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My father’s parents were illiterate and raised their children in a remote hamlet in eastern Kentucky with no running water. My dad dropped out of school in the ninth grade, and my mother completed her GED after I was born. I was the second in my family, after my sister, to go to college, and the first to pursue a graduate degree. Education, my mom told me, was my way out and up. And once I attained it, she said, I had to give back.

I took my mom’s advice to heart. In law school at Indiana University Bloomington, I worked for Indiana Legal Services, a nonprofit that provides services in consumer, family, housing, public benefits and senior law issues to eligible residents. While clerking at a large law firm in 2007, I assisted with the pro bono representation of a federal prison inmate in his claims under the Religious Land Use and Institutionalized Persons Act. I was a Big Sister and donated my time to several philanthropic organizations.

I’m ashamed to admit that changed in 2008, when I arrived in San Diego. I took on a few pro bono projects, but was largely focused on jump-starting a legal career in the midst of an economic meltdown. A few years later, a friend mentioned Casa Cornelia Law Center and the stellar work they do for immigrants and victims of sex trafficking and other human rights violations. I was interested, but it wasn’t until a chance meeting (in a workout class, of all places) with Adela Mason, the Center’s Director of Pro Bono Program, that my interest was truly piqued. She mentioned her work with Casa Cornelia and asked if I might be interested in taking on a pro bono asylum case. But I know nothing about immigration law, I protested. She assured me I would have the Center’s staff attorneys’ expertise at my disposal. Because Adela is very persuasive, I agreed.

It’s a decision I’ve never regretted.

With Adela’s help, I had the extraordinary experience of securing asylum and withholding of removal for a young woman who was tortured and raped, and whose family was murdered, by the Eritrean military. An aunt living in Ethiopia secured my client’s passage from Sudan to the United States with a smuggler, who dropped her off at the San Ysidro Port of Entry in Tijuana after a trek through Russia, Sudan to the United States. She was taken into custody by the Border Patrol and lodged at the CCA detention facility in San Ysidro for more than a year as she searched for counsel. Over several months, we pieced together her story, her English got a lot better and I got a crash course in practicing in U.S. immigration court. In July 2012, after a trial conducted in one of the courtrooms at CCA, my client was granted asylum. We both shed tears of joy.

A few days later, she arrived at the federal courthouse in downtown San Diego. Her life in the U.S. was about to begin. Of course, my mother was happy to hear this story. I count my representation of this young girl as the most rewarding experience of my career. Helping her was one of the great privileges of my life.

Holly Amaya (hamaya@wisint.com) is Legal Counsel at WIS International.
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The New Bar. That is what we hoped to be this year. As I reflect back on these past months, I am filled with a tremendous sense of pride at the giant leap forward we have taken at the SDCBA. Our beautiful new Bar Center at 401 has indeed been a breath of fresh air, ushering in a new start for San Diego’s oldest and largest law-related organization. We stepped forward into the future, building upon the rock-solid foundation and history provided to us by past generations. Our state-of-the-art facility has helped us realize our vision of the Bar Association we want to be: Hub of the legal community. Advocate for issues impacting the profession. Clearinghouse for legal trends. And the simplest of things: a comfortable and inviting place to land during a busy day of law practice.

Today, we are able to stream our MCLE content anywhere to our members, bringing greater value to membership and also connecting lawyers to our Bar Center who might otherwise not be able to come downtown. We have a newly redesigned Online Directory, which provides our members with the ability to create enhanced profiles. We are the first Bar Association anywhere to launch its own Web Application, and now our SDCBA App is loaded onto smartphones and tablets county-wide.

While we enjoyed our new space and new advances, we remained mindful of the challenges facing our legal community. The Court Funding crisis was first and foremost on our minds, and we were dismayed at the painful and sustained cuts to our courts. But in great challenge we found great opportunity for partnership and advocacy. Through the efforts of our Court Funding Action Committee (CFAC) we published the first-ever report on the status of justice in San Diego. Our report illustrated the impact that the budget cuts have had on our justice system locally and how we are not able to provide the community with the access to our courts to the degree that meets our society’s standard.

Throughout the year, I have been greeted warmly and positively by our membership and by members of our bench. Your support and encouragement has only enhanced my sense of pride and commitment to my work. But I must emphasize that it is the amazing team behind me that deserves equal credit. I wish to thank my absolutely outstanding Executive Committee: Jon Williams, Richard Huver, Laura Miller and Marvin Mizell. These people are relentless in their commitment to SDCBA, and I am inspired and motivated by them to be my best every day. And I cannot express enough gratitude to my courageous, talented SDCBA Board: Nadia Bermudez, Tom Penfield, Sheryl Graf, Patrick Ojeil, Victor Torres, Stacie Patterson, Larry Campitiello, Jim Crosby, Ilona Antonyan, Ray Estolano, Bob Gaglione, Danielle Hickman, Heather Rike and New Lawyer Division Representative Negeen Mirraghabie.

Finally — if you really want to know who is responsible for pretty much anything that looks good or sounds good coming from the SDCBA — it is our amazing staff, led by the remarkable and tireless Ellen Miller-Sharp, Executive Director. Ellen has been an incredible source of energy and inspiration for me, and the membership should know that there is not a moment that goes by that Ellen is not thinking about what is best for the SDCBA and in what direction we should be moving to be the absolute finest Bar Association we can be.

On a personal note, I would like to thank another woman who has truly been a cornerstone of support and key to the success I have enjoyed — District Attorney Bonnie Dumanis. Thanks to Bonnie’s support, I was able to make history as the county’s first Latino bar president. I am grateful to her and to the rest of my hard-working colleagues at the DA’s office, who have enabled me to perform my duties with comfort and confidence. One of those DA colleagues also happens to be my wonderful husband, Joe McLaughlin, who, despite having been in trial a record number of days this year, always made me feel supported and able to take on the challenge of leadership without worry. And to my little son Cisco: the joy you have brought me in the 20 months you have been on this earth has made it all possible, and all worth it. Thank You.
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Jerome Braun, Attorney at Law, Founding Partner (left)
Frank Farella, Attorney at Law, Founding Partner (right)
Achieving ‘Global Fluency’

Why study abroad programs are a necessary part of legal education

When I welcomed our new students in August, I spoke to them about how to make the most of their time in law school and best prepare for the legal profession. In addition to getting hands-on practical experience, which I wrote about in my previous articles, I emphasized the importance of gaining “global fluency.” As I told them, our graduates will be entering a legal environment that is increasingly globalized, with international issues impacting the full spectrum of practice areas and internationally trained (and multilingual) foreign attorneys competing for clients, cases and transactions.

USD School of Law has long been at the forefront of providing opportunities to study abroad. We established the first summer study abroad program outside of London, when we initiated our Paris program in 1973. Professor Bert Lazerow, who has directed our summer programs for 40 years, is a recognized leader in international legal studies. When I came to USD after more than 20 years in private practice representing international clients in business transactions globally, one of my first priorities was to establish a broader range of international study opportunities for our students, and to encourage more of them to participate in these programs. In addition to our four summer study abroad programs, we now offer eight semester exchange programs at leading international law schools.

**Summer Study Abroad Programs.** Our four summer study abroad programs in Europe have recently been revamped to provide more focused training in specialized legal areas associated with each location. Our program in Florence, the great city of Renaissance art and a leading center of creativity, focuses on intellectual property, art law and technology. Our program in the great financial center of London focuses on private international law with courses on multinational corporations, cross-border business transactions and international commercial arbitration. The program in Paris, a center of legal education since the 12th century, focuses on public international law and human rights. And Barcelona, a major commercial center on the Mediterranean, has a curriculum focused on European law, comparative law and international trade.

