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Photograph © Roger Ressmeyer/CORBIS

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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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The ABCs of Life

We started working together in November 2004, John as Learner and Herb as Tutor. John, a 54-year-old grandfather, went through 12 years of school in San Diego without learning to read or even being able to recite the alphabet. Herb is a 74-year-old great-grandfather who has practiced law in San Diego since 1956.

John is a successful tile setter with a local tile company that offered him a promotion to assistant superintendent. His employer insisted, however, that he learn to read. So John contacted the public library to inquire about its literacy program, READ/San Diego, who then contacted Herb, one of its trained tutors, and proposed the two of us get together. We hit it off—and off we went.

Two years later, John is now reading at approximately the fourth-grade level. He is proud to say, “Not only has he taught me reading and writing, he taught me more about life skills, handling problems on my job, and dealing with pressure. My self-esteem and confidence were very low, and now I feel better about myself. Before I was nobody, now I am somebody. Mr. Solomon is my friend, my teacher and my mentor.”

What has this experience meant for Herb? “For most of my life, I have tried to contribute to the community by participating in civic, charitable and non-profit organizations in a leadership position. A few years ago, I decided I wanted to do that on a more personal one-on-one basis, so I enrolled in a tutor program at READ/San Diego.

“Working with John has been challenging because we had to start from ground zero. But he has approached the task with great motivation, dedication and responsibility, conscientiously doing his assigned work and taking guidance constructively while fighting against allowing himself to get discouraged during the frequent difficulties and frustrations he experienced. I am tremendously proud of him.”

We have developed during the past two years a respect and admiration for each other. For John, it has transformed his life, and for Herb, it has been one of the most satisfying experiences of his life. What a gift we have given to each other!”

Herbert J. Solomon is founding partner of Solomon Ward Seidenwurm & Smith.
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Come On In

“Willkommen, bienvenue, welcome, come on in!”

—Madeline Kahn as Lili Von Schtupp, Blazing Saddles

Have you ever come to a Bar function and felt utterly left out? Maybe you’ve looked around and observed, “All these people seem to know each other. I don’t know anyone.”

I have never been a part of an organization that didn’t have this problem—members, myself included, who sometimes feel like they’re on the outside looking in. Members who may feel like they’re not being embraced and welcomed the way they would wish. And the bigger the organization, the bigger the problem.

Each of us has a strong emotional need to feel like we’re part of a group—something bigger than ourselves, but smaller than the whole. As Bar members, we’re looking for a connection with other lawyers in a group more manageable than the entire San Diego legal community. And just being a member of the Bar is not enough—we want a sense of belonging.

As Bar members, we’re looking for a connection with other lawyers in a group more manageable than the entire San Diego legal community.

But here’s the rub. What if you don’t know enough people in the Bar to look forward to being “greeted warmly” when you walk into a function? What if you don’t have a “role” in the sense that you’re not active yet? Then what do you do?

First, go to that function anyway. If you’re not great at introducing yourself to strangers, drag a friend along, but introduce yourselves to at least a few new people. Or in advance of the event, e-mail me (jill.burkhardt@usdoj.gov) and tell me that you’re going to attend. I will either personally meet you there and introduce you to people, or I will arrange for another active member to do that. If you keep coming to events and meeting people at each one, you will not feel like an outsider for long.

My other suggestion is to join a section or committee. We have more than 50 of them. Look through the list on our web site. You’re bound to find at least a couple that fit your practice area or your personal interests. Sign up for one or two and then actually go to the meetings. They don’t meet often, and participation is a very modest time commitment. But go and get to know the members of that smaller group. If you do, the Bar will begin to feel like your Bar. You will develop a sense of belonging and with it, a sense of ownership.

I wish I could call each of you personally and assure you that you’re welcome and you belong. But with about 10,000 of you, that’s not very practical. So please hear my message and know that if I could deliver it to you personally, I would: Come on in. I’m so glad to see you. Welcome to your Bar.
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\textbf{LETTERS TO THE EDITOR}

I applaud Candace Carroll, past County
Bar President and champion of the femi-
nine cause, for her brave call to women in
the legal profession to pay attention to their
grooming and dress. In short, she thinks
neither “Barbie” nor “Raggedy Ann” look
impressive at counsel table.

Women have come a long way in obtain-
ing social acceptance for a wide variety of
hair and clothing styles that are both com-
fortable and pleasing to them, in and out of
court. As always, however, there are bound-
daries of good taste. Ms. Carroll aptly points
out that when women pass those boundaries,
looking overly sexy or picnic casual, they
undermine not only their clients and the
profession, but the feminine cause as well.

Laura Hammes
Judge, Retired

Thank you very much for your recent arti-
cle, “Standards of Decency.” I plan to retain
a copy for appropriate use. Each example
that you cited has occurred many times in
my courtroom.

It would be wonderful if the Bar
Association would address professional
appearance in its ”Bridging the Gap” series
or at its periodic meetings with law students.

Thank you for a timely article.

Christine K. Goldsmith, Judge

San Diego Lawyer welcomes your comments. Send
them to Editor, c/o SDCBA, 1333 Seventh Ave-
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As a way to start 2007 on a philosophical note, San Diego Lawyer asked: Who would you most like to have dinner with—alive or dead, famous or not—and what would you like to discuss with them?

Here are a few answers from San Diego attorneys:

**Paula Rosenstein: **Alice Paul. I would ask her how she and her contemporaries had the courage to do the things they did, which were very hard for women to do at that time. I would also like to know how she would feel if she learned that women were voting in such small numbers today. And what she would do about it.

**Darlene Palaganas:** I would most like to have dinner with Helen Keller, American author and educator. Her extraordinary accomplishments despite her physical challenges inspire me. At some level, all of us have experienced challenges and suffering. For instance, when I read the news about atrocities against women and children in Darfur, the Congo, and who knows where else, I am reminded of Helen Keller’s comment, ‘Alone we can do so little; together we can do so much.’ If so, how? That’s what I would like to ask Helen Keller if she were alive.

**Vickie Turner:** I would like to have dinner with Cathy Hughes. Cathy is a savvy African-American entrepreneur who is known as the most powerful woman in the radio industry. She came from very humble beginnings, and now this hands-on entrepreneur leads a multibillion-dollar enterprise of stations across the United States along with her son. She has a reputation of being warm, energetic, bright and highly skilled at motivating others. She built her business from the bottom up and did so with style and grace. She remains committed to giving back to her community and has been very generous in devoting her time and resources to community projects. I would like to discuss with her the obstacles that she faced along the way, how she overcame them, and to have her share her insights on how she successfully balanced it all. Her experiences would truly be an inspiration to me.

**Ken Turek:** That’s easy. Winston Churchill about World War II, and Angelina Jolie—about World War II also, I think.

**Andrea Kimball:** My dream dinner party would be to invite Abraham Lincoln, Oprah Winfrey and Larry Bird. Although it is an odd mix of people to have together, I would enjoy each guest for different reasons. I have always been fascinated by the Civil War and would love to inquire about the decisions Lincoln made before and during the war. Larry Bird is a childhood idol of mine—I would love to pick his brain about basketball and his life experiences. Oprah, of course, would keep the conversation flowing. I would also ask Oprah about her life growing up and what continues to motivate her after all her successes.

**Lilia Velasquez:** If Hillary Clinton were president today, I would invite her to dinner and ask her, ‘What do you plan to do about the 12 million people living in this country without documents? What would be your proposal for comprehensive immigration reform?’ If she stays long enough to have dessert, I would try to convince her that building a 700-mile fence would be a complete waste of money. Instead, the money should be used to provide free health care to people without insurance.

**Jan Mulligan:** I would like to discuss religion with Jesus of Nazareth. Did Jesus view himself as a religious leader or as God? Did he intend to create a religion separate from Judaism? Or did he intend to create a Jewish sect? Did he really stand for the idea that devout members of other religions were doomed and only those following his faith would be saved? The bottom line is that I would love to know how much of what is ascribed to Jesus is accurate and how much, if any, is the result of subjective interpretation by others.

Lilys D. McCoy is a shareholder with McCoy, Turnage & Robertson, APLC. She represents consumers in lemon law, auto fraud, and Fair Debt Collection Practices Act and Fair Credit Reporting Act cases. LDM@MTRLAW.com
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Put Paid To It

Did you end 2006 with a financial bang or a fizzle? Would you like to conclude 2007 in a better position? Now’s the time to plan for a better outcome.

For many lawyers and law firms, collections is a fourth-quarter sprint rather than what it should be: a continuous marathon. For lawyers, it’s personal—it’s your time, talent and expertise rather than a tangible product, and approaching a client can be awkward and seem “unprofessional.” There are ways you can ensure a higher level of financial success and maintain your client relationships.

