Growing Caseloads Strain San Diego Courts

INSIDE: Friends and colleagues reflect on the death of County Bar Executive Director Sheree Swetin
Resolution pivots on the skills of the mediator, who must know the law, understand human nature, and be able to visualize original solutions to complex situations. Most of all, a mediator must be confidently and gently persistent.

Steve Kruis – all of the above.
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FEATURES

20 A View From the Top
SDL interviews Brigadier General David Brahms.
By Vic Bianchini

24 Lawyers for Literacy: Chapter Four of “The Chase”
By Robert Lynn

28 Bottled Poetry: A Few Lessons on Wine
Life is too short to drink anything but good wine.
By Miles Grant

38 Redesigning the Stained Glass Ceiling: Jane Via and the Rights of Women in the Church
A woman priest seeks a stronger voice for women in the Catholic Church.
By Alice Solovay

40 Judicial Haircuts: The Last of the Old School Barbers
Three San Diego barbers still practice with old-fashioned values.
By Pieter O’Leary

42 Legal Beagles (and Other Pets)
Lawyers and their animal companions turn out for our Second Annual Pet Photo.

43 A Night of LAFs at the House of Blues
We take a look at the comedic lawyers behind LAF-Off.
By Richard Stevenson

On the Cover
Photo by Ramona d’Viola. Photo illustration by Jessica Hedberg.

DEPARTMENTS

6 Perspective
U.S. attorneys should not be subjected to “team spirit” criteria.
By William Braniff

8 President’s Page
The president remembers a dear friend.
By Jill Burkhardt

10 Special: A Tribute to Sheree Swetin

14 Book of Business
Never before has there been such a migration of lawyers.
By Patti Lane

16 Letters to the Editor

18 World View
Washington, D.C. is a great place for lawyers – even those on a visit.
By Roy Bell and Steve Smith

52 Sustaining Members

54 Photo Gallery

58 MCLE Questions

60 Advertisers’ Index

61 Directory of Experts and Consultants

62 Rewind
The only constant in life is change.
By George W. Brewster Jr.

FEATURE DEPARTMENTS

26 Profile: Oceanside Law
Historic yet evolving, Oceanside remains a great place to practice.
By Dean A. Schiffman

32 MCLE: Coming to Order: Strained Courthouses and the Funding Maze
Modernizing the courts is in a state of suspended animation. Note: Questions for MCLE can be found on page 50.
By Emily Grant

48 Ethics: Platonic Ideals, Socratic Dialogues and the Duty of Confidentiality
Assume everything when it comes to confidentiality.
By Luis E. Ventura
The San Diego County Bar Association (SDCBA) is pleased to announce that it has expanded its endorsement of Ahern Insurance Brokerage (AIB). AIB and the SDCBA have enjoyed a working relationship that began in 2004, when the agency became the Endorsed Insurance Broker for Professional Liability Insurance coverage. In an effort to continue providing SDCBA members with quality insurance products that are competitively priced, AIB is now offering additional lines of insurance coverage. SDCBA members have exclusive rights to purchase many of these products at discounted rates, enhanced benefit levels, and with simplified underwriting requirements.

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One of the issues raised by the recent controversy over the firing of the eight U.S. attorneys is the scope of the president’s power to remove those U.S. attorneys without cause. It is clear that the law granting the president the right to appoint U.S. attorneys also gives him the unfettered right to remove them. Section 541, of Title 28, U.S. Code, provides the following:

1. The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for each judicial district.
2. Each United States attorney shall be appointed for a term of four years. On the expiration of his term, a United States attorney shall continue to perform the duties of his office until his successor is appointed and qualifies.
3. Each United States attorney is subject to removal by the President.

This right to remove may be subject to other laws prohibiting discrimination, acting with an intent to obstruct justice, or retaliating against a prosecutor for protected activity, but the right itself is otherwise limited to specific acceptable reasons for its exercise. This plenary power of removal is also not based solely on the wording of the statute. The Supreme Court has recognized that the U.S. Constitution gives the president the right to remove purely executive officials from their offices regardless of the limitations contained in statutes.1 Nevertheless, the Supreme Court has recognized that Congress can restrict the president’s power to remove officials who perform roles that are not purely executive in nature.2 It appears clear, however, that U.S. attorneys are “purely executive officials.” The duty to prosecute is assigned by the Constitution to the president, which directs him to “take care that the laws be faithfully executed.”3 It does not follow that the president’s power to remove U.S. attorneys without cause means that the power can be exercised without any concern for conception. Past practices create expectations, and those expectations create norms. Generally speaking, the practice in the past was to permit U.S. attorneys who were satisfactorily performing their duties to continue in office until there was a change in administration. Furthermore, performance was judged based on relatively objective standards and not the sort of “team spirit” criteria that were used in the recent firings. It is also significant that Congress did limit the power to remove U.S. attorneys to the president. This would suggest a high-level judgment on performance, where the institutional inertia would be against removal. It certainly does not suggest the type of low-level subjective assessments that appears to have driven the recent firings.

William Braniff was U.S. attorney for the Southern District of California from September 1988 until April 1993. He is now a criminal defense lawyer in San Diego.

1 Myers v. United States, 272 U.S. 52, 176 (1926) (statute requiring Senate approval to remove postmaster unconstitutional).
2 Humphrey’s Executor v. United States, 295 U.S. 602 (1935) (Federal Trade Commissioner could not be removed during appointed term except for reasons set forth in statute because commissioner’s duties were quasi-legislative and quasi-judicial).

PERSPECTIVE BY WILLIAM BRANIFF

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On Friday, May 11, I had the honor of presenting Lawyers Club’s Community Service Award to the fabulous Sheree Swetin. Faced with this privilege and responsibility, I was thrilled, but anxious. Frankly, I didn’t know if I could do it without breaking down. Because I love and admire Sheree so much, and because I knew she had only a few weeks to live.

Sheree has been SDCBA’s executive director for six years and I have worked closely with her for much of that time. I have come to admire Sheree greatly as a professional and to love her deeply as a friend. For those of you who did not have the good fortune to know Sheree well, I would like to tell you little about her.

In 2001, the SDCBA lured Sheree away from her position as staff director and professional liability coordinator with the ABA. This was no small feat, as Sheree had been with the ABA since 1984 and seemed impervious to the misery of Chicago winters. Working at the ABA, Sheree had become familiar with the best practices of bar associations all over the country.

Sheree was an amazing gift that fell into the lap of the SDCBA. She moved the bar forward faster than anyone could have imagined. When Sheree joined the bar, she tackled head-on the most challenging issues facing bar organizations. Sheree was all about a vision for the future, fiscal responsibility and “best practices.”

Here was the result: Whenever I have attended conferences with other bar leaders, and speakers describe the ideal practices in a particular area, the heads of the other bar leaders begin to spin. Not mine. In each case, the speaker is essentially describing the SDCBA. On some occasions, bar leaders have clambered around me afterward to ask me how we do it. We are the envy of bar associations all over the country—thanks largely to Sheree.

Sheree’s devotion to the bar was surpassed only by her love for her family. Sheree married her friend, love and long time mentor, Peter Bonavich, almost 15 years ago. At the time, Sheree’s now-adult daughter, Jessica, was 10 years old. Sheree and Peter also have a nine-year-old daughter, Sarah.

To understand Sheree as a wife and mom, you really have to have seen Sheree in action. She was a 4’11” tower of power. Smart, strong, decisive (some might say bossy) – Sheree was not one to mince words. She loved her family fiercely and nothing was more important to her. And Sheree strongly believed that she was a better wife and mom for having a career she also loved passionately.

In April 2006, Sheree was diagnosed with incurable cancer. By the time it was discovered, it had already metastasized to other organs. Sheree fought the cancer fiercely for more than a year.

Sheree was too young to die. She had too many friends; she had too much good work left to do; she was too beloved by her family to die. And yet, on June 3, 2007, Sheree was taken from us.

And those of us who knew and loved her will cherish every moment we had with her.

My Dear Friend, Sheree Swetin
Hi!

Until I looked at Miller & Starr, I didn’t know how big California real estate law was. We were only fooling ourselves to think we knew it all. That’s why I want you to take a look. Call my West Rep at 1-800-762-5272; she’ll bring it over.

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Sheree Swetin came into my life as a bar executive. She soon became a mentor, advisor, confidant, moral compass and sometimes co-conspirator, but most of all she was my friend. I, as all who knew her, will treasure her all too brief time with us. She did everything for us and we will always cherish her loving help. Though small in stature, her legacy will be great. All of us are better people for having had the honor of her example and guidance.

Thomas J. Warwick, Jr.
2004 President, San Diego County Bar Association

Sheree Swetin had boundless enthusiasm and energy, no matter the task she took in hand. No one who knew Sheree is soon to forget the candor of her speech, her tenacity and the warm and glowing brightness of her friendship. Sheree never refused to take on a difficult task if it needed to be done and it was the right thing to do. What she preached, she practiced. What she believed, she believed with her heart and soul. Sheree fought hard for every cause in which she was enlisted and the causes for which she fought were good and right. The example Sheree set will long continue to influence and inspire us.

Superior Court Judge Aaron Katz
2001 President, San Diego County Bar Association

Sheree was a Bar President’s dream. She told you where to be, what to worry about and what to ignore. Her judgment was impeccable and her vision clairvoyant. Sheree was a great leader, a devoted mother and wife and a loyal friend. She will be sorely missed and never forgotten.

Andrew S. Albert
Albert Mediation at Judicate West
2006 President, San Diego County Bar Association

Sheree was one of my best friends, mentor and Jewish mother. She was full of wise advice (whether or not you wanted it), was steadfastly loyal and supportive, and always made the time to get together to enjoy each other. To say I miss her is the understatement of the decade.

