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**Plates with Personality**

My license plate was inspired by my wife Gaby’s (who is also an attorney) idea to celebrate my passing the California Bar Exam and becoming an international, dual licensed attorney. In Mexico, lawyers traditionally put the abbreviation “Lic.” for *licenciado* (licensed) before their names to denote that they are licensed. Although technically every licensed professional is a *licenciado*, lawyers are traditionally referred to as *licenciados* or *abogados*. Because I was first a Lic. and then an Esq., the personalized plate LIC ESQ seemed appropriate. Luckily, it was available.

I started my legal career in Mexico as a law student/clerk working in a major law firm. I became licensed in Mexico in 1992 and then spent 10 years developing a successful public sector career within the Mexican federal government’s Ministry of Finance.

In 1995 I got an LL.M. in tax law from Harvard Law School and in 2000 an M.B.A. from the University of Texas at Austin. In 2003 I turned my career 180 degrees by moving to the U.S. with my family and starting a private practice as a foreign associate at Procopio, Cory, Hargreaves & Savitch. I got licensed in California in 2005, the same year I bought my car and its LIC ESQ license plate. I became a partner of Procopio in 2006 and I now chair its International Practice Group. The firm currently has seven dual licensed international attorneys, including me.

Enrique Hernandez (enrique.hernandez@procopio.com) is a partner of Procopio, Cory, Hargreaves & Savitch, LLP, and past chair of the SDCBA’s International Law Committee.
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This year, you, the lawyers, legal professionals and future legal professionals of San Diego County have done a million things, big and little, to advance the interests of our profession and our community. As President of the San Diego County Bar Association, my hope was that in 2012 we would “Pave the Path” together in various ways — from doing our part to make sure that access to justice was protected, to mentoring and guiding others in their personal journeys, to resolving what the future of the Bar Association might look like. I am so proud of all that we have done individually and collectively to create such a powerful and diversified path. To each and every one of you, and on behalf of the SDCBA’s Board of Directors, I offer you my sincere gratitude.

Being President hasn’t always been easy, but it has been a great honor to serve. I have been fortunate to meet so many of you this year at our community’s diversity events, at networking mixers, at the Bar Center programs and even just walking down the street. Like any project, our path was made more powerful by the sum of its parts. Your contributions inspired me to be the best leader I could be, and you have made this experience one of the most fulfilling of my career.

One of my proudest accomplishments has been helping to define the future path of the Bar Association, as we found a new home for the SDCBA Bar Center at 401 West A Street, inside the Columbia Center building. For those of you who don’t know about our upcoming transition to the “Bar Center at 401,” I invite you to visit www.sdcba.org/barcenterhome to read all about our exciting upcoming transition. You can also seek answers to your questions at www.sdcba.org/barcenterfaq. Although I worked hard on this issue as President, I must give proper credit where credit is due. Our Board, many previous boards and many SDCBA Past Presidents, have carefully weighed this decision for many years. We have also had building committees this year and previous years led by some of San Diego’s finest attorneys, who put countless hours into examining, analyzing, re-analyzing and re-examining the best financial interests of the Bar. I am confident that all of their tireless efforts have led us to where we are now — on the cusp of re-inventing what the SDCBA will mean to all of us once it is truly allowed to serve as the “hub” of our legal community.

While the transition to the Bar Center at 401 undoubtedly has taken and will take a lot of work, we diligently worked together in myriad ways this year to meet changing needs and deal with adversity. I would be remiss if I did not acknowledge the incredible efforts of our Court Funding Action Committee, which worked diligently to inform our local legislators and our local media of the real-world effects of the historic budget cuts faced by our Superior Court. Their work has been extraordinary, and I am confident that they will continue their fight for the restoration of adequate funding for our courts.

In an election year, I am also compelled to recognize our Judicial Election Evaluation Committee, which spent long hours evaluating San Diego’s candidates for Judge in order to ensure that the San Diego public had much-needed information in order to make the most informed decision while at the polls. This year, they performed admirably, rating seven candidates before the primary election.

Thank you doesn’t seem adequate, but among the many people who I need to thank as President are the 2012 Board of Directors: 2013 President Marcella McLaughlin; Immediate Past President Dan Link; Vice Presidents Christopher Alexander, Alexander Gruft, Jeff Joseph, Nory Pascua and Jon Williams; Treasurer Victor Torres; Secretary Patrick Ojeil; and Directors Nadia Bermudez, Larry Campitiello, Bob Gaglione, Sheryl Graf, Richard Huver, Laura Miller, Stacie Patterson and Tom Penfield; and New Lawyer Division Representative Tia Waddell. And a special thank you to SDCBA Executive Director Ellen Miller-Sharp for her continuous hard work, unwavering passion and brilliant vision, particularly in regard to the move to the Bar Center at 401. I also need to thank my employer, the California Attorney General’s office, for being supportive of my presidency.

Lastly, but certainly not least, thank you to my beautiful wife Lucy and our son Nathan for all of their encouragement and support throughout my year as President and always. The future path is bright with Marcy McLaughlin at the helm in 2013. I know that her radiant spirit, intelligence and strong work ethic will move and motivate you. All the best, Marcy!
John DiCaro

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USD Gets Clinical
Hands-on opportunities in the field bolster legal education

In my article in the May/June 2012 issue of this magazine, I wrote about our legal clinics and their role in providing law students with hands-on, practical legal experience. As I indicated there, those nine clinics tell only part of the story of the many ways in which we have expanded our curriculum over the past 20 years — and continue to expand our curriculum — with the dual objectives of better preparing our students for the legal profession and addressing critical legal needs.

In this article, I will focus on additional clinical programs that are no less integral to that educational mission, as well as the valuable educational roles of the five centers and institutes of USD School of Law that have a public interest or legal market focus.

Appellate Clinic. Each year, two teams of students litigate pro bono appeals from start to finish before the Ninth Circuit Court of Appeals. In 2012 our Appellate Clinic team argued a notable appeal that resulted in the release of a 35-year-old resident of the United States from federal custody and likely deportation.

Environmental Clinic. In this clinic, students combine classroom work on environmental law issues with opportunities to engage in high-impact litigation. Notable recent cases have included representing the Friends of Loma Creek against the City of Oceanside relating to the location of a concrete company; joining groups supporting a rope barrier to protect the seals at La Jolla Children’s Cove; and challenging the City of Carlsbad’s failure to produce an EIR for a project that had a significant environmental impact.

Land Use Clinic. In this clinic, students placed with a government agency, such as the City Attorney’s Office, elected officials or a nonprofit community organization, such as the San Diego Housing Federation, assist clients on land-planning issues and negotiate land use issues with the City of San Diego and other local and state governmental agencies.

Criminal Clinic. Our Criminal Clinic places students in agencies, including the offices of the U.S. Attorney, District Attorney, Public Defender, Federal Defenders and City Attorney. Under the supervision of experienced lawyers in those agencies, students conduct criminal prosecution and defense, and gain direct experience of the criminal justice system.

Center for Public Interest Law (CPIL). Students work on research or advocacy projects related to CPIL’s monitoring of the state regulatory agencies — and their federal counterparts — that regulate all aspects of business, professions, trades and the environment. Student projects include researching regulatory agency performance, drafting petitions for rulemaking or legislation, and drafting amicus curiae briefs for submission in appellate court litigation.