**Semester Exchange Programs.** Over the past two years, we have expanded our semester exchange programs from a single program at the University of Copenhagen to include new exchanges with the Dickson Poon School of Law at King’s College, London; the European Business School in Wiesbaden, Germany; ESADE Law School, Ramon Lull University in Barcelona; Hebrew University, Jerusalem; Universidad Torcuato di Tella Law School in Buenos Aires, Argentina; the Singapore Management University; and Peking University School of Transnational Law in Shenzhen, China. These are all outstanding institutions, and these exchanges give our students access to an incredible range of specialized courses taught by leading legal experts, as well as unique opportunities to experience living and learning alongside future world leaders in law, business and public service.

**Price Family International Fellowships.** We have also been working to make these programs both more attractive and accessible to our students. Thanks to the generosity of the Tom and Gwen Price Family, students attending our summer study abroad and exchange programs, as well as those doing the international internships I discussed in my last article, are able to receive financial support through the Price Family International Fellows Program. My goal is that, with these expanded programs and fellowship support, more of our graduates will have the advantage of international legal training, and will enter the challenging and competitive legal marketplace with global fluency.

Stephen Ferruolo (lawdean@sandiego.edu) is Dean of the University of San Diego School of Law.
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ETHICS BY EDWARD McINTYRE

Sarah stood at Macbeth’s open door. He waved her in. “You know Claude McMurtry,” Macbeth gestured. “He has some questions. Thought we might help.”

After the pleasantries, McMurtry started. “I got a great judgment for a client. A bit more than $1 million.”

Macbeth nodded approvingly. “Congratulations.”

“Defendants’ carrier paid right away. No appeal. Funds are in my trust account.”

“Let me guess. A fee dispute?”

“Yes, but what about my lien … ?”

“OK.”

“So all that should be left of the $1 million is the disputed fees. Now your lien.”

“Final.”

“Does your fee agreement state clearly that you’re claiming a lien on the proceeds of any settlement or judgment?”

“I think so. Why?”

“Sarah?”

“The Supreme Court in Fletcher made clear that an attorney’s lien is only created by contract.”

“OK, so far so good.”

Macbeth picked up the thread. “Fletcher also held that an attorney’s lien must comply with Rule 3-300 to be valid.”

“The business transactions with a client rule?”

“That one.”

“And even if the lien is part of the initial fee agreement?”

“What’s required?”

“Macbeth gestured to Sarah. “First, the transaction must be fair for the client. Next, the terms have to be fully disclosed to the client in writing.”

“I think I did that.”

“In terms the client understands?”

“I think so.”

“And advise the client in writing that the client may seek the advice of an independent lawyer. And have the opportunity to do so.”

“Any more?”

“Finally, the client must consent in writing.”

“All of that? What happens if I didn’t have just one of them. Hypothetically, that is?”

Macbeth answered. “Hypothetically, you don’t have a valid lien. You can’t hold the client’s funds while you resolve the dispute.”

“But some of my fee is contingent. The 5 percent part.”

“A State Bar opinion says contingent fee agreements don’t have to comply with Rule 3-300 … ”

“Good.”

“But most of your fee and fee agreement would be fairly seen as an hourly arrangement. Rule 3-300 and Fletcher will apply.”

“Would you look at my agreement? See if I have a problem?”

“Claude, that’s why we’re here.”


Edward McIntyre (emcintyre@swsslaw.com) is a partner at Solomon Ward Seidenwurm & Smith, and Chair of the SDCBA’s Legal Ethics Committee.

“Rules 4-100 and 3-700 are clear. You have to turn over to your client promptly all the undisputed funds. And prompt means prompt.”
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QUESTION:
How do you stay current in your legal practice?

“I stay current with the always-changing Social Security Law, its rules and regulations, by attending monthly meetings with our local Bar Section, reading the monthly journal from NOSSCR (National Organization for Social Security Claimants’ Representatives) and by attending regional conferences at least once a year.”
— Alise Kellman, Chair, SDCBA Social Security & Disability Section (alisekellman@yahoo.com)

“I stay current in my legal practice by attending weekend conferences specific to my practice of elder law. During this past year I attended conferences held by the California Advocates for Nursing Home Reform, the National Academy of Elder Law Attorneys and the Life Care Planning Law Firms Association.”
— D. Robert Dieringer, Co-Chair, SDCBA Elder Law Section (robert@sandiegoelderlaw.com)

“In addition to researching and shepherding, I stay current with the law by attending as many CLEs as I can. I am also quite active in our legal community, and attend many mixers and other events so that when I come across something a bit unfamiliar, I have plenty of colleagues with whom to confer or refer.”
— Amanda Thompson, NLD Board of Directors (amanda@amandathompsonlaw.com)

“Working with legal organizations to plan relevant and up-to-date CLEs has really helped me stay current on legal issues pertaining to entertainment, licensing and intellectual property. In planning the events, I must know not only what other attorneys find exciting, but what current decisions potentially affect their clients.”
— Lacy J. Lodes (lacyjlaw@gmail.com)

“CLEs are obviously key, but I also follow a few different legal blogs to stay informed. As legal issues come up in my practice, I engage in research and discussion with other attorneys in the same field. In addition, I make it a point to actually read listserv emails regarding new case law.”
— Ben Aguilar (aguilarben@gmail.com)

Compiled by: Jeremy Evans (Jeremy@CSLlegal.com) is Managing Attorney of CSLlegal.
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In 2013, published “The U. S. Housing Crisis - Lessons Learned”; available at www.amazon.com

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After her son was born, Karla Pinckes started to look at a number of law firm positions within the San Diego legal community. Her husband encouraged her to look for other positions as well, including positions outside the traditional law firm environment; he suggested she focus on in-house positions. The notion of working in-house was a new concept for Karla. After signing up with Monster.com, she saw a position at The Ken Blanchard Companies (also known as Blanchard). The transition from law firm to in-house was a big change, but one that Karla has found especially rewarding.

What is something that drives you?
Meaningful, innovative and challenging work.

What is one of the biggest challenges you deal with as in-house counsel?
Balancing the interests of internal and external stakeholders, as well as ensuring contract documentation memorializes deliverables that are achievable and profitable for the company.

How do you define outside counsel’s role?
Providing timely information that addresses the legal issue while also taking into consideration the business objectives.

What advice do you have for young lawyers who are interested in working in-house?
Identify the businesses in the marketplace that are evolving and will be around in the future. Become knowledgeable in that business. Get to know people in that industry. Authentically leverage those relationships to create opportunities for yourself.

Alidad Vakili (alidad.vakili@klgates.com) is a corporate attorney with K&L Gates LLP.

