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**Dear Mr. Markus,**

I wanted to drop you a personal note to thank you for your talent, skill, hard work and tenacious perseverance in getting the case settled. I really don’t think that anyone else could have done it. You did a magnificent job and deserve a big pat on the back. Looking forward to seeing you again soon.

— Los Angeles defense counsel in same matter

---

**Dear Mr. Markus,**

I thought you were excellent; one of the very best mediators I have worked with in my 30 years of practice. I will be sure to recommend you freely and with confidence in the future.

— Agoura Hills defense counsel in the same matter

---

**Dear Mr. Markus,**

As a plaintiff’s attorney exclusively handling catastrophic injury cases, I was very apprehensive about mediating a case with a mediator unknown to me.

I began our mediation session at 9:00 a.m. with no expectation of resolving the matter. In fact, I did not expect to stay past noon. Instead, I was pleasantly surprised that the case was finally resolved at 11:30 p.m. that night.

You worked tirelessly to bridge a $7 million gap resulting in a fair resolution to my clients during the 14-hour mediation. Thank you again for your excellent efforts.

— Long Beach plaintiff’s counsel in catastrophic personal injury matter settled for $3.16 M

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54 Lawyers for Literacy: Chapter Three of “The Chase”
By Charles Bird

LEGAL BEAGLES
(AND OTHER PETS)

Annual Pet Photo Shoot
Please join us for San Diego Lawyer’s second annual Pet Photo Shoot. It’s on Saturday, May 12, at 10 a.m. in Balboa Park, just south of Cabrillo Bridge at Nate’s Point, and off-leash dog park. In case of rain, the event will be held on Saturday, May 19—same time, same place. For more information, contact mkruming@aol.com.

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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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Passing It On

Soon after finishing law school, I began to realize that many people could do so much more for themselves and for others if they had a little push in the right direction. As I progressed in my legal career, I became financially capable of helping others who were in need of that push. Sometimes making a sacrifice at just the right time, whether it is financial or emotional, can carry people through a tough time or open their eyes to such great possibilities.

Throughout the years I have been forced to admit that sometimes my theory sticks and sometimes it does not. Despite my slippery success rate, I press on, and who would be better than the young men and women who defend our country so unconditionally? Certainly, many of them are homesick as they have never been away from their parents for any significant amount of time, and care packages from a stranger might give them some reassurance that there are people who believe that what they are doing is honorable.

In the wake of the September 11 attack, a former client was called upon by the United States Army to defend our nation. She informed me she would be heading to Kuwait, and I requested her mailing address to enable us to send care packages to her. For about a year, I sent her cookies, candy and gum several times a month. My former client assured me that she was sharing everything with her unit because it really helped them maintain a positive attitude in such an emotionally and physically trying time.

When the Marine returned, I had the opportunity to meet him. My assistant introduced him to me, and, with a huge smile on his face, he told me I could not imagine the feeling his unit felt when they received the care packages. I knew my mission was not over. With each passing day, I tried to obtain the shipping information for other military personnel.

During a client’s office visit, he noticed that I had a large stack of prior-year filings in my office, and he asked me how I could do so much more for others if I didn’t have a little push in the right direction. As I progressed in my legal career, I became financially capable of helping others who were in need of that push. Sometimes making a sacrifice at just the right time, whether it is financial or emotional, can carry people through a tough time or open their eyes to such great possibilities.

I am hopeful that my efforts will inspire at least one other person to do more for themselves and others if they have a little push in the right direction. As I progressed in my legal career, I became financially capable of helping others who were in need of that push. Sometimes making a sacrifice at just the right time, whether it is financial or emotional, can carry people through a tough time or open their minds to such great possibilities.

Brian Hochvert has practiced law in San Diego for 32 years. bhochvert@sbcglobal.net
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Civility: We’re Part of the Solution…Right?

One hears a lot about the lack of civility in the practice of law. Folks who have practiced for decades bemoan how the practice has changed. Attorneys no longer rise to the standard implicit in being an officer of the court. Common courtesies are less commonly extended. Lawyers have to be more wary of the motives of opposing counsel, who may be poised to exploit any opportunity for strategic advantage.

The topic of civility in the practice of law comes up so often because it is both interesting and important. It’s interesting because everyone has great and terrible stories to tell about shockingly unscrupulous behavior by opposing counsel. It’s important because the presence or absence of courtesy among counsel can truly make the difference between whether one’s legal practice is pleasant or distasteful.

Whenever a group of lawyers talks about civility in the practice of law, there is universal agreement that there is insufficient civility, courtesy and professionalism today. Among experienced attorneys, there is nostalgia for the good old days when an attorney’s word was his or her bond. After many conversations on this subject it occurred to me: the attorneys having this discussion are all part of the solution, not part of the problem. So who are these uncivil attorneys? Not me. Not the people I work or associate with.

Is there a group of attorneys out there that pride themselves on being cutthroat, uncompromising and at the ready to exploit any opportunity for advantage? Yes, I imagine there are. But I have not run into many of them. For the most part, the attorneys whose conduct I have taken issue with probably consider themselves to be highly ethical, reasonable attorneys who only resort to incivility when provoked—which is pretty much how I look at myself. So what are the odds that those attorneys, about whom I have complained, see me as part of the problem?

Maybe it’s time for closer self-examination. Is it possible that on occasion what I have intended as the execution of fair but firm litigation tactics was perceived as uncivil at best or unethical at worst? Is it further possible that when my hackles have been raised by another attorney’s lack of courtesy, the other attorney was oblivious to his or her own transgression and took my response as the initiation of a cold war? And if this is happening even among those attorneys who perceive themselves as impeccably professional, how can we prevent a downward spiral of tit for tat?

I submit that one part of the answer is to take the high road, even after being on the receiving end of a lack of courtesy. I’m not talking about being a doormat, and I’m not talking about failing to protect the clients’ interests. But when opposing counsel fails to accommodate a reasonable scheduling request and then expects consideration when his or he child gets sick, go ahead and give it. And if it happens again, be the better person that second time. (If it happens a third time, well—like I said—I’m not talking about being a doormat.)

This is not going to turn back the clock and return us to a time when incivility was a rarity among professional colleagues. But it might help reverse a trend. And even if it doesn’t, those of us who try this strategy can commiserate about that lack of civility in the trade with just that much more confidence that we have done what we can to make sure we are part of the solution, not part of the problem.
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Once fall rolls around and you begin your career as an associate, the thoughts of your days as a summer associate and the attendant parties, ballgames and harbor cruises are a distant memory. The excitement of the escalation in associate salaries has some drawbacks, not the least of which is a very short “honeymoon.” Many firms are requiring associates to carry a bigger burden of their own benefits; be sure it’s clear and you don’t overlook those as reductions to your anticipated compensation.

Most firms allocate time for training and orientation to get you off on the right foot. Take this valuable time to get it right, and resist the temptation to rush into billing. A big part of your training should cover timekeeping, which is one of the biggest challenges for lawyers.

A big part of your training should cover timekeeping, which is one of the biggest challenges for lawyers. Aside from keeping track of what you do, you need to understand the firm’s billing practices and narrative format in terms of tense, use of abbreviations, task billing, how to refer to colleagues in the narrative, whether to bill for interoffice conferences, the minimum unit of time, and how to describe what you’ve done. One associate commented that “you want to be thorough in your research or drafting so you don’t miss anything that’s critical, but on the other hand, you want to be efficient so you’re not overbilling your client or forcing the partners to write off your time because you spent too much time on something.”

In law school, online research was free. Before you do your first project, make sure you understand what services the firm has under contract, what’s included in the “flat fee,” and how to bill. You don’t want a $3,500 charge to show up on the pre-bill and have that “conversation” with the billing partner. Often the firm’s librarian is the best source for guidance.

You may have a blog, IM your friends and have a Bluetooth glued to your ear—but that’s not what you’ll find in a law firm. By necessity, firms have conservative approaches to IT. You will not be able to load all of your favorite gadgets on your office workstation (and you shouldn’t load anything without first checking with your IT department). It’s just a fact of life in our high-tech world that IT staff can support only so many applications—and the whiz kid new associate wanting to treat his or her workstation as if it were a home PC will not work.

Add your role as a supervisor to the list of things you didn’t learn in law school. You are now the “boss,” and the staff sees you (and so does the law) as one in authority. Having the respect and support of the staff can make a big difference in your success. Treat the staff as professionals, but don’t become friends, and never blame the staff for a mistake—it’s the kiss of death.

Dress the part of a professional. Pay careful attention to your firm’s dress code and dress one notch up from the norm every day. Ditch the backpack from law school and invest in a quality briefcase.

One senior associate noted that women still face unique challenges to gain the respect of peers, clients, court personnel and opposing counsel. “In law school, everyone knew who the smart people were, men or women, and you got onto journals and received other awards in a gender-neutral way. But as soon as you walk into law firm life, you get treated as somehow less smart. Sometimes, even colleagues or clients who know the one woman on the team as the person to run errands, bring legal pads, arrange the conference call or order lunch for meetings. It’s a challenge for women to strike a balance of not having a chip on your shoulder about it, yet not letting people walk all over you.”

Finally, seek out a mentor. One associate told me that “having a good mentor eases the adjustment from law school to the practice of law and is beneficial throughout your career. Surrounding yourself with people you admire in the profession helps ensure your contribution to the profession will be admirable as well.”

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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Images from the Heart of Darkness

Twenty vaccinations later and a year in the planning, I found myself boarding a plane headed for the Congo. In the weeks leading up to my trip, I frequently questioned my sanity and wondered what I had gotten myself into. If only I had known.

A friend and founder of the Wasmoeth Wildlife Foundation, a foundation dedicated to conservation and protecting animals in the Congo, invited me to travel with him to the Democratic Republic of Congo (DRC). The DRC is a country in sub-Saharan Africa roughly the size of Western Europe with a population of approximately 60 million. It is on one hand a country with vast riches of precious metals and other resources (platinum, gold, silver, uranium, cobalt, copper and palladium) and on the other hand a country tortured by brutal poverty, the vicious scourge of devastating diseases and frequent political chaos and armed conflict. Not quite the setting for a vacation.

The DRC gained its independence from Belgium in 1960. Since then, the country has descended into a deeper darkness of corruption, discord, disarray and unnerving chaos. Left behind are the faded images and almost forgotten stories of an “allegedly” better age where tourism flourished and tree-lined streets boasted cafés and restaurants along idyllic promenades throughout the capital, Kinshasa. I saw none of those images and met only a handful of people who still remembered those times.

