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Deliver 300 words on surfing and the law? That’s kinds like doing 300 words on Taxman and poker. As is simplest, surfing is just pure, clean fun. You take a finned planning device, paddle to match the speed of a cresting ocean wave, then ride the breaking wave to its ruination on the shore. Paddle back out and do it again and again until exhausted. Find a hot shower, a fast taco, a cold beer and a good place for a nap. All highly satisfying and, with the appropriate sun protection, pleasantly addictive behaviors having no particular redeeming social value nor, when it comes right down to it, any lasting importance to anyone but the surfer and maybe a couple of buddies.

But as a SoCal boomer, surfing hasn’t always been pure, clean or fun. The number of surf spots is finite, so long before law school, I’d already learned the basic laws of crowd survival. First, to get good waves, you have to travel. Take a plain board without identifying logos. Paddle out like you were born in a chanted hush on that very beach. And always, always, always paddle out directly to the peaks that’s where the power is. Catch the wave at the peak, and you immediately have the speed you need to make the wave. And you have position, leaving everyone else paddling to get out of your way and wondering, “Who the hell is that guy?”

If you ever find yourself surrounded by a pack of herna locals, beat a hasty but unpanicked retreat if you can. And if you can’t escape (this has happened to me once, ever), punch the first guy who gets close enough square in the nose, then beat a hasty but unpanicked retreat.

What does all this have to do with the practice of law? Not much, really. Law is just a respectable profession that pays for the plane tickets, the surf wax and the quiet satisfaction of a few waves rippled down.  

Anton Gerschler is an attorney with North County Law Firm and can be reached at anton@northcountylawfirm.com.
Giving Back

As attorneys, we are the ambassadors of our legal system. As such, it is important for us to volunteer our time and skills outside of the office and the courtroom, for the benefit of our San Diego community. There are dozens of ways to do this. We can provide direct representation in pro bono cases; we can participate in legal clinics; we can help build homes for indigent families. Despite the abundance of opportunities, however, it is sometimes difficult to find out about them so we can decide which ones are right for us. The good news is that the SDCA is committed to offering these service opportunities to its members. In this month’s President’s Page, I would like to talk about three such opportunities: the HOME Clinics, the Service members Civil Relief Act pro bono panel and the Children at Risk Committee.

The SDCA’s Real Property Law Section and Community Service Committee have joined together to take part in countrywide HUD-sponsored HOME (Home Owners Mobile Education) Clinics. Volunteer attorneys are already hard at work counseling distressed homeowners and providing guidance to those impacted by our country’s housing predicament. As the HOME Clinics continue to take place throughout the county, we need additional attorney volunteers to provide counseling to homeowners facing foreclosure, adjusting interest rates and decreased property values. This is an excellent way for our profession to give back during a time of true crisis.

The SDCA is also in the process of putting together a panel to provide pro bono representation to those who qualify under the Servicemembers Civil Relief Act. The act gives certain protections to military servicemen and women on active duty. Specifically, in the civil arena, these military personnel have the right to a minimum 90-day stay of certain proceedings, upon request. The SDCA will be putting together and maintaining a panel of volunteer attorneys willing to make limited appearances on behalf of the affected servicemen and women, to request the statutory stays.

The final opportunity presented in this column is through the SDCA’s Children at Risk Committee. This committee offers attorneys, paralegals, judges and law students opportunities to work with underprivileged children in various settings. Comprising more than 100 dedicated volunteers, the Children at Risk Committee partners with Porter Elementary School and Madison High School to organize events for the students throughout the school year. Specifically, the committee sponsors a volunteer readers program, literacy events, an annual book drive, a mock-trial video program, a conflict-resolution skills program and opportunities to mentor high school students and judge their senior projects. In addition, the Credit Abuse Resistance Education Program teaches financial literacy to high school and college students. While the majority of the events for the 2007-2008 school year have already taken place, outreach will resume in the fall.

I want to congratulate and thank all SDCA members who have given so generously of their time by participating in these worthwhile projects, and others. I encourage those looking to give back to visit the “Volunteer Opportunities” section of the SDCA Web site (www.sdcba.org) to learn more about these three programs, as well as others. By becoming involved, we not only help those in need, but we show the world that our profession truly is comprised of good people doing good things.

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Moving on Up, Out and Over

U.S. District Court Judge Thomas Whelan was honored by the University of San Diego with the Author E. Hughes Award for Career Achievement. As a longstanding member of the USD Alumni Board, Judge Whelan has provided support to USD students by welcoming new J.D. and LLM candidates during orientation, serving as a jurist in the final rounds of the prestigious McLaren Honors Moot Court Competition and supervising third-year students in judicial internships.

