearings, and facilitate interim solutions whenever possible.

*Goushia Farook is an attorney at Bratton Razo & Lord, a Riverside firm dedicated to the practice of family law. Goushia is president-elect of the RCBA Barristers Association and proudly involved in several legal organizations in Riverside.*



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# BANKRUPTCY BY TELEPHONE: REMOTE MEETINGS OF CREDITORS

*by Abram S. Feuerstein*

After paying taxes and voting, the number one way in which Americans interact with their federal government is through the bankruptcy system.

Rounding up to an estimated one million cases filed each year, with each case representing a family of four, and cycling over a period of ten years, it is possible that 40 million Americans will move through the bankruptcy system over the next decade. And, that is on the debtor side. On the creditor side, whether it is an inability to collect a debt from a debtor who files bankruptcy, or the payment of higher interest rates resulting from “written off” debt by institutional lenders, virtually every person is affected by bankruptcy.

The Constitution provides that Congress shall enact bankruptcy laws. But, those laws must have broad public support. As debtors and creditors adjust their debt relationships in bankruptcy, the public must have faith that the system is a fair playing field, which provides relief for honest, albeit unfortunate debtors.

The need for a bankruptcy system characterized by efficiency and integrity is at the center of the United States Trustee Program’s mission. As a civil component of the United States Department of Justice, the USTP carries out that mission through enforcement and regulatory actions it takes for the benefit of all stakeholders – debtors, creditors, and the public.

The USTP also has administrative responsibilities within the bankruptcy system. Each United States Trustee within the USTP has a central responsibility to convene and preside at a meeting of creditors (known as “341 meetings” for the Bankruptcy Code section under which they arise). The meetings must occur within a reasonable period of time after a bankruptcy case is filed. Bankruptcy debtors have an obligation to attend a meeting of creditors as part of their bankruptcy duties.

-- In Chapter 7 liquidation cases, the United States Trustee appoints a person from a panel of private trustees to conduct meetings of creditors as part of their efforts to investigate a debtor’s financial affairs and liquidate property (if any) for the benefit of creditors.

-- In Chapter 13, a reorganization Chapter for individuals, the United States Trustee appoints a standing Chapter 13 trustee who is tasked with reviewing a debtor’s financial condition, conducting the meeting of creditors, and assessing the viability of debt adjustment plans.

-- In Chapter 11 cases – which typically are larger and filed by businesses and individuals attempting to reorganize their financial affairs – meetings of creditors are conducted by staff members of the United States Trustee.

Historically, the meetings of creditors have been conducted in person, in a meeting room, with a time and location noticed to creditors upon the commencement of a bankruptcy proceeding. In the Riverside Division of the Bankruptcy Court for the Central District of California, for the past several years the meetings have occurred at 3801 University Avenue, Riverside, a red brick seven-story building located across from the Fox Theater at the intersection of Market Street and Mission Inn Avenue. Debtors and creditors, along with their counsel, beginning at 8:00 AM and continuing until the afternoon, daily gather to attend their meetings.

As COVID-19 hit, the bankruptcy system adjusted. The Bankruptcy Court adopted new emergency measures and rules for filing documents and attending hearings. Several important deadlines in bankruptcy cases were modified. Practitioners can locate these rule changes at the Court’s website: <https://www.cacb.uscourts.gov/>.

The United States Trustee Program, too, made changes. In taking steps to protect the health of the public and those involved in bankruptcy proceedings, while keeping the system functioning, aside from enacting remote or telework procedures for its employees, the major issue confronting the United States Trustee Program was to transition from in-person creditor meetings to remote or telephonic meetings.

This involved halting about 60,000 already scheduled in-person meetings. These meetings, along with future section 341 meetings, were then scheduled for remote meetings. The agency obtained well in excess of 1,200 “meet me” telephone lines to accommodate the changes. The Bankruptcy Court assisted in helping to re-notice meetings to more than one million parties. The United States Trustee Program issued guidance on “best practices” to participants at meetings. These best practices included such mundane advice as reminding participants to “mute” their telephone lines until their meetings were called, or more complicated advice about the use of translators.

At the meetings of creditors, debtors submit necessary identification documents and provide sworn testimony

about their financial condition. Also, the meetings are recorded. The United States Trustee Program quickly made necessary technological changes and purchased equipment in order to ensure that the evidentiary value of testimony could be preserved. As it did pre-pandemic, the United States Trustee will continue to furnish recordings of meetings upon request.

Remote or telephonic meetings of creditors will continue through mid-August for bankruptcy cases filed through June 30, 2020. Depending on health considerations, those periods may be extended. For additional information, debtors who file bankruptcy and their attorneys should visit the United States Trustee's website, <https://www.justice.gov/ust-regions-r16>, and the Bankruptcy Court's website. Practitioners should review notices generated by the Court at the commencement of the case to learn the date and times for creditor meetings. And, most important, they should identify who the specific private trustee that has been assigned to their cases and consult with trustees to understand the procedures they should follow in attending their creditor meetings.

*Abram S. Feuerstein serves as an Assistant United States Trustee and supervises the Riverside District Office of the United States Trustee Program. The United States Trustee Program is a component of the Department of Justice that protects the integrity of the bankruptcy system by overseeing the administration of bankruptcy cases. The views expressed herein are those of*

*the author and are not intended to represent those of Peter C. Anderson, who is the currently serving United States Trustee for the Central District of California, the United States Trustee Program, or the United States Department of Justice.*



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# TELECOMMUTING DURING THE PANDEMIC

by Geoffrey Hopper

I am firmly convinced that as a direct result of the pandemic, there is going to be massive employment law litigation, not just the state of California, but throughout the United States. Specifically, there is a multitude of areas that have a direct impact on employment law, which are either being ignored or simply many employers do not understand or know about. Additionally, Governor Newsom recently signed an executive order indicating that if an employee develops COVID-19, it will be up to the employer to provide proof that the virus was not developed at work, which will further increase litigation in this area.

California is known as an at-will state, meaning that either the employer or the employee can terminate the relationship, either with or without cause and with or without notice. I am often asked by my clients, "Hopper, if that is the law, why are you so busy?" The answer to the question is the exception to the rule. The bottom line is that, under state law, if nine out of twelve jurors believe that a motivating factor for any discipline or termination of one's employment is in violation of public policy, then you have a potentially six- or seven-digit dollar wrongful termination and/or discrimination lawsuit.