Child Advocacy Clinic (CAI). Students play a vital role in CAI’s research and advocacy on behalf of children. Among other activities, student interns (under the supervision of the CAI staff) work on policy and advocacy projects or (under the supervision of public defenders) represent minors in child abuse and neglect proceedings and defend minors in delinquency.

Energy Policy Initiatives Center (EPIC). In EPIC, students have opportunities to be directly involved in the development of sustainable solutions to meet future energy needs. Students have played active roles in EPIC’s legal and policy research projects on issues such as greenhouse gas mitigation, climate change education, electricity rates, renewable energy and solar energy rights and regulation.

Center for Corporate and Securities Law (CCSL). Students are involved in CCSL’s research activities on issues related to corporate governance, financial regulation and other business law issues. Recent student research projects have included the implications of the JOBS Act, federal and state regulation of derivatives and the evolving disclosure regime for large financial institutions.

Center for Intellectual Property Law and Markets (CIPLM). Students join with leading IP academics and practitioners, jurists and policymakers in CIPLM’s workshops on current IP issues, focusing on the interplay between economic analysis and IP policy. CIPLM also sponsors two clinics that give students practical hands-on experience working with our region’s high-tech and biotech companies: the Intellectual Property Clinic and the Technology Entrepreneurship Law Clinic.

In my next article, I will talk more about these two clinics, the Corporate Counsel Internship Program, and our efforts to expand our internship and externship programs in San Diego, elsewhere in the United States and abroad.

Stephen Ferruolo (lawdean@sandiego.edu) is Dean of the University of San Diego School of Law.
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WHO'S WHO LEGAL
Duncan stood at Sarah’s door. “Can we talk about electronic discovery in the Phillips case?”

“Of course.” Sarah gestured toward a chair. “How can I help?”

As Duncan sat, Macbeth walked in. “Mind if I’m a fly on the wall?”

Duncan cleared his throat. “Now that we’ve got the litigation hold in place for the client’s ESI, what are our ethical obligations as we move forward?”

“Our next step is to meet with the plaintiffs’ lawyers and offer to cooperate on eDiscovery,” Sarah said.

“Cooperate?” Duncan frowned. “Some courts say we owe it to our clients to cooperate, collaborate even, with opposing lawyers. Work out meaningful ESI protocols. That ethics rules require it.”

“Doesn’t that just give them an edge? Sharing what we know?”

“A few commentators suggest that lawyers who refuse to cooperate do so because they simply don’t understand it.”

Macbeth smiled but said nothing.

Duncan hesitated. “Can we tell the client to hire an outside eDiscovery vendor?”

“We can, but we can’t avoid our ethical responsibilities by ‘hiring away’ eDiscovery.”

“Ultimately, either we take the time and effort to become competent in eDiscovery…”

“Or?”

“… Rule 3-110 allows us to consult another lawyer who’s comfortable with ESI and has the same ethical responsibilities we do.”

Macbeth spoke up. “Revisions to the ABA Model Rules now include knowledge of technology as a component of the duty of competence.”

“Meanwhile, what should we be doing?” Duncan started taking notes.

“Actively monitor our client’s compliance with the litigation hold.”

He jotted another note. “What else?”

“I visited the client and already started to become familiar with its retention policies, and its architecture and electronic systems.”

“Wow. What’s next?”

“Communicate with all the key players about their ESI retention obligations.”

“Okay” Duncan scribbled furiously.

“We have to ensure that relevant backup tapes or other backup media are retained,” Sarah added.

“Okay.”

“More and more courts demand that the lawyers have a firm handle on their client’s technology, its business and its ESI.”

Macbeth added, “Judges now want evidence of a comprehensive and defensible plan for handling ESI preservation, collection and production. Right from the start.”

Duncan nodded, still writing. “So what’s the next step?”

Sarah paused. “We have to meet with the client and focus on its ESI. Make sure we’re sufficiently competent to understand it. Whether we can actively manage eDiscovery or whether we need to engage a more knowledgeable lawyer to help.”

“Whew!”

“At the same time, we should expect that opposing counsel will be doing the same thing.”

“But if they don’t?” Duncan raised his eyebrows.

“At least we’ll have fulfilled our obligations in case we end up before the judge.”

“Boy, I’m glad you know this stuff.” Sarah blushed slightly.

Macbeth added, “So am I when I think about risk mitigation.”

EDITOR’S NOTE:
Rules to consider include Rule 3-110 (competence), Rule 3-100 (confidentiality) and Rule 5-200 (candor to court); ABA Model Rules 1.1 (competence) and 1.6 (confidentiality). Helpful materials can be found at the Sedona Conference: thesedonaconference.org.

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

“Judges now want evidence of a comprehensive and defensible plan for handling ESI preservation, collection and production. Right from the start.”
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Let the Technology Fit the Trial

Questions to consider when choosing a courtroom technology

Lawyers considering a new technology for their next trial may begin with the practical question: How will it affect my case? In other words:

► Will the judge be familiar with the technology I use — and will he or she see it as helpful, or needlessly complicated?
► Which technology will help my trial move more smoothly?
► Which technology will help persuade the fact finder?
► Are there any common problems I should avoid?

District Judge Anthony Battaglia shares his insights to these questions.

HELPING THE TRIAL RUN SMOOTHLY

Will the cost of digitizing documents ultimately pay off? If the case reaches trial, the answer is probably yes. A digital exhibit system “helps trials move very smoothly,” says Judge Battaglia. In his experience, the time saved by using digital document displays — instead of searching for the paper exhibits and struggling with an ELMO — is “significant” for paper-intense cases.

ASSISTING AND PERSUADING THE FACT FINDER

We hear repeatedly that visual presentations — pictures, charts, etc. — have a greater impact. Judge Battaglia gives one example, a copyright claim concerning blueprints, which he describes as the “most notable” use of technology in his courtroom.

“The lawyer used a PowerPoint slide that started with the original work and the copy side by side. The image of the copy was slowly superimposed over the original and easily demonstrated the symmetry of the two. It had a great impact. It was professionally done, played on a computer without interruption and was compelling,” says Battaglia.

He also suggests that a split screen can be an effective tool for impeachment by contrasting one statement side by side with the inconsistent statement or video clip. Another helpful device — often underutilized, according to Judge Battaglia — is the digital manipulation tool that counsel can use to blow up important passages in a document, or compare and contrast different passages. The static images that result from these tools are superior to a laser pointer, which Judge Battaglia characterizes as “problematic” and “too ephemeral to really make an impression.”

TECH TIPS

Judge Battaglia’s tips to avoiding problems:

► Include monitors for the judge, the court reporter, the witness and counsel. And make sure the screen is close enough — and the image is clear enough — for the jury to follow.
► Lay a foundation. Counsel sometimes forget to put the exhibit into evidence before they publish it, causing some minor disruption as the exhibit is taken down, foundation is laid, the exhibit is admitted and then published.
► Don’t overdo the “tricks.” Less can be more; one good impeachment tool works wonders. Multiples can get out of hand and turn off a jury.
► Have a competent operator. Give the remote, the wand and the laptop to the operator. When counsel hold the controls, they lose eye contact with the witness or jury, occasionally lose their train of thought and frequently lose control of the image — thus weakening the presentation. Counsel should focus on the audience, not the technical tools.

