FORECLOSURE

HOW SAN DIEGO LAWYERS ARE MAKING A DIFFERENCE
It’s an old story: the legal deadlock has exhausted all visible options. However, a patient, creative mind can uncover new, viable possibilities for both sides.

Steve Kruis – innovative and effective in reaching resolution.
Let the Forensis technical advantage give you an edge.

Consultants, Experts, and Expert Witnesses
Forensic Business, Construction, Engineering, Medical, Scientific, Technical

1-800-555-5422
www.ForensisGroup.com  experts@ForensisGroup.com

ForensicssGroup® THE EXPERT OF EXPERTSSTM
Experts Consulting Nationwide & Throughout California, Nevada and Arizona • Including Las Vegas, Los Angeles, Reno, Sacramento, San Diego, San Francisco
FEATURES

26 City Attorneys Weigh In
The county’s city attorneys speak about the challenges of their position.
By Amanda Thompson with Todd Knode

30 Foreclosures Hit Home
Local lawyers are helping the growing number of homeowners facing foreclosure.
By Elizabeth Blust

36 Finding the Path to Advocacy
Animal-rights issues led to a dream job.
By Sarah Speed

40 Lawcasting 101
Here’s your guide to attorney-generated digital audio content.
By Robert Huie

46 From San Diego to Silicon Valley
A former San Diegan reports on being the new kid in town.
By Albert Harnais

FEATURE DEPARTMENTS

22 Civility, Integrity and Professionalism
In the third in a series examining the standards of our profession, the CIP committee members give their views on the subject.
By Dean Schiffman

DEPARTMENTS

6 Perspective
Law school leads to a progression into kindness.
By Genevieve Suzuki

8 President’s Page: Need a Lawyer?
The SDCBA’s Lawyer Referral and Information Service provides opportunities on many levels.
By Heather Rosing

10 Et Al.
Appointments, awards and the comings and goings of local lawyers and judges.
By Wendy Patrick Mazzarella

12 Letters to the Editor
“Lawyer on a Longboard” comments surf on in.

14 Workplace
The ins and outs of up, up and away.
By Patti Lane

16 Briefly
Ellen Whalen discusses the challenges she’s faced.
By Alice Solovay

18 Ethics
Can you keep a secret?
By Ross Simmons

20 Order
Italian cuisine offers delights to sink your teeth into.
By Krista Cabrera and Gil Cabrera

50 MCLE Questions

54 Photo Gallery

56 Sustaining Members

58 Rewind
When pigs flew the precedent-setting flag in San Diego.
By William Howatt Jr.

60 Advertisers’ Index

61 Directory of Experts and Consultants

62 Closing
Photos that capture a slice of the local legal life.
Call 1-800-282-9786 today to speak to a specialist.
From Conceit to Kindness

The following is an excerpt from the welcoming address Genevieve Suzuki delivered at the spring 2008 graduation ceremony of California Western School of Law:

During my first year at California Western, it seemed we all possessed two common qualities: conceit and hope. We were conceited enough to believe we were each going to be the best, no matter what anyone said.

And then we got our first-semester grades and learned the real definition of a curve, as well as the value of humility. It was like starting all over again. Law school is a lot like kindergarten. You learn a new language; a new way to ask questions; and a new way to answer questions; and the importance of naptime.

But where conceit threatened to sink us, hope kept us afloat. Hope kept us up at night, studying until dawn. Hope got us through that second semester so we could break through into our second year.

Conceit and hope—an almost necessary combination for a first-year law student. But there was a third, more quiet quality present all along, one that will serve us well in our careers: kindness. We shared books. When classmates were absent from class, we e-mailed them with notes for the day. And when it felt as though law school had become insurmountable, we urged each other to keep on keeping on.

Kindness not only flowed from our class but also around our Cedar Street campus. Faculty and staff were always available to help. Professors kept their doors open past office hours. One of the things I will probably miss most about law school is receiving reminders about coffee and donuts with the dean. Sometimes the fastest way to a professor’s heart is through her stomach.

Kindness often begets empathy. We were encouraged in our classes to get to know the real story behind the lawsuit. It wasn’t enough to know the elements. As Professor William Lynch said in Torts, we have to remember these lawsuits are about people. We began to see beyond the lawsuit. It wasn’t enough to know the elements. As Professor William Lynch said in Torts, we have to remember these lawsuits are about people. We began to see these cases from the eyes of the people who had been involved.

That empathy will serve us well in the real world. Because after we pass the Bar, those people will be our clients. We have been given a profound gift: the power to bring hope and positive change to our clients, the community and the world. To borrow from author Alice Walker and poet June Jordan, “We are the ones we have been waiting for.”

Genevieve Suzuki took the California Bar exam in July. She can be reached at gasuzuki@law.cwsl.edu.
"THE MEDIATOR’S JOB IS TO LISTEN AND FIND WHERE THE PARTIES’ INTERESTS CONVERGE."
Need a Lawyer?

As lawyers, we are often asked to help people find other lawyers. Your neighbor needs assistance with a foreclosure, your best friend is having a dispute with her boss, or your dentist is embroiled in a custody battle, and you are asked to recommend “a good lawyer.”

This month I want to take the opportunity to remind all our SDCBA members about our Lawyer Referral and Information Service (LRIS) and its excellent work. The program not only finds lawyers for the clients but donates a great deal of money and time to several worthy causes every year. The lawyers not only handle the cases with great competence but devote a tremendous amount of their time to various community service projects.

The SDCBA LRIS program began nearly 50 years ago. In any given year, LRIS takes approximately 50,000 incoming phone calls. After the LRIS staff prescreens the caller, they refer the caller to a member attorney. LRIS has more than 30 various substantive law panels, with 400 member attorneys. The member attorneys, who are some of the most qualified in San Diego’s legal community, pay a portion of their fee back to LRIS.

Callers who are unable to afford standard attorney fees are directed to community pro bono services or to the LRIS Modest Means program, which is designed to assist lower-income people with family law issues. Attorneys in the Modest Means Program provide clients with legal services at a substantially reduced retainer and hourly rate.

But the services provided by LRIS to the San Diego community go far beyond answering phone calls. The LRIS staff and member attorneys participate in numerous community events, including street fairs and business expos. LRIS also maintains strong relationships with various chambers of commerce and regularly reaches out to other community groups to educate and inform the general public about our profession.

Moreover, the funds that are not used to operate the LRIS program are donated to worthy causes such as the Bar Foundation, the local Constitutional Rights Foundation Mock Trial Program and SDCBA’s Law Week. The LRIS is also the sponsor of the SDCBA’s Client Relations Program, which assists with some types of attorney/client disputes, at the request of the client, and the Fee Arbitration and Mediation program for the settlement of lawyer/client fee disputes. The attorney members also give generously of their time to participate in these same causes and programs as volunteers.

Though it is easy to overlook, LRIS provides another great service to our esteemed profession. By providing high-quality, reasonably priced legal representation to the San Diego County community, we enhance the image of lawyers everywhere. LRIS receives frequent compliments from clients on the service they have received. These clients then become ambassadors, spreading the word about the SDCBA, LRIS and the good works of our local lawyers.

If you are interested in becoming a member attorney, please go to www.sdcba.org/LRIS/overview.html or call 619-231-8585. And next time you are asked to refer someone to another lawyer, give them the number (toll free: 800-464-1529) for the SDCBA’s LRIS!
A new Witkin for a new generation.

The new *California Procedure, 5th* is completely up to date! New attorneys – even attorneys who favor computer research – will find:

- It’s the fastest way to access useful information.
- It’s easy to read. Nothing is buried in a footnote. Everything is woven into the main discussion.
- It’s complete. It covers every topic of procedure plus subjects that are both substantive and procedural in nature.
- It gives weight to arguments. Witkin treatises have been cited more than 20,000 times by the California Supreme Court and Court of Appeal.

For more information, call your local West representative at 1-800-762-5272.

### The Witkin Library:

- **NEW** California Procedure, 5th
- Summary of California Law, 10th
- California Criminal Law, 3d
- California Evidence, 4th
Moving on Up, Out and Over

Retiring: After 32 years with the California Court of Appeal in San Diego, Webster “Buzz” Kinnaird will retire on December 30. His last day at work was August 20. The University of San Diego Law School graduate began his legal career as a judicial staff attorney in 1976, working for several justices in chambers, including Justices Vincent A. Whelan, Martin J. Coughlin, Robert O. Staniforth and Howard B. Wiener. From September 1981, he worked with Justice Don Work for 20 years until his death in 2001. For the next two years, he has handled the court's mega-cases. Since June 2003, he has been the managing attorney. Buzz served with 23 of the court's 31 San Diego justices since the Fourth District was created in 1929. After an initial period of relaxation and rejuvenation, he’ll reexamine his many interests, including art, antiques and the law, to see where that takes him. “I’m not retiring from life,” says the Chicago native.

Elections: Deputy District Attorney Blaine Bowman was sworn in August 29 as a Superior Court judge after being elected in June to fill the vacancy created by the retirement of Judge Edward Huntington. On January 5, Deputy District Attorney Evan Kirvin and Commissioner Garry Haehnle will be sworn in as Superior Court judges following their June elections. Kirvin replaces Judge William Kennedy, and Haehnle replaces Judge Michael Wellington.

Appointments: Deputy Attorney General Jodi Cleesattle was appointed to the Executive Committee of the State Bar’s Public Law Section. She is also president of the San Diego chapter of the Society of Professional Journalists and editor of Lawyers Club News. • Randall Clark has been promoted from managing attorney-international to corporate secretary and assistant general counsel for Sempra Energy.

Honors: Criminal defense attorney Peter Hughes was honored with the Lifetime Achievement Award at the annual Defenders Dinner.

Passing: Attorney Serena Layoun of the San Diego County Public Defenders Office.

Slices of Life: It’s not every day that penguins parade up and down the aisle during a plane trip, but that’s what happened on a recent early-morning Southwest flight from San Diego. Deputy Attorney General Rita Hanscom said SeaWorld handlers let the two penguins (about 18 to 20 inches tall) out of their crates in the bulkhead seats after getting the okay from the airline. “It was really fun,” said Rita, describing how passengers took pictures and petted the penguins. The birds (not cold-weather types) and a bright green frog with brown spots had an event in the Sacramento area. Sharon Majors-Lewis, the governor’s judicial appointments secretary, was also on the flight.

Wendy Mazarrella is a deputy district attorney and can be reached at wendy.mazzarella@sdcda.org.

2008 San Diego Law in Review
The January 2009 issue of San Diego Lawyer will feature members of the San Diego legal community (lawyers, judges, law professors/students, administrators, secretaries, etc.) who made news during 2008. Who was honored, appointed or elected? Who retired or passed away? Who wrote books? Who handled the big cases? Who competed in the Olympics or the X Games? Please e-mail information to mkruming@aol.com by October 15.
ADR SERVICES, INC.

Hon. Mac Amos (Ret.)
Hon. Charles Froehlich (Ret.)
Hon. Edward Huntington (Ret.)
Hon. Anthony Joseph (Ret.)
Hon. Edward Kolker (Ret.)
Hon. Gerald Lewis (Ret.)
Hon. Frederick Mandabach (Ret.)
Hon. Robert O’Neill (Ret.)
Hon. Wayne Peterson (Ret.)
Hon. Sheridan Reed (Ret.)
Hon. H. Lee Sarokin (Ret.)
Fred Ashley, Esq.
Michael Duckor, Esq.
Michael Roberts, Esq.

Most Top 30 Neutrals in California - Daily Journal, 2006

All of our offices provide free wireless internet, computer and printing, copying and faxing.
All of our offices are within walking distance to restaurants and hotels.

Erin Jackson, Manager
225 Broadway, Suite 1400
San Diego, California 92101

619.233.1323 tel
619.233.1324 fax

www.adrservices.org
I never write to magazine-article authors, but I had to tell you that your Perspective piece in the July/August 2008 *San Diego Lawyer* made me laugh out loud. Nicely done.

*Cirrus Alpert
Callahan McCune & Willis

As a new, young lawyer and surfer, I thoroughly enjoyed Anton Gerschler’s Perspective bit in the recent *San Diego Lawyer*. Glad to see an issue covering lawyers who surf.