There are faint rumors, however, of the reemergence of an era where the tide of corruption is receding, where education is seen not as an unaffordable privilege but a right, and where environmental conservation of precious resources garners the importance it deserves.

On November 15, 2006, Joseph Kabila was elected as president of the DRC in the first democratic election in more than 40 years. The Congolese people are desperate for change. As unemployment hovers at around 80 percent and graft and corruption are the effective rule of lawlessness, the promise of a new era has focused the attention of the world on this country and its people.

Friends and family have asked me what I took away from my trip, and after a slight pause my answer is always the same. I emerged from the heart of darkness with a realization of the tragedy of humanity; we have so much and yet so many have so little. I was saddened by the extreme poverty and lack of opportunity and yet uplifted by the smiles and laughter of the children who had nothing and yet appreciated everything—even my brief passing through their consciousness: a stranger in a mysterious land. I left Africa and the DRC with the reaffirmation that each of us has a responsibility to better this world.

There is an African saying that once you touch African soil, you will always return to Africa. I guess time will judge the veracity of this saying. In the meantime, I can only hope that what appears to be the faint glimmer of a dream of better days for this war-torn and disease-ravaged country will come true.

Alidad Vakili is associate editor of San Diego Lawyer and an attorney with Fisher Thurber LLP practicing business and corporate law. avakili@fisherthurber.com
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BY DEAN A. SCHIFFMAN

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San Diego chapter membership: 275

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The Federal Lawyer, The Federal Bar Association Newsletter (San Diego Chapter)

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• The national organization sponsors 20 substantive law sections and five career divisions
• The Federal Bar Association has more than 80 local chapters across the country and in Puerto Rico and the U.S. Virgin Islands
• Contact Information:
  www.fedbar.org/sandiego.html
  www.fedbar.org

Purpose
Founded in 1920, the purposes of the FBA are:
• To serve as the national representative of the federal legal profession
• To promote the sound administration of justice
• To enhance the professional growth and development of members of the federal legal profession
• To promote high standards of professional competence and ethical conduct in the federal legal profession
• To promote the welfare of attorneys and judges employed by the government of the United States
• To provide meaningful service for the welfare and benefit of the members of the association
• To provide quality education programs to the federal legal profession and the public
• To keep members informed of developments in their respective fields of interest
• To keep members informed of the affairs of the association, to encourage their involvement in its activities, and to provide members opportunities to assume leadership roles
• To promote professional and social interaction among members of the federal legal profession

Recent Events
Survival Skills Series 2007: A four-part series on federal practice with four distinguished panels of lawyers (February 2007)
Annual State of the Circuit Luncheon: Featuring: Chief Judge Mary M. Schroeder of the 9th U.S. Circuit Court of Appeals (January 2007)
Second Annual Judith N. Keep Federal Civil Practice Seminar: Panel presentations on federal civil practice in the Southern District of California (September 2006)
Reception Honoring United States Magistrate Judge Anthony J. Battaglia: Included welcoming the National Officers (January 2006)

Rupa G. Singh (President)
McKenna Long & Aldridge
I joined the FBA Executive Committee fresh out of a federal clerkship. I learned that the FBA is a unique organization for attorneys’ professional development and bench-bar relations. The credit goes to the San Diego federal judges who support continuing education, the FBA officers, our senior advisory board and the civil and criminal practitioners whom we are honored to call our members.

Gino D. Serpe
The FBA gave me the opportunity to meet many talented lawyers and judges and enriched my legal practice. I have enjoyed being part of the continuing legal education of our bar and fostering bench-bar relations. I am grateful to have made lifelong contacts in the bar.
Hon. Cathy Ann Bencivengo
Magistrate Judge, United States District Court
Whether you practice in federal court regularly or only on occasion, membership in the FBA provides access to current information about federal practice. New attorneys and seasoned veterans interact professionally and socially with the judiciary to the benefit of all. The FBA allows its members to get to know other San Diego practitioners and learn from each other.

Blair A. Nicholas
Bernstein Litowitz Berger & Grossmann
The FBA has solid support from the federal bench in San Diego and the judges are always willing to offer valuable input to practitioners on federal practice. The educational seminars are also tremendously useful and offer members the opportunity to interact with some of the most prominent attorneys in San Diego.

Ted Fates
Allen Matkins Leck Gamble Mallory & Natsis
The FBA is dedicated to educating its members and the public on issues in the federal courts. The San Diego chapter hosts a full calendar of events each year. I have made many friends through the FBA, including judges, law clerks, law professors and students. Taking a leadership role on the board of the San Diego chapter has been a rewarding experience.

Gary T. LaFleur
Mazzarella Caldarelli
I am with a small firm, and have fewer opportunities to interact with other practitioners. Through my involvement on the Executive Committee of the FBA, I have been able to quickly meet and get to know many members of the federal bench and bar in an informal atmosphere. I am proud to be involved.

Robert C. Longstreth
DLA Piper
The federal bench in San Diego and the United States Attorney’s office have supported the San Diego chapter in the 18 years I’ve been involved. Participating in FBA events is a good way to foster connections. I enjoy the annual conventions, particularly the one hosted in Puerto Rico. I look forward to reading the FBA’s monthly magazine, especially the book review section.

Elizabeth Missakian
I am active in criminal defense organizations, but am always looking to join organizations with attorneys in civil practice. From 2003 to 2006, I was a representative to the U.S. District Court, Southern District of California. The experience was wonderful because I could interact with lawyers in diverse areas of practice. The Federal Bar Association provides that same opportunity.

Dean Schiffman is a San Diego attorney and expert witness. He can be reached at dean@LawAndNumbers.com
The San Diego County Bar Association will honor 11 individuals and organizations with the 2007 Service Awards during the Law Week Luncheon on May 4 at the Bar Center. Congratulations to all the winners!

Photography by Lauren Radaack

OUTSTANDING ATTORNEY OF THE YEAR

Carol Chien-Hua Lam
Senior VP, Legal Counsel, Qualcomm Inc.

Favorite quote: “I’m not paid to do what I do. I’m paid for what I might have to do if something goes wrong.” —Airline pilot

Favorite cuisine: Great Cantonese cooking

Favorite vacation spot: Yosemite National Park

Passion: Really, really good chamber music

Law school: Stanford Law School
**SERVICE BY A PUBLIC ATTORNEY**

**Dwayne K. Moring**  
Deputy District Attorney

**Best advice:** People will treat you the way you let them treat you.  
**Favorite quote:** “All that is necessary for evil to succeed is that good men do nothing.” —Edmund Burke  
**Passions:** My wife and daughter; current affairs/politics, movies, music and exercise  
**Favorite vacation spot:** Kaanapali, Maui  
**Law school:** Pepperdine University School of Law  
**E-mail:** dwayne.moring@sdcda.org

**SERVICE TO THE LEGAL PROFESSION**

**Dawnella Gilzean**  
Deputy Public Defender

**Best advice:** 1) If you don’t know, ask 2) Relax  
**Favorite quote:** “Actions speak louder than words.”  
**Passions:** Husband Tom and two sons  
**Favorite vacation spot:** The Outer Banks in North Carolina, and Hawaii  
**Law school:** Santa Clara University School of Law  
**E-mail:** dawnella.gilzean@sdcounty.ca.gov

**OUTSTANDING JURIST**

**Lillian Lim**  
Superior Court Judge

**Best advice:** “Don’t do your own taxes!” Unfortunately, this latest bit of advice from Joanna Tsai (on the Board of Young Lawyers) came the day after the IRS reminded me of a little thing called income from the sale of stock.  
**Favorite quote:** “When I see an adult on a bicycle, I do not despair for the future of the human race” —H.G. Wells  
**Passions:** I chase the dream of changing my Sponge Bob-like figure and demeanor to one of statuesque glamour and dignity. I maintain an intrusive and nagging mothering attitude toward my children and anyone else who will tolerate it. I devote myself to nonromantic, mutually beneficial matchmaking of law students and young lawyers with others in our legal community. Finally, I anticipate the moment when our legislature will establish a Korematsu Day in honor of Fred Korematsu, the contributions of the Asian Pacific American community and the preservation of all our civil liberties.  
**Favorite vacation spot:** Enjoying the sunshine in our own backyard  
**Law School:** Thomas Jefferson School of Law  
**E-mail:** Lillian.Lim@SDCourt.Ca.gov
DIVERSITY

Rupa G. Singh
McKenna Long & Aldridge LLP

Best advice: Always remember where you came from and who got you where you are.
Favorite quote: “From such crooked wood as that which man is made of, nothing straight can be fashioned.” —Immanuel Kant
Passions: My little nephew; my family; reading literature and fiction from foreign authors; hiking, trail biking, skiing or otherwise spending time outdoors; watching good movies; classical Indian dance; being politically engaged; gardening; maps; and traveling
Favorite vacation spot: Zanzibar, Tanzania and Maui
Law school: New York University School of Law
E-mail: rsingh@mckennalong.com

SERVICE TO THE SAN DIEGO COUNTY BAR ASSOCIATION

Elizabeth S. Balfour
Sheppard, Mullin, Richter & Hampton LLP

Best advice: “If you can’t think of something nice to say about someone, you’re not thinking hard enough.” —my 4th grade teacher
Favorite quote: “Leadership should be born out of the understanding of the needs of those who would be affected by it.” —Marian Anderson
Passions: Enriching the lives of children, volunteering, making good friends and keeping them
Favorite vacation spot: Napili Point, Maui
Law school: Harvard Law School
E-mail: ebalfour@sheppardmullin.com
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• Advised the local Salvation Army on Escondido’s denial of a conditional use permit to open up a local winter homeless shelter
• Gave lectures and seminars to JAG officers at both Camp Pendleton and the Naval Justice School in San Diego
• Attorney Virginia Calderon acted as the president of the San Diego La Raza Lawyers Association

Best advice: “Do what is right, rather than what is expedient.” —Alan Mansfield’s dad

Web site: rosnerandmansfield.com

COMMUNITY SERVICE

Rachel Cano
Deputy District Attorney

Best advice: “Never forget your roots or your family” —My mother
Favorite quote: “That which doesn’t kill you makes you stronger.” —Nietzsche
Passions: Putting on a beer festival to raise funds for cancer research, shell collecting, painting, my dogs
Favorite vacation spot: Mexico
Law school: Harvard Law School
E-mail: Rachel.Cano@sdcda.org

SERVICE TO LEGAL EDUCATION

Steven R. Smith
Dean, California Western School of Law

Best advice: The Golden Rule: Treat people like you want to be treated.
Favorite quote: “This too shall pass.” “Change is constant—comforting in times of distress and also cautionary when things are going well.” —My Grandmother Fischbeck said it, but it is also attributed to King Solomon, among others.
Passions: My family, my beliefs, educating the next generation of our profession
Favorite vacation spot: South Maui
Law school: University of Iowa College of Law
E-mail: ssmith@cwsl.edu
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Founder and Executive Director

Best advice: “Aim high.”
Favorite quote: “I believe that unarmed truth and unconditional love will have the final word in reality.”
—Dr. Martin Luther King, Jr.
Passions: My work, children, activism, books
Favorite vacation spot: Buffalo, New York
Web site: kidsturnsd.org

DISTINGUISHED CITIZEN

Ernie Palacio (posthumously)
Appellate Defenders, Inc.