Briana Wagner
Executive Director
San Diego County Bar Foundation
I am so saddened when I think about how we all have lost our best friend, but when I think about Sheree I can’t help smiling. Her guidance, humor, support and trust gave me the best year of my career and adult life. Thank you, Sheree.

Wells Lyman
2005 President, San Diego County Bar Association

Sheree Swetin was a colleague, friend and source of inspiration for myself and others with whom she worked at the American Bar Association. She gave honest and straightforward advice, with just the right touch of diplomacy: I think they invented the term “speaking truth to power” to describe her. She brought courage, insight and humor to everything she did, including her final battle. She will long remain in the hearts of all who were privileged to be her friends.

Terry Brooks
Director of the Division for Legal Services
American Bar Association

Sheree Swetin had a wonderful passion for the future of the legal profession. She continued and expanded the commitment of the SDCBA to welcome law students as the newest members of the profession and to promote high quality legal education. She helped make San Diego among the best places in America to study law. One of her legacies is the hundreds of new lawyers who see the profession, and the bar association, as welcoming and ethical. We will miss Sheree’s commitment to these ideals.

Steven Smith
Dean, California Western School of Law

A strong and dynamic local bar association is a vital resource to a community that is home to three ABA law schools. Sheree Swetin will be remembered for her many significant contributions to the SDCBA and for the high standard of community service to the legal profession that she exemplified.

Rudy Hasl
Dean and President
Thomas Jefferson School of Law

With Sheree’s death, NABE has lost a wonderful friend and executive director. Sheree participated regularly in the planning of NABE’s Chief Staff Executive Retreat. Members counted on her listening ear and solid advice.

Allan Head
President, National Association of Bar Executives
A longtime ACLU member and local board member since 2003, Sheree volunteered countless hours improving the local affiliate’s administrative functions. Through her tireless work, she raised the bar for ACLU board service and was instrumental in getting us to adopt our first-ever strategic plan. We cannot measure how deeply her loss affects us.

Rebecca P. Jones
Board President, ACLU of San Diego and Imperial Counties

I first met Sheree the week she arrived on the job as our new ED for SDCBA. She wanted to pick my brain, get my views on SDCBA, local politics, support for Legal Aid, etc. I was so impressed with her energy, experience, professionalism and enthusiasm that I knew immediately the SDCBA had picked the right person for the job. I will miss her and what she meant to Legal Aid and the SDCBA very much.”

Gregory Knoll
Executive Director/Chief Counsel, Legal Aid Society of San Diego Inc.

I still wonder how Sheree and I, two Chicago gals, ended up in Southern California. What wasn’t a mystery, though, was the fact that Sheree was a huge influence on my decision to let go of the familiar and venture into uncharted territory. She was there to calm my nerves, guide me through anxious moments and make sure that I always had a reason to laugh. Our discussions about everything under the sun will remain with me forever. Sheree was my friend, confidante and colleague, and I will truly miss our antics, laughs, tears and yes, disagreements. I am so thankful that Sheree was a part of my life.

Carol Madeja
Director, Bar Relations Outreach, The State Bar of California

Sheree Swetin was an extraordinary person and a brilliant executive director for the San Diego County Bar Association. As the president of the San Diego County Bar Association in 2002, it was my distinct pleasure to serve with Sheree during her first full year as the executive director. Mary Beth and I spent time with Sheree and Peter during her last days in the San Diego Hospice. Sheree was peaceful, full of grace, and shared her love with all who came to see her. I miss Sheree and will always hold a special place in my heart for her. I know that everyone who had the pleasure of knowing her feels the same way.

Monty A. McIntyre
Seltzer Caplan McMahon Vitek

Sheree Swetin was a woman whose dedication and service to our legal community was appreciated by all of us at the San Diego Superior Court. Her warmth, sincerity and enthusiasm made working with Sheree fun. Her vision of cooperative and appropriate bench/bar relations will guide us for years to come. We will miss her and we extend our sincere sympathy to her family.

Janis Sammartino
Presiding Judge, San Diego Superior Court on behalf of the entire court

From the moment Sheree became our executive director, she immediately earned the respect, love, admiration, loyalty and friendship of everyone she met. I will always remember - and will now greatly miss - her principled and well-spoken opinions. To me, the essence of Sheree is this: She cared.

Christopher W. Todd
Wingert Grebing Brubaker & Goodwin
2003 President, San Diego County Bar Association

As president of Lawyers Club, let me add our appreciation for having had Sheree as one of our strongest supporters, colleagues, members and friends. It is especially poignant for us to have honored her with our Community Service Award at our May 11th Thirty-Fifth Anniversary Dinner. There certainly is no one more worthy. We will miss her dearly.

Lisa Weinreb
Deputy District Attorney
Gang Prosecution Unit

All of us have been robbed. What a terrible loss to the legal community and to all who respected and admired Sheree. Sheree had the very rare ability to be completely straightforward and effective without being unpleasant. She was a wonderful mentor and a dear colleague who will be sorely missed.

Amy J. Fitzpatrick
Executive Director, San Diego Volunteer Lawyer Program Inc.

Sheree was instrumental in the project of increasing law student involvement with the bar association. We’ll always remember her for that, as well as all the rest she did for San Diego’s legal community.

Kevin Cole
Dean and Professor of Law
University of San Diego

Sheree enthusiastically embraced and supported the U.S. Bankruptcy Court’s CARE Program when it partnered with the SDCBA in June 2005. Her efforts in coordinating SDCBAs logistical and financial support were instrumental in the successful launch of the CARE Program in San Diego high schools in October 2005.

Judge John J. Hargrove
United States Bankruptcy Court
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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."

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George Stahlman, Owner
Never before has there been so much movement of lawyers from firm to firm. This inevitable migration is something for which firm management needs to plan. When asked how many lawyers are in a local firm, one managing partner replied, “We stay around 65, just not the same 65.”

There are three scenarios in which lawyers leave law firms:

- **Amicable.** Both sides know it’s not working, and there’s a reasonable period in which to make the transition.
- **In the dead of night.** In this scenario, the lawyers have been planning and plotting and copying everything they’ll need. They’ve most likely told their key clients and have directives ready to hand over when they notify firm management that they are leaving. These groups or individuals tend to leave on little or very short notice, or the firm’s management tells them to leave immediately. Although tempting and even understandable, this reaction can be detrimental to the clients and to the law firm’s reputation.
- **The firm’s choice.** The third scenario is when the firm determines that an individual or group must leave. Client retention is typically not an issue, and it’s often the lack of a significant book of business that precipitates the firm’s decision.

Irrespective of the reason for the departure, the primary concern for both sides should be the clients’ needs. They’ve developed relationships with lawyers—not law firms—and their needs are the most important. Both sides must act in the clients’ best interests. San Diego is a small legal community, and firms and individual attorneys who take the high road are more likely to have a smoother transition than those who decide to make it difficult for the other. It’s important for firms to have an established procedure, and the following steps should be included:

1. Identify a partner responsible for all departures. The firm’s administrator should be the point person for the details of the transition and should consult with the designated partner on specific issues as they arise.
2. Develop a standard letter to be sent to all affected clients. The letter should advise the client of the departure, include contact information for the lawyer’s new offices, and provide the client with the manner in which the law firm should be notified if the client desires that the file be transferred to the departing lawyer. The simplest method is to include the direction at the end of the letter, which can then be faxed or e-mailed to the administrator.
3. The files must be made available pursuant to the clients’ instructions, and the firm should provide electronic copies of documents, the lawyers’ contacts and calendar entries. This will help ensure that the client is adequately represented. When a client directs the law firm to transfer the files to the lawyer’s new firm, law firms are wise to also transfer any files that may be in offsite storage.
4. Communication, both internal and external, must be tailored to the particular circumstances. For internal communications, it’s important for the remaining lawyers and staff that the message is professional and not delivered in a “sky is falling” method or with any negative statements. Firms don’t typically send out a press release concerning the departure of a group of lawyers; however, developing a message for purposes of communicating externally is helpful for maintaining a consistent and positive (or at least neutral) message when the inevitable questions are asked.
5. An important step in the process is for the law firm to appoint a partner to take control of any matters that will remain with the firm. In the event that the firm no longer has the expertise to handle the matter, the client should be notified and the file promptly returned to the client to allow ample time for the client to secure new representation.

Even with the best intentions and careful planning, anger and hurt are often associated with departures. People have worked together and developed relationships, and whether it’s a group that elects to leave or a group that’s asked to leave, the fact is that people have been planning the departure behind closed doors and the sudden change in relationship from colleague to adversary is bound to have repercussions.

Lawyers leaving—and moving several times in their careers—is just a part of doing business in today’s law firm. It’s best to be prepared.

Patti Lane is legal administrator for McKenna Long & Aldridge LLP, a certified legal manager, and past president of the International Association of Legal Administrators. plane@mckennalong.com
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I read with concern in the present issue of San Diego Lawyer your brief series of articles concerning individual attorneys in our community. The article related to solo practitioners, junior partners, and one to a deputy district attorney which you characterized as “Doing the Right Thing: A Day in the Life of a Deputy District Attorney.” I mean no disrespect to Carlos Varela who is a fine attorney.

However, actually, doing the right thing also encompasses the goal of the entire criminal defense bar. In the context of your article you should have included a representative of one of the public defense agencies.

Steven Feldman

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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.
WASHINGTON, D.C. is a city of lawyers with more attorneys per capita than any other city and even more visiting attorneys. San Diego lawyers will find familiar elements: the military, diverse immigration-influenced neighborhoods and the water. It is an exciting, electric city. If San Diego attorneys can take a little time away from business, they will find many activities of professional interest and a huge array of intellectual and entertainment diversions.

Three airports serve the Washington, D.C. area: Reagan National Airport (DCA, the most convenient, but no direct flights from SAN), Dulles (IAD, several nonstops on United from here, but very slow and unpredictable baggage handling and security check-in) and Baltimore-Washington International (BWI, usually the cheapest but requires a $70 cab or complicated bus/train connection to downtown D.C.). Lose something on the way? Luckily, DCSnacks can bring everything from kosher food to DVDs to cold medicine right to your hotel room (DCSnacks.com).

