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Making Miracles

Lori Varaich doesn’t count her legal successes only by the number of wins in court or the big deals negotiated. Her successes include medical miracles.

Varaich, a sole practitioner in North County, was still in law school when her brother, a successful plastic surgeon, approached her for help establishing a charitable organization for a group of doctors who wanted to provide free services for patients in the San Diego area. She immediately signed on and helped her brother, Dr. Munish Batra, form Doctors Offering Charitable Services (DOCS) in 2002. With a team of seven surgeons, DOCS donates surgical reconstruction and continuing care to people who otherwise couldn’t get treatment for disfiguring conditions and injuries. Varaich filed the paperwork to establish the 501(c) nonprofit, spearheaded fund-raising and marketing efforts and was named executive director.

“Our first case involved a Marine who got into a really bad car accident and was paralyzed from the waist down,” Varaich says. “His face was disfigured from the accident. The Veterans Administration provided benefits for his physical therapy, and he eventually began walking again. But when it came to his face, the V.A. said they wouldn’t provide coverage because it was considered cosmetic.”

DOCS stepped in with multiple specialized surgeries to correct deformities to the Marine’s face and skull. Other patients have included a mother with tumors in her skull, a woman whose genetic disorder caused severe craniofacial disfigurement and an elderly man whose cancer had exposed parts of his skull. “There’s not a set type of patient we get,” Varaich says, “but they usually require more than one type of doctor—a reconstructive surgeon, a neurological surgeon, an occulo-plastic surgeon. It requires a team effort.”

When she’s not volunteering with DOCS, Varaich focuses on her transactional practice, acting essentially as general counsel for several small-business clients, including several medical professional partnerships. A 2004 University of San Diego law graduate, she started her own practice in December 2008, at the height of the recession, to establish the 501(c) nonprofit, spearheaded fund-raising and marketing efforts and was named executive director.

“I really, really like what I do now,” Varaich says. “I feel like if I do this for the rest of my life, I would still like going to work every day.”

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

The other day I had a deposition in Orange County. It was scheduled to start at 1:30 and go the rest of the afternoon. When I arrived, I was told the deponent doctor was still in surgery and that we would have to reschedule. I resisted my initial urge to get annoyed and put on my “what a waste of time, don’t they know how busy I am, etc., etc.” face. But then I realized that I had a whole Tuesday afternoon open. Sure, I could have and should have (maybe) driven back to the office, or ... I could take the afternoon off, get my kids and be at the beach by 3 p.m. Hmm, what’s a Bar President to do?

The water was cold, the sky was a little cloudy, and I still can’t surf, but all in all, it was a pretty great day. I used to take more days like that than I do now. I need to do it more. It’s like what my father told me throughout high school and college: “Don’t let the books get in the way of your education.” Only now it’s more like: “Your work life isn’t your only life.”

In our profession, we talk about “balance,” or finding a way to remain passionate about our work, move forward with our careers, but not lose sight of the passions we choose to pursue outside of our career plans. We all “have plans,” and we should. But as the old Irish expression goes: “If you want to make God laugh, tell him your plans.” Plans have a way of not working out ... well, the way they were planned. Here’s a test: Ask yourself and the next five people you see whether they planned to be where they are today. Trying to balance career plans with the rest of our lives will make us better lawyers. Recognizing the importance of balance is easy. Living a balanced life is not.

From making time for relationships with family and friends to staying active in sports or community service projects, it is always important to and honor what was important to us before we became lawyers. Like many of you, I suppose, I am always trying to find more time to spend with my family, simply putter around the house or make one last pass over pleadings before filing. But I don’t, and I can’t. And I really don’t know many who can. But we try, and in trying we accomplish. Admittedly, often there is too much to juggle, too many proverbial plates spinning to successfully keep each of them from crashing to the ground. My wife and I run our own law firm. We have twin boys, vacations to plan, friends to socialize with, windmills to tilt, I am midway through my year of serving as the SDCBA President, so there are Bar functions to attend (and attend), theoretically there is exercise to be had, and did I mention that we have twin boys?

I would be lying if I said it wasn’t hard, or that I spend as much time with my kids and wife as I want to. I would be lying if I said that many of my discussions outside of work don’t often center around work. I would be lying if I said that my secretary didn’t often have to remind me of important deadlines twice (okay, three times). But I still have plans—one of which is to go to the beach with my family on a Tuesday afternoon this month to relearn something I never learned in a book.

This issue of San Diego Lawyer focuses on careers and reflects on how many of us got started in this noble profession, and also takes a look at some of the many athletic pursuits and interests lawyers in our community are passionate about. I hope that their passions will inspire you to spend a bit more time out of the office this summer, focusing on yours.
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How would you spend a sabbatical if you had one?

“I would spend it developing a healthier lifestyle. Working for a government agency provides little time (and often, even less incentive with the goodies brought to the office) to exercise and eat well and to relax and enjoy the life that San Diego has to offer. I would travel more and, heck, perhaps the family photographs that have occupied the spare bathtub since 1995 may even find a way to CDs.”

Shelley Patton  
Office of the Family Law Facilitator

“I would spend a sabbatical traveling to the United Kingdom, where I haven’t been in more than 30 years; as well as New Zealand, where I have never been; Australia, where I was once; and many other places, including Ireland, where I am scheduled to go late this summer. Because this would be a sabbatical, I assume I would have to do serious work, so I would study the legal systems of other common law countries and combine that with my interest in history. For example, I have always wanted to visit both sides of the English Channel and trace the path of the Allies from the D-Day landings.”

Andy Cook, Law Offices of Andy Cook

“I would go to La Jolla Shores and camp out for an entire week with my wife, Linda (who is an attorney), and our son, Sammy, who is 4 years old. Then, I would let Sammy bury us both in the sand with only our heads sticking out and let him take pleasure in kicking our respective faces full of sand as much as he wanted and to his delight, just for him having to put up with two parents who are both attorneys. And yes, we would also get pleasure from it, because we love him that much!”

