The Case for Proper Court Funding
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Reports from the Bench

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Trentacosta, Hon. Barry Ted Moskowitz
and Hon. Judith McConnell are
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Robert Robinson of Avraham & Robinson received his CAL ESQ vanity license plate more than eight years ago while he was studying for the California Bar Exam. He wanted to show that he was “really proud of graduating (from California Western School of Law),” but it also put pressure on him to pass the bar, which he did.

Today, the plate “is a bit of an attention grabber,” he says. “It’s a conversation starter.” Typically, at gas stations and in shopping malls people will strike up a conversation. One stranger who was parked next to him had just gotten a ticket and figured Robert was a good person to consult. On the freeway, he’s had others with vanity law-related plates wave to him.

Robert met his law partner, Lior Avraham, a graduate of University of San Diego Law School, when they worked together at a firm and decided to open a practice together more than three years ago.

Robert plays basketball in the County Bar League and is a member of the Bar’s Real Estate Section. He and his wife, Tany, have a daughter, Havani.
As President, I would be remiss if I did not use every opportunity available to share with you how important it is for each of us, collectively as the Bar, to ensure access to justice and to do what we can to preserve the stability of our court system.

By the time this issue of San Diego Lawyer has hit your desk, you undoubtedly will have read or heard about the historic budget cuts facing our San Diego Superior Court. It is my hope that you have also had a chance to read the SDCBA’s position on the cuts (if not, please see page 25 of this issue). According to San Diego Superior Court Presiding Judge Robert J. Trentacosta, “The cuts...will affect every judge, court employee and ultimately the litigants, court users and citizens in San Diego County.”

This is clearly a serious threat to our justice system. While I have nothing but praise for our local court leaders for their extraordinary efforts, this situation has become dire. An independent, fully functioning judiciary is a fundamental part of our society. Together, we must work to ensure that meaningful access to justice is maintained in San Diego County, and that can only come by ensuring adequate funding for our courts.

I urge each of you to really take the time to read through this issue of the magazine. As our courts continue to face challenges, it is paramount that we stay informed on changes to services provided by the courts, but more importantly, we must continue to seek and share information on how changes are impacting our clients – the citizens and businesses of San Diego County.

Every year, the SDCBA asks our Federal, Appellate, and Superior Court leaders to provide a report on the “State of the Courts” for one issue of San Diego Lawyer magazine. Thank you to Chief Judge Barry Ted Moskowitz, Presiding Justice Judith McConnell, and Presiding Judge Trentacosta for taking the time to provide us with updates on each of their respective courts, and for all that they do to keep our courts running as smoothly as they do.

In this issue, you will not only read about the “State of the Courts” directly from our court leaders, but you will also read of the efforts of our Court Funding Action Committee (CFAC), which was formed initially to warn our legislators about the impacts of underfunding our courts but which now will also serve to work towards the restoration of funding for our courts, help to study and minimize the impacts of underfunding, and to mobilize attorneys in their volunteer efforts to help our courts. We have also provided you with the SDCBA’s position on the budget cuts, and some general background information about the budget cuts.

We will continue to provide you with updates via San Diego Lawyer, the SDCBA website, and our social media channels, however, we encourage you to share your thoughts and suggestions with our SDCBA and CFAC leaders at any time. Please e-mail me directly at president@sdcba.org or share your thoughts at www.sdcba.org/courtfundingimpacts.
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Preparing the Next Generation of a Great Profession

The Lawyer’s Role in Preparing the Next Generation of a Great Profession

Preparing the next generation of the legal profession depends on the participation of lawyers and judges, as well as law professors. Law schools take the lead in legal education, but successful legal education depends on the entire profession. Law students in San Diego are particularly fortunate. This is the most welcoming town for new lawyers and judges I have seen in my years in the profession, and my hope is to see it continue to improve over the next couple of years.

In the last issues of San Diego Lawyer magazine, the deans of San Diego’s three law schools noted some of the ways in which legal education has improved substantially in the last few decades (instruction in legal practice skills, legal writing, specialty legal practice, etc.). In this and the next two issues, the three of us will discuss ways in which those in practice can help ensure high-quality education.

San Diego judges and lawyers already participate in legal education in many important ways. It would not be possible, for example, for any of our schools to present the full range of classes and seminars now offered without the extraordinary efforts of our adjunct faculties. These heroes spend many hours in class and with students outside of class presenting specialized and practice-oriented courses that law schools could not otherwise offer.

Many lawyers and judges serve on boards of trustees and councils of visitors for universities and law schools in San Diego. They assist the deans and faculties in governing the law schools and thinking creatively about the future of the schools. The bench and bar assist with legal education in many other ways. Serving as advisors and mentors to students, special assistants and speakers in class, providing pro bono experience and supervising their internships are a few examples.

In one area lawyers probably do not see themselves as teachers, but, in fact, are extraordinarily influential. In this area I believe attorneys could often do a better job of working with law students: first employment while students are in school. This is so important because for most students, this is the first professional experience and students see it as the “real world,” compared with the classroom and simulations they have seen in the first year.

What they see you do is what they believe the real practice of law is about. I have observed these first experiences providing students with an uplifting (but realistic) sense of an honorable and noble profession. Conversely, I have seen a few students taught that the practice is a swamp in which professionalism and even ethics are a joke. (In one case, in another city, a student who had been in my torts class came back to complain that law school failed to tell him that hiding evidence, essentially spoliation, was the “name of the game” because that’s what he saw his employer do.) When you employ a student you expect to receive good work, but you cannot help but provide the professional example that will have a significant impact on the student.

If you will be working with law students—paid or unpaid—I hope you will consider yourself a teacher of the student and do the following:

- **Think about what you want the student to learn while with you.** It will be an educational experience for good or evil. Among these might be helping the student see excellent, ethical legal practice.
- **Consider how you are going to achieve those goals.** How will you teach the student lessons that will help her or him become a fine professional?
- **Let the student see you at your best.** Include the student, for example, in pro bono activities. Considering the importance of a reputation in the law is also a good idea.
- **Talk to the student about your sense of the profession,** your career and what it takes to have a satisfying life in the law.

My hope is that one day the Bar Association and the law schools might team up to put together more extensive ideas for those employing law students. It is a great opportunity to affect the future of the profession. I hope you will take advantage of it.

**A Personal Note**

I will be stepping down as the Dean of California Western this summer after 16 wonderful years. I am very grateful for all of the help and support from the bench and bar in San Diego, and from the deans and faculty at Thomas Jefferson (Rudy Hasl and Ken Vandevelde) and USD (Steve Ferruolo, Kevin Cole, Dan Rodriguez and Kristine Strachan). I am a believer that in legal education a rising tide lifts all boats and this has been a time of great progress in legal education. Thank you.

I plan to remain on the faculty of California Western and look forward to collaborating with my friends in the San Diego legal community for many years. I will take a sabbatical to work on a book regarding the economics of legal education. Then I will be back doing research and teaching—what could be better than spending more time with the future of our profession?

Steve Smith (ssmith@cwsl.edu) is Dean of California Western School of Law.
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In Bits and Pixels

Electronically stored information (ESI) is litigation’s bold new frontier


“It’s the Phillips case. Need some ethics advice about electronic document stuff.”

“Because…”

“Because I got a letter from the other side complaining about our document production.”

“Ah, electronically stored information. Litigation’s bold new frontier. As they say, ‘To boldly go where no man has gone before.’” Sarah spoke up. “The courts are getting tough with clients and their lawyers over ESI.”