Finding a place to stay is generally easy. Although the town can book up, usually there are many options. For the attorney traveling in luxury, the Hay-Adams and Willard Hotels are near the White House. The classic Mayflower Hotel is steps away from K Street. The Ritz-Carlton at 22nd Street has excellent workout facilities.

Finding a place to eat is even easier as Washington has become a good restaurant town. Check out the Washingtonian's Web site (washingtonian.com), which has a dining guide searchable by type of food. For the traditionalist, there's Old Ebbitt Grille, Morton's, Bobby Van's, Charlie Palmer Steak and the Capital Grille. For the best view, there is the Hotel Washington's rooftop restaurant. For seafood, there's DC Coast, Kinkead's or the Inn at Easton. For longtime D.C. diners, there's Ben's Chili Bowl (14th and U) and Reeves (G between 13th and 14th).

Government is the town business, and it's a thrill to visit Capitol Hill, Congress and the Supreme Court when they are in session. If you want a tour, either get in line to join the historical society's tour or call your congressperson's office to set up a tour free of charge for you. To arrange for a tour of the White House, you need to book tickets far in advance. Check the Supreme Court Web site for its argument schedule (supremecourts.gov).

There are unlimited museums if you have some time off. In addition to the famous sites (the Smithsonian museums; the Jefferson, Lincoln and Roosevelt monuments; Arlington; the Library of Congress; the Vietnam and World War II memorials and the Holocaust Museum), consider the Phillips Gallery, the Corcoran, the Spy Museum, Hillwood Museum and grounds, Dumbarton Oaks and the new air and space annex out by Dulles (a phenomenal site, featuring the Space Shuttle Enterprise and the Concorde).

Washington deserves its world-class reputation. Take time to look around and appreciate our heritage. It is a great place for lawyers and anyone who cares about the law.

Roy Morrow Bell is one of the founding partners of the national law firm of Ross, Dixon & Bell, LLP, with offices in Washington, D.C., Chicago, Orange County and San Diego. His office is located in San Diego, and he travels frequently to RDB’s D.C. office.

Steven Smith is the dean of California Western School of Law in San Diego and is past chair of the ABA Section of Legal Education and Admissions to the Bar. With law school and Bar activities, he travels to Washington, D.C.
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Brigadier General David Brahms, former staff judge advocate of the Marine Corps, “the Marine’s Top Lawyer,” was recently in the news as a defense counsel for one of the accused Marines in the Hamdania murder prosecution of seven Marines and one Navy corpsman. The defendants were charged with the planning and killing of a retired policeman, Hashim Ibrahim Awad. Brahms still represents Lance Corporal Robert B. Pennington of Seattle, Washington, accused of conspiracy to commit premeditated murder. Pennington’s alleged role in the April 26 killing included helping to march the 52-year-old Awad to the killing site, binding the victim’s hands and feet, and wiping squad members’ fingerprints from a stolen AK-47. He also was accused of placing that weapon and a shovel in Awad’s hands in an attempt to make it appear the Iraqi was an insurgent planting a roadside bomb. After pleading guilty to reduced charges, Pennington was sentenced to 14 years in prison, but the sentence was reduced to eight years on plea bargain with the convening authority. Brahms was quoted in news reports as saying that the case has affected him more than any during his four decades of practicing military law. He told a North County newspaper, “I’m sad because a fine young Marine was scarred by his experiences in Fallujah. This is an extraordinary young man whose future has been damaged beyond repair.” A graduate of Harvard Law School, Brahms currently practices military law in Carlsbad, California. Brahms recently sat down with San Diego Lawyer to discuss the case and his career.

San Diego Lawyer: What do you think is going on today in the nation vis-à-vis the Iraq War prosecutions and the American people?

Brahms: I’m out on the left side of things—I think it’s the right side—it’s left in the view of some of the people who might want to employ me. The central issue is not left versus right, Democrats versus Republicans, but trying to get the courts to define the scope of presidential power, and that has not been done since Truman. I have been in a number of amicus briefs all focusing on torture and the lack of opportunity for persons at Guantanamo trying to at least get a review in the federal court system. Are we following the body of laws and treaties, and did the president exceed his powers in allowing things like torture and what’s going on down there?

SDL: What is one of the biggest concerns regarding the issue of torture?

Brahms: This has been an important green-light for me. I just haven’t been involved in politics other than to vote; but there are a number of people, including important flag officers, three or four “four stars,” who are quite concerned about what’s going on and, in addition to the moral question, believe that it inures to the disadvantage of our own servicemen should they be captured. Of interest is Senator McCain who is at the forefront of this—who knows better what happens when you get captured? Several of the other POWs have been involved in this.

SDL: I understand you are aware of some pro bono law firms working on this?

Brahms: The real joy has been to watch the legal work that comes out of the large firms. They get so much heat out of what they charge and the number of associates they have and all things in our profession that seem to fall on the shoulders of the large firms—and they are out there doing this pro bono work that is superb.
In fact, didn’t a Defense Department official try to intimidate those law firms?

Yes, as a matter of fact. Whether it was specific or not, I don’t know. It may have been a generic attack, but it was underhanded work, a shameful bit of business. Fortunately, the administration just pushed him off to a small room somewhere where he couldn’t cause any more trouble.

You were the staff judge advocate of the Marine Corps from 1985 to 1988 and as such you were the Commandant of the Marine Corps lawyer. What was that like?

It was an interesting time. I remember as a major, one Saturday morning I was called in and asked to write the Commandant’s position on whether we should prosecute POWs. There were two senior officers, one Marine colonel and one Navy captain, who in the minds of some had acted badly and under a bizarre process in which POWs were allowed to determine who was going to be prosecuted among their number. I asked what the Commandant’s position was and was told that I could write whatever I thought was appropriate. I wrote that there should be no prosecutions. It would be completely inappropriate, that it would simply prolong the agony of the other POWs, it would ensure that other POWs’ conduct was subject to scrutiny after a very long period of captivity. I wrote that it would not advance any cause. I wrote it, and the Commandant didn’t change a word. Ultimately, the letter became the secretary of the Navy’s position. It turned out to be the wisest course.

Since you have retired as a general and gone back into practice in the military courts, and have been somewhat adverse to the military, how has this affected your relationships with your former colleagues in the military?

With a couple of exceptions, not at all. Most senior officers understand what I am doing. They respect it. They know what the rule of the defense counsel is. I play by the rules—I may be tough, but I play by the rules. I announce what I am going to do and I do it. I’ve been given audiences when I’ve needed them. I have been invited to military social events and afforded the courtesies appropriate to my rank, and I go to them.

You represented at least one of the Marines in the most recent “Hamdania” case involving the murder of a retired policeman in Iraq?

A total of eight individuals were part of the case. Some have pled, including my client. The initial charges included premeditated murder. They were referred as non-capital cases, which made a lot of sense because in the military, a life sentence with or without parole is all that may be awarded upon conviction. Recently, a court [board of officers sitting as a jury] in one of these Iraq cases, not this one, engaged in a bit of jury nullification. They went out after the judge gave them the appropriate instructions on sentence after conviction for premeditated murder (in the military, the court-martial board gives the sentence), and they came back and said, “We don’t like the choices.” We want to give him a sentence which is less. After re-instruction, the board came back and said, “We’re sorry, but we can’t...”
reach agreement on the sentence. No one had ever seen anything like that before.

**SDL:** There were two cases, correct? There was Hamdania and the Haditha case.

**Brahms:** My case is Hamdania and one that was heavily attended by the media. My guy did plead guilty and received 15 years by the judge, and it resulted in an eight-year sentence. Of course, it is my hope that eventually that will be reduced. The issue in my case—and, in fact, in so many others—was that of post traumatic stress disorder (PTSD). While not in and of itself a legal excuse, it certainly is an impactful condition in my view. We presented to the trial judge a precipitating cause of the behavior, and we had a very fine mental health expert testify about the state of mind. We still have the initial review by the commanding general; we have a clemency review; we have a review by the Navy Court of Criminal Appeals, which has the power to reduce the sentence. This is an automatic review. We have high hopes that there will be some ameliorating action. But the PTSD problem is widespread. You see the kinds of things that are being bandied about in the press, including the lack of professionals and facilities for assessment and treatment to determine, for example, whether a chap is suitable to go back. My guy was back for his third time. He’d been preparing for combat or in combat since he was 18 years old. Nice young man, the kind of man you would take home to your family. The behavior was obviously inappropriate. He has admitted that on the record. But when you take a look at why this occurred and how it occurred, you begin to understand it even though you can’t condone it.

**SDL:** So your work is not done yet?

**Brahms:** No, no, it continues. Among other things, he’s been given a grant of immunity, and that grant will require him to testify against others. As part of that grant there is a direction to testify, and so he will testify. There are three cases that remain and that will go to trial. Each of the remaining defendants has two defense lawyers. There is close to 5,000 pages of discovery, some in Arabic and some classified and some still not declassified. So it was a torturous process just to read it.

**SDL:** There was a report in the newspaper that a group of you requested to go to Baghdad. Did you go?

**Brahms:** That’s correct, there was. I did not go. But three of the defense teams did go. It is a difficult process. The last thing you want is for some civilian lawyers to wind up in the hands of terrorists, although there might be some cheering in some circles. It’s a public relations nightmare. The poor commanding general. He has to figure out how in hell do we take this gaggle of lawyer geese and put them out there. Yes, we’ve got to do that, but how do we do it in a way that doesn’t interfere with combat operations providing reasonable security for everyone along the way. That includes
putting combat Marines in harm’s way while providing security for the group. Of course, it is a target-rich opportunity for the other side.