Leah Strickland (lstrickland@swsllaw.com) of Solomon Ward Seidenwurm & Smith and Shannon Carter (shannon.carter@kmob.com) of Knobbe Martens Olson & Bear are co-chairs of the SDCBA’s Intellectual Property Law Section.

“Less can be more; one good impeachment tool works wonders. Multiples can get out of hand and turn off a jury.”
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The boundary between the work of solos/small firms and the work of large firms continues to blur and fluctuate. Technological advances and economic trends are influencing the competitive actions of both groups. Solos/small firms and large firms are directly competing for the same business like never before.

Tech and communication advances are expanding the space where solos/small firms and large firms compete. The tech advances of the last 10–15 years have dramatically leveled the playing field for solos/small firms. In this horizontal, social media driven marketplace, solos/small firms can, even with the most modest of budgets, project their marketing messages across multiple platforms like Twitter, LinkedIn, blogs and Facebook. Cell phones, e-mail and texting all allow solo attorneys to be nimble and highly responsive to their clients and, in turn, more competitive with larger firms. Digitalization, case management software and electronic data management tools allow solos and small firms to handle much larger cases than in the past. Solos/small firms, armed with effective tech, now regularly go toe-to-toe with big firms on big cases, and do so with fee structures that make them highly competitive.

Yet, technological advances and the digital world we now live in also create tremendous competitive advantages for larger firms. eDiscovery issues alone give larger firms huge advantages in litigation. They have the resources to purchase and maintain sophisticated electronic data management and trial software, and the staffing to run it. And they have the marketing resources and contacts to use the same social media and communication platforms to drown out their competitors, and to support and finance the marketing efforts of high-profile partners. Thus, tech advances have allowed larger firms to more effectively represent, maintain and market larger clients.

Economic trends of the last few years have also significantly expanded competition between solos/small firms and large firms. Simply put, the pool of prospective clients that want to and, more importantly, have the money to hire attorneys is much smaller than it was a few years ago. Firms are going where the work is. Increasingly efficient and technologically advanced solos/small firms are reaching up and successfully competing for large clients that were once solely the property of big firms. Effective use of computers, software and communication tech allows hungry solos and small firms to reach deep into the client territory of big firms, and the economy is incentivizing them to do so.

Conversely, big firms are reaching down into what was once the exclusive client base of solos/small firms. Gone are the days when big firms would only take clients with the ability to provide huge retainers and regularly pay large fees. There just aren’t as many of those clients as there used to be. Recently, a partner in a large San Diego litigation firm told me his firm is taking cases, or as he put it, “reaching down” for cases, that several years ago it never would have touched. So, economics are driving both solos/small firms and large firms to invade the traditional client bases of the other.

All in all, things are more wide open and competitive, and more horizontal, than ever before, providing clients with lots of choices, available information and bargaining power. With increased competition, solos may find themselves hustling for business like never before, though the rewards of being their own boss can make it all worthwhile.

James Crosby (jcrosby@klinedinstlaw.com) is a shareholder with Klinedinst PC, and for many years was a solo practitioner in Poway.
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Despite a large military presence in San Diego, it seems surprising that relatively few practicing San Diego attorneys are veterans. This demographic appears unlikely to change. In fact, as the older generation of military veteran attorneys begins to leave the practice of law, fewer of the current generation of veterans are becoming new attorneys. Current data from local San Diego law schools indicates that only 1.4 to 2.6 percent of matriculating law students are veterans.

The declining presence of veterans, particularly in professional or influential leadership positions, is an unfortunate phenomenon in modern society. Veterans who go on to become leaders in government, business and the legal profession enhance society in so many countless ways. In our own legal community, we are beneficiaries of our military veteran attorneys. These well-established lawyers, all from an earlier generation of veterans, reflect with pride about their military experiences, and the immensely positive impact their experiences have had on their personal and professional lives.

The following interviews were conducted with District Court Judge Michael Anello, Magistrate Judge William Gallo, plaintiff attorney Vincent Bartolotta and defense attorney Michael Neil.

**WHAT WAS YOUR MILITARY EXPERIENCE?**

**JUDGE ANELLO:** After graduating from law school, I served on active duty in the Marine Corps from 1968 to 1972. During that time, I deployed to Vietnam, where I worked as a legal officer and as a defense counsel. I returned to Camp Pendleton, where I served as chief trial counsel (prosecutor) and as a military judge. After leaving active duty, I transferred to the Marine Corps Reserve, where I worked in various legal support positions until I retired in 1990.

**JUDGE GALLO:** I served on active duty in the Marine Corps from 1980 until 1984. I was a defense counsel in Okinawa, Japan and then a prosecutor in Puerto Rico and Yuma, Arizona. I then transferred to the reserves where I served in various legal and non-legal positions. In 2003, I was activated to serve as Commanding Officer for the First Marine Expeditionary Force Headquarters Group. I later became the Staff Judge Advocate to First Marine Expeditionary Force until I retired from the Marines in 2005.

**VINCE BARTOLOTTA:** I went on active duty in the Marine Corps immediately after graduating from law school in 1970. I served as a defense counsel, prosecutor and military judge at Camp Pendleton. I volunteered to deploy to Vietnam, where I served as a legal officer and sometimes served as a radar intercept officer in an F-4 Phantom squadron. I left active duty in 1974 and continued serving in the reserves until 1991.

**MICHAEL NEIL:** After graduating from law school in 1966, I joined the Marine Corps to be an infantry officer. I was sent to Vietnam in 1967 as a rifle platoon commander and later became an aerial observer. After returning from Vietnam, I was assigned to Marine Corps Recruit Depot, San Diego, where I served in the Office of the Staff Judge Advocate as a defense counsel and prosecutor until I was released from active duty in 1970. Thereafter, I transferred to the reserves, where I served in a variety of non-legal staff and leadership positions. I became the Commanding Officer for Fourth Tank Battalion and Commanding General for Camp Pendleton. I retired in 1993 as the Assistant Division Commander for Fourth Marine Division.
Flour military veteran lawyers reflect on their experiences

HOW HAS YOUR MILITARY EXPERIENCE SHAPED YOUR PROFESSIONAL DEVELOPMENT?

JUDGE ANELLO: I learned so much about self-discipline and relating to people. I learned enormous respect for institutions. I also gained substantial trial experience that would have been difficult to get if I chose another career path right out of law school. I entered private practice through the contacts I made in the Marines.

JUDGE GALLO: I believe that one of the reasons I was selected as a Magistrate Judge was due in part to my Marine Corps career. My experience as a Marine officer built a certain mindset that helps me as a lawyer. The Marines demand qualities such as a strong work ethic and a competitive spirit. I also learned the importance of courtesy to the court and making good first impressions. As a prosecutor and defense counsel, I had an opportunity to try many serious cases, in unusual places, some with a lot of notoriety.

VINCE BARTOLOTTA: Military service gives you immediate responsibility right off the bat. You are surrounded by so many high-caliber people. The Marine Corps brought me to San Diego. I got my first [civilian] job at Higgs, Fletcher & Mack because of my Marine trial experience. Some of the qualities demanded by the Marines — tenacity, discipline and hard work — are the same qualities that make me a successful trial lawyer. I would love to see more young attorneys with military experience.