*Sean Blixseth
Foster Walsh

The author replies: Thank you for the kind comment. However, I am NOT a longboarder. After several “lost years” of spotty weekend warrioring on an 8-foot-5-inch longboard (we’ll call those my 40s), I had practically forgotten how to surf. Then somewhere around my 50th birthday, I picked up an old *Surfing Magazine*, circa 1975, and read a column I had written right out of college, a recurring feature called Keep Surfing. I had one of those life-changing epiphanies when I suddenly realized I had not done a very good job of following my own 20-something hubristic advice to the world.

So I resolved to become a “real” surfer once again. I moved my office from downtown to Encinitas and gradually worked back down to a custom 6-foot-11-inch Scott Henry tri-fin pig tail for my everyday short board and a 7-foot tri-fin pintail version for bigger waves. I keep my boards in the conference area of North County Law Firm, which we call (of course) the boardroom.

My neighbor, Kit Horn, is truly a lifelong surfer and waterman. He is pushing 80 and doesn’t get into the water as much as I know he’d like to, but when I see him out on his huge yellow board, it makes my day. Kit is just as ready to tell an old story as he is to listen to the details of your latest surf trip. He lives richly in the past but still in the moment.

These days, Kit’s my personal hero, someone who never, ever needed to be reminded to... keep surfing!

*Anton Gerschler*
Did your last mediation end up crumbling?

Don’t let your next mediation end in ruins.

Efficiency, compassion, enthusiasm. These qualities are what help Andrew Albert Mediation achieve results. A recognized leader in the San Diego legal community, Andy is proud to be an exclusive panelist with Judicate West.

To schedule an appointment, please call Mark Kaufman, Andy’s Judicate West case manager at (619) 814-1966. You’ll find the resolution you and your clients are looking for.

(619) 687-2550 San Diego | (760) 729-7979 North County | (619) 814-1966 Scheduling

Andrew Albert
Moving forward in neutral.™

www.albertmediation.com

©2008 Andrew Albert Mediation. All rights reserved. Not affiliated with or endorsed by Italy, the Roman Empire, or any of building owners whose ruins are depicted.
Taking Flight

Those of us who travel frequently have had to develop some strategies for dealing with crowded planes, delayed flights and MREs (also known as “snack boxes”). The new bag charges are likely to compound the problem of overstuffed overhead bins, not to mention the delays when there’s no space and the passenger has to swim upstream to have a bag gate-checked.

Though San Diego is far from a small town, we don’t have a wide choice of nonstop flights and most often must fly through a hub to get where we’re going. Booking early-morning flights is one of the best strategies to avoid travel problems later in the day from the snowball effect of cancellations and delays.

When selecting your flights, check out the airline’s on-time performance on the Web site, and choose one that gives you the best chance of arriving on time. Consider refundable fares. They are sometimes a better option if your plans are a little iffy and you may need to make changes. Ticket costs vary widely—if a price looks good, book it quickly; it may be gone in a few hours. Before clicking “buy,” check out the seat availability. If the flight is fairly full, you may not be able to book a seat online, which often spells “center seat.”

For the very picky about seat location, check seatguru.com to see the configuration of the plane you’ll be on. It’s a great site for learning about “bad” seats (less legroom, no window, near a lavatory, etc.).

In the past, I tried to get the shortest layover to minimize my flight time. I now try for two or three hours to avoid a missed connection.

Traveling light is key. Keep your “lotions and potions” bag readily available for screening, and carry a second, larger bag into which you can place your 1-quart bag after you’ve been through security. This could save you a ruined suit should something spring a leak in flight.

Have a contingency plan when you have a stopover. I frequently reserve a room at airport hotels, just in case. The trick is to be sure to cancel before the deadline in the event you don’t need it.

Always reconfirm your flights a day or two before your departure. While the airlines typically e-mail or call with schedule changes, they don’t always. I recently learned by confirming my flights that my departure time had been moved up—by two hours!

Clear (flyclear.com), a new program that allows passengers to utilize a separate lane at security, requires an application process and an annual fee of $129. It is currently available at 18 airports, and more are scheduled to participate. Joining may make sense if Clear is available in an airport to which you fly regularly (it’s not in San Diego at this point).

Register for flight-information updates via PDA or cell phone.

A final tip: Be nice to gate agents (even when they are not nice). They have your seat assignment and upgrade in their hands.

Patti Lane is firm-wide director of administrative services for McKenna Long & Aldridge. She can be reached at plane@mckennalong.com.
Q: What’s the best surfing spot for a California lawyer?

A: California Forms of Pleading and Practice.

It’s the place to be for attorneys who need to deal with all the complexities of California law.

As a California lawyer, you know that the waters aren’t always clear. With so many laws on the books, and emerging areas of law popping up all the time, you need the kind of research tool that makes you smarter, stronger, tougher and better. With California Forms of Pleading and Practice, you’re up-to-date and ahead of the curve.

With so much more than just forms, it provides today’s critical analysis from the most authoritative practitioners in their fields. You’ll find checklists, forms, legal background and research guides all integrated into one convenient source. With more updates than the competition, you’ll not only know your facts cold, but get better coverage of new topics.

Also experience the confidence of relying on the California Official Reports, from LexisNexis, the Official Publisher.

www.lexisnexis.com/carightsolution
How would you describe your disability?
Quadriplegic. My injury is at C4-5. I have movement in my shoulder but not my wrist. Whereas I used to enjoy sports (mountaineering, field hockey, skiing, tobogganing), I now enjoy travel.

What caused your disability?
Just before turning 20, I was driving a cute VW Bug when someone ran a red light. That was about 30 years ago.

Was there any “glass door” you perceived as hindering your entry to college?
When I was at Rusk Rehabilitation Hospital in New York City following my accident, I was advised there were three universities that had great academics and great accessibility: UC Davis, Berkeley and an Arizona school. I fell in love with Davis. I had a great three years there—and received the benefits of riding on the coattails of others. The pioneers at UC Davis consisted of a whole generation of disabled students (primarily Vietnam vets) who had worked with the UC system for access. In many ways, I breezed through because that generation had handled physical access and attitudinal access.

What about law school?
I believe I was the first quadriplegic to graduate from Stanford Law School. There, roles were reversed and I was the pioneer. Being a pioneer is much tougher. Stanford was physically accessible but had no previous experience [with quadriplegics]. We were an odd couple at first. There were definitely bumps at the beginning [she took three of her first four exams in the hospital], but the school and I rallied. I am particularly indebted to Professor Mark Kelman, who is still on faculty and vice dean.

And a legal career?
Gray Cary (predecessor to DLA Piper) invited me onto the summer program. That took courage back then, as the firm did not need to take the risk. The firm made me an offer to return after my third year of law school. Interestingly, when I interviewed with other law firms in my third year, I was about the most popular student—offers came from every direction. Gray Cary had offered me employment, so I was “safe” for all the other firms; I had Gray Cary’s imprimatur. My first few years at Gray Cary had a lot of bumps—much like my first semester at Stanford. It was the pioneer thing all over again. However, a number of lawyers rose up and made it possible for me. They were highly supportive, went to bat for me on multiple occasions and also trained me as a trusts and estates lawyer.

What access issues have you encountered, personally or professionally?
I rarely take my motorized chair on any vacation, let alone back to Cleveland, where I am from. Because my husband and I like to travel and tend to be drawn to less accessible areas, we have a very light, adapted racing chair that has been through Europe over four times and throughout Mexico and the U.S. I have to keep my weight down so we can get up turrets, visit ruins, etc. Most people do not believe where we have maneuvered to go.

Have you any desire to associate with disability rights activism?
I am by nature not an activist. However, I have a deep appreciation of what activists achieve and know that I would not be where I am today if others had not advocated persistently for disability rights. I hope by “being out there” that I can demonstrate that the activists are right—an attorney who happens to be disabled is just as capable of handling matters as any other committed attorney.

What changes would you like to see made for the disabled attorney/person?
I’d like funding available to disabled people in the early years of their disability to help them mainstream. I’d like to see more attorneys with disabilities in the private sector.

Alice Solovay practices law in Ocean Beach and can be reached at alice@solovay.net.
Fragomen is the world’s leading global corporate immigration law firm. For more than 50 years, we have focused solely on delivering strategic immigration solutions to our clients. Our service areas include:

Temporary Work Visas ~ Intra-Company Transfers ~ Professionals & Investors ~ Entertainment and Sports Professionals
NAFTA Visas ~ Labor Certifications ~ Family Related Petitions ~ Outbound Global Immigration
Consular Processing ~ Employer Sanctions (I-9) ~ Immigration Policy Development

Gary Perl, Partner
gperl@fragomen.com

Fragomen, Del Rey, Bernsen & Loewy, LLP
11238 El Camino Real, Suite 100
San Diego, CA 92130
Phone: 1 858 793 1600
www.fragomen.com

FRAGOMEN
ATTORNEYS AT LAW

WHO'SWHO LEGAL
Keeping It Confidential

If not intuited, it is early in a lawyer’s career when he or she learns that an initial consultation with a potential client will lead to one of two ends: It will either mature into an attorney-client relationship, or it will not. The former sends counsel on an ethical path well traveled, as there is ample authority governing and otherwise providing guidance relative to the professional responsibility owed by a lawyer to his or her client. Not so clear is the duty of confidentiality owed to those who, either at the election of the lawyer or the prospective client consulted, ultimately do not become a client: the “non-client,” as it were. As is true with so many issues faced by the legal professional, the California Rules of Professional Conduct (CRPC) forfeits its post on the topic.

Nevertheless, Cal. State Bar Formal Opn. 2003-161 is instructive. The State Bar’s Committee on Professional Responsibility and Conduct opined that since the attorney-client privilege attaches to confidential communications prior to employment, and even in the absence of employment itself (Cal. Evid. Code §951), surely the duty of confidentiality must follow. Confidentiality is, after all, an essential element of the attorney-client privilege, and yet its scope is far broader and much more protective. Accepting this conclusion, a duty of confidentiality is owed to the consulting “non-client,” giving rise to all of the confidentiality-based conflicts-of-interest restrictions that ultimately follow.

As disquieting as it may seem to owe a duty of confidentiality to the nonengaging, prospective client, it makes intuitive sense. It is difficult to conceive why the sanctity of confidentiality ought to rise or fall solely in hindsight—based on the decision to pursue the engagement or not—for certainly the engagement decision itself hinges on such disclosure.

The Restatement and the ABA Model Rule

Until recently, the topic was touched on by very few jurisdictions. It was a gap in ethics regulation first categorically filled by the American Law Institute, in its Restatement of the Law Governing Lawyers, first published in 2000. Its §15 largely confirms the formerly creative solutions and strained conclusions of many: that for purposes of assessing the rights of client and lawyer, a prospective client is in most respects essentially indistinguishable from a client, at least during the period of initial consultation.

Based in large part on that work, the American Bar Association House of Delegates adopted new American Bar Association Model Rule (“ABA MR”) 1.18 in 2002. Its rule closely follows the rules protecting former clients, since if one accepts that a prospective client is akin to a “client” during the initial consultation, it then follows that the prospective client is akin to a “former client” if the engagement is not consummated.

In a nutshell, ABA MR 1.18(b) prohibits a lawyer from disclosing or making adverse use of a prospective client’s confidential information. Too, ABA MR 1.18(c) and (d) prevent representation adverse to a prospective client in a later matter if it is “the same as or substantially related to” the subject of the consultation, but only where the information learned during the initial interview “could be significantly harmful” to the prospective client in the later matter. Under ABA MR 1.18(d), the conflict is imputed to the firm but can be removed if the initial interview was limited and the consulted lawyer is screened from the other lawyers in the firm.

Clearer California Guidance?

In 2001, the State Bar of California “reactivated” its Special Commission for the Revision of the Rules of Professional Conduct to evaluate the CRPC in their entirety with an eye toward their substantial modification and expansion. The commission’s charge, in part, is to “facilitate compliance with and enforcement of the rules by eliminating ambiguities and uncertainties in the rules” and “eliminate and avoid unnecessary differences between California and other states, fostering the evolution of a national standard with respect to professional responsibility issues.”

The commission has announced that it will consider adopting a California counterpart to ABA MR 1.18 in its work. For guidance in the meantime, prudent counsel would do well to look where the commission will be looking. ABA MR 1.18, in seeking to satisfy their professional responsibility to their “non-clients.”