Life Notes

Number of years in practice: 9
Undergraduate: Loyola Marymount, Los Angeles, 1995 (Political Science)
Law school: California Western School of Law, 2001
Business school: University of San Diego, 2010 (Masters of Science in Executive Leadership)
Favorite quote: “For of those to whom much is given, much is required.” — John F. Kennedy (1961)
Favorite book: Lean In by Sheryl Sandberg
Hobbies: Jogging, soccer (women’s Monday night league), skiing, golf and travel

Quick Facts

The Ken Blanchard Companies was founded in 1979
Employees: Approximately 315
Legal department: Contracts Department – 1 attorney, 2 support staff; Office of Intellectual Property – 1 senior executive, 1 support staff

The Ken Blanchard Companies is a family-owned company, founded by Drs. Ken and Marjorie Blanchard and headquartered in Escondido, Calif. It has branch offices in the United Kingdom, Singapore and France (pending), and a wholly-owned subsidiary in Canada. Blanchard is a global leader in workplace learning, productivity, performance and leadership effectiveness solutions. Through the expert guidance of its worldwide consulting network, Blanchard offers include individual, team and organizational leadership development solutions intended to drive performance and productivity improvements in the workplace.
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24 years as a Superior Court Judge, 15 years presiding over civil trials.
Judge Hayes is “very pragmatic and a problem solver.”
He “has a nose for getting at the crux of an issue. He understands very well the dynamics of lawyer-to-lawyer interactions.”
He “has gone over and above what is required of a mediator in following up with the parties to see that these things get resolved.”
- Daily Journal Judicial Profile, August 17, 2012

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BY BENITA GHURA

On Writing
Which citation manual is the only one accepted by California courts?
BY ROBERT LYNN

Law schools teach several different citation methods including Bluebook and the Association of Legal Writing Directors ALWD Citation Manual. The only citation manual accepted by California courts is the California Style Manual (fourth ed., 2000). While some courts will reject a document using another system, most will overlook the failure so long as the citations utilized lead to the cited document or case. However, using the wrong system will damage your reputation, and should be avoided.

You should always carefully proofread any document you draft, including letters, briefs, complaints, etc. Your eye is trained to automatically substitute letters that your brain thinks are incorrect. It will do this repeatedly if you aren’t careful. Some writers will read the document backwards to catch any typographical errors. If you have an associate, clerk or a literate friend, have that person read it as well.

Avoid humor like the plague. Writing for members of the bench is serious business and your sense of humor will often not win you points with any particular judicial officer. Better safe than sorry.

Robert Lynn (rlynn@lynnlaw.sdcoxmail.com) is with the Law Offices of Robert H. Lynn.

Thomas Jefferson School of Law Professor Susan Bisom-Rapp is an international scholar in the field of comparative workplace law with close to 300 citations for her work. Her most recent published paper, “Diverging Doctrine, Converging Outcomes: Evaluating Age Discrimination Law in the United Kingdom and in the United States,” was a collaborative work with Professor Malcolm Sargeant, a preeminent authority on age discrimination in the UK.

Since childhood, Thomas Jefferson School of Law Professor Aaron Schwabach was interested in fan fiction and would create his own parodies, artwork and songs. It wasn’t until the explosion of online fandoms like Harry Potter that Professor Schwabach realized many people were just like him, creating fan content. This led to thoughts of copyright issues since fan content is derived from other works and is not entirely original content. From these thoughts, Professor Schwabach developed the idea for his book, Fan Fiction and Copyright: Outsider Works and Intellectual Property Protection. Professor Schwabach is currently working on a book on Internet law.

Benita Ghura (bghura@sdlawlibrary.org) is a Reference Librarian at the San Diego Law Library.
NCDD at Harvard University: Graduate of 16 DUI Specialist Defense Sessions
NHTSA (Nat’l Hwy Traffic Safety Assoc.) DUI Field Sobriety Test: Certified Instructor & Practitioner
National College of DUI Defense: former California State Delegate to the NCDD
National College of DUI Defense: former Head State Delegate - governing all 49 other State Delegates
National College of DUI Defense (NCDD-the only DUI Accrediting Assn. in U.S): Sustaining Member
California DUI Lawyers Association: Specialist Member San Diego Attorney Board of Directors seat holder
California Attorneys for Criminal Justice: Member & Expert Guest Speaker
California State Bar Association: Member since 1996
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SD Union Tribune, 5/2/2011

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Tom Homann LGBT Law Association celebrates its 20th anniversary

BY DENISE VISCONTI

As the dust settles on the recent decisions by the United States Supreme Court in U.S. v. Windsor, 570 U.S. ___ (2013),1 and Hollingsworth v. Perry, 570 U.S. ___ (2013),2 it is an appropriate time to look back at how far the legal community in San Diego County has come with regard to lesbian, gay, bisexual and transgender (LGBT) issues over the last few decades. That history is closely mirrored by the creation and evolution of the Tom Homann LGBT Law Association (THLA),3 which this year celebrates its 20th annual Installation Dinner and Awards Ceremony.

In February 1992, a group of LGBT attorneys gathered in San Diego for the first time to discuss the formation of an organization for the LGBT legal community. While much of the discussion focused on what political stance the organization might take on various issues, some suggested the group first focus on holding regular meetings for the fledgling organization. With all of these goals in mind, THLA was formed. David Watson, then a young lawyer at Gray, Cary, Ames and Frye LLP, and Hon. Paula Rosenstein, also in private practice at that time, served as THLA’s first Co-Presidents. Other original board members included Mattheus Stephens, Bridget Wilson, Scott Ehrlich, Frank Valdes and Kurt Hermansen, to name a few.

THLA quickly became a forum for LGBT attorneys in San Diego to influence legal issues of the day: taking steps to oppose legislation negatively affecting the LGBT community; dealing with the AIDS crisis and frequent hate crimes against the community; seeking recognition from the San Diego County Bar Association; and helping to ameliorate the potential impact of being openly gay. On May 5, 1994, THLA held its first Annual Dinner Banquet. According to Hon. David Rubin, who joined THLA’s Board in 1995, at the beginning, the Annual Dinner usually included 30 or 40 people gathered in the dining room upstairs at the Bristol Hotel.

Today, THLA continues to stand on the shoulders of the organization’s founders. While the issues have changed slightly to include those such as opposition to California’s Proposition 8 and support for the legal challenges to DOMA, the fundamental principles upon which THLA was founded remain: the advancement of gay, lesbian, bisexual and transgender issues throughout California and the nation. And each year since that first dinner in May 1994, THLA and its supporters gather to celebrate the yearly milestones that have impacted the LGBT legal community. The one big difference is that, in 2013, THLA took over the U.S. Grant’s main ballroom and hosted nearly 300 guests.

Denise Visconti (dvisconti@littler.com) is Office Managing Shareholder at Littler Mendelson P.C.
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Justice Dias Toffoli speaks with San Diego’s legal community about his experiences working in Brazil’s highest court

BY PAMELA WILSON

The youngest person appointed to the Supreme Court of Brazil recently spoke with San Diego Lawyer at the Bar Center at 401 about the role of the judiciary in one of the world’s most rapidly industrializing nations. Justice Dias Toffoli, 46, was in San Diego as part of an International Access to Justice Panel presented by Thomas Jefferson School of Law.

Toffoli energetically supports exchange programs that educate lawyers about other judicial systems, including one that opened this fall at California Western School of Law. He says visits by Brazilian lawyers to San Diego have “improved the lawyers in Brazil,” who learn about the U.S. judicial system through study and live observation. At the same time, San Diegan attorneys see “that Brazil is now a big country with security, laws and rights” — one governed by a constitution since democracy was restored in 1988. In 2011, there were 676,854 licensed lawyers in Brazil, about half as many as the U.S., for a population about two-thirds as large.

Toffoli was born in the mid-sized city of Marilia, about a four-hour drive from São Paulo. He cited his Brazilian/Italian heritage, Catholic upbringing and family emphasis on education and compassion for the less fortunate as factors that prompted him to study law at the University of São Paulo. Upon graduation he worked on behalf of the poor in that city’s favelas (slums). Then in 1995 Toffoli moved to the capital, Brasilia, to work with legislators of the country’s largest political group – Partido dos Trabalhadores (the Worker’s Party). He subsequently served as Attorney General in the administration of former Brazilian President Luiz Inácio Lula da Silva, until 2009 when Lula appointed Toffoli to the high court.