John Schweitzer, Stassinopoulos & Schweitzer

“Aye, I’d spend mine living throughout Scotland and Ireland working as a musician.”

Robert Burns, Law Offices of Robert Burns

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

“‘I would spend my sabbatical in Afghanistan or Iraq working on rule of law and governance to leverage my experience as a member of the Judicial Council’s Commission on Impartial Courts, Citizens’ Review Board on Police Practices, Managed Competition Independent Review Board, Police Department Task Forces, Assessment Appeals Board, Infragard and International Network for the Promotion of Rule of Law, and, as judge pro tem, county hearing officer, adjunct professor, Bar leader and presenter to visiting delegations of lawyers and judges. In fact, I plan to take this sabbatical and currently have applications pending to work in Afghanistan and Iraq.’

Charles Kim, Yelman & Associates

“‘I would write a funny, nonfiction book of stories detailing some of the crazy things I have seen happen in the course of dissolution actions. The critics would then pan the stories as not so funny and too far-fetched to be believable. I would spend my breaks from writing—and all the time I would have spent on a book tour if it had been published as dramatic fiction—playing polo.’

Marcel Elaine Radomile  
Law Offices of James A. Hennenhoefe APC

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Little Italy: A Culinary Mecca

We spend a lot of time eating in Little Italy, both during the workweek and on the weekends, so we thought we’d share some of our favorite neighborhood finds.

European-inspired Influx Café (also in Golden Hill) offers homemade baked goods and simple, tasty lunch items. The lunch menu offers several salads, including a very good Caesar, all of which can be made heartier by adding various protein options such as a chicken breast or baked tofu. There is a good selection of sandwiches; we are looking forward to trying the hummus-and-feta sandwich. And any coffee or espresso beverage you can imagine is available as well.

750 West Fir Street, 619-255-0735
www.influxcafe.com

In the heart of Little Italy, Pete’s Quality Meats is a favorite of many San Diego natives. There’s always a group of regulars sitting either at the counter or just outside this hole-in-the-wall meat/sandwich shop. Pete’s serves up sausage, beef or chicken Philly-style sandwiches with grilled onions and peppers on a white roll. They are no-nonsense and delicious.

1742 India Street, 619-234-1684

With fresh mozzarella, basil, beef-steak tomatoes and excellent balsamic vinegar on crusty Italian bread, the caprese sandwich at Mona Lisa’s deli is so good, we find ourselves craving it regularly. The spicy chicken sandwich is a close second. The deli is also an Italian market full of pastas, olive oils, wine and anything else you need for making a good Italian meal at home.

2061 India Street, 619-234-4893
www.monalisalittleitaly.com

From 9 a.m. to 1:30 p.m. on Saturdays, the Little Italy Mercado, or farmers’ market, is the place to be. There is fantastic fresh local produce, several on-the-spot dining options (think crêpes, paninis, sausage sandwiches and fish tacos) and live music to enjoy. Our kids love Saturday mornings at the Mercado.

Date Street at India Street, 619-233-3769
www.littleitalysd.com/mercato

Inside Tip

The gourmet Korean barbecue truck trend has finally hit San Diego! Tabe, dubbed “San Diego’s Premiere Mobile Cuisine,” offers gourmet tacos, burritos and bowls with an Asian flavor. They park in a different spot every afternoon and evening. Choices include a delicately spiced beef, pork marinated for 24 hours in Korean spices, Bass Ale-battered fried fish and teriyaki chicken—all of which can be ordered as tacos, burritos or bowls. The pork and the beef options are our favorites. And we are fans of the Tabe fries, which are covered in sauce, cheese and your choice of meat. To find a Tabe truck near you, check www.tabebbq.com or follow Tabe on Twitter @tabebbq.

Gil Cabrera (gil@cabrerafirm.com) is an attorney with The Cabrera Firm. Krista Cabrera (kcbarrera@wilsonturnerkosmo.com) is an attorney with Wilson Turner Kosmo.
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SPORTS HAVE ALWAYS played a major role in the San Diego legal community. In this roundup, we take a look at a popular judges’ golf event, and we review the San Diego County Bar’s Softball and Co-Ed Leagues, which will be playing into the fall. Additionally, we profile a judge and two attorneys who participate in three different sports—soccer, polo and squash. Superior Court Judge Desirée Bruce-Lyle’s devotion to soccer is particularly timely because of the World Cup championships this summer in South Africa.
TO A TEE

BY ELIZABETH BLUST • PHOTOGRAPHS BY JAMES BLUST

FOR MORE THAN 20 YEARS, San Diego’s state and federal judges have competed on golf courses around the county. Judges from the Superior Court, the Court of Appeal and the federal bench—along with teams of retired judges and alumni—turn out annually to see who will take home the title and the trophy.

The friendly competition began in 1989 when tournament “commissioner” Herbert Hoffman, then a San Diego Superior Court judge, phoned a few colleagues. Soon, three teams of four players each were teeing off at La Jolla Country Club. Two years later, they added a team of retired judges, who have the option of playing for their own bench.

The Federal Court team includes U.S. District Court judges (Judges Irma Gonzalez and Marilyn Huff have played) as well as magistrate and bankruptcy judges.

The Court of Appeal team includes those who sit by assignment and frequently has judges from other districts, including Douglas McDaniel of Riverside and William Bedsworth of Orange County. Richard Huffman was the only sitting justice on the Court of Appeal team this year.

Although the golf course location has changed a few times over the years, the date has remained the same: in January, when the courts are closed to honor Dr. Martin

For the 20th anniversary match, alumni were invited to play. Each year since, a few players from prior years have shown up. They are welcome to play, but their scores are not part of the competition. This year’s alumni team consisted of retired Superior Court Judges Harry Elias, Ron Johnson and Kevin Midlam.