Confidentiality is, after all, an essential element of the attorney-client privilege, and yet its scope is far broader and much more protective.

Ross Simmons is the principal of The Simmons Firm and is a vice-chair of the Legal Ethics Committee of the San Diego County Bar Association. He can be reached at ross@rblaw.com. The views expressed in this article are his own and do not necessarily reflect the views of the San Diego County Bar Association or its Legal Ethics Committee.
“King”
Stahlman
Bail Bonds
“Let Me Help You Out”

George Stahlman, Owner

CAREER: Licensed in 1947 as a California bail bondsman; no one’s been at it longer.

NICKNAME: His nickname was given him by himself via an Oceanside police officer who noticed his license plate was BBK, and the cop said; “Hey does that stand for Bail Bond King?”

EARLY DAYS: Born on June 26, 1923, in Glendale, California. Served in the Navy during World War II and received the Purple Heart when his ship sank at Guadalcanal.

FAMILY: Beverly, his wife of 40 years, died in 2003; two grown kids. His father was a Los Angeles, Hollywood and Fallbrook (where he owned an avocado ranch) lawyer whose clients included Shirley Temple, Errol Flynn, Walter Pidgeon, 'Bugsy' Siegal and Mickey Cohen.

PASSION: Golf. Once had a 9 handicap; supports countless golf tournaments in the legal community. His other passion is work, where at age 82 he still works six days a week, and loves every minute of it. Never takes a vacation.

PETS: Ace, a Golden Retriever, and two cats, Heidi and Tiger.

ADMires: Former President Ronald Reagan, whom he met at the Hotel del Coronado.

ASPIRATIONS: Ran for Mayor of San Diego in 1967 against Frank Curran.

THE PROFESSION: "It's fascinating. You meet some characters. I'm one myself. I relate to them."

http://www.kingstahlmanbail.com/

DOWNTOWN
1140 Union Street
San Diego, CA 92101
1-800-782-4522

SOUTH BAY
563 Third Avenue
Chula Vista, CA 90910
1-800-977-4404

NORTH COUNTY
573-F Vista Way
Vista, CA 92083
1-800-520-2245

EAST COUNTY
10308 Mission Gorge Rd.
Santee, CA 92071
1-866-413-4400
While many types of cuisine can prove risky for first dates or client dinners, just about everyone enjoys good Italian food. It is no surprise that there is an Italian restaurant on almost every corner in the county. We have some favorites for Italian sandwiches, food and pizza.

For sandwiches, we love Mona Lisa in Little Italy. You can call ahead and pick up high-quality Italian sandwiches for lunch or on your way home for dinner. We’re partial to the spicy chicken-breast sandwich, the deluxe sub (salami, mortadella, ham and provolone), the caprese (fresh mozzarella, tomato and basil) and the meatball sub. 2061 India Street, San Diego, CA 92101, 619-239-5367.

For more substantive meals, one gem of a place in downtown La Jolla never disappoints: La Taverna, a mom-and-pop shop serving rustic food that’s clearly made with love. The restaurant itself is tiny—it seats perhaps 25 inside and out—and is usually bustling and festive. Wine is served in small glasses on tables covered with butcher paper. The gnocchi is a standout, as is anything with La Taverna’s homemade sausage. The daily special is always wonderful as well. It is difficult to save room for dessert, given the delicious food and generous portion sizes, but room should be saved as the in-house cakes are moist and delicious (especially the banana). La Taverna is open for lunch and dinner and has a small outdoor dining area where you can do some work if the mood strikes you. 927 Silverado Street, La Jolla, CA 92037-4237, 858-454-0100.

We lawyers turn to pizza often, be it because we are working through dinner, arriving home too late to cook or attending a lunch meeting with food delivered. We’ve compiled a list of our favorites by category.

**Thin-crust New York style:** This is a tossup between Bronx Pizza in Mission Hills (Gil’s preference) and Luigi’s in Golden Hill (Krista’s). One deciding factor for dining in: Luigi’s serves beer. Bronx Pizza: 111 Washington Street, San Diego, CA 92103, 619-291-3341; Pizzeria Luigi, 1137 25th Street (at C), San Diego, CA 92102, 619-233-3309.


Bring the family: Pizza Port in Solana Beach. We’d also recommend a pint or pitcher of Port’s Shark Bite Red with your pizza. 135 North Highway 101, Solana Beach, CA 92075, 858-481-7332.

Authentic Italian-style pizza: Hillcrest’s La Pizzeria Arrivederci, 3789 Fourth Avenue, San Diego, CA 92103, 619-542-0293.

Delivery downtown: Caparell’s, 1428 Ash Street, San Diego, CA 92101, 619-237-8082.

Delivery in North County: Leucadia Pizzeria & Italian Restaurant, 7748 Regents Road, San Diego, CA 92122, 858-759-2222; 315 South Coast Highway 101, Encinitas, CA 92024, 760-942-2222.

Have we missed any great pizza? Let us know!

**Inside Tip**
At Cavaillon, one of our favorite North County spots, chef Philippe is extremely liberal with his menu. Guests can call ahead and request that he prepare a tasting menu with specific food items or can come in and request a tasting of the chef’s choice and name their price (i.e., for $50 per person). Chef Philippe will prepare a meal for you based on your budget and preferences. Now that is service! ^-

Krista Cabrera is an attorney with Wilson Petty Kosmo & Turner and can be reached at kcabrera@wpkt.com. Gil Cabrera is an attorney and principal with The Cabrera Firm and can be reached at gil@cabrerafirm.com.
You have the right to your own personal banker.

You have the right to enjoy the one-to-one attention of a Priority Banker. A financial ally who’s experienced in the complex financial needs of attorneys and law firms. Someone to guide your banking with an expert touch. Whether it’s establishing IOLTAs and client trust accounts, arranging a line of credit to smooth cash flow between cases, or managing employee benefits, you deserve a banker who gives you the proper financial representation.

Call 1-888-818-6060 to schedule a meeting with a Priority Banker.

To qualify for a Priority Banker, you must open a Priority Banking® account. Requires minimum combined balances of $100,000 or more, which can be maintained in a combination of qualifying accounts. You may be assigned to another program or product if you no longer meet the minimum requirement of Priority Banking. See our All About Business Accounts & Services Disclosure and Agreement for details. This is not a commitment to lend. Financing subject to credit and any applicable collateral approval. Other restrictions may apply. Financing available to businesses located in California, Oregon, and Washington. Terms and conditions subject to change.

©2008 Union Bank of California, N.A. Member FDIC.
A number of leading San Diego attorneys and judges have been at the heart of the San Diego County Bar Association’s 2008 Campaign on Civility, Integrity and Professionalism. “When we decided to make this the year of Civility, Integrity, and Professionalism,” says County Bar President Heather Rosing, “we had high hopes for our campaign.” It has gained momentum throughout the year, touching many individuals and institutions inside and out of the legal profession. As 2008 draws to a close, the results of the campaign will undoubtedly constitute a lasting asset for our local legal system and the San Diego community at large.

A cornerstone of the campaign is a new Attorney Code of Conduct, modeled after the County Bar’s original Civil Litigation Code of Conduct, now nearly 20 years old. The new 600-word code will apply to the County Bar’s members, regardless of an attorney’s area of practice. The code is composed of “general” obligations and “duties” owed to both the court and colleagues (visit www.sdcba.org for links to the code text and an account of its development). Additionally, the committee has developed an accompanying document, Guidelines for Effective and Professional Advocacy, which will be distributed by the courts and the SDCBA to attorneys throughout the county as part of the campaign.

CIP Committee members were asked what civility means to them. Here are their responses:

“Civility is important because what you give is what you get back. It is a two-edged sword. I would rather practice against a skilled and civil lawyer than an unskilled and uncivil one. My client will save money, the case will be less stressful, and usually justice will be served. I had a number of mentors who taught me that my services, but never my reputation, were for sale.”
—Robert Gerber, Sheppard, Mullin, Richter & Hampton

“Any attorney’s incivility undermines the effectiveness of the judicial process, while sullying the attorney’s personal reputation, ultimately jeopardizing his or her career. Attorney incivility has become a plague that now threatens the survival of the legal profession as we know it. For everyone’s protection, we had better cooperate to restore public respect for the legal profession before it’s too late.”
—Brian Forbes, DLA Piper
“Life is too short to bicker over discovery. And petty acts of discourtesy and hostility do nothing to advance a client’s cause. They just cost everyone money, suck the joy out of practicing and obstruct the quest for justice.”
—KENNETH FITZGERALD, Latham & Watkins

“Great lawyers see the big picture and spend their time and their clients’ resources getting the very best result possible. They treat their colleagues with respect, honor their word and get to the bottom line. They enjoy life, their jobs and the legal profession. They are our role models and the leaders of our bar. I always try to conduct myself like the great lawyers I admire and respect.”
—JOHN GOMEZ, The Gomez Law Firm

“Even in medieval times, combat among competing knights involved a code of conduct. There is a sense that some lawyers may have never acquired or have lost the perspective of professionalism. The Campaign for Civility aims at invigorating that perspective among the bench and bar, while also increasing public understanding of the code by which we practice.”
—HON. PETER BOWIE, U.S. Bankruptcy Court, Southern District

“The essence of civility is being appropriately aggressive on sustentative issues in a case without crossing the line of becoming personally offensive or obnoxious.”
—EDWARD CHAPIN, Chapin Wheeler

The mark of a fine lawyer is the ability to gain both reverence and respect through effective advocacy combined with civility and fair play. This combination decreases animosity in the courtroom, promotes good-faith negotiation and will ultimately both benefit clients and improve the public perception of the profession.”
—WENDY PATRICK MAZZARELLA, District Attorney’s Office
"The clients we represent, the legal system we are entrusted to protect and the public we serve are entitled to lawyers and judges who act professionally, civilly and with integrity. We should not disappoint them."

—Hon. Judith Haller, Court of Appeal, Fourth District, Division One

"Being civil in the practice of law is important for three reasons: It best serves the clients, it makes it more pleasant to be a lawyer, and it shows the public that we are a good and honorable profession. In litigation, we really can be strong advocates for our clients while still maintaining a relationship with opposing counsel that allows us to discuss things in a friendly manner. So let's all help get the word out!"

—Heather Rosing, Klinedinst

"Civility is not a grand gesture made solely for the court's benefit. It's what counsel should do when no one is looking—the professional courtesy extended, the stipulation signed, the concession made—all because it is the right thing to do, not because it puts points on the scoreboard."

—Jon Williams, Boudreau Williams

"I remember my first instruction on civility in elementary school: 'Treat others the way you want to be treated.' If everyone lived by that Golden Rule, we'd all be better off. Samuel Johnson said, 'The true measure of a man is how he treats someone who can do him absolutely no good.' That's a pretty good baseline concept to keep in mind when dealing with our colleagues, as well as the community in general."

—Hon. Leo Papas, U.S. District Court, Southern District of California

"Being known as difficult and unprofessional . . . costly indeed. Having a reputation for civility, integrity, and professionalism . . . priceless."

—Hon. Jeffrey Miller, U.S. District Court, Southern District of California

"While professionalism and civility in dealing with opposing counsel and the court may not always be noticed, the lack of professionalism and/or incivility almost certainly are."

—Patrick Hosey, Hosey & Bahrambeygui

The Campaign on Civility, Integrity and Professionalism is sponsored by Coughlin Stoia Geller Rudman Robbins; Klinedinst; Latham & Watkins; Morrison & Foerster; and Procopio Cory Hargreaves & Savitch. To learn more about the campaign on Civility, Integrity and Professionalism, visit www.sdcba.org.