“Really?”

“I just saw a study of 401 cases. The courts awarded sanctions in 230.”

“Wow! More than half?”

“Tough sanctions, too. Dismissal, adverse jury instructions, issue preclusion. Sanctioned the lawyers in 30 cases.”

Macbeth picked up the thread. “To answer your question, Duncan, the principal ethics pitfall is the duty of competence in Rule 3-110.”

“But I know the law!”

“It’s no longer sufficient just to know the substantive law, Laddie. In litigation, you now have to understand the client’s technology….”

Sarah jumped in, “As well as technology available to preserve, search and review ESI.”

“Really?”

“‘I just saw a study of 401 cases. The courts awarded sanctions in 230.”

“Wow! More than half?”

“Tough sanctions, too. Dismissal, adverse jury instructions, issue preclusion. Sanctioned the lawyers in 30 cases.”

Macbeth nodded. “Bringing Rule 5-200’s obligations of candor to the court into play.”

Duncan turned toward Macbeth. “How do I learn all this stuff? I mean, about the client.”

“Rule 3-500 requires communication with the client. Today, communication about ESI is paramount.”

Sarah added, “In fact, the obligation to communicate may start long before any lawsuit is filed.”

“How?”

“To make sure the client imposes a litigation hold as soon as it even reasonably anticipates litigation. You, with the client, must immediately determine appropriate custodians, ESI sources, backups and critically, suspend all overwrite practices. Make sure that no relevant ESI is destroyed.”

“You’re serious? Me, too?”

“Yes. In that study I mentioned, failure to preserve ESI was the most frequent basis for sanctions.”

“I assume, Nephew, that in Phillips, you sent a litigation hold letter.”

Duncan’s eyes widened.

Sarah interrupted. “I did, Macbeth. I also had the client countersign, acknowledging it preserves its obligations. Then I went to its main office to work out ESI search protocols.”

“Well done. Remember, Laddie, violation of an ethics rule not only subjects us to discipline. The rules also help define the duty component of fiduciary duty. And they can establish the standard of care for malpractice.”

“What if I simply agree with the other lawyer that we won’t seek ESI discovery?”

Sarah spoke first. “Well, in federal court, Rule 26, and the local rules in many districts, require the lawyers to develop and certify ESI protocols….”

Macbeth continued, “And since almost 90 percent of business documents are now electronic and never printed, agreeing to give up such a fertile source of discovery likely violates your duty of competence. Almost certainly below the standard of care in the cases we have.”

“But how do I learn all of this technology stuff?”

“We’re lucky to have Sarah, and….”

“But what if we didn’t have Sarah?”

“Rule 3-110 allows a lawyer to associate or consult another lawyer who is competent.”

“But who?”

“I know a couple of lawyers who thoroughly understand technology, the law and our ethical obligations. Sarah may know a few as well. We should develop a list—for current and future reference.”

“I’m beginning to feel better that I asked.”

Sarah nodded. Macbeth spoke. “I feel better that you did too, Laddie.”


Edward McIntyre (emcintyre@swuslaw.com) is a Partner at Solomon Ward Seidenwurm & Smith and Vice-Chair of the San Diego County Bar Legal Ethics Committee.
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For eons, formal research methods permitted attorneys to access certain information that could be analyzed and utilized to directly affect a client’s case or matter. Reliable yes, but savoir faire? Certainly not. So what is savoir faire? Social media. Social media sites have carved out a new set of research tools for attorneys and they are unequivocally worth exploring. San Diego employment and litigation attorney Jason Black says he has used social media sites “offensively and defensively in both personal injury cases and wage and hour cases. Actually, it is a big part of litigation now.”

A number of attorneys across Southern California have steered clear of exploring these tools due to the legal and ethical troubles these sites can recognizably create. In contrast, a growing number of attorneys, including Lori Bolander whose firm handles adoptions, trusts and estates, and probate litigation, have used these sites to maximize their practice two-fold. “We market via Facebook and LinkedIn and feel that it has increased our visibility and reinforced people’s reliance on us as experts in our field of practice,” Bolander says. “We use these [social media sites] a lot as a tool in adoptions when attempting to locate a birth parent and even heirs in probate cases.

“The public is really going to have to assess how their online presence and use of social media could affect their case or future cases, including employment issues, divorces, and contested family disputes,” says Bolander.

Social media users post everything from photos of their creatively designed meals to random opinions so much that they’ve cultivated their social profiles as daily journals, which may not sound like much of an interesting read, but attorneys are learning to scour these for relevant information.

Black says that his legal cases, particularly wage and hour cases, have been affected by content published on social media sites. “Employers are checking social media sites such as Twitter, MySpace and Facebook in cases where off-the-clock or unpaid overtime claims are made. Employers have tried to argue that employees are not actually working but instead are spending their time participating in social media sites,” says Black.

With American pop culture embracing social media on a level never before anticipated, it is important as an attorney to not only practice law with the acumen of a technologically savoir-faire entrepreneur, but also with the vigilance of a prudent technological hypochondriac. “I do talk to my clients about e-mails and social media because now with the eDiscovery Act, it could all be admissible,” says Bolander. “We have revised our attorney-client agreements to include [social media use] provisions.”

Dan Kehr (dan@kehrlaw.com) is the Managing Attorney at Kehr Law. Ruth Ryan-Cruz (ruth@kehrlaw.com) is a Law Clerk with the firm.
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I became the Chief Judge of the Southern District of California on January 22, 2012. During the short period of time that I have been Chief Judge, there have already been quite a few changes in our court.

On February 10, 2012, Cathy Ann Bencivengo received her commission as a United States District Judge. Judge Bencivengo previously served as a United States Magistrate Judge since December 5, 2005.

Magistrate Judge Karen S. Crawford was sworn in on March 5, 2012, to fill the position left vacant when Judge Bencivengo became a District Judge. Prior to her appointment, Judge Crawford was a partner and chair of the Trial Practice Group in the San Diego office of Duane Morris LLP, and was a partner in the Pittsburgh and San Diego offices of Buchanan Ingersoll & Rooney. Judge Crawford also previously served as an Assistant United States Attorney in the Civil Division of the United States Attorney’s Office for the Southern District of California, and as a Trial Attorney with the United States Department of Justice.

Magistrate Judge David H. Bartick was sworn in on April 2, 2012, to succeed Judge Porter. Judge Bartick comes to the court after many years of practicing criminal law in both state and federal courts throughout the United States. Judge Bartick also previously served as a judge pro tem on the San Diego Superior Court for more than 15 years.

There is still one vacant seat left on the District Court. San Diego Superior Court Judge Gonzalo Curiel has been nominated by President Barack Obama, and approved by the Senate Judiciary Committee. We are eagerly waiting for Judge Curiel to be confirmed by the Senate.

Last year, the court tested an eVoucher system which allowed counsel appointed under the Criminal Justice Act (CJA) to keep track of their time and request payment of fees electronically. Beginning on September 1, 2012, all CJA payment vouchers must be submitted electronically using the eVoucher system. All CJA panel attorneys and CJA service providers must register with the Clerk of the Court to obtain user training and login information.