Pocpicio, Cory, Hargaves & Savitch lawyers making news include Faizan Essa, chosen for the board of directors of the California Western School of Law Alumni Association; Gregory Powers, elected to the board of directors of the San Diego North Economic Development Council; Timothy Salter, elected to the board of directors of the North County Trade Tech High School; Eric Swenson, named to the board of directors of the Pacific Beach Community Foundation; and Wendy Tucker, named to the board of directors of the Boys and Girls Club of Greater San Diego.

Superior Court Judge George “Woody” Clarke has published the book Justice and Science, which features a foreword by former Attorney General Janet Reno and is based on Judge Clarke's extensive background as a pioneer in the DNA arena. Retired Superior Court Judge Norbert Ehrenfreund also published The Nuremberg Legacy: How the Nazi War Crimes Trials Changed the Course of History. Judge Ehrenfreund served as a judge for 30 years and served as a correspondent for the Stars and Stripes during the Nuremberg trials.

Paul Kennerson of Kennerson & Grant was inducted into the Grolier Club in New York, the international, 125-year-old gathering of liberal arts and scientificcollectible book experts. Paul cites Justice Holmes, who claimed that he learned most of his law from the books he came across on his way to locating the law books.

Nick Leot of Velmers & Leot received the 2008 Family Law Person of the Year Award from the Southern California chapter of the American Academy of Matrimonial Lawyers.

Steve Vosseller opened his own office focusing on personal injury, wrongful death and product liability matters.

Christopher Workman has joined the Del Mar Law Group. He was formerly with Lewis Brisbois Bisgaard & Smith and has 17 years of litigation experience.

Wendy Patrick Mazzarella is a deputy district attorney and can be reached at wendy.mazzarella@sdle.org.
What's the best surfing spot for a California lawyer?

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Flying High with Fiction
with Jim Huston of Morrison & Foerster

What's your most recent novel about?
My next novel, to be published in 2008, is Marine One, the name of the president's helicopter. It begins with the president climbing into Marine One in a thunderstorm. The helicopter crashes into a ravine, killing everyone aboard. Mike Nolan, a Maryland attorney, is hired to find out what happened and ultimately defend the manufacturer in a wrongful-death case brought by the first lady.

You've published one novel a year from 1996 to 2003. How do you manage writing and working full-time?
I did work part-time for two years, but it was quite a challenge to write on a full-time basis and work full-time as well (all while raising five children with my wife). Probably the key to using my time efficiently was my decision to dictate the first draft while driving to and from work.

When your first two novels were not accepted for publication, how did you discover what you needed to change so all seven subsequent efforts were published?
Most books on writing fiction will tell you your first works are almost sure not to get published. Even if you have a good story, your execution is unlikely to be very good in your first or second effort. And you don't get feedback from the industry when you're unpublished. Agents and editors simply reject you; they don't give you much direction. I had hundreds of rejection letters but just kept at it. It took five years from when I first started to write fiction until an agent agreed to represent me.

What encouraged you to write that first novel?
As a dual major in history and English, I have always enjoyed reading and writing. While in law school, I wanted to become the next George Will. He encouraged me to be a political speechwriter.

No thanks. So I began practicing law and contemplating how to channel my creative energy. I started writing articles and enjoyed that immensely, but I wasn't creating anything and was criticizing almost everything. That wasn't healthy for my personality. My wife encouraged me to try writing fiction. I wrote six novels in rapid succession because once you have a novel accepted for publication, publishers want you to publish one every year. The four-to-five-year break is because I was diagnosed with multiple myeloma in January 2002. I went through 11 months of chemotherapy and two bone marrow transplants and took some time to write a book on parenting (for my children to read) as well as a television script that won me a CBS award.

How has your military background and your writing affected your practice of law?
My military background has helped me because a lot of what I do is aviation litigation, and that relates to military aviation. I hope that my writing makes my legal and appellate writing better, but I'd have to find out from others whether that's true.

Alice Solovay practices law in Ocean Beach and can be reached at alice@solovay.net.
Working and Eating

Lawyers, particularly those with minimum billable hour requirements, often work while they eat. Most of the time, this means we eat at our desks. However, why not take our laptop and files, park ourselves at a local restaurant and work while we dine? The trick is finding a good restaurant that won't mind if you stay for a while. Here are some of our favorites.

Pappallecco
1602 State Street, San Diego, CA 92101, 619-238-4590
This Little Italy gelato/panini shop has delicious and reasonably priced paninis for lunch, really good gelato (for dessert) and great espresso. From a work perspective, there are indoor and outdoor tables and free WiFi. If you are sufficiently nerrowed into your office, you can do pretty much anything work-related while sipping an espresso and soaking up the sun.