Dean Schiffman is a San Diego attorney and expert witness. He can be reached at dean@LawAndNumbers.com.
INDEPENDENT RETIRED JURIST AVAILABLE FOR DISPUTE RESOLUTION

Mediations • Arbitrations
Settlement Conferences
Trials • Discovery
Special Master References

Hon. Gerald J. Lewis (Ret.)
690 W. Broadway, Ste. 1800
San Diego, CA 92101
Phone: (619) 238-2843
Fax: (619) 698-7419

Hon. Charles W. Froehlich Jr. (Ret.)
655 W. Broadway, Ste. 1600
San Diego, CA 92101
Phone: (619) 699-5780
Fax: (619) 234-4786
info@charlesfroehlich.com

Hon. Alice D. Sullivan (Ret.)
11512 El Camino Real, Ste. 370
San Diego, CA 92130
Phone: (858) 792-1330
Fax: (858) 792-1248
ads@privatejudge.com
www.privatejudge.com

Hon. Vincent P. DiFiliga (Ret.)
101 W. Broadway, Ste. 810
San Diego, CA 92101
Phone: (619) 226-1321
Fax: (619) 236-1170
vpd@difiliga-milliken.com

Hon. Herbert B. Hoffman (Ret.)
750 B Street, Ste. 3300
San Diego, CA 92101
Phone: (619) 595-6025
Fax: (619) 595-5450
Judgehbh@aol.com

Hon. James R. Milliken (Ret.)
101 W. Broadway, Ste. 810
San Diego, CA 92101
Phone: (619) 236-1321
Fax: (619) 236-1170
jrm@difiliga-milliken.com

Each jurist serves separately and independently of every other jurist listed. There is no sharing of fees or expenses, except for the cost of placement of this announcement.
In April 1850—two months after San Diego County was incorporated—Thomas W. Sutherland became the first city attorney in the county as well as for the city of San Diego, defeating William C. Ferrell by a 71-4 vote margin. Months later the city of San Diego was incorporated.

As San Diego's first city attorney, Sutherland was instrumental in drafting its earliest ordinances. He succeeded Ferrell as district attorney in 1851, holding both positions until he left San Diego in 1852, according to the San Diego Historical Society's biographical files by archivist Jane Kenealy as well as the 1963 book *Tracks on the Trial Trail in San Diego* by Leland G. Standford.

Presently, the 18 city attorneys of San Diego County are appointed positions, with the exception of the city attorney of San Diego, an elective office. On November 4, voters will decide between incumbent City Attorney Mike Aguirre and Superior Court Judge and former Assemblyman Jan Goldsmith. (The San Diego County Bar Association is sponsoring a debate on October 20 between the candidates.)
The county’s CITY ATTORNEYS grapple with municipal issues, and group together for insight on COMMON AREAS

BY AMANDA THOMPSON
WITH TODD KNODE

THE CITY ATTORNEYS OF SAN DIEGO COUNTY

CARLSBAD
City attorney: Ron Ball
Position: full time, in house; appointed by mayor and city council
Staff attorneys: Assistant City Attorney Jane Mobaldi and Deputy City Attorneys Ronald Kemp and Paul Edmonson

CHULA VISTA
City attorney (interim): Bart Miesfeld
Position: appointed by city council
Staff attorneys: Senior Assistant City Attorney Sharon Marshall and Deputy City Attorneys Michael Shirey, Elisa Cusato, Jill Maland and David Miller

CORONADO
City attorney: Morgan Foley of McDougal, Love, Eckis, Smith, Boehmer & Foley, for the past seven and a half years
Position: contract
Staff attorneys: Assistants include Johanna Canlas, Lisa Foster, James Lough, Jennifer Lyon, Hilda Mendoza and Joshua Tucker, as designated.

DEL MAR
City attorney: Jennifer Lyon of McDougal, Love, Eckis, Smith, Boehmer & Foley. She has also been the city attorney for Calexico in Imperial County during the past four years on a contract basis.
Position: contract
Staff attorneys: as designated through McDougal, Love, Eckis, et al.

EL CAJON
City attorney: Morgan Foley of McDougal, Love, Eckis, Smith, Boehmer & Foley, for the past eight years
Position: contract
Staff attorney: Barbara Luck

ENCINITAS
City attorney: Glenn Sabine of Sabine & Morrison
Position: contract
Staff attorneys: Assistant City Attorneys Randal Morrison, Karen Hirata and Gregory Lusitana
Some cities hire full-time city attorneys; others contract with law firms. Although there is no exact line regarding how large a city must be before it takes on its own city attorney, the decision is based on several factors, including population, cost, general availability of contact with officials, and complexity of the projects and issues within the city.

Even when a city has an in-house attorney, it may seek outside counsel with specific knowledge (for instance, bond counsel) or to avoid conflicts. In those situations, “Who we contract with depends on a case-by-case basis,” says Chula Vista interim City Attorney Bart Miesfeld. “We try to get the best representation for an efficient price.”

One group of interest to the city attorneys in the county is the City Attorneys division of the League of California Cities. Within that division, there is also a Legal Advocacy Committee that acts as a watch-

Although there is no exact line regarding how large a city must be before it takes on its own city attorney, the decision is based on several factors, including population, cost, general availability of contact with officials, and complexity of the projects and issues within the city.
the Port District and the San Diego County Water Authority. Oceanside City Attorney John Mullen is the current president.

According to Mullen, the SDCCAA has five main purposes: (1) to support and encourage high-quality professional legal advice to the cities of San Diego and Imperial counties, San Diego County and regional agencies of San Diego representing cities; (2) to foster professional development and enrichment of the members through continuing legal education programs, regular meetings and conferences for the dissemination and exchange of ideas, as well as meeting persons engaged in the practice of municipal law; (3) to encourage and promote high professional standards and ethics in the practice of municipal law; (4) to recognize and promote excellence in the practice of municipal law and adherence to high ethical standards; and (5) to promote the purposes of the City Attorneys Department of the League of California Cities.

The local group offers the opportunity for members to meet and share experiences in an effort to avoid reinventing the wheel on municipal legal issues. “The biggest benefit of the association is the sharing of knowledge,” says Chula Vista’s Bart Miesfeld. “Each city has issues in common but with their own nuances. When you get 10 to 12 city attorneys together, brainstorming over common issues, it’s very valuable.”

“Amanda Thompson is an associate at Gray & Prouty and can be reached at athompson@grayandprouty.com. San Diego lawyer Todd Knode can be reached at todd.knode@yahoo.com.

“was the experience of a lifetime, from my perspective,” says Jeffrey Epp of Escondido. In the Yee case, a mobile home park owner sued the city of Escondido because the city’s rent-control ordinance acted as a taking of his land, entitling him to compensation. The Supreme Court held that the rent-control ordinance did not act as a taking because the government did not physically occupy the land nor prohibit the owner from occupying the land.

Yee v. City of Escondido

SOLANA BEACH
City attorney: Johanna Canlas of McDougal, Love, Eckis, Smith, Boehner & Foley, since January 2008
Position: contract; appointed by city council
Staff attorneys: as designated through McDougal, Love, Eckis, et al.

VISTA
City attorney: Darold Pieper, former SDCCAA president, since 2005
Position: full time, in house; appointed by city council
Staff attorneys: Assistant City Attorneys Martin (“Pete”) Grover and Jonathan Stone

Compiled by Jana Cranmer, Todd Knode and Amanda Thompson

Real Estate Experts are only as good as their “real world” experience.

I have 36 years of it -- as an entitlement specialist, developer, builder, broker and contractor.

Areas of expertise include:
- Joint venture and partnership disputes
- Due diligence evaluation
- Land acquisition analysis
- Entitlement issues
- Broker and homebuilder disputes
- Profit/price participation disputes
- Development constraint issues
- Development risk analysis
- Highest-and-best use analysis
- Tentative and final map issues
- Standard of care issues
- Real estate dispute resolution services
- Industry customs and practices

Real Estate Expert Witness Services

www.castlelyons.net or contact Michael K. Ryan, President, at 619.787.5988

www.castlelyons.net or contact Michael K. Ryan, President, at 619.787.5988
FORECLOSURES

Hit Home
With the housing market tied to the economy, and subprime mortgage financing playing its part, an increase in foreclosures was inevitable. Here’s how San Diego lawyers are helping local homeowners make the best of the situation.

At Padres games, on trolleys, in boardrooms and on the beach, talk of the “foreclosure crisis” permeates conversations throughout San Diego County like an enduring June gloom. According to the Federal Deposit Insurance Corporation, the annual number of U.S. foreclosures nearly doubled between 2005 and 2007 to more than 1.5 million. Some forecasts project 2 million or more foreclosures nationwide during 2008. RealtyTrac reports that California was second only to Nevada in the number of foreclosures during the first half of 2008, with one of every 216 homes in San Diego County involved in a foreclosure action.

“The main factor behind this foreclosure surge remains the decline in home values,” says Marshall Prentice, president of DataQuick Information Systems in La Jolla. “Additionally, a lot of the ‘loans gone wild’ activity happened in late 2005 and 2006, and that’s working its way through the system.” According to DataQuick, San Diego County home values at the end of May were down an average of 22.8 percent since the same time last year.

The gray skies may not clear up anytime soon. University of San Diego economist Alan Gin, who compiles a monthly index of economic indicators for the school’s Burnham-Moores Center for Real Estate, is quoted in The San Diego Union-Tribune that the county’s economic slump is not likely to recover until the second half of 2009 at the earliest. The index, which fell by 1.1 percent in May, has dropped in 25 of the past 26 months.

Homeowners who plan to stay in their homes and make their mortgage payments can ride out the current decline in values until sunny days return. But some face balloon payments on adjustable-rate mortgages that will soon exceed their means. Others must sell their homes now, even if they are “upside-down” on their mortgages, because of a new job, family illness or other life changes. Foreclosure looms on the horizon for many of these owners, but those who consult an attorney may be surprised to find a small ray of light.

“Many homeowners think their only option to avoid foreclosure is a short sale,” says Gary Laturno, chair of the San Diego County Bar Association’s Community Service Committee. The process—defaulting homeowners make a deal with the lender to sell the house for whatever they can get—is easy, but short sales take time, and the buyer has to be cooperative. And when it is over, the former homeowner must find a new place to live. Many people think a short sale is their only option because they’ve heard that in the news, or they know a real estate agent who suggests it.

“Real estate agents may have the best intentions,” says Laturno, who is also a Realtor and broker, “but may not understand or be familiar with other options.” Their training is different, he says, and they are not...
According to the Federal Deposit Insurance Corporation, the annual number of U.S. FORECLOSURES NEARLY DOUBLED between 2005 and 2007 to more than 1.5 million. Some forecasts project 2 MILLION OR MORE foreclosures nationwide during 2008.
trained as counselors. “Because we have legal education, any attorney is in a strong position to be a counselor.”

One place many local homeowners are finding attorneys these days is the Home Owner Mobile Education Clinic—or HOME Clinic—sponsored by the Housing Opportunities Collaborative. The HOME Clinics began in June 2007 to assist homeowners having problems making monthly mortgage payments. The clinics, held around the county, bring attorneys, housing counselors, mortgage advisors, consumer protection advocates and representatives from other nonprofit organizations together in one place. Homeowners can talk with experts—who have agreed not to solicit business—for free and without pressure.

“Having attorneys at the HOME Clinics is unique to San Diego,” says Myrna Pascual of the U.S. Department of Housing and Urban Development, who coordinates the clinics. “The homeowners fill out evaluations after meeting with the various groups at the clinics, and they find [meeting with] us, the attorneys, a very satisfying, rewarding experience.”

Laturno explains, “These issues cut across a lot of specialties—family law, bankruptcy, tax, attorney-broker, real estate, consumer attorneys, criminal defense.”

Indeed, the FBI has arrested more than 400 people nationwide in connection with fraudulent lending practices, at least six of whom were operating in San Diego. While the government pursues criminal charges, local victims of these scam artists attended a special HOME Clinic this past summer, where attorneys helped identify civil charges as well.

“[The district attorneys] wanted the victims to get civil remedies too,” says Pascual, who helped coordinate the special HOME Clinic. “The civil remedies are very complex, because people are being evicted from homes they no longer own because they deeded them over to scam artists.”

She admits foreclosure is inevitable for some of the homeowners attending the clinics. “Sometimes when you’re counseling someone, you feel like all you can do is let people know what’s coming, because you can’t stop it,” she says. At the HOME Clinics, the attorneys “felt satisfied that at least they could explain how the eviction will affect their credit, what the process is, what the timeframe is, how it will affect their ability to rent their next home.”

The need for understanding is echoed by others. “One way nonprofit organizations can help is in understanding the process,” says Gregorio Estrella of the Housing Opportunities Collaborative. “There is still a lot of misunderstanding. People are not clear on what the process is; they get a letter [from their lender], and they don’t know if they have three months or if they’ll be evicted right away.