MICHAEL NEIL: I volunteered to be a Marine infantry officer out of sense of service to country. I carry that same sense of service today. My experience was overwhelmingly positive. I learned to focus, prioritize, lead people, be responsible and always try to do the right thing.

HOW HAS YOUR MILITARY EXPERIENCE SHAPED YOUR PERSONAL LIFE?

JUDGE ANELLO: Military service is a life-changing experience. My military experience was a defining experience in my life that I wouldn’t trade for anything. The same personal qualities that made me a successful Marine officer are the same qualities I use in my life every day.

JUDGE GALLO: I had many fun and interesting opportunities in the Marines. My experiences were definitely character building.

VINCE BARTOLOTTA: Relating to people is one of the greatest gifts of military service. I emphasize physical fitness as part of my lifestyle today. I stay close with the people I served with and I am actively involved in organizations that support our military. Because of my military experiences, I am always reminded to stop and smell life’s flowers.

MICHAEL NEIL: Sometimes you need to do the right thing and not just what feels good. Whether you’re a Marine riflemen or a trial lawyer, it takes courage to stand up and go for it.

HOW DID YOUR PARTICIPATION IN THE MARINE RESERVE IMPACT YOUR PRACTICE OF LAW?

JUDGE ANELLO: I was fortunate to come into private practice with partners who were also veterans. They understood the challenges of being a reservist and fully supported me.

JUDGE GALLO: Being a reservist is a true sacrifice. It places huge demands on time for family and the practice of law. I worked in the U.S. Attorney’s office while I was a reservist and was totally supported.

VINCE BARTOLOTTA: I loved being a Marine reservist. But it was very challenging to be in the reserves while building a law practice.

MICHAEL NEIL: My mentors and partners were Naval officers. So my firm fully supported my reserve duties. Judges were also very understanding of my reserve obligations.
San Diego rightly prides itself as a “military town,” and recent census figures confirm this status. Approximately 20 percent of our local population is affiliated with the military, including approximately 270,000 active, reserve and retired military personnel and their dependents. Although official figures are unavailable, it is estimated there are less than 100 uniformed active duty military lawyers in our area.

For most of us in the legal community, these military lawyers are largely unknown. Many practice in our region for only two or three years before they transfer elsewhere. Many are members of other state bars. Nearly all practice with little, if any, involvement in the civilian legal system. Unlike Army, Navy and Air Force lawyers, Marine lawyers are considered unrestricted line officers and can (and often do) serve in a variety of non-legal command and staff billets. Yet, beyond their small numbers, military lawyers often make a significant impact across a range of issues with potential national importance or interest.

Whatever impressions we may have of military lawyers are probably shaped by television and movies. One common misconception is that military lawyers are called “JAGs.” Technically, “JAG” refers to the Judge Advocate General, or JAG Corps, which are the dedicated legal branches of the Army, Navy and Air Force.

The concept of a JAG Corps extends back to this country’s founding. In 1775, then-General George Washington requested that the Continental Congress appoint the first Army “Judge Advocate General.” Army judge advocates prosecuted Benedict Arnold. During the Civil War, Army judge advocates were involved in President Lincoln’s assassination trials. The development of the Navy JAG Corps can be traced back to 1865, when Congress authorized the appointment of the first “Solicitor and Naval Judge Advocate General.”

Following the Civil War and leading up to World War II, the Army and Navy JAG Corps expanded only modestly from their very limited numbers, continuing principally in their courts-martial role. During World War II, the JAG Corps expanded significantly. Their roles also extended beyond courts-martial to, for the first time, providing limited command legal advice. Judge Advocates again played an important role during the Nuremberg Trials.
The modern role of military lawyers became encapsulated by the 1951 enactment of the Uniform Code of Military Justice, or “UCMJ” (10 U.S.C. chapter 47), which is the foundation of today’s military justice system. During the Vietnam War, the JAG Corps evolved further into distinct professional groups within each of the services. Since the Vietnam era, because of an increasingly complex legal environment both on and off the battlefield, the JAG Corps has solidified its vital role beyond courts-martial to advising commanders and service members. Military lawyers today refer to themselves as Judge Advocates. Competition to become a Judge Advocate in any of the services is keen, and has become even more selective in recent years. All services require an undergraduate degree and law degree from an ABA-approved law school. Prospective Judge Advocates must be licensed attorneys — in good standing, of any state — and must also meet rigorous academic, moral and physical standards. If accepted into any Judge Advocate program, prospective candidates must successfully complete an officer commissioning course and then a military lawyer course.

Army candidates must attend a 12-day military orientation course at Fort Lee, Virginia, and also must complete a six-week commissioned officer course in leadership and tactics at Fort Benning, Georgia. Navy candidates attend a five-week officer development course at Newport, Rhode Island. Air Force candidates attend a four-and-a-half-week officer commissioning course at Maxwell Air Force Base, Alabama. Marine candidates attend a 10-week officer commissioning school at Quantico, Virginia, in addition to attending a six-month basic officer infantry course, required of all Marine officers, which prepares them with the skills required of a rifle platoon commander.

Following officer commissioning, prospective candidates then undergo specialized military-legal training in order to be designated as Judge Advocates. All of the service legal schools are approximately 10 weeks in length. Army candidates attend the Judge Advocate General School in Charlottesville, Virginia. Air Force candidates attend the Air Force Judge Advocate General School at Maxwell Air Force Base, Alabama. Navy, Marine and Coast Guard candidates attend Naval Justice School in Newport, Rhode Island. Following graduation from their respective service legal schools, candidates are formally designated as Judge Advocates and go on to their first assignment. Judge Advocates in all services typically incur an active duty service obligation of about three years.

Judge Advocates serve across a wide range of legal specialties. Some, of course, still serve in their historical role as prosecutors and defense counsel at courts-martial. Indeed, Judge Advocates are now involved in the detainee tribunals at Guantanamo Bay, Cuba. Others provide legal advice to their commands in the areas of administrative law, contracting law, fiscal law, labor law, international law, health law, Privacy Act, Freedom of Information Act, Federal Tort Claims Act and informational law. Some work in legal assistance offices providing valuable legal services to military members and their dependents regarding estate planning, family law, tax law, landlord tenant law and consumer law issues. As a consequence of the Iraq and Afghanistan conflicts, there has been an increased demand for specialization in the areas of law of war, rules of engagement and operational law. Experienced Judge Advocates often become military judges and appellate advocates. Many return to their service schools as instructors or serve as command Staff Judge Advocates (senior legal adviser to flag officer).

Today’s military lawyers are part of a small and select group with a long and distinguished tradition. With unparalleled legal opportunities, and potential for significant impact, they continue to shape the legal battlefield.

Sam Gazzo (sgazzo@daley-heft.com) of Daley & Heft is co-chair of the SDCBA’s Military Law Section and a Lieutenant Colonel in the Marine Corps Reserve.
MILITARY COURTS

Interview with Colonel Michael Richardson, Senior Military Judge of the Navy/Marine Corps Trial Judiciary for Western Judicial Circuit

WHAT ARE THE QUALIFICATIONS OF A MILITARY JUDGE?