Expectations. Start with an engagement letter that’s clear as to what your clients can expect (that you will represent their best interests, answer their questions and return their calls promptly), and what you expect: to be paid promptly. This is the time to lay the foundation for the relationship and is the most likely way to ensure a clear understanding of what you will do for the client and how and when you expect to be paid.

Bill your clients promptly and regularly and tell a story with your time entries of what you are doing on the client’s behalf—make it real.

Who should follow up? It depends on your relationship with the client. Often an accounting person is more likely to be in a position to schedule the follow-up calls and can speak with a person in your client’s accounting department. Oftentimes “your people” getting to know “their people” can speed the payment of your invoices.

When? Follow up regularly and systematically. If your invoices read “due upon receipt,” then you or someone in your accounting department should be contacting the client no later than 20 days after the invoice is sent and definitely before the next billing cycle. Statements or invoices that show “previous balance” and reach the client without any contact about payment send a message of tacit approval that the balance has not been paid.

Accept credit cards. What once was deemed tacky is now viewed as client service. It will cost a fee, but not as much as the interest on your line of credit. Give them the “miles” and you’ll get paid sooner.

Partial payments. By all means accept partial payments, and then immediately contact the client and thank him or her for the payment and inquire as to when the balance will be forthcoming. Don’t establish a pattern of being a bank for your clients.

Use evergreen retainers. Requiring a client to keep a certain amount in your trust account while the matter is pending is an excellent way to ensure your cash flow. The engagement letter must be specific and include the client’s approval for the withdrawal of funds to pay your fees and costs, and it should provide that the funds must be replenished within a specified period of time. It won’t eliminate the need to be vigilant in managing your collections; however, it does put you in a more comfortable position of reminding the client to replenish the account rather than to pay your current invoice. It’s also a good idea to provide in the engagement letter that you will require an increase in the deposit should a matter go to trial (when the fees and costs will rise quickly and substantially).

By staying on top of your accounts receivable, you eliminate the need to sue your clients for fees, which inevitably leads to (1) a suit for malpractice, (2) increased professional liability insurance premiums, or (3) both!

If all else fails, withdraw from the matter. It’s better to spend your time playing golf and finding new clients than working for clients who aren’t holding up their part of the bargain.

Patti Lane is legal administrator for McKenna Long & Aldridge LLP, a certified legal manager, and past president of the international Association of Legal Administrators.

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Lawyers can learn something from comic books. Every year, the streets of San Diego are crowded for Comic-Con International, the world’s largest comic book. It’s big business—estimated to bring $32 million to San Diego. Thirty-seven years ago, the first Comic-Con had 300 participants; in 2005, that number was 104,000. Its growth testifies to the appeal of the simple ideals of comic book superheroes to the popular imagination.

My favorite was the Justice League of America. For those not familiar, that was an organization composed of the familiar D.C. Comics superheroes—Superman, Batman, Wonder Woman, the Flash—and some not so familiar (who remembers the Green Lantern?). They were an organization of extraordinarily talented individuals fighting as agents of justice.

The Justice League had nothing to do with my decision to become a lawyer. Foremost in my mind was the prospect of making a good living doing intellectually stimulating work. The idea that lawyers play a part in realizing the ideal of a just society was, if anything, a distant third on my list of considerations.

My law school ethics exposure did not change that; ethics was crammed into a two-unit course along with counseling and negotiations. In retrospect, I find it odd that 90 percent of what I now do as lawyer was the subject of one small course.

Now, after almost 20 years of doing this job and observing lots of other lawyers doing their jobs (through the prism of legal ethics for the past 17 years), I think the ideal of the Justice League of America has something to offer. Like those superheroes, we are agents of justice. And I have come to the conclusion that our professional salvation lies in reaffirming that ideal.

That lawyers are agents of justice is a truism. We are all exposed to this ideal in law school, sometimes with a wink or a smile that tells us “don’t take this seriously.”
Fashionable cynicism about the profession and the justice system begins early. Some of that cynicism is fueled by the continuing historical trend toward usurpation of professional ideals by business realities. The practice of law has been both a profession and a business for the past two or three centuries. While the values and norms of each have long existed in dynamic tension with each other, the balance in the past 30 years seems to have shifted toward business values. In 1984, Chief Justice Warren Burger declared that the legal profession had become a business. In 1993, I heard attorney and ambassador Sol Linowitz decry what he called “the betrayed profession” before the American Bar Association meeting in New York. Every day seems to bring new evidence of that.

The shifts in our professional values have come at a high price. Our profession has the dubious distinction of having the highest suicide rate; we passed the dentists about 1993. Numerous studies have documented the high rate of substance abuse among lawyers. Levels of dissatisfaction and disillusionment with the practice of law have been high and do not appear to be decreasing. Many of us who, like me, serve as counsel to others in our profession perceive it as a profession in crisis.

I believe that there is a way out of this crisis—simple to describe but difficult to achieve, because it consists of both personal and collective action. Individually, we must recommit to the idea that we are agents of justice. Collectively, we must accept the fact that we can no longer maintain our monopoly as providers of legal services.

The traditional rules of legal ethics were formulated in the 19th century. They leave no doubt that lawyers are agents of justice. Consider Business and Professions Code section 6068, the statute that describes the duties of California attorneys. Among other duties, we may “only counsel or maintain those actions, proceedings, or defenses only as appear to [us] legal or just, except the defense of a person charged with a public offense.” We may not “reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.” And we may not advance “a fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he or she is charged.”

This language was written when the steam locomotive and the telegraph were just beginning to radically change our economy and society. An increasingly complex economy based on the rapid advance of technology changed the business realities of law practice. We have become so specialized that it is more accurate now to speak of the legal “professions” than a legal profession, as Professor Milton Regan suggests in Eat What You Kill: The Fall of a Wall Street Lawyer (2004).

Accelerating change has resulted in accelerating efforts by ethics rule makers to keep up. The ABA’s original 1980 Canons of Ethics were inspired by the role lawyers played in the rise of corporate power 100 years ago. California’s first set of Rules of Professional Conduct, approved in 1928, endured until 1975 when they were completely rewritten. Then they were completely rewritten again in 1988. The current California rules revision commission has been working on the proposed new rules since 2002. The ABA Code of Professional Responsibility replaced the ABA Canons in 1969, to be replaced a mere 14 years later by the Model Rules of Professional Responsibility. The Model Rules were revisited at the turn of the millennium by the ABA Ethics 2000 project.
The ethics rules seem to be in constant flux. No wonder that our ultimate purpose seems hard to discern. The old ABA Model Rules were divided into "disciplinary rules" and ethical maxims, a nod at least in the direction of furnishing some guidance on the Big Picture. The Model Rules dispensed with this approach, in part because the rules of legal ethics had become rules of substantive law. The growth in the numbers of lawyers and the business approach to lawyering made this inevitable.

Beneath all the changes, the idea that we are governed by the ethical rules that are more than just substantive rules of law but reflect internalized values that we collectively hold remains unchanged. The ethics rules still tell us that our destination is justice; their ever-increasing complexity mirrors an increasingly complex society with increasingly complex laws.

Because of that complexity, lawyers more and more function as legal technicians rather than as agents of justice. The marketplace has recognized this trend by the growth of non-attorney legal service providers, the legal document assistants and unlawful detainer assistants now recognized by the Business and Professions Code.

The future will undoubtedly include the recognition and licensing of other non-lawyer legal technicians, if only for cost reasons. Lawyers often complain about the emergence of these specialties without understanding that the profession's own retreat from its ideals has made this inevitable.

The roles of legal technician and agent of justice cannot be wholly separated without harm to our society. Our society is based on the idea that law is the tool with which we work toward justice. Agents of justice without legal skill are blind; legal technicians without the ideal of justice are blind.

The changes in the profession are the cause of the distress that many lawyers feel today. There is a spiritual crisis in the profession, not in a religious sense, but because so many lack inspiration. For many lawyers, there is no meaning in what they do; they do it to survive. That is not true for all lawyers. The ideal of the legal profession as an
extraordinary group of individuals serving society by working for justice has not yet succumbed. Let us be thankful. The continuing existence of a just society based on law depends on the existence of the real Justice League of America, lawyers inspired by the ideal that they are agents of justice.

For me, inspiration began when I left the State Bar, went into private practice, and began to represent human beings, human beings in pain and distress. The cynicism that I felt, the cynicism that grew as I moved through law school, law firms and the State Bar, as I observed and partook of the ingrained indifference of institutions to what is human, began to fade. I began to see myself as an agent of justice, working toward a never attainable ideal in a complicated and imperfect world, but inspired by the ideal nonetheless.