Toffoli is one of 11 members of the Supremo Tribunal Federal, the country’s Supreme Court located in Brasília. The court has original jurisdiction over matters including the constitutionality of federal and state laws, but prior to a 2004 constitutional amendment, its decisions held no precedential power. This is a legacy of Portuguese Civil Law, with its emphasis on statutory over case law. Pursuant to the amendment Toffoli helped shape under the Lula administration, certain high court decisions now carry binding precedent.

Since joining the high bench, Toffoli has heard several controversial disputes, including a series of cases that alleged...
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vote-buying by Lula allies, and a challenge over the effective date of a new “Clean Record” law that made certain criminal convictions a bar to elective office.

He cites a Supreme Court ruling that upheld inflation-fighting legislation as one example of how a strong judiciary is crucial to a country’s stability and economic advancement. Since 1988, when military dictatorship ended, Brazil has operated under a new constitution. This year, in the wake of nationwide protests sparked by a bus fare increase, current president Dilma Rousseff proposed reforms in elections, health care and transportation to address the aspirations of average citizens. Toffoli agrees Brazil needs more “direct democracy.” However, to date, legislators have resisted most of the president’s efforts to reform an entrenched political system where more than 20 parties vie to retain power and elected office.

In addition to his work on the high court, Toffoli currently serves on the national electoral court, composed of justices drawn from various benches. In 2014, a presidential election year, Toffoli will assume the presidency of this specialized panel, which hears election disputes and other matters pertaining to political campaigns.

Toffoli is a high-profile figure in Brazil, where politics are as divisive as they are in the U.S. With his close ties to the nation’s biggest political party and present and past chief executives, many observers consider him a future presidential candidate. But Toffoli demurred when asked about political aspirations. “I don’t think about it,” he says. “I think about my job at the Supreme Court, a very honorable job.” Toffoli adheres to values his family emphasized, even in the adult soccer games he devotedly plays weekly. Teammates sometimes ask if he can overrule the referee. He won’t.

Pamela Wilson (pwilson@pamelawilsonlawyer.com) is with the Law Office of Pamela Lawton Wilson.

In January 2013, the SDCBA and São Paulo Bar Association signed a cooperation agreement stating that both institutions will support each other to improve legal services provided to each cities’ citizens, educate members about each country’s culture and legal system, and improve ethics in both systems, among other goals. Read all about the SDCBA’s agreement with the São Paulo Bar Association at www.sdcba.org/saopaulobar.
Three members of the California Innocence Project at California Western School of Law walked from San Diego to Sacramento in the name of the ‘California 12’

BY ELIZABETH BLUST
PHOTOS BY CALIFORNIA INNOCENCE PROJECT/CALIFORNIA WESTERN SCHOOL OF LAW

“It’s much worse in prison, it’s much worse in prison.”

As she walked 712 miles from San Diego to Sacramento, as blisters the size of quarters formed on her feet, as she burned through each painful step, this is the mantra that attorney Alissa Bjerkhoel repeated to herself. Bjerkhoel and her fellow staff attorneys of the California Innocence Project (CIP) at California Western School of Law, Mike Semanchik and program director Justin Brooks, made the 56-day trek to raise awareness of “the California 12,” 12 people currently serving sentences in California prison for crimes that they claim they did not commit. CIP, having researched the claims — in some cases, for years — and finding solid reasons to believe in the innocence of the California 12, has reached the end of the legal rope for most of them. Now, their last grasp at freedom is clemency from the governor.

Armed with binders full of research and detailed presentations, the three attorneys set out on April 27, 2013, on a journey that would change their lives — and, if they were successful — change the lives of many others.

So far, it has worked. The governor’s staff heard about the march and was waiting for the team at the end of the road.

“I’ve been to a lot of meetings where it’s just one 22-year-old with a notebook,” Brooks says. “Here, we had all the governor’s legal staff and some external affairs people.”

“It gave us hope,” Bjerkhoel says of their meeting with Governor Jerry Brown’s legal staff. “The governor is interested in granting clemency in good cases.”

She and Semanchik gave their feet over to blisters — Brooks only had one the whole time — to help get these and other “good cases” moved “to the top of the pile.”

“Each of the 12 cases had a three- or four-inch binder,” Semanchik says. “We gave these to the governor’s legal affairs team, along with a PowerPoint presentation on each of them. We presented not only the legal history, but all the information necessary for the governor to make an informed decision, including a re-entry plan for each person’s successful return to society.”

“We addressed the political aspects,” Brooks says, “especially where the victims’ families support us.”
This administration appears to be ready and willing to grant clemency, a power the previous governor did not exercise. But Governor Brown wants to choose carefully. That is where CIP hopes to help. By reviewing more than a thousand cases each year and choosing just a small percentage (1 to 2 percent) to pursue, these attorneys and their law student assistants can offer the governor’s staff a pre-vetted set of cases to consider for clemency, cases where new knowledge or changed circumstances indicate innocence, but where traditional legal channels have not been successful.

“We can help give them whatever they want,” Semanchik says, “helping them develop a strategy for how to review these cases, setting up interviews with witnesses, victims, experts, for instance. We are ready and willing to help them pursue (cases that appear credible).”

On their journey to the West Capitol steps, Bjerkhoel, Semanchik and Brooks learned a lot about their clients and themselves. They learned the impact that their work has not only on the innocently convicted people they help to free, but on the community at large.

“One thing we discovered early on about our team is that we were compulsive and competitive,” Brooks says. “We refused to get a ride, even through places with no pedestrian access.”

They encountered such a tunnel in Santa Barbara, so the team had to hike through the plants, up and over the very mound of earth the tunnel had been intended to flatten for faster travel.

“In Ventura on the 101, we had to climb walls and go through sewer drainage ditches,” Brooks says, “so it was nice when sometimes we could just walk on the beach.”

“Walking along the highway, through ‘farm country,’ we encountered many fruit stands,” Semanchik says. “The guys running them were the nicest, happiest people. They knew we were lawyers and we had money, but they left us with bags and bags of free fruit, because they were so proud of what we were doing.

“In the middle of our state, we found the middle of America. You would never get this chance if you were just blowing by in your car,” says Semanchik.

Many of the farmers were immigrants who were struggling, Semanchik says, “but they were so happy to be in this country. Many people had stories of incarcerated relatives — some who had committed the crimes, some who hadn’t. But then we’d meet other people who had no idea that innocent people can be convicted.

“After working in this field of law for so long, you get this idea in your head that there is no way everyone could not know these problems exist in our legal system,” Semanchik says, but meeting people along the way reminded him that, although he deals with innocence claims every day, many people are not aware of these issues. “Some
people, like one lady we met in a Subway, refuse to believe that anyone could possibly be wrongfully convicted.”

Bjerkhoel and Brooks agreed that going on this journey helped reinforce for them why they do this work. “When you get into ‘innocence’ work,” Bjerkhoel says, “you work with a special kind of people. We come from different walks of life and get into this for various reasons. There’s so much sadness when an innocent person goes to prison. It’s not just the prisoner, but the whole family who suffers.”

