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Playing Innocent

The California Innocence Project is serious business. The clinical program at California Western School of Law is dedicated to releasing wrongfully convicted inmates, and the students review more than 2,000 inmate claims each year to decide which cases to take. The students won conviction reversals of four inmates this past school year alone, according to associate director and case manager Jeff Chinn.

But at least once a year, Chinn says, the California Innocence Project is all about having fun. Each February or March, the program hosts a fund-raising dodgeball tournament, with costumes strongly encouraged. Chinn, who joined the staff in 2002 and plays on one of the teams every year, says the tournament features 32 co-ed teams in a double-elimination format. The event, held at country-western bar In Cahoots in Mission Valley, attracts about 300 enthusiastic fans and raises about $8,000 each year.

“Students tell us when they graduate that it’s one of the most memorable events of their law school career,” Chinn says. “The team slots fill up in just a few days.” Law students, professors and attorneys from local law firms, the public defender’s office, the city attorney’s office, the district attorney’s office and the local ACLU all field teams. This year, Latham & Watkins won the tournament—the first time a non-law student team has won in the event’s six-year history, Chinn says.

For those who don’t recall the rules of the somewhat liability-prone game, two five-member teams face off on a court. The game begins when the players rush to grab five balls and then start lobbing them at one another. The team with the last member standing wins.

“Depending on how agile the last person is, the game can be really short or really long,” Chinn says.

The California Innocence Project itself sponsors two teams each year—last year’s teams were costumed as pirates and ninjas—but has never emerged as champion, says Chinn.

“We host the tournament, but we’ve never really gotten that far,” he says. “We’re just there to have fun, celebrate and raise money.”

Jodi Cleesattle (jodi.cleesattle@doj.ca.gov) is a deputy attorney general with the California Department of Justice.
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Debt of Gratitude

“In the order of nature we cannot render benefits to those from whom we receive them, or only seldom. But the benefit we receive must be rendered again, line for line, deed for deed, cent for cent, to somebody.”

—Ralph Waldo Emerson, in his 1841 essay *Compensation*

Recently, I attended the memorial service of Judge Howard Turrentine. The church, like the life being celebrated, was packed with notables. He was one of the greats from the “greatest generation.” After serving his country in World War II, Judge Turrentine served as the President of the San Diego County Bar Association in 1946—64 years ago. Although he served in a different time, during a much different era, and faced different challenges, I must confess that listening to the understated descriptions of legal and personal accomplishments of a rich life left me feeling both greatly inspired and somewhat insignificant. I couldn’t stop thinking about just how great of a debt we owe to the generations before us, and what we will leave the next generation.

Throughout the 110-year history of the SDCBA, our past leaders have worked toward ensuring the goal of future success. The decisions they made have placed the SDCBA where it is today, both physically and financially. Specifically regarding the physical location of the SDCBA, two significant accomplishments come to mind. First, in 1972, then-President Bill Yale’s Board of Directors purchased vacant land at the corner of Union and A Street. The income generated from its use as a parking lot since then has enabled the SDCBA to grow beyond what it could have relying solely on membership dues. Then, in 1989, a hard-working group of Bar leaders made another decision—to purchase the Bar Center. It has been our “home” for more than 20 years now. For me, like the majority of practicing lawyers in town, it has been the Bar’s only home that we’ve known.

While the Bar Center has served the Association’s 10,000 members well these past years, times change, and the real estate market fluctuation requires that we reassess the long-term viability of the SDCBA’s physical location. We must balance the costs of staying in the current location and expending funds to maintain and improve our building with the advantages of relocating closer to the courts and the opportunity to move toward a long-standing Association goal of creating a legal “hub” near downtown San Diego’s present and future courthouses.

This year’s Board of Directors remains committed to fiscal responsibility, yet focused on the future. In order to do this, we continually ask three questions: Where do we want to be in 10 years, where do we need to be in five years, and what are we doing today to get there?

Come what may, I am confident that our current board, and our valued leaders and members, will leave behind an incredible legacy for the future of our Association. I just hope Judge Turrentine would approve.
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What do you do for exercise?

“I run on the beach, while picking up all the trash (also while surfing in the water). I pick up as much trash as I can. The stopping, starting, stooping and carrying—sometimes dragging—works more muscles.”
Adam Englund
Law Office of Adam Englund

“I spend a couple of hours a day in the morning and evening chasing my 3-year-old son around. We either run around our yard and climb his rope ladder, or we hit the streets and ride around the neighborhood on his bicycle. He rides, I chase! I get both my cardio and weight-training routines taken care of in this manner. I also like to start my day by taking my dog Shep for a brisk walk, as it helps me get charged up for the day.”
Greg Daniels, Klinedinst PC

“I now, due to crazy work hours, I’m limited to once-a-week personal training with the toughest 100-pound woman you’ve ever met, tears in my eyes at the end of each session, cardio a few days a week, mostly long speed walks with a little running and daily abs, push-ups and stretching.”
Miles Grant
Grant & Zeko, APC

“I started doing P90X about two years ago. It’s a set of 10 or so DVDs, each containing a fast-paced exercise routine focused on one or more specific muscle groups. You do the workouts at home and need only minimal equipment. I am also doing some running at least one day a week and mixing it up by jogging, sprinting and running stairs differently each time.”
Alan Amico, General Counsel
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“Much of my exercise involves fun activities with my son (7½) and daughter (6): playing ball sports, making up obstacle courses, etc. I still make it to the gym a few times a week, often riding my bike there, for weights or boxing. And as fall approaches, I will get plenty of exercise coaching youth football—especially when, after a good practice, 20 5-, 6- and 7-year-olds chase me in a game of ‘tackle the coach.’”
Scott Scheper, Seltzer Caplan McMahon Vitek

“Life is chaotic between being a wife, mother of a 2-year-old and working full-time at an international law firm. I joined a gym and started religiously attending ‘body sculpt’ classes on Tuesday and Thursday evenings after my son is in bed, as well as Sunday mornings when I also add a Pilates class. I have lost weight, gained energy and sleep much better.”
Tamera Weisser, Jones Day

Laura Shingles (lmshingles@gmail.com) is a 3L at California Western School of Law and law student editor of San Diego Lawyer.

What are your hopes for 2011?
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Affordably Delicious

There is a new and (thankfully) growing trend in San Diego: restaurants offering great food and a great atmosphere with nothing over $20 on the menu. In tough economic times, these welcome additions make nice dinners out a viable option. Here are a few of our economically reasonable, Saturday-night-appropriate favorites.

Cucina Urbana is the brainchild of Kensington Grill’s Tracy Borkum. Situated in the previous Laurel location in Bankers Hill, it’s a wonderful casual option for midtown dining. While the menu changes from time to time, we have favorites that seem to be available often. For appetizers, the ricotta gnudi with sage brown butter, Parmigiano and amaretti is simple and tasty. The chicken liver pâté with Tuscan toast is both beautifully presented and delicious with a very subtle flavoring. For main courses, we are big fans of the short-rib pappardelle and the duck conserve and fennel-pollen fettuccini. Both are rich and flavorful—and not something you would find in most Italian restaurants. All these items (as well as everything else on the menu) are under $20. Cucina Urbana charges retail for all of its wines, or you can bring in your own for a very reasonable $7 corkage fee. In addition, they have weekly deals on half- and full-case wines to take home.

