Service Award Winners 2012

Community Leaders Pave the Path

Outstanding Attorney of the Year: James Dawe
Outstanding Jurist: Hon. David Gill

Service to the SDCBA: Heather Rosing
Community Service: John Gomez
Distinguished Citizen: Father Joe Carroll
Service to Diversity: Kim-Thoa Hoang

Service to the Legal Profession: Dean Steven Smith
Service by a Public Attorney: Danielle Hickman
Outstanding Service by a New Lawyer: Jessica Klarer Pride
Public Service by a Law Firm: Morrison & Foerster LLP
Distinguished Organization: Voices for Children

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What’s on Your Plate?

Tamatha Clemens specializes in family law and her license plate reads ♥S2RQEU (loves to argue). A partner with the Law Offices of Sandra Joan Morris, she likes personalized license plates, having had one in high school. Tamatha later brainstormed something law-related when she became a lawyer. She has found that her license plate engages people in conversation, and the interactions add something fun to her day.

People first try to figure out what her license plate means, and then laugh once they do. Tamatha says that she has received only positive comments. People talk to her freely, usually at the gas station when she is filling up. Once, she had someone attempt a conversation as she waited on a freeway on-ramp. People, especially men, often say to her, “I would hate to be your husband.” Tamatha just laughs, and says she gets a kick out of these experiences.

Bob Gerber of Sheppard Mullin Richter & Hampton is another attorney who has a license plate with a law theme. As a trial lawyer specializing in complex business cases with an emphasis in intellectual property, Bob’s plate reads, I LTG8 (I litigate).

Bob, who created his plate in 1990 when he purchased a new car, could have chosen a theme related to his fun-loving nature, his love of the outdoors or his penchant for poker. Instead, he chose a law theme as a way to celebrate his accomplishment in becoming a lawyer.

He receives positive and negative comments about his license plate. Fellow lawyers sometimes give him grief about it, but other people find it funny. Bob’s wife likes it, and now has her own personalized plate, +KRMUH (positive karma). Bob chuckles when he recalls that someone once misinterpreted his plate to mean, “I am illegitimate.”

Bob had a positive experience this past year when a police officer declined to give him a speeding ticket. He was given just a warning after the officer read his license plate and said, “You are a lawyer.” Perhaps this was payback for the good work that Bob has done in his legal career. He performs extensive pro bono work, and states that the awards he most values are the awards he received from his firm in 2010: “Pro Bono Attorney of the Year” and “Pro Bono Attorney of the Decade.”

Aleida Wahn (noworez@aol.com) is a sole practitioner.
Hon. Lillian Lim
San Diego County Superior Court, Retired

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- 2008-2012 Assigned by the Chief Justice to the successful reduction of Riverside Superior Court’s civil case backlog
- Selected as the Outstanding Jurist of 2007 by the San Diego County Bar Association

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I couldn’t be more proud to be a San Diegan. As a life-long resident of San Diego County, except for my time in law school, I have always known that this place had something special. Internationally, we are lauded for our spectacular weather, scenic sunsets, famous zoo, Balboa Park and incomparable beaches. But to those of us who truly know this county—live here, work here and choose to raise our children here—we know that there is something far more spectacular: the sense of community that is inherent here, in a place many have dubbed “America’s biggest small town.”

With a population of over three million people, San Diego County is clearly too big to ever be considered “small.” But I think the sentiment invokes the notion that we are a county with a heart, a place that values community and a community that looks after and protects our own. If you are looking for shining examples of some of San Diego County’s fine community members, look no further than page 14, where you will find our 2012 SDCBA Service Award recipients. Each of the everyday heroes recognized here may never receive all of the accolades they deserve, although their altruistic dedication to their personal and professional pursuits, and their commitment to bettering the lives of others, truly define what it means to “Pave the Path” for a better future.

From serving our community, to improving diversity and inclusion efforts, serving the legal profession, or serving the SDCBA, the 2012 Service Award winners personify the meaning of giving. We are truly lucky to live in a community where there are so many individuals who prioritize giving so much, and our award winners are just a few of our community’s pillars. It would be nearly impossible to recognize all of San Diego County’s unsung heroes, but their efforts do not go unnoticed. Each individual they serve, and the collective good that they do for our community and our profession, are what makes this town such an incredible place to live and to practice law.

I would be remiss if I didn’t recognize all in our community who participate in programs that lead the way for our future generations of San Diegans. Between the SDCBA and the San Diego Superior Court, there are nearly 20 different programs geared towards helping youth in our community in various ways that are coordinated, facilitated and staffed by volunteer lawyers and judges in our community each year. A brief overview of all of the SDCBA and Superior Court’s programs can be found on pages 28-31.

You have the opportunity to get involved in these programs and many more as an SDCBA member. There are countless ways to participate, and it is my hope that you will find a project that holds personal meaning for you. A good place to start is the “Volunteer Opportunities” section of the SDCBA website or the weekly “This Week at the Bar” newsletter.

Thank you for all that you do, and for continuing to make sure that our community thrives. It is all of you, and all that we are able do together, that makes me proud to call San Diego County my home.
John DiCaro

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The law school community has been under a great deal of scrutiny in recent months. My perspective on this, as a new dean who came to the University of San Diego (USD) School of Law after 20-plus years in private practice (12 in San Diego), is an unusual, though not unique one. Like another new dean from outside of the legal academy, in his case after 25 years on the judiciary, I too was astonished by the breadth and depth of the curriculum in law schools. In addition to a curriculum that now includes a broad range of experiential professional skills training, USD supports an extensive clinical program, several specialized centers and institutes, and a wide range of internships and externships. Having found such richness and relevance in the curriculum, I have been mystified by commentary, such as that included in the November 19, 2011, New York Times article titled “What They Don’t Teach Law Students: Lawyering.”

That headline can be disputed just by listing what many of our students are doing in the eight legal clinics we support at USD School of Law. The following is a list of those clinics and summary of the services they currently provide to low-income individuals and families:

- **Civil**: Students represent clients on such matters as consumer issues, breach of contract, uninsured motorist defense, fraud and consumer debt collection disputes.
- **Education & Disability**: Students represent the parents of students with disabilities, handling such cases as IEP eligibility and services, placement, discipline and expulsions; 504 Plans; Early Start and Lanterman Act.
- **Entrepreneurship**: Students offer comprehensive legal assistance to entrepreneurs in startup or expanding for-profit or nonprofit businesses, including trademark and copyright issues.
- **Immigration**: Students offer assistance on immigration-related problems, including asylum, immigrating family members, naturalization and deportation.
- **Landlord-Tenant**: Students represent clients in landlord-tenant disputes, including unlawful detainer trials, and in administrative hearings involving federally subsidized Section 8 termination proceedings.
- **Small Claims**: Students offer assistance to individuals filing in the small claims court and in small claims court appeals.
- **Federal Tax**: Students provide services to low-income taxpayers in disputes with the Internal Revenue Service in matters such as collection actions and audits, earned income tax credits and offers in compromise. They also assist with identity theft issues.
- **State Tax-California**: Students represent low-income taxpayers in disputes with the Franchise Tax Board about income, sales and use tax issues.

This year, we will also establish a ninth clinic, the Veterans Legal Clinic, which will focus on veterans’ education issues, and assist veterans seeking legal advice and representation relating to disputes with for-profit institutions over the use of their GI Bill funds.

With all this hands-on work going on, how can anyone assert that these clinics—each of which is tied to specialized courses in our curriculum and supervised by clinical faculty—are not teaching “lawyering”? The story of the many ways in which we teach lawyering does not stop with our clinics. We are continually expanding opportunities for students to gain practical legal experience, addressing critical legal needs through our centers and institutes such as our Energy Policy Initiatives Center (EPIC), Children’s Advocacy Institute (CAI) and Center of Intellectual Property Law and Markets (CIPLM), and by expanding the availability of internships and externships. In future articles, I will write about these programs and the opportunities that they provide for our students to obtain valuable practical experience and to prepare them for the legal marketplace.