Frank O’Connell and his son Nick joined the CIP team for part of their trek. Before being exonerated out of Los Angeles County last year, Frank spent 27 years in prison for a crime he did not commit. Nick was just four years old when Frank was wrongly convicted, and Frank promised his son through the years that, when he was finally free, they would go on a cross-country trip together. They decided to arrange their trip based on Innocence Project programs throughout the country, and found out about the California Western program just in time.

“This father and son found our website, and discovered that our march to Sacramento was in progress,” Bjerkhoel says. “They drove up and down the California Highway 1 to find us. The son walked with us for 20 miles through Big Sur, while the dad drove along, delivering water and encouraging us.”

The family of Guy Miles, who is 14 years into a sentence of 75 years to life for a robbery he did not commit, joined the march for 15 miles from Huntington Beach to Long Beach. Guy’s wife, Zakia Miles, and his parents, Charles and Mabel Miles, recorded statements for Governor Brown to plead for Guy’s release. Three other men — one of whom was convicted along with Guy — have admitted to the crime and have acknowledged that Guy played no part. Yet, due (in part) to the judge’s choice of legal standard regarding witness identification issues, the identification of Guy through a faulty photo lineup and the flip-flopping, in-court identification by an eye-witness continue to plague his case. His aunt, uncle, niece and children also supported the march.

Along their way, they made several stops. The CIP lawyers met with high school students and the bar association in Santa Barbara; spoke at Monterey and Ventura colleges of law, and UC Santa Cruz; met with a district attorney, public defender and forensic scientist in Ventura; attended a forum on the death penalty in Oakland; and made a presentation at Cal Poly San Luis Obispo.

“You get into ‘innocence’ work,” Bjerkhoel says, “you work with a special kind of people. We come from different walks of life and get into this for various reasons. There’s so much sadness when an innocent person goes to prison. It’s not just the prisoner, but the whole family who suffers.”

The CIP attorneys’ feet are finished. They don’t know which claims are real or not, and what ends up happening is the ones who can afford lawyers get noticed rather than perhaps the ones who truly deserve attention.

“That’s how CIP was when we started. This is what we do: help search, help interview. I hope they take us up on this.”

The CIP attorneys’ feet are finished. Now it’s in the governor’s hands.

Elizabeth Blust (egblust@blustlaw.com) is a solo practitioner in San Diego.

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Jon R. Williams

The New SDCBA President Is Right Where He Belongs

By Ray Huard Photos by Lauren Radack

Jon Williams’ idea of fun is riding his bicycle for 100 miles, camping out with his two sons in San Diego’s backcountry no matter how foul the weather or surfing off the coast of Encinitas.

“There’s something about finding your limits and kind of knowing where they are that I find gratifying,” Williams says. “When you’re camping and it’s sleety and windy and you make the determination that you’re going to stick it out, that’s good for you and good for your kids too.”

Friends and associates say that kind of determination is part of what makes Williams a great lawyer, and will make him a great president for the San Diego County Bar Association.

“Jon has the ability to process very complex issues and break them down in a manner anyone can understand,” says former SDCBA President Dan Link.

Former SDCBA President Marvin Mizell gave a similar assessment saying, “Jon never comes to a conclusion that he hasn’t thought out logically. He looks very thoroughly at every aspect of an issue and then, after weighing all of the considerations, he comes to a decision in a very logical and methodical manner.”

A graduate of California Western School of Law and San Diego State University, Williams is certified as an Appellate Specialist by the California State Bar Board of Legal Specialization, and is a partner in the San Diego firm of Boudreau Williams LLP.

“Part of why I like being an appellate lawyer is the ability to shape the law, to understand some of the larger issues my clients face,” Williams says. “I like the process of distillation, of attempting to take a massive amount of information and distilling it to its essence.”

It’s a specialty that fits Williams well, says John Morris, who was a mentor to Williams. Morris had Williams as a student in a legal drafting class at California Western. The two later worked together in the Appellate Department at Higgs, Fletcher & Mack, LLP, and continue to work on appeals together (or opposing each other) to the present day.
“Jon has established himself in a relatively short period of time as the go-to guy for civil appeals,” Morris says. “He’s an exceptional writer, he’s good on his feet and he presents well, he looks good in a suit.”

Several colleagues cite Williams’ ability to write clearly as one of his primary assets.

Superior Court Presiding Judge Robert Trentacosta, whose firm hired Williams straight out of law school, says that’s one reason Williams got the job.

“He edits out all the unnecessary gunk and what’s left is pure, crystalline prose,” says Trentacosta, who also surfed with Williams when they worked together. “I think one of the things that really separates Jon from the pack is his ability to communicate, both verbally and in writing.”

Steve Boudreau, who was Trentacosta’s partner when they hired Williams and is Williams’ partner now, says that as a young lawyer, Williams “had the composure of someone who was 40-years-old.”

“Jon was able to deliver with a degree of excellence beyond his years,” Boudreau says. “One of the reasons I come to work every day is to see what he’s up to next.”

Outgoing SDCBA President Marcella McLaughlin says Williams will bring a fresh outlook to the association.

“He’s a visionary,” McLaughlin says. “He has great ideas on how he wants the Bar to progress. He’s a small firm practitioner and to take on all the responsibility of leading the Bar Association, it’s great for the bar because we are comprised of so many small firm practitioners, not only attorneys from big firms, or public attorneys like myself,” says McLaughlin, a prosecutor with the District Attorney’s office. “Jon is a true leader, and will exemplify how to run a successful practice and serve the community at the same time.”

Williams co-chaired the Bar Association’s first-ever Court Funding Action Committee, a committee that lobbied for the restoration of funding for San Diego’s courts. Earlier in 2013, he was the lead author of the SDCBA’s First Annual Report on the State of the Judiciary in San Diego, which details how drastic cuts in court funding are affecting San Diego’s businesses and citizens. It’s an issue he says he will continue to press as president.

“This is not an issue, unfortunately, that’s going to go away,” Williams states.

He says he’ll also head the development of a new five-year strategic plan for the SDCBA and take a new look at how the association functions.

“In an organization like this one that’s been around for a long time, there are certain things that occur year to year by sheer momentum,” Williams says. “My goal is to ask, ‘Does that still make sense?’”

At the same time, Williams says he’ll continue to do appellate work.

“I don’t plan on giving up my practice in order to be president, nor is that the expectation. It’s important for our
members to know that anyone can ascend to leadership in our organization, without sacrificing their hard-built practices,” Williams says.

Williams says he was drawn to law at a young age in part because of a man he admired.

“I had a close friend growing up and his dad was a lawyer and I remember thinking, ‘I wonder what he does,’” Williams reflects. “I was just always impressed about how he carried himself.”

During a sixth-grade field trip to the courthouse in Glendale, Calif., Williams saw the man, Jarrett Anderson, arguing a case and the image stuck with him.

“I remember being intrigued by what it was that a lawyer did for a living and asking him about it. He was very kind and encouraging, a real gentleman. I guess that left an impression on me.”

Williams’ sister, Lisa Clarke, says the family figured her brother would be a lawyer or an actor. Williams dabbled in community theater in Glendale, Clarke says, but his passions as a teenager were music and surfing.

In high school, he worked at a local surf shop and drove a green Volkswagen with license plate letters that could be read as “surf naked.” “It kept the rest of us from driving his car,” says Clarke.

Surfing was an obsession for Williams at Herbert Hoover High School in Glendale.

“I was a land-locked surfer. I started surfing when I was about 12-years-old,” Williams says. “My biggest priority in high school was getting in the water. Living in a place like Glendale, that meant leaving for some beach or another at 5 or 5:30 in the morning.”