Military judges typically have extensive military justice experience. Prospective military judges are first screened by a judicial screening board. Prospective Marine judges are generally Majors (0-4) or higher. Prospective Navy judges are generally Commanders (0-5) or higher. Selected judges must attend an intensive three-week judicial training course at the Army’s Judge Advocate General School in Charlottesville, Virginia. Judges then receive at least one week of annual training thereafter. The tour of a military judge is usually three years. It is not unusual for Navy judges to do two tours.

HOW ARE MILITARY JURIES DIFFERENT FROM CIVILIAN JURIES?

Jurors for military trials are called members. Members, who can be officers, enlisted or a mix, are all very intelligent, highly educated and experienced. All take their assignment very seriously and dedicate themselves to a fair process. Members often work beyond normal business hours, sometimes late into the night or on weekends. They genuinely feel they have a direct stake in the outcome of every trial. Members can ask questions of witnesses, which is routine. Members can ask for certain evidence. Members see themselves as impartial finders of fact in a quest for the truth. They hold the government to its burden and are very diligent about following instructions. Military members contribute to a fantastic process.

WHAT TYPE OF CASES DOES A MILITARY JUDGE HANDLE?

Historically, the Western Judicial Circuit has been one of the busiest in the Department of Defense. The trend has been that general courts-martial (felony) cases have remained fairly consistent at about 100 per year. However, over the last five years, the number of special courts-martial has declined about 5 to 10 percent per year. In 2007 there were about 400 special courts-martial. In 2011 the number of special courts-martial declined to 252. The reason for this decline is not clear. It could be due to increased operational tempo and deployments — meaning less time for service members to get into trouble. The decline could be due to a desire of convening authorities to separate service members administratively, especially for minor drug offenses, which is typically much faster than going through the judicial process. Another reason could be that convening authorities believe that potential [jury] members, who can make sentencing recommendations, are recommending less severe sentences for minor offenses.

With this decline of case numbers, however, we are seeing a shift to more contested trials. The paradigm seems to be that with more Judge Advocates, and fewer cases, the cases are getting worked up harder. We are seeing many more motions than we have historically. At the same time, the current generation of military lawyers comes from solid pedigrees. They are often graduates of top law schools. The services are also elevating their trial skills with more training. Of 339 special and general courts-martial in 2011, 82 were contested trials. More often than not, this increase in contested trials seems to be benefiting the defense at either findings or sentencing.

WHAT ARE THE DUTIES OF A MILITARY JUDGE?

The military judge presides over all detailed cases and ensures trial is conducted in an orderly manner, all parties are protected and justice is done. Judges can expect to be in court an average of several days each week and will spend about half of their working hours presiding over guilty pleas or motions. In military practice, because of extensive sentencing procedures — otherwise known as a providence inquiry — guilty pleas can take anywhere from four to eight hours for misdemeanor-type crimes. Felony guilty pleas can take from five to eight hours. Judges typically preside over one to two contested trials each month. Contested trials typically last about a week. A collateral duty of the military judge is to provide training and professional development to prosecutors and defense counsel.

DESCRIBE THE LOCAL MILITARY COURT STRUCTURE.

San Diego is part of the Western Judicial Circuit within the Department of the Navy. This circuit comprises three districts west of the Mississippi River. The San Diego region is part of the Sierra Judicial Circuit, which is a joint Navy and Marine Corps Circuit. Eight judges are assigned to the Sierra Judicial Circuit. Five Marine judges are based out of Camp Pendleton. Two Navy judges are based out of Naval Base San Diego. One Navy judge is based out of Bremerton, Washington. Any of these judges can be detailed to preside over cases anywhere in the Circuit.

The military judge presides over all detailed to preside over cases anywhere in the Circuit. All are experienced. They are all very intelligent, highly educated and experienced. All take their assignment very seriously and dedicate themselves to a fair process. Members often work beyond normal business hours, sometimes late into the night or on weekends. They genuinely feel they have a direct stake in the outcome of every trial. Members can ask questions of witnesses, which is routine. Members can ask for certain evidence. Members see themselves as impartial finders of fact in a quest for the truth. They hold the government to its burden and are very diligent about following instructions. Military members contribute to a fantastic process.

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Marcella O. McLaughlin

PHOTOS BY LAUREN RADACK

The New SDCBA President Leads the Move to a New Bar
Fellow lawyers describe Marcella McLaughlin as a passionate advocate and a tenacious litigator recognized for her impeccable understanding of the law. At the same time, they say, she is compassionate and personable, qualities that will serve her well since she was sworn on December 7 as president of the San Diego County Bar Association. She is also the SDCBA’s first Latino president in its 113-year history.

Marcella McLaughlin, known to friends and colleagues as Marcy, plans to make 2013 the year of the “New Bar.” Appropriate, because 2013 will also bring the relocation of the Bar Center from its Seventh Avenue home to the southeast corner of Columbia and A streets.

Marcy is a deputy district attorney, and her boss, Bonnie Dumanis, says Marcy is a leader with broad views of the profession. Dumanis says this of her: “As the first Latino Bar president, Marcy has a wonderful opportunity to outreach to our community, and she is just the person to do it.”

Marcy herself says, “We were all driven to this profession for different reasons. While it may seem idealistic, it is my hope that every attorney practicing in San Diego at some point reflects upon what brought them into this profession, how they felt the day they were admitted to the Bar, and what truly means to them to be a lawyer. What inspired you to become a lawyer is what will inspire you to serve your clients well and will help you to inspire the future leaders in our profession.”

Growing up, Marcy never dreamed that she would end up serving as the president of the San Diego County Bar. Her parents, both immigrants from Mexico, raised Marcy and her five siblings in San Jose, California. Marcy is the fifth in birth order, with three sisters and two brothers. But an older sister, Leti, is a lawyer in Northern California, and she helped inspire Marcy to go to law school.

After Marcy’s father died, her mother moved to San Diego. Marcy also came south and enrolled in community college classes. She became student body president. In 1991, she transferred to the University of California, San Diego, where in 1994, she earned a Bachelor of Arts degree in Political Science. After taking time away from school to work for the United Way of

“Do something you are excited about. You will be a better, happier lawyer if you like and respect the work that you do.”
2012 Presidential Briefs

What is the quality you most admire in a person? The ability to be innovative.

Living person you most admire? My husband is the finest person I know.

Your greatest extravagance? Good wine and food.

Your favorite travel/vacation spot? Mexico. Especially parts most people don’t see.

Your toughest challenge? Housework.

Favorite legal movie? My Cousin Vinny. Every future trial lawyer should study the courtroom scenes.

Favorite non-legal movie? Moonstruck. I love the messages about life and love. If it challenges you, you’re probably getting it right.

Interesting trivia about yourself? I once flew a small plane.

Talent you would most like to have? Musical talent. Being able to sing or play an instrument would be great.

Your greatest achievement? Motherhood.


What do you most value in your friends? Loyalty.

Do you have a motto? Stop complaining and do something about it.

Favorite website? Amazon.com. The UPS guy hates me.

Favorite sports team? SDCBA champions Los Fiscales.

Ever had any run-ins or celebrity sightings? I saw Seal and Heidi Klum in Vegas before the breakup. Beautiful couple.

Person (alive or dead) you would most like to interview and the first question you would ask? George Washington. How are we doing?


Favorite time of year? Fall/ winter. From pumpkins through mistletoe.