Career: Ernie was with Appellate Defenders, Inc. since late 1983 and for most of that time was the legal administrator in charge of managing all the cases and supervising the paralegal staff.
Death: December 4, 2006 at age 45 of complications of lymphoma and hepatitis
Memory: “Ernie was an amazing person who could—and willingly would (without being asked)—handle anything that needed to be done, from the most difficult and sensitive to the mundane and get-your-hands-dirty. He was always there for us as an advisor and friend. He had a breathtaking work ethic, a brilliant and supple mind, a deep sense of the just and the right, a compassionate heart, an unshakably calm disposition and a great loyalty to our office’s mission and our people.” —Elaine A. Alexander, executive director, Appellate Defenders Inc.
Absence: “How can one not miss such a person? His absence is poignant and palpable. Every time we turn on our computers, walk down the hall, face a difficult task or need a reassuring voice, we think of Ernie and miss him with all our hearts.” —Elaine Alexander.

Please go to adi-sandiego.com/about_EPalacio.html to learn more about Ernie Palacio.
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I answered the phone several months ago, and it was a call from Martin Kruming, editor of this magazine. Martin was interested in an article exploring how attorneys “use” the media in high-profile cases. Would I write such an article, he wondered?

As I thought back over the dozens of high-profile trials I’ve encountered on behalf of the media, I too wondered if the media has any real effect on a high-profile trial, other than fulfilling their role of informing the public about the judicial system through a case in which the public is interested.

The U.S. Supreme Court’s opinion in Gentile v. State Bar of Nevada seemed be the logical place to start. Why had the Nevada State Bar deemed fit to discipline a seasoned criminal lawyer for a single press conference?

The Nevada Supreme Court’s decision in Gentile v. State Bar of Nevada seemed be the logical place to start. Why had the Nevada State Bar deemed fit to discipline a seasoned criminal lawyer for a single press conference?

Gentile v. State Bar of Nevada
In January 1987, undercover police officers with the Las Vegas Metropolitan Police Department reported large amounts of cocaine and traveler’s checks missing from a safety deposit vault at Western Vault Corporation. Grady Sanders owned the company. At a press conference, the police reported the theft and fingered Western Vault employees (among others) as suspects. While two undercover officers had also enjoyed free access to the safety deposit box, they were not considered to be “responsible” for the theft, although they were being investigated.

As the investigation continued without a culprit, Grady Sanders was targeted through a process of elimination. The two police officers had been “cleared” after passing lie detector tests, the press reported. Sanders refused to take one.

Then, a concurrent FBI investigation revealed that the officer who had administered the lie detector tests to his two fellow undercover officers had been arrested for distributing cocaine to an FBI informant. The FBI publicly suspected the true culprits responsible for the theft were the two undercover officers.

Dominic Gentile, an associate dean of the National College for Criminal Defense Lawyers and Public Defenders, had monitored the publicity surrounding the case. Within hours of his client’s indictment, Gentile held a press conference.

It was the first time in his career he had done such a thing. He made a prepared statement in which he asserted that the state of Nevada sought an indictment and conviction of an innocent man as a “scapegoat” and had not “been honest enough to indict the people who did it; the police department, crooked cops.”

Six months later, Sanders was acquitted. The Nevada State Bar then filed disciplinary charges against Gentile, alleging he had violated Nevada Supreme Court Rule 177.

That rule, governing pretrial publicity, prohibits an attorney from making an “extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceed-
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ing." California has a similar rule.

At his disciplinary hearing, Gentile explained that his primary motivation for the press conference was his concern that, unless some of the weaknesses in the state’s case were made public, a potential jury venire would be poisoned by the press repeating information being released by prosecutors. In particular, he worried about news reports of the polygraph test and the two police officers who had been “cleared.”

Gentile did not say he thought he could sway the pool of potential jurors to form an opinion in advance of the trial, nor did he seek to discuss evidence that would be inadmissible at trial. “Far from an admission that he sought to ‘materially prejudice an adjudicative proceeding,’” the U.S. Supreme Court noted, Gentile “sought only to stop a wave of publicity he perceived as prejudicing potential jurors against his client and injuring his client’s reputation in the community.”

The Nevada disciplinary board found that Gentile had violated Rule 177. Nevada’s Supreme Court agreed, and Gentile appealed to the U.S. Supreme Court.

Chief Justice Rehnquist wrote: “Just as an attorney may recommend a plea bargain or civil settlement to avoid the adverse consequences of a possible loss after trial, so too an attorney may take reasonable steps to obtain dismissal of an indictment, especially in the fact of a prosecution deemed unjust or commenced with improper motives. A defense attorney may pursue lawful strategies to obtain dismissal of an indictment or reduction of charges, including an attempt to demonstrate in the court of public opinion that the client does not deserve to be tried.”

Nevada’s Rule 177 struck at the core of classic political speech, the chief justice further noted. “Public vigilance serves us well, for ‘the knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effect restraint on possible abuse of judicial power. . . . Without publicity, all other checks are insufficient: in comparison of publicity, all other checks are of small account.’”

The San Diego Experience
San Diego lawyer Ray Vecchio spoke to the press on behalf of his client, Lisa Maree Gaut, for the same reasons as Dominic Gentile spoke to the press on behalf of Grady. Gaut, a passenger in former Charger linebacker Mark Foley’s car the night he was stopped by a plain-clothed, off-duty officer for driving under the influence, says her arraignment presented only the officer’s version of what had occurred—that is that he had shot Foley in defense of his own life. Vecchio, however, believed the 911 tapes and statements by other police officers that night told a different story, one that favored his client.

Gaut deserved, he said, the opportunity to correct misimpressions of statements made by the prosecution. It was important for the public to know her version of what happened that night. Maybe, he mused, the public even benefited from the blogs and media debates about the type of identification officers should be required to give in the dark of the night when they pull someone over to the side of the road.

Jeff Dusek, who prosecuted David Westernfield for the murder of Danielle Van Dam, agrees that attorneys cannot really “use” the press, even in a high-profile trial. Rather, he believes, jurors take their oath responsibilities seriously.

While Dusek has experienced some potential jurors who have made up their minds by the time they are called for jury service based on media coverage, he also says that some people just have preconceived notions about cops, or attorneys, or defendants in general. “Hopefully,” he says, “you can spot them.”

Jerry Coughlan, who defended former city councilman Michael Zucchet, agrees that most voir dire shows only a small percentage of jurors have little, if any, details about a case when they are called to serve. Even most of those with information say they can be fair. But he worries about the “unconscious memory” of jurors and what they’ve seen or heard about a case.

All in all, “you can’t control the media,” Coughlan says. Also, what about talk shows and the Internet influencing potential jurors? Both operate, he says, with opinionated, charismatic personalities, well outside the editorial filter of the traditional media.

Kate Coyne, who defended Dale Akiki from charges of child molestation from community accusers, believes it is important to educate the press regarding flaws and weaknesses in the prosecution’s case. That is difficult early on, she noted, as the prosecution has more of the facts from their investigation than you do: “Often, defense counsel initially knows only what is reported in the media.”

Coyne, like Coughlan, also worries about the “insidious” juror who thinks he or she can be fair, but whose outlook is subtly shaped by the process. That is of special concern in psychotic cases. “What are jurors to think about somebody who confesses to a crime for publicity or mental reasons?”

Conclusion
I think case law and experience bear out the conclusion that, in the end, the media has no real effect on high-profile trials, other than perhaps to burden the lawyers involved. Nevertheless, as the Supreme Court (along with other courts) has long underscored, “A responsible press has always been regarded as the handmaiden of effective judicial administration, especially in the criminal field. Its function in this regard is documented by an impressive record of service over several centuries.”

Erin F. Cummins is a Media/Intellectual Property partner at Sheppard Mullin Richter & Hampton. ECM@sheppardmullin.com
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Last November, a talented group of individuals from San Diego’s law schools met at the downtown offices of Luce Forward Hamilton & Scripps to brainstorm story ideas (63 were generated) for our second annual Career Issue. Managing Partner Bob Bell welcomed everyone—just as Roy Bell did when his firm, Ross Dixon & Bell, hosted a group which planned and produced our first Career Issue in 2006.

In this issue, you’ll find stories about passion and balance; networking and first jobs; brand-new lawyers and those more experienced; and even how a bike accident turned into a job offer.

All of us at San Diego Lawyer thank very much those who made this project possible. They include:
- California Western School of Law—students Charles Bell, Samantha Cherot, Jessica Coto, Davina Lam, Michael Connors Long, Kaitlin Prindle, Gregory Shibley and Genevieve Suzuki; Louis W. Hellmuth, Esq., assistant dean, Career Services; Courtney Miklusak, Esq., associate director, Career Services.
- Thomas Jefferson School of Law—students Christine Ellis, Todd Knode, Peter Prestley, Amanda Thompson and Taniquelle Thurner; Laura A. Wesely, Esq., assistant dean for Career Services; Lori Wulffmeyer, assistant dean for Administration.
- University of San Diego School of Law—students Josh Fuladian, Hali Henderson, William Morrison and Catherine Tran; Cara Mitnick, Esq., assistant dean for Career Services.
- Western Sierra School of Law—students Erika Adams, Christina Lee, Veronica Perez and Alan Ridenour.
- Luce Forward Hamilton & Scripps—Bob Bell, Ramona Cyr, Nicole Matthews and Joe Townsel.

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It’s your life.

What are you going to do with it?