So to anyone who thinks law schools are not teaching their students “lawyering,” talk to our student clinicians or the many clients who benefit from the services provided by our clinics. I think you will find a group of well-educated future attorneys who are making a positive impact on their clients and the San Diego community.

*Stephen Ferruolo (law.dean@sandiego.edu) is Dean of the University of San Diego School of Law.*
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To Friend or Not to Friend?

Navigating the ethics of ‘friending’ witnesses online

Macbeth knocked on Sarah’s door.
Sarah, the firm’s newest lawyer, looked up.
“Hi, Macbeth. What’s up?”
“You mentioned you have a Facebook page. Could you tell me about it?”
“What a coincidence.”
“How so?”
“I was just doing some due diligence.”
Sarah turned her monitor to face Macbeth.
“See? We’re deposing this witness next week. It’s his Facebook page. Some juicy stuff here.”
“Really?”
“With the right questions, he could look like a liar or a fool.”
“You … what’s the word … ‘friended’ him?”
“Didn’t have to.” Sarah gestured at the monitor. “The public part of his page. But it makes me itch for what I might see if I did friend him.”
“Is that a good idea?”
“Not sure. I could send him a request. But I doubt he’d accept if he recognized my name.”
“Probably not.”
“I think Facebook now allows pseudonyms. I could create a new account. Different name. Send the friend request that way. But …”
“But?”
“Thought I read something that suggests using a fake name might be a problem. Actually, I could use your advice.”
“You may have seen the San Diego County Bar Association ethics opinion. Section 6068(d)—candor—may impose a duty not to deceive. For example, sending a Facebook friend request to a represented party.”
“Is that something recent?”
“A leading opinion on the topic nationally.”
“Wow.”
“The Philadelphia Bar Association reached the same conclusion about having a third person ‘friend’ a witness.”
“To access Facebook postings?”
“Precisely. Also a deceptive practice that violates Model Rule 8.4.”
Sarah looked at the screen. “Not much difference between that and using a pseudonym.”
“In reality, very little.”
“I guess I won’t be going that route.”
“Probably wise.”
“Suppose I send him a friend request from my account, see if he accepts. All he can do is say no, right?”
“Is the witness represented?”
“I’m pretty sure he is … Oh, I see where you’re going. Can’t contact him about the case.”
“But without his lawyer’s permission.”
“But is friending ‘communicating’?”
“Why not?”
“Well, I wouldn’t post anything on his wall. He’d just click a button. Accept my friend request.”
“Then what?”
“Then I could view his non-public postings.”
“I see.”
“Hardly a communication about anything. Much less about the case.”
“A little caution might go a long way.”
“Why?”
“Remember that San Diego opinion? It also concluded that a friend request is at least an indirect communication with a represented party.”
“Really?”
“You want to access his Facebook page to help in your case?”
“Of course.”
“Then it’s arguably ‘about the subject matter of the representation’.”
Sarah looked at her monitor. “So I guess no friending.”
“At least not using fake names or to represented parties.”
“So I just make do with what I get publicly?”
“And that’s fair game.”
Duncan popped his head around Sarah’s door.
“Am I interrupting?”
Macbeth got up. “If you need to talk to Sarah, Laddie, she and I can chat later.”
“Don’t leave, Uncle. We’re going to brainstorm about our Facebook and LinkedIn accounts.”
“You have social media accounts?”
“You bet. They are great tools for getting clients, Uncle. At least, that’s what I hear.”
Sarah nodded. “I know so many lawyers who meet clients through social networking. Especially blogs. I’m thinking of starting a blog myself.”
Macbeth sat back down. “Maybe I should stay a bit longer….”

EDITOR’S NOTE: Macbeth referred to SDCBA Legal Ethics Opinion 2011-2 (See www.sdcba.org; Legal Ethics) and Business & Professions Code section 6068(d).

Leah Strickland (lstrickland@swsslaw.com) is an associate at Solomon Ward Seidenwurm & Smith, LLP and a member of the San Diego County Bar Association Legal Ethics Committee.
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San Diego Lawyer congratulates all of the 2012 San Diego County Bar Association Service Award winners

The following questions were asked of the individual winners:

- Where did you go to undergraduate and law school?
- How long have you been practicing law?
- Which three noteworthy persons would you invite to dinner?
- What is one item on your bucket list?
- What advice do you give to new lawyers?
- Why do you feel compelled to serve?
- What words of advice would you give others to inspire them to serve?

Organizations were asked to supply their founding date, information about the leader, staff and programs, pro bono projects or mission, and were given the chance to answer the questions about serving, inspiration and advice.
Outstanding Attorney of the Year
James Dawe
Seltzer Caplan McMahon Vitek

UNDERGRADUATE: Lehigh University

LAW SCHOOL: University of San Diego School of Law

YEARS IN PRACTICE: 36

DINNER GUESTS: Governor Hiram Johnson, Justice Louis Brandeis and Judge Learned Hand.

BUCKET LIST: See the ancient Library of Alexandria in Egypt.

ADVICE TO NEW LAWYERS: Hone your professional skills and become an expert in your chosen area. Then give back to your community.

WHY.Serve?: I am fortunate to be the first in my family to attend college. I believe it is important to give back to your community—in whatever positive way you choose.

ADVICE TO SERVE: Not only is it good to serve our community, but it also provides a great deal of satisfaction.

Outstanding Jurist
Hon. David Gill
San Diego Superior Court

UNDERGRADUATE: Stanford

LAW SCHOOL: Stanford and Georgetown

YEARS ON THE BENCH NOT SINCE APPOINTED: 38


BUCKET LIST: I am too young to have a bucket list.

ADVICE TO NEW LAWYERS: “To thine own self be true.” Never compromise your personal integrity.

WHY SERVE?: “Much will be asked of those to whom much has been given.”

ADVICE TO SERVE: The words of Jesus: “The greatest among you will be the one who serves the others.”

Service to the SDCBA
Heather Rosing
Klinedinst PC

UNDERGRADUATE: University of Illinois, Champaign-Urbana

LAW SCHOOL: Northwestern University School of Law

YEARS IN PRACTICE: 15

DINNER GUESTS: Hillary Rodham Clinton, Aung San Suu Kyi and Hamid Karzai.

BUCKET LIST: Taking a yearlong cruise around the world with a small group of my favorite people, with the goal of visiting a lot of wineries (for wine tasting) and nature preserves (for hiking).

ADVICE TO NEW LAWYERS: Work hard, be ethical and live by your word. Have fun with it too, and don’t let the practice overwhelm your family life.

WHY SERVE?: I feel I am so fortunate and it is my obligation to give back. Beyond that, though, I find that contributing to service projects is tremendously rewarding. It is very enjoyable to work side by side with the other volunteers too. They tend to be good, honest, caring and giving people, and many of them have become close friends. The whole experience of giving back is so incredible that it is natural for anyone to want to keep on doing it.

ADVICE TO SERVE: Serve and give of your time only for the purpose of helping others. You will improve the lives of many others (known and unknown), but you will also improve yourself in the process. Service can bring one great joy and satisfaction in life that simply can never be had through your paying job.
**Community Service**

**John Gomez**
The Gomez Law Firm

**UNDERGRADUATE:** University of San Diego  
**LAW SCHOOL:** Yale Law School  
**YEARS IN PRACTICE:** 18  
**DINNER GUESTS:** Barack Obama, Gerry Spence and Nelson Mandela.  
**BUCKET LIST:** Argue before the Supreme Court.  
**ADVICE TO NEW LAWYERS:** Work hard and care deeply.  
**WHY SERVE?** I feel very blessed and I want to ensure that others have opportunities for greatness.  
**ADVICE TO SERVE:** Your service will make you a better person, a better lawyer and help you smile every night before you go to sleep.

**Distinguished Citizen**

**Father Joe Carroll**  
President Emeritus, St. Vincent de Paul Village

**UNDERGRADUATE:** St. John’s College (Camarillo); Catholic University, Washington, D.C.  
**GRADUATE:** University of San Diego  
**YEARS IN SERVICE:** 29  
**DINNER GUESTS:** Henry Cisneros and Bill O’Reilly.  
**BUCKET LIST:** Build a camp/retreat center in Campo.  
**ADVICE TO NEW LAWYERS:** Realize citizens are putting our greatest treasure in your hands: the U.S. Constitution.  
**WHY SERVE?** I believe it is a calling from God.  
**ADVICE TO SERVE:** Never give up and strive to fulfill your dreams.