*What does a violation of public policy mean?* Examples include terminating someone because of their age, race, marital status, religion, pregnancy, disability, sexual orientation, gender, voting for Trump, or against Trump, etc. Furthermore, if an employer retaliates against an employee in violation of public policy, they likewise have a possible claim for wrongful termination as well. The law appears to support the position that, under federal law, COVID-19 may not be a disability simply because its duration is not sufficient; however, in California, as I have often stated (in a somewhat joking manner), a bad hair day might be argued to be a disability because California is quite liberal regarding its interpretations of such and accordingly, there appears to be substantial arguments to indicate that COVID-19 is a disability (I do want to provide the caveat that we really have no cases yet interpreting all the new rules and regulations that have come about in the last several weeks on anything dealing with COVID-19. Accordingly, I have to do a lot of guesswork here and assert every disclaimer that you can possibly imagine. Further, this is a very fluid situation and things may well change following the preparation of this article, which

was prepared on May 13, 2020. Different counties and cities have different policies as well).

In California, we have both state and federal OSHA, as well as a multitude of other rules and regulations, mandating that an employer maintain a safe working environment for their employees. Failure of an employer to do such could, I perceive, not only circumvent the exclusive remedy of workers' compensation inasmuch as now the employer's conduct would not only be negligent, but also arguably intentional if it is in violation of specific rules, regulations, and statutes as it relates to a safe work environment. Theoretically, such could potentially lead to claims for intentional torts, including those relating to wrongful death as to the employees and there is always the potential that the workers' compensation carriers could argue that such negates coverage although, again, this is a lot of speculation which no one is sure about as of this moment.

What I take from all of this is that employers not only legally, but morally and ethically have an obligation to ensure a safe working environment for their employees and there are a variety of options as to going forward. Assuming that employers have a sufficient justification to allow their employees to telecommute, such is a very realistic option and, for many, has been working quite well. Accordingly, it is advisable to have a written telecommuter agreement outlining the details and terms of telecommuting, as well as it is advisable to have a contagious disease policy, and having receipt acknowledged signed by the employees for both documents.

Suggestions for the written telecommuter agreement include the following:

- Make sure that it establishes that any employer expenses, such as equipment or increased utilities, are paid for by the employer, usually done by providing a reimbursement check for a reasonable sum to the employee for such expenses;
- Make sure the agreement specifies that this is being done on a temporary basis and does not, in any manner, modify, alter, or change any of the company's policies and procedures unless set forth separately in writing. Further clarify that, during this temporary time frame, the employee is not doing the essential functions of their job, but rather this is an accommodation being pro-

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vided by the employer to get through this crisis and that the employer reserves the right, at its discretion, to require the employee to return back to work from the employer's office as had transpired prior to the implementation of the telecommuter agreement (otherwise, employees may try to take the position that they have a right and/or created a new policy justifying them to telecommute for various personal purposes). Normally, the employer would not want to waive the employer's right to have the employee understand that the job continues to require them to come to the office when the employer determines that such is going to be necessary;

- Clarify that, during the telecommuter agreement, the employer maintains the right to require the employee on and off to come to the office (when safe) and, consequently (it might be argued), the travel time from going from the home to the employer's office is not considered travel time as long as such occurs only once a day;
- Clarify in the agreement the requirements that the employee is expected to perform the employee's duties and responsibilities, pursuant to the employer's policies and procedures including, if applicable, maintaining confidentiality of information, protecting trade secrets, and not disclosing confidential information to members of the household;
- Reserve the right, upon reasonable notice, to inspect the employee's premises, so as to make sure that such is compliant with the employer's policies and procedures regarding confidentiality and/or set up, etc.;
- Include language in the agreement indicating that the employee has an obligation to immediately specify in writing to the employer if, at any time, the employee perceives that they are not being compensated for all employer-related expense and also that such is a safe working environment for the employee inasmuch as there is now an argument, by having the employee work from their home, that the employer and the employer's workers' compensation insurance applies if the employee injures themselves while working from home;
- Make sure the employer themselves checks their own workers' compensation insurance coverage to make sure that there is not an exclusion regarding telecommuting and coverage over such;

- Include in the agreement that employees are not permitted or allowed to have any visitors to their home for business-related purposes absent the express written authorization of the employer so as to avoid potential liability for those individuals who might be visitors from making claims because, again, the employer is now liable for whatever is taking place in the employee's premises as it relates to work-related matters, including visitors who are there for business purposes;
- If accurate, specify that the telecommuting was done at the employee's request;
- Specify in the agreement that the employee has the right to consult their own separate counsel before signing the agreement. If applicable, specify that the employee voluntarily has agreed to the same.

In all of these circumstances is that, before terminating any employee (which includes laying off any employee during these very difficult times), it is important to consult legal counsel in that there is a multitude of options and alternatives available to employers at this time that need to be considered. There are numerous additional ramifications and potential claims that go far beyond the scope of this limited article of which employers should be aware.

The bottom line is that months or potentially years from now, there will be a multitude of employees who are sitting at home, unemployed, worried about feeding their families who will be barraged by television commercials by numerous attorneys providing litigation as a possible recourse. There is now a small window of opportunity to make sure that employers are doing the right thing in bending over backward to establish that they were more than compliant with all the new laws and regulations on this topic.

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*Geoffrey Hopper is a past president of the Riverside County Bar Association having practiced labor and employment law for an excess of 30 years, having received an AV rating from Martindale Hubble and having conducted more than 2,000 seminars on the topic, representing both employers and employees and having written a book on the topic entitled Employment Law BS. His website is [www.hopperlaw.com](http://www.hopperlaw.com) and he can be contacted at (909) 798-9800.*



# IMMIGRATION & COVID-19

by Aggie Dolinska

The outbreak and spread of the coronavirus (COVID-19) has changed our lives in unprecedented ways. For many, year 2020 so far has been one of the most difficult years in their lifetime. Who would have ever predicted that the opening of the baseball season would be suspended, that we would not be watching the NBA playoffs right now, that we would not be attending high school and college graduations, and that we would be on a daily hunt for toilet paper, disinfecting wipes, face masks, and eggs. But this has become our reality.

Not surprisingly, COVID-19 has affected the world of immigration as well. From imposed restrictions on travel and entry to the United States, disrupted immigration services (the immigration offices have been closed to the public for interviews, fingerprinting services, and oath ceremonies), lawsuits filed over the spread of the virus in the detention centers, suspended consular services to the Presidential Proclamation suspending entry of certain immigrants to the United States, one could conclude that the immigration situation is dire and bleak.

But amid the uncertainty and discouragement, there are reasons to hope and have reassurance that things will be fine. Just because the immigration offices are closed to the public, it does not mean that the officers therein are not working. Where possible, processes are being streamlined and documents are being requested by mail in lieu of in person interviews. Applications for green cards, work permits, travel documents, naturalizations, and other immigration benefits are being continuously processed. Two of our clients received their green cards this past week and one client's green card renewal application was just approved yesterday. Another client received his work permit in less than one month earlier in May. These are wonderful examples of how the immigration authorities are hard at work and the lives of our clients are being changed for the better.