505 Laurel Street, 619-239-2222, www.cucinaurbana.com

Bankers Hill Bar + Restaurant is another must-try restaurant in town. This creation of Carl Schroeder (known for his Market in Del Mar) offers modern California cuisine at a great price. We are fans of the prosciutto and burrata cheese, the deviled farmers’ market eggs and the lemon potato chip starters. Each has its unique take on a simple concept; all are amazing. The fettuccini Bolognese with goat cheese and petite spinach is to die for. If available, the short ribs are very similar to those on the Market menu for $34.95, except here they are $19.75. Save room for dessert. Pastry chef Rachel Going is an artist—desserts as simple as the cookie plate are amazing.

2202 Fourth Avenue, 619-231-0222, www.bankershillsd.com

Starlite Dining & Cocktails was at the forefront of the under-$20 movement; we featured it in the March/April 2009 issue. Starlite is still going strong, and we continue to recommend this San Diego restaurant pioneer.

3175 India Street, 619-358-9766, www.starlitesandiego.com

Inside Tip

Last issue, we mentioned the Tabe BBQ truck (which did a wonderful job catering a recent party). Continuing the gourmet-food truck trend locally is Miho Gastrotruck. Try their version of French fries, depending on availability, either the croquets (think seasoned fried mashed potatoes) or the poutine (hand-cut Belgian-style fries, wild-mushroom gravy, all-natural Cheddar, fresh parsley). Both are excellent sides to almost everything. Find out where the truck is going to be at www.MIHOgastrotruck.com, or follow them on Twitter @MIHOgastrotruck.

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The process for naming the new federal courthouse downtown isn’t as simple as one might think

BY CLAUDE WALBERT
U.S. REPRESENTATIVE SUSAN

Davis is seeking suggestions from the legal community and the wider public for naming San Diego’s new downtown federal courthouse, but she has been listening to informal recommendations for years. Almost as soon as Davis took office in 2001, she began hearing from people who felt a long-planned federal courthouse—one of her own priorities—should bear one or another name, says Aaron Hunter, a spokesman for Davis. But Davis felt it was premature to consider the naming before Congress approved a final budget, assuring construction.

Now work has begun on the courthouse at 339 West Broadway.

“Ever since breaking ground on the new courthouse, I’ve enjoyed the interaction with the San Diego community in an open and deliberative process on whose name the building should bear,” Davis says in an e-mail statement. “There have been good ideas, and I’m hoping to get even more input.”

Former Congresswoman Lynn Schenk, who shepherded a naming bill through Congress in 1994 (after being prompted by then Presiding Judge Judith Keep), says she was just beginning to understand how things worked in Washington at the time she sponsored the bill. Her recommendation for the name for the federal courthouse: highly regarded Southern District Judge Edward Schwartz.

“For every action in the House, there’s a reaction,” Schenk says. “I kept peeling away at this onion, layer by layer.”

Schenk had no partisan opposition, not even from House Republican stalwarts like the elder Duncan Hunter and Randy “Duke” Cunningham, yet she says getting support for what should have been a routine bill “was like knocking your head against a brick wall.”

There was no opposition to Schwartz as the honoree, Schenk says, but to designate him would go against what turned out to be a very elastic tradition of naming courthouses only for a dead person—or at least that’s what House members kept telling her. And Schwartz, born in 1912, was too busy in 1994 to join the dead.

In fact, when Schenk called to tell him of her plan to sponsor legislation honoring him, he asked why she would do that and joked that he still might get into trouble. “Yeah, at his age,” she recalls thinking. Then he said he had to end the conversation or he’d miss going on one of his beloved bicycle rides. “I thought, ‘Maybe he can still get into trouble,’” she says.

Although Congresswoman Davis is soliciting suggestions, there’s no predicting when Congress will act on a naming bill. However, many move from introduction to final passage in about 10 months.

Completion of the building, providing space for one of the nation’s busiest courts, is expected in early 2013. Fortunately for San
Diego’s steadily blossoming downtown, what will be visible of the workhouse structure above street level is an elegant 14-story tower aligned to take advantage of the city’s sun and breezes.

To help gather naming recommendations, Davis asked for the San Diego County Bar Association’s assistance, saying that she values lawyers’ opinions and “breadth of knowledge of the San Diego legal community.” Her message said she wants the courthouse name to reflect the “discipline and integrity of the judges and staff of the Southern District” while honoring someone passionate about the role of law in society. Aaron Hunter says the names recommended will be revealed after all suggestions have been submitted (the deadline was October 1).

The designation of an individual whose name will be placed on a courthouse becomes law after approval by Congress and the president, but no federal law regulates the procedures to be followed for naming a federal courthouse. Instead, the path is marked out by legislative convention and good relationships, says Jim Berard, communications director for the House committee that first considers such namings.

In the House, where most naming bills begin, the Committee on Transportation and Infrastructure receives a recommendation from a House member representing the area where the courthouse is located or, rarely, from a local organization, Berard says.

By tradition, loosely followed, the person recommended is dead or at least retired and formerly was a judge, prominent lawyer or politician. But honorees vary widely: The name of a Creek Indian leader, Tomochichi, is on a federal courthouse in Savannah, Georgia; a Honolulu federal courthouse is named for a Hawaiian prince, Jonah Kuhio.

Sometimes even a familiar name can startle, as when a southwestern Illinois newspaper reported on its website that a Cape Girardeau, Missouri, courthouse was to be named for “the late Rush Limbaugh.” Frantic messages flooded the Internet. But the suggested name was that of Rush Limbaugh Sr.—not the radio commentator but his grandfather, who was the oldest practicing lawyer in Missouri when he died in 1996 at age 104.

There’s no time limit on designating a name for a courthouse. The building may have been in use for decades or still be under construction.

San Diego’s two federal courthouses were unnamed for decades. The historic Jacob Weinberger Courthouse at 325 West F Street, built in 1913, received its designation in 1988. The courthouse at 940 Front Street opened in 1976 but was without a name until the honor was given to Schwartz in 1994.

Schwartz was the “lion of the federal court back then,” says Schenk. The judge’s tenure had begun after he was nominated by President Lyndon Johnson in 1968. He served as the district’s chief judge and advanced the construction of the courthouse at 940 Front and the adjacent federal building at 880 Front. He assumed senior status in 1982 and continued hearing cases until his death in 2000 at age 87.

Schenk plunged into the unfamiliar naming process without soliciting community input, and she didn’t gather materials supporting the proposal to name the courthouse after Schwartz. She finally won House approval on a vote of 417-1 (the sole opposition vote was cast by mistake, she later learned). She won by sheer persistence, even chasing down House members who fled whenever talk turned to the designation.