**SDL:** Do you have an opinion about military courts in general and Marine Corps courts in particular?

**Brahms:** Yes. I love Marine court-martial panels. They aren’t prone to believe stories that you tell them that don’t make sense. But if you can give them a thoughtful presentation, they are going to weight and balance every bit of it and have no fear of coming back with a finding of not guilty. Remember that this is a blue ribbon jury. Just about everyone who sits on a court-martial panel has a college education. They have life experiences that underscore their basic common sense; they are intelligent people, and if you play straight with them, they will listen. They also follow the judge’s instructions. Sometimes that goes contrary to personal views, but they can put the personal views aside.

**SDL:** You mentioned Guantanamo and some amicus briefs. Are you involved in any of those cases?

**Brahms:** No. I have not been asked to defend. I’ve been asked to be an expert witness and refused to do that for some personal reasons. I don’t mind being party to briefs and letters and op-ed pieces. It is quite something else to be party to a defense of someone who might be a terrorist. That’s a little farther than I can take it.

**SDL:** Maybe you could give us a flavor of what your position is on what is happening in those kinds of cases.

**Brahms:** My position involves a number of issues. The first issue is access to the courts. We filed a brief some time ago with the U.S. Supreme Court indicating that these people have access and that they have the right to utilize habeas corpus. Congress came back and said no dice. We are going to remove their opportunity to utilize habeas and give them a single appeal to a specific designated court. We’re still fighting in briefs that have been submitted as recently as this past week. These latest amicus briefs involve as many as 15 people including generals, admirals and law professors. We have been intimately involved in issues with regard to torture, and I believe we were somewhat instrumental in getting Senator McCain to take up the cudgel for an anti-torture amendment. We were somewhat successful until unfortunately undercut by the president’s signing statement. So that fight continues. If we are going to compete in the arena of ideas, then we need to be true to our American heritage. This war against terrorism really has two fronts: there is the military front, essential, important, we must win that war. But it is a Pyrrhic victory if we don’t take the high road with regard to this.

Vic Bianchini welcomes suggestions and feedback. veb@mediationjudge.com

www.craighiggs.com
Robert Lynn found a novel way to pace his career: one decade of litigation practice, followed by one decade circumnavigating the globe, followed by one decade establishing an appellate law practice.

Writing, sailing and law are recurrent themes in Lynn’s life.

After receiving a journalism degree from college, Lynn joined the United States Navy, ultimately becoming the second-in-command of an ocean-going minesweeper. From the seas he then progressed to California Western School of Law. “I first became interested in law from To Kill a Mockingbird, like a thousand other people I know,” recalls Lynn. J.D. degree in hand, Lynn practiced general litigation for 10 years. He also wrote bi-weekly columns on non-legal matters for The Pacific Coast Times and San Diego Update. Writing, sailing, law.

“I left the practice of law for a period of 11 and a half years to sail a 44-foot sailboat around the world,” says Lynn. “I circumnavigated the globe on the sailboat Rhiannon, visiting 26 countries and living in some for extended periods,” he adds, “including two years in Australia, six years in the Mediterranean (including two years in the former Yugoslavia) and one year in the southern Caribbean.” His book Cruising the Coast of Yugoslavia was being typeset when the civil war broke out and is presently being held in abeyance.

Lynn the sailor returned home to resume the practice of law. Sailing, writing, law.

“Appellate work is the last refuge of the legal generalist,” says Lynn. He believes that “while some appellate cases decide public policy, most are mundane matters of legal error and prejudice it’s nice to have a variety of facts and legal theories to keep the cases interesting.” He cautions “the most difficult part of the practice is convincing trial attorneys (a) to make an adequate record in the trial court and (b) that no, they really don’t get a second shot in the Court of Appeal.”

Presently, Lynn does appellate and trial litigation as well as general business and real estate law as a partner in Lynn & Fortune. He has been an adjunct professor at Thomas Jefferson School of Law, teaching Legal Writing II. He writes short stories and plans to continue recreational writing “after I retire (or semi-retire).” Lynn wrote Chapter 4 of The Chase and got many helpful editing suggestions from Kleon Howe, his life partner of 26+ years. Law, writing. Can sailing be far behind? - Alice Solovay.

CHAPTER 3

7:00 a.m., fourth day of trial, In re Marriage of Nathan and Deborah Chase.

Judge Giddle had chairs brought in for the ex parte. The parties and their lawyers filed in, all looking apprehensive. None of the women sat on the red sofa. It clashed with all their outfits and, besides, departing a couch in a tight skirt couldn’t be done in a dignified manner.

Once they were in and all settled, Judge Giddle cleared his throat and said, “All right, what’s this all about?”
Herb Monroe, Nathan Chase’s attorney, said, “Your Honor, we want a mistrial. We’ve discovered that you and Vivian here have been doing the horizontal tango. This case should never have been in this courtroom.”

Vivian almost fainted, but then the attorney in her took over. “Wait a minute,” she said. “This is a scam. Your Honor, they just found out we can prove Nathan has stolen $100 million from his wife and has it stashed offshore.”

Herb gave her his coolest glance. “You can’t prove that,” he said.

Just then, Joyce, the judge’s clerk, knocked on the door and stuck her head in, looking irritated. “There are two guys out here demanding to join you. One of them says he’s Ms. Morales’ investigator.”

The judge sighed. “Okay. Let them in. May as well get all this out at once.”

Hans Down strode into the room, followed by a tall, broad-shouldered Latino boy with green eyes. Debbie Chase’s eyes sparkled. The boy drifted across the room and sat next to her. Nathan Chase stood glaring at Down. “How did you get here?”

Down smiled. “Juan’s father feeds the cartel in his restaurant in Mazatlan. He found out about the reception committee and tipped us off, so we changed planes in Cabo and went to Puerto Vallarta instead. Hiding two gay guys in PV for a couple of days is easy.”

“Wait a minute,” she said. “This is a scam. Your Honor, they just found out we can prove Nathan has stolen $100 million from his wife and has it stashed offshore.”

Down smiled. “That wasn’t me. That was Chief putting a little icing on the cake she was baking. It will be easy to prove with voiceprints.”

Debbie roused herself. “I only had a gardener. That doesn’t count against $100 million. I want my half.”

Nathan glared at her. “You’ve picked up more illegal Latino gardeners than the migra. And every one helped you violate your wedding vows.”

Debbie Chase, a tear coursing down her cheek, looked at Juan and said, “This is horrible. I just want to get away from it all.”

“I know,” sighed Juan. “Straight relationships are so sordid.”

Down spoke up. “By the way, I’ve got copies of the tax returns in case Chief grabbed them from Vivian. She never could hold onto anything that didn’t eventually dwindle away to nothing.”

“All right,” said, the judge, “I’ve had enough of this. So I screwed Vivian a couple of times. Judges ought to be able to screw lawyers if they want to. They screw lawyers all the time, metaphorically. Why not for real? Ethics is not about what you do. Ethics is about what you disclose. Well, we’ve all bared our souls in here. Now we’re all going to go out there and make this trial happen. You people put on your evidence, and I’ll make a decision. None of you will have the guts to appeal it, and we can all go back to our lives. Unless,” the judge looked directly at Nathan. “Unless you want to settle right now. Give her half your treasure trove and avoid paying the rest in alimony.”

Nathan looked at his attorney, Herb Monroe. Herb shook his head just so slightly. Nathan looked back at the judge. “Nah,” he said. “Chief will be here in a minute. She’ll know how to fix your wagon.”

Giddle went to the closet to get his robe. When he opened the door, he fell back, his mouth agape. The others crowded around to look.

Hanging in the closet was Chief.
BY DEAN A. SCHIFFMAN

Oceanside Law
Practicing Law in a Changing Town

Oceanside Facts
Location: 35 miles north of San Diego
Distances to courthouses (miles): Downtown (38), El Cajon (46), Vista (9), South Bay (46)
Government: Mayor Jim Wood, Deputy Mayor Rocky Chavez; councilmembers Jack Feller, Jerome M. Kern, and Esther C. Sanchez; city manager Barry E. Martin, Interim
Population: 173,000
Median age: 34 years
Incorporated: July 3, 1888
Early in its history, going to the “ocean side” was a popular weekend retreat for families living in the inland areas. The two words were merged into “Oceanside.”

History
On July 20, 1769, Father Juan Crespi arrived in the area known today as the San Luis Rey Valley, which was populated by Native Americans. His glowing report of the area as a possible mission site was responsible for the founding of Mission San Luis Rey de Francia in 1798. Three-and-a-half miles from the present site of Oceanside, the mission prospered beyond the dreams of its Franciscan brothers and came to be known as “King of the Missions” (www.ci.oceanside.ca.us).

Attractions
Beaches: 3.5 miles
Oceanside harbor: Restaurants, picnic areas and shops
Oceanside pier: 1,942 feet, one of the longest wooden construction recreational piers on the West Coast
Historic Mission San Luis Rey: Founded in June 1798, four miles east of Interstate 5 Camp Pendleton Marine Corps Base: World’s largest U.S. Marine Corps amphibious training base
Golf: Center City Golf Course, El Camino Country Club, Emerald Isle Golf, Oceanside Golf Course
California Surf Museum: Surfing artifacts and memorabilia
Beaches: Harbor Beach, Breakwater Beach, Pier View North, Pier View South, Tyson Street Beach, Wisconsin Street Beach, Oceanside Boulevard Beach and Buccaneer Beach

Living here since 1961 and practicing law for 26 years, I have watched Oceanside come of age. My name continues on at Greenman, Lacy, Klein, O’Harra & Heffron, even after my retirement. Now I have time for non profits in our community who are always looking for an attorney on their board.

—Colleen O’Harra

Downtown Oceanside is a transportation hub, making it easy for me to appear in other courts. It still has a small-town atmosphere even though many exciting developments are happening. For lunch, it has to be Hill Street Coffee House.