Although many immigration processes are being delayed, the government has indicated that leniency would be granted to those who have been unable to meet certain deadlines due to COVID-19 and that certain non-immigrants, including tourists, could seek extensions of their respective statuses because they are prevented from returning to their native countries. Moreover, all non-detained immigration court hearings have been postponed, currently through June 12. Detained cases are proceeding as scheduled.

It is also worth mentioning two proposed legislations, which could positively impact the immigration area. The first one is Healthcare Workforce Resilience Act, announced on May 4. This Act aims to take advantage of some 25,000 unused immigrant visas and make them available to international physicians and nurses. These indispensable healthcare

workers are badly needed in the United States right now, as we hope to make significant strides in combating and subduing the spread of COVID-19. It is estimated that some thousands of nurses are unable to come to the United States because of staggering green card backlogs and bureaucratic delays. Similarly, thousands of doctors are in the United States on temporary visas, but they cannot legalize their status permanently because of the long green card processing wait times. This is why the Healthcare Workforce Resilience Act would be so essential - it would remove the bureaucratic immigration constraints for these dedicated doctors and nurses, so they could stay in the United States permanently and help this country combat the effects of COVID-19. Moreover, this Act would help the United States greatly in making sure that our medical needs here can be taken care of and addressed by qualified medical professionals as quickly as possible.

The second bill was proposed by the House of Representatives on May 12, 2020. Health and Economic Recovery Omnibus Solutions Act, known as the HEROES Act, includes provisions designed to offer short term financial assistance to individuals, like undocumented immigrants, who previously did not meet the requirements for stimulus checks under the CARES Act. This assistance would also involve medical benefits for COVID-19 related testing, treatment, and vaccines. Other provisions of the HEROES Act offer temporary protection from removal and expulsion, as well as employment authorization privileges, for undocumented immigrants working in essential fields like healthcare. The Act further calls for expanded immigration options for foreign health and medical workers and researchers in efforts to tame COVID-19. Moreover, the government would be under the obligation to identify and release low-risk detained immigrants or provide them with alternatives to detention. Those remaining in custody would be given access to unlimited soap and hand sanitizers, as well as phone privileges to contact their legal representatives and family.

*At Wilner and O'Reilly, we are mindful of the many fears and anxiety experienced by our immigrant clients. We keep informed of many changes in immigration law and procedures, so we can safely and efficiently guide clients through the complex immigration system. We offer free consultations at our offices in Orange, Riverside, Fresno, San Diego, Sacramento, and San Bruno, California; Salt Lake City and Orem, Utah; and Boise, Idaho.*

*Aggie Dolinska is the managing attorney at Wilner & O'Reilly in Riverside and co-chair of the RCBA Immigration Law Section.*





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# WORKPLACE SAFETY AND COVID-19 AS EMPLOYEES GET BACK TO WORK

by Jamie Wrage

The pandemic has severely affected both employees and employers and numerous laws have been enacted to assist. One significant legal change that applies to employees who are working and contract COVID-19 is a modification of the burden of proof under the California workers' compensation system. This temporary change was set forth in Governor Gavin Newsom's May 6, 2020 Executive Order.

The new rule applies to employees who contract COVID-19 while on the job with the goal of making sure that individuals who have the disease can receive treatment. The order creates a time-limited rebuttable presumption that contraction of the illness was at work for Californians who must work outside of their homes during the stay at home order. More specifically, from March 19, 2020 to July 5, 2020, employees will have the protection of this rebuttable presumption if they tested positive for COVID-19 or were diagnosed with COVID-19 and were confirmed by a positive test within 14 days of working. If employers wish to dispute this presumption with evidence, they may do so, but they only have 30 days to present their existing evidence to rebut. After that 30 days, only new evidence can be presented.

The result will be that most employers will not be able to overcome the burden and the employees will be covered under the employer's workers' compensation insurance for COVID-19 illness. This new burden of proof, along with workplace safety measures, must be considered by employers as more and more businesses prepare to return to pre-pandemic operations.

As California employees return to physical workplaces, safety measures must be put in place to minimize the spread of the disease. There are now numerous resources available to employees to advise them on safety and COVID-19. On May 14, 2020, California's Division of Occupational Safety and Health ("Cal OSHA") issued "Interim General Guidelines on Protecting Workers from COVID-19." Likewise, the federal Occupational Safety and Health Administration ("OSHA") and Centers for Disease Control and Prevention ("CDC") also have advisory information available.

The Cal OSHA guidance identifies specific infection control measures that are mandatory for California employers to implement and those measures must be included in the employers' Injury and Illness Prevention Programs ("IIPP").<sup>1</sup> For example, IIPPs must be updated to:

1. Actively encourage sick employees to stay home.
2. Immediately send employees home or to medical care if they have any of the COVID-19 symptoms recognized by the CDC.
3. Ensure employees who are out ill with fever or acute respiratory symptoms do not return to work until they have gone at least three full days with no fever (without the use of fever-reducing medications) and without acute respiratory illness symptoms and until at least 10 days have passed since the symptoms first appeared.
4. Ensure employees that return to work following an illness promptly report any recurrence of symptoms.
5. Address how the employer will handle safety issues if an employee is diagnosed with COVID-19.

Consequently, employers should immediately review the new Cal OSHA guidelines, available at <https://www.dir.ca.gov/dosh/coronavirus/General-Industry.html>. They should update their current IIPPs to align with this guidance and any industry-specific guidance provided by Cal OSHA, OSHA or the CDC; implement general infection prevention control measures; and maintain records of the safety measures that are implemented and any training provided to employees.

*Jamie Wrage is a shareholder with Stream Kim Hicks & Alfaro, PC in Riverside and specializes in employment counseling, employment litigation, and complex business litigation.*



<sup>1</sup> Under California's general industry safety regulations, employers must establish, implement and maintain an effective IIPP. 8 CCR § 3203.



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# UNLAWFUL DETAINER ACTIONS IN THE COVID-19 PANDEMIC

by Barry Lee O'Connor

In response to the COVID-19 crisis, federal, state and local governments have issued a barrage of emergency protections for tenants. While none of these protections relieve the obligation to pay rent, the question of how to proceed with agreements on past due rents and evictions in the coming months looms large.

## Current Ordinance Overview

All these orders have rolled out in an effort to give the community the ability to adhere to the stay-at-home order despite any financial hardship caused by the crisis. The same consideration was given to commercial tenancies to alleviate public health concerns and to mitigate the economic impacts of COVID-19.