Today, the process is more constrained, according to staffers at the Committee on Transportation and Infrastructure. After a recommendation and supporting material is sent to the infrastructure committee, Berard explains, the proposal is forwarded to the Subcommittee on Economic Development, Public Buildings and Emergency Management. The formal bill can be written by the sponsor or by the subcommittee. The recommendation must be noncontroversial, he says: “If there’s not consensus, we won’t touch it.”

House members, however, usually find ways to work together to honor a worthy individual, says Berard. Despite political tensions, relationships smooth the way when working across partisan boundaries, he says. “Congress is a human institution.”

Davis has always “prided herself on being a consensus-builder,” says Hunter, her spokesman. “She speaks directly to people and asks a lot of questions. That’s what she’s going to do here.”

Once the bill passes through the subcommittee and committee, it goes to the House floor for a vote and then follows a similar path through the Senate before going to the president for his signature. The votes usually are routine and without dissent, the Congressional Record shows.

But sometimes politics makes mischief for namings, according to a 2000 New York Times report: Michael Forbes, a Republican representative from Long Island, wanted to name a new courthouse in his district for former GOP senator Alfonse D’Amato. But Rick Lazio, a fellow Republican representative from Long Island who happened to be in a close Senate race with Hillary Rodham Clinton, proposed to name the courthouse instead in honor of Theodore Roosevelt. The House approved, but Senator Daniel Moynihan, a Democrat, blocked Lazio’s bill, denying Lazio a tool in his race against Clinton. Republicans retaliated by holding up the naming of a courthouse in far-off Riverside, California. Senator Barbara Boxer wasn’t going to let the Republicans get away with anything in her territory, so she blocked the attachment of a Virginia Republican’s name to an education center at a wildlife refuge. Then Republicans tied up the naming of a Seattle courthouse for a World War II hero.

After a month of feuding, the namings were freed from legislative bondage—all except the Long Island courthouse. Two years later it was named for D’Amato, whose suggested designation had set off the 2000 quarrel. Roosevelt had been dead almost a century when his name was attached to a Brooklyn courthouse in 2009, the Times reported.

Claude Walbert (clauwal@myway.com) is a San Diego freelance writer.

Editor’s note: Thank you to former Congresswoman Lynn Schenk for contributing and reviewing this article.
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PUT AN UNKNOWN FACE IN A classroom, and the result is fairly predictable. Skeptical looks greet substitute teachers, and new students endure ridicule—a ritual seemingly as old as the education system itself. So it follows that a suit-clad, soon-to-be lawyer attempting to teach high schoolers practical law wouldn’t stand a chance. But that’s the beauty of the Street Law program. Something about it works.

By pairing curious students with older, more experienced ones, high school freshmen morph into future colleagues, and law students become friends.

In inner-city schools throughout San Diego, students in grades 9 through 12 participate in Street Law, a legal education program designed to correct misunderstandings youths hold about the American justice system and to introduce them to the laws most relevant to their lives. The lessons, focusing on topics like free speech, juvenile justice and family law, are taught by pairs of California Western School of Law students in the fall and Thomas Jefferson School of Law students in the spring. The number teaching depends on the number of participating high schools, but there are typically between 15 and 20 teachers per semester.

“What you’re really doing is facilitating discussion,” says Anna Romanskaya, a family law attorney at Stark & D’Ambrosio,
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who taught Street Law at Hoover High School in 2006. She still recalls certain sessions well. Search and seizure sticks out because, Romanskaya says, “Kids are always interested in staying out of trouble.” She also remembers the first lesson, about how legislation is written and interpreted, which “piqued people’s interest,” she says.

After five weeks of classroom instruction on substantive legal issues, the student teachers coach their classes through a mock-trial competition against other participating schools. Students are given a packet of information about a crime, including background documents like relevant law, police reports and witness statements, to prepare for trial. Student teachers assign roles—everything from bailiff to prosecutor—and teach trial skills like writing opening statements and closing arguments and conducting direct and cross-examinations. After another five weeks of practice and two rounds of competition, the students travel to Thomas Jefferson or Cal Western for the final round. Local judges preside over the final competitions and present two student attorneys with “distinguished advocate” awards.

After completing the program, students often express interest in the law where there may have been none before.

“The benefits to the high school students who participate cannot be overestimated,” says Alex Simpson, director of the Street Law programs at Thomas Jefferson School of Law and Cal Western School of Law. “Students who participate in the program consistently get better grades and score higher on standardized testing than students who do not participate. They are more likely to graduate from high school and to go on to college and later schooling. Most importantly, they get an opportunity to see that the law can be a positive force in their lives and helps them to be more productive and responsible members of the community.”

Given its unique approach to legal education, Street Law fills a void present at many high schools suffering the effects of decreased funding. Romanskaya now sits on the Bar’s Children at Risk Committee and chairs the High School Program, which partners with a different high school each year to address its needs. When Clairemont High School told Romanskaya legal education was on its wish list, she was able to put the administration in touch with Simpson and add Clairemont to the list of participating schools.

Preparing high school students for active roles in their communities and providing high schools with alternative education choices are just two of the benefits Street Law offers. For the law students who spend months behind desks, listening to lectures, it provides an unmatched opportunity. According to Simpson, “Law students who participate in the program get an opportunity to take their knowledge of the law and apply it in the real world, helping to change the lives of their students and the community at large.” The ability to make an impact of this magnitude while still in law school is likely what motivates most students to get involved.

Asked if she would do it again, Romanskaya says, “Definitely, hands down, wouldn’t even think twice. I would make the time.”

And time does need to be made. Student teachers are selected after an application and interview process, and they are unpaid; only credit is given. They meet with their high school classes twice weekly, in addition to attending weekly meetings at their law schools to review lesson plans and discuss the past week’s teaching experiences. Students are required to complete weekly journal entries evaluating their teaching performance, tailor an existing lesson plan to their students and recruit at least one legal professional to help teach a lesson. Students must also create an original lesson plan for submission to Street Law, Inc.

According to Arbetman, Georgetown University Law Center faculty member Jason Newman and law student and former high school teacher Edward O’Brien started the program in 1972.

“The initial concept was based on the premise that many urban youth did not have much knowledge of the law and that with some practical knowledge of everyday law (‘street law’) they would be able to avoid some legal problems or, if they had legal problems, they’d be able to take steps to find and use a lawyer to help,” he says. “The experimental program started at Georgetown has become a free-standing clinical program there, with a full-time faculty member in charge. The program has spread to approximately one-third of U.S. law schools and numerous schools overseas.”

Street Law now includes more than 70 law schools in all 50 states and programs in more than 40 countries, says Judy Zimmer, deputy director. It also comprises a variety of educational programs—some not law school-based—focused on practical education.

San Diego’s program has been run through Cal Western’s Institute for Criminal Defense Advocacy since 2004; it expanded to include Thomas Jefferson School of Law in 2008.