In the final analysis, law is not just an intellectual edifice and not a vehicle for making money. It is a tool to ease human suffering. We deal with the worst aspects of life. Life is not a comic book, and we cannot be superheroes. But we must borrow some of the superhero ethos as our guiding star. We must understand that we are working toward justice. Without this inspiration, our professional lives are little more than drudgery.

David Cameron Carr is a sole practitioner and a member of the San Diego County Bar Association Legal Ethics Committee. The opinions are his alone. dccarr@ethics-lawyer.com
Stalled on the Tarmac

The Importance of a Strategic Legal Compliance System and the Building of a New Airport
The prospect of building a new commercial airport is technically, economically, legally and politically challenging. Some communities in California have either faced this problem in the recent past (e.g., Orange County’s decade-long struggle with the potential conversion of the former Marine Corps Air Station, El Toro, into a commercial aviation facility, ultimately stopped by a county-wide ballot initiative successfully sponsored by airport opponents) or are facing it today (most notably, San Diego, which is searching for an airport site that could replace San Diego’s aging and highly constrained downtown airport).

Often, even making necessary improvements to expand an existing facility to meet historical and projected growth in local demand for commercial passenger and air cargo service can be challenging. For example, both Long Beach and the city of Los Angeles have recently proposed modest (Long Beach) to substantial (LAX) improvements to their principal commercial airports, and both projects have faced considerable local controversy and opposition. As a result, both Long Beach and Los Angeles made major concessions in the scope of their proposed airport improvements, and, at least in the case of Long Beach, negotiations over a final project are continuing. But as difficult as the technical and engineering challenges can be, and as difficult as the economic and financing issues are in an era of significant financial stress for the commercial airlines (which ultimately
pay for much of the cost of these facilities), these behemoths of public infrastructure are challenged principally by the politics of their construction and operation. Airport politics was a significant issue in the elections of the last two mayors in Los Angeles and can become the principal issue in election campaigns of those running for city, county or even state legislative offices.

Challenges to airport projects are most frequently prosecuted not only by the traditional tools of the political process but by increasingly sophisticated legal challenges to the project as well. Indeed, while legal challenges to airport operation and development have long been a part of the airport development process, the prospect of protracted and uncertain litigation mounted by substantial legal opponents and counsel, often supported by municipal treasuries, has become a major factor in airport development and redevelopment projects throughout the country (although California continues to have a reputation as a particularly challenging environment).

Perhaps the most significant development for airports proposing major infrastructure projects is that citizen opposition groups have become increasingly sophisticated in legal issues, tactics and strategy, principally as a result of the emergence of the Internet as an information-sharing tool. Typically, these groups now use the political process to form (or motivate) alliances with better funded municipal entities, cities, school districts and so forth to obtain the deep(er) pockets necessary to support most of the litigation expense, but they still participate in the litigation process through their own counsel, both to have a direct voice in the litigation process and to ensure a seat at the table when settlements are negotiated.

Despite all of these challenges, recent reports from the Federal Aviation Administration (FAA), General Accounting Office and other sources reveal a significant capacity shortfall that is, and will continue to be, a considerable strain on the ability of airports and air carriers to transport passengers and cargo without delay in California into the 21st century. Effectively recognizing that it has become impossible to expand the capacity of airports beyond certain limits, many jurisdictions have begun the daunting task of determining whether a new airport can be built that can provide the capacity necessary for increased demand into the 21st century. The available options to address the continuing capacity shortfall are not particularly appealing. Airports can ignore community opposition and be assured of protracted litigation to many, if not every, aspect of airport siting and construction. Alternatively, airports can attempt to placate the public with limited actions and restrict operations to address noise and operational issues and face challenges from airport users, aviation industry groups and the FAA. Finding the right balance between these two extremes is a daunting challenge and one that necessarily requires the careful navigating of the com-
plex tentacles of the myriad of laws and regulations that apply to all aspects of airport site selection, planning, development, construction and operation of a new airport.

Requirements designed to guide site selection, airport master planning, airport development, airport construction, and, of course, to protect public health and the environment along the way are implemented and enforced by hundreds if not thousands of regulatory agencies—federal, state, regional and local—and apply to almost every individual aspect of airport planning, development, construction and implementation. Collectively, these laws and regulations cover most planning and development activities of building a new airport at least once and often many times at different levels and phases of planning. This fragmentation burdens not just those involved in the planning and development of a new airport but also those governmental agencies assigned to implement and enforce individual provisions of applicable laws. All parties involved in the arena of “building a new airport,” whether regulatory agencies, local jurisdictions, political participants, lawyers, the courts or other interested parties and participants, are continually reinventing practices and policies already established (or worse yet, proscribed) in other laws, often with no ready way to learn of the other provisions.

Although those responsible for airport sitting, development, construction and operation understand quite well the burdens imposed by fragmented laws and regulations, most may feel helpless, squeezed between public pressures for action to build a new airport and the legal and regulatory framework that necessarily requires compliance. Although the legal arena is fragmented and grand, the laws often provide agencies with discretion to tailor the planning, development and construction of a new airport in the direction of effective compliance with the legal requirements. Comprehension is the key to effective compliance. Development of a strategic legal compliance system, from the bottom up, may be the only realistic solution to compliance with the proliferation of laws and regulations and the only way for government and industry to build any public confidence in the process of building a new airport.

Laws affecting airport development have generally been divided into three categories: procedural, substantive and costly laws. Procedural laws (such as the National Environmental Policy Act [NEPA], the National Historic Preservation Act [NHPA], and the California Environmental Quality Act [CEQA]) impose procedural requirements that often require the expenditure of a great deal of time and money and may lead to significant project modification but, with care, always can be satisfied.

Substantive laws (for example, the Department of Transportation 4(f), the Clean Water Act, the Clean Air Act, the Endangered Species Act and the Airport and Airway Improvement Act) establish legislative preference for certain environmental val-

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A writer is difficult to categorize when he’s been a finalist in the San Francisco Poetry Slam, has been published in The New Crisis (the NAACP magazine) and the Stanford Law Review, and has maintained an ongoing blog titled poplicks.com. But Junichi P. Semitsu, an interesting confluence of creative showman, attorney, and instructor at the University of San Diego School of Law, is best known of late for his writings during the summer of 2006. Semitsu traveled with the Dixie Chicks (DC) on tour as an embedded blogger. Oh, he first spent March 4, 2006, getting married, then honeymooned in Bora Bora, and then flew to Austin, Texas, to meet the DC.

I arrive in Austin, live music capital of the world, to meet the Dixie Chicks for the first time....Given that their budget probably exceeds the revenues of most bands, I expect the space to be a lavish, high-security, modern studio with a reception area overflowing with chocolate, fountain and escargot vending machines. Instead, I roll into...what looks like an abandoned tractor warehouse after it was devastated

BY ALICE SOLOVAY
Far left: law professor and embedded blogger Junichi P. Semitsu. This page: Dixie Chicks band mates Emily Robison, Natalie Maines and Martie Maguire.
by a cyclone about which FEMA didn’t feel like warning Austin.

Semitsu is a blogger, not a spokesman for the DC. To ensure that he gets access to all events, he was given the title “management assistant.”

"Management assistant” sounds much better than “creepy Asian guy who keeps following the Dixie Chicks around with a notepad.” The title also empowers me to ask for more things to do…Thus far, I've bought coffee, reheated coffee, carried purses, and held chewed gum. I missed out on a chance to buy tampons, but word has it that I might get another opportunity in 28 days.”

It was lead singer and Texan Natalie Maines who on March 10, 2003, roiled the country/pop music seas when she told a London audience, “Just so you know, we’re ashamed the president of the United States is from Texas.” The negative outcry was especially harsh from country radio, with many stations subsequently refusing to air DC records. To better reach DC fans, Columbia Records partnered with MSN on a web site, dixiechicks.com. A subsequent album, Taking the Long Way, went platinum in the first month of release, and personal appearances like the Accidents and Accusations Tour continue to be well attended.

At the Chicks and the band walk onto the dark stage…sound engineer plays “Hail to the Chief.” This patriotic introduction started as a joke during rehearsals but somehow weaseled its way into the actual show. I suspect this song isn’t ironic to the fans in the crowd wearing “Natalie Maines for President” buttons.

Who are the DC fans? Semitsu says, “The demographic of DC fans has changed since the initial backlash to the ‘Incident.’ It used to be mostly white, mainstream country music, young women who made up the DC audience. Now… it’s more of a spectrum of America. I’ve seen the concerts from behind the stage and from different places in the audience. I’ve noticed how audiences think everything in a concert is unique to them. The audience wants to be entertained, but they also want to show their support for the DC.”