Governor Gavin Newsom's March 27, 2020 Executive Order N-37-20 has frozen commercial and residential evictions that were already in process during the crisis. On April 6, 2020, the California Judicial Council placed an eviction freeze in California courts. Courts may not issue a summons or enter a default or default judgment in an unlawful detainer action, other than those necessary to protect public health and safety, until 90 days after the COVID-19 emergency is terminated by the Governor or the emergency court rules are amended or repealed by the Judicial Council.

Landlords also have some protections that have been put in place against foreclosure, but they only apply to federally backed (Fannie Mae, Freddie Mac or HUD) mortgage, the recent federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) placed an eviction moratorium on those properties through July 25, 2020. The Federal Housing Finance Agency (FHFA) has also placed a temporary ban on evictions. Additionally, over 200 banking institutions and many state-chartered banks have agreed to some form of mortgage forbearance, but for most this is only a 90-day forbearance.

Following these actions, many counties and cities have enacted eviction moratorium ordinances that protect tenants financially impacted by COVID-19 and the length of time extended in these protections varies.

## Local Ordinance Examples in Riverside County

The city of Riverside established a temporary 60-day moratorium on evictions due to nonpayment of residential and commercial rent for those whose income was directly and negatively impacted by COVID-19. This moratorium was reviewed for termination or extension by the Riverside City Council on May 31, 2020. Tenants are required to notify their landlord of their inability to pay due to reasons related to COVID-19 within seven days of when rent is due. After the lifting of the local emergency, impacted tenants will have a minimum of six months to pay back owed rent and no late fees will be owed.

The City of Moreno Valley has adopted the provisions of Governor Newsom's Executive Order N-37-20 and has built on them by forbidding charging of interest, fees, or penalties for

non-payment of late payment of rent. In compliance with the governor's order, renters are required to provide documentation of their inability to pay, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances.

The city of Palm Springs requires that tenants notify landlords within 15 days after the rent is due of COVID-19 hardships and their inability to pay. Tenants will then have up to 180 days after the COVID-19 emergency is over to pay back deferred rent.

Landlords should be aware of the local ordinances that apply to their properties as they are all different and will need to be adhered to when moving forward with an eviction in the future. I would suggest employing a reasonable standard in that if you are notified within seven days of a hardship, then work out a payment agreement with your tenant. A three-day notice that is served and expires during the closure is not valid for proceeding with an eviction, but is valid in indicating monies that are owed.

## Looking Toward the Coming Months

At the time of writing this article Riverside Superior Court is closed through May 29, and only hearing emergency matters. All unlawful detainer matters have been postponed for 60 days except for ex parte applications and stipulations. The court clerk's offices for unlawful detainer matters and staff is only processing filings related to emergency matters being heard by the court.

Once the courts reopen, we can expect that things will move slowly. Some courts may remain closed and cases will be heard elsewhere. It looks like that there will be a limit on the number of people allowed in the courthouse and in each courtroom. Trials will likely be spread throughout the day, rather than heard in quick succession. Cases may also shift to being heard telephonically. This is a fluid situation and we do not know how the courts will choose to move forward.

This is a difficult time for both landlords and tenants, and that it is important for both parties to work out agreements together. However, the way you would end up collecting those rents and the way the tenant would notify you differs from the governor all the way to each individual city. Exploring flexible payments and possibly splitting a monthly payment into sub payments on the 1st, 10th, 20th for example could help. Forbearance agreements as to past due rents would also be generous. Communication between landlords and tenants is critical as we look to persevering through this crisis and supporting the economy of our communities.

*Barry Lee O'Connor is the chair of the RCBA Landlord/Tenant Section. His law firm, Barry Lee O'Connor & Associates is a full service eviction law firm, representing landlords.*



# WHEN EVERYTHING CHANGES AND WE NEED HELP

by Greg Dorst

All of a sudden, we cannot go to the office because we work in crowded buildings and courthouses. Being around other people is unsafe for each of us personally and as it turns out, for those we love. As we temporarily work from home, if lucky enough to do so, we wonder if things will ever return to the way they were before the “disease.” How long we can last without new income being generated through new clients? Will there be a need for the type of work that we do? How will the wheels of justice turn in the future and will I financially survive? Living in the grip of uncertainty is nothing less than torture. The brain is constantly creating and updating a set of rules that can predict how your world works and now it is impossible to predict what will happen to us. Scientists and politicians are trying to bring us a sense of safety by recommending community guidelines and precautions, but it is clear that none of them can predict what will happen. There are no answers we can rely upon, which is causing a feeling of a lack of control that is downright debilitating.

Everything about our personal and professional lives has changed. There is no denying that most of us are feeling anxious and are suffering for it, right now. There have been some measurable consequences connected to these uncertain times. Alcohol and drug usage amongst lawyers is skyrocketing, and depression has hobbled the ability of many to complete tasks and interact with others. Unhealthy relief from emotional and psychological stress and anxiety ranges from drinking too much and abusing illicit and prescription drugs, to pulling the covers up over our heads and refusing to get out of bed. Isolation is a trigger for this kind of behavior, which might be exacerbated by cancelled medical and psychological appointments. Suicide and violent behavior is on the rise. Paradoxically, when companionship is most necessary and appropriate for improved mental health and healing, people pull away and isolate.

As a professional who responds specifically to lawyers with these kinds of issues, I have noticed a pronounced increase in requests for help. You, or someone you know may be suffering and are not sure what to do. It is helpful to understand why this is happening, what to look for, and what can be done to make career and life saving changes.

On March 16, 2020, Patrick Krill published a timely article at law.com entitled, “In a Year Full of Worry and Division, How to Protect Your Mental Health.” The article sets forth solutions for lawyers experiencing high levels of isolation and loneliness during these uncertain times. As a lawyer and therapist Krill advises:

*“Fighting isolation and loneliness amid a broad public health concern might seem more challenging, but the best way to do it is generally the same as in the absence of an outbreak: with intention and commitment. Schedule time to check in (by phone or video) with family and friends and keep the appointment.*”

*Even if you’re tired, make the calls and give yourself permission to be fully present for the conversations. In a time of increased stress, a sense of connection can be transformative and, for some, lifesaving.”*

Coincidentally, “Lawyer Well-Being Week,” began in early May and was designed to highlight the kinds of skills that are necessary to get through even the toughest of times. The concept that lawyers may need strategies for successful living that include emotional, intellectual, occupational, physical, spiritual, and social toolkits is one that has gained a lot of traction nationally. There is now a National Task Force on Lawyer Well-Being that takes a holistic approach to lawyer wellness. These strategies may prevent troubling behaviors before they become problematic, but for some lawyers out of control behaviors have already taken hold. For some, the pandemic has exacerbated behaviors that used to be somewhat controllable, but now the drinking, drugging, and/or depression is having its way. Asking for help to make the necessary changes may be the hardest thing that a lawyer ever has to do. For those who find themselves gripped by alcohol, drugs, and/or depression, it is important to know that you don’t have to live that way anymore, there is confidential help available.