—Rena Wallenius

Oceanside is a great place to live and practice. The beaches are the best in North County, and the weather is hard to beat. The legal community is still small here, and my clients are down to earth. Oceanside is just a great place to be.

—Ryan Harris

I have lived here with my family since 1989 and relocated my office here in 2006. It’s a great place to raise a family and run a business. Now my office is close enough to the beach that I can hit the surf during my lunch break.

—Joseph B. Carnohan
The advantages of practicing in Oceanside include the good folks who live here and the improving Oceanside downtown. Yet I live in Point Loma, so I pretty much live on I-5.

—Dennis Atchley

Oceanside provides a unique venue for the practice of law in an atmosphere of professional congeniality.

—Henry R. Hague

I enjoy practicing in Oceanside because there is plenty of easy parking at the beach for a quick lunchtime surf.

—Jay J. Brown

I love my office in Oceanside! I’m mainly a Vista attorney, and it made so much sense to be up here. Now I’m spoiled by the view of the ocean from my window, the easy access for my North County clients and dinner at Vigilucci’s (followed by karaoke at the Surf Bowl).

—Tracey Sang

I love the ocean, the ideal weather, great people and great lawyers. I also love working with the members of our law firm, including my husband’s, and my two children, and my niece.

—Janet Bledsoe Lacy

Minutes from the beach and harbor, I can jump into my kayak and visit the sea lions at an offshore buoy. I enjoy Mexican food at Anita’s on Coast Highway and Thai food at Lemon Grass. My wife and I raised our three sons here, and I coached Little League and youth basketball. The changes downtown are exciting. My contributions to the Oceanside community make a difference.

—Michael Klein

Being close to Camp Pendleton, I can work with Marines. They are the best clients, responding with “Yes, sir” and “No, sir.” I enjoy being able to help on the civilian side of their lives. Litigating at the Vista Court is a pleasure as well.

—Russell S. Kohn

Oceanside is a well-kept secret, with cultural diversity and a sense of community. The downtown area is evolving beyond its military past, but not too quickly. I can work while watching the dolphins play along the coast. Warehouses downtown have been recycled into Artists Alley. The Coaster and Metrolink train systems make it easy to travel to San Diego or Los Angeles.

—Shannon E. Oltarzewski

Dean Schiffman is a San Diego attorney and expert witness. dean@LawAndNumbers.com
Wine is bottled poetry.
Robert Louis Stevenson

The Problem
Attorneys typically have the discretionary income to enjoy wine, but they rarely have the time to learn what wine to purchase. Unlike food, where once you find a good restaurant it is generally consistent from week to week, wine will likely differ and may vary dramatically from year to year. One year a producer’s Cabernet may be fabulous, and the next year it could be terrible. A bottle of wine that you love today may start fading in a month and may not be worth drinking in a year. Also, a lot of wineries, especially the large ones, make many different wines, adding to the difficulty of deciding what to buy.

As a starting point, it helps to know two things: (1) the difference in taste and style of the various grapes and (2) the style of wine you enjoy.

Different Varietals and Their Taste Profiles
Wines are distinguished by the varietal (the type of grape in the wine). In California, typical red varietals are Cabernet Sauvignon, Zinfandel, Pinot Noir, Merlot and Syrah. The white varietals are Chardonnay and Sauvignon Blanc. Sometimes, a wine is a blend of two or more varietals, such as Cabernet and Merlot. Red blends may be referred to as a Meritage.
Bottled

A Few Lessons on Wine

BY MILES GRANT
A Wine by Any Other Name

Wine is identified differently in the New World (the United States, Australia, South Africa and South America) than in the Old World (Europe).

California, and all of the New World, identifies wine by the grape. In California, a wine must contain at least 70 percent of its juice from the Cabernet grape to be labeled “Cabernet.” The European countries identify wine by the region. A wine called “Bordeaux” indicates that all of the grapes came from the Bordeaux region of France. However, the label doesn’t tell you what grapes are in the wine. A Bordeaux wine can contain from one to any combination of five possible varietals (Cabernet, Merlot, Cabernet Franc, Malbec and Petit Verdot). Depending on the region, a Bordeaux wine can be anything from 100 percent Cabernet to 100 percent Merlot, or any combination in between.

There is frequently a profound taste difference between New World wines and Old World wines. For example, concentrating on Cabernet, wines from the Napa Valley are generally more fruity and tannic (tannins let the wine age and also sometimes make your mouth pucker) than Bordeaux, which tends to have a more earthy flavor and less fruit. Wines from Bordeaux can be more complex with more layers, while a Cabernet exudes fruit with great mouth taste and feel.

Bordeaux and other Old World red wines often need aging to develop, whereas California wines frequently are at their best on release and may not necessarily improve with age.

Each varietal has its own flavor profile. Cabernet tends to be chewy, jammy and fruity and often shows better after aging. Merlot, often used for blending with Cabernet, has notes of chocolate and is a little smoother, when young, than Cabernet. Zinfandel, the only grape indigenous to California, is frequently higher in alcohol, has lots of dark rich fruit, and shows notes of spice, pepper and zest. Syrah, probably the most prolific grape grown worldwide, can have characteristics of Cabernet and Zinfandel. The taste can vary depending on whether it was grown in California, France or Australia. Pinot Noir tends to be lighter than the other varietals mentioned, has more cherry flavor, and tends to be more versatile with food.

Pinot Noir pairs really well with most fish and white meats. It does better with food than by itself. Zinfandel and Syrah can be fun to drink without food, as they are frequently high in alcohol with loads of fruit. Both wines pair well with game, red sauces and chocolate. Merlot and Cabernet are wonderful food wines and taste delicious on their own. They are best with red meats and rich dishes, and they also pair extremely well with chocolate and hard cheeses.

Sauvignon Blanc tends to be light and refreshing. During the warm months of the year, it is a great starter wine and works well with salad, fruit and many light dishes. Chardonnay comes in different styles. Typically, California Chardonnays are oaky and creamy, with delicious flavors of apple, tropical fruit and melon. This is a wine that works well by itself but often overwhelms lighter dishes. On the other hand, Chablis, which is 100 percent Chardonnay grapes, generally does not carry the oakiness or creaminess of Chardonnay and is an excellent wine with salads, any seafood or white fish, and many white meats and soft cheeses.

Choosing a Wine

Do you like a wine that is easy to drink and inexpensive? A Merlot might fit the bill. Maybe you want a wine that will feel like silk in your mouth. An aged Bordeaux may be the right wine. Others might like a wine that is light and goes well with food, such as a California Pinot Noir. Some people like a big wine with lots of fruit and a great mouth feel that screams red meat, which is why I love Cabernets from the Napa Valley. The choice depends on the individual.

So if you don’t have the time to learn, one approach is to visit your local wine shop. There are plenty of good ones in San Diego, including Meritage, San Diego Wine Company, Vintage Wines, Wine Bank and WineSellar & Brasserie, to name a few. Find a salesperson who sounds like she knows what she is talking about and start a conversation. Tell the person the style of wine you like to drink and the amount of money you’d like to spend. Don’t be shy. You might say that you want a red that drinks well right now, will pair well with a steak, and that you can open up and enjoy tonight without spending more than $20. That might seem to be asking a lot, but a knowledgeable person at a good wine store can find you something that will fit your requirements and bring you a smile.

All of the good wine stores want you as a long-term customer. They will not oversell. They will listen and try to find wines suitable for your taste and budget. The hard part is frequently identifying what style of wine you like. Remember to consider when you will drink the wine, with food or not, and what food will accompany the wine.

So what constitutes good wine? That is the only thing about wine that is actually easy. If you taste the wine and like it, it’s a good wine. After all, life is too short to drink anything but good wine.

Miles Grant is a principal of Grant & Zeko, APC, a downtown commercial litigation firm. Miles is also a wine lover, wine collector and owner of SecretNapaWines.com.
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Next to permanency in office, nothing can contribute more to the independence of judges than a fixed provision for their support ... a power over a man's subsistence amounts to a power over his will. And we can never hope to see realized in practice, the complete separation of the judicial from the legislative power, in any system which leaves the former dependent for his pecuniary resources on the occasional grants of the latter.”

— *The Federalist*, No. 79

Alexander Hamilton

To the casual observer, it would not appear that San Diego’s trial courts are in a state of suspended animation. Go down to South Bay, for example, where on a “slow” Monday morning, 20 to 30 district attorneys, public defenders and private criminal lawyers pile in and overflow from the settlement conference room next to Supervising Judge Robert J. Trentacosta’s chambers. They hurriedly stage the morning’s trial and motion calendars, each attorney expected to summarize the case status in two or three words, a yes or a no, in the seconds each has to respond to the judge. Case files fly between the district attorneys and public defenders. Judge Trentacosta wants answers.
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Most of Judge Trentacosta’s systems hinge on the tremendous criminal workload in South County and the practical limitations of mortal judges. “We have to run this thing with ruthless efficiency,” he says as attorneys file out of conference to round up clients and formally appear before the court. “Case loads are off the charts.” Observing is exhausting, and it’s just a Monday. It’s worse on Tuesdays and Fridays, Judge Trentacosta explains. A lingering bailiff and public defender nod in agreement, their eyes weary, as they think of days to come.

One reason for Judge Trentacosta’s stressed need to keep the case flow moving is the court building itself. It lags behind contemporary expectations for functionality in the workplace. “It has its own character and challenges,” Trentacosta diplomatically puts it. Every spot available has a photocopier, filing cabinet or something. No space is wasted. Even one hallway connecting the corridors has been walled off for office space.

Simply put, the county building does not meet the courts’ needs, and the courts do not have the approximately $15.8 million needed to rebuild the Chula Vista courthouse. San Diego currently requires new courthouse facilities at the downtown central location, Vista and Chula Vista, and for a small claims and traffic court. Renovations are needed at the Meadowlark juvenile, El Cajon courthouses and the hall of justice. The total cost to bring San Diego’s trial court facilities up to current needs exceeds $700 million today, but the money will likely not be seen for years.