We are all in Detroit Rock City where the Chicks are…launching their Accidents and Accusations Tour. Walking outside…I can’t imagine any other square mile in America where I’d see an anxious mob of retired grandfathers with homemade shirts, pre-pubescent kids singing DC songs recorded before they were born, military veterans in camouflage, butch lesbians with cowboy hats, NASCAR dads, and teenage boys on their first date…One glance at this crowd and Gordie Howe would have wondered who kidnapped his regular Detroit Red Wings fans.

It is the job of Semitsu’s blog to show interested readers what really goes on behind the scenes. Has celebrity spoiled the Chicks?

Their charm, their great rapport with the band, and their wicked sense of humor cancel out any hint of platinum divas. Plus, most singers don’t regularly get slobbered on by a 150-pound dog names Mabel who is Natalie’s dog and a VIP in the DC’s family.

Has celebrity spoiled Junichi Semitsu? He admits, “I am interested in capturing how fans respond to the DC’s celebrity, and I always try to watch their shows from different perspectives in the audience. At first,
some people started to recognize me and approach me, mostly to try to get access to the DC. Now I get recognized and people ask me to autograph their tickets—I even had a mother and daughter wear ‘I Love Junichi’ shirts, but the husband refused to wear his Junichi shirt. It’s fun.”

Each of the DC’s is married with children. The DC tours often include Natalie Maines, sisters Emily Robison and Martie Maguire, Mati’s husband Gareth, visits from the other husbands, seven kids (all under age 5), Mabel the dog, and assorted posse members. An informal backstage conversation recounted in Semitsu’s blog concerned misheard lyrics. Emily once thought that Olivia Newton-John’s classic “Physical” included the lyrics “Let’s get Panama, Panama. I wanna get Panama!” (For those too young to remember the song, the actual words are “Let’s get animal.”) …Marti thought the line in one particular song was “And I opened my mouth and I hurt myself” when the actual line was “And I opened my mouth and I heard myself.”

Although Semitsu didn’t find the glamour of “escargot vending machines,” he did find other perks accompanying his adventure. Since he is now back to teaching, he will be flown to Sydney, Australia, for a weekend to cover yet another DC concert. “I’ll spend the same amount of time flying on the plane as visiting on the ground,” he cheerily complains. Add name-dropping to the perks of what is turning out to be a year-long blogging gig.

During the tour, the DC “living room” played host to a number of celebrities ranging from Harry Belafonte to Sandra Bernhard to Harvey Weinstein to Don Henley and Timothy Schmit from the Eagles. But which guest caused the biggest stir backstage? Chi-Chi…one very adorable and talented…monkey…sporting a hot pink diaper.…After a good hour with Chi-Chi had passed…the Chicks had less than 30 minutes to change and be on stage. Emily and Martie headed for wardrobe to get ready, but Natalie had difficulty tearing herself away. …There was one person, however, who wasn’t popular with Chi-Chi. So who in the Chick’s living room was perched on the bottom rung of Chi-Chi’s hierarchy? Me. For some reason, every time I stood up or approached her, she squawked in loud high-pitched noises, which is not unlike my earlier experiences dating women….she’s just not that into me.”

In a fit of hyperbole, bloggers have been disparaged as “random lunatics riffing in their underwear…some acned 12-year-old in his parent’s basement” (Michael Kinsley, Time, October 2, 2006). Semitsu takes his writing more seriously. Whether blogging or teaching legal writing, he believes in the active voice, in striving for “maximal impact with minimal words.”

Was he subjected to censure from his colleagues for his non-traditional summer adventure? Au contraire. Professor Dan Rodriguez asked if he could tag along as an assistant. Was he criticized by his father? Semitsu’s curriculum vitae includes 18 years of classical piano, graduating with honors from Stanford Law School, teaching in college and law school, and being an embedded blogger for the Dixie Chicks. With such a celebrity son, Semitsu’s father merely wonders, “Where’s the key to my new Lexus?”

Alice Solovay, a staff writer for San Diego Lawyer who practices law in Ocean Beach, welcomes story ideas. alice@solovay.net
Perhaps the best-known San Diego lawyer-musician is Solana Beach’s J. Michael Vallee, although most people knew him as Dirk Debonaire. Vallee, along with local lawyers Dan Lehner, Andy Shorenstein, Link Ladutko and others, played rock ‘n’ roll together professionally between 1981 and 2003 as Dirk Debonaire and the Boat People and Dirk Debonaire and the Yacht Lizards. Vallee originally formed the band simply to earn money to get through law school and ended up being one of San Diego’s most lauded and recognized musical figures. He was named North County Entertainer of the Year in 1983, and in 1984 both he and the band were named “Entertainers of the Year.” From 1987 to 1992, Dirk Debonaire took a hiatus, and the group played ‘60s music together as Dude Groovy & the Paisley People. To this day some people think Vallee’s first name is Dirk (www.valleelaw.com).

These and many other local lawyers continue the fine tradition of playing professional music gigs at night and practicing law during the day. If we omitted any bands, please let us know.

Andy Shorenstein: Former Dirk Debonaire, Harvey Whiplash & the Fender Benders and Dude Groovy keyboardist plays occasionally with Legal Tender and others; 619-234-3621.

Bay Wolf: Link Ladutko (drums); blues, classic rock, pop, R&B, country and some rockin’ originals; plays McP’s Irish Bar & Grill (Coronado) and JP’s Pub (Tierrasanta); http://vmusic.com/artists/bay.wolf.

Briegade: Michael Hoisington; alternative/hard rock/metal music; 2006 San Diego County Fair; www.briegade.com; mhoisington@higgslaw.com; 619-236-1551.

Carolyn Taylor: Vocalist; the Violetttes, a “girl group” tribute band featuring music from the Andrews Sisters to the Pointer Sisters; formerly sang with the Big Daddy Orchestra and also sings backup with David Sherry and Diamond Is Forever; www.cecetaylorproductions.com.

Dan Green: Guitar; folk and country originals and covers; currently working on his third CD; featured artist of the week, KSON Radio; www.dangreenmusic.com.

David Dekker: Guitar, bass, vocals; traditional and contemporary folk, bluegrass, and country; two solo CDs and a third as part of a duo called Homeward Bound with former County Bar President Monty McIntyre; plays regularly at San Diego Folk Heritage and San Diego Folk Music Festival; 760-741-8585; dcdekker@pacbell.net.


Electric Waste Band: Robert Harvey (lead guitar); San Diego’s Grateful Dead Tribute Band; every Monday at Winston’s, 1921 Bacon Street, Ocean Beach; www.electricwasteband.com.

Eve & The Bad Apples: Jeff Carver (harmonica/guitar); “San Diego’s premier rock ‘n soul ‘n’ rhythm ‘n’ blues band;” Del Mar Fair, Lakeside Rodeo; www.eveandthebadapples.com.

Gold Dust: Dan Lehner (guitar/mandolin/banjo); classic rock, pop and alt country; www.golddustband.com.

Harley Feinstein: Drums; Crash O’Malley (power pop cover band with a UK emphasis); currently recording an all-original CD with the group Justice Finger; continued on page 30
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Law in Motion: Michael Wellington, Steve Zeigen, Jeffrey Joseph, Steve Adler, Gary Schons; classic rock, R&B and blues; the first (and only) Battle of the Legal Bands at the Palomino Club in North Hollywood circa 1985; Gary Schons, gary.schons@doj.ca.gov.

Left 4 Dead: John Farmer (lead guitar); rock 'n' roll; two-time SDMA Music Award nominees; Coors Amphitheatre, Belly Up Tavern; www.left4deadonlinelive.com.

Legal Tender: All-lawyer band featuring David Siegel (guitar, horns, keyboards), Scott Lee (drums) and Jim Holtz (bass); special guest Tom Penfield (guitar, vocals); Scripps Ranch Symphony in the Park series; David Siegel 619-239-8050.

Night Shift: John Thompson is the only member from the legal community; plays classic rock; played Rock 'n Roll Marathon in 2006; Dave Davenport (619-884-3800); www.nightshiftrocks.com.

Ron Freshman: award-winning solo guitarist (classical, jazz, Brazilian, popular, flamenco); Toronto Guitar Festival; Carmel Guitar Festival; www.ronfreshman.com.

Shady Grey: Paul Mirowski (keyboards/guitar); Sean Michael Foldenauer (guitar); rock 'n' roll; Boar’s Crossing, Jimmy Love’s; www.shadygrey.com.

The Isam Band: Sam Khoury (lead guitar); Michael Singer (keyboards); pop, rock, jazzy; performed at the 2006 SD County Fair and New Year’s Eve at Dobson’s every year for the past 20 years; currently finishing production on the “quintessential Isam Band CD”; www.isamband.com.

The Undecided Band: Tim Campen (lead vocals and guitar); “San Diego’s Favorite Rock & Dance Cover Band;” Del Mar Fair, Hard Rock Cafe; www.theundecidedband.com.