**Service to Diversity**

**Kim-Thoa Hoang**  
Office of the District Attorney

**UNDERGRADUATE:** University of Rennes, France  
**LAW SCHOOL:** California Western School of Law  
**YEARS IN PRACTICE:** 25  
**DINNER GUESTS:** Aung San Suu Kyi, Nelson Mandela and Ai Weiwei.  
**BUCKET LIST:** Professionally, serve on a reform project to assist a developing democracy. For fun, train for and then enter a ballroom dance competition.  
**ADVICE TO NEW LAWYERS:** Stay true to yourself, do the right thing and don’t forget the ideals that made you decide to become a lawyer.  
**WHY SERVE?** As a teenager, I visited an orphanage as part of a school community service project. The dormitory was lined with cribs where hundreds of infants lay, all crying at the same time. Our job was to hold each child for 10 minutes. The babies smiled contently when we held them in our arms, then instantly resumed crying when they were put back down. Those heartbreaking images and sounds have ever since become the reason why I feel compelled to serve.  
**ADVICE TO SERVE:** The most meaningful legacy you will leave is to have made a meaningful difference in some people’s lives.
Service to the Legal Profession

Dean Steven Smith
California Western School of Law

- **UNDERGRADUATE:** Buena Vista College (now University)
- **LAW SCHOOL:** University of Iowa Law School
- **YEARS IN PRACTICE:** 42
- **DINNER GUESTS:** Justice Louis Brandeis, Horace Rumpole and John Maynard Keynes.
- **BUCKET LIST:** Complete a book on the economics and finance of legal education, and a book on how professions should deal with dissatisfied clients and patients.

**ADVICE TO NEW LAWYERS:** Develop the pro bono habit early in your career. Lawyers will not have fully satisfying careers without doing pro bono work. I also tell our graduates don’t try to get rich. They can expect to make a good living, but by trying to get rich they will turn over their souls to others. It is a high price to pay.

**WHY SERVE?** My father commonly gave the advice that the way to have a great life was to “try to help others—to improve things and to have fun doing it.” It was great advice and it naturally leads to service.

**ADVICE TO SERVE:** Law is a helping profession—it is our goal to be of service to other people. If it is true (and I believe it is) that much is expected from those to whom much has been given, then all of us in the legal profession should feel compelled to serve others. We have the best education, in a wonderful profession that is the envy of much of the rest of the world, in a country that respects the rule of law and where we can promote justice.

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Outstanding Service by a New Lawyer

Jessica Klarer Pride
Casey Gerry Schenk Francavilla Blatt & Penfield

- **UNDERGRADUATE:** University of California, Irvine
- **LAW SCHOOL:** University of San Diego School of Law
- **YEARS IN PRACTICE:** 5
- **DINNER GUESTS:** Oprah, Marilyn Monroe and Morris Dees.
- **BUCKET LIST:** Go on a safari.

**ADVICE TO NEW LAWYERS:** Network. Develop social skills and contacts. Remember to utilize your intelligence to the fullest. You’re smart, that’s why you are a lawyer. Focus on building who you know. It will open doors and give you a platform to apply what you know. Also, don’t ever hesitate to give back to your profession and the community. It will be rewarding in so many ways.

**WHY SERVE?** I am a ripple in a pond just trying to make a difference. I am part of a bigger picture and I want to do my part to make this world a better place for my daughter. However, if I died tomorrow, I want to know that my life’s impact extended beyond my immediate family.

**ADVICE TO SERVE:** If you died tomorrow, what difference will you have made in your community? Is the world different because you lived in it?
Voices for Children seeks to fulfill its obligation and a child, often traumatized by abuse and neglect, enters foster care. Through the CASA Program, Voices for Children ensures that qualified, compassionate adults will stand by and speak up for individual foster children—in court, in schools and in the community. We recruit, train and support a corps of more than 800 dedicated volunteers who work on the front lines for 1,400 children entangled in the child welfare system, advocating for the children’s best interests. In addition, Voices for Children will review the files of all children in foster care, estimated to be 5,000 this year, to determine which ones need a CASA volunteer.

**WHY SERVE?** The staff, Board of Directors and volunteers of Voices for Children feel compelled to serve because of the tragedy that children face before and while in foster care. They have been removed from the only family and home they have known and often are placed with strangers, social workers and judges making crucial decisions about their lives. Our CASAs know that they can truly make a difference for a child by standing by them during this difficult time and by providing the judges with important information about each child’s individual needs and future dreams. I am compelled to serve this organization because every child deserves a family, and if the biological family can’t take care of him or her, we must find another family willing to do so.

**INSPIRATION:** The children with whom we work and the resiliency that they show every day. They have experienced many horrors and yet still can laugh and play and hope for a better future. Also, our CASA volunteers who step up for and help our foster children in many life-changing ways.

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**Public Service by a Law Firm**

**Morrison & Foerster LLP**

M. Andrew Woodmansee is head of the San Diego Litigation Practice Group and provided the information for this profile. He is a member of the firm-wide Pro Bono Committee and serves on the Board of the San Diego Volunteer Lawyer Program (SDVLP).

Opened in 1999, Morrison & Foerster employs 63 lawyers and 50 staff to represent many different pro bono clients. In 2011, lawyers in the San Diego office logged approximately 7,000 pro bono hours. Our lawyers also help staff clinics run by SDVLP, fight on behalf of asylum seekers with Casa Cornelia Law Center and represent veterans, all as part of our effort to “give back” to the community in which we live and work.

**WHY SERVE?** A fundamental component of the firm’s culture is our tradition that strongly encourages and values pro bono work. Morrison & Foerster believes it is an essential part of a lawyer’s professional responsibility to perform pro bono work and engage in other activities that benefit the community. The firm strongly urges every attorney to work on at least one pro bono matter each year, and we treat our pro bono work in the same manner as we treat our billable work. For me personally, I feel fortunate to have been given so many opportunities in my life by my parents and my grandparents. I feel obligated to “pay it forward.” I hope all lawyers feel the same duty.

**INSPIRATION:** There are many, but perhaps the greatest is Bob Raven. Bob passed away several years ago, and I regret that I never had the honor of meeting him as he retired around the time I joined the firm. He was a past president of the American Bar Association, and an advocate for increasing the percentage of women and under-represented minorities in our profession long before it was “the thing” to do. He transformed the firm, and in many ways our profession. Each year our firm bestows the “Bob Raven Award” to a partner. It is given to the partner who best exemplifies Bob’s (and the firm’s) values: a commitment to diversity and community service and to mentoring and building for the future. There is no higher honor in our firm.

**ADVICE:** Pursue your passion. Find those causes and clients that help get you out of bed in the morning. And then go fight like hell for them.
A downtown office building has construction defect problems. A general contractor is convinced of the quality of his workmanship. Subcontractors are pointing fingers in every direction.

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What does it take to become a judge? What does the Governor look for in appointing judges? How does the vetting process work?

Del Mar native Josh Groban, Governor Jerry Brown’s Senior Advisor for Policy and Appointments, provided some answers to these questions during a program that attracted a full house at the SDCBA Bar Center.

The February 16 program, “Insights About the Judicial Appointments Process,” was presented by the SDCBA and Tom Homann LGBT Law Association, in cooperation with the Association of Corporate Counsel, La Raza Lawyers Association, Lawyers Club of San Diego and the South Asian Bar Association. Immediately following his presentation, Groban answered questions then mingled with attendees at a reception in the Bar Center’s Broderick Room.

Ruling out age as an impediment to judicial appointment, Groban pointed out that Governor Brown is both the youngest and oldest governor this state has had. “A policy of inclusion ensures the most complete applicant pool,” Groban said, emphasizing the Governor’s commitment to diversity on the bench. “Excluding candidates ex ante” because of their area of law or because they were considered by a prior administration “hurts diversity.”