## The Other Bar

The Other Bar is a good place to get started on a new path. It is a private nonprofit corporation that helps lawyers, judges, and law students to find freedom from addictive disorders and mental health concerns, so that they might practice law competently and productively. The organization provides a confidential statewide community of recovering legal minds who help each other to accomplish their goals in a sober and sane way. It is, quite simply a free resource for the legal profession that has helped thousands of struggling lawyers to change their lives for the better.

In addition to the Other Bar, here are some resources that may be instructive and helpful in creating life-saving and career-saving changes to meet the new challenges that all of us are facing during this unprecedented time:

<http://calbar.ca.gov/lap>

[www.drugabuse.gov](http://www.drugabuse.gov)

[www.nami.org](http://www.nami.org)

[www.aa.org](http://www.aa.org)

[www.samhsa.gov/find-treatment](http://www.samhsa.gov/find-treatment)

[www.samhsa.gov/find-help/national-helpline](http://www.samhsa.gov/find-help/national-helpline)

*Greg Dorst, JD, CADC II is a former attorney and practicing addiction specialist and consultant to the Other Bar, working specifically with lawyers, judges, and law students who are facing alcohol, drug, and mental health issues. Resources are just a phone call or email away: 1(800) 222-0767 or Gdorst2@gmail.com. All communications are confidential.*



# THE NEW CHALLENGES FOR RIVERSIDE COUNTY SUPERIOR COURT AMID COVID-19

*by Assistant Presiding Judge John Monterosso*

Everything changed the week of March 9, 2020, when the reality of the coronavirus pandemic smacked us in the face. A crisis management team assembled by Presiding Judge John Vineyard and Court Executive Officer Sam Hamrick was suddenly tasked with quickly responding to a crisis for which there was no playbook. The immediate objectives were to protect our court users, litigants, attorneys, staff, and bench officers, while simultaneously carrying out our duty to perform our critical functions. Over two months later, we are now preparing to incrementally restore services while continuing to protect the health of all who use our facilities.

We took steps that first week to dramatically reduce the traffic in the courthouses and judges began continuing cases into the summer and beyond, when presumably the pandemic would fade. However, circumstances were changing daily, often hourly, leading to a shifting playing field that made certainty in planning elusive. As attorneys began appearing in court wearing protective gear and the smell of hand sanitizer engulfed our facilities, it became evident that a more dramatic reduction of services was necessary to protect the public. On Friday, March 13, the court suspended all civil jury trials and divided the high-volume criminal calendars in half. By the following week, those plans were obsolete and the unthinkable was now inevitable. We would have to essentially close a court system serving 2.4 million people.

There is little statutory guidance to assist the 58 trial courts facing this crisis. Dozens of local courts like Riverside immediately applied to Chief Justice Tani Gorre Cantil-Sakauye for short-term extensions of timelines under Government Code section 68115. On March 16, Chief Justice Cantil-Sakauye signed the order leading to the Riverside Superior Court taking the unprecedented action of partially closing our doors to everything, but our most essential functions, while consolidating services into 6 of our 14 courthouses. The authority granted to the court pursuant to Section 68115, however, was immediately deemed inadequate as that statute was written to address short term, local emergencies such as fires or earthquakes, and not a long-term pandemic. Over the course of the next several weeks, subsequent orders from Governor Gavin Newsom and Chief Justice Cantil-Sakauye, and emergency Rules of Court approved by the Judicial Council, provided a broader framework from which we have operated.

Every case is important, especially to those with a stake in the outcome. The thought that our actions would delay justice or conceivably infringe on individual rights weighed heavily on all of us. The anguish felt by the bench cannot be understated. However, the unfolding public health emergency required that the health and safety of our court

community be our top priority, with a secondary focus on handling matters with constitutional and statutory priorities related to public safety.

Operating with a skeleton crew of staff, the court continued to hear criminal in-custody matters including arraignments, bail hearings, and some sentencing. Our IT team worked with criminal justice partners including the Public Defender, District Attorney, Conflicts Panels, Probation, and Sheriff, to develop a process to conduct video in-custody arraignments. We continued to hear preliminary hearings when necessary, and implemented the state-wide emergency bail schedule. Other cases heard uninterrupted included domestic violence, elder abuse, civil harassment, and gun violence temporary restraining orders; temporary guardianships and conservatorships; emergency ex-parte family law matters; emergency ex-parte civil matters; and juvenile detention hearings in both dependency and delinquency cases. This list has expanded over time and judges have continued to process default judgments and other chambers work such as requests for search warrants.

The process to restore services in each subject area has begun. "Town Hall" type conference calls have taken place with the civil, family, probate, and juvenile bars, and regular meetings have occurred with criminal stakeholders. The input from the bar and other stakeholders has been valuable and greatly appreciated. The general plans for a graduated reopening are posted on our website. As circumstances evolve, however, these plans may also evolve. Most challenging in the planning is satisfying the need for social distancing and maintaining a clean environment, while attempting to restore operations to full service. We are implementing the recommendations of Riverside County Public Health Officer Dr. Cameron Kaiser, who has provided valuable guidance.

Society and individuals often re-evaluate what is important during times of adversity to adapt to the new environment they find themselves in. While the suffering in human and economic costs can never be offset by any efficiencies or improvements made, this crisis has brought to the surface the critical need for us to innovate in the post-pandemic world as a severely and chronically under-resourced court. A principle guiding us through the pandemic has been to conduct as much business as possible without personal appearances to minimize the risk of exposure in court facilities. To that purpose we have developed several innovations we think may be elements of a new paradigm.

Each courtroom is now equipped with a WebEx conference call system that will allow multiple parties to call into a hearing at a given time. This system is run by the court without the need of an outside moderator. Many routine

hearings in all subject areas may be conducted remotely, saving time, expense, and inconvenience to litigants, lawyers, and the court. Non-appearance misdemeanor 977 guilty pleas have always been available, but rarely used. The court is now encouraging the use of a newly articulated process as a standard means to enter most misdemeanor dispositions. Also, most probation program reinstatements can be done without a court appearance, a task that previously required a probationer to take a day off work for a 2-minute hearing. Finally, the court intends to dramatically reduce, if not eliminate, criminal felony settlement conferences and trial readiness conferences, which take a substantial amount of court and attorney time, but are rarely utilized for tasks requiring a court appearance, such as disposition negotiations, discovery exchanges, and readiness discussions. These tasks can be done by phone, Skype, email, or old-fashioned face-to-face meetings (with social distancing, of course). When the court is needed for a disposition, to provide an indicated sentence, or to resolve any issue, counsel can always notice such a

hearing in the ordinary course like any other noticed hearing or motion.