Construction of the new San Diego federal courthouse reached the 80 percent completion milestone in May. The new courthouse is scheduled for occupancy by the end of 2012. Offices of the Clerk of Court, United States Pretrial Services and the United States Marshals Service will be moved to the new building. There will also be six District Judge courtrooms and twelve chambers. The following District Judges will be located in the new courthouse: Judges Barry Ted Moskowitz, William B. Enright, Rudi M. Brewster, Marilyn L. Huff, Larry A. Burns, Dana M. Sabraw, William Q. Hayes and John A. Houston. The following Magistrate Judges will also move to the new courthouse: Judges Bernard G. Skomal, Mitchell D. Dembin, Karen S. Crawford and David H. Bartick.

I thank all of my colleagues, chambers staff and the Clerk’s Office staff for welcoming me as the new Chief Judge of this district. I especially thank the immediate past Chief Judge, Judge Irma E. Gonzalez, for her leadership and hard work during the past seven years. I will be forever grateful to her for taking such good care of this district and hope to follow in her footsteps in the years ahead.

Hon. Barry Ted Moskowitz is Chief Judge of the U.S. District Court, Southern District of California.
By the time you read this article, you will have most likely heard the announcement of the deepest and most wide-ranging cuts in services and staff in the history of the San Diego Superior Court: closed courtrooms, consolidation of services, and the potential layoff of hundreds of hard-working court employees. The financial cuts enacted by the Governor and Legislature are radically and fundamentally changing the San Diego Superior Court and the entire California justice system. Ultimately, the continued lack of adequate funding for the judicial branch will result in insurmountable barriers to justice for the public. Everyone who either works for the court or utilizes the court is going to be touched by the reduced funding for our third branch of government.

HOW WE GOT HERE:
By January of this year, the judicial branch had endured four years of successive cuts due to the recession. In FY 2011-2012, the State had either cut, borrowed, or swept $1.1 billion in branch funds to meet an ever-growing shortfall in the General Fund.

Realizing that the judicial branch, which makes up only 2.4% of the overall state budget, had contributed a disproportionate share to ease the state budget shortfall, the Governor’s January budget proposal announced that the judiciary would not be cut any further in the 2012-2013 FY budget. The Governor’s proposal was based on the assumption that his two proposed tax initiatives would pass on the November ballot. If not, the court would be subject to $125 million in a so-called “trigger cut.”

However, between January and May the state budget deficit ballooned from $9 billion to nearly $16 billion. In response, the Governor’s May Revise delivered a wallop to the judicial branch – the branch budget would be revised to change from “no cuts” to a $544 million reduction. With these cuts, and since FY 2007-08, the California judicial branch will have suffered a 30% reduction in funding. In addition to the half-billion dollar cut, the autonomy of the branch to permit trial courts to save money in a reserve account would be prohibited. A “use it or lose it” philosophy would be imposed on the branch in future fiscal years. The practical effect of this philosophical shift would be to greatly curtail the trial courts’ ability for any long-range fiscal planning.

NOW WE ARE HERE:
With the new budget reality, the San Diego Superior court has estimated that it faces as much as a $14 million cut for FY 2012-2013 with an additional cut of $26 million in FY 2013-14. Thus the San Diego Superior Court is being hit with total cuts over the next two years of $40 million or more. We will move from a court operating on a budget of $190 million to a budget of approximately $157 million. To meet this dire circumstance, the Superior Court plans cuts that will eventually lead to the elimination of more than 250 court employee positions, and the closure or restructuring of up to 40 courtrooms during the next two fiscal years. Reductions of this magnitude will deeply affect operations and undoubtedly result in long lines at business office windows, and delays in certain trials and processing of almost all court paperwork. Several Superior Courts around the state are already reporting wait times of several hours in business office lines. Our additional concern is that without adequate funding, delays in the processing of cases will become chronic and systemic.

EVERYTHING CHANGES:
Due to budget cuts over the past four years, the court has cut expenses, increased the court staff vacancy rate to 17%, and has used technology to augment the processing of paperwork and the dissemination of information to court users. However, these methods alone will not be sufficient to protect the public from bearing the brunt of the latest budget cuts.

Every aspect of court operations will be changing, including: closing of all business offices to the public at noon on Fridays; consolidating all Probate, Juvenile Dependency, Civil Business Office and Small Claims operations to the Central Division; the closing of the Ramona Branch Court; the potential loss of court reporters in all Civil courtrooms; and the closing and restructuring of more than 30 courtrooms. These closures and restructuring will result in the elimination of a number of courtroom clerks, court reporters, independent calendar clerks, staff attorneys and non-court support staff including managers and supervisors. It could also mean the loss of some commissioner jobs. In addition, for the remaining court employees, they will face two days of unpaid
work furlough per month beginning July 2013. The reductions are deep and painful to all of those involved.

**WE MUST KEEP GOING:**

Despite the devastating funding cuts, we must and will move forward. We are the third largest court system in the United States and second largest in California.

Our court has been adapting to the serial budget cuts imposed on the branch by streamlining business practices. Recently, the court has introduced technology initiatives to more efficiently use staff and reduce paper and storage costs, while finding new and innovative ways to provide services for a growing clientele that would rather go on-line than stand in line.

In the past fiscal year, the court has expanded the development of infrastructure to incrementally move civil operations to a paperless system. Imaged documents are now available in almost all Civil Departments in Central Division, East County Division, and South County Division. We anticipate the North County Division going on-line this summer. By the end of the year, all Civil Departments, including Probate, will be imaging documents and dramatically reducing our paper files. With some exceptions, public documents related to the scanned cases are available to the general public on the court’s website and on public kiosks at court locations. We know the attorneys and the general public greatly need this service, as the use of our on-line Register of Actions (ROA) is growing each week. Users can now access, view, and print court-generated documents such as minute orders from any location for a nominal fee.

At this point, more than 6.5 million Civil and Probate documents are in our Document Management System, with approximately 150,000 new documents added monthly into our imaging system. Later this calendar year, the court will also be moving forward with an e-filing system, which will allow litigants to file from their homes or offices. The first filings which the court will be able to accept electronically are Civil and Probate case filings.

Other efforts on the technological front include the conversion of both Central Division records and Juvenile records, currently on microfilm, to digital images. The court has also instituted a new Court Appearance Scheduler which allows the public to make appointments for Traffic Night Court on-line.

We will continue to look for ways technology can help us serve the public and blunt the upcoming service cuts, but all will depend on project costs and available funds.

**CONCLUSION:** It saddens me to provide you with such bad news about our court, but I have confidence in the strong work ethic and resiliency of our judicial officers and employees as we face the extraordinary changes ahead. However, it is clear that without adequate resources, our justice system “as we know it” will be changed to impose greater challenges on all users of our courts.

Hon. Robert J. Trentacosta is Presiding Judge of the San Diego Superior Court.

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**E-Filing Expansions Under way in Appellate Courts**

**BY HON. JUDITH MCCONNELL, ADMINISTRATIVE PRESIDING JUSTICE, COURT OF APPEAL, FOURTH APPELLATE DISTRICT**

The Court of Appeal, Fourth Appellate District, encompasses the counties of San Diego, Imperial, Riverside, San Bernardino, Inyo and Orange, and sits in three divisions located in San Diego, Riverside and Orange. Working together, the three divisions handle a large criminal caseload as well as juvenile, family, probate and civil. Because our staff are facing their fourth year of furloughs and we have been unable to fill vacancies, we are falling behind in our case management. Presently in Division One (San Diego and Imperial), we are not calendaring non-priority civil cases. Hopefully, we can resume handling those matters once our criminal caseload becomes current.