While cautioning the audience that the Governor has never itemized his criteria for judicial candidates, Groban offered the factors that he has gleaned “during car rides and elevator trips” with Governor Brown, along with Groban’s own interpretation and “gloss” on what he thinks his boss is looking for:

- **Intelect and intellectual curiosity:** Not only being smart, but being intellectually engaged and curious.
- **Well-rounded, intelligent people with**
**rich life experience**: What else have the candidates done besides being a lawyer? What books are they reading? Have they ever taught at a law school or a community college?

- **Appropriate temperament**: “Nobody’s ego gets diminished when we put a robe on them,” Groban said. He added he has seen otherwise impeccable candidates stymied on temperament alone. “We have a ‘no jerks’ policy,” Groban said.

- **Judges who can continue the Governor’s legacy of diversity**: “The single most important thing is to further diversity,” Groban said. “We want to cast aside any ‘gatekeeper’ rules of inclusion.”

- **Judges who have good values and are fair**: A candidate’s party affiliation is not important, but whether his or her mind can be changed by listening is. “Can the judge issue a tentative ruling, but after hearing arguments, change his or her mind?” For this, the search committee seeks attorneys’ opinions, from both defendants’ counsel and prosecutors or plaintiffs’ counsel.

Groban admits that the process for review of candidates’ applications can look “oblique and mystifying.”

“The perception is that being appointed is all about knowing the right person, and people worry about the old boys’ network,” Groban said. “I can tell you, as someone up there with a stack of applications on his lap every day, it’s not about who you know. If your application is strong on its face, it will proceed to vetting.”

Vetting takes many forms, including investigations by formal and informal groups of attorneys around the state. They do not play a “kingmaker” role, though, Groban assured the audience. “We value these folks tremendously for what they bring to bear, but they are only one source of many.”

One of the ripest sources of information on a candidate are phone calls to people not listed on the candidate’s Personal Data Questionnaire (PDQ), but who have worked with the candidate previously, such as paralegals or former supervisors.

Judge Robert Longstreth, a family law judge appointed by former Governor Arnold Schwarzenegger in 2008, said that Groban accurately described the process. “It does seem like they turn over every rock,” Longstreth said. “I’ve heard they’ll interview lawyers against whom a candidate argued cases 20-25 years before.”

From the perspective of the Governor’s office staff, the vetting process is ongoing, as vacancies exist in a number of counties at any time. Many county bars (although not San Diego’s) volunteer as the first step in the vetting process. At
some point; all nominations must go through the State Bar’s Commission on Judicial Nominees Evaluation, or JNE (pronounced “Jenny”).

“Most vetting with prior administrations didn’t happen until after the names had been sent to JNE,” Groban said. Currently, Groban’s office is doing more “triaging” of potential candidates before the official JNE process. JNE has strict rules of confidentiality, so candidates might not even know they are being considered for an appointment until they get called for an interview.

Groban acknowledged that, as the process becomes more front-loaded, it is possible that fewer candidates might ultimately be sent to JNE. “We’re cognizant of the time involved in the JNE process,” he said, so they are trying to do more than just look at an application on its face and send it straight into JNE.

Acknowledging the debate over whether vetting committee members’ names should be made public, Groban warned that doing so would open the members to lobbying by candidates or their supporters. So the proclivity, Groban said, is not to make them public.

Responding to a question about practical experience for legal academics seeking appointments, Groban said that the vetting process is not “one size fits all.” A law professor, for instance, would have to show knowledge of the legal system in other ways than in practice in front of the bench. One professor served as a judge pro tem to get a feel for the bench. Another was a leading expert on evidence. A professor’s writing, Groban explained, can be a good indicator of his or her engagement with current law. Academic applicants should be involved with the community, attend bar events and so on. Candidates could gain relevant experience through mediation, arbitration or service as an administrative law judge or commissioner. They should look for ways to show off their strengths and build up their weaknesses, Groban said.

Stacie Patterson, a criminal defense attorney, appreciated that “it seems the Governor is appointing more criminal defense attorneys.” Patterson said she has become more aware of the process by attending events like these. “I am impressed by the Governor’s commitment to more diversity in judicial appointments,” she said.

“It’s wonderful that they’re looking at a broad range of applicants,” said Professor McGowan, “not just trial attorneys and criminal prosecutors, but attorneys from other walks of life, people who have reflected on the law. It impressed me that they’re looking for good people.”

For Groban, that is the heart of the Governor’s engagement with the process: finding good people.

“Governor Brown,” Groban said, “will often ask people, ‘What is your theory on the law?’ not because there is a right or wrong answer, but to see if people are engaged about the issues of the day, if they are thinking.”

“The Governor is ‘a lawyer’s lawyer,’ ” Groban said. “Judicial appointments are important to him. He’s the real judicial appointment secretary and will be terribly involved. He’s not going to wholesale bequeath the job to me or anybody.”

Elizabeth Blust (egblust@gmail.com) is a sole practitioner in San Diego.
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You would expect that lawyers who are making the transition from lawyer to judge would be among the most ethical members of a profession that is, despite the naysayers, extremely ethical. Ethical misconduct, at least as measured by discipline, is committed by a relatively small number of lawyers. Discipline for ethical misconduct committed in the transition from lawyer to judge is rarer still.

Nonetheless, there are areas of ethical concern that must be addressed when the practitioner moves from the bar to the bench and they fall into three principal categories: inappropriate political activity, transition issues in winding down a private law practice, and compliance with election laws.

**Inappropriate Political Activity**

There is one Rule of Professional Conduct that deals directly with lawyers making the transition from bench to bar. Rule 1-700, entitled Member as Candidate for Judicial Office, states that:

(A) A member who is a candidate for judicial office in California shall comply with Canon 5 of the Code of Judicial Ethics.

(B) For purposes of this rule, “candidate for judicial office” means a member seeking judicial office by election. The determination of when a member is a candidate for judicial office is defined in the terminology section of the California Code of Judicial Ethics. A member’s duty to comply with paragraph (A) shall end when the member announces withdrawal of the member’s candidacy or when the results of the election are final, whichever occurs first.

The rule states that it applies only to a lawyer seeking judicial office by election, as Canon 5 applies only to judges and candidates for judicial election, with one significant exception.

The preamble to Canon 5 reminds us that judges and judicial candidates do not surrender their rights to entertain their personal views on political questions but commands them to avoid political activity that may create the appearance of political bias or impropriety. Judicial candidates are banned by Canon 5 from these specific types of activity:

**A. Political Organizations**

Judges and candidates for judicial office shall not (1) act as leaders or hold any office in a political organization; (2) make speeches for a political organization or candidate for non-judicial office or publicly endorse or oppose a candidate for non-judicial office; or (3) personally solicit funds for a political organization or non-judicial candidate; or make contributions.

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1 In 2010, the active membership of the State Bar of California was about 175,000 lawyers; in that same year formal discipline charges were filed in 1,209 cases. State Bar Annual Discipline Report 2010, p. 35.
to a political party or political organization or to a non-judicial candidate in excess of $500 in any calendar year for political party or political organization or candidate, or in excess of an aggregate of $1,000 in any calendar year for all political parties or political organizations or non-judicial candidates.

B. Conduct During Judicial Campaigns

A candidate for election or appointment to judicial office shall not (1) make statements to the electorate or the appointing authority that commit the candidate with respect to cases, controversies or issues that could come before the courts; or (2) knowingly, or with reckless disregard for the truth, misrepresent the identity, qualifications, present position or any other fact concerning the candidate or his or her opponent.

C. Speaking at Political Gatherings

Candidates for judicial office may speak at political gatherings only on their own behalf or on behalf of another candidate for judicial office.

Canon 5B, unlike the rest of Canon 5, applies both to candidates for election and for appointment. Those seeking appointment to judicial office are apparently free to conduct the kinds of activities proscribed for elected judicial office and given the wording of Rule 1-700, seemingly beyond the reach of professional discipline for violating Canon 5B. In fact, they are not completely, because knowing or reckless misrepresentation from the candidate for judicial appointment would still potentially subject him or her to discipline for dishonesty under Bus. & Prof. Code section 6106 or discipline for failing to uphold the law (Canon 5B, that is) under Bus. & Prof. Code section 6068(a).