Gelato Veno Caffe
3733 India Street, San Diego, CA 92103, 619-295-9269
Staying with the gelato theme, Mission Hills' Gelato Veno offers free WiFi and plenty of seating on the second story. It is not as comfortable as some of our coffeehouses (such as the Living Room), but the gelato, coffee and tea options coupled with free WiFi make this a great option for those wanting to work outside the office. And if you need more sustenance than gelato and pastries, La Luna Libre Gourmet Taqueria Shop, Saffron and Shakespeare Pub & Grill are all within walking distance.

Nine Ten
910 Prospect Street, La Jolla, CA 92037, 858-564-5400
Heading north, Nine Ten at the Grand Colonial Hotel in the heart of La Jolla has some amazing lunch options (the short rib sandwich, for instance), and the hotel offers free WiFi in all public areas. The bar area is the best place to park yourself without attracting too much attention.

Neighborhood
777 Q Street, San Diego, CA 92101, 619-446-0002
Recently, we grabbed a bite in downtown's East Village at the newish Neighborhood, which prides itself on its burgers, the most talked-about being the 777, served on an artisan roll with organic spinach, tomato confit and Balsamic sauce (it is not for the weak-willed). The meat is excellent, and the burger is something everyone should try at least once just to experience a burger with Beemans. We would recommend ordering a side of sweet-potato fries, served crisp and topped with pepper and blue cheese crumbs.

Beyond burgers and fries, Neighborhood offers some more upscale dining options. The menu includes steak tartar, and a trusted fellow foodie raves about the deviled eggs featuring an artichoke mousse.

The interior is casual and bar-like, and the beer and wine selection exceptional. At night, it is noisy and more like a bar than a restaurant.

Inside Tip
Many of you are fond of BuBu's, a San Diego institution (1404 Camino del Mar, Del Mar, CA 92014, 858-755-1660; 5755 La Jolla Boulevard, La Jolla, CA 92037, 858-755-1660). We recently learned that while the "prime rib" appetizer is not always on the menu, it is always available. Order this for some of the most tender and flavorful meat you have ever tasted (get it blackened for a little extra kick). -

Krista Cabrera is an attorney with Wilson, Page, Koons & Turner and can be reached at kcabrera@wptx.com. Gil Cabrera is an attorney and principal with The Cabrera Firm and can be reached at gil@cabrerafirm.com.

“King” Stahlman
Bail Bonds

“Let Me Help You Out”

CAREER: Licensed in 1947 as a California bail bondsman, no one's been at it longer.

NICKNAME: His nickname was given him by himself via an Ocean Side police officer who noticed his license plate was BBK, and the cop said, "Hey does that stand for Bail Bond King?"

EARLY DAYS: Born on June 26, 1923, in Glendale, California. Served in the Navy during World War II and received the Purple Heart when his ship sank at Guadalcanal.

FAMILY: Beverly, his wife of 40 years, died in 2003; two grown kids. His father was a Los Angeles, Hollywood and Fallbrook (where he owned an avocado ranch) lawyer whose clients included Shirley Temple, Errol Flynn, Walter Pidgeon, Boggsie Stiegal and Mickey Cohen.

PASSION: Golf. Once had a 9 handicap; supports countless golf tournaments in the legal community. His other passion is work, where at age 82 he still works six days a week, and loves every minute of it. Never takes a vacation.

PETS: Ace, a Golden Retriever, and two cats, Heidi and Tiger.

ADMIRES: Former President Ronald Reagan, whom he met at the Hotel del Coronado.

ASPIRATIONS: Run for Mayor of San Diego in 1967 against Frank Curnan.

THE PROFESSION: It’s fascinating. You meet some characters. I’m one myself, I relate to them.

http://www.kingstahlmanbail.com/
Attorneys of El Cajon
Lawyering “Inside the Box”

The Facts
Location: 20 miles east of downtown San Diego, along Interstate 8. Distances to courthouses: downtown, 17; Vista, 48; South Bay, 18. Mark Lewis, mayor; Kahi Henry, city manager. Population: 97,000. Established 1912. Square miles: 14.3. Recreational facilities: 13 parks, seven recreation centers. The East County Regional Center is occupied by the Superior Court, Sheriff’s Department, Probation, District Attorney, Public Defenders, the Board of Supervisors and Revenue and Recovery.

History
El Cajon is Spanish for “the box.” Its surrounding foothills served as a useful barrier to invading cattle in the 1800s. The natural corridors of Main Street and Magnolia Avenue were the crossroads from San Diego to points east and to the gold-mining operations in Julian to the north. Post–World War II urbanization along Mission Valley boosted growth in the area. The new civic center was opened in 1976. Current construction along Main Street and Magnolia Avenue is designed to improve the downtown area, will include new landscaping, streetlights and additional crosswalks and sidewalks.