Tim Riley & James Faulder: (guitar & bass) Folk rock singer/songwriter duo; local coffeehouses; www.rileysmusic.com.

Scott Dreher wishes he’d continued his guitar lessons as a kid and is making sure his son won’t. scott@dreherlawfirm.com

BanDiego

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available early 2007; recorded with the Electric Prunes on their most recent CD; www.harleyfeinstein.com.

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Andra Day O’Connor, the first woman to sit on the United States Supreme Court, certainly ranks as one of the most influential jurists of the 20th century. The first jurist since Earl Warren to also have held elective office, she has been in the majority of virtually every controversial 5-4 decision issued by the Court. Since her retirement in 2005, Justice O’Connor has traveled the world, spent time with her family, and, because of her stated fear of the attacks on judges by legislators, has announced plans to work with the American Bar Association on a commission to help explain the separation of powers and the role of judges. She is working on a new book, which will focus on the early history of the Supreme Court. O’Connor is also a member of the Iraq Study Group, which is co-chaired by James Baker and Lee Hamilton and includes, among others, Edwin Meese, who was attorney general under Reagan, taught at USD Law and practiced in La Mesa.

“The power I exert on the court depends on the power of my arguments, not on my gender.”

—Supreme Court Justice Sandra Day O’Connor

An interview with Sandra Day O’Connor

Power of Her Arguments

BY KEITH RUTMAN
As a retired justice, she is eligible to sit by designation on lower federal courts, and in October 2006, she participated in several cases heard by the United States Courts of Appeals for the Second Circuit and Ninth Circuit. An avid golfer, she scored a hole in one in 2000 and, in 2002, was inducted into the National Cowgirl Hall of Fame. She also was appointed Grand Marshal of the Tournament of Roses and participated in the 117th annual Tournament of Roses Parade in Pasadena, California, on January 2, 2006.


We would like to begin with any personal stories you have regarding your visits to San Diego, because we assume that you may come here on vacation from time to time.

They call people from Arizona the “Zonies,” and the Zonies invade the San Diego area every summer because it’s brutally hot in the desert regions of Phoenix, and there is a mass exodus of anybody who can afford it to go to San Diego. When our children were small—we had three sons—we went several years in a row to Coronado Island and that was when you still took a ferry. And we rented a little place on the island and took our children so that they could enjoy that fabulous beach. The waves aren’t too big, and the children just loved it. It was perfect for small children.

What about after your children grew up and it was just you and your husband?

Then my husband and I went a number of times, and I went separately a few times to meetings that were held at the Hotel del Coronado, for example. And both of us attended various functions that were held in San Diego. It’s now the practice, standard practice I think, of the Arizona State Bar to hold a meeting every year in San Diego.

Do you have friends who live here in San Diego whom you still stay in touch?

We know Pete [former mayor, assemblyman, governor and U.S. senator] and Gayle Wilson very well. I also have a former law clerk, Stan Panikowski. I was pleased when he decided to practice there, because I think that these brilliant young law clerks obviously all have a great future in the legal profession, and I like to see them go out to communities where they can be participants in the community in a variety of ways. That’s what my husband and I looked for when we wanted to find a place to settle. Phoenix was great, because it was both the economic and political capital of the state of Arizona. As a result, each of us had lots of opportunities to engage in public service projects, which we did. And it was wonderful. San Diego is not the political capital of California, so perhaps those opportunities are not as defined as they were in a place like Phoenix, but it certainly has multiple economic opportunities.

What about some of the judges that you know in San Diego?
[The late] Judy Keep. She was so delightful. I got to know her because I was the Ninth Circuit justice and we had a meeting in the San Diego area of the Ninth Circuit at the Loews Coronado Bay Resort in the Coronado Cays. I remember that she was so wonderful and participated in so many ways to make the program great. Let me tell you one of the funny things she did. I met with her a number of times during the years before that conference and we used to joke about how at the conference there would be all these 10K runs and other athletic events. We said, well now, we need a 1K run. And she organized the funniest 1K run you have ever seen in your life. We had T-shirts. We had prizes. And it was hilarious. We enjoyed her company so much, and I was devastated when she passed away.

How about (Presiding Magistrate-Judge) Leo Papas? I understand you played golf together?

I’ve had so much fun with him at circuit conferences. He’s a very good golfer. And so I signed up for a few of the tournaments at my circuit conferences and ended up with him in the foursome a few times. In fact, we kind of requested it because he was a lot of fun to play with and my game isn’t very strong, but his is. It was great. He’s a delightful guy.

Do you have any thoughts about constitutional border issues that you might foresee as coming before the Court?

Let me just answer that in a very general way. Every significant social policy issue in the country finds its way, in some aspect, in some question, to the U.S. Supreme Court, at least with petitions. That has been the history of the Court throughout the years. If there are significant issues about immigration, deportation and so forth, they’re going to come to the Court. If you look back at the Court’s docket of cases granted over the last, say, eight years, I think you would find any number of cases involving immigration and deportation, because Congress enacted a good many changes for the laws affecting immigrants or would-be immigrants. That is likely to continue.

As a Supreme Court justice, did you ever feel as though you were treated like a celebrity? Do you have people asking for your autographs and recognizing you at airports and that sort of thing?

Constantly. From the very first, because of all the publicity. I was perhaps more recognizable than my colleagues.

I know you’ve done some traveling abroad, several times for judicial exchange-type programs. What was your most interesting trip of that nature? Or what did you look forward to the most?

Before I went on the Court, I was invited to participate in an Anglo-American legal exchange by Chief Justice Warren Burger. He wanted a state court judge participating, and I was that person. Because of the high level of the participants, we were welcomed in the courtrooms. We sat...
down with the judges and the people in the courtroom and watched proceedings, and sometimes even sat on the bench with them—not to do anything officially, but to be up there as observers. It was just wonderful. I saw firsthand in the courtroom the high level of courtesy shown in courtrooms by members of the Bar in Great Britain. It was so different from the standard of practice in this country. It was so much better, frankly. I was stunned by the contrast. The other thing that’s surprising is during the course of trial, there weren’t big hassles about objections. The lawyers just go along, and it was very seldom the other side would interrupt—“Oh that’s hearsay” or that’s this, that or the other thing. They just proceeded, and the lawyers would work it out between themselves. There was not much pounding of the gavel or forceful objections being made by lawyers in the courtroom. So it was a completely different atmosphere and one that I thought was good. I was on the Court at about the time that Warren Burger started the American Inns of Courtroom. He did that with the hope that there would be a way to train American lawyers to be more courteous and respectful and to learn something from the British experience as he had. I have liked the American Inns of Court very much. It has taken hold, and there are Inns all across the United States.

I belong to the William B. Enright Inn, which was one of the first ones.

He’s another one of your federal judges whom I knew. He was terrific. Judge Enright was a wonderful judge in his day.

There’s a big debate going on in the Court now about the propriety of looking to other international law sources. Regardless of the disagreements over that, does everyone seem to welcome that dialogue continuing, or do you think it’s something the justices would like to see concluded?

I can recall no case in the Supreme Court where a foreign judge has been cited as controlling on some issue of U.S. Constitution law. Whatever you think of a foreign judicial opinion, they have not been used to interpret our own Constitution. On the other hand, when the U.S. Supreme Court is interpreting a treaty, such as the convention concerning responsibility for damage to persons or property on an airline, which is signed by a number of countries and other countries have had to interpret the treaty, then we will look to their interpretations along with our own in resolving the meaning of the treaty. There are times when you do and
times when you don’t look to foreign judgments. The issue has been blown out of proportion. The recent concern was over the reference in the juvenile death penalty case where the U.S. Supreme Court was considering the constitutionality of applying the death penalty to people who were under 18 when they committed the offense.

I believe Justice Kennedy, in writing the majority, referred to the fact that only two nations in the world still apply the death penalty in those circumstances—the United States and Somalia. That was much criticized by some. I did not join the opinion, but I did not find the observation any more troublesome than a reference to some law review article or a text writer who happens to say something the writer of the opinion thinks persuasive.

**Whom do you consider your mentor to have been?**

I didn’t have a mentor. I just found my own path.

**Do you have any thoughts on why the Supreme Court may be the least considered, the least understood, branch of government?**

That’s hard to know because it is the only branch in government in which all of the reasons for a decision are carefully written out and explained. The other branches don’t have to do that. So it is hard to know why the judicial branch is the least understood.

**Do you think there’s a reason that people don’t read?**

I guess people aren’t readers. I think we have serious deficiencies in our public school education. Very serious.