Attorneys who have non-priority civil appeals can set a voluntary settlement conference with one of our justices by calling the deputy assigned to the case. We are expanding our e-filing and briefs and certain motions can be filed online. Thanks to the advances by the San Diego Superior Court in digitizing records, we will soon receive more files in electronic form. Filing online is through the court’s website (www.courts.ca.gov). All three divisions of the Fourth are working together to improve electronic access to the appellate courts.

In this time of crisis for the courts, the support of the San Diego County Bar Association has been invaluable and we appreciate the efforts made to help alleviate the dramatic effects of the severe cuts to our budget.

Hon. Judith McConnell is Administrative Presiding Justice of the Court of Appeal, Fourth Appellate District.
THE CASE FOR PROPER COURT FUNDING:

Giving a voice to a population that might not even know it needs to be heard

BY ELIZABETH BLUST

Court funding is not a hot political issue for voters. Until people are involved in a case, most are not likely to notice whether past state budget decisions have rendered their local court inadequate to dispense justice in a timely manner. Timely may have different meanings to different participants. Timely for a man appearing for a traffic ticket means waiting in a short line so he can get back to work quickly and not have to take unpaid leave. Timely for the business whose patent is being infringed means scheduling a trial in a short enough time frame to prevent financial loss. Timely for a woman whose husband is beating her means obtaining a temporary restraining order on a Friday afternoon instead of a Monday morning to prevent physical injury or even death.

But who fights for better court funding? In a way, the court community is fungible; the people utilizing court resources in any given week are not going to be the same as in the following week. The average individual or business is not a frequent client of the courts. Most do not contemplate in advance whether the courts will be available at some future time of need. And when parties do become involved in a case, most of them just want it to be over. Even if a few people take the time to complain about how frustrating it was, say, to wait months for a trial date, or to find the courthouse closed on a Wednesday, will their complaints make it to their elected representatives’ ears? And will their complaints carry any weight when budget talks come around once a year?

These circumstances make it difficult for legislators to understand the impact that court funding has on the voters they represent. But if the people who have used the courts, or who will someday use the courts, are not fighting for better court funding, who is? Enter the San Diego County Bar Association’s Court Funding Action Committee, chaired by Jon R. Williams and Richard A. Huver. This task force, formed in June 2011, emerged from regular discussions between Bar leadership throughout the state and county. Following "another round of devastating, last-minute cuts," says Williams, "it became clear to the SDCBA that we needed to engage further on this issue."

"Judges are restricted as to what they can say," Huver says, "so we knew we had to step up as a legal community to face this significant shortfall."

Twenty-five or so members of this community – representing various fields of practice including family, corporate, criminal, probate, public and private – began coordinating a campaign to reach out to San Diego-area members of the California legislature as the voice of our local courts’ constituency. This would not be "a think tank that just talks," Williams says, "but an action committee, focused on external communication."
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“"Our job [on the committee] is to coordinate meetings with elected officials or their representatives to help them understand the impact of cuts to court funding,” says Huver. Beginning in March 2012, the committee coordinated meetings every Friday with members of the state Assembly and Senate. “We’ve met with officials up and down the corridor, from Murrieta down to South Bay,” says Huver.

“Generally, the local delegates have been supportive and interested in the process,” says Williams. “It’s a difficult position for them to be in. We’re not saying where to take the funds from in order to increase funding to the courts, but we’re saying that the issue of court funding should be at the table.”

The statistics are grim. Although the judicial branch represents only 2.4 percent of the overall state budget, and only 1.6 percent of the general fund, California’s court system has seen its budget cut by 30 percent the last four years. Compare this to the other 97.6 percent of the budget that was cut by 16 percent and it is easy to see why the ABA, the State Bar and our local bar associations are concerned. While still reeling from some $350 million in cuts in fiscal year 2011-12, the situation quickly became worse. When the 2012-13 budget was approved in late June, the cuts to the judicial branch were a whopping $544 million, which included the threatened $125 million “trigger cut” that was originally tied to the Governor’s tax initiative. The budget also required a sweep of any reserves that courts, such as San Diego’s, had built up through prudent fiscal management. The devastating effects of these and past cuts have finally come to roost in San Diego, despite the best efforts of our court leaders.

The 2009-10 budget cuts resulted in courts being closed one day per month. Subsequent cuts have resulted in 25 counties reducing court staffing and services. According to the Judicial Council, the administrative body of the state courts, some counties have had to close courtrooms entirely, including San Francisco Superior Court, San Joaquin Superior Court and Ventura Superior Court. Other courts have closed entire court branches, including Butte, San Joaquin, San Luis Obispo, San Francisco, Sonoma and Stanislaus counties. Self-help and family law assistance services have also been reduced or shuttered in courts throughout the state. The $14 million cut for San Diego’s FY 2012-13 budget has similarly resulted in a branch court closure,
SDCBA Position on San Diego Superior Court’s Announced Budget Cuts

Despite the SDCBA’s concerted efforts to warn local legislative officials of the real-world, tangible impacts of underfunded courts, unfortunately, we are now beginning to experience the first wave of those dramatic effects. The recently announced Superior Court budget cuts threaten the safety and stability of San Diego families and businesses. While we applaud and support our local Court leadership for their extraordinary efforts in very difficult circumstances, access to justice in San Diego County will inevitably be denied as a result of the continued budget cuts that have led to the announced reductions in staff and courtroom closures.

An independent, fully functioning judiciary is a fundamental part of any democratic society. Our state courts provide a guarantee to our rights to life, liberty, and property, and are vitally important to protecting our citizens, helping families in distress, and resolving complex business disputes. Any perceived savings derived from cutting court operations will be dramatically outweighed in the long run by the societal costs such cuts will impose on business, families, and everyday citizens who depend on the courts to resolve their disputes and to guarantee their rights.

Yet as a result of the recently announced cuts, families in distress will now face longer lines, and have less available staff to assist in resolving their disputes and critical custody issues. San Diego businesses will now find it much more difficult to enforce contracts, protect their intellectual property, and to conduct business in San Diego County. Criminal prosecutions will also be impacted, with many of the initial courtroom closures to include criminal courts.

Similarly, victims of domestic violence, elder abuse, fraud, and predatory business practices will now face new obstacles at the courthouse, including shuttered courtrooms and substantial delays in case processing. Many of those victims, especially the elderly and destitute, will not be able to withstand those delays, and will ultimately be left with no remedy.

Notwithstanding these most recent developments, the SDCBA remains resolute in its mission to ensure that every San Diegan has meaningful access to justice, and will continue its efforts to advocate for proper funding of the Judicial Branch.

“Equal justice under the law” becomes an empty slogan when repeated Legislative budget cuts to the Judicial Branch result in courtroom closures, shortened operating hours, and a delay, if not a denial, of access to justice.
six downtown criminal court closures, layoffs, and more. (See “Crisis in the Courts” by Presiding Judge Robert Trentacosta, pg. 18)

In the past, according to the Judicial Council, cuts have been offset by one-time fixes including tapping local reserves, fund transfers, fee increases, service reductions and court closures. Even though the court system has shifted some costs — such as courthouse security — to the local county governments through realignment programs, the financial strain on the courts is still severe.

“The Governor suggested increasing fees at the local level, but that doesn’t really address the cuts,” Huver says. “People end up just paying more [yet still having] reduced access.” Huver and Williams, both civil litigators, also warn that increased fees will dissuade people from using the courts to solve their disputes, because they will be scared off by the increasingly high up-front costs and the uncertainty of a timely resolution. There’s a risk of “people taking to the streets to resolve their issues.”