We are deeply aware of the economic, emotional, and physical strain being experienced by everyone, especially litigants, lawyers and their staffs, and court staff. It has taken a toll on all of us. We applaud the heroic effort of our executive, management, and front line staff (the best in California), my fellow bench officers, and others who have stepped up, especially those who have worked to keep our facilities clean and safe. We also applaud the exceptional collegiality and cooperation of the Riverside County legal community, including the bar, law enforcement, and probation. As I enter my thirtieth year as a member of this community, I am extremely proud to be associated with all of you. There are still many challenges ahead, but as long as we stay together as a community, we will come out of this stronger and better. We hope you and your families continue to stay safe and healthy in the days ahead.

## AT THE COURT OF APPEAL DURING COVID-19

*by Gabriel White*

As an appellate court attorney at the California Court of Appeal in Riverside (Fourth District, Division Two), my position is among those deemed essential by the governor, so I am permitted to work from my usual office as needed. I have found, however, that my job is mostly compatible with working from home. My primary responsibility is to assist my boss, an appellate court justice, in preparing tentative and final opinions for cases on appeal. Before Covid-19, consistent with the court's policy at the time, I had never worked from home to any significant extent. As it turns out, appellate records can be scanned, if they were not electronically filed in the first place, and they can be made available to me remotely. I now have full remote access to my work computer, so the files and resources that I previously could access only at the court I can now reach from my home laptop. Although I have only been to the court twice since the middle of March, both times for less than an hour, my work has been largely uninterrupted.

I miss interacting with my amazing colleagues in person. There is something lost, both personally and professionally, from the lack of normal daily chit-chat. Also, my back misses the ergonomic chair I have at the court and my home laptop is a poor substitute for the two large monitors sitting idle on my work desk. Nevertheless, working from home does have its advantages. About two of the most productive hours in my day, previously squandered on getting ready for work and commuting, are now being spent, well, working. Also, I write this at my kitchen

table with a five-month-old puppy, who joined our family just before the pandemic hit, sleeping on my bare left foot. My kindergarten-aged son is reading a book on the couch across the way, and my wife is on a Zoom call for her work in our back office. Most importantly, we are all well. I am very fortunate.

Most of my colleagues, like me, are working remotely, but our court is open to receive filings and answer the phones. With the Superior Courts mostly closed, the Court of Appeal has received few new notices of appeal or writ filings in recent months, and many (but not all!) deadlines for parties have been extended. Nevertheless, there remains plenty of work to be done on cases already fully briefed and ready for assignment to chambers (and I am told we should expect a glut once the Superior Courts reopen). I understand that our IT staff is working diligently to get equipment in place for telephonic oral arguments, which should be underway by the time this article is published. Parties should consult the Fourth District's website for up to date information: <https://www.courts.ca.gov/4dca.htm>

I wish you all health and happiness in these strange and difficult times.

*Gabriel White is a senior appellate court attorney at the California Court of Appeal, 4th District, Division 2, assigned to the chambers of Justice Michael J. Raphael. The views expressed in this article are his own.*



# INDIVIDUALS AND ORGANIZATIONS MORE VULNERABLE THAN EVER TO RANSOMWARE ATTACKS IN THE MIDST OF THE COVID-19 CRISIS

*by Sunny Huynh*

Ransomware is a type of malicious software or malware that infects a computer system and denies user access to the computer system or files until a ransom is paid. The Cybersecurity and Infrastructure Security Agency (CISA) has noted an increase in ransomware attacks worldwide in recent years. A few years ago, ransomware attacks were primarily directed at individuals, who only had to pay a few hundred dollars to retrieve files that were held hostage. Ransomware authors have since become more sophisticated and are increasingly targeting local governments, school districts, healthcare systems, and businesses to demand big ransom payments.

## How Does Ransomware Spread?

Ransomware is typically delivered through phishing e-mails or through drive-by downloading. Phishing e-mails are authored to appear as though they have been sent from a legitimate organization or an individual known to the victim. Phishing e-mails entice users to click on a link or open an attachment containing malware. Drive-by downloading occurs when a user unknowingly visits an infected website, causing malware to be downloaded and installed without user knowledge.

Ransomware attacks are so effective because the authors of ransomware instill fear and panic on victims through intimidating messages, such as, “You only have 96 hours to submit the payment. If you do not send money within provided time, all your files will be permanently encrypted and no one will be able to recover them.”

## Recent Ransomware Attacks

In May 2019, the city of Baltimore was subject to a ransomware attack. The ransom note from the perpetrators stated, “We’ve [been] watching you for days and we’ve worked on your systems to gain full access to your company and bypass all of your protections...we won’t talk more, all we know is MONEY...hurry up! Tik Tak, Tik Tak, Tik Tak!” Baltimore refused to pay the ransom as payment did not guarantee its files would be released. After the attack, it was reported that the attack would ultimately cost the city \$18 million dollars in direct costs and lost revenue.

A similar ransomware attack hit the city of New Orleans in December 2019, which is believed to have been triggered after a city employee clicked on a phishing email.

The attack is estimated to cost the city at least \$7 million, including approximately \$3 million to remove the malware and restore computers, and \$4 million to staff a cybersecurity team, purchase new security tools, and replace outdated equipment.

In November 2019, the Claremont Unified School District was the victim of a ransomware attack that completely disabled their e-mail system. This incident followed a similar attack on the San Bernardino City Unified School District in October 2019.

In the midst of the COVID-19 crisis, there has been an increase in ransomware attacks against healthcare providers. Attacks on healthcare systems means that medical professionals cannot access patient medical histories, dosages of drugs that patients require, and other critical information in a time where healthcare organizations are already overwhelmed by the influx of COVID-19 patients.

Microsoft recently sent warnings to healthcare organizations that it believes are vulnerable to cyberattacks. However, healthcare providers are not the only ones experiencing an increase in ransomware attacks. A Microsoft spokesperson said, “We’re seeing not just a rise in COVID-themed typical phishing/malware lure emails, but an uptick in the attempted compromise of legitimate services, such as healthcare and technology providers. Attackers are masquerading as these trusted entities using their services as a relay to get to users.”

With more people working from home than ever before, often with fewer security defenses on their home networks, all organizations have become more vulnerable to an attack. Moreover, in a time of stress and distraction, individuals are more likely to fall victim to cyberattacks.

## Protecting Against Ransomware Infections

The following are protective measures that individuals and organizations can take to prevent falling victim to a ransomware attack:

- Keep computer applications and operating systems up to date. Outdated applications and operating systems are the target of most ransomware attacks.
- Perform frequent backups and store your backups on a separate device that cannot be accessed from your network. If your computer becomes infected

with ransomware, you can restore your system to its previous state using your backups.