1: Hon. William Enright (U.S. District Court, inactive; captain), Hon. Robert May (Superior Court, ret.), Hon. William Howatt (Superior Court, ret.), Hon. Herbert Hoffman (Superior Court, ret.)

2: COURT OF APPEAL: Hon. Howard Wiener (ret.), Hon. William “Ted” Todd (ret.; captain), Hon. Vince Di Figlia (Superior Court, ret.), Hon. Art Jones (Superior Court, ret.), Hon. Richard Huffman (Superior Court, ret.)

3: RETIRED: Hon. William Enright (U.S. District Court, inactive; captain), Hon. Herbert Hoffman (Superior Court, ret.), Hon. Michael Wellington (Superior Court, ret.), Hon. Robert May (Superior Court, ret.), Hon. William Howatt (Superior Court, ret.)


5: FEDERAL COURT: Hon. Peter Bowie (bankruptcy), Hon. William Hayes (U.S. District Court; captain), Hon. Peter Lewis (Magistrate Judge), Hon. William Gallo (Magistrate Judge), Hon. Michael Anello (U.S. District Court)
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Luther King Jr. This year, however, heavy rains forced a change to Presidents’ Day in February.

As commissioner, Judge Hoffman makes the rules and chooses the captains, who in turn decide which judges they want on their teams. The first three years, they played without any handicapping or indexing, but eventually he developed his own system.

“The idea is for all teams to win,” he says, “not just the Superior Court every year. The Superior Court tends to be the best because they have the youngest players and the most to choose from, with 154 members.”

Until this year, Judge Gilbert Harelson captained the Retired Judges team. But when retired U.S. District Court Judge William Enright took over, says Judge Hoffman, he “searched the Coronado Men’s Club list to find [retired Superior Court Judge] Mike Wellington.” Since the tournament was being played in Coronado, and since Judge Wellington frequently plays the Coronado course and knew the lay of the links, he was able to help the team win.

Like hockey’s Stanley Cup, the trophy travels with the winners and sits in their court for a year. During 2010-2011 it will reside at Judicate West, where Judge Hoffman of the winning team works.

Part of the joy of this annual tournament comes from winning, but much of it stems from the storytelling and the camaraderie.

“It’s a remarkable thing,” says Judge Enright. “The connection with all the other courts makes it fun—the collegiality. It’s a tribute to Herb [that it’s so successful]. I don’t think any other court in the country has this. Everyone looks forward to it.”

Elizabeth Blust (egblust@gmail.com) is a contract attorney focusing on bankruptcy and small business transactions.

SAVE THE DATE
Set aside Monday, October 11, for the SDCBA’s annual golf tournament at Riverwalk Golf Club in Mission Valley. Check the Bar’s website and This Week at the Bar and Bar Report for more information.
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THE FIRST PITCH in the County Bar’s softball league was probably thrown on an El Cajon diamond back in the 1970s. Over the years, lineups changed, rivalries developed, the Field of Dreams moved—and in one case, a romance grew.

“The Softball League jumped from eight teams in 1977 to a high of as many as 33 in the mid-1980s, not including an additional 10 to 12 co-ed teams,” recalls former County Bar President Marc Adelman, who ran the league from 1978 to 1997 and for several years also served as the sports chair. “We played at San Diego High until 1980 or so and then moved over to Presidio in Mission Valley, where they still play,” he says.

“[District Attorney] Bonnie Dumanis and I started the Co-Ed Softball League around 1987-1988. There were many SDCBA and Barrister Sports Banquets during that time that gave away the Ernie Wideman Trophy, named after Ernie who was killed in the same plane crash that injured Jerry Davee.”

One of the earliest teams still around is The Kings, named for King Stahlman Bail Bonds, which sponsored the club for many years. “In addition to Federal Magistrate Judge Tony Battaglia and Superior Court Judge Harry Elias, other judicial officers on the Kings team were Earl Gilliam, Larrie Brainard, Judy Keep and Woody Clarke,” says Chris Stearns, the manager who first started playing for them during the mid-1970s when games were at night in El Cajon. Aside from The Kings, heavy hitters have included:

• La Defensa, made up primarily of criminal defense attorneys and public defenders. It won the league title in 2009 “for the first time after some 15 years or more, which included various B and C League titles,” says Steve Cline, who plays for La Defensa and is also commissioner of the Co-Ed Softball League.

• Los Fiscales, composed of deputy district attorneys and D.A. investigators, which won the league title in 2008.

• Misfits, a team formed about 10 years ago by a group of individuals who just wanted to play softball and then became good friends.

• Swingers, a team of law students that has become one of the hottest in the league.

“The Kings historically dominated the A League, while Los Fiscales, La Defensa and the Misfits all battled year in and year out for the B League title,” says Cline. “Since the A and B Leagues merged, we have seen the decline of the once-dominant Kings and the rise of the Swingers, along with the increased rivalry of the three B League powers.”

“The softball teams have had some very good ballplayers, including judges and magistrates presently sitting,” explains James Brasher, who chairs the Bar’s Sports Committee. “Magistrate Judge Anthony Battaglia and Superior Court Judge Harry Elias used to hit home runs in the league often. There have also been a few minor-league ballplayers in the single A and double AA professional baseball leagues who have played in the league intermittently.

“All in all, it is a competitive league, with some arguments and chirping, as lawyers will do,” Brasher adds. “But it is also a way to get to know some of these lawyers outside of the office.”

In the Co-Ed Softball League, Cline says, “The last four years have seen a strong rivalry develop between my team and a team named Independent, which is sponsored by the Law Offices of Robert Gaglione. These two teams have split the championship for the last four years, with my team winning last summer. We have strong teams from Fredrickson, Mazeika & Grant, Manning and Marder, Higgs, Fletcher & Mack and Daley & Heft.”

Who are the most valuable players? “Quite honestly, without these commissioners the leagues do not run,” says Brasher. “It is a supremely time-consuming enterprise to be a commissioner.” That includes the commissioner of the Bar’s Basketball League (Jake Slania with Charlie Hoge), which wrapped up its season in June.