“Because of the constitutional right to a speedy trial, the courts can’t do much to criminal trials,” Huver says, “so when there’s a budget shortfall, it falls on the civil side.

“If a corporation is waiting for civil justice, that affects its ability to hire employees, to conduct business,” Huver says. “If a family is waiting for resolution on child custody, those delays have an impact on the entire family.”

Williams illustrates the problem for businesses who are already struggling in this economy. “If the court is not available, the business can’t make decisions on allocating resources. Responsible corporate decision-making requires certainty in the process. If it takes six months just to get a hearing on a motion for summary judgment, disputes don’t get settled. They linger. You can’t even ‘settle on the courthouse steps’ if you never get to the courthouse. Whether it’s trade secrets, unfair competition — how can you move on and grow if you can’t get this stuff into the rear-view mirror? Certainty in the judicial process is just as important as stable financial markets.”

The committee is focusing on getting legislators “to take into account the societal cost” of cuts to the court budget, says Williams, “not to see this as just a budget line item. Court funding hits all party affiliations, all walks of life. Other [government] programs can be rationed, but you can’t ration justice.

Although it is only 2.4 percent of the overall State budget, California’s court system has seen its budget cut by 30 percent the last four years.

“The courts provide a safety net for society; this is where people go when they have foreclosures, family law cases, juvenile dependency [foster care] issues,” says Williams. “The courts are often the last recourse, if we take that away, they have nothing.”

“When this system that is supposed to help is slashed, there’s a domino effect,” says Huver.

As co-chairs of the Court Funding Action Committee, Williams and Huver took note of public hearings being held up and down the state. At the State Bar and at all metropolitan bar associations throughout the state, court funding was a hot topic, and most attorneys had an appreciation for the broad scope of the issues. Williams and Huver recognized,
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however, that not all legislators are attorneys, and that many who are might not have practiced law, or may have been absent from the courthouse for years.

“Sometimes we have to start with a civics lesson,” says Williams, which could involve explaining to an elected official the types of civil actions in which their constituents might be involved. The co-chairs envisioned a straightforward strategy for the committee: assemble a sophisticated core group of attorneys from a variety of fields who not only understand the issues but who can communicate them effectively; research how representatives voted and what they might already be thinking; “focus on the local delegation, building on cultural connections that are often lost when you get to Sacramento”; prepare a consistent message and repeat it often.

This last step — repeating the message — the committee carried out by having different committee members meet with the same elected official in series, so that the official heard a similar but slightly different message each week from an attorney representing a different aspect of the court’s (and the official’s) constituency. By setting up over 18 meetings with elected officials, the committee hoped to implant court funding in the official’s mind as something that affects a broad sampling of the community. Also, the committee wanted to open the portals of communication with the officials.

“We wanted to create a dialogue with the local delegation,” says Williams. “We wanted to say, ‘We’re here, and we have something to say. We’re here, and we have something to add.’ To let them know that we are a resource, so that the next time there’s an issue affecting the courts, they will ask themselves, ‘What does the legal community think of this?’”

With the effects from the latest round of devastating cuts to the Judicial Branch reverberating in our San Diego courts, the issue of court funding has taken on even greater importance. The costs of delayed or denied access to justice will be closely followed in the coming months. “We repeatedly warned our local elected officials about what would happen if there were further cuts to our courts. Unfortunately, the “collateral damage” we feared will now be on full display,” says Williams. •

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Overview of the Budget Crisis

❯ Origins of the Court Funding Crisis:
Since the 2007-2008 budget year, our Judicial Branch has absorbed $653 million in budget cuts and sweeps, amounting to a 23% reduction in General Fund funding. For a branch of government that typically accounts for only about 2%-3% of General Fund spending, it has shouldered a disproportionate 23% reduction to its funding. In comparison, the other 97% of programs and agencies financed through the General Fund have only seen a 16% reduction in their General Fund budgets over that same time period.

❯ Impacts on the Courts:
Since 2007-2008, the mounting budget cuts have forced courts to layoff hundreds of employees, impose furloughs, and adopt hiring freezes, resulting in long lines and significant delays for businesses and citizens seeking access to justice. Now, the situation is even more grim. The San Diego court has estimated that it faces as much as a $14 million cut for FY 2012-2013, with total cuts for FY 2013-2014 potentially rising to $40 million or more. If implemented as proposed, the Superior Court’s planned cuts will lead to the elimination of more than 250 court employee positions and the closure or restructuring of more than 40 courtrooms.

❯ Impacts on Families:
The real world consequences of the budget are impacting San Diego citizens now. For example, in Family Court Services, wait times average 10 weeks for first time appointments and 12 weeks for return appointments. Consequently, families must wait at least two and a half months before being heard by a family court counselor so a recommendation can thereafter be returned to the court for a further hearing. Similarly, abused women seeking restraining orders, children caught in the middle of child custody disputes, and wrongfully evicted tenants suffer from a delayed or unavailable civil justice system.

❯ Impacts on Business:
Businesses struggle and job creation is slowed by delays in civil cases. For example, delays in intellectual property, trade secret, and unfair competition cases mean that products are not timely developed or shipped and, consequently, employees are not hired to fill those jobs. Businesses require certainty in the civil justice system to know how to best allocate resources, and to determine whether they are able to invest those resources, to hire employees, and to grow their business.

Business Office Closures: Business offices will be closed to the public on Fridays starting at noon. Statutory deadlines will not be extended.

Probate Court Consolidation: Operations located at 325 Melrose Avenue in Vista will be relocated to the Central Division Probate Court location.

North County Juvenile Dependency Courtroom Closure: One Juvenile Dependency courtroom located at 325 Melrose Drive in Vista will be closed.

Closure of Central Courtrooms: Six criminal courtrooms located at 220 W. Broadway and one civil courtroom located at 330 W. Broadway in downtown will be closed.

Ramona Court Closure: The Ramona court facility will close and case matters will be relocated to the East County Division.
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☐ 4-6  ☐ 1-3  ☐ 0

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☐ For information on how to manage a law firm
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☐ I don't read or look through any feature article

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As a lawyer who spends a significant portion of his professional time in the golf industry, I am often asked, “What legal issues arise in connection with the golf industry?” The answer that I generally provide is “all of them.” While this answer may be construed as somewhat tongue-in-cheek, in reality, there is also a great deal of truth to this response. In fact, one of the most interesting facets of my career is the opportunity I have to work in so many different areas of the law. This requires that I keep abreast of a wide variety of legal issues and also stay current in federal and state law in numerous areas including real estate, environmental, tax, securities, licensing, permits, land use, employment, water, finance and government regulation. The list is endless, which can be challenging at times.

In order to better illustrate the wide variety of legal issues encountered in the golf industry, I have compiled a list of the top 10 legal issues to be addressed in connection with the purchase and sale of a golf course.

1. Title/Survey
   - Review current title report, all underlying documents and a current American Land Title Association survey of the property, and assess the impact of all exceptions to title.
   - Determine impact of all encroachments onto the golf course property.
   - Verify the existence of all appurtenant easements to the golf course property.
   - Verify the location of all utility lines that impact or serve the golf course property.
   - Review applicable zoning laws and verify that there are no zoning violations.

2. Environmental Reports
   - Arrange for a comprehensive maintenance facility/cart barn inspection.
   - Confirm the existence/discontinuance of any underground storage tanks, above-ground storage tanks, pesticides, fertilizers, fuel tanks, etc.
   - Review all land use permits and authorizations, including parcel maps, major use permits and conditional use permits, and verify no violations.