- Be careful when clicking on links in an e-mail or opening an e-mail attachment, even if the e-mail appears to have been sent by a known sender.
- Pay attention when clicking on or inputting website addresses as malicious website addresses often appear almost identical to legitimate sites, often using a different domain (e.g., .com instead of .net).
- Organizations should provide regular cybersecurity awareness training to their personnel that include examples of real-world phishing e-mails.

- Restrict personnel permission to install and run software applications.

## How to Respond to a Ransomware Attack

- Disable the infected computer's wireless, Bluetooth, and other networking capabilities and unplug the infected the computer to prevent the spread of the ransomware to other devices on the network.
- Do not pay the ransom demand, as this does not guarantee files will be released.
- Immediately report the cyberattack to CISA, an FBI Field Office, or a Secret Service Field Office.

*Sunny Huynh is an associate attorney with the firm of Best Best & Krieger LLP.*



# THE LEO A. DEEGAN INN OF COURT COMMUNITY SERVICE TEAM 2020-2021

*by Sophia Choi*

*Team Members: Honorable Judge Kenneth Fernandez, Dani Mouri, Sophia Choi, Joshlyn Pulliam, Laurie Burns, and Kiki Manti Engel*

With the COVID-19 pandemic, our regularly-scheduled members' dinner meetings since March had to be canceled. Although we hoped that things would get better by our presentation date on May 27, 2020, it was still uncertain when normalcy would return. Thus, the Leo A. Deegan Inn of Court Community Service Team (the Team) submitted our presentation through email to the membership, which summarized our local and global outreach activities.

## Local Outreach Activity

As we are discovering new ways to present virtually, they found a way to adjust. Initially, the Team intended to go to Operation Safehouse and the Rape Crisis Center and provide them with useful and relevant information on topics of interest to them, such as social media and the law, marijuana laws, minors and dating violence, and minors' rights as related to school and law enforcement searches. In adjusting to the changes and limits currently imposed by the pandemic, the Team had to quickly change its method of helping, but not its intent and purpose to help. As such, the Team is going to provide the same information it intended to initially provide to Operation Safehouse and the Rape Crisis Center, but by way of creating informative pamphlets on these same topics. Additionally, we will be providing a separate document in non-pamphlet format on a topic of interest by many minors regarding minor consent laws and psychotropic medications.

## Global Outreach Activity

In addition to the local outreach, the Team decided that it was the perfect opportunity to help everyone affected by the

COVID-19 pandemic. As the world faces a common enemy, the coronavirus, the Team thought that it would make sense to put in efforts to serve the global community by giving back to help vulnerable communities affected by the coronavirus. So, on March 23, 2020, the team created a fundraiser through Global Giving for the Coronavirus Relief Fund, with a targeted goal to raise \$5,000.00. As of April 23, 2020, \$1,890.00 have been raised. Additionally, the Riverside County Bar Foundation has agreed to contribute to this cause.

The website is viewable at <https://www.globalgiving.org/fundraisers/33801/>. We understand that this is a difficult time for everyone and that it is not easy for people to give back during a time that everyone is suffering in many ways, not just in health and safety, but also emotionally and financially. Understanding that people may not be able to give back in the same way as when under normal circumstances, we wanted to make an impact.

The Team hopes that our efforts may better the communities we live and work in. We also hope that everyone stays safe and healthy during these challenging and unprecedented times and that we can all meet again and enjoy each other's company very soon.

*Sophia Choi is a deputy county counsel with Riverside County, president of Leo A. Deegan Inn of Court, president-elect of the Riverside County Bar Association, and past president and founding member of the Asian Pacific American Lawyers of the Inland Empire (APALIE).*



# LIFE IN THE JAILS IN THE TIME OF PANDEMIC\*

by Juanita E. Mantz

“He was still too young to know that the heart’s memory eliminates the bad and magnifies the good, and that thanks to this artifice we manage to endure the burden...”

- Gabriel Garcia Marquez,  
*Love in the Time of Cholera*

I have been a deputy public defender for over a decade and these are the strangest times of my entire career, and even my entire life. Surreal and dystopian are apt adjectives.

At the time of the writing of this article in mid-May of 2020, I have been on lockdown, remote working, quarantine (whatever name you want to call it, it remains the same, stay at home) for weeks and weeks. Like most of you must be, I am wondering, when will this end? Will anything ever go back to normal?

The bright spot is that our judge and the court team I am privileged to work with in Mental Health Court are hard-working and communicative, and we are doing what we can to handle issues on cases when appropriate. Working from home, however, has been much more taxing than I ever imagined. I start working early morning and find it almost impossible to disconnect or to set “proper” boundaries. In short, I am exhausted.

Even worse, the situation in the jails is more dire than I could have envisioned when I wrote my story about what I deemed was an extreme risk in the jails for COVID-19 for Aljazeera in early March.<sup>1</sup>

But my story is not the story here. The most important story to tell is that of my clients, my severely mentally ill clients who have been languishing in the jail with a mere thirty minutes a day of “out of jail cell” time. My office has arranged remote video visits and thankfully, my collect calls are routed to my cell phone. My phone rings day and night and all weekend, with clients just wanting to hear a voice. I am their touchstone in these times, their link to an outside world that is falling apart.

Can you even imagine what it would be like to be incarcerated right now? My clients are understandably terrified and while I have been able to have some released under the revised “zero” or reduced bail schedule that was instituted, Riverside County has lagged in having clients released when compared to LA County.<sup>2</sup>

I feel as if it is my duty to bear witness in these times, to document and memorialize it from my very privileged position as a writer and lawyer. So here goes, it pains me to even write these words.

As of the writing of this article on May 13, 2020, here are some of the statistics:

Federally, seventy percent of the population has tested positive at Lompoc Prison, with a total of 3,082 inmates and 248 staff infected. Nationally, more than 14,500 inmates in various prison facilities across the country have tested positive, along with at least

4,000 staff.<sup>3</sup> According to The Marshall Project, that number could be much greater and in excess of 20,000 as of mid-May.<sup>4</sup>

In Riverside County, at least two people in custody have died of the virus along with two deputies.<sup>5</sup>

There are so many unknowns. It is not clear how many actually have the virus in the Riverside County jail because while it is reported that 157 inmates have tested positive, Riverside County does not report how many tests were negative or how many people in total received a test. A sheriff’s spokeswoman said they “do not currently give out how many inmates have been tested.”<sup>6</sup>

Moreover, based on Riverside’s Board of Supervisor’s lifting of the governor’s restrictions recently, much could change in the next month.<sup>7</sup>

I suppose what this article is most useful for is showing all of the confusion and uncertainty in times like these. We are not soothsayers. No one knows how this is all going to go, although many predict the opening up of the court system in early to mid-June.