**If you were meeting a lawyer who was appearing for the first time before the Court and you could give him some three-pointers on what to expect or how to prepare, what would you tell him?**

The advocate needs to know they will not have a chance to give a prepared text because there will be many questions, perhaps from the very first moment. The advocate has to be able to use the questions as an opportunity to get around to saying something they’d like to say anyway as an advocate. It is not easy, because sometimes you’re being pressed by a very skillful question in a direction you don’t want to go. I don’t think it’s good for the lawyer to try to be an obstructionist. If you have to concede some unfavorable point, go ahead and concede it, but say, “That doesn’t control here, Your Honor, because…” Don’t be afraid to concede something that’s against your interest, as long as you have a good reason why it doesn’t affect the outcome of your case. The advocate needs to know the case record and be prepared for hypotheticals. You will be asked hypothetical questions. The oral appellate argument is not an argument made to a jury. It has to be low-key and rational.

Keith Rutman is a sole practitioner and staff writer for San Diego Lawyer. krutman@krutmanlaw.com

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When I read the word “retired” before Justice O’Connor’s name, I still do a bit of a double take. At first glance, it is a little like being reminded that Alan Greenspan is no longer the chairman of the Fed, that Dan Rather no longer anchors the evening news, or that Bruce Bochy is no longer manager of the Padres. But it is not so much that I have not digested the fact that, after nearly 25 years of service, Justice O’Connor is no longer a voting member of the Court. Rather, given her boundless energy and continued devotion to public service, it is that the adjective “retired” hardly seems apt.

Though some of her specific post-“retirement” endeavors are new, the underlying commitments they reflect are nothing novel for Justice O’Connor. They instead reflect ways in which she has long served others beyond her official duties as a Supreme Court and circuit justice. Through her international endeavors, she has become one of the world’s leading ambassadors for judicial independence and the rule of law. And through her writings and speeches in the United States, she has become one of our nation’s leading civics teachers.

Another of her less formal roles has been serving as the head of a large and diverse family of law clerks. Clerking for Justice O’Connor meant far more than a fascinating work experience. It was an opportunity to develop a friendship with someone whose kindness and character surpass her historic accomplishments in the legal profession.

Caring deeply about our personal well-being, Justice O’Connor has always treated her clerks as true family. During the clerkship, she was even attentive to our basic need for sustenance. In fact, my clerkship interview happened to fall on one of those days when she had cooked lunch for her clerks. And the compliments were not just a function of the chef’s identity; the meals were very tasty on the merits!

Justice O’Connor has also been the best kind of mentor to her clerks: one who

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teaches not only through her words, but through her example. Among other things, her example is one of hard work in the service of others, perseverance in the face of obstacles, and that most prized of public and private virtues, integrity.

Justice O’Connor’s intellectual curiosity is also a source of inspiration. Beyond her encyclopedic knowledge of the law, her voracious appetite for learning about history, the arts, other cultures—and the list goes on—is impressive. In this vein, the impromptu field trips on which she took her clerks (for example, picnicking at the National Arboretum, touring historic sites, and kayaking with a visit to an archaeological dig) were not just a respite from our piles of work. They were also reminders of the value of cultivating a lifetime of intellectual interests in addition to the law.

Justice O’Connor is living one of the great lives of public service in American history. She is also, quite simply, an outstanding human being who is worthy of emulation in many ways.

Stanley J. Panikowski served as a law clerk to Justice O’Connor during the October Term 2000. He is currently an associate at DLA Piper US LLP in San Diego.
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Two years ago, best-selling author and San Diego resident Joseph Wambaugh wrote the first chapter of a legal short story that appeared in San Diego Lawyer. The next four chapters were part of a writing contest in which attorneys and judges submitted entries that were judged by three distinguished writers: Justice Patricia Benke of the Fourth District Court of Appeal; Tom Blair of San Diego Magazine, and Arthur Salm of The San Diego Union-Tribune. Beginning with this issue, we're trying a different twist. Criminal defense appellate attorney Chuck Sevilla wrote the first chapter of a gripping legal spellbinder. The next four chapters will be written by San Diego appellate lawyers. The project is co-sponsored by the County Bar's Appellate Court and Children at Risk Committee, along with San Diego Lawyer. We hope you enjoy the project, and we would encourage you to contact the Children at Risk Committee to learn more about reading to children in classrooms throughout San Diego County. Our short story wraps up in the September/October issue.

Chuck Sevilla was born in San Jose and grew up in nearby Sunnyvale. After graduating from Santa Clara Law School, he worked for Volunteers in Service to America, or VISTA, in Washington, D.C., before returning to California. He worked for Federal Defenders in San Diego and then was chief deputy state public defender in Los Angeles. From 1983 to 2004, he practiced with John Cleary, who had been the director of Federal Defenders here. Sevilla wrote the first chapter of our short story in September while he and his wife, Donna, stayed at the Paris apartment of Marjorie Cohn, a professor at Thomas Jefferson School of Law and the current president of the National Lawyers Guild. A listing of Sevilla's books may be found at charlessevilla.com. Fun facts? Sevilla loves to travel, and trips have included Africa, Europe and the Middle East. Also, he graduated from Fremont Union, the same high school from which his mother graduated.

We hope you enjoy The Chase. Please e-mail your comments to mkruming@aol.com.

CHAPTER ONE

"Your Honor?"

Dinner was great last night. Top of the Cove. Super supper. Even My Harshest Critic smiled. God, Martha's hard. Thirty years of marriage. Says she knows me like a book, but she's missing the most important chapters. Loved that Kobe beef. Even The Critic couldn't spoil it with all the carping about too many Remy Martins.

"Your Honor?"

Still happening. Bad news. Bad news. I saw what's his name at the next table and The Critic starts up a friendly chitchat with his wife while I'm stumped for his name. The continued on page 44
make mole hills of mountains...

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guy's appeared in my court a million times. Gargled lots of booze with him at more downtown watering holes than I can remember. Am I losing it, or what? Like those pasta squares I ordered for lunch today at the University Club. Couldn’t remember what they’re called. The waiter had to tell me, Oh, sir, you must mean the ravioli.

“Your Honor! Hey! Judge Giddle!”

Whoa, what the…

“Overruled. Er, what exactly can I do for you?”

Judge Martin Giddle came to in the middle of the trial of Chase v. Chase, a divorce case ongoing because the two ex’s had a difference of opinion over the quantity of community loot to be divided. The wife said it was more plentiful than the hubby said, given the millions he had made with his tech business. Only now, at divvy-up time, over half had gone missing.

“Judge, please rule on my objection. That question is leading and seeks self-serving hearsay.” So said Vivian Morales, expensive counsel for the wife, the spouse in search of the missing family boodle.

“Ah, yes, of course,” replied Giddle, looking at Vivian as if he understood. He hadn’t heard a word she or anyone had said for over an hour. “Madam court reporter, please read the question back.”

Madam reporter dutifully read from her computer: “Mr. Chase, did your wife tell you on many occasions that because you were such a hard-working and great provider that you should feel free to pamper yourself with luxuries as you saw fit?”

Expensive opposing counsel, Herb Monroe, contributed a helpful hint for the judge’s ruling. “This issue is important, Judge. It tends to explain why the community is not as bountiful as Mrs. Chase believes, due to this long-standing and generous directive to my client, a directive with which he obediently followed over the years of their marriage.”

Giddle paused, trying to get a grip on the question, its context, even his surroundings. He hadn’t been paying attention to the trial. In fact, he hadn’t been paying attention to life lately and it scared the hell out of him.

“Overruled.”

Vivian Morales was on her feet and angry. “It’s hearsay, it’s leading, it’s suggestive, and...”

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the only way Mr. Monroe can show..."

How dare you give me static, Vivian. Why didn’t you say something this morning to get this case out of my court? Embarrassed? What about me? You could have steered the case out of my department. God, I’d only been paying attention. I could have dodged it so easily. Stupid, stupid, stupid.

“You’ve made your record and I’ve ruled, now get on with it. Mr. Monroe will still have to prove the expenditures. Wait a minute!” Giddle looked to the large clock on the wall to his right. “It’s almost four. Let’s call it a day. I’ve got things to do.”

Giddle whacked his gavel, said “See you tomorrow morning,” and flew off the bench leaving Mr. Monroe smiling and Ms. Morales open-mouthed in mid-sentence. Giddle locked his chambers door, angrily threw his robe on his red leather sofa, and went straight for the lower drawer of his desk to liberate a bottle of Remy Martin. Sighing, he sat heavily in his chair, poured himself a glass and drank it dry.

Call a mistrial. Don’t even give a reason. Get sick. Vivian! ... Vivian! Remember how we met? County Bar building, yeah, yeah, we were on an ethics panel, right. What a joke! Me on the ethics panel! Like Ted Leitner playing Hamlet or Bruce Bochy in ballet tights. Wonder how Vivian would answer the ethics issue we’re in right now? Ha! Hum, was she on that panel?