Former Street Law teacher Laura Shingles (lmshingles@gmail.com) is a 3L at California Western School of Law.
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Facebook. Linked In. Twitter. MySpace. As social and profesional networks proliferate, the lines increasingly blur between work and personal lives—and the consequences grow ever more complicated.

WHEN A MODERN LAWYER SITS down at her desk in the morning and turns on her computer, her home page may come up as anything from Google to the Wall Street Journal to her Facebook profile. If some of her Facebook “friends” are also her clients, she may face some significant issues regarding confidentiality and the attorney-client privilege. If they are judges, the lawyer and her black-robed “friends” may face issues with the appearance of impropriety.

Welcome to the practice of law in the new millennium.

By now, most of us have suffered the indignity of being “unfriended.” If you haven’t, trust me, you will. You may suffer it first from your children (if they even accept your friend request to begin with) and then from your legal colleagues. Don’t be offended! For lawyers, legal rules and ethics opinions are constantly updating the list of people you can legitimately be linked with on social networking sites. While you might argue that cyberspace “friends” are much more like acquaintances, ethical guidelines do not make such a distinction.

The first class of people to unfriend you may be your local judiciary. The Florida Supreme Court, in November 2009 Judicial Ethics Advisory Committee opinion No. 2009-20, states that while a judge may post comments and other material on the judge social networking site page as long as they do not violate the Code of Judicial Conduct, a judge may not add lawyers who may appear before him or her as “friends” on such sites, nor can they permit lawyers to add the judge as a “friend.” The committee explains that when a judge lists lawyers who may appear before the judge as social networking “friends,” that display may convey the impression those lawyers “are in a special position to influence the judge.” The committee points out that judges are permitted to list other people as “friends,” including lawyers who do not practice in front of the judge.

In its opinion No. 17-2009, the South Carolina Advisory Committee on Standards of Judicial Conduct opines that a magistrate judge could be Facebook “friends” with court staff and law enforcement personnel as long as they didn’t discuss anything related to the judge’s
position as magistrate. This opinion even points out the public-education value of a social networking profile.

It may be improper, however, for a judge to view the website of a party appearing before him or her (North Carolina Judicial Standards Commission Inquiry No. 08-234 [2009] [judge also engaged in ex parte communications with counsel]). And disciplinary boards are watching: A North Carolina judge was recently reprimanded for “friending” a lawyer in a pending case, accessing the opposing party’s website and reading messages relating to the litigation.

Lawyers routinely use services such as Facebook, Linked In and Twitter to stay connected to family, friends and colleagues. But they aren’t just communicating with long-lost school friends; many lawyers actively use these sites to share information about their professional lives and showcase accomplishments. Some of these postings may prompt prospective clients or acquaintances on their “friends” lists to transmit confidential information in the expectation of receiving legal advice. When such communications are received, the lawyer may face issues of loss of confidentiality and concerns about unwittingly forming an attorney-client relationship.

The opinion points out that attorney-client relationships are formed by contracts, whether express or implied. In the examples above, casual conversation initiated by strangers where the lawyer declines representation does not form an express contractual relationship. In determining whether an implied contract is formed, several factors must be considered, such as whether the lawyer agreed to look into the matter, provided legal advice and/or was consulted in confidence; and whether the individual seeking advice “reasonably believes that he or she is consulting a lawyer in a professional capacity.” (citations)

Even if no attorney-client relationship is formed, depending on the circumstances, the lawyer may have a duty to keep the information confidential. The opinion first examines whether the person seeking advice is a “client” for purposes of the privilege and concludes that the critical factor in determining this issue is the conduct of the attorney. The next question is whether the communication is confidential. The opinion lists four factors to consider: (1) the presence of nonessential people who can hear the communication; (2) the reason the person is speaking to the attorney; (3) the actions taken by the attorney to advise the speaker that the information is not confidential; (4) the extent to which the information is public knowledge or of a sensitive nature to the speaker.

The opinion notes that the attorney-client privilege is an evidentiary privilege (citing Cal. Evid. Code Sections 952-955) that “permits the holder of the privilege to prevent testimony, including testimony by the attorney, as to communications that are subject to the privilege.” It explains that California Business and Professions Code Section 6068(e) is broader than the attorney-client privilege because it covers all information acquired during the course of the professional relationship “that the client has requested be kept secret or the disclosure of which would likely be harmful or embarrassing to the client.” (citations) The opinion concludes that an attorney may owe a duty of confidentiality under Cal. Bus. and Prof. Code Section 6068(e).
Savvy lawyers will have a disclaimer on their site in order to guard against false expectations of creating an attorney-client relationship.

and CBPC 3-310(E) to persons who never actually become clients.

Applying this analysis to the realm of social networking, because the communication on a lawyer’s Facebook page is visible to anyone listed as a “friend,” it would be unreasonable for would-be clients to assume they were communicating with the lawyer in confidence, given the obvious public nature of information on a Facebook page. Prudent lawyers might nonetheless consider posting disclaimers on their social networking pages similar to those found on many legal websites, clarifying that unsolicited communications will not be considered confidential. Clearly, under factor number one in 2003-161 regarding confidentiality, the person seeking advice from the lawyer on his or her Facebook page would be doing so in “the presence of nonessential people who can hear (or see) the communication,” and posting it on a public page may be in effect making the information “public knowledge” per factor number four.

Posting information publicly would also arguably remove the communication from Cal. Evid. Code Section 952’s definition of a “confidential communication” — “information transmitted between a client and his or her lawyer in the course of that relationship and in confidence by a means which, so far as the client is aware, discloses the information to no third persons other than those who are present to further the interest of the client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the lawyer is consulted, and includes a legal opinion formed and the advice given by the lawyer in the course of that relationship.”

What result, however, if instead of posting information on the lawyer’s Facebook “wall,” the client sent the lawyer a personal message? Unsolicited comments on social networking sites may be analogous to unsolicited e-mail, except that Facebook postings are much more public. In deciding whether or not there is a reasonable expectation on the part of a potential client that the information he or she posts on a lawyer’s social networking site is confidential, we should look at other factors in addition to how the information was posted. For example, there are some public networking sites like Avvo on which lawyers can post answers to questions submitted. Does the lawyer who answers questions online transmit a willingness to provide free legal advice and potentially enter into a lawyer-client relationship with people who are asking questions?

Or maybe the lawyer is using Twitter and posting “tweets” that contain information about the lawyer’s practice that might arguably invite responses or questions from prospective clients. How might that affect the reasonableness of a potential client’s expectation that his or her information will be kept confidential?

Savvy lawyers will have a disclaimer on their site in order to guard against false expectations of creating an attorney-client relationship. Regarding website disclaimers, California Formal Op. No. 2005-168 opined that a lawyer who provides his or her website visitors with a means by which they can communicate with the lawyer on the site may effectively disclaim owning a duty of confidentiality “only if the disclaimer is in sufficiently plain terms to defeat the visitors’ reasonable belief that the lawyer is consulting confidentially with the visitor.” The opinion goes on to specify that “[j]ust having a visitor agree that an ‘attorney-client relationship’ or ‘confidential relationship’ is not formed” would not defeat a visitor’s reasonable belief that the information transmitted to the lawyer on his or her site will be kept confidential. Many lawyers don’t fully understand the difference between the scope of attorney-client privilege and the scope of client confidentiality; we don’t expect nonlawyers to understand the distinction any better.