The workload stress and physical limitations on buildings like the one in South County are addressed at the state level, where the ebb and flow of subtle, and sometimes not so subtle, separation-of-power issues have played out over the years and hindered the courts’ ability to get funding. Court officials promote “access to justice,” but the ironies run deep. For example, judges preside over matters and condemn litigants for perpetuating the same conditions the judges live with every day, such as increased security threats or asbestos issues that pervade San Diego’s central courthouse.

Chief Justice Ronald M. George has led the ongoing struggle of power in California. With assistance from the judicial council, Administrative Office of the Court (AOC) and the individual courts, Chief Justice George transformed the landscape of the judiciary by implementing centralized systems for the courts’ administration. Almost 10 years ago, he conducted a one-year visiting tour of every California court. He personally assessed the needs of the courts, including their facilities, and began to develop structural reforms to accommodate future growth. At that time, the courts were each county’s responsibility, and this significantly impacted the consistency of justice throughout the state.

“It was clear that the quality varied depending on the county’s willingness to participate,” he says. This realization led him to set forth structural goals for the judiciary, to improve the quality and access to justice uniformly across the state. And soon, he began to make an impact. “Counties realized they weren’t in the court business anymore.”

Additionally, he faced the issue of asserting the judiciary’s constitutional place as a co-equal branch of government and educating legislators. “I had to explain to them that we are not the Department of Fish and Game,” he says.

Members of the legal profession may be dumbfounded to think legislators were confused about the role of the courts in government. After all, California has one of the largest judiciaries in the world. Yet most legislators come into their political terms unaware of the proper role of the judiciary, the practical needs of courts, or how to reform the codes.

To support him in his “education” endeavors, Chief Justice George formed the Bench-Bar Coalition (BBC), a collective of judges, lawyers and other legal community representatives dedicated to advocating for the needs of the judiciary. As a member of the BBC, former San Diego County Bar Association president Andrew Alpert has attended the state of the judiciary address for the past three years and visited with legislators following each address.

According to Alpert, the BBC contends with the perception that the judiciary should compete for the state’s resources on the same level as one would for schools, hospitals and roads. When it comes to describing
court needs to legislators, he says, the reception can be lukewarm. “It’s just not a sexy issue.” Or the legislators are receptive to adding new judges or building new courts—as long as their county sees the benefits.

Another primary challenge for the BBC, according to Alpert, is the need to participate in a highly sensitized, partisan environment in a non partisan way. After all, one might say that BBC activities, such as receptions following George’s annual address to the legislature and educational visiting sessions across the Capitol, arguably resemble lobbying activities.

The BBC purports to have made progress with both the old friends and the new faces. George, now a political figure in Sacramento, has returned to the legislature for several years with the same prominent issues and a targeted message. Several important pieces of legislation have been passed or have made progress, such as allocating the same annual budget raise to the judiciary as is afforded to the legislature (previously, George would have to start from scratch each year and describe how many pencils, how many guards and so on that the court would need), the consolidation of civil and municipal courts, legislation to transfer the court facilities from the county to the state, from San Diego to Sacramento, on the road around the smaller northern counties and the court have put redrawing the jurisdictional lines on the table even though the goal is for cases to be heard locally. Although initially met with vocal resistance from the community, it may be necessary for ensuring the constitutional requirements for bringing cases with the AOC; in the meantime, Roddy started working with the Los Angeles Superior Court. He has worked across the state, from San Diego to Sacramento, on the road around the smaller northern counties with the AOC and back in San Diego again.

Last December, George met with Gov. Schwarzenegger to discuss the state of the court facilities. Ignoring an admonition to not ask for more money, George boldly reminded the governor of his father-in-law Sargent Shriver’s tremendous progress in working toward expanding government services. This appeal worked to the benefit of California’s unrepresented, resulting in a $5 million budget proposal for a pilot project for self-represented litigants. The governor also agreed to package a $2 billion bond proposal to fund the trial courts.

According to Kim Davis, architect and director of the Office of Court Construction and Management (OCCM) for the AOC, whether achieved or not, the bond principal will not be enough to assure the deteriorating and dangerous conditions at trial court facilities across the state. “That will potentially get us through the immediate need and critical need projects, but it will only be a down payment on all the projects we need,” she said last January, citing the actual cost to repair and rebuild California’s trial court facilities in excess of $9.7 billion.

Although cost is a major issue, Davis said that the actual transfer of facilities from the counties to the state delays breaking ground on numerous projects. The transfer of San Diego’s court facilities, for example, has involved extensive negotiations but may be finalized during the summer of 2007. In part, negotiations have delayed over liability for seismic issues and retention of county insurance for the buildings in the poorest condition.

San Diego Superior Court executive officer Michael M. Roddy sits with a bird’s-eye view of the suspended animation of San Diego’s trial court facility progress. In 1980, while finishing his master’s in public administration from the University of Southern California, Roddy started working with the Los Angeles Superior Court. He has worked across the state, from San Diego to Sacramento, on the road around the smaller northern counties with the AOC and back in San Diego again. He has attended almost every one of George’s state of the judiciary addresses. He has participated in BBC activities from its inception. He has seen it all, he exclaims, and he says he has big plans for San Diego.

His stated approach in building out San Diego’s courts and expanding resources for local programs claims to be conscious of San Diego’s role in a bigger system and a sort of comity to other jurisdictions’ growth and financial needs. But talking to Roddy you get the feeling that if unleashed from the confines of “working together” and the strategic politics of the courts, San Diego would have one of the most progressive and innovative courts in the country. This happens especially when he discusses the trend in developing public-private partnerships, or partnerships with more government agencies, or even private entities, for new courthouse facilities. Finding the right partners or independent financing could take San Diego out of line for state funding.

Roddy’s challenge is the interim: what happens to San Diego while legislation is pending and while plans are made. He has to put aside visions of new courthouses and Band-Aid solutions to heal San Diego’s “temporary” needs: security needs, asbestos, understaffing, and pesky fault lines, ad

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Judge Richard E.L. Strauss might have said it best when he stopped into Roddy’s office one December morning and contributed his understanding of the issues. “We are bound by the facilities,” he said.

Roddy also looks to technology to take San Diego out of the brick-and-mortar bind. “I want us to be like a bank,” says Roddy, referring to the variety of options for Web-based banking and the no-fee incentive for customers to transact business online. He would like to develop online systems that automate the jobs of counter staff so that he can reassign those staff to perform other important tasks.

San Diego has recently taken further steps to implement the California Case Management System, V3. Triage centers have been set up in North County to assist the steady stream of traffic camera “victims,” greatly reducing some infraction waits from two to three hours to minutes. The computer-assisted kiosks allow 63 percent of users to pay and go.

Kiosks and other creative ideas may have to suffice while San Diego courts wait in line. A new central courthouse, San Diego’s highest-ranked project with the AOC, will be the 55th court project tackled in the state. All other projects, including new Vista and Chula Vista courthouses, fall even farther down on the list behind the needs of counties facing more serious security, overcrowding and deterioration conditions. Unless the court’s executive management devises a way to raise the approximately $700 million needed to break ground, San Diego must continue to create ways to ensure the community’s access to justice.

Emily Grant is an associate at Herold & Sager.

On June 15, 2007, the Judicial Council announced a strike team of 20 judges will serve Riverside County through October to dispose of a chronic case backlog including “last day” criminal cases, which must immediately be tried - or dismissed, potentially threatening public safety. Court officials cited systematic repeat offenders of rapid population growth, increased filings and Riverside’s historic shortage of judges as contributing to the severe backlog. Associate Justice Richard D. Huffman of the Court of Appeal, Fourth Appellate District, Division One (San Diego), will convene Riverside County justice system representatives and lead plan discussions.
Jane Via is a San Diego deputy district attorney, a wife, a mother and a Catholic priest who seeks a stronger voice for women in the church.

Although Via is scrupulously careful to separate her religious beliefs from her legal workplace, she can’t help noticing things. She observes, “There are many actively religious people among DAs.” She believes law and religion share two attractions for her coworkers: respect for the pursuit of justice and for the defense of the powerless.

Jane Via and the Rights of Women in the Church

The California Bar may call her Elizabeth Jane Via, but “don’t call me ‘Elizabeth.’ That’s my mother’s name,” she corrects. She is currently one of two extraditions deputies in the district attorney’s office. Her unconventional path to that position involved being raised by Protestant parents, becoming Catholic in college while majoring in Spanish and Spanish literature, getting a Ph.D. in religious studies and then teaching at the University of San Diego, where she got her J.D. degree. “My Ph.D. courses focused on New Testament studies and Hebrew Bible studies, a significant portion of which is law,” she notes.

“Between my doctoral studies and college teaching, I was immersed daily, over a period of years, in the Gospel texts and in interpreting their meaning,” explains Via. “After study and reflection,” she says, “I came to a new understanding that the outstanding value of Jesus was his ‘radical inclusivity; it’s what got him crucified.’ Although religious leaders weren’t then, nor are now, open to it, Jesus’ ‘radical inclusivity’ did include women.”

She became a feminist and wanted to make a difference for women in the church. Men have seven sacraments in the church, and women have six. The “missing” sacrament for women is that they cannot be ordained. Therefore, they cannot become priests, preside at Eucharist or even read the Gospel at Eucharist. The Catholic Church focuses on ritual, which only the ordained can lead; all official decisions made in the church are made by ordained people. Since women can’t be ordained, women are excluded,” Via adds. This “stained glass ceiling” keeps women from entrance to the higher levels of church hierarchy.