Games are played on Saturday (softball) and Sunday (co-ed) at the Presidio Little League Field off I-8 in Mission Valley. The season starts in June and runs until through the championships in October.

As a final note, Softball League Commissioner Mike Allen literally found his wife (attorney and manager Melissa Woo of Best, Best & Krieger) while playing softball.
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of the Year - 2005, 2006 & 2007
Where did you grow up? On a small farm next to a horse park in Lexington, Kentucky.

Why do you love horses? I’m not sure why I love horses; I just know that I do. They all have their personalities, but they generally want to please, and they are fun to ride or just to be around.

What attracts you to polo? Polo is a fast, fun and competitive team sport. You are a team with your horse, and you are a team with your other players. There’s a bit of riding skill, hitting skill and strategy. I’ve done almost everything I know can be done on horseback, and polo may be my favorite.

When did you first play? Many years ago in Lexington, but I did not play again until I was asked to play against a team with former Padre Steve Finley in a celebrity-team competition in September 2008. After so long, I figured I should get a little practice before taking on a professional ballplayer on the polo field. It was a fun match. We tied.

Where do you play? At the San Diego Polo Club off Via de la Valle. They also play in Poway and in Lakeside, and all three places have tournaments.

Ever been injured? Too many times and ways to count. It’s not a sport for the faint of heart.

How expensive is it? Polo, like anything, can be played at a lot of different levels. A person can rent a horse and play occasionally, or lease or buy a horse and play a bit more. Most people start small, it seems, and then end up spending a small fortune as they get hooked on the sport. They will buy several different horses and have to pay for stalls, feed, grooms, veterinarians, farriers, equipment, on and on. If they counted the money, they wouldn’t do it.

How popular is it in the San Diego legal community? Polo is very popular, and could be even more so. Many come on Sunday afternoons to watch the matches that are played from June to mid-October at the San Diego Polo Club.
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PROFILES IN SPORTS

KICKING IT: HON. DESIRÉE BRUCE-LYLE

When did you first play soccer? When I was about 6 years old.
Where? In Accra, Ghana, West Africa.
What do you like about the sport? The fact that you can play irrespective of your size. It is a game of finesse and requires a high level of fitness.
What position do you play, and why do you like playing it? I play forward (striker). It is a position that requires speed, and I love to outrun the opposing team. As the name denotes, it is also the goal-scoring position. Outrunning the defenders and putting the ball in the back of the net is the ultimate high!
How often do you play now? Not often. For all intents and purposes, I have retired, but I occasionally come out of retirement to play with my team in tournaments—about three times a year.
Do you travel to tournaments? I did—to Hawaii, Puerto Vallarta, Pismo Beach and various Southern California venues.

SQUASH FLOWERS IN SAN DIEGO: DOMINIC NESBITT

Where did squash originate? Nobody is certain, but it is generally thought that the sport originated either at Harrow School or Fleet Prison in London. As an alumnus of one of these two venerable institutions, this perhaps explains my love of the sport.
When did you first play? When I was about 7 years old, back in the days of wooden rackets.
Where? Just outside London, in the town where I grew up, called Beaconsfield.
What attracts you to squash? It is incredibly fun, and it can be played at any standard. Provided your opponent is a similar level to you, you will have a competitive game. I like the company of other squash players who play for fun but are also serious about their sport.
What skills do you need? Squash has been described as “chess at 100 miles per hour.” It is both mentally and physically very challenging—mentally because it is a strategy game requiring great concentration and anticipation, physically because it is a great workout. In a 2003 Forbes study of the healthiest sports, squash ranked number one, beating out, among others, rowing, rock climbing, cross-country skiing, basketball and boxing. The study reported a calorie burn of more than 1,000 per hour.
How often do you play? I’ve been playing twice a week, but I’m trying to increase this to three times.

Any other judges play? Not in the league I play in.
Are you going to the World Cup in South Africa? I was planning to, but security concerns scuttled those plans. I will be taking some vacation time off to watch as many games as possible.

How popular is it in San Diego? Squash is gaining in popularity as more people learn that the game is available here. The club at which I play in Mira Mesa, called San Diego Squash (www.sandiegosquash.com), has more than 100 members.
Do you know any judges or attorneys who play? Yes, there are several attorneys in San Diego who play. As for judges, I understand that Supreme Court Justice John Paul Stevens was at one time among the country’s top squash players. I have it from a reliable source that Supreme Court Justice Antonin Scalia is also a keen squash player.
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Before starting his first judicial assignment, Superior Court Judge Evan Kirvin completed the New Judge Orientation program (put on by the California Judicial Council in San Francisco) and the San Diego County Superior Court’s local training program. As do all new judges, he visited the various courthouses in San Diego County and all the different types of courts. Then on March 30, 2009, Judge Kirvin took the bench for his first assignment in Department 3 of the El Cajon branch of the Superior Court. The presiding judge made this assignment in consultation with other judges, as usual.

On a typical day Department 3 handles upwards of 100 cases, many of them misdemeanor arraignments, including driving under the influence, dog-off-leash cases and vehicular manslaughter. The challenge, according to Kirvin, was “to move the calendar along expeditiously while simultaneously ensuring that all parties have a chance to be fully and fairly heard.”

For the next six months, he remained in the same department. While there, Kirvin also finalized his court staff—court clerk and bailiff—both of whom would stay with him for the foreseeable future.

In August 2009, Judge Kirvin, along with 129 judicial officers from around the state, attended Judicial College in San Jose. This intensive two-week program of the Judicial Council is taught by fellow judges as well as appellate and Supreme Court justices and presents substantive material covering a variety of areas, including criminal, civil and family law, collaborative courts, discovery and computer tools.

One of the most rewarding aspects of this program, says Judge Kirvin, is the collaboration with other judges and the ability to form lasting friendships. “I contact instructors and fellow students on a regular basis for assistance,” he says. Beyond this, judges receive monthly continuing education courses, just as practicing attorneys do, offered by the San Diego Superior Court and the Judicial Council.