San Diego supervising AmeriCorps members deployed to local nonprofit organizations, in 1996 Marcy began law school at the California Western School of Law, where she served as the president of the La Raza Lawyers Student Association.

Long-time friend and law school peer Kristi Pfister describes Marcy as “principled and compassionate” with a “unique public service perspective.” She believes that Marcy has always been a good leader, and will lead the Bar well because she is “warm to new ideas, open to divergent perspectives, but loyal to righteousness.”

After earning her J.D. in 1998, Marcy began her legal career in the City Attorney’s Office — a fortuitous opportunity not only because it sparked her career path, but it is also where she met her future husband, Joseph (Joe) McLaughlin, a fellow deputy city attorney at the time, though they didn’t begin dating until several years later.

Her work in the City Attorney’s Office allowed Marcy to practice criminal law in a way that met her strong beliefs: No matter social or economic class, all people have the right to feel safe in their own community.

Her work at the time included working with police to study and seek solutions to ongoing community problems, such as prostitution and public drunkenness, as part of the Neighborhood Prosecution Unit. She was also part of a team working on the transition of downtown’s East Village neighborhood during the time Petco Park was built.

“Marcy is a great lawyer for the same reason I think she will be a great Bar president: She has all the elements that are the core of our profession.”

– Dean Emeritus Steve Smith

San Diego Superior Court Judge Peter Deddeh, who became acquainted with Marcy during her time at the City Attorney’s Office, says “Marcy is an outstanding attorney because she is well-prepared, professional and unflappable.” He commends Marcy for her patience and ability to connect with people, in addition to her outgoing nature, stating that those attributes serve her well in her career and will serve her just as well as Bar president.

In 2005, Marcy began working as a deputy district attorney, where she still works today. Her husband Joe also currently works as a deputy district attorney, though Marcy swears their converging career paths were not intentional.

Following a long courtship, beginning with a date over drinks on the patio at Mr. A’s, Marcy and Joe married in 2006, and last year welcomed their baby boy, Joseph Francis McLaughlin IV, to their Bay Park home.

Joseph IV, called Cisco at
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Programming Committees, and serving on the Bench-Bar Committee. She was also instrumental in transitioning the Judges Orientation Program for New Attorneys (formerly known as Bridging the Gap) to a series of seminars for new attorneys to provide them with information vital to practicing in San Diego.

Over the last several years, Marcy has also worked closely with the Association’s leadership on the transition of the Bar Center home. Marcy feels that the new location will truly be a reflection of the dynamic and progressive nature of today’s legal community in San Diego. “I look forward to leading the Association during this exciting time. San Diego’s legal professionals are active and energetic, and it is our hope that the new Bar Center will redefine how we connect to our clients and colleagues.”

The Board of Directors, under Marcy’s leadership, looks forward to the Bar Center at 401 serving as the hub of San Diego’s legal community. In leading the “New Bar,” Marcy says that holding on to traditions and the mission that define the Association will be paramount, but she also is looking forward to maximizing opportunities to connect with members in ways that are meaningful to them from our new location — whether it be by providing them with a place to take a break between appearances or providing low cost CLE they can participate in from their offices around the county.

Marcy anticipates that there will be challenges in her presidency, knowing that there are unpleasant tests facing the legal community, including the need for restoration of funding to San Diego’s courts, but says that she looks forward to it. When she ends her presidency, it will be of utmost importance to her that she feels she “served the membership well and confronted the issues facing the Bar and the legal community intently and professionally.”

Her passion for the profession will fuel her move to the “New Bar.” She will live the advice that she gives to law students: “Do something you are excited about. Find something fulfilling. Even if it takes a while. You will be a better, happier lawyer if you like and respect the work that you do.”

“I look forward to leading the Association during this exciting time. It is our hope that the new Bar Center will redefine how we connect to our clients and colleagues.”
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Local law grads donate their time and talents to their alma maters

BY PAMELA WILSON

Anne Marie Rabago
- Initiated a networking group for solo and small firm practitioners.

Hon. Gary Bloch
- Proposed an annual student-bench mixer.

Helen Chao
- Implemented a mock interview and résumé review program.

Rene Galente
- Produced an uplifting video for discouraged students.

Jeremy Evans
- Launched and manages a sports law negotiation competition.

Hon. Robert Trent/Acosta
- Created the “Lunch and Learn” program and a courtroom shadow program.
Law school graduates often help their campuses in myriad ways, from financial donations to mentoring individual students. But in San Diego, a handful of lawyers conceived unique ways to contribute that address previously unrecognized needs.

Renee Galente, Thomas Jefferson School of Law ‘08, meets lots of students in her role as president of the alumni association board. Sometimes she has heard these students voice discouragement at the poor economy and worry that law school debt was too risky. “Students were losing heart, losing their drive to complete the program,” Galente says. “The worst thing you can do for people who are pursuing higher education is to take the wind out of their sails.”

Galente thought an encouraging video might help. She met with Vanessa Vandever, director of alumni relations, and Sherwin Laranga, campus art director, to hammer out the concept for a video to counter negative messages with uplifting ones. Organizers taped interviews with several high-profile alumni, including District Attorney Bonnie Dumanis, ’76; G. Cole Casey, ’96; Hon. Lillian Lim, ’77 (Ret.); Judge Browder Willis III, ’83; Judge Garry Haehne, ’89; Joanna Tsai, ’02; Jon Epsten, ’82; and Denise Asher, ’94. This past spring, after lots of editing, You Can Succeed debuted to a student audience. The film was presented along with a panel discussion by recent graduates who shared their strategies for success in law school and beyond. The video, now viewable on TJSL’s website, profiles accomplished alumni who recall their own law school experiences. They encourage students to continue their education and practical experience, so they will be equipped for practice with others or as a solo. “Maybe you don’t find the job with the big company,” Galente says, “but you’ve got a law degree, you can do anything.”

The current economic climate also inspired California Western School of Law alumna Anne Marie Rabago, ’06, to initiate a networking group for solo and small firm practitioners. Campus staff had noticed many new graduates were becoming solo practitioners, not necessarily by choice. CWSL offered workshops but attendance dwindled. “I volunteered,” Rabago says, gathering email addresses and names of attorneys who wanted to network. Now, more than 120 lawyers have signed up for email announcements from CWSL’s Solo and Small Firm Alumni Group. Twenty to 30 lawyers typically attend quarterly Happy Hour mixers downtown. “We’ve gotten together about five times,” says Rabago, “and different people come each time.” Participants share exemplar documents, discuss best practices and exchange tips on appearing before judges. Lawyers also make referrals and discuss tips on running a law office. “It spans people who have just graduated to people who graduated in the 1980s.”

Helen Chao, USD Law ’93, was working at Luce Forward in the mid-1990s, participating in law clerk interviews, when she concluded that USD students could improve their presentations and résumés. Chao proposed a mock interview and résumé review program to USD and it was implemented a year later — with help from many alumni volunteers. “I love that program,” says Chao, who now works in the Seattle area. “That was totally a project I wanted to take off. I recruited a number of attorneys to help with it . . . I am thrilled to hear it is still going.

