

## President's Column

### *Don't Be Afraid to Pull the Trigger!*

by Scott Levine

*Scott Levine is CASD's President for 2010. He is a partner in the law firm of Silldorf & Levine, LLP. He represents homeowners in construction defect actions and also practices business litigation, employment and franchise law. Mr. Levine received his undergraduate degree from the University of California, Santa Barbara, and his Juris Doctor degree from California Western School of Law. He was the Tort Law column editor and then the Legislative Law column editor for **Trial Bar News**. He was awarded the 2002 Legislative Champion Award by CAOC and the David S. Casey, Jr., Consumer Advocate Award by the CASD for 2003. He may be reached by email at: [slevine@silldorf-levine.com](mailto:slevine@silldorf-levine.com).*

Over the course of this year, I have been writing articles about organization for both life and your practice. This month I am writing about a similar topic but it comes from two sources. One is from the use of a tool and the other is from what was discussed at the Class Action Symposium.

I will start with our seminar back in October 2010. This was our third Class Action Symposium and it was very educational. We had two keynote speakers together with an incredible line up of other speakers that included some very talented attorneys, mediators and numerous members of the bench. The keynote speakers included Jon Krosnick and Bill Lerach.

Bill Lerach spoke on Saturday morning at 9:00 a.m. and filled the room. His materials forecasted the next great financial disaster. He cited his testimony to Congress wherein he forecasted the 2008 Financial Meltdown. His support for the next disaster is compelling and makes logical sense. He suggests that Pension Plans are all underfunded in an amount that reaches billions of dollars. In part it is due to the forecasting that is done by Wall Street money managers who suggest what return they will achieve when the entity who sponsors the plan makes its contributions. Unfortunately, that is like a pitcher being able to forecast how many games he will win over the course of the next five years! (This was his example, not mine but it is right on target.)

Next, he gave us some very important advice which, after reading the book about his legal career, is well supported also. When reading his book, it became clear that the two times he ran into trouble were when he appeared to be on a crusade of some sort. His advice to those in attendance was to not be afraid to settle a case. The odds are stacked against the plaintiffs for a lot of reasons. Once you maneuver your case into a posture that permits its resolution in a reasonable range, he suggested that you not be afraid to pull the trigger. In sum, don't treat your cases or a single case as a crusade.

Jon Krosnick is a professor at Stanford University and teaches in the areas of statistics and surveys. He has spoken at all three of the symposia we have held and the information he presents is fascinating. It is amazing to see that something that we all see on the news but probably don't even pay any attention to is very important if you care about finance. The things called leading economic indicators or those that report on consumer sentiment actually forecast or predict what will happen in the future! These boring statistics are actually the most important part of the news that you read or hear if you want to predict the future.

You may say that predicting the future is not of any help to a lawyer, but that is not true. First, most of us try to make money with some of the money that we make. That means that we invest in the stock market or other places. The performance of these investments actually correlates with the leading economic indicators and the indicators of consumers. It is hard to believe that surveys have become so accurate that

we can tell several months in advance what is going to happen in our financial markets!

When you were watching the returns for the latest election, Mr. Krosnick reported that he was already aware of who won the races. How did he know before the returns were tabulated? He looked at the surveys and knew from the surveys who had won the election. Surveys are accurate -- if they are done correctly. At the symposium, Mr. Krosnick explained all of the ways that a survey can be done poorly which affects its accuracy.

Maybe a survey or surveys will help you with your cases, but if not, it can certainly help with your reading the future. I am not suggesting that you make an investment because a leading indicator suggests that you make that investment. I am simply suggesting that if you wish to use this tool that you explore its usefulness and its accuracy.

The next topic that I am writing about is a new tool that lawyers are finding to be very useful in their practices. We all know about the migration from paper to a typewriter and then to a computer. Today we have another electronic tool that could be more useful than your phone! Some of you are probably asking what could be more useful than my Blackberry or my iPhone? The answer is the new (well not so new) iPad with some key Apps that are made just for lawyers! They are not really made for lawyers, but we can surely use them to streamline our work!

So we start with the basics of deciding which iPad to get. The differences are basically memory size (16GB, 32 GB and 64GB) and whether you get it with just WiFi or add the 3G capability. If you have a WiFi connection or have access to them, you can probably do without the 3G which is pretty costly itself and adds about \$130 to the cost of the iPad you choose (GB size).

I am typing this column on my iPad using a portable bluetooth keyboard. The keyboard cost \$69 and is about the same width as the iPad but has the feel of a keyboard and is more accurate (for me anyway) than the onscreen keyboard. It adds little if any weight to the iPad and, in Apple tradition, it looks pretty good!

Now for the cool Apps that lawyers can use in their practices. I used Pages to type this column. It cost \$9.99 in the App Store, which was downloaded using my WiFi connection in a few seconds. Pages is not full of a lot of bells and whistles, but as attorneys we write thoughts, arguments or other words on paper. Sometimes we add pictures or diagrams and Pages will do all of those things. When you are done, you simply go to a place in the program and send it where you want it to go or put it into a cloud where you can retrieve it at a later date.

The next App (and the reason I got the iPad) is called iAnnotate. This App lets you annotate right on the iPad document. If you have a deposition that you want to read and markup, you can do it on the iPad with this App. When you are done, you simply drop it into a cloud device or email it to yourself. The notes and marks are in a report if you like and/or on the pdf that you just marked up on your iPad. I actually learned about this App from Paul Kiesel at the CAALA convention. I had a netbook with me at the seminar and could not annotate documents. If I had the iPad, I could have taken the seminar materials and made notes or marks on them with my iPad during the seminar. Instead, I took notes on paper and put them in my office. I did remember iAnnotate though and looked at it and its YouTube videos several times to see the advantages and problems this App seemed to have in real life experiences. So far, I am pretty impressed with iAnnotate.

Another App that I learned about from a blog or website (I googled iPad for Lawyers) is OmniFocus. This is a time and thought management App. The things that you want to get done are put into this program. If you read my column in a prior month in which I discussed "Getting Things Done" by David Allen, and liked the ideas he presented, you will be happy to know that this program actually can be set up to follow his

methods. In fact, there is a paper on the OmniFocus site that explains exactly how you can use David Allen's methods when using this program.

OmniFocus is a place where you put any random thought that you have but don't exactly know where it goes. Then, you review the items and file them according to their Context or Project. You can set up additional/new contexts or projects as well. A context could be a phone call. For example, you may have five projects with 10 phone calls in them but are not sure which projects or calls need to be made. When you find some time to make calls, you simply go into the program and check the context phone call and you will have a simple list! Then, you can make the calls with the notes or other attachment that you include with the note. This program is costly (for an App) but it could be as valuable as iAnnotate to your practice and your organization.

The last App that I will talk about in this column is Penultimate. I like to draw my ideas. Sometimes I draw them on butcher paper or on an easel that I set up in my office. However, with the iPad and Penultimate, I have a simple program that lets me draw my ideas on the tablet. I purchased a stylus for about \$15 (it comes in silver or hot pink). This lets me write like I am writing on a tablet. I can use multiple colors and draw as I like to on the tablet.

Remember to run your practice like a business. Remember to take time out for yourself. Remember to take time for your family. Tomorrow is not a sure thing, although we still need to plan for tomorrow!