One of the seeming inequities of Canon 5 is that activity that might subject a candidate for judicial election to professional discipline, at least theoretically, such as leadership in a political organization, might actually be the kind of activity that makes a candidate for appointment by the executive stand out from the crowd of others seeking appointment. But the public policy purpose of Rule 1-700 and Canon 5 is to put candidates of judicial election and the sitting judges on a level playing field, so that candidates for election would not be able to gain an unfair advantage in a judicial election over a sitting judge. Those considerations do not apply to candidates for appointment to disciplinary prosecution for violating Rule 1-700. Rules of Professional Conduct serve more than one purpose. They establish minimum standards that must be met to avoid the imposition of discipline but they also serve a prophylactic function, guiding the behavior of members of the bar and establishing generally accepted norms. Rule 1-700 is one of the many Rules of Professional Conduct that serve this prophylactic function.

Transition Issues

One area where lawyers seeking to shift from bar to bench have been subject to disciplinary complaints involves issues in winding up the lawyer’s private law practice. Rule of Professional Conduct 3-700 governs termination of employment. Law practice, unlike other forms of employment, usually cannot be stopped on a dime.

Rule 3-700(A) (2) provides that an attorney may not withdraw from employment until the attorney has taken reasonable steps to avoid reasonably foreseeable prejudice to the client, including giving due notice to the client, allowing time for employment of other counsel and complying with Rule 3-700(U). Rule 3-700(U) in turn provides that an attorney whose employment has terminated must refund any part of a fee that has not been paid and return all papers and property to the client.

A lawyer who is appointed or elected to the bench has a duty to wind up his or her practice consistent with Rule 3-700. This means advanced planning during the time when the lawyer’s appointment or the election is pending. The appointment process is long and uncertain; the election process is shorter and somewhat more certain (you win or you don’t). Moreover, a lawyer elected judge may have a shorter time to wind down the practice than an appointed judge. Prudence means that lawyers who want to stand for judicial election need to work out their transition plan very early in the process.

Compliance with Election Laws

Compliance with election laws would seem to be, colloquially speaking, a “no-brainer.” Yet lawyers running for judicial office have sometimes found this difficult and this is one area where professional discipline is much more certain, especially if the violation has been the subject of a successful criminal prosecution.

The Rivas case² offers a worst-case scenario.

It is not uncommon for residency of a candidate for office to be a matter of some controversy and charges of “carpetbagging” by candidates who do not truly live in the district they are running in. Mr. Rivas, by all accounts a well-regarded attorney in the Inland Empire³, filed election documents in

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² In Re Rivas (1989) 49 Cal.3d 794.
³ “Several witnesses, including judges, lawyers, and a clergyman, testified at petitioner’s criminal trial regarding his reputation for truth and integrity.” Rivas, at 788-89.
February 1982 to run for a municipal court in the City of Chino. At the time he filed the first of these documents, he intended to trade his home in Upland for a home in Chino that belonged to his wife’s niece. Shortly after he filed the first of the required documents, he learned that the exchange with his wife’s niece would not occur. As he testified at his criminal trial, he “panicked” and asked his sister-in-law if he could rent her house on Valle Vista Drive in Chino. He filed a voter registration form on March 12, 1982, listing the Valle Vista address as his residence but did not move there until shortly after signing a lease on March 14.

Mr. Rivas was charged with five felony counts of violating Elections Code sections 29200 (willfully registering to vote at the Chino addresses “knowing such registration was unlawful”) and 29303 (knowingly filing false election documents). He was convicted after a jury trial. Because his crimes involved moral turpitude, he was placed on interim suspension following conviction. Following an unsuccessful appeal, he was subject to a criminal conviction referral proceeding in State Bar Court that resulted in a recommendation of disbarment, despite his lack of any prior discipline and the testimony regarding his good moral character.

The California Supreme Court (Justice Mosk dissenting) upheld the disbarment recommendation:

We first reject petitioner’s attempt to minimize the seriousness of his crimes. Although only a single ballot campaign was involved, petitioner committed five separate acts of deceit solely to advance his career. Such dishonesty—particularly because it

A lawyer who is appointed or elected to the bench has a duty to wind up his or her practice consistent with Rule 3-700.
was aimed at ascending to the judiciary—raises serious questions concerning his professional trustworthiness and judgment. Petitioner’s criminal conduct also inflicted substantial harm upon “the public [and] the administration of justice.” Through use of these false documents, he exposed voters to an unqualified candidate and presumably drew votes away from candidates legitimately on the ballot. While the record does not reflect whether petitioner’s candidacy actually affected the election’s outcome, his conduct seriously undermines public confidence in the integrity of the legal profession and the election process.

Justice Mosk, in his dissent, cited case law authority that “legal residence is almost altogether a question of his intent” and, while conceding that the Court could not re-litigate the criminal trial, found the conduct less egregious, found disbarment unduly punitive and would have imposed a year of actual suspension.

The seemingly harsh result in Rivas can only reflect the extreme gravity that the Supreme Court attaches to the question of judicial qualification, especially where the judge is attempting to be elected to office rather than being vetted through the painstaking process of appointment to the bench, including the active participation of the State Bar’s Commission on Judicial Nominees. Concern with the vagaries of judicial election is the reason that ethical considerations for lawyers seeking a black robe are freighted so heavily in the election realm.

The postscript to Rivas bears the reason for this concern. Following his disbarment, Mr. Rivas won reinstatement to the State Bar in 1993. In 2004 he was disbarred a second time, for misappropriating at least $75,600 from a terminally ill client who had hired him to prepare her will and to represent her and her daughters in the sale of a house.

Conclusion
Legal ethics is as much about having the proper attitude toward ethics as knowing the ethical rules. Probably more. The black letter law of legal ethics regarding issues faced by the lawyer who wants to become a judge is not extensive. Knowledge is necessary but what really counts is whether the candidate for judicial office has internalized the importance of legal ethics as a way of professional life, not just a series of externally articulated rules.

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1 Rivas, at 800-01.
2 Ibid., at 803.
3 State Bar membership number 52736.
The San Diego County Bar Association and the San Diego Superior Court provide programs to inspire future lawyers

Current SDCBA youth outreach and education programs:

**LAW WEEK POSTER & ESSAY CONTEST**
This annual event involves school children in our Law Week celebration and generates excitement toward the justice system. Children in kindergarten through sixth grade are eligible to participate in the Poster Contest, while students in sixth through 12th grades can enter the Essay Contest. Entries are normally due in March with awards presented at the annual Law Week Luncheon in late April or early May. A cash prize is awarded to three entries in each of the two contests. To participate in the Poster & Essay Contest, contact Michelle Chavez at mchavez@sdcba.org.

**HIGH SCHOOL MOCK TRIAL COMPETITION**
The Mock Trial Competition, which takes place each January/February, places high school students in a simulated courtroom setting where they assume the roles of lawyers and witnesses in a hypothetical case. The winning team goes on to represent San Diego County at the California Mock Trial Finals in March. As part of the program, area lawyers volunteer to serve as coaches and scorers for the competition, and Superior Court Judges and Commissioners preside over the mock trials. The competition serves to promote a greater understanding of and appreciation for the law, court procedures and for the American judicial system. It also offers students a real-life opportunity to challenge and improve basic life skills such as critical thinking, reading, public speaking and advocacy for ideas. This program is a collaboration of the SDCBA, the San Diego County District Attorney’s Office and the San Diego Superior Court. For 2012, over 22 area high schools plan on participating. For more information and to get involved in next year’s competition, email mchavez@sdcba.org.

**CHILDREN AT RISK COMMITTEE**
The SDCBA’s Children at Risk Committee works to advance the interest of children in different
legal forums, in the public and before decision makers. The Committee facilitates a number of programs that bring SDCBA members directly into the classroom. These include:

• **Mock Trial Video Presentation**

  SDCBA volunteers present a mock criminal trial video to elementary and middle school students throughout San Diego. The Mock Trial Video presentation is used as an effort to teach students about the legal system and to help prevent at-risk behavior.