“There is so much we can impart to them — the kinds of things that set them apart — how they can excel and be memorable in the interview,” says Chao. She counsels students preparing for an interview to identify two key things to ensure...
they are memorable to the interviewer. “For me, it’s that I’m a CPA and from Alaska,” Chao says. “Find things that are unique that no one else can match.

“We all want a job — that’s our goal,” Chao emphasizes. Although distance prevents her from assisting the USD program now, lawyer volunteers continue to give students practical advice. USD’s Career Services took over management of the program a few years ago. Students practice interviewing for positions in all types of legal settings. Simultaneously, alumni reconnect with USD.

Jeremy Evans, TJSL ’11, continues to manage a sports law negotiation competition he launched while he was a student. “I looked at other law schools and what was being offered and there were no competitions that dealt strictly with sports law.” With much help from faculty and staff, Evans managed the first competition, drawing 20 teams from 10 schools across the country. The 2012 competition, held in September, attracted 40 teams from approximately 30 law schools. Students compete at acting out hypothetical negotiation problems based on real-life scenarios, such as finalizing a product endorsement contract. Potential roles

“Not only should alumni get back on campus to help, but students need to venture off so they can see what life is like in the real world.”
include athlete representation, team general counsel or compliance adviser. The competition helps students prepare for various environments. “In sports law you do a lot of non-legal things,” Evans states, “but having a law license does help.”

San Diego Superior Court Commissioner Gary Bloch, ’81, is another TJSL alumnus who identified a need and proposed a solution. While serving as a member of the alumni association board, Bloch noticed the school didn’t have a judicial mixer. “I thought it would be fun, instructive and would allow students to socialize with judges in a different setting than they would normally meet a judicial officer,” says Bloch.

The judges who attend are enthusiastic. “Last year when the new law school opened, it was very well-attended,” Bloch says. “The law students really enjoyed meeting with the judicial officers, and the judges really like talking to the students.” Members of the bench encouraged students to continue their law school careers and focus on the goal of passing the bar. Attendees, many of whom have never met a judge, learn that judges “are just regular people” through meeting in an informal setting.

Superior Court Presiding Judge Robert Trentacosta, USD Law ’79, envisioned a program now called “Lunch and Learn,” which presents panel discussions on campus. “I believe USD students should feel they are part of the legal community,” he says. One way to accomplish that is to bring alumni back to campus to meet with current students. “We have a panel of speakers, we buy lunch for the students and we talk about some aspect of real practice.

“Not only should alumni get back on campus to help, but students need to venture off so they can see what life is like in the real world,” says Trentacosta. To facilitate that, Trentacosta started a shadow program, where law students sit in with a judge for a day, observing in the courtroom and also during settlement sessions.

“The judges and lawyers who participated could not have been nicer to the students,” Trentacosta says. He also encourages questions so lawyers can explain their strategies — why they made the arguments they did. “We get them excited about practicing law.”

Pamela Wilson (pwilson@pamelawilsonlawyer.com) is with the Law Office of Pamela Lawton Wilson.
While listening to a panel discussion about federal employment opportunities at the sixth annual conference of the National Association of Law Students with Disabilities, I was struck by the enthusiasm of the students at the prospect of employment as a lawyer, and their simultaneous apprehension about whether they will be denied employment due to their disabilities. While their excitement is encouraging, some of their fears may be legitimate: The contemporary recession resulted in the highest rates of unemployment since 1983.1 In addition, since the recession began — across disability types — both federal and private sector employees and applicants with disabilities have faced disproportionately increasing rates of job termination and rejection upon application.2

From March 2010 to March 2011, the number of working people with disabilities dropped from 19.4 percent to 17.1 percent, while the number of working people without disabilities has increased from 63.2 percent to 63.7 percent.3 Even now, as the economy begins to improve, people with disabilities are facing the opposite trend in employment than the workforce population without disabilities in both the federal and private sectors. Unfortunately, however, discrimination against employees with disabilities is not unique to the current recession. At every economic downturn, people with disabilities are often the first fired and last hired.4

The history of discrimination against people with disabilities in the United States is long and well-documented, particularly in the employment context.5 Data suggests that since the establishment of the Americans with Disabilities Act (ADA) in 1990, some people with disabilities have experienced less discrimination and greater accommodation on the job than before the ADA; however, other groups of people with disabilities have had no apparent increases in hiring or job retention.7 Research indicates that many employers are reluctant to hire, promote or retain people with disabilities, based on implicit biases that employers — and indeed all people — possess against various populations of people with disabilities, indicating a systematic undervaluing of applicants and employees with disabilities.7 Even with equally rated work qualifications, applicants and employees with disabilities receive less favorable hire recommendations than those without disabilities, across the board.8 Both private and public sector employers still largely maintain negative attitudes toward hiring persons with mental and/or emotional disabilities in particular,9 because many employers believe that people with disabilities present a risk of poor attendance and productivity,10 whereas other employers are concerned about these individuals’ ability to interact with other employees.11 Because of these misconceptions about people with disabilities, employers are more likely to choose to hire applicants without disabilities, even when that applicant may be less qualified for a position than their counterpart with a disability.12

Several years ago, disability advocates developed exercises to highlight these types of unconscious biases that operate against people with disabilities in and out of the workplace. People First: Consciously overcoming unconscious biases against lawyers with disabilities

BY PAULA PEARLMAN

Panelists discussed strategies to ensure fairness in the workplace for attorneys with disabilities during the SDCLA’s CLE program “Dialogue on Diversity — Disability: A Civil Rights Model” on September 12.
Thank you Dialogue on Diversity sponsors:

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Unconscious biases are particularly insidious — indeed, more dangerous than explicit prejudices — because they result from “automatic processes, which often (but not necessarily always) escape conscious detection.” In order to effectively combat these biases, we must explicitly bring them to light, and work collectively to create new social constructions to replace the old. One way of targeting biases against people with disabilities is to focus on the language that we use on a daily basis. The disability rights community started an initiative to use “People First Language,” focusing on the person and not the disability, i.e. “a person who uses a wheelchair” as opposed to an outdated description, “wheelchair bound.” By putting “people first,” we intentionally work to reframe the concept of identity — to place a larger value on the person, the individual, than on the disability itself.

As lawyers and as employers, we have two sources of power to actively change the socially constructed beliefs that perpetuate implicit biases against people with disabilities. By hiring, accommodating employment context. For one exercise, “Pick a Disability,” the audience is instructed to select what they perceive to be the most preferred and least preferred disability of a list of five (e.g., blindness, deafness, paraplegia, depression and epilepsy). A discussion ensues with audience members explaining their selections in a comfortable, non-threatening environment that encourages people to come forth with their ideas so that biases can gently be exposed. In most circumstances, the selections are based on personal experiences; for instance, an audience member may share that they have a cousin who was blind or a friend who is deaf. In addition, these selections are based upon socially constructed assumptions that surround a particular disability; for example, in this discussion many people reveal that they associate “blindness” with a total darkness. However, when this point is made by a member of the audience, the facilitator has the opportunity to explain that there is a vast spectrum to the concept of “blindness” and that most people who are blind experience excessive light — not darkness. In addition, the facilitator can then explain the various types of assistive technologies available to people who are blind, such as screen-readable format software. In this way, an explicit discussion can expose the unconscious biases associated with various disabilities and provide new information to challenge and deconstruct these previously unquestioned conceptions.