It is difficult to recall a golf course acquisition that did not involve some amount of boundary encroachments. In one situation, there were tee boxes, a putting green, a portion of an irrigation lake, a cart path, the corner of a cart barn, a portion of the parking lot and various utility lines that encroached onto the adjoining property. Without the proper easements in place, these types of encroachments can be problematic and costly to rectify.

Top 10 Legal Issues to Address in Connection with the Purchase and Sale of a Golf Course

By Van Tengberg
for all environmental matters have been secured, are in place, are transferable and that there are no existing violations.

- Verify the existence and use of a wash rack in both the maintenance facility and the cart storage facility and confirm that all required permits and licenses are in place, are transferable and that there are no existing violations.
- Arrange for an inspection of any organic dump sites. Analyze results and determine if other invasive testing is required.
- Review historical environmental maintenance practices.
- Arrange Phase I testing and analyze results. Determine if Phase II or other invasive testing is required or appropriate.

During the due diligence investigation of a golf course property located in the Northeast, we conducted an inspection of the maintenance facility. The golf course superintendent was asked if there was a wash rack installed and in use at the maintenance facility (where the mowers, golf carts, etc., can be washed off and cleaned). It should be noted that a permitted and properly installed wash rack usually includes, at a minimum, a water fuel separator, and is connected to the sanitary sewer system. In response to the question, the golf course superintendent proudly replied, “Yes, we have a wash rack installed and in use.” Sensing that his response may have been less than candid or perhaps uninformed, a further investigation was conducted. The investigation revealed that untreated water, fuel residue, battery acid, pesticides, fertilizer, etc., drained directly from the wash rack into a nearby creek that traversed the property. Suffice it to say, the environmental consultant was immediately notified, and all discussions concerning the acquisition of the property were terminated.

3. Memberships
- Review the existing membership program including all bylaws, rules and regulations, and membership agreements. Determine whether such agreements can be modified and if so, what modifications and amendments are required or necessary.
- Review the seller’s wait list. Determine what trends exist concerning member departures, timing for resale, competition from other clubs, changing demographics and other factors.
- Review all membership agreements regarding refund obligations.
- Evaluate tax consequences associated with the assumption/rejection of any membership refund obligations.
- Formulate new membership program structure.
- Analyze potential discrimination issues that may have been present under current ownership.

4. Permits and licenses
- Review all existing operational permits and licenses (certificates of occupancy, health, re-sale, liquor, petroleum, underground storage tanks, above-ground storage tanks, pesticides, etc.). Verify compliance and transferability.
- Determine what upgrades, retrofits and other improvements/modifications are required as a condition to transferability.
- Determine timing for and conditions of transfer (liquor licenses in particular).

5. Leases/Purchase Contracts/FF&E
- Review all existing lease agreements, purchase contracts and licenses. Verify transferability.
- Confirm the existence of a right to purchase leased furniture, fixtures and equipment upon expiration of the lease (fair market value vs. fixed dollar amount).
- Confirm warranties are transferable.
- Review all intellectual property filings and claims and purported rights.
- Confirm transferability of all intellectual property rights.

6. Sensitive Habitat, Wetlands, Biological
- Determine existence and status of any areas that include sensitive habitat, wetlands or other biologically protected areas.
- Determine whether the existing owner has complied with all maintenance, upkeep and enhancement obligations associated with these areas.
- Analyze the short-term and long-term maintenance, upkeep and enhancement obligations associated with these areas.
- Contact applicable governmental agencies and secure agreements/estoppels regarding known violations and future obligations.

7. Structural, Heating, Ventilation and Air Conditioning, Utility, ADA, Termites
- Arrange for a comprehensive inspection of all physical facilities.
- Itemize repairs/replacements/improvements required and the estimated costs.
- Determine what repairs/replacements/improvements are necessary or required.
- Assess Americans with Disabilities Act (ADA) status and any potential violations. Determine the estimated cost of all repairs/replacements/improvements required in order to bring the property into compliance with the ADA.
- Confirm warranties are transferable.

8. Employees/Independent Contractors
- Review the salary and benefits packages for all employees and independent contractors.
- Review all salary and benefits increases over the past 12 months, as well as any future scheduled increases.
- Review all employee/independent contractor agreements.
- Verify that all employee/independent contractor agreements are terminable.
- Review all union agreements and analyze impact and requirements.
- Require seller to terminate all employees and independent contractors pre-closing.
- Review all ongoing and threatened employment-related litigation. Require seller to indemnify, defend and hold harmless buyer from all such matters.
- Determine applicability of Worker Adjustment and Retraining Notification Act and verify compliance with provisions.

In one circumstance, all of the employees had been given substantial salary increases immediately before the golf course property was placed on the market. This increase was not reflected in the historical financials and the seller anticipated that the buyer would unknowingly assume the employment obligations.

9. Irrigation Water
- Arrange for full hydrology study to be completed.
- Confirm alternative sources of irrigation water including potable, wells, non-potable and reclaimed water.
- Arrange for inspection of irrigation system. Determine timing for upgrades or replacement and estimated costs.
- Review all existing irrigation water agreements and determine transferability.

In one acquisition involving a golf course located in the Southwest, the golf course relied primarily upon well water to irrigate its 36 holes. The cost of this well water was a fraction of the cost of potable water from the local water authority. However, upon further investigation, two significant concerns were discovered: (a) during times of moderate rainfall in the winter, there was insufficient water in the
water table to draw enough water from the wells to irrigate the golf courses adequately; and (b) there were downstream property owners who had filed suit over excessive use of the well water. The risk of being compelled to purchase potable water from the local water authority at a substantially higher cost rendered the transaction economically unfeasible and ultimately being terminated.

10. Surrounding Community Issues

- Review golf course covenants, conditions and restrictions (CC&Rs) and determine/verify what requirements are applicable to the golf course, who has the power to enforce (i.e., the homeowner’s association) and the penalties for noncompliance.
- Determine if the golf course owner is required to maintain any interior slopes facing the golf course. Analyze existing condition of the slopes, determine if there are any violations and whether there are any required improvements necessary.
- Determine if there are any deed restrictions applicable to the golf course property.
- Verify the existence of appurtenant easements recorded against the surrounding residential and commercial development for errant golf balls, overspray of irrigation water and fertilizer/pesticides, encroachment of improvements and maintenance.
- Review easements recorded against the golf course property for construction, utility lines, drainage, etc. Analyze whether future improvements will be required and the impact, if any, such future development will have on the golf course.
- Confirm that none of the surrounding owners have view easements pursuant to the CC&Rs or under applicable law.
- Review all cost-sharing agreements. Verify that cost allocation for entry gate, private roads, common areas, parkway landscaping, fencing and utility lines is fair and reasonable.

As the foregoing list illustrates, even a relatively routine and straightforward transaction involving the purchase and sale of a golf course involves a myriad of legal issues and requires the lawyer involved to have a strong working knowledge of many areas of the law. This can be challenging at times. However, the old adage that no two transactions are alike holds true in the golf industry. Regardless of the dollars at stake, there are always challenging legal issues that must be resolved and this is what makes practicing law in the golf industry exciting.

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Saluting Dean Steve Smith

BY ALIDAD VAKILI

This year, Steve Smith steps down as the Dean of California Western School of Law, after successfully leading its helm for 16 years. He passes off the baton to incoming Dean Niels Schaumann. During his tenure, Steve led the school to achieve a number of major milestones, including the erection of the law school library, the establishment of interdisciplinary programs with UCSD and SDSU, the implementation of an L.L.M. Program in Criminal Defense Advocacy and numerous recognitions of the school’s unwavering dedication to public service, to name only a few of his accomplishments.