Regarding an unsolicited e-mail that is not in response to an invitation on a website, despite containing what one might otherwise consider confidential information, unsolicited e-mail—just like an unsolicited detailed message on an answering machine—normally will not constitute a confidential communication between lawyer and client. See San Diego County Bar Assn. Legal Ethics Committee Opinion 2006-1 (http://www.sdcba.org/ethics/ethicsopinion06-1.htm).

Social networking sites are a great way to keep in touch with family and friends. When such sites are used in the practice of law, however, a working knowledge of the legal and ethical rules that may apply in this area is critical. An awareness of the issues that may arise in the online arena will permit intelligent use of social networking sites to communicate effectively, as well as ethically. 5.

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EYEWITNESS EXPERT TESTIMONY: 41 years of forensic psychology experience with pretrial consultations and frequent court testimony regarding factors known to influence the validity of eyewitness report. Pretrial consultation can include choosing foils for live lineups and selecting jurors. Trial testimony includes charts to explain the results of scientific research demonstrating factors known to influence eyewitness identification accuracy.

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Technological advances have spurred small law firms to greater growth—and added caution.

EDITED BY C.J. MODY    PHOTOGRAPHS BY LAUREN RADACK

Left to right: Michele Lowenstein, Dan Kehr, Martin Kruming and Stephen Ure discuss the challenges of small law firms.
San Diego Lawyer magazine recently sat down with three attorneys from small firms who shared their thoughts about the Internet, the economy and technology. The participants were Dan Kehr of Kehr Law and Kehr Real Estate, co-chair of the SDCBA’s Law Practice Management and Marketing Section; Michele Lowenstein of Lowenstein Brown, chair of the SDCBA’s Family Law Section; and Stephen Ure of the Law Offices of Stephen Ure, co-chair of the SDCBA’s Immigration Law Section.

Special thanks to Hutchings Court Reporters for providing the transcript.

San Diego Lawyer: How has the Internet changed your practice?

Dan Kehr: It’s really the fundamental part of my practice and where I get the majority of my clients. Small firms are no longer as small as they once were because of the Internet. It’s made life and the practice of law a lot easier.

Michele Lowenstein: When I started practicing at the end of 1981, we didn’t have the Internet. It’s made life and the practice of law a lot easier.

Michele Lowenstein: As a family law specialist, I would think you’d want to use gender-neutral terms, as opposed to trying to market yourself as representing one gender or another. If you’re writing things, you need to make sure you research them and don’t just slap them on the Internet.

SDL: What about social networking?

Stephen Ure: I don’t do that specifically because I don’t want clients on the other side of a case looking me up through Facebook. I’m just not comfortable with putting myself out there at that level.

Dan Kehr: I use everything—Facebook, Twitter, LinkedIn, Martindale-Hubbell, ABO, Porta Press—and I have a blog, Foursquare. What I’ve decided to do is keep the information on my personal and business social-networking sites completely business-oriented and professional. I don’t have pictures of my last trip to Cabo on either site, and I don’t provide any information I couldn’t stand behind as an attorney or that I wouldn’t want a client to see.

SDL: Are there downsides to the Internet in terms of practicing law today?

Dan Kehr: Whatever you put out on the Internet stays there forever. You can also be considered to be “practicing law” by the information you put out on the Internet, whether it’s your website or social-networking sites. That information can be relied on by a client, and an attorney-client relationship can be established without your knowledge. You’ve got to be careful when you brand yourself electronically.

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Michele Lowenstein: Our firm has a Facebook page, but my personal Facebook page is completely closed off to the public.

SDL: Do you remember how you got your first client?

Michele Lowenstein: My first client was my cleaning lady’s son, who’d just reached the age of majority and had been in an automobile accident a number of years prior.

Stephen Ure: My first client was my mother, who I think was waiting for me to graduate and pass the bar so she could have my services. But my first non-family client was an Indian gentleman from New York who saw my ad in a Japanese newspaper in San Diego and hired me to help him with his visa issues. I never met him, just spoke with him on the telephone.

Dan Kehr: I opened my law practice the day after I got sworn in. I made that decision (rather than going to work for a firm) while studying for the bar. The friends and family who needed legal services were just lining up, and my partner and I figured out the fair-market value for the services and said we’d be stupid not to do this.

SDL: In today’s economy, what is the greatest challenge you face?

Michele Lowenstein: Getting paid.

Stephen Ure: That’s the hardest thing—getting paid. The economy’s affecting everybody, so clients and their businesses are having a hard time collecting from their customers. They’re asking for payment plans and delayed payments.

Dan Kehr: For me, it’s finding the time to do everything. Getting paid is probably number two. Estimating high fees up front is something I’ve learned in the trial-by-fire arena. It’s hard to maintain a healthy balance of doing the work and getting the clients.

Michele Lowenstein: It strikes me that in my field we’re trying to get people finished up with the divorce or modification. We aren’t necessarily hoping we’ll be working with them for many years, because that would mean we wouldn’t be able to bring closure to their lives. That’s probably true of Stephen working in immigration, as well. Dan, I would think what you’d want to do is have a long-term relationship because you’re in business, so you want to get clients in and continue to work with them for many years on their issues.
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**SDL:** How much time is spent finding new clients?

**Stephen Ure:** At least 50 percent of my time is spent trying to generate new business, meeting with new clients and giving talks to different groups.

**Michele Lowenstein:** It’s a larger portion of my time now than it was three or four years ago, because of the economy.

**Dan Kehr:** It’s the majority of my every waking hour.

**SDL:** How closely are clients looking at you?

**Stephen Ure:** A lot of it is dependent on the economy. Immigration clients will come into my office, we’ll talk about their visa, and we’ll give them a price quote; for example, $2,000 to do X, Y and Z. That’s when they’ll really start to negotiate: “Well, another lawyer down the street is going to do it for $1,900.” You’re making a decision that’s going to affect their entire future, and their family’s future, for the sake of $100.

**Michele Lowenstein:** We charge by the hour, so we don’t negotiate our fees. I think people spend more time interviewing lawyers because of the Internet—they check and see what other people are doing. Consumers are much savvier today than they used to be with respect to hiring attorneys.

**Dan Kehr:** I don’t think the clients scrutinize or interview me any more than they did before, but I think they are more hesitant to sign up and put a retainer down.

**SDL:** Have you done anything differently over the years to address getting paid?

**Stephen Ure:** Some of my clients are corporations or companies, so if they ask us to assist them with, say, five visas in any given time, then we’ll give them the next two at a discounted price. Sometimes we’ll have represented the same company seven or eight years, so we just give a flat fee for the year because we know what they’re going to need.