Unconscious biases are particularly insidious — indeed, more dangerous than explicit prejudices — because they result from “automatic processes, which often (but not necessarily always) escape conscious detection.” In order to effectively combat these biases, we must explicitly bring them to light, and work collectively to create new social constructions to replace the old. One way of targeting biases against people with disabilities is to focus on the language that we use on a daily basis. The disability rights community started an initiative to use “People First Language,” focusing on the person and not the disability, i.e. “a person who uses a wheelchair” as opposed to an outdated description, “wheelchair bound.” By putting “people first,” we intentionally work to reframe the concept of identity — to place a larger value on the person, the individual, than on the disability itself.

As lawyers and as employers, we have two sources of power to actively change the socially constructed beliefs that perpetuate implicit biases against people with disabilities. By hiring, accommodating
“It is and was very reassuring to me that you listened to my explanation, viewpoints and perspectives about the situation with the other side and could see the positive and negative aspects to the varied circumstances. I would never have expected it and I have shared very positive things about this experience with a number of people.”

– Defense Attorney

Hon. Victor Bianchini
(Retired)

During his tenure on both the state and federal benches, and as a private mediator, Judge Bianchini has mediated more than 3,500 cases. His settlements include many multi-million dollar agreements in highly complex matters ranging from patent cases to class actions. Judge Bianchini is known to be an advocate of the mediation process and uses a warm and caring approach with his clients. Clients praise him for not giving up and exploring every possible avenue for settlement.

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and promoting job applicants and employees with disabilities, and by pushing ourselves to deconstruct and replace our own internal, outdated frameworks for looking at what it means to have a disability, we can effectively change the legal and employment landscape to offer an inclusive, productive environment for the next generation of qualified, eager people.

Paula Pearlman (paula.pearlman@lls.edu) is executive director of the Disability Rights Legal Center and is a visiting associate professor of law at Loyola Law School in Los Angeles.

Special thanks to Shawn Kravich, associate director of the Cancer Legal Resource Center, for his assistance with this article.


8 Ibid. at 75.


11 Ibid.


On September 13, the San Diego chapter of the American Board of Trial Advocates ("ABOTA") celebrated the 50th anniversary of its founding. Ours is the second oldest chapter in the United States. The original ABOTA chapter was founded in Los Angeles in 1958. The origins of ABOTA’s founding were political, though not partisan. In the late 1950s, the civil jury trial system was roundly criticized by California politicians, press and even some legal scholars and judges. Plaintiffs’ and defense lawyers jointly fought to preserve the civil jury trial system, and thus ABOTA was born. To this day, preservation of the right to trial by jury in civil cases remains ABOTA’s core mission. ABOTA has grown to be a national organization with more than 6,000 members distributed among 100 state and local chapters.

While extensive civil jury trial experience is required, it is not the only prerequisite to ABOTA membership. Since the very early days of ABOTA, professionalism, civility and integrity as evaluated by peers in the legal community, as well as members of the bench, have been essential as well.

In addition to coordinating with our state and national organizations regarding activities to preserve the civil jury trial system, San Diego ABOTA is also actively involved in promoting professionalism, civility and integrity to law students and young lawyers through interactive programs at which we discuss various hypothetical “dilemmas” that may arise during the course of practice. We are also actively involved in teaching trial advocacy to younger lawyers through our Masters in Trial seminars, which are presented every other year. Typically, these seminars involve a mock trial presentation by our members drawn from the civil plaintiffs’ and defense trial bars.

Each year, San Diego ABOTA honors local court personnel (clerks, court reporters and bailiffs) for all the great work that they do in allowing our court system to function day-to-day. Membership in San Diego ABOTA currently numbers more than 160.

Ken Sigelman (ken@sigelmanassociates.com) of Kenneth M. Sigelman & Associates is the 2012 President of San Diego ABOTA.
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The San Diego County Bar Association gratefully acknowledges its Sustaining Members.

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NAME THAT BUILDING
Please submit answers by December 24 to martin@kruming.com. Your name will be entered in a drawing to win lunch for two at Dobson’s Bar & Restaurant in downtown San Diego. Congratulations to Jennifer Bledsoe Lacy of Greenman, Lacy, Klein, O’Harra & Heffron, whose name was drawn from those who correctly identified the Law Library at the North County Division of the San Diego Superior Court.
TRAVEL: CHANGE OF VENUE
Lauren Carlton stands in front of the Hall of the Great Buddha — the world's largest wooden building — in Nara, Japan, during a recent trip with her father Barry, a Supervising Deputy Attorney General, who took the photo.

If you're traveling on vacation or business, take a copy of San Diego Lawyer along and you could win a Starbucks gift card. Send a photo of you with the magazine to martin@kruming.com. Don't forget to tell us where the photo was taken and who took it. Deadline for the January/February issue is December 15.

The SDCBA recently won the following awards for San Diego Lawyer:
National Association of Bar Executives (NABE) Luminary Award
Public Relations Society of America Bernays Award
San Diego Press Club Excellence in Journalism Award

And congratulations to the contributors who also received awards for their stories in San Diego Lawyer:

Harvey Berger
Elizabeth Blust
George Brewster
Dean Stephen Furrulo
Dean Rudy Hasl
Janice Mulligan
Dean Steven Smith

The SDCBA is proud to have also received NABE Luminary awards for the SDCBA website and the SDCBA's weekly e-publication, This Week at the Bar.
CHAIR APPRECIATION
PHOTOGRAPHS BY DAVID SETO
The SDCBA hosted a reception at the W Hotel on August 15 to show its appreciation for the chairs of its Sections and Committees.

JUSTICE FOR ALL RECEPTION
PHOTOGRAPHS BY RENEE MULLEN
The San Diego Volunteer Lawyer Program held its Justice for All Reception at the San Diego Museum of Man in Balboa Park on September 13.

BENCH-BAR SENIOR LUNCH
PHOTOGRAPHS BY BARRY CARLTON
Members of the bench and bar served lunch to seniors at the Gary and May West Senior Wellness Center on September 19.
The annual Evening in La Jolla event, benefitting the San Diego County Bar Foundation, was held at the Birch Aquarium on October 6.
Attorneys and judges participated in the SDCBA’s annual Bench-Bar Beach Cleanup on September 15 at Harbor Island Drive Park.

Heather Rosing, Hon. Evan Kirvan, Jemilyn Malana

Bench-Bar Beach Cleanup
Photographs by David Seto

LAW STUDENT WELCOME RECEPTION
Photographs by Eric Ganci

The SDCBA welcomed law students during a reception on September 27 at the Bar Center.

Frank Drummond, Aaron French, Vanessa Lagarnia

Jae Park, Brian Bryuk, Fang Lu

Michael Miller, Alex Calero

Evan Hearnsberger, Marc Adelman, April White, Sarah Oyer

Brittany Casola, Hon. David Gill

LAW STUDENT WELCOME RECEPTION
The SDCBA’s third annual Bench-Bar Luncheon took place on October 16 at the US Grant Hotel.
San Diego Superior Court Judge Roger Krauel and attorneys assisted homeless veterans during the 25th anniversary of Stand Down, July 2012. Photo by Barry Carlton.

Barry Carlton (bjcarlton@cox.net) is a Supervising Deputy Attorney General with the California Attorney General’s office.
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