In October 2009, Judge Kirvin moved to Department 4 in El Cajon, a domestic violence court, drug court and Proposition 36 court that also covers misdemeanor readiness conferences. It offered substantially more variety, he says, with “each day being a different type of assignment.”

Drug court offers a very different experience, in which a judge gets to work closely with all of the participants in monitoring an individual’s progress through drug treatment programs. In the end, participants “graduate” and are celebrated (usually with cheers and applause) by all the participants. “It can be a very emotional experience for everyone involved,” says Judge Kirvin.

Presiding over criminal court is not without its amusing moments. Judge Kirvin recalls an incident when a defendant mumbled the word “guilty” during his plea and was told, “You have to say ‘guilty’ out loud.” To which the defendant replied: “Guilty, out loud.”

In February 2010, Judge Kirvin moved again, this time to Family Court in East San Diego County. This multi-year assignment will likely provide his most challenging work as a judicial officer. At the end of 2009, while preparing for his family court assignment, Judge Kirvin studied legal treatises, including the Family Code and the Judicial Bench Guides, to get up to speed on an area of law.
with which he had no prior experience. The week before taking his new assignment, he attended training in San Francisco for family court judges.

Discussing the assignment, Judge Kirvin says, “The learning curve was extremely steep, but the Family Law Bar has been very patient and helpful.” About 70 percent of the cases are pro per, which makes it that much more of a challenge.

About three months in, Judge Kirvin said, “I now feel comfortable in the assignment, but continue to learn something new every day.” He added: “Overall, I would say it is a very challenging, yet equally rewarding assignment—especially as it relates to deciding child-custody issues.”

Attorneys who’ve appeared before Judge Kirvin remark that he took to being a judge very naturally. “He was very interested in learning the intricacies” of the area of law in which he was presiding and “open to learning” from the litigating attorneys, says one.

“Judge Kirvin seemed comfortable in his new role very quickly,” another attorney comments.

Another attorney points out that despite Kirvin being a former prosecutor, “Once he got comfortable on the bench, he no longer seemed like a prosecutor.” She explains that parties in litigation, and particularly criminal matters, want someone to listen to their story. “Regardless of how busy it is or how late it is, he is very good about letting people—even attorneys—tell their story.”

During interviews for these articles, Judge Kirvin conveyed a consistent confidence about his decision to become a judge. The campaign was a difficult one, but he seemed to maintain his composure and focus on the goal. His transition to judge has, at least outwardly, appeared equally seamless. Immediately after the campaign, Kirvin was excited about his future as a judge and, to those who know him, not different in any way. After a year of wearing the robes, he has settled in and carries the power and solemnity of the office in an understated way.

Gil Cabrera (gil@cabrena.com) is an attorney with The Cabrera Firm.
The Fifth Annual
CAREER ISSUE

SAN DIEGO LAWYER July/August 2010
WELCOME to San Diego Lawyer’s fifth annual Career Issue, which focuses on networking and job searches in a tough economy.

Left to right: Jackie Black, Natalie Garcia, Kathy Van Voorhees, Frank Mead, Laura Shingles (on chair arm), Jinny Campbell, Tom Turner, Onell Soto, Meghan Bohn (on chair arm), Courtney Miklusak, Eric LaGuardia, Cara Mitnick
Photo by Lauren Radack
MANY STUDENTS who enter law school with a technical background do so with the hope of securing a job upon graduation at a firm that specializes in intellectual property. As with all other areas of the law, the recession has made IP jobs harder to come by.

“Unfortunately, San Diego is always going to be a place where local students are competing against applicants from all over the country,” said Marc Morley, partner at Knobbe Martins Olson & Bear, LLP. “In years past, maybe San Diego was Plan B for the Ivy League candidates, but now no one is turning down a job.”

However, he says, there are a number of things one can do to stay viable in the market while waiting for that dream job. One option is employment at a university technology transfer office. Gaining experience on how to patent and license various technologies developed by faculty can give a recent graduate hands-on IP experience that may help leverage a firm job down the road.

The International Trade Commission is another alternative. According to Kenneth Jenkins, partner at Townsend and Townsend and Crew, LLP, a candidate’s work at the ITC is incredibly attractive to firms because many hire outside specialists when a case involves imports infringing on intellectual property rights.

“It is better to sacrifice one or two years if you will position yourself ideally for the long haul,” advises Morley. At the end of the day, whether it’s working at the FDA or as an examiner at the trademark office, any practical experience in the field will be an asset in landing a job.

Jackie Black (jblack-10@sandiego.edu) is a 2L at University of San Diego School of Law.
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.

Thomas R. MacSpeiden, Ph.D. (619) 294-4044, fax: (619) 295-4113
e-mail: macspeidenphd@nethere.com
ANDREW BRESKIN took a novel approach to earning money during law school. Rather than reshelving books in the library or editing articles for professors, Breskin, a 2009 law graduate from the University of San Diego, prepared dozens of 12- and 13-year-olds for their bar and bat mitzvahs.

In the Jewish tradition, the bar (boys) and bat (girls) mitzvah signifies a child’s acceptance of the religious obligations of an adult. If you’ve ever tried to teach anything to a young adolescent, you can appreciate the difficulty of Breskin’s task—training often-unwilling/uninterested children to chant, in their changing voices, difficult Hebrew texts to hundreds of adults on “the big day” and assisting them with drafting English-language speeches interpreting their biblical portions.

Breskin, who was recently sworn into the California Bar, has parlayed the achievements of one profession into another. Having tutored the children of many local businesspeople, attorneys and professors, he found his training successes often translated into professional recommendations from the parents of his young clients. And with good reason: Breskin’s abilities to explain difficult concepts, relate abstract ideas and reassure and inspire confidence in his clients are all indicia of an effective lawyer.