  Program volunteers present a video showing the hypothetical criminal trial, which includes judges, courtroom staff, lawyers and witnesses. All of the roles in the recording are acted out by children. During the video, the facilitators and the students pause to discuss the legal meaning of what is taking place in the trial they are watching. Afterward, students further explore the legal system by breaking up into groups and deciding the outcome as jurors. The presentations are generally one-and-a-half to two hours long and require modest preparation. For more information, contact Christopher Todd at ctodd@wingertlaw.com.

• **San Diego Book Project**

  Through a partnership with A Plus Surplus Inc., the San Diego Book Project provides needy organizations with books at no charge. The group has arranged for over 50,000 books to be delivered to 40 local organizations. With everything from textbooks to new novels, nonfiction and gently used children’s books, the group has a variety of materials ready for any interested organization. For more information, contact Mike Meaney at researchsd@aol.com.

• **Attorneys in the Classroom**

  The SDCBA coordinates a speakers bureau for classrooms planning a lesson on the judicial branch of government or celebrating Constitution Day. SDCBA members are eager, able and willing to come to area classrooms and speak with students on a variety of topics. To find out about arranging for an attorney to speak to your classroom, contact bar@sdcba.org.

• **Conflict Resolution Training**

  The SDCBA’s Children at Risk Committee provides Conflict Resolution Training in an effort to teach peaceful ways to prevent and resolve conflicts in the schools. Judges, attorneys, law students and other legal professionals lead this very innovative and effective program and also serve as group leaders. For more information, please contact Lori Mendez at lori@mendezplc.com.

• **Porter Readers: SDCBA**

  SDCBA volunteers form teams of five to seven readers and adopt a classroom where they read monthly at Porter Elementary. At the end of the year, each Porter Reader team will select and present each student in their classroom with a gently used book from the San Diego Book Project.

• **Rolling Readers Program for Area Elementary Schools**

  SDCBA volunteers also adopt classrooms through Rolling Readers, and read weekly throughout the year to at-risk students. Opportunities to read are available at Baker Elementary, Balboa Elementary, Bancroft Elementary, Ericson Elementary, Fay Elementary, Herbert Ibarra, Mason Elementary and Nubia Leadership Academy. Alternatively, Rolling Readers can look into other sites if a volunteer reader has a specific site where they would like to be placed.
San Diego Superior Court student outreach and education programs:

During the 2010-11 school year, more than 9,000 elementary through college students from 115 schools participated in student outreach and education programs offered by the San Diego Superior Court. Below is a description of current programs. For more information, contact Julie Myres, Community Outreach and Education Program Manager, at 619-450-7176, or visit www.sdcourt.ca.gov and click on “Media and Education.”

JUSTICE 101

The Justice 101 program, developed by the Honorable Frederic L. Link, provides high school seniors a unique look at the San Diego Superior Court system with an emphasis on the real impact of making poor choices. Developed to enhance American Government courses, the program gives students an opportunity to experience the justice system firsthand. It includes:

• A candid presentation by a Superior Court judge about topics that are very relevant to students, such as drinking and driving, teen violence and date rape, presented in a way students can relate to and understand.
• Visits to courtrooms to observe actual court proceedings in session.
• Q&A period with a court official and Deputy Sheriff to answer questions about what they observed in the courtrooms and a discussion about the tragic consequences of drunk driving, which includes photos of two local car accidents caused by drunk drivers.

Justice 101 is offered September through May. Video highlights of the program can be viewed at www.sdcourt.ca.gov.

COURTHOUSE TOUR PROGRAM

The San Diego Superior Court, in collaboration with the San Diego County Bar Association, offers the Courthouse Tour Program to provide fifth-through 12th-grade students the opportunity to experience the California Justice System for themselves. Students observe proceedings in the felony arraignment courtroom, including a Q&A session with the judge, participate in a mock trial and view a trial in progress. As preparation for the tour, teachers are sent a vocabulary list of terms that students may hear during their tour along with the “Path to Justice” video, an overview of the California Justice System. Tours are offered Tuesday through Thursday during the school year and are led by volunteer tour guides.

PASSPORT TO LIFE CAREER AND EDUCATION EXPO

Passport to Life, developed by the Honorable Carolyn M. Caietti, is a career and education expo aimed at youth ages 14 to 24 who are on probation or have been on probation in the San Diego Superior Court, Juvenile Division. The annual event is held at San Diego City College and provides user-friendly information about resources and opportunities available to them as they transition from being a youth on probation into adulthood with adult responsibilities. The goal is to provide them with ideas, tools, motivation, encouragement and hope for their future. It is based on the premise that all youth, including adjudicated youth with probation histories, have the ability to succeed if they have the right training, support and opportunities. More than 800 at-risk youth attended the 2011 event.

COLOR OF JUSTICE

Color of Justice, coordinated by the Honorable Tamila E.
Ipema and the Honorable Margie G. Woods, is a collaborative effort of the National Association of Women Judges and the San Diego Superior Court. This unique and interactive program was designed to inform and inspire students from at-risk schools about careers in the law; to identify the academic requirements and skills needed to succeed; and to understand the importance of personal commitment, passion, dedication and the reward of hard work needed to achieve a career goal. Experienced judges and lawyers of diverse backgrounds share their experiences including the reasons why they chose their careers. The program includes a panel discussion of legal professionals and a “jet mentoring session” that provides students the opportunity to speak to judges, attorneys and law students on a one-on-one basis.

**YOUTH IN COURT DAY**
Youth in Court Day, developed by the Honorable Joan P. Weber, is held annually in the Superior Court’s North County Division. The goal of the program is to expose students to various aspects of the judicial system. More than 1,000 elementary, middle and high school students are given the opportunity to interact with judges and staff during the day-long event. Domestic violence, forensic evidence and gang violence are some of the various topics that are examined through either workshops or mock trial settings.

**ON MY HONOR PROGRAM**
On My Honor, developed by the Honorable Richard G. Cline, is a comprehensive educational experience that teaches students in fourth through eighth grades about the legal system and the administration of justice. The program includes a class curriculum teacher’s guide, lesson plans and activities, as well as a visit to the court and participation in a mock trial. During the mock trial, which is presided over by a Superior Court judge, every student joins in as counsel, jury member, court reporter or defendant. The program is offered throughout the school year at the North County and East County Divisions of the San Diego Superior Court.

**OPEN DOORS TO JUSTICE**
Open Doors to Justice is a collaborative effort of the San Diego Superior Court, San Diego County Public Defender’s Office and the San Diego County District Attorney’s Office. The program, offered monthly at the South County Division of the San Diego Superior Court, provides middle school students firsthand knowledge of how the justice system works and the consequences of making bad choices. The students view actual trials and tour a prisoner holding cell at the courthouse.
As George Orwell described in *1984*, “transceiving television screens continuously monitored citizen activities of the super-state Oceania.” Today, social media sites appear to have brought Orwell’s precautionary tale to life in our courtrooms. Social media has burst through the courtroom door as evidence in trials. And a recent Appellate opinion illuminates the parameters that apply to social media evidence.

Before the "Telescreen" Revolution

Prior to the Internet, photographs, witness interviews, drawings, contemporaneously created documents and limited video were used in court to support or defend against a claim. However, incidents were analyzed and witnesses were interviewed well after an event happened. Transient witnesses to an event often disappeared sometimes without a trace or as if “vaporized” like the “unpersons” in Orwell’s novel. Many times responding police or fire department personnel reports were limited in nature. Private investigators were retained much later to try locating eye-witnesses sometimes with little or no success. Later, once the Internet developed, basic web searches were used on products, prospective parties and those missing witnesses.

Dawning of a New Information Age

Social media now engulfs the web with consumer-driven content. One commentator defined social media as “interactive mobile and web-based communications technology” [Kaplan, Acheas, M., Michael Haenlin (2010) “Users of the World Unite. The Challenges and Opportunities in Social Media.” *Business Horizons* (2009)]. Social media is generated by consumers, not the traditional broadcast or print media, to include use of low-cost technology with immediate coverage of events. Catastrophic events and losses are ripe for social media, including video, blogs, online forums, podcasts, pictures, etc. The mass introduction of smart phones dramatically increased uploads to social media sites, enabling many to take instant video, photos and audio recordings at an event in real time.