Discovering Fire: Finding Your Life’s Passion

BY JOSH FULADIAN

Passion. It’s that “thing” you can’t wait to do when you get up in the morning. But is passion an absolute predicate to a rewarding career? What if you don’t have it as a law student or young attorney? What if you haven’t identified it in mid-career? In my search for answers, I set out to find what drives those in the legal field who absolutely love what they do. I spoke with seven members of the San Diego legal community who deeply enjoy their careers. Ultimately, I learned that there are a number of principles that may serve as a guide to finding a rewarding legal career.
As an initial matter, the interviewees unanimously agreed that money does not bring happiness and is a bad measure of success. Bob Bell (Luce Forward Hamilton & Scripps LLP) pointed out that you are not truly successful if you are well-off but in a profession you dislike. Money will follow your passion if you are true to your values and interests. Happiness on payday fades quickly if you don’t enjoy what you do to earn that money. Examining why you’re drawn to a certain path will guide you away from such mistakes. Beyond money though, is it necessary to have a burning passion for your work, or can a “great interest” bring comparable success?

I first learned that those who have a defined passion from the beginning of their career are rare. For example, Michael Shames (Utility Consumer’s Action Network, or UCAN) entered law school with the specific purpose of pursuing his interest in consumer protection law. Shames created UCAN while in law school and defines his passion as “protecting people who can’t readily defend themselves against some very large, impersonal and often excessively greedy companies.” Similarly, Daniel Lamb (Pillsbury Winthrop Shaw Pittman LLP) knew he wanted to be a litigator in law school and continues his pursuit of that passion to this day. Lamb likened trial work to athletic events that require total immersion and focus. Throughout his career, he has never lost the feeling of exhilaration that accompanies trials. Shames and Lamb represent a rare group of people who followed a passion they had from the beginning, and that passion has served them well.

Justice Richard Huffman (California Court of Appeal) and Roy Bell (Ross Dixon & Bell, LLP), however, advise law students to view their passion with caution and always consider other possibilities. You may think you have a passion without fully understanding it; experience in the field may change how you feel. Keeping an open mind means you’ll never miss an opportunity to find a career in the field you love.

But what if you don’t have a defined passion yet? I learned that you can discover your passion by chance and at any time in your career. For example, Bob Bell found his passion for real estate transactional work after spending two years sampling a variety of practice areas in his firm. After 30 years, he defines his passion as the satisfaction he feels after creatively constructing win-win agreements for his clients and watching them better the community through development.

While Bell discovered his passion shortly after law school, it took presiding magistrate judge Leo Papas (United States District Court) nearly 20 years in practice to discover he had a strong passion for mediation. He derives a deep sense of satisfaction from successfully bringing adversarial parties to consensus and resolving what is often a traumatic and unpleasant time in their lives. Judge Papas discovered this passion by chance and agrees that while you may enjoy your work, you never know when or how you’ll discover your true life’s passion.

But what if you never discover your passion? Is passion absolutely necessary for a rewarding career? I found that there’s a fine line between passion and really enjoying what you do.

For example, Roy Bell has consistently seen
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himself as a problem solver and enjoys the challenge that comes with resolving conflict. He believes you give the most back to society when you resolve a problem. Similarly, Stanley Panikowski (DLA Piper US LLP) has a general passion for the law but really enjoys solving the puzzles that the law poses. He also enjoys developing relationships with his clients and working in a strong team environment with his coworkers. Both Bell and Panikowski showed great enthusiasm for their work that was nearly indistinguishable from those who had definable passions.

So how did these successful people discover what they enjoy? One key to discovering your passion or interest is experiencing as many different areas of the law as you can. You may not know how you feel about a field if you never experience it. Remain open to all opportunities that come your way, and don’t foreclose the chance of finding what you really enjoy in another field because of doubts. You may never know where a path not ventured will lead. Instead of being passive, actively pursue any opportunity that may yield new possibilities.

Additionally, be true to your personal values at every turn while following your true passions. Justice Huffman’s 40-year career took many turns, but he stayed true to his values at each step. Because he made this decision, Justice Huffman was able to say, “I’ve had good days and I’ve had bad days in the last 40 years, but I’ve never had a day when I wished I did something else.” Choosing work that fulfills several of your personal values will ensure that you will find satisfaction in what you do. This way, each step in your career will lead you to personal and professional success, even if you’re unsure of where a choice may ultimately lead.

In the end, I learned that passion is not absolutely necessary for a rewarding career. Wherever you are in your personal journey, you will find gratification even if you never find a burning passion. You will find happiness in your career as long as you explore your interests, remain flexible to new opportunities, choose paths that fulfill your values and choose your work because you truly enjoy it. With these guiding principles, go forth and discover your passion. I wish you luck in your journey.

Josh Fuladian is a student at University of San Diego School of Law and serves as extern to Judge Papas. He would love to know about your passion or interest. ajfuladian@hotmail.com
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Six years ago, attorney Randall Rechs billed about 220 hours a month when he worked for defense firm Neil Dymott. On a typical day, he'd wake at 4:15 a.m., leave his home by 5 a.m., drive to Los Angeles for an 8:30 a.m. hearing, and sit through all-day depositions until the early evening. Dinner often consisted of a meal from Carl's Jr. on the way back to San Diego. “I was doing that somewhere between two or four times a week,” says Rechs. “I was putting in long hours, but at the time, I was single. No kids.”

Rechs began rethinking that schedule once he started dating fellow attorney Shannon Nugent. “I knew I was going to have a family: I didn’t want to not be able to put them to bed at night, not be able to see my kids, and work those types of hours,” Rechs says. “I felt like working for someone else, it wouldn’t be my decision.”

In 2001, Rechs decided to start his own practice doing plaintiff’s medical malpractice. He is quick to point out, however, that his choice was a personal one and not because of the pressures of firm life. “Before I had children, working at Neil Dymott was one of the best experiences of my life, because I knew what it was to work hard,” says Rechs. “I learned from a lot of great lawyers over there, especially Mike Neil. Without that foundation of working for those guys … I wouldn’t be capable of a successful plaintiff’s practice. I’m glad that I did it, but now I’m glad I’m doing what I’m doing because it really works out well with my family.”

These days Rechs still gets an early start, but that’s because he has to get a move on breakfast for his family rather than get ready for a long ride to the City of Angels. He and Nugent have been married for about five years and have three children: 4-year-old Jessica, 2-year-old Katie and 5-month-old Ryan.

Nugent has also made a change since Ryan was born; she became an independent contractor to better manage the household. It seems Rechs and Nugent have found that rare balance between family and the legal profession. “Balance is being able to have success in all facets of your life” Rechs says. “And when I’m weighing everything and trying to balance, I try to err on the side of the kids.”

A balanced life has become such an issue for attorneys that organizations such as the Lawyers Club of San Diego have been hosting seminars such as the Balanced Life Summit, which featured several speakers, including Maureen McGinnity, the chief diversity partner for Foley & Lardner, LLP.

McGinnity has held her position with her firm for more than a year. “I look at it as chief cheerleader for diversity as it relates to recruiting and retention,” says McGinnity, who practices in the firm’s Milwaukee branch. “There is a growing recognition that the legal profession has fallen short in terms of diversity—that’s not a good thing.”

It seems young lawyers want more than just a well-paid, high-powered job. An article in the
New York Post covered the “brain drain” among young lawyers, citing a survey by the National Association of Law Placement (NALP), which found 37 percent of associates leave large firms within the first three years and 77 percent leave within five. The attorneys interviewed admitted they did not want their lives to be defined by work.

In an effort to retain employees who require more time at home and for themselves, more firms today offer attorneys flexible schedules and the option of part-time employment. “One of the key policies we have to accommodate working parents is our flexible schedule policies,” says McGinnity, who has practiced law for 25 years. The policy also extends to attorneys with elder parents.

Foley & Lardner attorneys who elect to work part-time or on a flexible schedule also remain eligible for promotion. “We don’t have time limits you have to spend as an associate,” McGinnity says.

Still, not many lawyers take advantage of such programs. Although most large firms in San Diego offer part-time schedules, only 4.4 percent of partners and 5.1 percent of associates were working part-time in 2006, according to the NALP.

Nevertheless, McGinnity says it is imperative to keep these options available. “The alternative is you’re going to lose people, and that is costly,” McGinnity says. “Someone estimated every time a second-year associate walks out the door, that’s $250,000 to $500,000. You can’t afford that.”

McGinnity says it is essential for law firms to strive for diversity and hire lawyers with fuller lives. “To me, diversity is about people who have different life experiences and have different ways of problem solving, … You don’t want to hang out with people who are all alike.”

Flexibility, compromise and an understanding of the legal profession are vital components to the search for balance. “Can you have balance on a daily period? Probably not. The key is to look for it,” McGinnity says. “It’s like a pendulum—it swings to work and then swings back to your family. Law is not a 9-to-5 job. It’s a profession.”

Genevieve A. Suzuki is a student at California Western School of Law.
The phone starts ringing off the hook from the minute her day starts. As a sole practitioner, Sharon Asaro employs one secretary/assistant. When multiple lines begin to ring at once, she herself answers the phone, something practically unheard of at a larger firm that employs multiple receptionists, assistants and paralegals.

The phone calls are incessant. If it’s not one client contemplating to proceed with his or her divorce, it is another who wants to scream about what a horrible spouse/parent the other is. It is amazing to find out what some people complain about or fight over. Asaro tells me about a particular client who spent hundreds of dollars in attorney’s fees fighting with the spouse over a $30 plant. She tells me more than once that in family law, sometimes you feel like you are more a therapist than an attorney.

Asaro drafts a majority of her pleadings, motions, correspondence, discovery requests and other legal memoranda herself. There is no junior partner for last-minute motions or projects. I ask her what some people complain about or fight over. Asaro tells me about a particular client who spent hundreds of dollars in attorney’s fees fighting with the spouse over a $30 plant. She tells me more than once that in family law, sometimes you feel like you are more a therapist than an attorney.

Family law is certainly a busy field, but by being her own boss she has the ability to refer cases out to other attorneys when her own caseload is too heavy.

What some people complain about or fight over. Asaro tells me about a particular client who spent hundreds of dollars in attorney’s fees fighting with the spouse over a $30 plant. She tells me more than once that in family law, sometimes you feel like you are more a therapist than an attorney.

Family law is certainly a busy field, but by being her own boss she has the ability to refer cases out to other attorneys when her own caseload is too heavy.