**Dan Kehr:** I provide discounts for bulk work or long-term relationships whenever I can. We offer payment by credit card and payment plans, depending on the client and the matter. The last thing I want is a client needing my services and walking out of the office because they can’t afford me. I don’t feel like I’m doing a service to the community if that happens.
“There always has to be something that keeps your relationship with your client separate from your business, so your decisions are not skewed by emotions.”

SDL: Why did you get into a solo or a small practice?

Dan Kehr: I’m a serial entrepreneur. I started my first business when I was 8. I bred exotic birds and sold them to all four pet stores in town. I enjoy helping people. Being on my own, I get to make the decision whether to take a pro bono case rather than having to get approval for it. I get to decide whether I want to give a discount.

Michele Lowenstein: I always wanted to do family law, and since historically there never have been a lot of law firms hiring family law attorneys, I started my own practice. I’ve always enjoyed family law because it really gives the attorney an opportunity to help people who are in a terrible, terrible place in their life. I feel like I have a purpose.

Stephen Ure: I’ve never liked to be tied down to a schedule or someone else dictating when I need to be at the office or when I could go home. I’m much better at being self-employed than being an employee. Everybody in my family has always been self-employed.

Michele Lowenstein: I think probably everybody in my family has always been self-employed too.

Dan Kehr: None of my family was self-employed. They had graduate degrees, but Dad worked for Parker Hannafin for more than 35 years, same job, same time every day. Maybe it was the monotony of seeing that schedule that deterred me in some way.

SDL: How do you balance the practice of law with running a business?

Stephen Ure: Being the attorney, with your passion for representing a client, you may want to go on and on, forever and ever, until they get what they want. But as a businessperson, you say, “I haven’t been paid in six months; we’ve got to cut this person loose.” Those decisions can be really difficult. Even though you want to be closer to the client and help your client, there always has to be something that keeps your relationship with your client separate from your business, so your decisions are not skewed by emotions. Once you become friends with your client, that’s when problems start, because you can have issues on the fees; or if the client doesn’t get what they want, the friendship’s going to suffer, and it’s not going to be good.

Michele Lowenstein: It’s hard because if you can help somebody, you want to be able to believe that the accounts receivable aren’t going to get out of hand. As
Dan Kehr: I call myself a tech junkie.

Michele Lowenstein: Me too.

Dan Kehr: I always get the newest, fastest, greatest thing and try and learn how to use it. I think it’s fun, but it has created a problem in getting away from the phone or the Internet. My wife and I will be sitting down to have dinner; we’ll both be on our phones texting or e-mailing or something. That’s created a new need to have boundaries with your phone.

Stephen Ure: I found myself in the water in Waikiki checking my phone for voice messages. It’s tough to get away, because you can’t leave everything behind for a week since all kinds of disasters can happen while you’re gone. That can be a little bit of a negative of being in business for yourself.

Dan Kehr: I think I have 1,100 unread e-mails in my inbox at the moment. I invite people to text me because they’ll get a much faster response.

Michele Lowenstein: E-mail has opened up a whole new ethical issue as well. Since you always copy clients on letters you send to other attorneys, you should do that with

“Try to be around other lawyers, for lots of reasons: to bounce ideas off of them, to share and refer work, and for the therapy aspect.”
Dan Kehr: I always offer free consultations to clients. I'll sit down with them and give them some free time, give them some free advice on what to do. If I can't help them, I'll point them in the right direction. I have a couple of nonprofit clients that do events all the time. I donate to them and participate in their events. So a lot of the charitable work I end up doing is not necessarily as an attorney, but when people know you're an attorney, you're really never off the clock.

SDL: Any last comments?

Stephen Ure: One of the nice things about being in business for yourself is that you can take off Wednesdays or a Friday afternoon. You can't always leave on a Friday or take it off, but knowing that you can without looking for someone's permission—that's a nice place to be.

Dan Kehr: I think it makes working that much more enjoyable.

Michele Lowenstein: Every single Friday, everybody's out of here at 3. That's something we do so we all have a nice long weekend.
ON SEPTEMBER 12, 2001, I was driving to work at Luce Forward when the “Star Spangled Banner” came on the radio. I felt a wave of emotion and broke into tears. The country I loved so much had been so violently attacked the day before, and the picture of the twin towers collapsing was etched in my mind. I reflected that because of these events, a new world order was about to unfold. As the national anthem continued, I made a promise to myself: I would try to do something meaningful to help my country fight the war on terror.

Two weeks later I was approached by Fary Moini, a newer member of my Rotary Club (La Jolla Golden Triangle). Fary mentioned she had just seen an Afghan refugee mother and child on television and wanted to do something to help. She knew I’d been involved with Rotary-related activities abroad—primarily in several devel-
oping countries—and thought I could help her find a way to work with Afghan refugees. I didn’t know much about Fary except that she owned a tuxedo rental shop. I was pretty sure they didn’t need tuxedos in refugee camps. I asked what she had to offer. She told me she was from Iran and speaks Farsi, which is similar to the Dari language she’d heard the Afghan woman speaking. Fary received a degree in nursing from the University of Tehran and had practiced as a nurse for several years.

I cautioned that a war was about to break out, so that part of the world would be dangerous and in chaos. I asked how she felt about putting herself in substantial danger and dealing with extreme hardships. Fary looked me straight in the eyes and said, “Mr. Brown, this is what I must do. I am being called to do this by my inner spirit.”

After some research, I learned there were two Afghan refugee camps just outside of Peshawar, Pakistan. Through some “cold call” e-mails I sent, a Rotarian in Peshawar offered to host Fary and arrange for her to work in the camps. She arrived in Peshawar in January 2002 and returned to San Diego in March. Upon her return I considered undertaking an education project in one of the camps. Fary advised the camps would soon be closed and suggested we build a school in Afghanistan instead. I told her I thought that was a really bad idea. I had no idea how we would go about that, but I did promise to investigate the possibility.

So I contacted the Pakistani Rotarians for their thoughts. They are Pashtu, which is the same ethnic group across the Afghan border. A group of Pakistani Rotarians went to Jalalabad, Afghanistan, and met with the governor of Nangarhar Province, who said he would welcome the efforts of Rotarians from San Diego and would set aside land where we could build a school. (I am sure the governor had no idea what Rotary was.)

After receiving this news, club member Rick Clark designed a school. We met with Afghan-Americans in San Diego to get their input, and we raised $90,000 for the school. Then I realized we needed to actually go
to Afghanistan to proceed with this project. So in November 2002, Fary and Flouran Wali, a San Diego Afghan leader, traveled with me to Afghanistan. We flew to London, Dubai, then Peshawar. We met the Pakistani Rotarians. As Americans, we needed permits to travel with an armed guard by car with the locals through the tribal areas. At the border we went by foot through checkpoints and hired an Afghan car to take us into Jalalabad.

Upon arrival we went to the governor’s palace. He confirmed he was setting aside land for a school. We visited the proposed site, about 10 miles out of the city, and found two UNICEF tents, a girls’ classroom in one, boys’ in the other—about 400 students total. The governor explained that this area had been set aside for returning refugee families.