The Thought Police

Counsel need to evaluate social media sites such as Twitter, YouTube, Flickr, Facebook, MySpace and Spokeo, among many others, as well as blogs. Those sites can locate pre- and post-loss videos, photos, a witness’s identity and possible statements/recordings, as well as articles about what happened and detailed background information on parties and witnesses.
Twitter

Tweets are viewed in headline fashion (140-character messages) and can include photos and links to online information, news stories, videos and other social media content. Be sure to search Twitter as soon as possible after the event; tweets may only be searchable for 7-10 days.

Catastrophes generate a multitude of tweets. Those tweets can be from individuals, public officials, politicians, fire department personnel, witnesses and even parties to the event. As noted above, tweets can contain photos, links to potential witnesses and news. Sometimes, critical photos can be found such as how a fire started or spread before authorities arrived. Those photos and links to videos can be used to bolster or impeach experts who claim the fire did or did not start where the photos/videos show it did. Further, background/biography information about the Twitter account holder can be sourced, including photos, links to personal websites and the history of that individual’s tweets.

Facebook

As of December 2011, there were more than 845 million active users on Facebook, and more than 25 million of these users access Facebook through mobile devices. Facebook provides more detailed information about individuals than what is found on Twitter, including birth date, education, employment, relationship status, religion/politics, interests and links to websites. Personal wall posts can include commentary, video and pictures.

Flickr

A photo-sharing website, Flickr allows users to search, sort and store photos on the site, which hosts over 5 billion photographs. Flickr proved to be extremely useful in the October 2007 Malibu wildfire. The fire is alleged to have been caused by a high-voltage transmission line failing and igniting nearby combustibles. Significant destruction happened due to the fire in the area where the fire is alleged to have started. Photos taken after the event did not show the transmission lines and secondary power poles. Those were destroyed in the fire. However, Flickr was used to find pre-loss photos that showed a substantial number of transmission poles and lines in the contested area. One such image was used in depositions in the civil case. The photo was of such high quality it was loaded on an iPad and zoomed in on and used with witnesses at depositions.

Spokeo

Searching for witness information can be critical to prosecute or defend a claim. Spokeo is a website that allows an initial free search by entering the first and last name of a witness or other search criteria such as e-mail address, phone number, address or username. Information that can be developed includes estimated age, address/phone, marital status, price paid for home, a Google photo of the home, persons living in the household and known family members. For an additional fee, additional information can be obtained to include e-mail address, exact age, religion, political party, estimated income, social profile, photos, video, hobbies, lifestyle and more.

Social Media Materials Are Not Incinerated in a “Memory Hole”

In People v. Valdez (2011) 201 Cal.App.4th 1429, social-networking web pages were introduced in evidence during the criminal jury trial alleging attempted murder, assault with a firearm and street terrorism. MySpace webpage printouts were accepted into evidence and relied upon by the prosecution’s gang expert. The admitted pages included defendant’s gang moniker, a photograph of him making a gang hand signal and written notations. The gang expert testified the printouts’ use of the letter “G” in “O.C.’s Most Wanted G’s” stood for “gangster.” The printouts made a year before the shootings happened. At trial the investigator testified MySpace pages

YouTube

YouTube is a tremendous research tool to seek out original videos of losses, including traumatic events such as fires, explosions and other catastrophic losses. An example of an ongoing litigated civil matter involves the gas explosion in San Bruno, Calif. Shortly after that tragic event, a multitude of videos were shot and uploaded by bystanders. Those videos—shot from a variety of angles—provided a wealth of information and different perspectives about the general area where the first explosion happened and the subsequent spread of the fire, and were critically analyzed by experts immediately after the tragedy. Sometimes those videos show the exact condition of the area before emergency responders arrive and evidence is moved, destroyed or not preserved due to the emergency response. These videos provide essential information on the scope of the event, timing of later explosions/fire spread and witness identification. Some videos capture statements of those at the loss site about what they see happening. YouTube content and videos are downloadable. Free software at www.ant.com/video-downloader is available and should be used to save videos to your computer for future use.
Ignorance Is Not Strength

Social media evidence will continue to rapidly impact our courtrooms. Care must be taken in offering or opposing social media evidence to avoid objections being “vaporized” or “erased from existence” by the court.

Peter Lynch (plynch@cozen.com) is a partner with Cozen O’Connor.
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Judicate West Congratulates Hon. Linda Quinn for Her 25 Years of Distinguished Service on the San Diego Superior Court. We Are Honored to Welcome Her to Our Eminent Panel of Neutrals

Judge Quinn has conducted hundreds of settlement conferences during her tenure on the Superior Court and on special assignment in the Fourth District Court of Appeals. She also sat in the Family Law department for over 4 years. She is now available for mediations, arbitrations and all private judging assignments.

Judge Quinn has a reputation for being fair, bright, thoughtful and courteous, and was well-respected for running her courtroom in a formal but relaxed manner. One attorney said, “She worked very hard at settling our case, she is a great listener and cares, I am looking forward to working with her in the private sector.”

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Homelessness is a continuing, if not escalating problem in San Diego. While the homeless struggle to find food, keep their scant belongings and secure a safe place to sleep, many also face a considerable number of legal issues that hinder their chances of rehabilitation.

It’s not uncommon for persons who spend their lives on the street to incur citations for such activities as illegal lodging, riding the trolley without paying the fare and drinking in public. Fearing incarceration and fines, many of them ignore the citations and eventually wind up with outstanding warrants.

“One of the biggest fears homeless people have is facing the court,” says Deputy Public Defender Steve Binder.

In 1988, Veterans Village of San Diego (VVSD) held its first Stand Down event at San Diego High School to address the homelessness issue with the help of the Office of the City Attorney, public defenders, the court, the Veterans Administrations and numerous social service agencies. Organizations and volunteers teamed up to provide shelter, food, clothing and other services to homeless veterans over the course of three days.

Of 500 surveys taken at the event, 116 of the participants said their greatest need was help with outstanding warrants. In response, Binder and others worked to establish a court that could be integrated into Stand Down.

The first session, which now-retired Judge Mac Amos
presided over, was held on the handball courts of San Diego High School in 1989, with the help of the Office of the City Attorney, public defenders, the court, the Veterans Administrations and several social service agencies. The program has been an important part of Stand Down ever since.

The Homeless Court at Stand Down focuses on alternative sentencing options. Instead of fines or incarceration, a judge may order participants to take care of medical issues and mental health needs or search for employment or anything that helps benefit their well-being. After more than 20 years, Binder estimates that some 3,920 people resolved over 16,640 criminal cases at Stand Down.

Besides criminal cases, homeless individuals who attend Stand Down can also deal with child support, tax and landlord-tenant issues, among others. “Convictions and incarcerations give the appearance of solving problems but the solution is addressing underlying trauma and behavior,” Binder says. “Emphasis on accomplishment and viewing an individual by success often sends a more powerful and constructive message.”

After the Homeless Court at Stand Down proved successful, it evolved to serve the general homeless population in San Diego. In 1990, Homeless Court was available at the Women’s Resource Fair for homeless and battered women. It then began serving members of St. Vincent de Paul’s Village and VVSD on an ad hoc, almost quarterly basis.

Sessions are now held monthly in San Diego and North San Diego County to help individuals involved in local treatment programs. The court sees individuals who are participating in recovery programs from more than 20 local service agencies in San Diego and 15 in North San Diego County. These agencies include The Salvation Army and The San Diego Rescue Mission.

Rather than taking place in an actual courtroom, Homeless Court in San Diego is held at VVSD and St. Vincent de Paul’s Village in an environment that is inviting and familiar to those seeking to reclaim their lives. The prosecution works with the defense to acknowledge participants for outstanding performance in their program by dropping or even dismissing their misdemeanor charges.

“The prosecution carefully evaluates offenses and reconciles them against the entry criteria for which each agency refers clients, as well

“As a prosecutor I owe a duty to these people because they are citizens, and although they are sometimes treated as if they’re outside society, they are members of the community.”