Breskin is currently working as an attorney for a local litigation firm. While his legal career is now his priority, he remains proud of his accomplishments on the bar mitzvah circuit. Mazel tov (well done), Andrew! 🎈

Cara Mitnick (cmitnick@usd.edu) is assistant dean of career services at the University of San Diego School of Law.
THE ROUTE TO PUBLIC DEFENDER
By Jackie Black

KATE BRANER, assistant supervising attorney of the Central Misdemeanor Unit at the Office of Public Defenders, says that when looking for a deputy public defender position, a zeal for the work and prior criminal defense experience is critical. “We are looking for people who are passionate about criminal defense and have a serious interest in representing the indigent population,” she points out.

The best way to get one’s feet wet, says Braner, is to get contract work from a private practitioner. After experience is gained and the proper training requirements are met, those looking to answer the call can seek work with the Office of Assigned Counsel.

Finally, participation in training sessions sponsored by the California Public Defenders Organization is encouraged to keep applicants abreast of current legal issues in the field and prepare them when openings do become available.

Jackie Black (jblack-10@sandiego.edu) is a 2L at University of San Diego School of Law.

GRADUATION ASSIGNMENT: ATTITUDE
By Eric LaGuardia

A FEW HUNDRED DOLLARS were all that stood between a jobless Alisa Admiral and moving back in with her parents out of state. Not the situation an overachieving, top-of-her-class, law-review graduate expects upon passing the California Bar.

At the end of her rope—and bank account—Alisa called home. Her father encouraged her to do more and above all, change her attitude. Alisa moved into a cheaper apartment, added a roommate, took a job waiting tables, volunteered for the Legal Aid Society and, following her father’s advice, modified her attitude and determined that she would find a job no matter what it took. She mentioned to everyone she knew that she was looking for work. She told a friend who was clerking at a firm that happened to need another attorney—and with that, Alisa landed the job.

Eric LaGuardia (ericlaguardia@gmail.com) is a 3L at California Western School of Law.

THE SOUGHT-AFTER ATTRIBUTES
By Jinny Campbell

FRED GASTON of Gaston and Gaston knows exactly what he wants in a new lawyer: “Grit,” he says. “Someone who has been working for a living, has world experience and who has not simply gone from
IN 2008, I APPLIED for a summer internship at 20th Century Fox in Los Angeles. After several telephone interviews, I was invited to interview on the lot. That day, I left San Diego with ample time to arrive in Los Angeles, change into my suit and arrive at the studio early.

On the way up, police halted traffic for a border stop along the Camp Pendleton stretch. As traffic began to move again, a pickup truck in front of me came to an abrupt halt, and I ran into his bumper, then also got hit from behind, totaling my car. Though I suffered no physical injuries, I was devastated at the possibility of missing the interview. How was I going to get to Los Angeles?

I contacted Fox, and the manager advised me that she would reschedule the interview. Luckily, the driver who hit me from behind offered to drive me there. Determined to make it there, I accepted the ride, but two hours had already passed. Added to that, the driver’s radiator went out, and as a result we stopped at least three times along the way. Then we got stuck in rush-hour traffic on the 405. By the time I got to the studio, I was an hour and a half late for my rescheduled interview.

I found a bathroom in the lobby, changed into my suit and proceeded with my interview—and got the job. Later in the summer, the hiring manager informed me, “We were so impressed by the fact that you made it up here in spite of the fact that you had a car accident.”

Jakgeem Mays (mayj@tjsl.edu) is a 3L at Thomas Jefferson School of Law.

HIGH SCHOOL TO COLLEGE TO A JURIS DOCTORATE.” Gaston also mentions communication skills, innate intelligence and ability to work exceedingly well within a group. His firm specializes in business law and litigation, so an interest in business, money and the relationship between the two are high on his list. “All else can be taught,” he says.

“If a prospective associate cannot communicate well in an interview,” says Julie Mack of Brave, Weber & Mack, “then it is easy to assume he or she will not communicate well with clients.”

Vickie Turner of Wilson, Turner, Kosmo adds that she also focuses on whether the candidate will be a good fit with the firm culture and is a team player.

ADVICE FROM MANAGING PARTNERS
Compiled by Kathy Van Voorhees

CHARLES GREBING
Managing Partner, Wingert Grebing Brubaker & Goodwin

“Typically, the best way to secure a position within a law firm is to become part of that firm’s clerking pool. This allows an applicant to showcase and market his or her skills in a firm setting. However, in this economic climate, the opportunity to clerk is not always available. In that situation, an applicant should find another opportunity to be noticed. For example, taking a staff position is a great way to demonstrate one’s abilities and, at the same time, ‘test drive’ the firm.

“If an applicant is unable to secure a clerking or staff position, then he or she should put time and energy into creating a unique and concise cover letter. Applicants should use bullet points to describe their strengths, which include class standing, past activities outside of studies that demonstrate leadership, initiative and people skills. Once an applicant is chosen for an interview, the candidates who stand out are the ones who are well prepared at the interview—they know the nature of the firm, look at the cases and ask specific questions that show interest in the firm.”
“Furthermore, it does not hurt for a candidate to emphasize his or her team spirit. For instance, we look for applicants who play sports. This shows that he or she can achieve a work/life balance and have experience being on either a winning or losing team.”

JOHN MORRELL
Managing Partner, Higgs Fletcher & Mack

“San Diego is a middle-market city. That is, it is not Los Angeles, Chicago or San Francisco, so the clients are medium to small businesses and high-net-worth individuals. In this small community, law firms want to provide value to clients, and to do that, firms have to absorb the cost of training a new attorney. That is why most law firms look for attorneys with two to three years’ experience.

“Once an applicant is chosen for an interview, the candidates who stand out are the ones who are well prepared at the interview.”

“We try to find people who will fit in with the firm professionally and personally. To do so, we recruit by asking others in the legal community if they know anyone who is looking for a job. Alternatively, we will put the word out to our colleagues that we are hiring, and wait for them to suggest an applicant. That is why it is so important to network. Most of our hires either knew someone at Higgs Fletcher & Mack or were recommended by a colleague.