As I sit with Asaro in her uptown office, she talks to me frankly about the realities of being your own boss. The positives are clear: no one breathing down your back and eyebing you suspiciously when you sneak out early on a sunny Friday afternoon. No one expecting more billable hours per week than sleeping hours. When you work for yourself, you set your own schedule, and you can come and go as you please.

Of course, it’s not always a walk in the park. As a solo attorney, you are the one responsible for professional liability insurance, payroll and overhead. Taxes, banking, billing and accounting are left entirely up to you. You are responsible for paying your own rent, as well as for utilities, office supplies and office equipment.

I ask her about family law and why she practices in the field. Asaro says she enjoys the one-on-one interaction with her clients. This field allows her the opportunity to really help those in need of legal assistance in highly sensitive matters: divorce and separation, child custody, and so on. She also likes that family law touches corners with other areas of law, such as property, contract and employment. In particular, she tells me she enjoys practicing in this field because family law attorneys have a sense of camaraderie among them. Knowing that this field is so sensitive in dealing with families and often small children, the attorneys are generally easy to work with and do not cause a deeper rift in an already tense family situation just for the sake of argument.

The phone interrupts our conversation. Opposing counsel on a particular case is giving ex parte notice for tomorrow morning. Due to the last-minute hearing, Asaro’s schedule for the next day now needs to be rearranged. She calls opposing counsel on another case to reschedule a four-way meeting between the attorneys and their clients. She laughs heartily and jokes with the attorney. They recalendar their meeting for later that day. The meeting will likely end in the early afternoon. She replies, “Good! Then we’ll take the rest of the day off!”

Christina Lee is a student at Western Sierra School of Law.
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Patric Rawlins is a junior partner of Procopio Cory Hargreaves & Savitch, one of the oldest law firms in San Diego with more than 100 lawyers. His practice encompasses all aspects of intellectual property law, including representation of plaintiffs and defendants in litigation matters as well as a variety of transactional and due diligence matters. Rawlins has considerable experience in domestic and international patent and trademark prosecution, copyright registration, licensing, trade secret protection and client counseling relating to intellectual property procurement strategies and licensing programs.

He is a contributing author to the treatise “Intellectual Property Law in Cyberspace,” which covers the subject of trade secrets. He currently cochairs the San Diego Telecom Council’s Wireless Content and Applications SIG and is a member of the American Intellectual Property Law Association, the San Diego Intellectual Property Law Association and the San Diego Software Industry Council.

Rawlins spent five years working as an engineer in the software industry. He received his Juris Doctor, cum laude, from California Western School of Law.

I met Rawlins at the firm’s downtown offices in the Union Bank of California building early one morning. Although the day is a relatively typical one for him, it is atypical in some respects as I soon discover—namely the overseas travel reservations (he confesses he doesn’t have a travel-intensive schedule these days), the lack of usual lunch plans with a client or another attorney in the firm from a different practice group (giving him an opportunity to hit the gym), and the annual firm dinner that evening for which he leaves the office earlier than usual. Here is his day:

6:30 a.m. Although not officially the start of the workday, he filters and checks e-mails on the Treo at home and tags the ones requiring immediate responses.

7:30 a.m. Arrives at the office, responds to e-mails and prepares for an 8 a.m. client meeting.

8:00 a.m. Meets with a client, one-on-one, to establish upcoming needs. Begins organizing a checklist for “tasks to be completed” by the client team.

9:00 a.m. Drafts memo capturing ideas discussed at the meeting to be included in the client file. Determines areas needing additional research and divides and assigns tasks to members of the client team.

9:30 a.m. Coordinates travel reservations for an upcoming business trip to Japan.

11:45 a.m. Takes a short phone call and confers over an unbudgeted item to be approved by the intellectual property department. As head of the firm’s IP practice team, Rawlins also oversees various administrative duties, such as managing the IP department budget.

Noon Heads to the gym located across the street for a short workout before grabbing lunch to go.

1:00 p.m. Reviews a patent purchase agreement and arranges a conference call with the selling party’s attorney to review details of the transaction.

2:30 p.m. Drafts a letter to be sent to current clients reminding them of upcoming international patent filing dates, what their rights are and what options are available to them.

2:45 p.m. Reviews research and updates outline for an upcoming article he is writing on the California Spam Act.

3:30 p.m. Reviews patent references and begins drafting European-style patent claims for a client preparing to file a European patent application.

6:00 p.m. Leaves office to attend an annual firm dinner honoring one of the firm’s attorneys.

Davina Lam is a student at California Western School of Law.
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Carlos Varela is a busy man. As one of three deputy district attorneys working in the gang unit at the South Bay courthouse in Chula Vista, his days are filled with images of murders, shootings and robberies. Yet one steps into his office and can’t help but notice the collage of pictures on his wall, all indicating he is the proud father of a bright and beautiful baby girl.

Passionate about his work, Varela has never worked anywhere besides the district attorney’s office. The worst part about his job? The stress of balancing the demands of being an attorney with the demands of being a husband and father. The best part about his job? The satisfaction of knowing he did the right thing—for the people, for the victims, for his family. That’s what Carlos Varela’s day is all about—doing the right thing.

8:00 a.m. Arrives at office. Prepares to go into morning session of court. Grabs a coffee on the way in.

8:30 – 10:30 a.m. Goes into court for readiness conferences/preliminary hearings. Negotiates with defense attorneys to resolve cases and posture for settlement to avoid trial. Considers cases that are continuously being brought in by police officers for DA review. The next day, Varela and his team will decide whether or not to bring charges in these cases.

11:00 a.m. – Noon Returns to office to prepare for afternoon court. Familiarizes himself with afternoon cases by reading files. In any free time that he has left, he works on his other cases.

Noon – 1:00 p.m. Lunchtime. Varela travels to his parents’ house to eat lunch with his 1-year-old daughter, Sarah, who stays there while her parents are at work. Dad rolls daughter around the block in a stroller. These lunch dates allow Varela to better fit his quickly growing daughter into his busy schedule.

1:30 – 3:30 p.m. Back into court for sentencing/bail reviews. Sometimes, Varela makes appearances for other attorneys in the office when they are unable to do so themselves. The district attorney’s office promotes a team atmosphere where the staff works together to bring justice to crime victims in South County. Each deputy DA handles about 20 to 30 cases at any given time. Varela is currently responsible for 13.

3:30 – 5:00 p.m. Proceeds to his office and prepares for all other cases—reads police reports, calls police officers, prepares exhibits, calls witnesses, checks with the paralegal and police investigator to make sure that everything is ready to go for trial. His day can also include visiting a crime scene, preparing slides for an opening statement/closing argument and creating trial notebooks. If ahead on his daily work, Varela will observe attorneys in other trials and take notes on what works. Although he has been in the profession for nearly 10 years, he recognizes that becoming a better attorney is always a learning process.

5:00 p.m. Leaves work unless he is working on an upcoming big case. When a deputy DA is in trial, he will stay at the office each evening for as long as it takes to get the job done—sometimes as late as midnight. Deputy DAs do not start handling very serious cases until their ninth or 10th year in the office.

5:30 – 6:30 p.m. Volunteers at a boxing gym in National City helping at-risk youth to complete their homework after an exhausting boxing workout. Varela is a board member in the organization. Occasionally, he drives the teens home afterward. He has traveled out of the county to see some of his kids compete in the ring. Community outreach is very important to Varela. He now prosecutes crimes that occur in the parks and streets where he grew up in San Ysidro. Two years ago, Varela was the president of La Raza Lawyers, where he spent his time fund-raising and campaigning against violence. The district attorney’s office encourages and facilitates volunteer work. There is no pressure to be working in only a professional capacity all the time.

7:00 p.m. Arrives home. Spends time with daughter before she goes to sleep. Fits in dinner with wife, if possible.

8:00 – 10:00 p.m. After spending time with his family, Varela reads various documents associated with current cases before drifting off to sleep. Despite his best efforts, Varela has no choice but to bring his work home with him sometimes—not because he wants to, but because it is the right thing to do.

Jessica Coto is a student at California Western School of Law.
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Landing a legal job is not really as simple as “who you know”—it entails making an excellent first impression that lasts until the employer decides who to hire. Here are some hints on how to accomplish that goal.

**AVOID MISTAKES IN YOUR APPLICATION MATERIALS: THEY ARE RED FLAGS**

Proofread your résumés, letters, and e-mails vigilantly. “The thing that always jumps out at me are errors/typos on résumés or cover letters. If it’s not proofread carefully, it doesn’t bode well for someone’s diligence and care for written work,” says Tim Garfield, a partner at Stephenson, Worley, Garratt, Schwartz, Garfield & Prairie. Also, avoid puffery. Don’t overstate your competency in any area or skill, such as a language proficiency or prior work experience.

Accuracy and thoroughness can be an issue for application forms as well. Many employers now request that students complete employment applications online. Because the application process is so much more convenient, students don’t take the time to edit and spell-check the information that they include in their application responses. Also, there is a tendency to skip the sections that are labeled “optional.” If a question is optional, your option should be to answer it! Some employers view an applicant’s failure to respond to optional requests for information as a lack of genuine interest in working for them, and as such they decline to interview those applicants.

**RESEARCH THE EMPLOYER: FIND A CONNECTION**

Nailing an interview does not require the same preparation as passing the Bar, but definitely do your homework. Employers seek applicants who are familiar with their firm/agency and interested in the types of issues that they handle. In a nutshell, be prepared to explain why you (your background/skills/aspirations) would be a good fit with the employer’s practice. This information should be included in your cover letter and discussed during your interview.

**GUARD YOUR REPUTATION: IT WILL FOLLOW YOU WHEREVER YOU GO**

Although technology offers many advantages to employers and those seeking employment, students beware! As part of the reference check process, a large number of private law firms and government agencies now search the Internet. These searches involve forays on Google, Facebook, MySpace and various blogs. Many employers report that they have declined to extend offers to students and attorneys because of information they found on the Internet. What sort of information? Some examples are pictures of students partying, photos of students scantily clad and descriptions of a student’s nightly exploits.

Remember, the Internet is not private. Even if you select privacy settings on Facebook, your friend may not. If your friend’s section has a picture of you in a compromising position, or has an e-mail from or about you that details questionable activity on your part, it can be viewed by the public at large, including employers.