Via’s husband told her about an article he read that profiled a group called Roman Catholic women-priests. They ordained Catholic women on the Danube River. Via became excited by the priests’ mission. “I can do this,” she thought. “I’ve been educated as a theologian and as an attorney. Religious disobedience is parallel to civil disobedience, i.e. it is breaking the law to demonstrate injustice, and I am willing to incur the penalty.” She was ordained as a deacon in 2004 (although she used a pseudonym so that her younger son would not suffer consequences at his Catholic school) and ordained as a priest in 2006. Via is now the priest at the Mary Magdalene Apostle Catholic Community, which meets at the Mission Hills United Methodist Church.

The law that Via questions is Canon 1024, which states that only a baptized male can be validly ordained. Religions that do not ordain women are exempt from equal-opportunity laws by the First Amendment. However, the prohibition against married priests could be argued by citing references to married priests and deacons in early Christian churches. For instance, three of the four gospels refer to Peter’s mother-in-law.

The church’s penalties for breaking canon law include interdiction, excommunication, or, most severely, schism. “I am under interdict,” explains Via. “But I am still part of the Catholic community.”

Alice Solovay, a staff writer for San Diego Lawyer who practices law in Ocean Beach, welcomes story ideas. alice@solovay.net
San Diego, like other American cities, has its share of flamboyant attorneys and stoic judges. However, behind these members of the bar and bench, stands a barber with a story to tell. This, however, is the story of three of those barbers.

Located in the basement of the Westgate Hotel (1055 2nd Ave.) is what Joe Cusumano calls one of the last traditional barber shops in San Diego. The three Sicilian stylists, Sam De Maria, Jasper Cusumano, and Joe Cusumano have well over 125 years of combined hair styling experience among them.

Sam himself has been styling hair in San Diego since 1960 and recalls the days when his shop was located on Broadway in the San Diego Hotel. “In those days there were about 16 District Attorneys in town all working for James Don Keller.” Keller of course, was responsible for modernizing the District Attorney’s Office in San Diego during the 1960s. Sam also recalls the days when Judge Edward J. Schwartz would come into the shop with blueprints for the courthouse that would eventually carry his name and decry the proposed alterations to the building. “Judge Schwartz would tell me that the builders were trying to reduce the size of the planned courtrooms and lower the ceilings. He would have none of it,” says Sam with a smile. Judge Schwartz got his way and as far as Sam knows, the size reductions never occurred.

Like the other shops in town, the Westgate barber shop has its fair share of regulars. Jasper says that City Attorney Mike Aguirre has stopped by in the past and others like Judges David Gill, Charles Hayes, and Sumner Charles Wickersham appear regularly for a trim and a chat. “The shop is a place where we all talk sports and wine.

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What law school ought to be.
Politics and law are rarely mentioned,” he says. Sam, however, remembers when two opposing attorneys appearing on a federal matter stopped by the shop at the same time. “They got a hair cut together and later went outside and settled the case!”

Other regulars include local attorneys Bill Lerach, Craig McClellan, Steve Vosseller, and Cary Miller. Vosseller describes the shop as a regular “who’s who among the local bar and bench, myself excluded, of course.” The men all note the superior service and traditional setting of the Westgate barber shop.

Sam specifically recalls a fishing trip with Lerach where after a long trip, while all the guests on board sat back with a beer or for a nap, Lerach and his legal team went to work on a case. “We were all tired and bloody from some serious fishing and while the rest of us went to sleep, Lerach’s guys pulled out their legal papers and went to work while we sailed home. It was incredible.”

All their clients recall the annual Christmas party hosted by Sam. “In the old days, they had the best Christmas parties in town,” recalls Wickersham. “Before I was married there were a few parties where only Sam and I were left to close it down.” During the annual party, as Jasper notes, “the shop would be closed, the chairs moved aside, and Sam would cook enough food for the 400-500 people who would stop by during the day.” Unfortunately, Sam, Jasper and Joe have not been unable to host the party for the last several years due to the large number of people who attended and flooded the basement of the Westgate. “There wasn’t any more room for everyone.”

Pieter O’Leary is an associate at the Damiani Law Group. comp3@damianilawgroup.com

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at the House of Blues
SDCBA's Comic Gems

1. Jim Pokorny. Jim has a commercial pilot's license and handles aviation litigation matters as well as criminal defense. Before LAF-Off, Jim had no prior experience doing stand-up comedy. However, he had been serving as emcee and host of a number of bar-related functions at SDCBA, including the “Bar Dinner” for a number of years. Jim looks to Jonathon Winters and Red Skelton as comics whom he admired most growing up and views Robin Williams as their successor. He credits Ken Turek with providing the motivation to perform at LAF-Off, referring, with tongue in cheek, to Ken’s threat to “malign my reputation in the worst way before the assembled masses” should Jim not perform.

2. Bernadette Probus. Bernadette is the Lead Housing Attorney of the Legal Aid Society of San Diego, practicing tenant representation/eviction defense in private as well as subsidized housing. Bernadette had no previous experience doing stand-up before LAF-Off but worked diligently for three months to prepare, studying books and watching comedy on television. She looks to Bette Midler, Lucille Ball, as well as a number of female cast members of Saturday Night Live over the years as her comedic influences. Bernadette credits her desire not to let the boys have all the fun as her motivation for wanting to perform at LAF-off.

3. Dan Lawton. Dan has focused his practice primarily in civil trials and appeals. Being the class clown in high school, Dan has always enjoyed making people laugh, something there is not much opportunity to do as a lawyer, he commented. Seeking to soothe his inner clown, Dan started performing at a couple of “Open Mic” nights at the Comedy Store in La Jolla about six years ago, though nothing since then before LAF-Off. He remembers his first performance was the Sunday night after September 11, 2001- and nobody laughed. Dan admires Steven Wright, George Lopez, Woody Allen, David Lettermen, and the late Richard Jeni as his comedic influences.

4. Stephen Yunker. Stephen is a trial lawyer specializing in complex business litigation. Having no background in stand-up prior to LAF-Off, Stephen acknowledges the kind tutelage and peer pressure of Dan Lawton that prepared and motivated him for the event. At first, Stephen felt he had the good sense to avoid doing stand-up. Such feelings were reinforced by his wife Chris’s assessment of his first rehearsal when she said, “Steve, there’s only one problem with your routine- it’s not funny.” However, it was, as Stephen puts it, “a combination of macho pride and Catholic guilt that put me in harm’s way.” Though he describes the experience of preparing and performing at LAF-Off as similar to combat, “several hours of boredom followed by 90 seconds of sheer terror,” Stephen says he would do it again in a heartbeat.

5. Dan Stanford. Dan has focused his practice for the past 16 years on representing clients in legal malpractice and malicious prosecution cases. Though Dan had never performed stand-up before LAF-Off, he has been interested in stand-up for many years. His favorite comedians have been, and continue to be: Don Rickles, Eddie Murphy, Dennis Miller, Jon Stewart and David Letterman. When asked how he would describe his LAF-off experience, Dan said, “I was more nervous at the beginning of the stand-up routine that I was when I picked my first jury almost 30 years and three dozen trials ago!” Despite the nervousness and the hard work in preparing for LAF-Off, Dan relished the opportunity to try something completely different and would definitely do it again.

6. Ruth Hargrove. Ruth is a professor at California Western School of Law and there were a great number of her students in attendance to cheer her on at LAF-Off. She had never attempted performing stand-up before the LAF-Off event. When asked what her motivation was to want to perform stand-up, Ruth simply stated “I’m a ham [and] probably diagnosably narcissistic.” Among her comedic influences are Billy Crystal, Ellen DeGeneres and Janine Garafolo.

7. Wells Lyman. Former SDCBA President Wells Lyman practices primarily in bankruptcy and family law and has never performed stand-up comedy before LAF-Off. Wells admires the late Richard Pryor and Bob Newhart. Though accustomed to doing some Bar Dinners, Wells used to think getting up to do stand-up was not worth all the stress and hassle. When asked why he decided to do it, though Wells mentioned his wife’s gentle needling, it was really a realization that there was no better time for him to go out on a limb and do something like this. It was a monumental test of courage, Wells says, but to see a whole room full of people there for such great reasons made it all worthwhile.

8. Steve Lemish. Steve practices Federal Criminal Defense and has done so for the past 16 years. Steve observes that he is “short for my height and kinda young for my age.” Steve never performed any stand-up before LAF-Off, but Dawn Davis, a long time friend of his who works at SDVLP, encouraged him to volunteer. He enjoys modern political satire as well as observational comedy and points to the early days of Saturday Night Live as well as Steve Martin, Richard Pryor, Lily Tomlin and Jerry Seinfeld as his comedic influences. As far as his experience at LAF-Off goes, Steve comments that, though he was nervous leading up to the event, the audience was great and he was very happy the event went so well for SDVLP.

9. John Little. John primarily practices plaintiff personal injury law and has had a comic career spanning over 40 years. John began writing comedy and performing impressions in high school, progressed to performing skit comedy in law school, and now performs comedy about four to five times a year. As inspiration, fresh out of law school, John read Steve Allen and admired Steve’s mind for ad-libbing. Johnny Carson, John observed, was a master at being funny even when the jokes were not working. Making people laugh makes them feel good and that, John states, is his biggest motivation for wanting to do stand-up comedy.

Richard Stevenson has a solo practice in San Diego with an emphasis on consumer bankruptcy and other debtor rights.

By Richard Stevenson
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“Come, Plato,” said Socrates, “let us discuss the duty of attorney-client confidentiality. Let us assume that I am an attorney, and I learned, but not from my client, of certain information about my client that is of public record, for example, a prior related lawsuit that is unknown to opposing counsel. Would I breach any duty of confidentiality to my client by disclosing the lawsuit?”

“Allow me to start at the beginning,” responded Plato. “As sure as Zeus rules the heavens, an attorney has the duty ‘to maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client’” (Bus. & Prof. Code §6068(e)(1); Rule of Prof. Conduct [RPC] 3-100(A) [attorney may not reveal information protected by Bus. & Prof. Code §6068(e)(1) without informed consent of client]).