“The problem is bad enough for English speakers, even worse for those who aren’t,” he says. “They need to have someone explain it to them in their native language. That’s where these organizations can help at the grass-roots level. At the [June and July] HOME Clinics, about 80 percent of the participants were native Spanish speakers.”

Estrella says the HOME Clinics need more attorneys who speak Tagalog, Vietnamese and other languages, because community outreach is more effective when it incorporates a cultural component. Most HOME Clinics are open to the general public, but some have focused on certain groups. The July 13 clinic, held in conjunction with the annual convention of the National Council of La Raza, reached out to Hispanic homeowners. Another clinic, July 19 at Camp Pendleton, addressed the special needs of military homeowners in all
branches of service. The National Council of La Raza has targeted the HOME Clinic as a model they will replicate across the country.

The public has a general impression that the foreclosure crisis is due entirely to subprime loans. While some borrowers’ inability to meet balloon payments is certainly a major contributor to the current situation, lawyers in their regular practices and at the HOME Clinics see a variety of other causes as well. Attorneys’ ability to be neutral yet compassionate makes a difference to homeowners at all stages of financial crises.

One woman who attended a HOME Clinic had lost her home to foreclosure while she battled a disease. She had a good job, so the volunteer attorney suggested she improve her credit rating by continuing to make the payments on her two-year-old car. Although this seems like advice that could come from anyone, the woman was visibly comforted to hear from an attorney that something so simple would make a difference.

Another woman, who foresaw that she would not be able to make her upcoming balloon payments, was trying to refinance her loan through her bank. Following some miscommunications with the bank, she thought she might have a cause of action for breach of contract. The volunteer attorney did not find a cause of action but was able to help the woman develop a plan of communication that would resolve the conflict.

One family’s 80-year-old mother had signed an adjustable 30-year mortgage just a few years before her death. The family thought they might be able to sue the lender for fraud or for preying upon the elderly, but they did not want to keep the house. They
did not realize until speaking with the volunteer attorney that they could sell the house and still maintain a cause of action against the lender. This family, too, was strengthened by this newfound freedom to make a choice, rather than feeling they were without options.

Of course, sometimes homeowners cannot avoid foreclosure. Attorneys play a variety of roles then, too.

“Bankruptcy attorneys are busier they were a year ago,” says William Fennell, who generally represents creditors in bankruptcy proceedings. “We’re all seeing a lot more cases, and more situations where multiple pieces of property are held by debtors. Some are filing for bankruptcy because they’re in foreclosure, or trying to stave off foreclosure with bankruptcy. It postpones or slows it down, but bankruptcy doesn’t necessarily stop the process.”

Jim Bliesner, director of the City/County Reinvestment Task Force, points out that investors are filing civil suits against lenders, who they say misled them on the value of loans purchased on the secondary market. The task force is working to establish a land bank, which would use grant money to purchase foreclosed homes. In addition to creating affordable-housing opportunities, the task force aims to prevent the blight that can occur when vacant foreclosed homes remain on the market too long.

“We need to lobby in D.C. to get land bank money,” says Bliesner, suggesting a way attorneys can help move the task force forward.

In these and many other ways, the attorneys in San Diego County are helping people weather the current crisis. Through their collective efforts, they can dispel the myths of foreclosure and lead the community to brighter times.

For more on the HOME Clinics, see www.HousingCollaborative.org.

Elizabeth Blust is a 3L at California Western School of Law. She can be reached at egblust@law.cwsl.edu.
Animal-rights issues took the author from law school in San Diego to a dream job protecting those with no voice
have been interested in animal issues since the seventh grade, when a picture of a rabbit with its eyelids turned inside out and painted with correction fluid raised a wave of righteous indignation. After that, though, I did not seek out other such issues. Instead, the animals found me.

In August 2004, after three whirlwind years at UCLA, I enrolled at the University of San Diego School of Law. In searching for a niche to get me through law school, I became involved with the Student Animal Legal Defense Fund (SALDF), run by the most dynamic and energetic person I have ever met, Hanna Gibson. During my first year I helped organize meetings, contributed to the newsletter and pitched fund-raisers.

In my second year I became president of SALDF and worked for Professors Julie and Robert Felmeth at the university’s Public Interest Law Center, monitoring the California Veterinary Medical Board for the California Regulatory Law Reporter. During the fall of 2005 I attended the National Animal Law Conference at Lewis & Clark Law School in Portland, Oregon, listening as expert after expert in the field of animal law enlightened me to the reality of what animals were being subjected to by corporations, hoarders, circuses, researchers and hunters. Those few days woke me from my hazy stupor in which animals were raised behind white picket fences, monkeys in commercials really enjoyed wearing clown suits, and every old lady with 3,000 cats was a saint. From that time on I became an animal nut.

Other universities’ emergency-shelter program for the animals of victims of domestic violence inspired me to create a similar project. A survey of animal shelters in San Diego revealed that although many offered emergency sheltering, they limited it to days, whereas stays at many domestic-violence shelter programs lasted months.

Then, during an internship with the San Diego City Attorney’s Office Criminal Division, I was exposed to the need for a counseling program for animal abusers. Under California law, if an individual is convicted of animal abuse or neglect, that individual must participate in counseling. But since there were no animal-abuse counseling programs available, that provision was being ignored, or parties were sent to anger management. With the help of my mother, Dr. Rebecca Dodge, a retired school psychologist, the first-ever animal-abuse counseling program was created.

However, it was a simple handwritten note that would rock my universe. I received that note from Professor Julie Felmeth, who gave me a newspaper article with the headline “Maine Law Allows Inclusion of Pets in Restraining Orders.”

A study of San Diego revealed that many victims of domestic violence had pets, and many attempted to have those pets included on protective orders. Some judges included the animals; others felt that animals, as property, should not be “divided” without a trial. I spoke with domestic-violence-prevention advocates about their struggles in altering the application paperwork to try to include animals on protective orders. Family law judges revealed that, absent any guidance in the law, the issue was left to the judge’s discretion—not to decide whether the animal was in danger but whether an animal could lawfully be included under an order.

Armed with local statistics, I learned about the link between violence against animals and violence against humans. Dr. Frank Ascione, professor of family and human development at Utah State University,
has published studies documenting the frequency of interrelated animal and child and spousal abuse, the penchant for children who had seen or participated in animal abuse to grow up to lives of violent crime, and the necessity of taking animal abuse seriously as indicative of other violence in the home.

Inessa Meyorovich, the first full-time legislative coordinator of United Animal Nation (UAN), put me in contact with Jill Buckley of the American Society for the Prevention of Cruelty to Animals (ASPCA) and Beverlee McGrath of the Humane Society of the United States (HSUS). Beverlee and Jill took me under their wings, liked my issue and best of all showed me the way but let me walk it myself.

As I was beginning to work with Inessa, she was contacted by USD School of Public Policy students Carolyn Smyth, Darla Trapp, Gretchen Pellitier and Renee Scherr, who had chosen the issue of pets and restraining orders for a class on legislation and influencing public policy. We soon discovered we had done the same research and so were all on the same page as to what needed to change. Additionally, the group knew how to put together fact sheets, inform the media and contact legislators.

Beverlee then invited me to a meeting with the staff of California State Senator Sheila Kuehl, a respected domestic-violence-prevention advocate. Two days after my presentation, a member of Senator Kuehl's staff contacted me for more information.

As part of their class, the USD students spent a day in Sacramento lobbying their ideas and finding a sponsor. We had already built a coalition that included the ASPCA, HSUS, UAN and the largest domestic-violence foster-care provider in California, the Los Angeles SPCA. Several legislators decided on the spot that if Senator Kuehl was not interested in sponsoring a bill, they would carry it or sign on as cosponsors. By the end of the day, Senator Kuehl had decided to sponsor the issue, and I volunteered to serve as point person to keep all the interested parties informed.

A month later the bill was assigned number 353. It seemed only a minute later that it was scheduled for a hearing before the Senate Judiciary Committee. Senator Kuehl herself presented a compelling case for the bill and incorporated much of the research I had planned to testify to.

After that hearing, I agonized every time the bill was assigned to a vote and sweated every time it was tabled in favor of a more pressing issue. Finally, the bill passed both houses easily and was signed by the governor in August 2007. I was elated and yet strangely depressed. In my short time as a lobbyist I learned the power of the legislative system and the addictive thrill of creating change so easily (relative to creating change through litigation).

Soon after passing the California Bar, I landed my dream job as Pennsylvania state director for the Humane Society of the United States. Now I spend all day working on ending pigeon shoots, poaching penalties, puppy mills, factory farming, animal fighting and, of course, domestic violence and animal abuse.

Sarah Speed is the Pennsylvania state director for the Humane Society of the United States. She can be reached at speed@hsus.org.
The Alternative to an Uncertain Destination

Asher Mediation
402 West Broadway, Suite 400
San Diego, CA 92101
619-595-3178 p
619-595-3150 f
denise@ashermediation.com
www.ashermediation.com

MCLE Seminar: Credit Damage

Under California law, damage to your credit from personal injury, identity theft, malpractice, etc., is a compensable and measurable damage. Learn to identify and argue these cases.

When  Sat., Sept. 27, 2008, 9:00 – 11:30 a.m.
Where     UCSD Extension,
          6925 Lusk Blvd., San Diego
Cost     $75 (includes breakfast; parking is free)
Credit   2 hours of MCLE credit

Find out how credit damages can be compensated.

Enroll online at extension.ucsd.edu/law or call (858) 882-8000.
Lawyers are increasingly using Internet media to reach out to others in the profession or to the public generally. Many lawyers do so in their spare time by maintaining a Web site or law blog or by posting comments on the blawgs of others, providing content for other lawyers to consume. But there is only so much disposable time in a day for this type of consumption. A typical day has moments—driving, running, possibly eating—when you need to keep your eyes on something other than a screen. At these times, how can you receive your needed up-to-date law-related content?

Welcome to law.mp3, the world of lawyer-generated digital audio content, where those who want to talk about law may find those willing to listen (on their computers, iPods, or cell phones).

Lawyer Podcasts
A podcast is a series of digital audio files distributed over the Internet using syndication feeds. While the term “podcast” evokes Apple’s iPod, it is now a generic term (sometimes called a netcast or webcast, terms that can also refer more generally to any audio or video content broadcast over the Internet). When you subscribe to a podcast—virtually always free—instead of having to locate and download each new file as it is posted, your podcatching software (such as iT unes or Juice) automatically downloads the latest installment to your computer or mp3 player. Podcasts are well suited to delivering breaking news and creating an ongoing relationship between host and audience.

The lawyer podcast is a thriving sector of the legal blogosphere. The leading lawyer podcasters appeared on the scene in early 2005, and many are still at it today, simultaneously podcasting, blogging and practicing law. J. Craig Williams of Newport Beach, cohost of the perennially popular Lawyer2Lawyer with Robert Ambrogi of Rockport, Massachusetts, has more than 160 episodes to his credit, with recent topics ranging from “Mortgage Fraud” and “Polygamy, Religion and the Law” to “Virtual Law Firms.” Williams, a business litigator and author of the recently published How to Get Sued, explains that although the podcast gets him the occasional referral, it’s also a way to live his dream of being a disc jockey. Denise Howell, also of Newport Beach and another icon of legal podcasting, recorded her first shows in 2005 on a cell phone with a record function. An intellectual-property lawyer, Howell is currently the host of the podcast This Week in Law and blogs at Bag and Baggage. “I enjoy letting people eavesdrop on and participate in what I hope are sometimes intelligent conversations about difficult issues,” she says.

Most lawyers who podcast also prac-
“I enjoy letting people eavesdrop on and participate in what I hope are sometimes intelligent conversations about difficult issues.”

Law Schools
The academy is a plentiful source of digital content for lawyers. Many law schools—Yale, Duke and Washington College of Law at American University, to name a few—make guest lectures available on their Web sites or on iTunes. Downloading the lectures is often better than attending in person; you can skip the lengthy, sometimes multiple, introductions without walking into the lecture hall 10 minutes late. Rather than just putting certain lectures online, California Western School of Law ran its own podcast, Law in 10, for the 2006-07 academic year, offering weekly 10-minute segments on topics of national and local interest. David Bowers, California Western’s assistant dean for external affairs, says the target audience was “a college sophomore with a greater than average interest in legal matters” but that, based on feedback, the podcast has reached a much wider audience. The program is planned to resume in the fall 2008 semester.