As Dean, Steve’s passion for education and public service was a constant. The importance of public service work was instilled in him from an early age. Steve is one of three children born to Byrnard and Dorothy Smith. For generations, the Smith family owned and operated a dairy farm in Spirit Lake. “It was a lot of work, but there was never a meal without ice cream,” he says with a smile.

Life on a farm was no doubt a lot of work and yet Steve’s parents found the time to do a lot of public service work. As a young boy, his father once told him that, “Everybody’s goal should be to help make the world a better place and have fun doing it.” This quote has stayed with Steve his whole life and has influenced the many accomplishments he has achieved, many of which have indeed helped to make the world a better place. Has he had fun along the way? Definitely.

And his keen interest in education, in particular health law? Well, that also found its stirrings early in his young adulthood. During high school and college, Steve worked in a hospital where he gained a lot of exposure to the medical profession, which led to an interest in science and medicine. During his early undergraduate studies, Steve studied science and initially had thought to go into medicine. However, he realized that his interest was more in line with health education and later health law, which at that time was not considered an acceptable discipline for study. So he shifted his studies to economics and earned his B.A. in economics, summa cum laude, from Buena Vista College and went on to study at the University of Iowa, where he obtained his J.D. and an M.A. in economics in 1971. He later went on to teach law at the University of Louisville from 1971-1988. During a number of those years in Louisville, Steve also acted as Assistant Dean (1974-1982) and an Associate of the School of Medicine (1982-1988), further reinforcing his interest in education, both academically and administratively. During his early years in Louisville while he was living in an apartment complex and teaching at the law school, a friend introduced him to his future wife, Lera, who was teaching at a local high school at the time. This year they will celebrate their 37th anniversary.

In 1988, Steve joined Cleveland-Marshall College of Law as Dean and Professor of Law until 1996 when he came to CWSL. True to his humble nature, Steve is the first to give all the credit to his colleagues who are involved in the many wonderful community service and pro bono programs the school runs, such as the Innocence Program, Community Law Project, Institute for Criminal Defense Advocacy and the Center for Creative Problem Solving, to name a few. But just as his smile quickly shines when speaking of the many successful programs the school has implemented, others are just as quick to acknowledge Steve’s unwavering support for the school’s dedication to serving the public and promoting education, justice and the rule of law. This year, CWSL was named to the President’s Higher Education Community Service Honor Roll with Distinction for 2012. This award recognizes the school’s dedication to public service by students, faculty and staff during the 2010-11 academic year and marks the third consecutive year that CWSL has received this honorable distinction.

In discussing what accomplishments stand out for him during his time as Dean, Steve pauses for a moment and with a confident smile says he feels the school’s J.D. program is stronger than ever and has a very good balance of theory and practice. “Students need to learn how to practice,” he says. Steve has been instrumental in helping establish new programs specifically designed to give law students the practical skill sets so needed when they start their careers as lawyers. One of these is the STEPPS Program, which was designed to teach professional responsibility, ethics and practical lawyering skills in an environment that focuses on preventive law and problem solving.

Steve will continue to teach law at CWSL and is looking forward to continuing his penchant for writing. Having recently published a book titled “Malpractice in Psychology” with co-author David Shapiro, he is now looking to write a number of articles and books, starting with a book on the economics of legal education. And that is just the beginning. He plans to continue to learn, teach and write about his passions (legal education, environmental health law and public service) and most importantly spend more time with his wife.

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John Wertz is the 2012 President of the San Diego Bowl Game Association, which produces the Bridgepoint Education Holiday Bowl and the San Diego County Credit Union Poinsettia Bowl. John retired from Wertz, McDade & Wallace after practicing law for 40 years. His father, John, who passed away two years ago, practiced law in Chappell, Nebraska, for 60 years.

What responsibilities do you oversee as Association President? General supervision, direction and control of the business and affairs of the Association.

Have any other lawyers been President? Richard Circuit in 1994.

What was your favorite Holiday Bowl? Of course 2009 when Nebraska beat Arizona 33-0. This was a departure from our Holiday Bowl mantra of “the most exciting Bowl game in America” but it sure was a great performance by my alma mater.

What’s special about Nebraska football? It represents tradition and a family of fans—we call it “The Husker Nation.” In my family, between my dad, brother, sister and me, we have seven degrees from the University (my mom went to Iowa State). We are all Husker fans.

How hard is it to get a ticket? It is increasingly more difficult, particularly to away Husker games. When I was a student, the tickets were $5 and easy to get.

Have you ever missed a game? I attended the University of Nebraska from 1964-1972, graduating from the Business School in 1969 and the College of Law in 1972. I never missed a home game and made many of the away games.

What was your most memorable game? The so-called “Game of the Century” at Norman, Oklahoma, on Thanksgiving weekend in 1971. I still have the game program from that game, which the Huskers won 35-31.

Do you still go back to Lincoln for football? I still go back to Lincoln for games and try to catch the game if Nebraska is playing in California or Arizona. Now that Nebraska has moved to the Big 10, there are a number of fun and attractive places to see Big 10 games.

Did you play football in high school? I was so versatile that I changed uniforms at halftime my freshman year and played my trumpet in the marching band. I actually think I was more useful and needed in the marching band than on the football team.

How long have you known Bob Kerrey? When I came to Nebraska in 1964 and I met him during rush week and later through ROTC, which we were both active in. We’ve been friends ever since and I have helped him in his run for Governor of Nebraska, U.S. Senator and in 1992 in his run for President against ultimate winner Bill Clinton. He was President of the New School in New York City for 10 years and has now moved his family back to Nebraska where he is running for his old U.S. Senate seat and trying to hold the majority in the Senate for the Democrats.

Bowl Games Data

1. The 2012 Bridgepoint Education Holiday Bowl is Thursday, December 27, at 6:45 p.m. The 2012 San Diego County Credit Union Poinsettia Bowl is Thursday, December 20, at 5 p.m.
3. The payout this year is $4.3 million, which puts the Holiday Bowl in the 10-15 range out of 35 bowls.
4. The game has been telecast on ESPN since 1986.
5. Since the San Diego Bowl Game Association’s inception in 1978, it has generated more than $600 million in economic benefit for the San Diego region.
6. The 2011 Bowl games generated over 36,000 hotel room nights and an economic impact to the region of $26 million.
7. During 2011 the Association produced over 30 events to benefit the organization and children’s charities, including the San Diego Big Bay Balloon Parade.
8. Both Bowl games and the parade are televised nationally to over 8 million viewers.
9. Several San Diego law firms have done pro bono work for the Association over the years.