“But what, then, should one consider to be confidential or a secret?” asked Socrates.

Plato responded, “My first thought is that of the attorney-client privilege. Generally, the Evidence Code defines a confidential communication between client and lawyer as information shared between the two in the course of the attorney-client relationship and in confidence that discloses the information to no third person other than one who is present to further the interests of the client. Obviously, this would include legal opinions and advice (Evid. Code §952). The existence of the prior lawsuit, which is not private in that it is of public record, was not information shared between attorney and client. Its disclosure would not be a breach of the duty of confidentiality.”

“Would conversations with my paralegal or with another lawyer fall within your definition of confidential?” asked Socrates.

“Generally, they would,” said Plato. “But if the conversation is with a lawyer who is not in your firm, you would do well to first make sure she or he has no relation to the matter at hand. Without first checking for conflict issues, you might end up having a detailed conversation with a lawyer who is a member of the opposing party’s law firm. Such a conversation could raise a number of serious issues, the most important of which would be your failure to faithfully protect your client’s confidences.”

“Excuse me,” interrupted Aristotle. “I believe you have defined the scope of attorney-client confidences too narrowly.”

“Aristotle? This is quite odd,” said Plato. “You and Socrates never lived at the same time.”

“This is true, but, after all, this is a work of fiction,” responded Aristotle.

“Please continue with your thought,” said Socrates.
“It appears to me that a lawyer should not equate the duty of confidentiality with the attorney-client privilege. One does better to consider the ethical duty of confidentiality as being broader, potentially much broader, than the attorney-client privilege. The court in Goldstein v. Lees (1975) 46 Cal.App.3d 614, 621 so held, and this principle is well recognized in the ethics opinions of the California State Bar (Committee on Professional Responsibility and Conduct [COPRAC] opns. 1993-133, 1981-58, 1980-52; RPC 3-100, Discussion, ¶[2]). A lawyer should not disclose any confidential or sensitive information obtained from any source, as well as any information the disclosure of which might be embarrassing or detrimental to the client. Thus, ‘the attorney’s duty to maintain client confidences and secrets inviolate is broader in scope than the attorney-client privilege’” (COPRAC opn. 1993-133).

“So,” said Plato, “in your view, is it better for the lawyer to have the mindset that everything about the client is confidential?”

“Precisely,” said Aristotle. “Although, to be certain, not everything about a client is actually confidential, it is more logical to start with this working standard and then to carefully consider whether the information at issue should be disclosed.”

“Aristotle, under your analysis, something that is of public record, and therefore not covered by the attorney-client privilege, might still be subject to the duty of confidentiality,” commented Socrates.

“Correct. Such information is not privileged, but to disclose it without legal compulsion might violate the duty of confidentiality. Thus, although one might be obligated in discovery to disclose the existence of prior related litigation or other information, if asked (RPC 5-220 [prohibition against suppression of evidence]), voluntarily doing so might well be a breach.”

“I am won over by your reasoning,” said Plato, “and on further contemplation, it is certainly true that disclosing information, regardless of its source, when not compelled to do so might indirectly lead opposing counsel to information to be used against one’s client. This would be a bad thing, indeed.”

Luis E. Ventura (Law Office of Luis E. Ventura) is co-vice-chair of the Legal Ethics Committee. The views expressed in this article are his own and not those of the committee. luis@luisventuralaw.com
1. The San Diego Superior Court is one of the most progressive and innovative courts in the country in its efforts to develop partnerships with various entities to provide new court facilities.
   True ☐ False ☐

2. A new Vista courthouse, which is San Diego's highest-ranked project with the AOC, will be the 55th court project tackled by the state.
   True ☐ False ☐

3. At least three-quarters of the citizens who visit the North County Courthouse for traffic violations use computer-assisted kiosks to "pay and go."
   True ☐ False ☐

4. The total cost to bring San Diego's trial court facilities up to current structural and efficiency needs is $700 million.
   True ☐ False ☐

5. With the assistance from the Judicial Council, AOC, and the individual courts, Chief Justice George began to transform the landscape of the judiciary by centralizing the state's traffic and small claims courts.
   True ☐ False ☐

6. California has the ninth largest judiciary in the world.
   True ☐ False ☐

7. Chief Justice George's recent appeal to Governor Schwarzenegger resulted in a $5 billion budget proposal for a pilot project for self-represented litigants.
   True ☐ False ☐

8. It is estimated that the actual cost to repair, upgrade and rebuild California's trial court facilities approaches $10 billion.
   True ☐ False ☐

9. San Diego currently requires new courthouse facilities at the downtown Central location, Vista and Chula Vista, and for small claims and traffic court.
   True ☐ False ☐

10. The Bench-Bar Coalition (BBC) is a collective of judges, lawyers and other legal community representatives dedicated to fund raising efforts on behalf of the AOC.
    True ☐ False ☐

11. Chief Justice George has led an ongoing struggle of power in California, attempting to reassert the judiciary's constitutional place as a co-equal branch of government.
    True ☐ False ☐

12. According to the Director of the Office of Court Construction and Management for the AOC, a $5 billion bond measure will provide sufficient funding to repair and upgrade existing court facilities to accommodate current and future caseloads.
    True ☐ False ☐

13. With the completion of the actual transfer of courthouse facilities from the counties to the states, the state will be prepared to break ground on numerous projects currently being planned.
    True ☐ False ☐

14. Among the San Diego Superior Court's current courthouse needs are solutions to security issues, asbestos containment, understaffing, and seismic retrofitting.
    True ☐ False ☐

15. When Chief Justice George conducted a comprehensive visiting tour and study of California's courthouse facilities, nearly ten years ago, each one of the courts in the state were the responsibility of their respective counties.
    True ☐ False ☐

16. Several important pieces of legislation have been passed to assure the deteriorating and dangerous conditions at trial court facilities throughout the state.
    True ☐ False ☐

17. It is anticipated that some cases will be transferred from the South Bay Courthouse, to other nearby courthouses, to ensure Constitutional requirements for bringing cases to trial.
    True ☐ False ☐

18. The California Case Management System, V3, currently provides for triage centers in three of San Diego's Superior Court facilities to facilitate the needs of self-represented clients.
    True ☐ False ☐

19. It is estimated that a significant number of legislators come into office unaware of the proper role and function of the judiciary, the practical needs of the courts, or how to reform the codes.
    True ☐ False ☐

20. One of the primary challenges for the Bench-Bar Coalition is its need to function in a highly charged political environment in a non-partisan manner.
    True ☐ False ☐

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County Bar at BASIC
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Women’s Resource Fair
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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.

Since its inception, the Bar Foundation has granted over $1.4 million to non-profit organizations throughout the county that provide law related public service programs. Bar Foundation grants help children, the elderly, the sick and disabled, victims of domestic violence, immigrants and asylum seekers throughout San Diego County. Since 1989 grants have been awarded to the following agencies:

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The Force of Change

The only constant in life is change. Change may be positive or destructive, but it is always relentless, and the forces behind change are what we later dissect in pursuit of history.

In 1952, small but distinct changes were occurring in the local legal community, mirroring what was happening in society at large. Madge Bradley became the first woman to sit as a pro tem Superior Court judge in San Diego County (and was appointed to the Municipal Court a year later). The Barristers Club elected its first woman board member, and the Bar’s magazine, DICTA, encountered its first female committee member (in both cases, Ann Wansley).

Also in the January 1952 edition of DICTA was an announcement that the “Lawyers’ Wives of San Diego” would have its first meeting at the El Cortez on January 22. This group quickly evolved into the San Diego County Bar Auxiliary, with its first chair, “Mrs. David Pain” (Helen Pain). (The April 1952 DICTA listed the women founders of the auxiliary by their first names, with the editor taking the blame as he wanted “to know all the gals by their first names.”) The auxiliary was established to foster “public confidence in the legal profession and philanthropic work.” For the next 50 years, until it folded in 2002, it did just that: the auxiliary regularly raised money for the Legal Aid program, started the courthouse tours, preserved the old courthouse clock tower (which now sits in the lobby of the 220 W. Broadway courthouse), raised money for the Crime Victim’s Fund, and donated $50,000 for the Polinski Children’s Center.

Probably one of the best-known auxiliary events was the annual Blackstone Ball, which in its prime filled two ballrooms with more than 1000 people. The Blackstone evolved from a spring dance to a black-tie event, co-hosted by the San Diego County Bar Association and hence the adoption of the “Blackstone Ball” name in 1963 (rejecting “Counselor’s Cotillion” and the “Bar and Bench Ball”). The November 9, 1963, event was held at the Hotel Del ($25 per couple) and featured Frankie Laine. It filled the society pages.

The Blackstone Ball sputtered to an end in the 1990s, going the way of black-tie events and society pages. The auxiliary itself struggled with declining membership as more women entered the workplace. Rita Neeper, a past auxiliary president, said that when wives of attorneys were not working, this organization provided a social outlet and a way to give back to the community.

A historical footnote: for many years, the Grant Grill allowed only men to dine before 3 p.m. In 1969, a group of women “invaded” the Grant Grill and sat for lunch. One of those women was Helen Pain, the first chair of the auxiliary. However, the Grant Grill did not change its policy until after legal action was threatened by three female attorneys who sat for lunch in 1971: Elaine Alexander, Judy McConnell and Lynn Schenk. (These three women helped establish Lawyers Club of San Diego in 1972, quite the sea change from 20 years prior).

In the final analysis, it cannot be disputed that the auxiliary did great public deeds during its 50-year life span and fulfilled its mission. Although the forces of change ended the auxiliary, those same forces—involving or, perhaps, overlapping some of the same people—created new opportunities for good deeds. May the forces of change be with you.

George W. Brewster Jr. is a senior deputy county counsel for the county of San Diego.
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