E-mail should also be used judiciously. Over the years, career services professionals have seen numerous e-mails that are definite career killers. A recent example involved a rude and condescending e-mail sent by a student to an employer in which the student ungraciously reneged on a job offer she/he had previously accepted. That unforgettable e-mail was then forwarded to law students, attorneys and career services professionals.
administrators all over the globe. Another e-mail was sent by a summer associate who boasted that she/he was getting paid a lot of money to draft a memorandum that compared and evaluated several sushi restaurants; a copy of the memorandum was attached to the e-mail. Again, this e-mail was forwarded to people all over the country. These e-mails and the individuals who sent them are memorable, and not in a good way.

**MAKE A POSITIVE, LASTING INTERVIEW IMPRESSION**

According to Kim Zoller of Image Dynamics, 55 percent of how your interviewer perceives you is based on how you look. After that, manners and preparation are the most important factors.

How should you dress for an interview? Wear a professional-looking suit—no exceptions—in solid black, charcoal gray or navy blue. Men: Wear an unadventurous tie, a crisp white shirt, matching dress socks and shined shoes, avoid cologne and make sure your shoes and belt are the same color leather. Women: Wear natural makeup, style your hair neatly and wear longer hair back, avoid perfume, cover tattoos and wear shined pumps. Many employers consider a skirt suit the requisite uniform for interviews. Make sure the skirt is at least knee length and wear natural-looking hosiery regardless of the weather. As a rule, avoid anything that would make your grandmother cringe, including a low neckline.

Start the interview off as calmly as possible. Preparation can help with this. Make sure you are not hungry, and try to get a good night’s sleep the night before the interview. Arrive 10 to 15 minutes early to allow for unexpected problems. Scout out the location pre-interview day if possible. Bring extra copies of your résumé on high-quality paper, as well as your transcript and writing sample, in case the interviewer asks you for them. Also, do a mock interview with a career counselor to practice your greeting, handshake and interview questions/responses so you will know what to expect during the interview. If you are unsure how to pronounce the name of an interviewer, ask the receptionist when you check-in or call beforehand.

“Always have a spiel prepared,” advises Marie Betts-Johnson, founder and president of the International Protocol Institute of California, in case you are asked to tell the interviewer about yourself. Also, make sure you have plenty of questions to ask the interviewer. Many of your inquiries should follow up on information you read about the employer because it demonstrates your knowledge of and interest in the employer. Likewise, it is valuable to ask questions that might help you with the interview, such as “What do you think are the most important qualities this job requires?” Then stress these points throughout the interview.

Be respectful of the interview opportunity. Your body language speaks volumes. During the interview, sit up straight, lean slightly forward to engage yourself, smile and make eye contact. Do not fidget and never chew gum. Try to keep the conversation flowing, yet remain formal and express enthusiasm for the position. Send a typed thank-you letter on high-quality paper immediately after the interview. Finally, as a golden rule for life in general, “Be courteous to everyone you meet.”

Christine Ellis and Amanda Thompson are students at Thomas Jefferson School of Law; Laura A. Weseley is the assistant dean for career services at Thomas Jefferson School of Law. lweseley@tjsl.edu
I love helping students reach their legal career goals. One thing, however, that often hinders student/new lawyer job searches is urban legends, or myths about law jobs. These legends are perpetuated in the law student community and can have a negative effect on job searching.

Here are some of the most insidious and pervasive legends:

**Legend:** The only way I can get a "good" job is if I’m in the top 10 percent of my class.

**Reality:** While law students in the top 10 percent of their classes generally have an easier time getting certain jobs, statistics prove that at most schools, somewhere between 70 to 85 percent of the remaining class will be employed nine months after they graduate. In addition, while large national law firms generally do look at candidates with top grades, approximately 45 percent of new graduates across the country work in firms made up of between two and 25 attorneys. These smaller firms are much more concerned about factors such as practical legal experience, moot court, mock trial or journal experience, good references and general compatibility than they are with grades, and they hire accordingly.

**Legend:** The only way to find a job is by responding to job postings or classified listings.

**Reality:** A job searcher absolutely should respond to job postings. However, according to the data, approximately half of our students get their positions through self-initiated contact, referrals or networking. Especially for recent graduates, it is often noted that only about 25 percent find employment through commercial employment postings. The rest get jobs by letting everyone know they are looking, going to Bar association events, getting involved with specialty and local Bar associations, volunteering, or contacting alumni or attorneys who are doing the type of work the student wants to do. The danger with only responding to postings is that, while it makes one feel as if he or she is doing a lot, it is really a passive job search. To be effective, responding to ads must be coupled with active efforts such as meeting lawyers who may not yet know they need help in their offices!

**Legend:** As a student or a new graduate, I should pay a commercial employment/ résumé service to create my résumé and cover letter and send it out to hundreds of firms.

**Reality:** A student or a new graduate should not expect a commercial employment service to create their résumé and cover letter and send it out to hundreds of firms. Instead, they should focus on creating a résumé and cover letter that highlights their skills and experience, and then sending it out to potential employers through job postings and networking.
Reality: Outsourcing a job search should be a last resort. I would first make sure the student or recent graduate challenges his or her school’s career service office and follows every strategy it suggests. Such strategies would include a diagnosis of application materials, multiple videotaped mock interviews, ensuring knowledge of all job-search resources, determining a list of contacts, joining appropriate organizations and gaining practical legal experience. Commercial services attempt to create someone’s résumé and cover letter, then send out a mass mailing to hundreds of firms. Most lawyers tell me that they detest receiving these mass mailings and stress the importance of a tailored cover letter. If a job seeker decides to use a mass résumé mailing service, always research the service’s success rates before paying.

Legend: I understand I’ll have to work 80 to 90 hours every week as a private firm lawyer. Therefore, I’ll have to seek an alternative career to be able to obtain a work/life balance.

Reality: There are occasions in many lawyers’ careers when they have to work 80- to 90-hour weeks. These occur most often when going to trial, closing a deal or working on some other time-pressured matter. They can also occur more often in certain areas of practice and in cities such as New York. As a general matter, however, most lawyers do not work 80 to 90 hours every week of the year. The attorneys I know in San Diego—who work in every aspect of the law—tell me they have rich and thriving personal lives. They coach their children’s Little League teams or regularly go surfing. While it is true that law is a profession rather than a job and that a dedicated attorney would not abandon his or her client mid-meeting simply because it is 5 o’clock, it is also the case that one generally can work relatively reasonable hours while maintaining the level of prestige that being a lawyer confers.

Legend: I really want to work in the public interest or government sector, but I have a huge student loan debt, so I have to take a higher-paying job at a private firm.

Reality: While large national law firms do pay higher salaries (upwards of $145,000 per year), most new attorneys do not work in large law firms and make half that amount. In Southern California’s government agencies, the average starting salary is generally in the $50,000s, but the government provides great benefits and the reward for doing public-interest work is gratifying in many ways. In the first years out of law school, public-interest and government-sector attorneys may have to live frugally, but they can expect to receive raises and often have more responsibility. And don’t forget that many law schools have loan repayment assistance programs.

I fervently believe there is a lid for every pot—that is, there is a job for every law student. Some lids, however, just take a little longer to locate than others. When you hear something that sounds like an urban legend, ask hard and skeptical questions. It may make a positive difference in your successful job search. 

Cara Mitnick is the assistant dean for Career Services at the University of San Diego School of Law. cmmitnick@sandiego.edu
Beyond Conventional Wisdom
The Tale of a Successful Job Search

BY PETER PRESTLEY

This is the story of one attorney’s job search. Although there is no magic formula for landing an associate position with a reputable law firm, Benjamin J. Howard’s unique story illustrates how perseverance, some creative networking and marketing yourself to your particular audience sets the stage for luck to do its part.

Before deciding on a career in law, Howard spent five years in the United States Army serving as an infantryman. Eventually, however, Howard sought a departure from the unpredictable nature of his military career and was accepted to the University of Iowa College of Law.

Like most law students, Howard began searching for a summer internship toward the end of his second year. One avenue Howard pursued was attending a job fair for out-of-state students seeking jobs in California. He bought a plane ticket on his credit card and attended several interviews, receiving a callback from Klinedinst, a larger firm. Still optimistic, Howard flew to San Diego for the interview. As part of the interview process, Howard was taken out to dinner where he was serendipitously seated next to Bill VanDeWeghe, one of Klinedinst’s shareholders. VanDeWeghe was also a graduate of Ranger school and the two quickly developed a rapport based on their shared military experience.

Though the interview went well, Mr. Howard did not receive an offer from Klinedinst. Nevertheless, with summer approaching and determined to salvage something from the experience, Howard sent a follow-up letter to Bill VanDeWeghe. In his letter, Howard said that he was going to be visiting relatives in San Diego for Christmas and asked for an informal meeting to discuss what he could have done differently in the interview. VanDeWeghe agreed to the meetin, and the two made plans to meet for lunch.

VanDeWeghe was gracious enough to give Howard a list of other firms and specific attorneys to contact in continuing his search. Howard took detailed notes and planned to follow up after a little research on each firm. Surprisingly, VanDeWeghe had a different idea. When the two were finished eating, VanDeWeghe took Howard up to his office, put him a conference room with a telephone and an attorney directory, and told him not to leave until he had a job. Horrified, Howard protested that his career services office had specifically advised him that cold-calling did not work. VanDeWeghe’s response was classic: “Is what you’re doing now working?” Howard agreed that it was not and reluctantly settled in for an uncomfortable afternoon.

As it was December 23, Howard was glad to get mostly voicemails. One of the calls he made was to Mike Neil, a senior partner at Neil Dymott. Neil’s voicemail answered with the following message: “This is the General speaking. I’m out striking a blow for justice! Leave a message after the tone.” Howard knew that Mike Neil was a retired United States Marine Corps reserve brigadier general and, as advised by VanDeWeghe, left a message stating that he was a former infantryman and graduate of Ranger school looking for a summer job in San Diego.

Unfortunately, Howard left the conference room without a job that day. After Christmas, he continued on to Phoenix to visit other relatives, unsure of his next step. A week later, however, he received a callback from Mike Neil who wanted to set up an interview for the following morning. Although he had nothing to wear to the interview, Howard agreed to drive back to San Diego right away. Howard even stopped at the Viejas outlet on the way to Neil Dymott and bought some business-casual clothing and a new pair of shoes.

During the interview, Mike Neil remarked that he knew enough about Howard from his military background to call him back for an interview even before seeing his résumé. He said that he knew Howard would at least be on time and know how to dress, even looking down to compliment Howard on his brand-new shoes. Feeling confident, Howard left his résumé and was soon hired as a summer law clerk.