Deputy District Attorney Richard McCue
as the advocacy packet letters and certificates in resolving offenses,” Binder says.

Deputy District Attorney Richard McCue and Paige Hazard of the City Attorney’s office are among the prosecutors who participate in Homeless Court.

“As a prosecutor I owe a duty to these people because they are citizens, and although they are sometimes treated as if they’re outside society, they are members of the community,” McCue says. “We cooperate to make the road to recovery more smooth for these people.”

DLA Piper, which dedicates roughly 5,000 hours a year to helping veterans and the homeless population, sends pro bono attorneys to Homeless Court to assist participants.

“For most of these clients, this is their first positive experience with the justice system,” says Adam Garson, an associate who chairs the firm’s San Diego Pro Bono Project. “They have already put forth a tremendous effort to get their lives back on track, and their appearance at Homeless Court helps reintegrate them back into mainstream, productive society.”

John MacKanin, a veteran and San Diego native, found himself living on the streets of Pacific Beach for five years in the early 1990s while battling an alcohol addiction. He often received citations for sleeping on the beach, and wound up with outstanding warrants.

“I tore up the citations and threw them away because I did not want to be incarcerated and I did not have money to pay the fines,” MacKanin says.

MacKanin decided to turn his life around and became sober in 1999. While beginning his journey to long-term sobriety, he resided at VVSD, where he was considered a model resident, and participated in alcohol treatment programs.

“Homeless Court played a big role in me getting sober and staying sober,” he says. “Having the judge dismiss the charges and
forgive any fines before me gave me an opportunity to concentrate on sobriety."

Since turning his life around, MacKanin has played a positive role in the lives of others and, in January, he celebrated his 13th year of sobriety. He is a regular volunteer at Stand Down, speaks at conferences around the country and mentors individuals who face the same challenges that he once did.

MacKanin is just one of the many successful individuals who have received help from the Homeless Court program. However, many people still face tremendous financial and mental challenges that could eventually lead them to a life on the streets. The San Diego Regional Task Force determined that 9,020 people were homeless in 2011, up 5 percent from the year before. More than half of the homeless reported were unsheltered, and many of them were veterans.

“The face of homelessness is changing. Increasingly middle-class people are falling to the streets and programs are adapting new treatment plans to meet their pressing needs,” Binder says. “I see these individuals as our leaders for the future in that they are showing us, the community at large, that you can overcome and deal with serious challenges and obstacles to reclaim your life and live as a contributing neighbor in our community.”

Elisabeth Donovan (lizziedonovan@yahoo.com) is a 3L at Thomas Jefferson School of Law.

For more information on how to get involved with the Homeless Court, visit the Veterans Village of San Diego website at www.vvsd.net/court.htm or the St. Vincent de Paul’s Village website at www.svdp.org.
San Diego Lawyer is tracking the construction of the new Federal Courthouse. This photo was taken in March 2012.

Barry Carlton (bjcarlton@cox.net) is a supervising deputy attorney general with the California Attorney General’s office.
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invites the members of the
San Diego Legal Community
to join us for the installation of

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nominated by Robert Steiner • presented by the Hon. Norbert Enhrenfreund

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Norman T. Seltzer
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Distinguished Lawyer Memorial

The honorees will be inducted at a reception to be held
Wednesday, May 23, 2012
5:30 – 7:30 p.m.
The Bar Center • 1333 Seventh Avenue • San Diego, CA 92101

There is no charge to attend the reception.
To RSVP or make an honorary contribution please call 619-231-7015.
For more information please visit www.sdcbf.org and click on Distinguished Lawyer Memorial.

The Distinguished Lawyer Memorial Fund

was founded in 1989 to give special and permanent recognition to deceased lawyers and judges of the San Diego County Bar who demonstrated superior legal skills and high ethical standards throughout careers of significant length and whose professional, public and private careers have demonstrated outstanding dedication to the welfare of the community. Distinguished lawyers inductees are nominated by family, friends and colleagues and are selected by the Bar Foundation’s Board of Directors. Contributions made with the nomination support the Foundation and its many community outreach projects.

SAN DIEGO COUNTY BAR FOUNDATION

is the charitable arm of the San Diego County legal community, and in partnership with the San Diego County Bar Association, strives to provide access to justice by investing in sustainable results and advocacy for people and communities in our region that are impacted by poverty, abuse and discrimination. To achieve this mission the Bar Foundation has granted over $2.7 million to over 40 legal aid and public interest organizations and has participated in numerous local and national partnerships that assist in closing the justice gap.
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We find the defendant not guilty by reason of celebrity.

NAME THAT BUILDING
Please submit answers by May 20 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 Deputy District Attorney Lisa Weinreb, whose name was drawn from those who correctly identified the San Diego Superior Court in the March/April issue. Photo by James Blust.

CORRECTION
In the March/April 2012 issue, the image on page 39 of Judge Garry Haehnle was misidentified as attorney Garry Haehnle. San Diego Lawyer apologizes for the error.
Photographs by Barry Carlton

Judges and lawyers gathered at the Bar Center on March 7 for the annual Judicial Reception, sponsored by GEICO, PROVEN Staffing, TERIS and West.

Hon. Kevin Enright, Melissa Diaz, Hon. Dwayne Moring

Hon. Gerald Jessop, Hon. Gale Kaneshiro

Hon. Melinda Lasater, Mike Lasater, Christopher Alexander

Sandra Chong, George Howard, Kim Stewart, Hon. Robert Longstreth

Tatyana Livshits, Renee Cloud, Amanda Branca
PHOTO GALLERY

**SDVLP’S LAF-OFF**

PHOTOGRAPHS BY DAVID AUSTIN AND FREYJA TURNER

San Diego Volunteer Lawyer Program held its sixth annual LAF-Off competition on March 22 at the House of Blues.

- Lorena Slomanson, Kelli Black, Claudia Yvette Arzaga
- John Gomez, Diana Marie Khoury, Vickie Wolf
- Patti Zlaket, Jay Jeffcoat, Cindy Freeland
- Bing Ai, John Schnurer, Mike Reid, Thane Bauz, Peter Townshend
- Ginger Smith, Julianne Brown, Peter K. Lay, Lorena Slomanson, Thane Bauz
- Katherine Wren, Veta Richardson, Teigue Thomas
- Katherine Wren, Patti Matthie, Abigail Parente, Sarah Cardon
- Nicole Paul, Patti Matthie, Abigail Parente, Sarah Cardon

**BLACK & WHITE BALL**

JERRY ROBERTS PHOTOGRAPHY

The San Diego Chapter of the Association of Corporate Counsel celebrated its 11th annual Black and White Ball on March 3 at the Manchester Grand Hyatt.
The SDCBA’s annual Golf Tournament was held March 30 at the Rancho Bernado Inn & Golf Course. The SDCBA Golf Tournament was sponsored by Torrey Pines Bank, TelePacific Communications, WestlawNext, Voit Real Estate Services, PROVEN Staffing, Merrill Corporation and Hutchings Court Reporters.

PHOTO GALLERY

GOLF TOURNAMENT
PHOTOGRAPHS
BY DAVID SETO

The SDCBA’s annual Golf Tournament was held March 30 at the Rancho Bernado Inn & Golf Course. The SDCBA Golf Tournament was sponsored by Torrey Pines Bank, TelePacific Communications, WestlawNext, Voit Real Estate Services, PROVEN Staffing, Merrill Corporation and Hutchings Court Reporters.

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PHOTO GALLERY
Attorney volunteers read to Porter Elementary students during the SDCBA Children At Risk Committee’s Literacy Day in March. Photo by Danielle Hickman.
PRACTICE IN A SMALL FIRM OR A SOLO PRACTITIONER?

The SDCBA’s Member Benefit program offers small and solo practitioners savings on practice-related products and services including:

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To learn more, visit www.sdcba.org/benefits.

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Discount on four other lines may be employee/family lines tied to the law firm/corporate line.
Not eligible for discounts; must be added to a calling plan of $34.99 or higher; corporate accounts only.
To learn more about the SDCBA program