“Sending a blind résumé will never get a candidate anywhere. If you do send a résumé, do not send it to the managing partner; send it to someone you know within the firm.

“A candidate needs to work his or her relationships within the community. This way, other attorneys can see your abilities, skill level and personality. It provides tangible evidence of who you are and what you can do.”

Kathy Van Voorhees (kavan@law.cwsl.edu) is a 3L at California Western School of Law.
PERSISTENCE PAYS
By Kathy Van Voorhees

WHEN JEREMY SNIDER graduated from California Western School of Law in fall 2008, he was nervous. He did not have a job, he had loans becoming due, and the legal market was getting tougher and tougher to penetrate. Most jobs wanted at least two to five years of experience.

Every day he would check California Western School of Law’s job database, job search engines, The Daily Journal, The Daily Transcript and Craigslist. To make ends meet, he was a part-time clerk at the Law Offices of Geno Bruno, where he made $300 a week. He also attended a few networking events hosted by the San Diego County Bar Association, including the Bridging the Gap program.

The hardest thing, Snider says, was to stay positive. It was not until five months after receiving his bar results that he finally got a job as an associate at the Law Offices of Rene Korper in Valencia, California.

“I got so dejected from sending out hundreds of applications never to hear from any of them,” he says. “I sent out more than 150 applications and heard back from only a third of those. Out of all the applications, I got called for four interviews, two of those for second interviews, and none in the area of law I really wanted to practice coming out of law school.”

But he knows now that his persistence paid off. “Never give up,” he says. “Just keep trying.”

Kathy Van Voorhees (kavan@law.cwsl.edu) is a 3L at California Western School of Law.

FOOD FOR THOUGHT
By Jinny Campbell

THE BACKPACK OVERFLOWED with casebooks as she wearily arrived home. Zoi Gonzalez, a student at Thomas Jefferson School of Law, looked forward to an exciting dinner of ramen noodles. But she decided to attend her monthly homeowners association meeting when she saw the words “Food will be served” on the notice. Aside from a free meal, she hoped to meet some new people and forget about case briefing for a while.

A few weeks later, an e-mail from a law firm in Little Italy popped into Gonzalez’ inbox. It turned out that Rebecca Fortune of The Fortune Law Group was the president of the association, and she needed a law clerk. One résumé, writing sample and interview later, Gonzalez was a paid law clerk … within the second month of her first year of law school.

Jinny Campbell (campbejm@tjsl.edu) is a 2L at Thomas Jefferson School of Law.
RIDING A NEW WAVE
By Natalie Ann Garcia

AFTER GRADUATING from the University of Connecticut, Adam Gross moved to San Diego to surf. And that is exactly what he did for the first couple of months. When he broke his surfboard and didn’t have the money to buy a new one, that did not change his plans. He decided he’d learn how to craft handmade surfboards.

Four years later, Adam’s company, Welsh Gross Surfboards, has not only helped him finance his law school costs but has also been a key source for his law school internships and connections. As a member of the Association of Surfing Lawyers, Adam has found he can have the best of both worlds: surfing and law.

What started as a hobby has evolved into a great stress reliever, he says, exulting in transforming a block of fiberglass to a work of art that will surf the beautiful waves of San Diego.

Natalie Ann Garcia (ngarcia524@gmail.com) is a 3L at Thomas Jefferson School of Law.

CREATING RÉSUMÉS WITH STAYING POWER
By Meghan Bohn

AT MOST LARGER FIRMS and organizations, résumés don’t just land on the desk (or top of the inbox) of the ultimate interviewer. The first line of defense is typically a recruitment coordinator. The current legal market is ultracompetitive, and recruiters spend significant time studying résumés and cover letters to weed out candidates, so I asked for a few tips.

• It seems obvious, but spelling and grammatical mistakes happen regularly, especially when updating résumés. Proofread it yourself, have a friend proofread your materials, and then proofread again. A spelling or grammatical error will very likely stop your résumé from going further.

• If you are sending out correspondence electronically, convert all of your documents to PDF format. One coordinator recalled receiving a document that showed all tracked changes, including the other organizations the candidate had applied to and others’ comments on his drafts.

• Explain in either a cover letter or e-mail why you want to be in the geographical location of the firm you are applying to. If you aren’t picky about location, explain exactly why you want to work for that particular firm (down to the branch office). A lot of people blindly send out résumés, so being specific works in your favor.

• Make sure you know what the firm does and what practice areas it has. It is easy to weed out applicants who say they are interested in IP if the firm has no IP practice.

One coordinator emphasized keeping a simple format, being honest and spelling out exactly why you are a great fit, rather than hoping that the person looking at your résumé will make inferences and throw yours in the right pile.

Meghan Bohn (meghan.bohn@gmail.com) is a 3L at University of San Diego School of Law.
Installing Screens

You’re in the market for a new job, and you’re offered a lucrative lateral position with a firm, partly because of the experience you’ve gained representing a major client. There’s one small problem: Your prospective employer has a major client who has been and/or could be adverse to your present client. Can the prospective employer hire you without disqualifying the entire firm? Is there a screening mechanism that would isolate you as the “tainted” lawyer?

With lawyer mobility on the rise in the current economy, the dual goals of protecting client confidences and minimizing the appearance of impropriety are at the forefront of recent ethics decisions and rules regarding ethical screening. The question of whether “ethical walls” can be implemented is an evolving one in California.

The fiction of ethical walls is viewed by some as eroding the confidence of clients in their attorneys’ ability to keep client confidences. Can that issue be effectively addressed through the use of ethical walls? After nearly 100 years of considering the issue, the American Bar Association adopted Model Rule 1.10, allowing screening under certain circumstances. The California State Bar’s Board of Governors has balked at following this lead, refusing to adopt Model Rule 1.10. The California Supreme Court has not yet spoken on the issue of screening in the context of lawyers moving between private firms.