Some law schools are experimenting with putting entire courses online, available to students and the public alike. Last semester, Boalt Hall offered a podcast—as well as a video webcast—of its Environmental Law course, taught by Professor Holly Doremus, visiting from U.C. Davis School of Law. Doremus explains that she had to be talked into putting her course online; she was concerned that law teaching doesn’t lend itself to being webcast and that students would skip class. She says she is now a convert: Attendance didn’t suffer, and students who did miss class (usually for some legitimate reason) were able to make it up without being disadvantaged. Doremus received e-mails from viewers outside Berkeley—including from Tennessee, Brazil and Grenada—who let her know that they were watching too. She says she is not concerned about giving away her instruction product for free to the public at large. “The University of California pays my salary either way,” she observes.
Neil Wehneman, going into his third year at Indiana University School of Law, ran the podcast *Life of a Law Student*, in which he undertook, from his first day of law school, to turn every course lecture topic into a 20-minute episode. His Web site became a resource for law students, those interested in law school and various others who asked him for advice on law school or personal topics. Wehneman met with each professor at the beginning of the semester to politely explain his podcasting. Most professors were tolerant; some were enthusiastic. In the instances where a professor demurs, Wehneman, who has a keen interest in copyright law, is prepared to explain how his transformative podcasts are a non-commercial “fair use” consistent with the professor’s own rights—concluding that the podcast will go on, with or without permission.

Courts
The Ninth Circuit puts all of its oral arguments online (the *en banc* arguments are a special treat). The Seventh, Eighth and Federal Circuits also have arguments available. Through the Oyez Project, one can subscribe to a podcast of oral arguments before the U.S. Supreme Court or experience them on the Oyez Web site in a format that allows one to listen and simultaneously see the transcript and a picture of the particular justice who is speaking. The California Supreme Court also has placed selected arguments online and used other audio and visual media.

These court broadcasts allow you to follow important developments in your field of practice or newsworthy cases. Alternatively, you can listen to arguments at random, in the grand tradition of “court watching”—learning from listening to what other lawyers do well, or poorly.

Also Worthy of Mention
The ABA Web site offers considerable content, including a monthly CLE Podcast and a monthly Litigation Podcast (the
State Bar of California also offers CLE online, but it is not free).

Another iTunes favorite is Nolocast, the podcast offered by the publishing company Nolo, which aims at making the law intelligible and accessible to laypeople. Nolocast now has more than 75 concise episodes, from bicycle law to prenuptial agreements. Nolocast is frequently hosted by Richard Stim, corporate counsel for Nolo, who is also an author and editor. Stim explains that Nolocast follows some basic ground rules: “Keep it short, always have at least two voices per episode, keep peripheral effects like music to a minimum, frontload as much information you think people want to hear, and then get out of there.” The vast majority of listeners are nonlawyers, and episodes about estate planning or limiting liability through use of a business entity have been among the most popular.

**Do It Yourself**

By now, you should be motivated to create your own digital audio content. Among the required reading is the *Podcast Legal Guide: Rules for the Revolution*, by Colette Vogele and others, with a foreword by Professor Lawrence Lessig. This guide helps navigate the copyright, trademark and right-of-publicity issues associated with podcasting and promotes the Creative Commons model of copyright licensing.

There is widespread agreement on one recommendation for podcasters. J. Craig Williams advises that “technical quality is important; make it as good as you can” and says readers of this article may call him at his law office (949-833-3088) for pointers. Richard Stim also emphasizes technical quality and suggests that a podcaster today would do well to look for a niche, since the field of general-interest legal podcasts is getting crowded. Denise Howell counsels: “Keep your friends close but your audio engineer closer.”

With the technical and legal issues taken care of, all that remains is for you to come up with something to say—or at least some other lawyers to talk with and record—and become the online voice of the San Diego legal community.

Robert Huie is a litigation associate at Latham & Watkins LLP in San Diego.
San Diego Resolution Experts

JAMS has a national reputation, regional focus and local solutions to all your ADR needs, including Mediators, Arbitrators & Special Masters

HON. THOMAS ASHWORTH III (RET.)
LINDA C. FRITZ, ESQ.
HON. J. RICHARD HADEN (RET.)
HON. WILLIAM J. HOWATT, JR. (RET.)

HON. ROBERT E. MAY (RET.)
HON. KEVIN W. MIDLAM (RET.)
HON. THOMAS R. MURPHY (RET.)

HON. WILLIAM C. PATE (RET.)
JOHN M. SEITMAN, ESQ.
HON. HOWARD B. WIENER (RET.)
HON. RAYMOND F. ZVETINA (RET.)

JAMS SAN DIEGO
RESOLUTION CENTER
401 “B” Street
Suite 2100
San Diego, CA 92101

619.236.1848
www.jamsadr.com
200 Full-Time Neutrals
Resolution Centers Nationwide
Silicon Valley is a veritable high-technology haven. It is one thing to pay homage by visiting; it is quite another thing to live here. Technology is everywhere. It permeates the culture. It is right around the corner if not down the street. Driving down Interstate 101, the view reads like a Who’s Who in technology: McAfee, Yahoo, EMC2, Sun, Intel and WebEx clustered within a few blocks. Several miles away are Apple, National Semiconductor, Genentech and Marvell, to name only a few more that call Silicon Valley home. Prestigious law firms such as Wilson Sonsini, Pillsbury Winthrop, Fenwick & West, Cooley Godward, DLA Piper, Howry Simon and O’Melveny & Myers dot the landscape and provide the high-technology counsel to grow emerging companies. Even San Diego’s largest non-governmental employer, Qualcomm, has several sites in Silicon Valley.

It seems everywhere I go, I see and hear technology. At a fast-food restaurant I overhear tech talk not just from people sporting PDAs but also from blue-collar and pink-collar workers. There is a wide recognition that technology is a given and is not exclusive to white-collar professionals. According to Union Bank of California, almost one in every four workers in Silicon Valley has a tech-related job. Talk of acquisitions and start-ups is commonplace even in the midst of national economic malaise.

While San Diego has its clusters of technology—the wireless industry in Sorrento Valley, biotechnology in La Jolla, a wide array of tech companies in North County—Silicon Valley is one large amalgam of high-technology industries: biotech, Internet, computers, networking, software and semiconductor chips. It has experienced a comeback from the dot-com bust earlier in the decade and continues to provide economic opportunities despite recent problems brought about by the subprime fallout. Sarah Lacy’s new book, Once You’re Lucky, Twice You’re Good: The Rebirth of Silicon Valley and the Rise of Web 2.0, describes the area’s rebuilding after the dot-com bust. I would add that this time around, the resurgence of tech includes more than Internet companies; a driving force behind the resurgence are the legendary Silicon Valley venture capitalists.

According to an annual report from the Joint Venture Silicon Valley Network and the Silicon Valley Community Foundation, the region’s venture
capital investment rose 11 percent last year: “If the current trend continues, Silicon Valley will command 30 percent of the nation’s venture funding.” Townsend & Townsend and Crew LLP even sponsor a venture capital breakfast club. In the emerging area of clean technology, Silicon Valley claims “62 percent of all clean-tech venture funding in California, 21 percent of the nation’s.”

The median household income here is about $82,000. For tech workers, the region has the highest-paid tech workers in the country at an average $144,800, according to the American Electronics Association. The downside: The cost of living is 47 percent higher than the rest of the nation, and many residents still lack health insurance. According to a local TV program, *State of Silicon Valley*, 9 percent of residents have no health insurance; however, this compares favorably to the national average of about 16 percent.

Housing prices are holding up relatively well in Santa Clara County but doing even better in Sunnyvale, Mountain View and Los Altos. Rents are rising, and vacancy rates are low and stable due to a resilient technology sector and a relatively low unemployment rate of 5.6 percent (in contrast with the rest of California, which had a 6.8 percent unemployment rate for the month of May).

Residents here are highly educated and diverse. Eighteen percent of adults have graduate or professional degrees; 44 percent have at least a bachelor’s degree. Almost half speak a foreign language in the home. Global issues have particular relevance: Many Silicon Valley companies are lobbying to increase the ceiling on the number of international visas in order to obtain highly talented foreign workers.

Local universities play a key role in attracting highly talented employees. Stanford and the University of Santa Clara are an integral part of the area’s high-technology infrastructure. These two, together with the University of California at Berkeley and the University of California at Santa Cruz, provide a good portion of the engineering talent.

Innovation drives technological development and exports. Consequently, it is important for high-tech companies to secure...
and protect their innovations by securing and enforcing their intellectual property rights (IPR) as they become an increasingly larger portion of a high-technology company’s value. Santa Clara University and Golden Gate University offer advanced law degrees in intellectual property, which is important to an economy that prides itself on innovation, with 47 percent of California patents stemming from Silicon Valley. The region has 11 out of the top 20 cities for patents, including first-ranked San Jose. (San Diego is number 3.)

Further catering to the local digerati, the High Tech Law Institute of Santa Clara University regularly sponsors presentations regarding high technology and the law, which are open to the public.

Silicon Valley is the land of the possible. Chance meetings and discussions have the potential to give vent to dreams of high-tech nirvana, with the incidental result of making a lot of people rich, from the managerial elite on down to the staff that supports and greases the wheels of daily operations. It’s no wonder there’s plenty of jumping from company to company for the ambitious.

People are unimpressed by title, whether a business title such as V.P., a degree such as Ph.D. or the top-tier university one hails from. Because such titles are pervasive, they are not as salient as they are in other places. It is what you are doing that counts. And it is not too rare to find people who have dual residencies: a Silicon Valley apartment close to work and a home in another city, region or even state where one commutes to see one’s family.

It does rain much more in Silicon Valley than in San Diego, especially in the first three months of the year, and while I miss the sun and sand of San Diego, a beautiful beach is not too far away in Santa Cruz and Capitola. For those with more cosmopolitan tastes, there is always “the city,” as locals call San Francisco. And on a sunny Saturday in Sunnyvale, you can always enjoy the local organic fruit market accompanied by folksinging, reminding one of the flower-power era that never really left Silicon Valley.

Albert Harnois is a senior intellectual property attorney at Bridgelux in Silicon Valley who previously was a patent attorney at Qualcomm in San Diego. He can be reached at albertharnois@bridgelux.com.

Technology is everywhere. It permeates the culture. It is right around the corner if not down the street. Driving down Interstate 101, the view reads like a Who’s Who in technology.
Save the Date!
The Committee on Civility, Integrity and Professionalism presents:
The First Annual
Jay Wheeler Civility Seminar
Featuring:
Hon. Cormac Carney and
Professor Erwin Chemerinsky
in the evening on
November 20, 2008

Does your client need another lawyer?
Make an informed client referral
How often do you get a call from a prospective client with a legal need that falls outside your area of practice? Turn to Lawyer Referral and Information Service, the only non-profit legal referral service sponsored by the San Diego County Bar Association. Refer your client somewhere you can trust - have them visit LRIS online at www.sdcba.org/LRIS or call
(619) 231-8585

Thomas E. Sharkey, Esq.
Mediator Arbitrator Discovery Referee Special Master
More than 45 years as an active trial lawyer in state and federal courts in a wide variety of cases
Twenty years experience as a mediator and arbitrator
Expertise in the following areas:
- Aviation
- Business/Commercial
- Complex Litigation
- Construction Defect
- Employment Law
- Insurance/Coverage/Bad Faith
- Intellectual Property
- Personal Injury/Wrongful Death
- Product Liability
- Professional Malpractice
- Real Estate
- Securities/Investment Disputes

San Diego Orange Los Angeles Riverside San Bernardino Imperial
(619) 814-1966
To schedule, contact:
Mark Kaufman
Case Administrator
Judicate West
402 West Broadway, Suite 2000
San Diego, California 92101

Private Dispute Resolution from a Name You Know and a Reputation You Trust
1. A University of San Diego economist compiles a monthly index of economic indicators for the school’s Burnham-Moores Center for Real Estate that has dropped by 1.1 percent in each of the past 26 months.

True □  False □

2. The short sale process, though seemingly easy, can take a significant amount of time and requires that the buyer be cooperative.

True □  False □

3. The FBI has arrested more than 400 people nationwide in connection with fraudulent lending practices, at least six of whom operated in San Diego.