Doug Palladini, who has known Williams since the two were in seventh grade, says he and Williams were regulars among the surfers at Newport Beach.

“We were crazy about surfing. All we wanted to do was talk, eat and breathe surfing,” says Palladini, who is president of the Surf Industry Manufacturing Association. “That’s a cool thing that continues to hold us together.”

Williams and Palladini also were semi-professional disc jockeys, performing at parties with two turntables and a microphone. “They had boxes and boxes of records they would spin at parties,” Clarke remembers.

Williams says he still has “about six milk crates of old vinyl in storage that I need to do something about.”

He also played the cello, drums, saxophone, electric bass and guitar, and in college was the lead singer in a San Diego band called the Eldergardens.

“I was very lucky in that there was always music around when I was growing up, and consequently, it remains a huge part of my life,” Williams says. “My parents exposed me very early to traditional jazz and my mother knows every jazz standard out of the Great American Songbook like the back of her hand. I still try to stump her when I hear an old tune, giving her just the opening notes or lyrics, but to no avail.”

His own taste as a teenager ran to punk and ska, but also included a lifelong appreciation for straight ahead jazz and be-bop.

“While some of my music tastes have evolved since then, I still mainly listen to the same music now that I did years ago,” Williams says.

One of Williams’ fondest memories of his youth is a stint he spent delivering prescriptions for Community Pharmacy, owned by his stepfather Bob McCumiskey.

“He had that pharmacy before he died. It was really before a lot of the big box pharmacies,” Williams says. “I would deliver prescriptions throughout the (San Fernando) valley.

Clarke, who had the same job before her brother, says she and her brother often would do more than deliver prescriptions, helping out with small chores for their many elderly customers. “I learned a lot about compassion in that job,” Williams recalls.

It was in high school that Williams, 47, met his wife, Melisa. He was 17 and she was 16.

“She was a sophomore, I was a junior,” Williams says. “We joke that our first date was over 30 years ago.”

They’ve been married for 18 years, but Melisa doesn’t go in for the sometimes-harsh camping trips Williams takes with their sons, Nate, 12, and Ian, 9.

Once a year, Melisa joins Jon and their sons for a family camping trip but “it’s not my favorite thing, sleeping in a tent,” she says. “However, I love being outside and I love fishing and that sort of thing, but I want to be in a bed at night,” Melisa adds.

A former teacher at San Diego’s Hancock Elementary School, Melisa and Jon enjoy spending their date nights at concerts and movies.

His favorite movie is Big Night about two brothers who run a failing Italian restaurant starring Stanley Tucci, Tony Shalhoub and Marc Anthony.

Williams also is a big fan of Raiders of
“IN AN ORGANIZATION LIKE THIS ONE THAT’S BEEN AROUND FOR A LONG TIME, THERE ARE CERTAIN THINGS THAT OCCUR YEAR TO YEAR BY SHEER MOMENTUM ... MY GOAL IS TO ASK, ‘DOES THAT STILL MAKE SENSE?’”

Family time is important to both Jon and Melisa. “One of the things I respect so much about Jon is he’s such a great dad and he really is so balanced,” Melisa says. “He comes home for family dinner, then if he has work, he does his work after the kids go to bed.”

Before Williams ran for SDCBA president, he talked it over with the family. “He got our blessing,” Melisa says. “I don’t think a lot of people do that.”

Because of his schedule, Williams says he doesn’t watch much television with a couple of exceptions — ESPN Sports Center on broadcast television and Eurosport on the Internet.

“I am probably one of two people in the United States that religiously follows the European cycling circuit,” Williams jokes. “I’m up at five in the morning on the Internet watching Eurosport because you can’t get it on any network in the United States.”

For many years, Williams competed in triathlons but has recently taken a break from the sport because he doesn’t particularly enjoy running, although he swam and played water polo in high school.

“These days my primary form of distraction is riding a bike very, very long distances,” Williams says.

Two or three times a week, Williams commutes by bicycle from downtown San Diego to his home in Encinitas, a distance of 25 to 30 miles, depending on the route he takes.

“That’s my respite. I get some exercise in, I transition between work life and home life,” Williams says.

Three to four times a year, he also goes on “century” rides of 100 miles at a time on treks that sometimes include a ride up and down Palomar Mountain.

Long-time friend Jon Vanderpool remembers one particularly grueling trip up Palomar Mountain a few years ago.

It was raining and cold at the start, and by the time they reached the top of Palomar, “we were soaking wet and we were shivering,” Vanderpool says. “That was probably the most miserable time we ever had on a bike.”

Bad as it was, neither of them would call home to have someone come get them. “We both egged each other on,” Vanderpool says. “Maybe it’s kind of crazy stubbornness, this stick-to-itness.”

Colleagues and friends say that tenacity and drive is something that will exemplify Williams’ term as SDCBA president. “He just knows how to get things done,” says Tom Buchenau, a former member of the Bar Association’s board of directors. “He’s a very calm, deliberate guy, an excellent leader,” Buchenau says.

Morris says his former student was “a bright and focused young man” who has gone on to become “one of the A-list appellate attorneys in the community. He’s very good at acting strategically, thinking things through. Jon’s just capable from start to finish.”

Vanderpool concurs, adding that Jon’s personality and experience make him a good fit for Bar Association president. “Jon has that ability to reach out and touch people,” Vanderpool says. “He’s just a good guy.”

Denny Schoville, a trial lawyer for whom Jon has worked on several appeals over the years, wholeheartedly endorses Williams’ presidency, saying “Jon will be an excellent leader for the SDCBA. He is very talented, hard-working, professional and has a strong moral compass. We should all look forward to his leadership in 2014.”

Ray Huard (rayhuard@hotmail.com) is a freelance writer in San Diego.

Ian, Nate, Melisa and Jon Williams

the Lost Ark, which he says he saw 18 times in the theater as a kid, and Star Wars. “I remember as an 11-year-old, my mother taking me to the Avco Center Cinema in Westwood to see the first Star Wars movie and I was just blown away,” Williams says. It’s a passion he now shares with his sons, who follow the Clone Wars spin-off on television and are fellow Star Wars “geeks” along with their dad.
In today’s legal culture, with its emphasis on diversity, equality and inclusiveness, ironically, liberty of conscience has been shoved into the backseat.

The religion cases of the past two decades lead to the conclusion that free exercise of religion no longer enjoys vigorous constitutional protection, but is at the mercy of the legislature either to protect or restrict.

In 1996, the California Supreme Court rejected the free exercise defense of a Presbyterian landlady charged with housing discrimination when she refused to rent one of four duplex apartments in Chico, Calif., to an unmarried couple who were “living in sin.” She believed that she would be sinning. The Court held that FEHA did not impose a substantial burden on her religious exercise.1

If Mrs. Smith did not suffer a substantial burden to her faith, the bar has been set so high as to effectively preclude a successful free exercise claim. After all, in order to avoid sinning, Mrs. Smith was compelled by the court to sell her apartments, incur capital gains taxes and seek an alternate investment to provide a similar income. Since then, no free exercise claim has prevailed.

In three cases, the California Supreme Court again deferred to a statutory scheme, this time upholding the FEHA exemption for religious organizations.2 In the same year, the Court rejected Establishment Clause challenges to another form of religious exemption, permitting religious properties to object to landmark designation.

So, the Court will uphold legislative exemptions that protect religious freedom.