What I do know and what cannot be denied no matter where you stand on the COVID-19 restrictions, is that my clients in custody are suffering greatly. This crisis has illustrated that the inequities between the rich and poor are great and that bail policies are patently unfair.<sup>8</sup>

What I hope most for (this is opinion, so what I pray for as well), after all of this chaos and trauma is over, is for a recognition that something needs to change in the criminal justice system, and fast.

*Juanita E. Mantz has been a deputy public defender in Riverside County for over a decade and specializes in representing individuals found incompetent to stand trial under Penal Code section 1368 and 1369. She is also a writer, performer and is published in numerous literary journals and magazines, and is a member of the Macondo Writer’s Workshop. You can read more about her life on her blog and Life of JEM podcast. See <https://www.lifeofjem.com-jemmantz.blogspot.com/>.*

\* The opinions expressed in this article are the personal views of Ms. Mantz.



- <https://www.latimes.com/california/story/2020-05-09/coronavirus-cases-lompoc-federal-prison-inmates>.
- <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>.
- <https://www.latimes.com/california/story/2020-04-29/riverside-county-inmate-covid-coronavirus-deaths>; <https://www.pe.com/2020/04/26/riverside-county-jail-inmate-diagnosed-with-coronavirus-dies/>.
- <https://www.msn.com/en-us/news/us/lack-of-covid-19-testing-in-california-jails-sets-up-perfect-storm-for-outbreak-experts-warn/ar-BB13NrKq>
- <https://www.pe.com/2020/05/12/riverside-county-supervisors-make-case-for-faster-reopening-after-coronavirus-closures/>; <https://www.pe.com/2020/05/08/will-riverside-county-coronavirus-health-orders-be-lifted/>.
- <https://www.fwd.us/news/coronavirus-disparity/> and <https://www.theguardian.com/commentisfree/2020/mar/30/jails-coronavirus-us-rikers-island>

1 <https://www.aljazeera.com/indepth/opinion/prisons-woefully-unequipped-deal-coronavirus-200310075911589.html>.  
2 <https://www.riverside.courts.ca.gov/Divisions/Criminal/bailschedule.pdf?rev=04-09-2020-09:01:32pm> and <https://www.latimes.com/california/story/2020-03-26/coronavirus-inmates-release-la-county-jails>.

*by Michael A. Hestrin*

As I sit down to write this article, in May of 2020, February seems like a long time ago. Pre-COVID 19, we at the Riverside County District Attorney's Office were fulfilling our constitutional duty to the public. We were working to serve the community by protecting the innocent and holding the guilty appropriately accountable. This is our core role and why our attorneys choose to become deputy district attorneys.

Then, seemingly out of nowhere, COVID-19 struck. Suddenly, people were concerned with things they had never thought of before, like "protective personal equipment" (PPE), "social distancing" and "quarantine orders." Our community largely abided by various stay-at-home orders, only daring to venture out for necessities, like purchasing food (and in search of toilet paper). The "everyday" concerns that our community shared before COVID-19 were pushed to the background as we were inundated with the constant reports of the pandemic and learning how to meet the rigorous demands of home-schooling our children and caring for our elderly family members.

Our legal community is not exempt from the impact of COVID-19. On March 17, the Riverside County Superior Court began to curtail criminal court operations. Soon thereafter, jury trials were suspended, as were other types of hearings. By March 23, 2020, the courts were only handling essential functions, such as arraignments and bail hearings for in-custody defendants. This pandemic has led to new challenges in how we fulfill our constitutional duty to the community as prosecutors. However, that duty remains.

Since the beginning of this pandemic, we have been meeting with the Riverside County Criminal Justice Partners. As part of a collaborative effort with the Public Defender, Conflicts Panel, private counsel, and the courts we have worked to keep all parties to criminal actions safe. Video arraignments have become prevalent. The District Attorney's Office is developing new technology to enable other types of criminal hearings, including those that would require testimony, to be completed virtually or electronically.

The District Attorney's Office continues to focus on the most violent and dangerous criminals. During this pandemic, deputy district attorneys individually review all cases under the new temporary emergency bail schedule issued by the court, and we object as appropriate to the release of violent or otherwise dangerous individuals, while also stipulating to the application of the new bail schedule for non-violent minor offenses.

Since 2015, we have placed an emphasis on updating our technological capabilities. This foresight has enabled the office to conduct most of our business virtually during this partial shutdown of the court. All meetings, including those involving our law enforcement partners, are conducted virtually. Every deputy district attorney has virtual access to each of their files twenty-four hours a day.

Unfortunately, a pandemic does not mean the end of crime. There are those that see this time as an opportunity to

prey upon others. The District Attorney's Office has continued to review and file these serious cases in order to protect our community.

As you can imagine, this period of uncertainty has led to many valid questions from victims. When will the courts resume normal operations? When will my case be heard? When will my voice be heard? These are difficult questions, and our Division of Victim Services has been there to support our victims and fill that void.

Like other members of the community, the normal responsibilities of our job are now accompanied by the stress of this pandemic. But prosecutors are essential workers and we still have a job to do. Our constitutional duty to the community and the pursuit of justice has not changed, only the way we are completing that duty.

The court is currently scheduled to fully reopen on June 15. At that time, we will face many new challenges. While crime is still occurring, cases have not been concluded at a normal rate. With new filings and the lack of finality of our current cases, our deputy district attorneys will be handling thousands of additional cases this year and into next year.

By June 15, criminal trials will have been postponed for a total of three months. This unprecedented delay will result in a crush of cases going to trial, which means the need for jurors, witnesses, and many others. Ordinarily, trials lead to busy hallways and courtrooms. Obviously, the way we conduct jury trials will have to change to meet the new requirements for social distancing, while still providing the legal protections that form the foundation of our system.

Many of us remember life before and after September 11. COVID-19 and the "lockdowns" will have a lasting impact as well. However, even as the District Attorney's Office modernizes our business model to meet the demands of this unprecedented time, we remain steadfast in our duty to the citizens of Riverside County.

The last three months have been filled with new challenges that we never expected to face. Throughout that time, the mission of the Riverside District Attorney's Office has not changed, we have continued to vigorously enforce the law, pursue the truth, and safeguard the rights of all to ensure that justice is done on behalf of the community. As we continue to navigate the many challenges we face one thing is certain, the District Attorney's Office will continue to ensure justice is done in the safest way possible for everyone involved in the criminal justice system.

*Michael A. Hestrin is District Attorney for Riverside County.*



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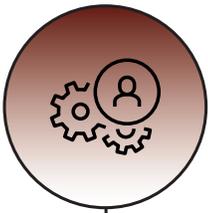
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