In fact, Howard ended up joining Neil Dymott as an associate in 2005 where he specializes in professional liability and medical malpractice. He says he derives a great deal of satisfaction from defending fellow professionals and sleeps well knowing that he is protecting the livelihoods and good reputations of his clients.

Perhaps the best lesson Howard’s story conveys to all law students seeking jobs this summer is to follow up on all of the relationships you make along the way, even the ones that don’t work out the way you intended. Second, think about what you have in common with your interviewers and use that to your advantage. Finally, if you’ve already blanketed the city with your résumé, cold-calling might be worth a try!

Peter Prestley is a student at Thomas Jefferson School of Law.
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After completing his enlistment in the U.S. Navy, Raymond Pacello Jr. landed in San Diego and worked on becoming a paralegal through the Kelsey Jenny associate degree program. At the time, he was working as a bouncer at the Banks Pool Hall in Mission Valley (now the Todai Restaurant). He and his future wife were invited to a coworker’s wedding. During the reception, they spoke with the other guests at their table and quickly discovered that they were seated with a local attorney, Robert Bruce Arnold, and Arnold’s wife. During the evening’s discussion, Pacello discovered that Mrs. Arnold, who was also the paralegal for the law office, was out on maternity leave and the office needed a paralegal. Pacello pounced on the opportunity.

After a few weeks of being a paralegal, Pacello realized the paralegal job was not enough. With the support of Mr. Arnold, Pacello enrolled in an evening program at Western Sierra School of Law and worked for the law office during the day. Pacello became a certified law student and handled limited matters for the firm. After passing the Bar exam on the first attempt, he was free to volunteer full time after obtaining his license to practice law.

Volunteering not only gained him networking contacts but also the real-world experience that many employers desire. For example, right after obtaining his Bar card, Herrin began volunteering at the Center for Community Solutions within the San Diego Family Justice Center where he assisted victims of domestic violence and sexual assault. This proved to be a great opportunity and gave him valuable experience helping victims obtain restraining orders, interviewing clients, filling out applications to the court and making appearances before the court. The volunteer position also helped him make the transition from his prior blue-collar job and familiarized him with working in an office environment.

While working at the San Diego Family Justice Center, Herrin met then—city attorney Casey Gwinn. Gwinn, while making no promises that doing so would lead to a paying job, urged Herrin to volunteer with the city attorney’s office. Herrin volunteered full time at the office, and after six months he was hired on as deputy city attorney.

Herrin spent 18 months within the criminal division of the city attorney’s office and went through 50 bench trials and 10 jury trials before transferring to the civil division, where he has spent another 16 months.

Herrin’s words of advice to new lawyers: “Dress nice, be nice, treat everyone with respect, and do your best.”

Alan Ridenour is a student at Western Sierra School of Law.

They found me in Banker’s Hill with two fractures in my skull. I was in an accident riding to school, and the people at a nearby law firm thoughtfully took care of my bike and backpack while I was in the hospital. When I thanked them later, I mentioned I was a law student who needed work. “But please don’t feel guilty,” I added, “just because you saw me lying helpless in the road, bleeding from my head.” As it turns out, they had just taken on several new cases...
and needed some extra help.
I started the next day.
Greg Shibley is a student at California Western School of Law.

Wojciech Potrykus ultimately found his “dream” job through online classified ads. Instead of going through ads specifically seeking a lawyer, he looked for law firms hiring in other positions. Once he was in the door at TD Foster & Associates, he asked to be trained in intellectual property law during his free time. Soon, he transitioned out of the accounting job he was hired to do and into the legal work.

“It’s a mistake to rely entirely on official networking events sponsored by your school or some organization,” Potrykus says, noting that these events—like classified ads seeking new lawyers—are frequently swamped with eager job-seekers, making it difficult to stand out and be noticed. “Networking is a 24-hour-a-day activity. The guy you accidentally spill a soda on in the deli might turn out to be your best networking contact. Make it count!”

Brenda Foster can attest to the importance of networking through student organizations. Foster has already found a job with a firm called Southern California Sports Management Group (So. Cal. Sports). While interning for the San Diego Padres seven years ago, Foster met someone who worked at So. Cal. Sports
and kept in touch with him. When she became a law student and joined the Sports Law Society at Thomas Jefferson, she invited him to speak at the society’s annual conference. During the event, she asked him if he needed any assistance in the office. They spoke of a few projects he needed done that he didn’t have time to do himself. Foster told him about her level of experience and what she could do for So. Cal. Sports, and he offered her a job on the spot.

Law student Jared Stafford also found his job through networking. “What I have learned about networking is that opportunities arise at times you least expect it,” Stafford says. After his first year of law school, Stafford organized two summer softball teams for the San Diego Bar Association softball league. In the process of putting the teams together, he befriended local attorney and league commissioner Michael Allen. By the end of the summer, Allen had offered Stafford an internship at his firm Rowe, Allen, Mullen LLP, and Stafford has been there ever since.

“Corporate law is an area of law I am very interested in,” Stafford says. “I didn’t initially know Mr. Allen was in this area of law; it was very coincidental but fortunate that this work fell into my lap.”

Michael S. Lee has gotten a job clerking for Judge Fausto Pocar, president of the International Criminal Tribunal for the Former Yugoslavia (ICTY), in The Hague, Netherlands, and he credits his networking connections with making this possible.

In 2005, Lee participated in an international human rights study-abroad program in Switzerland and France. The professor who led the summer program had clerked for the ICTY and encouraged Lee to apply to the internship program. She also provided a stellar letter of recommendation that greatly gave him an advantage over other applicants.

“I assure you that knowing the right people is an absolutely invaluable component of the job search process as well as lifelong professional development,” Lee says.

Amanda Thompson and Taniquelle J. Thurman are students at Thomas Jefferson School of Law.

David A. Miller
Solo practitioner specializing in employment law on the plaintiff’s side.
• Western State University College of Law, 1986 graduate.
• Clerked at law firms and became an expert in employment-related issues. A former Marine, he felt strongly about working for himself and avoiding the bureaucracy of large law firms. He began his solo practice by emptying $626 out of the family piggybank.

Peter Prestley is a student at Thomas Jefferson School of Law.

Susanna Starcevic
Owns Bread on Market, an artisan bakery near Petco Park that has five employees, including two bakers.
• University of San Diego Law School graduate who previously worked on Wall Street and with San Diego law firms.
• Stays in touch with attorneys and firms through the catering part of her business.
• Opened the doors after six months of planning and saving.
• Advice to those thinking about leaving the law to start a business: Do the preparation first. She works six days a week and takes care of accounting, sales, marketing and managing the bakery.

Todd Knode is a student at Thomas Jefferson School of Law:

Maria Palmieri
The Gomez Law Firm
• California Western School of Law, 2004 graduate.
• Networking advice: The best way a law student/new attorney can earn a position within a plaintiff’s firm is to get involved. Join Consumer Attorneys of San Diego, Consumer Attorneys of California, the San Diego County Bar Association and the American Association for Justice (formerly ATLA) now. Attend all the meetings and seminars you can. Get to know the members. Sign up for the mentor programs. Read and participate in the listservs. Volunteer for committees. Go to the events. Attend the events alone; it will force you to speak with others rather than your friends.

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Making Connections: How to Build a Network

BY LOUIS W. HELMUTH,

Whether for client referrals, job leads or role models, a professional network is necessary to succeed in the practice of law. The most effective networks are not inherited or purchased but are built from scratch by the individual seeking to utilize the network. Here is how you can start developing yours:

1. Identify five people you already know and five people you don’t yet know who you think might help you to achieve greater professional success (professors, friends, colleagues, Bar association or local community acquaintances, etc.).
2. Meet with each of the five known individuals to honestly discuss your professional goals, such as expanding business development, improving job-searching techniques or finding quality mentorship.
   a. Ask these people for their advice about how you should go about achieving your goals and for suggestions of two other people they think might be valuable to your pursuit.
   b. Promptly follow through on the advice and suggestions received.
   c. Write a short letter of thanks to each, including a report of the success you have achieved (contacted referrals; took particular recommended steps; gained specific insights).
   d. Meet with the two new referrals from each and repeat these steps for each new referral.
   e. Report back to the referring source on the success of the meeting with that person’s referred contact.
3. Write a brief letter to the five unknown individuals explaining your admiration for their professional success, identifying why you are eager to learn from them, acknowledging their busy schedule, and asking to meet with them for 10 to 15 minutes at any time that is convenient for them so that you can ask some basic questions about their professional path that may inform yours. Repeat steps 2(a) through (e).

Immediately, you will have a fresh network of five to 10 individuals. Before you know it, you will have an expanded network of 10 to 30 individuals and will have taken affirmative steps toward the achievement of your previously identified professional goals. Louis W. Helmuth is assistant dean of career services at California Western School of Law. lwh@cwsl.edu
Charles Bird isn’t a rookie when it comes to writing for the masses. Before attending King Hall School of Law at UC Davis, Bird worked summers as a stringer for his town’s afternoon daily newspaper, the Stockton Record. He admits he sometimes misses being part of the Fourth Estate.

“One of the great things about political meetings or the police beat is the story is hot, you write it, it’s over and you move on,” says Bird, comparing short journalistic articles to one of his recent appellate briefs that included a trial court record of 10,000 exhibits. “That’s sort of your ultimate contrast to covering a crime scene.”

Nevertheless, Bird has no plans to exchange his day job for a muckraker’s life. “It was fun and I have done some creative writing recreationally, but overall I’ve had more fun as a lawyer,” says Bird, a partner at Luce, Forward, Hamilton & Scripps.

While Bird’s chapter is not based on real events, he mined his personal observations for literary gems. “I’ve never been involved in anything like the intrigue portrayed in this story, but I did try to capitalize on my experience on how certain kinds of people behave under severe stress,” he says.

Bird’s contribution to this serialized crime story provides opportunities and challenges for following chapter authors. “I wanted to write something that was entirely dialogue, that had a lot of action in the dialogue, that capitalized on the innuendos of sexuality and corruption that were in Chuck’s first chapter,” says Bird, whose favorite contemporary authors include Annie Proulx, Truman Capote and Annie Dillard.

And as with many writers, Bird has a muse in his spouse, Charlotte. “She has been the target audience for most of the hobbyist creative writing. She is the reasonable woman test for my legal writing,” he says. “And yes, she looked at my chapter.”