It will even uphold legislative exemptions designed to restrict religious freedom. In the Catholic Charities case

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OPINION

Religious Freedom and Diversity

BY ALAN REINACH

The following article is an excerpt from a speech given by featured speaker Alan Reinach, Esq., Executive Director of the Church State Council, at the SDCBA’s annual Dialogue on Diversity program on September 12, 2013. The views expressed in this article are his own and do not represent the views of San Diego Lawyer magazine or the San Diego County Bar Association. The Dialogue on Diversity program also included panel speakers Connie Liem, Esq., of the U.S. Equal Employment Opportunity Commission, and Steven Smith, Esq., Co-Executive Director, USD Institute for Law & Religion, who shared their views and experiences on issues related to religion in the workplace.

Dialogue on Diversity

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in 2004, a legislative exemption for religious institutions was deliberately crafted so narrowly as to exclude every institution that might actually need one. The court upheld the legislative judgment that religious organizations did not deserve any free exercise protections from having to pay for services deemed morally repugnant.

In 2008, our Supreme Court went further, and subordinated fundamental constitutional rights of free speech and religion to statutory interests regarding non-discrimination. In the process, it rejected a plain reading of the California Constitution.

Article I, Section 4, is considerably meatier than the First Amendment.

UNLIKE THE FIRST AMENDMENT, which fails to address whether there are limits to the rights of free exercise, or what those limits might be, Article I, Section 4 establishes limitations on religious freedom: Your freedom to practice your faith is limited with respect to actions deemed immoral or a threat to peace and safety. These are sensible restrictions. Yet, the California Supreme Court, with remarkable disregard for the principles of statutory interpretation, declared that the California Constitution doesn’t mean what it says.

In the same case, the Court subordinated constitutional rights to statutory ones, unambiguously and without embarrassment:

“The California Supreme Court has consistently deferred to the legislative judgment, either to protect or restrict religious freedom, and in the past two decades, has never upheld a free exercise claim.”

“Do the rights of religious freedom and free speech, as guaranteed in both the federal and the California Constitutions, exempt a medical clinic’s physicians from complying with the California Unruh Civil Rights Act’s prohibition against discrimination based on a person’s sexual orientation? Our answer is no.”

The California Supreme Court has consistently deferred to the legislative judgment, either to protect or restrict religious freedom, and in the past two decades, has never upheld a free exercise claim.

Ironically, the California legislature has been more protective of religious freedom than our courts, providing some 150 discrete exemptions for religious entities and respecting religious freedom, turning conventional rights theory on its head.

A prime example of legislative respect for religious freedom is the California Workplace Religious Freedom Act, AB 1964. Author Mariko Yamada described AB 1964 in testimony as the “Rosa Parks bill of the 21st century,” as it would make it illegal to send workers who express their faith in their appearance to the back of the store. In addition to this non-segregation provision, AB 1964 also broadly defined religious dress and appearance as protected workplace activities. Finally, the bill clarified that the “undue hardship” on an employer sufficient to justify a denial of religious accommodation must be the same as that for disabilities, i.e., a “significant difficulty or expense.”

One final observation: In our prevailing ethos emphasizing diversity, equality and inclusiveness, the rights of conscience are often excluded.

The most common conception of religious freedom is that everyone has

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List complete as of October 27, 2013. If you would like to join this distinguished group and give the dollar equivalent of one billable hour, please visit our website at www.sdcbf.org.
Pet Protection

The SDCBA’s Animal Law Section explores the legal issues concerning animal rights and welfare

BY ANGELIA GATES

How do you ensure a client’s faithful companions are properly cared for in the event of death or incapacitation? Who gets the beloved family cat in the event of divorce? What are your client’s rights regarding keeping a companion animal? What damages are recoverable for the death of a cherished pet? Did you know research confirms a link between human violence and animal abuse?

These questions are addressed under the evolving area of Animal Law, which touches varied legal disciplines, including estate planning, housing and real estate, liability standards and insurance coverage, veterinary malpractice, animal custody disputes, criminal abuse, wildlife laws and agriculture.

Our members include law students and individuals from diverse practice areas, large and small firms, government and nonprofits. Elizabeth Baker, 3L and proud parent of pit bulls Jakey and Pippin, states, “My interest in Animal Law stems from my passion for helping animals. This includes making positive change in animal-related laws and policies, and ensuring existing animal protection laws are enforced.” Long-term member Anne Perry, who has prosecuted animal smuggling cases and violations of other federal animal protection laws, says, “Animal law is multi-faceted . . . probably one of the most diverse Sections in the County Bar in terms of membership and skill sets.”

Courts and legal scholars continue to recognize the need for laws that consider our association with animals. Formed in 2001, the SDCBA’s Animal Law Section provides a forum for open discussion of legal issues concerning the rights and welfare of animals, and provides members with educational programs regarding animal-related legal topics and trends.

The Animal Law Section organizes CLEs, participates in community events and typically meets monthly with guest speakers on various Animal Law topics. For more information, please contact Angelia Gates at gates0802@gmail.com and “Like” us on Facebook (facebook.com/SDCBAAnimalLaw).

Angelia Gates (gates0802@gmail.com) is Co-Chair of the SDCBA’s Animal Law Section.
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Why lawyers need to adopt a ‘sales mindset’ in order to attract and cultivate more business

BY DEE SCHIAVELLI

Lawyers have come a long way since the law changed in 1977, allowing them to advertise and thus establish marketing campaigns. In today’s world, lawyers know they need to market their services. What most lawyers haven’t transitioned to yet is a sales mindset.

Lead generation is about qualifying people who need your services. Most lawyers use marketing and business development tools to position themselves, enabling them to be found by those seeking legal advice. But positioning does not necessarily qualify the prospect for you. Terms like marketing and business development are not the same as lead generation — they are the preamble.

Marketing tools are used to establish awareness of your capabilities. Non-contact in nature, these tools are designed to create opportunities and confidence in your knowledge and experience. Prospects look for lawyers that have the experience they need to solve their problem.

Business development builds relationships and results in in-person contact. It takes time, patience and persistence. Business development is where networking and socializing come into play, along with social media. It’s identifying and targeting prospective clients, and establishing awareness of your firm’s capabilities to decision makers.

Marketing and business development activities should result in identifying leads.
Sales conversion is demonstrated by what is called the sales pipeline, which looks like a funnel. Leads go into the funnel and while in the funnel, you qualify them. Qualifying each contact helps you see them clearly. Are they a suspect (known by name only), a prospect (a suspect that has been in contact with you in a casual way) or a lead (prospect when a current or future need has been established)? Understanding where contacts fall enables you to put the right resources of the firm into play.

Qualifying leads includes answering questions such as: Do they have an immediate need for my legal services? Will they have a need in the future? Can they afford my services? Could they be a referral source? Not everyone met at a networking event is a lead, although they might be a good contact for the future.

Lawyers haven’t been invested in lead conversion because it hasn’t been a process commonly used by them in the past, and they don’t necessarily understand it. It is important to understand the process, though, in order to plan the best use of your time, efforts and resources.

Some lawyers rely on referrals almost exclusively, but we no longer live in a world where one can wait for the phone to ring with new business. Referral sources are important, but they aren’t a guarantee of new business or the type of business you want. Qualifying referral sources is equally as important as qualifying prospects.

Today’s prospective clients don’t operate as they once did. They actively seek out information for themselves, find lawyers through Internet searches and arrive at decisions about their legal needs often before they retain a lawyer. By the time a lawyer is contacted, the prospect has already vetted choices. These are reasons why lawyers need and use marketing. Not all lawyers, though, will be found through this process. Lawyers need to be more actively involved in the process and shouldn’t wait to be found. They should take control of finding and qualifying leads that are most likely to need their services.