The next day we journeyed to Kabul. It took nearly 10 hours to go about 120 miles. Sometimes the road would disappear, and we would drive through dry riverbeds. No one paid attention to which side of the road to travel on. We went through a mountain pass that is the most breathtaking and frightening I’ve ever seen. In Kabul, we met with various ministries to determine what approvals were necessary to build the school. We never did get clear answers.

Upon our return to Jalalabad, we met with the local director of education in his home and talked about our concern over getting plans approved. He told us the folks in Kabul are not the ones to approve things and that, in fact, he is the one who approves plans. We rolled out the plans on the floor of his sitting room, and he advised us they were approved. (I have suggested to my Luce Forward real estate colleagues that they look into this expedited permit process.) We followed this with a groundbreaking, since it was clear a school was going to be built.

In Jalalabad on this first trip, we learned there was a university just outside the city. I requested a meeting with its leaders. We met with the chancellor and the nine de-
partment heads and learned that Nangarhar University was totally isolated. It had no relationship with any university, not a single computer, no usable textbooks. The professors taught using 30-year-old lecture notes. It served 4,000 students with 250 faculty, only a few holding advanced degrees. They pleaded with us for help. We promised nothing.

Fary and I returned to Jalalabad in March 2004 and attended the grand opening of our school. Its student body had grown to about 800 students, grades 1-7—both boys and girls. We also attended the opening of a computer lab we’d set up at Nangarhar University. San Diego Padres owner John Moores and I financed this lab.

On this trip we arranged for Rotarian Steve Spencer to travel with us. Steve, an SDSU professor overseeing some distance-learning programs in the Pacific, provided a lecture to students and professors. He demonstrated accessing the Internet and set some up with e-mail addresses. After the lecture, the Veterinary Department chair said he could bring tetracycline to deal with the computer virus problem Steve had mentioned. Six months later I received an e-mail from the same professor advising he had been successful using the Internet and e-mail to obtain a $300,000 grant for his department.

Since the March 2004 trip, I have returned to Afghanistan eight times. Many positive changes have taken place. Our school now has more than 5,000 students, about 1,500 of them girls. The first 12th-grade class of boys graduates this year; next year we will graduate the first class of girls.

Other accomplishments include building the first dormitory for female students on the main campus of Nangarhar University and, with additional help from John Moores and myself, a guesthouse for visiting faculty and an International Learning Center with a technology-rich environment.

Fary and I have also facilitated two World Bank–funded partnerships between SDSU and Nangarhar University supporting an English language program and a civil engineering program. We’ve worked with USAID and NATO to provide computer labs and Internet access to Nangarhar University’s Medical School, Teaching Hospital, Computer Science Department and School of Education, and we’re working with NATO to connect 16 additional university buildings to the Internet.

We’ve set up computer labs and connected nine Jalalabad high schools to the Internet. The students use these facilities to connect with U.S. students. We are setting up a peer-to-peer system for the medical

AN AFGHANISTAN SCRAPBOOK

LAWYERS
I know of no attorneys from anywhere doing volunteer work in Afghanistan—certainly none in Jalalabad, or I would know. There is an incredible information network there. I do know that Stanford Law School (where I went to school) is working with a university in Kabul.

MEDIA
All the information in our media here creates the impression that this is very risky work. It is not without risk, but not to the extent one might think.

GETTING TO JALALABAD
The best way is to rent a car, drive to Los Angeles and catch a nonstop 16-hour flight from LAX to Dubai. Overnight in Dubai and fly on a brand X airline to Kabul. Do business in Kabul, then take a two-hour white-knuckle ride through a spectacular mountain pass (not the Khyber Pass and much more spectacular) to Jalalabad. We can leave San Diego on Monday and be in Kabul by 10 Wednesday morning, ready to do business.

—S.B.
community in Jalalabad to use telemedicine to communicate with peers in the San Diego area and elsewhere. We have established a sister-cities relationship between San Diego and Jalalabad, with broad representation here including SDSU, USD and UCSD as well as the local medical and business communities.

The time I have spent working with my friends in Jalalabad has been the most rewarding experience in my life. Our efforts have directly affected thousands of persons, and thousands more know of and appreciate our efforts.

As an American, I am most welcome throughout Jalalabad. Taliban fundamentalists reside there and, because of the informal information network, must be fully aware of our activities. We have never been bothered.

When we were meeting with a large group of community leaders, I talked about bringing the Internet to the university and about the other things we were hoping to accomplish. I stopped in the middle of my presentation and commented that if an outsider came to San Diego with new ideas that were very different from anything we had been doing, some people would be skeptical and would not welcome these ideas. I asked the audience if anyone felt that way.

One of the leaders stood up and said, “We have been isolated from the rest of the world for the last 30 years while we have been at war with others and ourselves. We need people like you to help get things started and show us the way. We are hard-working people and not afraid of change. If anyone tries to discourage you, please let us know, and we will deal with them in our own way.”

I have never needed to take them up on this, since we are always encouraged and thanked. They treat us like royalty. It is an incredible high just being there.

Stephen Brown (stephenrbrown@att.net) is a retired partner of Luce Forward Hamilton & Scripps.
The Case of the Missing Mayors

On March 27, 1850, the pueblo of San Diego (referred to in the legislation as the Presidio San Diego) was incorporated as the city of San Diego. City business was administered by a mayor and common council of five members, along with a marshal/tax collector, city attorney, assessor and treasurer, each paid a very generous salary. The city’s first mayor was the former alcalde, Joshua Bean, older brother of the infamous Roy. He was followed by David Kurtz, and in 1852 George “Two-Bit” Tebbetts was mayor for two months.

Then there was no other mayor until Douglas Gunn was elected in 1889. Why? What happened?

The city had authority to borrow money but not to exceed the amount of its annual estimated revenue. The taxing authority was limited to 1 percent of the value of the taxable property within the city. The city also had the authority to impose license fees for the operation of amusements, including monte and faro banks, roulette and other games of “hazard,” chance or skill. It also licensed businesses like hotels, taverns and vendors “disposing of spirituous or malt liquors, wines and cider in any quantity of less than 1 quart, within the city.”

At first, the city paid its bills, built a jail, sold public lands and built roads. As 1851 began, revenues in the city treasury were not as expected, and the common council ordered examination of the treasurer’s accounts. By March, the treasurer was directed to pay drafts against the city only in the “order of and according to their numbers, provided there are sufficient funds in the treasury to meet such drafts.” In April, City Marshal Agoston Haraszthy was directed by the common council to sell state bonds held by the city at 75 cents on the dollar to obtain funds. By June, the common council received a petition from the citizens of the city to abolish the salaries for city officers.

On June 12, 1851, The San Diego Herald reported that discussions regarding repeal of the city charter were ongoing, and there was concern that city property would fall into the wrong hands. Citizens wanted to know just

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**NOTICE**

**NO MAYOR ON DUTY**

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what property the city actually owned other than the flagpole in the plaza and the small adobe jail. There also was a question what had happened to the $13,000 that was supposed to be in the city treasury.