True □  False □

4. The National Council of La Raza has targeted local HOME Clinics as a model they would like to replicate in other areas of the country.

True □  False □

5. The Housing Opportunities Collaborative has designed clinics to help homeowners navigate means to pursue civil remedies against scam artists being charged with fraudulent lending practices.

True □  False □

6. One of the goals of the City/County Reinvestment Task Force is to identify areas where blight has occurred because foreclosed homes have been abandoned.

True □  False □

7. The Federal Deposit Insurance Corporation reports that the annual number of foreclosures in the United States nearly doubled between 2005 and 2007 to 1.5 million.

True □  False □

8. According to DataQuick Information Systems in La Jolla, California was behind only Nevada and Florida in the number of foreclosures during the first half of 2008.

True □  False □

9. Balloon payments on adjustable-rate mortgages issued during the “loans gone wild” period of activity in late 2005 and 2006 have forced many people into foreclosure.

True □  False □

10. Having HOME Clinics is not unique to San Diego, as the U.S. Department of Housing and Urban Development has instituted similar clinics in various areas nationwide that are experiencing market volatility.

True □  False □

11. The public has the general impression that the foreclosure crisis is due almost entirely to the consequences of subprime loans.

True □  False □

12. The City/County Reinvestment Task Force is working to establish a land bank, which would be used to loan money to qualifying homeowners facing foreclosure.

True □  False □

13. According to some experts, the main factor behind the recent surge in foreclosures remains the decline in home values.

True □  False □

14. The HOME Clinics sponsored by the Housing Opportunities Collaborative began in June 2007 to provide advice and assistance to homeowners finding it difficult to make their monthly mortgage payments.

True □  False □

15. During the first half of 2008, one out of every 372 homes in San Diego County was involved in some form of a foreclosure action.

True □  False □

16. Among the goals of attorneys volunteering to participate in HOME clinics is to help homeowners understand how eviction can affect their credit, what the foreclosure process entails, what the timeline is for a foreclosure process and how a foreclosure can affect one’s ability to rent another home.

True □  False □

17. Some economic forecasts predict that there will be more than 3 million foreclosures nationwide in 2008.

True □  False □

18. According to La Jolla–based DataQuick, home values were down an average of 22.8 percent at the end of May compared to the same time last year.

True □  False □

19. Filing for bankruptcy can postpone or slow down the foreclosure process, but it doesn’t necessarily stop the process.

True □  False □

20. It is believed that San Diego’s economic slump will begin to recover during the first quarter of 2009 and that housing prices will then stabilize.

True □  False □

HOW TO RECEIVE 1 HOUR OF MCLE CREDIT

Answer the test questions on this page. Each question has only one answer. Mail the page and the completed form below to San Diego County Bar Association, 1333 Seventh Avenue, San Diego, California 92101. Include a check for $20, made payable to the San Diego County Bar Association, to cover the processing fee.

NAME __________________________

LAW FIRM/ORGANIZATION ________________

ADDRESS ________________________________

CITY, STATE, ZIP ________________________

TELEPHONE ____________________________  STATE BAR # __________________

E-MAIL ________________________________

TESTS MUST BE SUBMITTED WITHIN THIS ISSUE’S CURRENT 60-DAY PUBLICATION DATE TO RECEIVE A CERTIFICATE OF COMPLETION AND A COPY OF THE QUESTIONS AND ANSWERS.

CERTIFICATION • The San Diego County Bar Association is a State Bar of California approved MCLE provider. • The San Diego County Bar Association certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.
Judicate West is Proud to Feature Many of San Diego’s Most Respected and Talented Neutrals


FOR MORE INFORMATION ON THESE NEUTRALS, PLEASE CALL (619) 814-1966 OR VISIT OUR WEBSITE AT WWW.JUDICATEWEST.ORG

ADDITIONAL TALENTED AND RESPECTED SAN DIEGO NEUTRALS AVAILABLE AT JUDICATE WEST INCLUDE....

James E. Chodzko, Esq.
Ronald F. Frazier, Esq.
Thomas E. Gniatkowski, Esq.
Hon. Arthur W. Jones, Ret.
Hon. Gerald Lewis, Ret.
Hon. David Moon, Ret.
Hon. Alice D. Sullivan, Ret.
Maureen Summers, Esq.

JUDICATE WEST
Alternative Dispute Resolution
Results Beyond Dispute™

FOR MORE INFORMATION ON THESE NEUTRALS, PLEASE CALL (619) 814-1966 OR VISIT OUR WEBSITE AT WWW.JUDICATEWEST.ORG

DOWNTOWN LOS ANGELES • LONG BEACH • SAN DIEGO • SANTA ANA • WEST LOS ANGELES

REAL PROPERTY DISPUTE RESOLUTION SERVICE

CAN’T FIND REAL PROPERTY EXPERTISE FOR A.D.R.? NOW YOU CAN!
USE A PRACTICING, AV-RATED (FOR 30 YEARS), SAN DIEGO REAL PROPERTY LAW SPECIALIST TO ASSIST IN THE RESOLUTION OF YOUR CLIENTS’ REAL PROPERTY DISAGREEMENTS.

GARY STEPHENSON
For inquiries:
525 B STREET, SUITE 1500
SAN DIEGO, CA 92101
gary@garystephensonlaw.com
www.garystephensonlaw.com
gary@rpadr.com
www.rpadr.com
(619) 235-6389 (O)
(619) 858-4719 (F)
(619) 972-7000 (C)

FLEXIBLE DAYS
(including weekends)

FLEXIBLE HOURS
(including evenings)

REGULAR HOURLY RATES

SPECIALIZING FOR 36 YEARS IN REAL PROPERTY LAW ONLY

PANELIST IN 32+ C.E.B. REAL PROPERTY LAW PROGRAMS

DECPTITUDE IN PHOTO MAY BE GREATER THAN IN ORIGINAL
WE SERVE ANYTHING, ANYWHERE
STATEWIDE · NATIONWIDE · WORLDWIDE
1-800 PROCESS
1 800 process.com
"If we don't serve it, you don't pay"®
U.S.A. Only

SERVING A SINGLE PIECE OF PROCESS EVERY 2.2 MINUTES OF EVERY DAY, 365 DAYS A YEAR.

- A DIVISION OF GUARANTEED SUBPOENA SERVICE -
est. 1965

ANY STATE · ANY NATION · ANYWHERE.
- ANY STATE · ANY NATION · ANYWHERE · ANY STATE · ANY NATION · ANYWHERE
Brinig & Company
INCORPORATED

VALUATION AND FINANCIAL CONSULTANTS

25 YEARS

1983 - 2008
Celebrating 25 years of excellence.

WE HAVE MOVED:
401 B Street, Suite 2150, San Diego, California 92101-4201

Brinig & Company is a team of dedicated professionals with experience in financial and economic analysis, damages analysis, forensic accounting, business valuation and related disciplines.
The San Diego County Bar Association’s Community Service Committee teamed up with HUD and the Housing Opportunities Collaborative to provide volunteer attorney support at the Home Owners Mobile Education Clinic, which took place July 13 in conjunction with the National Council of La Raza annual conference at the San Diego Convention Center. The HOME Clinics provide distressed homeowners with a variety of counseling resources and services.
The San Diego County Bar Association presented “Risky Business: Navigating the Latest Ethical Rules,” a unique seminar on risk management, on June 26. Attendees heard several hypothetical scenarios at risk for malpractice and participated in discussions with panelists Judge William McCurine, Judge Robert Trentacosta and attorneys Bob Gerber, Ellen Peck, Laura Miller, Merrianne Dean and Steve Vosseller. The program also included “Error and Omissions Insurance 101” from Brian Ahern, and a review of “Five Ethical Pitfalls for New Lawyers — or Any Lawyer” by Judge Trentacosta.

Leaders of the San Diego County Bar Association’s various sections and committees got together for an evening of collegiality and networking at the SDCBA’s annual Section and Committee Mixer.
WHO IS THIS PROMINENT MEMBER OF SAN DIEGO’S LEGAL COMMUNITY?

Please submit answers by October 1 to mkruming@aol.com. Your name will be entered to win a luncheon for two at Dobson’s Bar & Restaurant in downtown San Diego. Congratulations to Karen Heffron of Greenman, Lacy, Klein, O’Harra & Heffron, who won the July drawing by correctly identifying Vista attorney James Hennenhoefer, president of the American Academy of Matrimonial Lawyers. Thanks to everyone who participated.

SUSTAINING MEMBERS

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

PATRON MEMBERS
Marc D. Adelman
Robert Caplan
Ezekiel E. Cortez
John G. Davies
Shawn Anthony Doan
William O. Dougherty
James P. Frantz
Louis E. Goebel
Charles F. Gorder Sr.
Stephen M. Hogan
A. Jason Kerckhoff
Genaro Lara
Harold O. McNeil
Gerald S. Mulder
William E. Nelson
David Baxter Norris
James Ellis Schneider
W. Davis Smith
Kenneth H. Stone
Thomas J. Warwick Jr.

BENEFACTOR MEMBERS
Doc Anthony Anderson III
Jedd E. Bogage
Jill L. Burkhardt
Vatche Chorbajian
Gordon D. Cruse
Teresa E. Dietz
William E. Ferguson
Douglas A. Glass
Alvin M. Gomez
Randy M. Grossman
Monty A. McIntyre
Robert M. Miller
Paul H. Neuharth Jr.
Ronald W. Noya
J. Michael Reed
John R. Sorensen
William L. Todd

EXPERT APPEAL.

More than 25 years’ appellate experience in areas such as contract disputes, insurance and indemnity issues, wrongful termination, bankruptcy, intellectual property, personal injury, constitutional rights, and family law. Duke University School of Law. Former president of the San Diego County Bar Association and of California Women Lawyers.

(619) 233-4100 | www.shlaw.com

SAN DIEGO LAWYER September/October 2008
Ever wonder where San Diego’s finest Attorneys refer their complex elder abuse cases?

BERMAN & RIEDEL, LLP
ATTORNEYS AT LAW

In 2007, Berman & Riedel, LLP, teamed up with some of San Diego’s finest attorneys to achieve remarkable results in handling several complex elder abuse/neglect cases:

2007 Attorney Referred Elder Abuse/Neglect Case Results:
- $1,125,000.00 – Long Term Care Facility Mismanagement Resulting in Patient Deaths
- $500,000.00 – Reckless Neglect Resulting in Multiple Falls/Broken Hip/Wrongful Death
- $400,000.00 – Severe Neglect Resulting in Dehydration/Malnutrition/Infection/Wrongful Death
- $379,100.00 – Reckless Neglect Resulting in Formation of Contractures/Decubitus Ulcers
- $225,000.00 – Fracture Injury Resulting from SNF’s Failure to Properly Care Plan Resident
- $200,000.00 – Failure to Supervise Developmentally Disabled Resident/Sexual Abuse

Other Notable Elder Abuse/Neglect Cases Resolved in 2007:
- $1,706,000.00 – Severe Neglect Resulting in Decubitus Ulcers (Pressure Sores)/Below-the-Knee Amputation/Wrongful Death
- $700,000.00 – Reckless Failure of SNF to Monitor Patient’s Post-Op Infection/Wrongful Death
- $600,000.00 – Failure to Provide SNF Resident with Prescribed Medications/Wrongful Death
- $225,000.00 – Broken Hip Resulting from SNF’s Failure to Properly Care Plan Resident
- $201,250.00 – Failure of RCFE to Report Dehydration/Malnutrition/Infection Bed Sores

Berman & Riedel, LLP, handles wrongful death and serious personal injury cases against Skilled Nursing Facilities, Residential Care Facilities for the Elderly, Assisted Living Facilities and In-Home Geriatric Care Providers, all throughout the State of California.

Also accepting referrals in the areas of serious personal injury, wrongful death, construction site accidents, automobile/motorcycle accidents, product liability, burn cases and slip-and-fall accidents.

Please call for a free consultation
(858) 350-8855
www.preventelderabuse.com

All Referral Fees paid consistent with California Rule of Professional Conduct 2-200
The Squeal Appeal

By the 1870s California’s District Courts, established by the 1849 State Constitution, were congested. The 1878-79 Constitutional Convention replaced the District Courts with the Superior Court. It also eliminated the Court of Sessions and other county courts, establishing the Justice Court as the local courts for various townships. The El Cajon Justice Court was among the 19 or so Justice Courts established in San Diego County. In 1879 Justice of the Peace W.S. Clendenin presided.