Lawyers need a balance between the investment made in marketing and the investment made in converting leads into new business. The next step in converting leads to sales is to become more focused on who the prospect is and what his legal issues are. If a lawyer doesn’t follow the lead generation pipeline, time is wasted on leads that will never qualify for follow-up and/or will never be converted to a sale. The goal is to use the lead generation process and turn business development actions into new business.

Dee Schiavelli (dee@resultsmarket.com) is with Results Marketing.
**Distinctions**

- **JUDGE DAVID DANIELSEN** was elected by fellow judges to serve as Presiding Judge of the San Diego Superior Court for a two-year term beginning January 1, 2014. Judge Danielsen will succeed current Presiding Judge Robert Trentacosta, whose term of office ends on December 31.

- **FREDERICK SCHENK**, a partner with Casey Gerry Schenk Francavilla Blatt and Penfield, was recently elected as president of the 22nd District Agricultural Association (San Diego County Fair Board).

- Attorneys **IMRAN JASWAL**, **ROBERT RICHLEY**, and **EBERHARD RÖHM** were named to the California Western School of Law board of trustees.

- San Diego Superior Court **JUDGE RICHARD MILLS** retired on October 28 after serving 14 years on the North County bench.

- Senior Deputy County Counsel, **THOMAS HUGHES JR**, of the Office of the San Diego County Counsel has been appointed as Chairman of the State of California’s Review Committee (RJNE) of the Commission on Judicial Nominees Evaluation (JNE).

**Travel**

Dale Amato of Berger Kahn appears with a copy of *San Diego Lawyer* at Jungfraujoch in the Swiss Alps. Known as “The Top of Europe,” it is the highest peak in Europe — at 11,782 feet — reachable by train. Mt. Monch is in the background. The photo was taken by Dale’s son, Andrew, while on a family vacation in June.

On your next trip, take a photo of yourself with a copy of *San Diego Lawyer* and send it to martin@kruming.com. Don’t forget to tell us where the photo was taken and who took it.

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STRENGTH IN NUMBERS
San Diego Volunteer Lawyer Program celebrates 30 years of pro bono services to thousands of locals in need

BY TERESA WARREN

Since 1983, San Diego Volunteer Lawyer Program has positively impacted countless clients who have received free legal assistance as well as its volunteers, staff and the San Diego community.

THE CLIENT
SDVLP’s mission is to help those without the resources have access to a civil attorney.

When Jen, a SDVLP client, spoke at SDVLP’s September Justice for All Celebration, she shared her story of being a single mother who needed help after her son was beaten by her ex-partner. SDVLP assisted Jen, ultimately gaining her full custody of her son. “I couldn’t have done this on my own,” she said.

THE VOLUNTEER
“Attorneys have a unique access to justice, and we hold the key to those who need help,” stated Ben Wagner, upon receiving SDVLP’s Pro Bono Publico Award. Since 2007, Wagner, an IP litigator, has been working with SDVLP domestic violence clients.

For 25 years, SDVLP has sponsored the Women’s Resource Fair, to assist women and children needing medical, legal and social services. Each year bankruptcy attorney Melissa Blackburn-Joniaux has volunteered. As SDVLP’s Exemplary Service Award honoree, she said, “For some women, this one day makes all the difference.”

Special guest speaker at the Justice for All Celebration, the Honorable Irma Gonzalez delivered an important message: “Pro bono work is an important and different type of volunteerism. Pro bono is using your legal skills. I encourage those who haven’t volunteered to do so.”

THE LAW FIRM
Government cuts have significantly eroded SDVLP’s funding. Local law firms help fill the gap. Three received the Access to Justice Award for directing cy pres funds to SDVLP: Cohelan, Khoury & Singer; Hanson Law Firm; and Kirby Noonan Lance & Hoge.

Upon accepting the Sustaining Justice Award for his firm DLA Piper, Partner Jay Jeffcoat said his years of serving on the SDVLP board of directors have helped him “appreciate the role of SDVLP in helping the underserved.”

THE STAFF
The SDVP staff has devoted their careers to assisting those without legal representation. When asked, they will tell you the rewards received through public service far exceed those found elsewhere.

THE COMMUNITY
Groups like SDVLP are a critical force in generating support for society’s most vulnerable members. The benefits are far-reaching throughout the San Diego community.

Teresa Warren (twarren@tw2marketing.com) is President of TW2 Marketing, Inc.

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Ellen Miller-Sharp, Executive Director,
San Diego County Bar Association
the freedom to believe as I do. The “my way or the highway” approach is, of course, the antithesis of inclusiveness. But it is found equally among liberals as conservatives.

Liberals readily perceive intolerance on the right, such as North Carolina’s failed resolution proposing to permit the establishment of Christianity as the state’s official religion. But conservatives see hypocrisy of those on the left who profess to be champions of equality and diversity, but exclude traditional religious values. Thus, the Boy Scouts have been excluded from facilities in California on account of their moral values, although they eventually won their battle here in San Diego. Catholic adoption agencies have been closed, unable to provide services without compromising their own religious beliefs, including in San Francisco.

Too often, diversity has limits. The orthodoxy of diversity has been used to oppress the rights of conscience. As the New Mexico Supreme Court recently said to a wedding photographer who refused to film a same sex commitment ceremony, compromising your beliefs is the price of citizenship.

I vigorously dissent. A social and legal order premised on the obligation to subordinate one’s deeply held values and beliefs to the majority is not a free society. The right to live according to the dictates of your own conscience should not be a zero sum game, with winners and losers. Liberty of conscience must be preserved for both the believer and the same sex couple. If one loses it, we all lose it.

[1] Alan J. Reinach, Esq., has served as Executive Director of the Church State Council for 20 years, and has participated in amicus briefs in most of the cases discussed herein.

5. N. Coast, supra.
6. See, Government Code Section 12940 (l) and 12926 (p) and (t).
The San Diego County Bar Association’s 100 PERCENT CLUB is a special category of membership that indicates an outstanding commitment to the work done through SDCBA programs and services in the legal profession and the community. The following firms (five or more lawyers) are members of the 100 PERCENT CLUB for 2013, having 100 percent of their lawyers as members of the SDCBA.

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Members of the SDCBA’s Sections and Committees along with various law-related organizations gathered on September 26 to welcome San Diego’s law students to our legal community at the SDCBA’s annual Law Student Welcome Reception sponsored by BARBRI.

On October 16, judges and attorneys enjoyed conversation at the Fourth Annual Bench-Bar Luncheon, presented by the SDCBA in conjunction with the San Diego Superior Court. The event was sponsored by Manuel R. Valdez and Manny J. Valdez, Certified Structured Settlement Consultants.
PHOTO GALLERY

EVENING IN LA JOLLA
PHOTOS BY DOUGLAS GATES PHOTOGRAPHY
On September 28, the San Diego County Bar Foundation hosted its annual signature benefit, which helps provide access to justice to the

SDVLP JUSTICE FOR ALL
PHOTOS BY MARISA RASTETTER
The San Diego Volunteer Lawyer Program celebrated its 30th anniversary while hosting the annual Justice for All Celebration on September 19.

SCHOLARSHIP FUND ANNUAL DINNER & GALA
PHOTOS BY JOEL BRUBAKER
The San Diego La Raza Lawyers Association Scholarship Fund celebrated the cause of equality, empowerment and justice at its Annual Dinner & Gala on October 11.
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