In November, the city borrowed $286 from Haraszthy in order to pay state taxes. Later that month, the council directed Marshal Haraszthy to begin an early collection of the 1851 yearly taxes. The land commissioner was told to sell public lots—and if the buyer paid in full, there would be a 25 percent discount. The common council added new license fees on businesses in the city, including fines of $50 for conducting business without a license and $25 for failure to display the license.

In December, The Herald reported, “Several bills were presented, approved by the Finance Committee and ordered to be paid. - - [Where’s the money coming from?]”

On January 30, 1852, the California Legislature revoked the city charter, effective the first Monday in March, because San Diego was unable to pay its debts. The act established an elected three-member board of trustees to administer the business of the township of San Diego and to pay the debts of the city of San Diego. The board of trustees was specifically precluded from creating any further debt on the part of the city.

In July 1860, the township was still struggling with the debts of the city. Agoston Haraszthy responded to a letter from trustee Cave Couts with “I cannot say anything except to do the best with all that you can, always provided not to make it cost good cash more than the bankrupt city may pay in interest eventually.”

On April 1, 1876, the legislature was satisfied that the township of San Diego was once again solvent and passed an Act to Reincorporate the City of San Diego. The city continued to be administered by a board of trustees and later an elected board of aldermen. In 1889, Douglas Gunn was elected mayor, the first mayor in 37 years.

Hon. William Howatt Jr., a retired Superior Court judge, currently works for JAMS.
Race to the TOP

BY GEORGE BREWSTER JR.

HOW’S THE CONSTRUCTION GOING?

San Diego Lawyer has been tracking the progress of two projects in the San Diego legal community to see which one finishes first. The Thomas Jefferson School of Law groundbreaking was in October 2008, and classes are slated to be held at the new campus in January 2011. Meanwhile, the estimated completion date for the new San Diego Federal Courthouse Annex is January 2013, following a December 2009 groundbreaking. (Photos were taken in August 2010.)

THE FIRST KNOWN African-American attorney to have lived and worked in San Diego was Joseph Henry Stuart, circa 1891. Stuart went on to a distinguished career in Denver and was elected to serve one term in the Colorado General Assembly. (Information courtesy of Robert Fikes)

ROY BEAN, the brother of San Diego’s first mayor, Joshua Bean, was reportedly San Diego’s first jail escapee. He fled from Old Town to Texas, where he was elected “justice of the peace” and set up court in Langtry. He kept three things near him on the bench: a revolver, a pet bear and a California law book co-authored by Judge Oliver Witherby.

THE NATION’S FIRST bar examination was administered in 1763 in Delaware, which required candidates to take an oral exam before a judge (a practice that continued across the country for 100 years). California’s written examination started in 1919.

FORMER PRESIDING JUSTICE Gerald Brown (Fourth District, Division 1), who served on the court from 1965 to 1985, and his father were the first father-son Rhodes Scholars from the United States.
Carmel Valley Mixer

On July 29, the SDCBA’s Carmel Valley Section hosted a summer networking event at the office of Pettit Kohn Ingrassia & Lutz. The event was sponsored by SDCBA benefit provider Grubb & Ellis.

Irish Bar Association

The Irish American Bar Association saluted the Irish American judiciary in San Diego on September 2 during a reception (Irish Wit & Wisdom) at The Yardhouse.

Justice for All

The San Diego Volunteer Lawyer Program sponsored its annual Justice for All Awards Dinner on September 16 at the Westin Gaslamp Quarter Hotel.

DIALOGUE ON DIVERSITY OCTOBER 21

SDCBA’s annual Dialogue on Diversity CLE and networking event will be presented by the SDCBA’s Ethnic Relations and Diversity Committee and New Lawyer Division, in partnership with the Association of Corporate Counsel–SD and the California Minority Counsel Program, on October 21 from 5:00 - 8:00 p.m. Visit www.sdcba.org for more information.
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WHERE IS THIS COURTHOUSE?

Please submit answers by October 25 to martin@kruming.com. Your name will be entered to win lunch for two at Dobson’s Bar & Restaurant in downtown San Diego. Congratulations to Kurt Oreshack of Luce Forward, who correctly identified 402 West Broadway as housing the U.S. Trustee Hearing Room. Thanks to everyone who participated in the July/August contest.

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SAVE THE DATE!
SATURDAY, OCTOBER 2, 2010  *  5:30 – 9:00 P.M.

An Evening in La Jolla
at the home of Ali & Hindu Mojdeh

INFO: All proceeds benefit the San Diego County Bar Foundation
Heavy hors d’oeuvres  ●  Live music  ●  Cocktail attire

SPONSORSHIPS: Business and corporate sponsorships begin at...... $1,500
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TICKETS: $200 host sponsor
$150 general admission
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RSVP: San Diego County Bar Foundation  619.231.7015

The San Diego County Bar Foundation is the charitable arm of the San Diego County legal community, and in partnership with the San Diego County Bar Association, strives to provide access to justice by investing in sustainable results and advocacy for people and communities in our region that are impacted by poverty, abuse and discrimination.

By offering an effective means for the legal community to engage in law-related philanthropy, the San Diego County Bar Foundation strengthens the profession by providing lawyers the opportunity to contribute to the quality and benefit of San Diego County. Based on the belief that justice serves as the great equalizer in our society; we ensure access to justice by investing in legal aid and public interest organizations along with expertise, leadership and advocacy. We serve as a leader in our community and a model bar foundation nationwide. We maintain the highest level of commitment to the permanence of the Bar Foundation and its work by building law-related philanthropy.

For information and reservations, call the SDCBF at 619.231.7015 or bwagner@sdcbf.org
THE OFFICE OF FORMER U.S. District Court Judge Lawrence Irving at Butz Dunn & Desantis. San Diego Lawyer photo editor Barry Carlton (barry.carlton@doj.ca.gov) is a deputy attorney general with the California Department of Justice.

SONS Craig (left) and Scott assist during Judge Irving’s formal induction as U.S. District Court Judge.

COURTROOM MODEL presented to Judge Irving by two of his law clerks who later became judges: Hon. Laura Birkmeyer (San Diego Superior Court) and Hon. Doug Sortino (Los Angeles Superior Court).

MOTTO NO. 1: “It’s hard to soar with eagles when you’re surrounded by turkeys.”

MOTTO NO. 2: “The dogs bark but the caravan passes on.”

AWARDS given to Judge Irving. Left to right, plaques from the ACLU (Civil Libertarian of the Year), FBI, U.S. Marshal, San Diego Defense Lawyers, San Diego Trial Lawyers (Trial Judge of the Year) and the Criminal Defense Lawyers Club of San Diego.

PHOTO taken with President George H.W. Bush.

IN 2008 JUDGE IRVING, who’d been drafted as an Army private, was appointed an honorary U.S. Marine by General James Conway, then commandant of the Marine Corps. Judge Irving organized an annual golf tournament that raised more than $1 million for Marines in the five years he chaired it.
SDCBA Member Discounts

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