He poured himself another Remy, leaned over the glass, studying it. The phone rang. He hesitated, took a swig, then answered. It was Joyce, his clerk, asking if court would start at ten in the morning. Giddle knew it was more a reminder than a question. Giddle said yes, told her to go home, then took another long slow drink.

Three more years and I retire with the bennies. Where’d the money go? A bit like this trial. This trial! Mistrial. Mistrial. Mistrial. I can’t take another commission investigation.

Giddle took another long swig as the phone rang again. Through several rings, he thought of not answering. Might be My Harshest Critic, or maybe it’s Joyce to remind me of something else. Great gal.

He answered, “This is Giddle.”

“And this is Vivian, you bastard.”

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ues over airport development values. Unless these laws are complied with, they may stop a project that is inconsistent with their underlying policies. Satisfaction of each of these requirements typically is addressed in the NEPA and CEQA process, or parallel to these federal and state processes.

Costly laws (such as the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA) and its state counterparts) impose substantive requirements that, technically, can be satisfied, but possibly at great cost. Sometimes compliance with these laws is so expensive or will result in so much delay that they also may prevent certain airport projects from being built. Early project planning for a new airport should include a determination of whether the project site is contaminated. The costs associated with CERCLA and RCRA compliance can be so high that they may significantly affect project planning.

However daunting, successful compliance with the legal requirements is not insurmountable. Although the experience at John Wayne Airport in Orange County (JWA) did not involve the building of a new airport, the history of this facility can be used as a success story with respect to legal and regulatory compliance. Specifically, in the late 1970s and 1980s, the county was able to successfully complete a major expansion at JWA despite a significant litigation challenge by the communities surrounding JWA and other interested parties.

A comprehensive agreement was ultimately reached between the county of Orange, the city of Newport Beach, community groups and other parties and entities, ending all litigation involving JWA. Since that time, a number of amendments have been made to the initial settlement agreement that have resulted in substantial increases in capacity and facilities at JWA—all of which have been made without a litigation challenge.

The recent airport expansion project at LAX also resulted in a relatively quick set-
tlement after the initiation of environmental litigation challenging the project, although the city was required to make significant concessions in the scope of the project, demanded by the project opponents in an attempt to limit the total number of passengers that the airport would serve in the future. This settlement also resulted in the mayor and the city pursuing a policy of encouraging development and expansion at other airports in or near the Southern California Basin in an effort to spread the burden of providing the necessary air service to the larger Southern California community, with less reliance in the future on LAX to continue to meet the overwhelming majority of that aviation demand.

Nevertheless, these other airports, including the commercial airports in Orange County, Long Beach and Burbank, are already constrained by historical airport noise regulations and development limitations, which the local communities are not likely to sacrifice in order to accommodate more of what they perceive to be LAX’s demand. The intensity and ultimate success of the opposition to the development of El Toro (which was forecast to become the second largest airport in Southern California) will continue to be a benchmark and guide for these communities in resisting any efforts to significantly expand commercial service at their local airports. Other alternatives, such as more remote sites in Palmdale, Riverside and San Bernardino counties, have not yet developed sufficient local demand to motivate the airlines to initiate significant service at those airports, let alone make the enormous financial commitment necessary to expand any of those airports into major commercial facilities.

It is a problem that is not going to be quickly or easily resolved. Future generations of lawyers will continue to toil and battle across the state and the country as political leaders struggle to balance competing local and federal demands inherent in the development of urban airports, which often appear irreconcilable; in all likelihood, they will continue to do so in a legal and regulatory environment of increasing complexity and a political environment of increasingly sophisticated controversy and opposition.

Lori D. Ballance and Michael Scott Gatzke are with Gatzke Dillon & Ballance LLP, a law firm specializing in airports and aviation. This article is intended for general information purposes only and does not contain legal advice applicable to any particular airport. Readers are urged to contact their counsel or the professional staff at Gatzke Dillon & Ballance LLP at 760-431-9501 or lballance@gdandb.com to address specific inquiries.

Editor’s Note: On November 7, San Diego County voters rejected Proposition A, the advisory measure that asked if they supported the Airport Authority’s recommendation of MCAS Miramar as the site for developing a new commercial airport. According to the Registrar of Voters, the unofficial results as of November 14 showed 62.04 percent voted against the recommendation, while 37.96 percent approved of the choice.
To Advocate and Educate

THE TOM HOMANN LAW ASSOCIATION

BY DEAN A. SCHIFFMAN

Contact Information
Address: 1010 University Ave., PMB 137, San Diego, CA 92103
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THLA Background
Tom Homann was an openly gay lawyer in San Diego who died of AIDS in 1991, at age 42. Homann made an enormous impact on the local community. He contended with the city of San Diego on a variety of legal issues and opposed the San Diego County Sheriff’s Department on its hiring practices. Homann also represented two sailors with AIDS who were to be discharged without medical benefits because they were gay. “My guiding principle is a distrust for government and a skepticism about the way government utilizes its power, and a desire to resist authority as much as possible,” Tom told the San Diego Union Tribune.

(contributed by THLA member
Ted Roberts)

THLA Officers
The officers are Lilys McCoy, President; Ted Roberts, Immediate Past President; Gregg St. Cyr, Treasurer; Shelby Stuntz, Secretary; Jennifer Kagan, Board Member; Anita Margolis, Board Member; Jonathan Schneeweiss, Board Member; Oliver Cleary, Board Member; Torr Melling, Board Member; Tamara Keller, Board Member.

As a young attorney, THLA has provided an opportunity for me to network and learn from some of our brightest minds. The Fourth Annual THLA Student Mixer held at Thomas Jefferson School of Law provided another way to meet and encourage LGBT students. I am proud to be a part of an organization that reaches out to local law students through the attorney-student mentor program and student sponsorship to the Lavender Law Conference and Career Fair.

Shelby L. Stuntz

I have been active in THLA since law school. THLA provides input on important civil rights issues. It encourages diversification within the legal community and helps organize events such as the National Lavender Law Conference. THLA provides endorsements for SDCBA board members as well as judicial endorsements. It is important to keep both the LGBTQ! (Lesbian, Gay, Bisexual, Transgender, Queer, Questioning and Intersex) and the legal communities informed, educated and connected.

Gregg St. Cyr

THLA has a serious mission but also likes to have fun. Our annual dinners go from the hilarious to the profound. THLA has always been cognizant of important issues facing the LGBT community and has done an excellent job getting involved. Our Amicus Committee has participated in important cases involving GLBT litigants. THLA is just a great group of people.

Lilys McCoy:

Tom Homann was a criminal defense lawyer who died of AIDS in the prime of his career. I see THLA as a way to continue his legacy as a gay lawyer fighting for the rights of the GLBT community.

Oliver Cleary

THLA members have a common interest in improving civil rights for the gay and lesbian community. Lawyers need to make it clear how the law discriminates against gays and lesbians. They have a responsibility to uphold the Constitution and to work to pro-
tect “equality” as it has developed for society today. Through THLA, I can educate other lawyers and members of the community to bring change.

Jonathan Schneeweiss

Tom Homann was a friend of mine. He could be counted on for a sunny afternoon at the ballpark. He would comfort the afflicted and afflict the comfortable. He took on outrageous and unsympathetic clients. He hated bullies, and he loved the First Amendment. I helped to organize Tom’s memorial service when he died—along with so many of my friends—from AIDS. When our group of founding THLA members looked for a name for our organization, Tom’s name was the choice.

Bridget Wilson

The THLA has supported me personally and professionally. It was a key factor in allowing me to find the courage to identify myself in an article about gay lawyers at big firms, written back in the early 1990s. THLA also helped me assert my transgender identity and more fully embrace it without shame or embarrassment. THLA helps lawyers be the most complete and respected people they can be.

Mattheus E. Stephens

THLA means community action, social responsibility, networking, friendship and creating connections with people with similar goals. THLA has a different meaning for each member, but all its members care about making our community better. We also provide guidance and friendship to our local law students through our successful mentor program.

Tamara Keller

THLA provides a network of friends and colleagues, and a resource for LGBT law students, whose idealism energizes the group. We have strong affiliations with other minority Bars and the San Diego County Bar Association. We have developed relationships with the Bar board, judges and colleagues around the country. It is critical for our LGBT legal community to have an “out” presence so that we will not be ignored or have our lives and relationships demeaned or disrespected professionally. As lawyers, that is fundamental to our calling.

Ted Roberts

As a 20-year attorney, I have seen tremendous progress toward acceptance of gays, lesbians, transgendered and bisexual individuals. But we are still far from our goal of eliminating bigotry and discrimination. Change requires organization. That is what THLA does. It helps me make a difference, and that makes a difference in me.