Typical of the cases heard is one in which Marietta Gregory sued Robert Allison for the theft of 10 of her pigs. This case set the precedent for appellate practice from judgments taken in civil cases in Justice Courts.

On July 19, 1879, Allison drove away five sows, four piglets and one barrow from the Gregory farm in El Cajon Township. Gregory, husband and daughter set out for San Diego and traveled all night to obtain the assistance of attorney W. Jeff Gatewood and Constable H. Cook in the return of her pigs. By the time they were all able to get to the Allison farm, about 35 miles from San Diego, the pig brands had all been changed. Gregory was able to identify three sows and one piglet. These four were kept at the Smith Campbell farm until she could take them back to her farm. Smith Campbell charged her $25 to care for the pigs.

Gregory took her case to the El Cajon Justice Court and sued Allison for the value of the pigs ($80); attorney fees ($25); cost of travel to San Diego ($25); and other expenses incurred in recovering her pigs. In her complaint she alleged that for “wrongs and injuries, herein complained of: with the trouble and anxieties, attending, thereonto the plaintiff has sustained damages in the sum of Two Hundred and fifty dollars. Wherefore the Plaintiff demands Judgment against defendant for the sum of Two Hundred and ninety-nine dollars.”

Allison claimed that the pigs in question were under the control and management of Allison & Brothers hog business and that he did not own or possess any pigs before or after the pigs were claimed to have been taken from Gregory.

The trial was held November 26, 1879, in the El Cajon Justice Court. The jury was not persuaded by Allison’s defense and found for the plaintiff in the sum of $50. Justice Clendenin awarded Gregory costs of $101 for a total recovery of $151. Allison appealed to the Superior Court.

Hon. W.T. McNealy, Judge of the Superior Court, dismissed the appeal on Gregory’s motion. The January 9, 1880, San Diego Union noted: “This establishes an important point of practice in the matter of appeals from Justice Courts to Superior Courts, and as it is the first direct decision on the point in the state, under the new system, it is well to make note of it, to wit: In appealing from the judgment of a Justice in civil cases, the notice of appeal must be first filed with the Justice and then served on the adverse party.”

This precedent established the procedure for appeal not only from Justice Courts but also Municipal Courts until Court Unification created a single trial court system in California.

William Howatt Jr. is a retired judge of Family Law Court.
David B. Moon, Jr.
Judge of the Superior Court, Retired

PRIVATE DISPUTE RESOLUTION

Mediation – Arbitration – Settlement Conferences
Discovery and Special Master References

General and Complex Civil Litigation including:
Probate • Trusts and Wills • Real Estate • Eminent Domain • Personal Injury
Professional Malpractice • Contracts • Construction Defect • Commercial Disputes
General Business • Insurance/Coverage • Employment Law

• Superior Court Judge 23 years
  – Independent Civil Calendar 5 years
  – Probate Judge 5 years
• Instructor, Civil Mediation, National Judicial College
• Private Dispute Resolution since 2001

www.judgedavidmoon.com • Email: dbm@judgedavidmoon.com
Available throughout San Diego and Orange Counties

P. O. Box 972
RANCHO SANTA FE
CALIFORNIA 92067
(858) 759-6119
FAX: (858) 759-6127

James H. Mayer, Esq.

MEDIATION SERVICES

AREAS OF EXPERTISE
• General Commercial and Business
• Real Estate
• Corporate and Securities
• Employment
• Personal Injury
• Construction
• Environmental

EXPERIENCE
• 13 years as a Mediator
• 40 years as an Attorney
• Retired Partner, Pillsbury Madison & Sutro LLP
• Formerly with Bates Edwards/Endispute Mediation
• Serves on San Diego Superior Court and NASD Mediation Panels

Honors Graduate of Dartmouth College and
Harvard Law School
Rear Admiral, USNR (retired)

7924 Ivanhoe Ave.
Suite 3
La Jolla, CA
858-551-5525
858-551-5554

Solutions. Savings. Satisfaction.
ADVERTISERS’ INDEX

ADR Services 11
Ahern Insurance 5
Andrew Albert Dispute Resolution 13
Asher Mediation 39
Barker, Koumas & Olmsted 38
Berman & Riedel, LLP 57
Bond Services of California 43
Bring & Co. 53
Bucher Real Estate, John 64
Carr, David Cameron 44
CastleLyons 29
Cortes, Geary, Hon. 43
Ernst Financial Services 61
Eyewitness Expert Testimony 61
Field and Test Engineering 12
First Pacific Bank 44
Forensic Expert Witness 12
Forensis Group, Inc. 3
Fragomen, Del Rey, Bernsen & Loewy 17
Gold Card Jurist 25
Guaranteed Subpoena 52
Higgs, Craig 33, 35
JAMS 45
Judicate West 51
King Stahlman 19
Kruis Mediation 2
Lawyer Referral Information Services 49
LexisNexis 15
Lit Econ LLP 59
Mayer, James 59
Moon, David B., Hon 59
The San Diego County Bar Foundation 63
Sharkey, Thomas 49
Stephenson Law Office 51
Sullivan Hill Lewin Rez & Engle 56
Thomson West 9
UCSD Extension 39
Union Bank 21
Weid, Colin 7
EYEWITNESS EXPERT TESTIMONY: 39 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. 619-291-4808, Fax 619-291-4426; e-mail: macspeidenphd@nethere.com

THE PERENNIAL PROBATE PROBLEM—SOLVED:
Your client is in probate, inheriting or administering real estate but short on reserves to settle estate debts and cover costs. Typical mortgage lenders require that the probate be fully closed first. This creates a classic “Catch 22” situation that can tie up a probate indefinitely. With over 28 years of specialized mortgage banking experience, we routinely fund mortgage requests (even while in probate) that lenders typically refuse to consider. At Ernst Financial Services, my personal goal is to help you expedite the closure of your client’s probate with the best rates and services in the mortgage industry. 760-634-6800 www.ErnstFinancialServices.com

FOR ADVERTISING INFORMATION, CONTACT 619-231-0781
Superior Court Judge William Howatt (retired) is pictured here in front of San Diego’s first courthouse, located in Old Town. A “Legal Roots” fund-raiser on October 10 at the San Diego Air and Space Museum in Balboa Park benefits the Law Library Justice Foundation and the First San Diego Courthouse Museum. For more information, visit www.legalroots.com. Barry Carlton is a deputy attorney general and can be reached at barry.carlton@doj.ca.gov.
The San Diego County Bar Foundation is the charitable arm of the San Diego County legal community, and in partnership with the San Diego County Bar Association, strives to provide access to justice by investing in sustainable results and advocacy for people and communities in our region that are impacted by poverty, abuse and discrimination.

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

**Business and corporate sponsorships begin at........$1,500**  
**Individual sponsorships.......................... $1,000**  
**Host tickets ............................................. $ 200**  
**General tickets ......................................... $ 150**  
**Public interest lawyers, judiciary and YNLD tickets .... $ 100**  
**Proceeds benefit the San Diego County Bar Foundation**

For information and reservations,  
call the SDCBF at 619.231.7015  
or bwagner@sdcbf.org

This list reflects contributions as of July 25, 2008.

---

Since its inception, the San Diego County Bar Foundation has granted over $1.7 million throughout the County. The legal aid and public interest organizations supported by the SDCBF include:

- The Access Center of San Diego  
- Access, Inc.  
- Becky's House  
- Casa Cornelia Law Center  
- Casa de Amparo  
- Catholic Charities  
- Center for Community Solutions  
- Children at Risk  
- Children’s Advocacy Institute at the Univ. of S.D.  
- The Community Resource Center  
- The Crime Victims Fund  
- Elder Law and Advocacy  
- Hannah’s House  
- Home of Guiding Hands  
- Homeless Court  
- International Rescue Committee  
- Kids Included Together  
- Kids Turn San Diego  
- La Cuna, Inc.  
- Labor Training and Community Dev. Alliance  
- Las Villancas  
- Legal Aid Society of San Diego  
- Parkinson’s Association of San Diego County  
- Peninsula Family YMCA  
- Saint Clare’s Home  
- San Diego Advocates for Social Justice  
- San Diego Coastkeeper  
- San Diego Family Justice Center  
- San Diego Grantmakers Working Group on Prisoner Reintegration  
- San Diego Justice Foundation  
- San Diego Superior Court  
- San Diego Teen Court, Inc.  
- San Diego Volunteer Lawyer Program  
- Second Chance  
- Southwest Center for Asian Pacific American Law  
- Voices for Children  
- Volunteers in Parole of San Diego County  
- Women’s Resource Fair  
- YMCA of San Diego County  
- YWCA of San Diego County

---

Hosted bar courtesy of  
Cooley  
Goddard Kronish LLP

Champagne toast courtesy of  
Mintz Levin  
Mintz Levin Cohen Fibish Geogro and Popo PC

Valet parking courtesy of  
City National Bank  
The way up.
LAWSYERS REPRESENTING LAWYERS.
RAISING THE BAR IN LEASE NEGOTIATIONS FOR OVER 20 YEARS.

La Bella & McNamara, LLP • Hecht, Solberg, Goldberg & Bagley, LLP • Wright & L’Estrange
Sullivan, Hill, Lewin, Rez & Engel • Winger & Brubaker, LLP • Brubaker & Goodwin, LLP • Levine, Steinberg,
Miller & Huver • Neil, Dymott, Frank, Harr & Mc fall, APLC • Andersen, Mann & Hilbert, LLP
Stephenson, Worley, Garratt, Schwartz, Garfield & Krause, Kalfayan, Benink & Slavens, LLP
White & Oliver, APC • San Diego County Bar Association • Ehrman, White & McAuliffe, LLP
Greco & Traficante • Copeland & Tierman • Balestreri, Pendleton & Potocki • Law Offices of Virginia C. Nelson
McKenna & Cuneo • Gentes & Garcia • Cleary & Sevilla, LLP • Law Offices of Peter J. Hughes, APC
Cleary & Sevilla, LLP • Law Offices of Peter J. Hughes, APC • Lasry, Laube, Byer & Valdez, LLP
La Bella & McNamara, LLP • Hecht, Solberg, Goldberg & Bagley, LLP • Wright & L’Estrange
Sullivan, Hill, Lewin, Rez & Engel • Winger & Brubaker, LLP • Brubaker & Goodwin, LLP • Levine, Steinberg,
Miller & Huver • Neil, Dymott, Frank, Harr & Mc Fall, APLC • Andersen, Mann & Hilbert, LLP
Stephenson, Worley, Garratt, Schwartz, Garfield & Krause, Kalfayan, Benink & Slavens, LLP
White & Oliver, APC • San Diego County Bar Association • Ehrman, White & McAuliffe, LLP
Greco & Traficante • Copeland & Tierman • Balestreri, Pendleton & Potocki • Law Offices of Virginia C. Nelson
McKenna & Cuneo • Gentes & Garcia • Cleary & Sevilla, LLP • Law Offices of Peter J. Hughes, APC
La Bella & McNamara, LLP • Hecht, Solberg, Goldberg & Bagley, LLP • Wright & L’Estrange
Sullivan, Hill, Lewin, Rez & Engel • Winger & Brubaker, LLP • Brubaker & Goodwin, LLP • Levine, Steinberg,
Miller & Huver • Neil, Dymott, Frank, Harr & Mc Fall, APLC • Andersen, Mann & Hilbert, LLP
Stephenson, Worley, Garratt, Schwartz, Garfield & Krause, Kalfayan, Benink & Slavens, LLP
White & Oliver, APC • San Diego County Bar Association • Ehrman, White & McAuliffe, LLP
Greco & Traficante • Copeland & Tierman • Balestreri, Pendleton & Potocki • Law Offices of Virginia C. Nelson
McKenna & Cuneo • Gentes & Garcia • Cleary & Sevilla, LLP • Law Offices of Peter J. Hughes, APC

JOHN BUCHER
REAL ESTATE COMPANY

1010 2nd Ave., Suite 1830, San Diego
619.235.9940 www.johnbucher.com

Tenant Representation for the Legal Profession.