San Diego lawyers/firms involved in Bowl Games:

Roy Bell—Troutman Sanders; Erik Bliss—Sheppard, Mullin, Richter & Hampton LLP; Dick Circuit—Circuit, McKellogg, Kinney & Ross; John Cogger—Manning & Kass, Ellrod, Ramierz, Trester LLP; Jeremy Crickard—McKenna Long & Aldridge LLP; Scott Faber—Simpson Delmore Greene, LLP; John Fiske—Barr/Fiske LLP; Alex Gruft—Wright & L’Estrange; Mike Heath—Gunderson Dettmer; Jacqueline Lopez—Andrews, Lagasse, Branch & Bell; Mike O’Connor—Andrews Lagasse Branch & Bell, LLP; Regina Petty—Fisher & Phillips LLP; Thanasi Preovolos—Preovolos & Associates, ALC; David Rentto—Rentto & Rentto, PLC; Jeff Simenton—Circuit, McKellogg, Kinney & Ross
Game On

Giving Back Through the San Diego Bowl Game Association
By Alexander Gruft

As attorneys, we strive to combine our talents with our civic duty to give back to the community. I have been able to achieve this goal through my participation in the San Diego Bowl Game Association as a Red Coat (as members are known due to their conspicuous attire). I joined the organization in 2005 because of its mission to generate tourism, exposure, economic benefit and civic pride for San Diego and its citizens through the production of the Holiday Bowl (and later Poinsettia Bowl). Since joining, I have had the pleasure of participating in numerous community events such as an annual outrigger challenge, 3-on-3 basketball tournament, various golf events and pre-game festivities. These events draw attention not only to the Bowl games but also raise awareness and money for local charities such as the Make-A-Wish Foundation.

Growing up in Los Angeles, I had, for a brief while, the pleasure of attending Rams and Raiders games. Their departure left a void not just for me but for millions of other Angelenos. I attended Sonoma State University for my undergraduate degree. The SSU football program was cut just before my second year, a casualty of Title IX (though not before producing one of the greatest linemen in Dallas Cowboy history, Larry Allen). The Bowl Game Association allows me to fulfill both my desire to volunteer and my passion for football. It has been a pleasure and honor to represent San Diego in two of the classiest Bowl games of the college season.

Alexander Gruft (agruf@wllawsd.com) is an Attorney with Wright & L’Estrange.

The Youth Football Clinic is one of the events leading up to the San Diego County Credit Union Poinsettia Bowl.

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CHANGE OF VENUE

If you’re traveling on vacation or business, take a copy of *San Diego Lawyer* with you and you could win a Starbucks gift card. Send a photo of you with the magazine to martin@kruming.com and tell us where the photo was taken. Deadline for the September/October issue is August 10.

In our inaugural photos, Woody Merrill, Hon. David Ryan (Ret.) and Jim Talley (from left to right in left photo) pose in front of The Diamond at Lake Elsinore during a game between the Lancaster JetHawks and the Lake Elsinore Storm.
NAME THAT BUILDING
Please submit answers by August 10 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 Georgia Williams of Borton Petrini, whose name was drawn from those who correctly identified the East County Regional Center.

Photo by Casey Ames
(casey@toothacreameslaw.com)
of Toothacre & Ames, LLP.

CORRECTION
In the May/June 2012 issue, the image on page 30 of the group Color of Justice was misidentified as Justice 101. San Diego Lawyer apologizes for the error.

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

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Bar Night at the Opera: The Barber of Seville
By Jerrilyn Malana

Figaro, Figaro, Figiaro! SDCBA members enjoyed a marvelous evening of music, fun and camaraderie at the Fifth Annual Bar Night at the Opera on April 27 at the San Diego Civic Theatre. Judges, attorneys and legal community members were treated to the San Diego Opera’s world-class production of the comic opera, “The Barber of Seville.” The event was co-hosted by the Association of Corporate Counsel, and sponsored by Jeffrey Chasan of Voit Real Estate Services. Bar Night attendees enjoyed a pre-opera networking reception with delectable food, wine and champagne.

Gioachino Rossini’s “Barber of Seville” is one of the most beloved operas of all time. This whimsical opera is about an amorous and wealthy old doctor who intends to marry his young female ward, but the very clever Count Almaviva tricks the old doctor and captures the young woman’s heart right under the old doctor’s nose and marries her. The upbeat and infectious melody of the opera’s signature aria “Largo al factotum” by Figaro (the barber who plays the mischievous matchmaker) has been popularized and parodied in the mainstream including Bugs Bunny cartoons and “The Simpsons.” During the Bar Night performance, audience members chuckled in surprise when Count Almaviva tries to bribe another character with San Diego Padres tickets. So who says opera is boring? Not me. And, I know I’m not alone as Bar Night continues to be a popular event each year. In fact, the San Diego Opera makes it easy to fall in love with this traditional art form with its world-renowned opera stars, spectacular sets, gorgeous costumes and San Diego Symphony musicians playing in the orchestra pit. English supertitles projected above the stage have also made opera much more entertaining and accessible to a new generation of fans.

SDCBA’s Bar Night at the Opera was officially launched in 2008 with double bill performances of “Cavalleria Rusticana” and “Pagliacci.” Since that time, Bar Night has built a loyal following of judges and attorneys who have viewed spectacular performances of “Madama Butterfly” (2009), “La Bohème” (2010) and “Carmen” (2011). As a precursor to Bar Night, the SDCBA had participated in “Opera in the City” networking events, which included legal, finance, real estate and other professionals for performances of “Samson and Delilah” (2007) and “The Magic Flute” (2006).

Several notable long time opera supporters attended Bar Night this year, including Hon. Janis Sammartino, Hon. Herbert Hoffman (Ret.), Courtney Ann Coyle, Michael Thorsnes, Ken Rose, Richard McCue, Erika Hiramastu and Bud Klueck, to name just a few. I hope SDCBA members continue to support Bar Night at the Opera, and help to keep the magical and grand art of opera alive and well in our community. Bravo to another great evening!

Jerrilyn Malana (jmalana@littler.com) is a past President of the San Diego County Bar Association and a shareholder at Littler Mendelson, PC.
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― Francis Bacon
PHOTO GALLERY

DIVERSITY COMMITTEE SPRING MIXER
PHOTOGRAPHS BY DAVID SETO
The SDCBA’s Ethnic Relations & Diversity Committee hosted a Spring Mixer on April 12 at Higgs, Fletcher & Mack.

SWEARING IN CEREMONY
PHOTOGRAPHS BY DENICE MENARD
The State Bar’s Swearing In Ceremony for new attorneys was held on June 6 at the Sheraton Harbor Island Hotel.
ANNUAL LAW WEEK LUNCHEON

PHOTOGRAPHS BY LAUREN RADACK

SDCBA and community leaders were honored during the annual Law Week Luncheon & Celebration of Community Service sponsored by Hutchings Court Reporters, TelePacific Communications and Westlaw, on May 1 at The Westin Hotel.
PHOTO GALLERY

THLA AWARDS DINNER
PHOTOGRAPHS BY DAVID AUSTIN
The Tom Homann LGBT Law Association held its annual Awards Dinner on May 10 at the Omni Hotel.

LAWYERS CLUB ANNIVERSARY
PHOTOGRAPHS BY BARRY CARLTON
Lawyers Club of San Diego celebrated its 40th Anniversary Dinner on May 16 at the US Grant Hotel.
PHOTO GALLERY

DISTINGUISHED LAWYER MEMORIAL

PHOTOGRAPHS BY DOUGLAS GATES PHOTOGRAPHY

A reception honoring inductees into the San Diego Bar Foundation Distinguished Lawyer Memorial was held at the SDCBA Center on May 23.

SAN DIEGO MAYORAL FORUM

PHOTOGRAPHS BY DAVID SETO

San Diego La Raza Lawyers Association sponsored the San Diego Mayoral Forum at the University of San Diego’s Shiley Theatre on May 31.
A Place in the Sand
When Superior Court Judge David Szumowski’s dog Kenny needs to go, he heads to his own reserved “sand box” behind the downtown courthouse.
Photo by Superior Court Judge John Meyer
PRACTICE IN A MID-SIZED FIRM?

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