Anita J. Margolis

Dean Schiffman is a San Diego attorney and expert witness. He can be reached at his web site, www.LAWandNUMBERS.com.
1. The ABA's original Canons of Ethics were inspired by the role that elite members of an increasingly industrialized society had to play in influencing changes in the overall practice of law.

   True □ False □

2. Because of the complexities of our ever-evolving society, lawyers are beginning to function more as legal technicians than as mere agents of justice.

   True □ False □

3. Professor Milton Regan has suggested that the legal profession has become so specialized that it is more accurate now to speak of the legal “professions” rather than a singular legal profession.

   True □ False □

4. The original ABA Model Rules were divided into disciplinary rules, procedural rules and ethical maxims.

   True □ False □

5. According to California Business and Professional Code §6068, an attorney may not advance “a fact prejudicial to the honor or reputation of a party or witness, except in the defense of a person charged with a public offense.”

   True □ False □

6. In 1993, Chief Justice Warren Burger declared that the legal profession had become what he termed “the betrayed profession.”

   True □ False □


   True □ False □

8. In this author's opinion, changes to the ABA’s Canons of Ethics and California Rules of Professional Conduct were caused by a lack of substantive law addressing the specific components to those changes.

   True □ False □

9. If the roles of legal technician and agent of justice are divided, legal technicians will no longer be bound by the ABA’s Canons of Ethics.

   True □ False □

10. California's first set of Rules of Professional Conduct was approved in 1928.

    True □ False □

11. The traditional rules of legal ethics were formulated in the 19th century.

    True □ False □

12. An increasingly complex society, coupled with the rapid advance of the steam locomotive and telegraph, changed the philosophies relating to the practice of law.

    True □ False □

13. The practice of law has been both a business and a profession for at least 200 years.

    True □ False □

14. The Justice League of America is composed of a select group of state and federal court justices united to defend the institution and ideals of justice that are the cornerstone of a democratic society.

    True □ False □

15. California Business and Professional Code §6068 states that attorneys may “only counsel or maintain those actions, proceedings, or defenses only as appear to [us] legal or just, except the defense of a person charged with a public offense.”

    True □ False □

16. The legal profession has the dubious distinction of having the second highest divorce rate, preceded only by dentists who have the highest divorce rate.

    True □ False □

17. The current California rules revision commission has been working on proposed new rules since the rewritten rules were adopted in 1988.

    True □ False □

18. One of the rules by which California lawyers are governed states that a lawyer may not “reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.”

    True □ False □

19. The ABA Model Rule dispensed with a divided approach, with disciplinary rules separate from ethical maxims, primarily because the ethical maxims had been incorporated into more substantive law.

    True □ False □

20. Levels of dissatisfaction and disillusionment with the practice of law have been high but appear to decreasing with time.

    True □ False □
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Standards of Decency Redux

Dress Codes in the Professional World

BY ANDREA CONTRERAS DIXON

[Ed. Note: After reading “Standards of Decency,” which ran in our November/December 2006 issue, Andrea Contreras Dixon took exception to our (apparently) biased view that only women dress inappropriately for both court and the profession of law. While SDL maintains that opinions expressed in articles are solely those of the authors, we do see her point. In the interest of equality and fair blame for all, we chose to run her letter as an article in this issue.]

When I’m in court or at gatherings with men attorneys, I often see men who simply are not dressed professionally. This is not really surprising. While women attorneys have been bombarded all their lives with information on how to be stylish and professional, men attorneys have never been privy to that information. As a result, most of them have spent their lives attempting to look stylish, but failing. Chances are, even in law school, nobody told men law students how to be both stylish and professional.

While I’m not suggesting that men attorneys cannot be both stylish and professional, there are nevertheless standards for professional dress, which our colleagues, our courts and our clients expect us to follow. We who spent so many years cultivating a form of dress that is both stylish and professional are put off by male attorneys who dress in a way that is, well, ugly.

So here are my ten tips – all based on actual observation in my nightmares – for achieving a professional look:
1. Do not wear anything that is skin tight. Remember, the point is not to look uncomfortable, but to look businesslike. I recently saw a man attorney wearing a dark suit in court which looked completely professional until he turned around, whereupon his belt appeared to be cinched so tightly that his abdomen spilled over his waistline. This, believe me, is not a professional look, and I'll bet the judge and the jury didn't think so either.

2. Do not wear extremely short pants. Top-of-the-shoe length is short enough. Otherwise, too much is revealed when you bend or sit.

3. Do not wear unbuttoned shirts. A professional look never includes chest hair.

4. Do not wear a short-sleeved shirt under a jacket, pretending that it's a long-sleeved shirt. Long-sleeved shirts are cut much more stylishly than short-sleeved shirts, and everyone can tell it's a short-sleeved shirt even if you've kept your jacket on. This is not a professional look.

5. Avoid comb-overs. Very long hair combed over your scalp does not look professional. Cut it all short. Shaving your head is safer and makes you look more groomed. This is not to say that you cannot try to preserve your younger look if you choose. Pursuing surgery or using medication is fine, as long as there isn't too much of it, and you don't look as if you've just gotten out of bed.

6. Most see-through clothing is not professional. I have occasionally seen somewhat sheer button-downs on men with no chest hair which pass muster, but in general wear a t-shirt under your shirt. (I once saw a man wearing a largely transparent shirt present oral argument in a federal Court of Appeals. The judges, all female, appeared so alarmed and distracted that I don't think they heard a word he said.)

7. Bizarrely printed ties are a no-no. Forget the polka dots, cartoon characters, and 70s colors. Attractively patterned ties in reasonably neutral colors are best.

8. Athletic shoes, slip-ons and other unusual footwear that calls attention to itself does not look professional.

9. Heavy, musky perfume is not professional.

10. Do not wear anything – even on casual day – that bears a logo of last summer's vacation spot. It may bring back warm memories, but it's not a professional look.

And a final word: in my experience, you'd be wise to remember these rules for all events connected to your profession, including the office picnic and the holiday party. Obviously, a casual office party permits you to wear a short-sleeved shirt and maybe flip-flops (after all, this is San Diego), but you should still use good judgment. Despite your tenure with them, and your solid legal skills, your professional colleagues may shallowly and permanently change their minds about you based on one casual office party, and they will no longer see you as a professional, no matter how you look on Monday morning.

Andrea Contreras Dixon is a litigator attempting an ironic sense of humor. andrea@sgslaw.com
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Stepping Up to the Bar
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Making Connections

The Gothic-style Pickwick Hotel at Broadway between Front and First streets was constructed between 1926 and 1929. It is currently being remodeled to reflect its original outer appearance. The connection with the Greyhound Bus Depot is the rest of the story.

In 1904, the primary means of transporting passengers, cargo and mail from Escondido to San Diego was via the San Diego Stage Line. Horse-drawn coaches and wagons traveled from Escondido to San Diego over the Poway Grade until 1907, when the stages and wagons were replaced by French-made touring automobiles to make the route. The new vehicles were somewhat unreliable, and parts had to come from Paris, which soon became impractical. Ford Model Ts were substituted.

The terminus for the stage line in San Diego was at Hazelrigg’s Drug Store at Fifth and F streets and later moved to the Pickwick Theater on Fourth. The stage line was renamed the Pickwick Stage Line and merged with the stage line between San Diego and Imperial County, which operated Cadillac vehicles. The Pickwick line was later taken over by a larger syndicate, but it retained the name Pickwick Stages.

Pickwick Stages grew to become one of the largest major intercontinental transport lines in the United States. By 1923, the line had major daily routes to the East Coast and points in between and was operating 175 vehicles, 75 of which were operating out of San Diego.

Recognizing the need for efficient terminals and lodgings for its passengers, the Pickwick Stage Line began constructing Pickwick Hotels. The hotel constructed in San Francisco was used as a movie site for The Maltese Falcon. Pickwick also acquired the oldest continuously licensed radio station in San Diego (KFBC, which became KGB); located in the hotel, it was known as the Pickwick Broadcasting Corporation and used the slogan “The Voice of Sunny San Diego.” The Pickwick entity grew to include not only hotels but also an airline that operated flights between San Diego and Los Angeles. It even developed a specialized bus equipped for overnight travel.

Pickwick Stage Lines worked cooperatively with the Greyhound Stage Lines and in 1929 officially merged with Greyhound. The Greyhound name prevailed. The name changed for the transportation company, but the name Pickwick remained for the hotel. All this is particularly interesting when you recognize that the back of the Pickwick Hotel currently houses the San Diego Greyhound Bus Depot.

The Pickwick stands today as a San Diego reminder of the contribution made to the transportation industry by a simple stage line between Escondido and San Diego, and it still provides a significant connection with San Diego’s history.

(Special thanks to Ms. Marie Burke Lia for her contribution to this article.)

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