Having received his wife’s approval, what could be the next best compliment about his chapter? Bird pauses for the briefest of moments before replying: “that I really stepped out of the buttoned-down world of appellate work and drew them in, in a way that they wouldn’t expect of me.” - Genevieve A. Suzuki

CHAPTER 3

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

“Nathan, this is Herb. You know I come in early to top off my preparation for the trial day, so I figure you must have a good reason to ask me to interrupt.”

“Herb, your so-called trial is about to crash like a teenaged hard drive and you have three hours to fix it. Start by shutting up and listening to me better than you did when I told you to challenge that idiot Giddle.”

“When I smelled the fix between Giddle and Morales, I put my security chief on them. She’s a techno-wizard on top of NSA field experience. You don’t get to know her name, just Chief. It took her about three hours to bug everybody’s everything—cars, phones, chambers, houses. So you know it’s the real deal, I’m continued on page 56
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Nathan continued: “Big problem first. Back in the dotcom bubble, Debbie laid her first gardener. I gave her three choices: rich and faithful wife, semi-rich cheating wife, or her worst nightmare. She chose free sex for half bucks. We signed and backdated the family expense policy the same day. She thinks I’ve been partying away my payoff. Well, 90 percent of the expenses are phony. The big money goes offshore where my shareholders will never find it. Every year I have her sign a joint tax return, let her see the household accounts, receipts, everything. Also phony. The real returns I file electronically and pay honest taxes. My overseas portfolio, 100 percent tax legit, hit $100 mil in October. If you think about it, I haven’t lied under oath yet—Debbie and idiot Morales never asked for tax returns because they think they have the real deal. I’ve never signed an I&E that showed assets.

“So, what’s the problem you might ask? Morales had this dick named Down. Chief discovered that Down got hold of two years’ real tax returns, hard copy from a bank guy. Down stuffed the smoking guns in a manila envelope and dropped them on Morales, who packed them around town before she knew what she had. So last night, Giddle and Morales are on a parking date in a Gaslamp garage. The envelope is on the back seat. They go cool off with martinis at Dakota, and Chief nabs the envelope. Having the goods, Chief gives Down a vacation in Mazatlan, starting immediately. But before boarding the plane, Down and his lover boy begin shakedowns on Giddle, Morales, you, and me. You probably have a cryptic phone message. Chief doesn’t tell me how things work out so right, but don’t expect another call and don’t expect Down or his boyfriend to use their return tickets.”

Herb interrupted. “So the bottom line is you hid $100 million from everybody but the Feds, Morales has a clue but nothing solid, you expect me to make your secrets stick, and meanwhile this Chief is doing Jane Bond on the whole crew. Right?”

“Right,” said Nathan. “And you seem to be the only family law specialist who doesn’t have the inside on Giddle and Morales. Get this from the bug on Morales’s car: ‘Marty, remember at the Bar building I told you power was my best aphrodisiac? Well, I’m seeing no power from you in this trial.’ ‘Vivian, remember I said your perfect breasts were my best aphrodisiac? Well, my hands have been empty for months.’”

“Jesus Christ!” Herb stuttered.

“Yeah, pal,” said Nathan. “Before some ethics lecture, Giddle and Morales fell in temporary love and did the nasty on the Bar Association ED’s floor. Started the program late with sweat popping out of their foreheads. Part of what Chief’s bug picked up last night was the idiots concocting a story that nothing happened except he tried to grope her once, she forgives him, and the trial goes on. After their little drama, he’s going to start ruling against us—little things, but critical. It’s bound to implode. They’re both alkies, and Morales does really weird drugs to forget her lousy life. Chief says Giddle has two stingers from the Commission on Judicial Performance because he blacks out on the bench, even when he’s sober.”

Herb interrupted again: “So what the hell do you want?”

“Simple,” said Nathan. “Get this settled and take me out clean and rich. We have enough on Giddle and Morales to twist them any way we want. If Debbie thinks she’s safe, she’ll blow everybody up. But Chief says Debbie’s flights to Geneva are connected to diamonds and not in a good way. Move everybody back in Giddle’s chambers off the record. Chief will come through for us.”

### Children at Risk Committee

Co-chairs: John Blair of San Diego Superior Court, blairjn@yahoo.com, and Niki Mendoza of Bernstein Litowitz Berger & Grossmann LLP, nikim@blbglaw.com

Members: More than 200, with a steering committee of about 10 members who chair the various projects.

Meetings: Monthly at the Bar Center; contact Niki or John for meeting dates.

Projects: Mock Trial Video Program, Porter Partnership (Conflict Resolution Skills Training, Porter Readers and Literacy Days. Final Porter Literacy Day of the school year will be on May 17), Madison Partnership (Law Academy Program), Annual Book Drive (April 28 - May 31). If you would like to participate or make a donation, please contact Susan Sakhai at susan@sakhailaw.com.
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Self-Study Questions

1. Chief Justice Rehnquist wrote, regarding Dominic Gentile’s appeal before the U.S. Supreme Court, that an attorney must make reasonable steps to defend a client’s reputation and reduce the adverse consequences of when the prosecution is deemed to have commenced with improper motives.

   True  False

2. In the initial police report filed regarding the January 1987 announcement that substantial amounts of cocaine and traveler’s checks were missing from a safety deposit box at Western Vault Corporation, the company’s owner, Grady Sanders, was listed as among many suspects.

   True  False

3. Jerry Coughlan, in his defense of former City Councilman Michael Zucchet, claimed that the “unconscious memory” of jurors in this case could taint the eventual outcome.

   True  False

4. In her defense of Dale Akiki on charges of child molestation from community accusers, Kate Coyne made the argument that the prosecution reaped the benefits of receiving facts from the investigation of this matter prior to the defense.

   True  False

5. The U.S. Supreme Court, along with other courts, has asserted for years, “A responsible press has always been regarded as the handmaiden of effective judicial administration, especially in the criminal field.”

   True  False

6. Jeff Dusek, in his prosecution of David Westerfield for the murder of Danielle Van Dam, successfully used the media’s treatment of this high-profile case to appeal to the jury.

   True  False

7. It is attorney Jerry Coughlan’s belief that the Internet and talk show programs are among the forms of media that should be considered when evaluating how the public may perceive high-profile cases.

   True  False

8. Grady Sanders, owner of Western Vault Corporation in Las Vegas, in his appeal to the U.S. Supreme Court, claimed that his refusal to take a lie detector test so tainted potential jurors that he would not be able to receive a fair trial.

   True  False

9. San Diego lawyer Ray Vecchio, when speaking to the press on behalf of his client, Lisa Maree Gaut, did so due to his belief that her arraignment, as reported in the press, presented only the officer’s version of what had occurred.

   True  False

10. Two undercover police officers, who had access to the safety deposit box at Western Vault Corporation that was tampered with in January 1987, were “cleared” as suspects after passing lie detector tests.

    True  False

11. In a press conference within hours of his client’s indictment, Dominic Gentile asserted that his client was a “scapegoat” for crooked cops who should have been indicted.

    True  False

12. California Supreme Court Rule 177 governs pretrial publicity and prohibits an attorney from making public proclamations as to the guilt or innocence of a client.

    True  False

13. Local defense attorney Kate Coyne asserts that it is important to educate the press regarding flaws or weaknesses in a prosecution’s case, particularly when it pertains to psychotic cases.

    True  False

14. The rule governing pretrial publicity in Nevada, which prohibits an attorney from making an “extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding,” is similar to an established rule in California.

    True  False

15. The Nevada Supreme Court, in response to charges filed against Dominic Gentile, concluded that this attorney acted improperly in “that he sought to” materially prejudice an adjudicative proceeding by creating a wave of adverse publicity pertaining to the Las Vegas Metropolitan Police.

    True  False

16. Chief Justice Rehnquist can be noted as writing, “An attorney’s duties do not begin inside the courtroom door. He or she cannot ignore practical implications of a legal proceeding for the client.”

    True  False

17. In his appeal to the Nevada Supreme Court ruling that Dominic Gentile had violated Rule 177, his attorney made the argument that “Public vigilance serves us well, for the knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power … Without publicity, all other checks are insufficient: In comparison of publicity, all other checks are of small amount.”

    True  False

18. Former City Councilman Michael Zucchet’s attorney, Jerry Coughlan, agrees with prosecutor Jeff Dusek’s premise that most voir dire shows only a small percentage of jurors have little, if any, details about a case when they are called to serve.

    True  False

19. Based on investigations of the Western Vault Corporation safety deposit break-in, the FBI publicly suspected that the true thieves were two undercover officers with the Las Vegas Metropolitan Police.

    True  False

20. More than 14 months after Grady Sanders was acquitted, the Nevada State Bar filed disciplinary charges against his defense attorney, Dominic Gentile.

    True  False

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At the turn of the century, before radio, television and the Internet, daily newspapers were the community source of events, information and entertainment. Criminal trials provided the sensational intrigue that gave people something to talk about, and there was nothing more exciting than a murder trial where the defendant was a woman and the deceased a man.

San Diego was served by three primary newspapers in 1909: the San Diego Sun, the San Diego Union, and the San Diego Evening Tribune. These newspapers reported every aspect and detail from arrest to acquittal in the murder trial of Mrs. Effie Duden, who had shot and killed her brother-in-law, Bruce Sheffler. The basic facts were that on January 29, 1909, Mrs. Effie Duden shot Bruce Sheffler in his room in the Burbank Rooming House on Sixth Street. He died soon after fleeing the building. She waited to be arrested and pled not guilty. A special panel of 100 veniremen was ordered. More than 50 failed to qualify for service because they had already formed an opinion as to guilt or innocence based on newspaper reports.

The Sun dismissed the theory that Mrs. Duden shot in self-defense, which was the theory that ultimately won the case: "The police discount almost to zero the theory that the shots were fired because Sheffler tried to kill Mrs. Duden after a quarrel over Mrs. Sheffler’s estate."

Instead, the Sun focused on a more sensational theory: "One theory the police have been working on is that Sheffler was engaged to a young woman of this city and that the Dudens did not want him to marry her."

On the day of the verdict, the Union concluded the drama by reporting: "All eyes were on the woman in black who had been waiting with pale face and tensed facial cords, waiting for that little word, 'not,' which meant all that life holds dear to a human being —exoneration from an infamous charge, life, liberty, reunion with loved ones—everything. With a rush of crimson, the blood that had gathered around her heart rushed back to her face and with it an inarticulate cry and flood of happy, scalding tears."

Mrs. Effie Duden was found not guilty.

William J. Howatt, Jr. recently retired as presiding judge of Family Law Court.
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