At the heart of the debate is the fundamental duty of lawyers to protect their clients’ confidential information and communications (Cal. Rules of Professional Conduct 3-100; Business and Professions Code section 6068). The assurance of confidentiality promotes open communications and trust between client and lawyer. Use of that confidential information to the client’s detriment obviously threatens to destroy that trust.

Under the ABA Model Rule, both timing and effective implementation of an ethical wall are addressed. The test for timing is an objective standard, requiring implementation of an ethical wall when a lawyer knows or reasonably should know about the conflict (ABA Model Rule 1.0(k), Comment 10). The sooner isolation procedures are put in place, the better.

The effectiveness of the screening is assessed on a case-by-case basis. Under ABA Model Rule 1.10, firm size is one critical element. The smaller the firm, the less likely an ethical screen could be effective. Small firms, which make up 95 percent or more of all law firms, are generally precluded from relying on ethical screens to avoid vicarious disqualification of the entire firm. However, large firms have been disqualified despite timely and detailed ethical screens, such as where there is substantial similarity of the former representation to the current matter, the disqualified attorney is in a small department or satellite office, and there is a likelihood of substantial contact between the disqualified attorney and attorneys handling the adverse matter, even if on unrelated matters (Hitachi, Ltd. v. Tatung Company [N.D.Cal. 2006] 419 F.Supp.2d 1158).

California courts most often answer in the negative the question of whether a law firm is disqualified from representing a client when it hires an attorney who formerly represented the adverse party. (See Henriksen v. Great American Savings & Loan [1992] 11 Cal.App.4th 109.)

Mere prevention of discussion about the case is not viewed as an adequate screen. However, a recent California decision suggests there may be an erosion of that philosophy. In Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776, a rule of automatic vicarious disqualification of the entire law firm was rejected. Instead, the court concluded there is a rebuttable presumption of disqualification that could be refuted by evidence of adequate screen-
BY DEBORAH WOLFE

ing. As articulated in the Kirk case, the key to an effective screen is to have procedures to guarantee that the tainted attorney has not had nor will have any communication with others regarding the litigation that creates the conflict.

Although still reviewed on a case-by-case basis, and subject to specific evidentiary proof, an effective screen includes: (1) timely implementation; (2) physical and departmental separation; (3) prohibitions against discussing confidential matters, plus sanctions for violating the prohibitions; (4) established rules and procedures preventing access to confidential information; (5) precluding the disqualified attorney from sharing in any profits of the representation; and (6) continuing education in professional responsibility.

No amount of screening would be adequate in cases involving an attorney involved in representation of a client and who switches sides in the same case; the presumption of imputed knowledge is still considered conclusive.

In addition to putting into place a solid, effective screen, the ABA Model Rules require written notice to the former client when the screen is nonconsensual, along with an opportunity for the client to object or make inquiry. California courts have not yet addressed the need for notice, nor has this aspect of the Model Rules been adopted.

As the California State Bar continues to consider revisions to the Rules of Professional Conduct, and case law evolves on the issue of vicarious disqualification of law firms and the efficacy of ethical screening, the sacrosanct responsibility of preserving client confidentiality and public confidence in the judicial system will be the guiding principles for the debate.

Deborah Wolfe (dwolfe@wolfelegalgroup.com) is with the Wolfe Legal Group and is a member of the SDCBA’s Legal Ethics Committee. Opinions in this article do not necessarily reflect those of the committee.
PHOTO GALLERY

[events]

Judicial Reception

PHOTOGRAPHS BY LAUREN RADACK

The SDCBA hosted a judicial reception on June 9 at the Bar Center.
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Law Week Luncheon

An overflow crowd attended the SDCBA’s Law Week Luncheon and Celebration of Community Service on April 30 at the Westin Gaslamp Quarter Hotel.

Event overview

PHOTO GALLERY
PHOTO GALLERY

Diversity Reception
PHOTOGRAPHS BY LAUREN RADACK
The SDCBA’s Ethnic Relations & Diversity Committee hosted a reception April 24 at Higgs, Fletcher & Mack.

Tom Homann Dinner
PHOTOGRAPHS BY MARCO TORRES
The Hard Rock Hotel was the site of the Tom Homann Law Association Awards Dinner on May 13.

Lawyers Club
PHOTOGRAPHS BY BARRY CARLTON
Lawyers Club held its annual dinner at the U.S. Grant Hotel on May 26.
Sustaining Members

The San Diego County Bar Association gratefully acknowledges its Sustaining Donation Members.

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WHICH OFFICE BUILDING HOUSES THIS ROOM?

Please submit answers by August 1 to martin@kruming.com. Your name will be entered to win a luncheon for two at Dobson’s Bar & Restaurant in downtown San Diego. Congratulations to Tom Buchenau of the Law Offices of Thomas M. Buchenau, who correctly identified the Court of Appeal, 4th District in the May/June issue. Thanks to everyone who participated.

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- Francis Bacon

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SAN DIEGO COUNTY BAR FOUNDATION
THE OFFICE OF JUANITA BROOKS. San Diego Lawyer photo editor Barry Carlton (barry.carlton@doj.ca.gov) is a deputy attorney general.

CRYSTAL DISH from Lawyers Club, given as a thank-you for making a presentation.

POST-TRIAL mementos of successful verdicts in patent trials.

“CHAMPAGNE” bottle used to blow bubbles at a post-trial victory celebration.

NOTES from jurors from various trials (written after the trials had ended).

FISH & RICHARDSON clock.

DRAWING made by Juanita’s daughter Rose, now 19, when she was in kindergarten. It reads: “My mommy defends people who don’t need to go to jail.”

MEDALLION that reads “In the midst of winter I discovered within me an invincible summer” (given to Juanita many years ago by Michael Pancer, to whom she is now married).

HAND-CARVED wooden fish, a Fish & Richardson memento.

JUANITA’S BIBLE: North America airline flight guide.
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