Web Sites
www.ci.el-cajon.ca.us
www.downtownelcajon.com
East County Performing Arts Center: www.epaclive.com

Events
Cajon Classic Car show (classic cars), Wednesdays, June 4–September 24, 2008, 5-8 p.m. on Main Street. Concerts on the Green, Fridays, May 23–September 5, 2008, 6-8 p.m. on Presenc Promenade. First Fridays, activities and entertainment at downtown El Cajon businesses. Alley Cat Art Walk, July 11 and 12, Arts Alley.

Foothills Bar Association
Edward Torrence, president; 619-588-1936; www.foothillsbar.org
The Foothills Bar Association has been active for 50 years. Annual highlights include a dinner and charity golf tournament.

Back row, from left: Gary Glasure, J. Parkinson Albert Austin, Tom Buckner. Middle row: Smith, Andrew Griffin, Beth Aranuau, Chris Allred

“Practicing law in El Cajon means sun, sand and (if I use my imagination) surf.” —John Greer

“It’s almost always sunny in El Cajon. I love having lunch on the patio at the Downtown Café and working close to home. I also love being part of a firm with some of the greatest attorneys in the county.” —Lisa Foster

“I’ve practiced here in El Cajon going on 12 years. My father, J. Parkinson Mills, has practiced here for more than 35 years and is considered one of the top family law attorneys in the country. That’s worth mentioning!” —J.P. "TJ" Miller Jr.

“We have a small-town feel among the judges, clerks and lawyers. Cases are handled by a small team there are not many motions to contest. Although sometimes it is 100 degrees outside, we can stay cool because everyone works together. Besides, where else can you have a small claims case about a horse that fails to start? I enjoy the New York Bakery and the car shows every week.” —Catherine Tancredi

“There is no place in the world that would have been more convenient for my law practice than El Cajon. It is a great place to practice law.” —Howard Alan Kitay

“In El Cajon, your word is your bond. It’s small enough to develop a good working relationship with the judges and colleagues. My favorite lunch spot is Por Favor Restaurant for good Mexican food, and I also like the LQ, Billiards—all great.” —Sheryl Graf

“El County is small-town America, where lawyers and judges still know each other. One L.A. lawyer drove down here and asked $5,000 in sanctions against my client for submitting discovery responses one week late. The judge smiled and said, ‘That’s not how we do things here.’ I have practiced law in East County for 20 years and still love it!” —Catherine Tancredi

“Every time I have a dinner meeting with someone who doesn’t know El Cajon, I tell them why I love it. There is no other place like it.” —Howard Alan Kitay

“El Cajon is a great place to practice law. When I started, our court had about four departments, including a city council chamber. Now we are nearly as large, in terms of case load, as downtown San Diego. Though it all, the bench, bar and court personnel have remained collegial. And parking is still free! For lunch, I like Antique Row Café on East Main—great food and aunsqueeze 66 model.” —Tom Buchenau

Dean Schiffman is a San Diego attorney and expert witness and can be reached at dean@schiffman.com.
Stroke of the Sword

The fine art of fencing helped the author recover from a stroke and brain surgery—twice

BY DARRYL WEISS

I have always been athletic, participating in all manner of sports when I was young and then playing Division I basketball for the University of Minnesota. In recent years I have taken to fencing, after I tore my knee’s anterior cruciate ligament twice in three years and needed a sport that went forward and backward instead of side to side.

The day after Thanksgiving in 2005 I woke with a slightly slurred speech, trouble balancing and a little control of my right side. My wife and I passed it off as a cold with an inner-ear problem. By Saturday it was worse.

A visit to the local Urgent Care resulted in some shocking news. I had experienced what I call my “stroke of luck,” since while doing tests to determine the extent of the damage, an aneurysm was discovered in my basilar artery. (With your finger in your mouth and angled slightly upward, you’re pointing at it.) Besides being in a difficult location, this particularly nasty aneurysm involved the swelling of the entire vessel, not just a “bubble” off the side.

I was fortunate to have as my attending neurologist Dr. Frank Coufal, one of San Diego’s top neurosurgeons. He had the vision to know I needed to be sent to the Barrow Neurological Institute in Phoenix, the best center in the world for brain injuries.

My options were few. The least invasive and, if there is such a word involving the brain, “safest” go in through an endovascular route and place stents to shore up the weak vessel. If they could not place stents, it would mean opening the skull and trying to do a bypass, grafting a vessel taken from my scalp and clipping the damaged vessel.

I was placed in the ICU until a bed opened up at Barrow and I could be transferred. While waiting for that call, my feet were not allowed to touch the floor because standing would put pressure on the vessel. My laptop and BlackBerry were taken away, there was no phone in the room, and visitors were asked not to tell me anything that would upset me. On top of that, I looked like the back of a computer desk, with all sorts of wires trailing from my monitors, IVs and blood-pressure cuff.

It took a week before a bed opened at Barrow. Fortunately, they were able to place stents. I was home a few days later, and to aid my recovery I once again turned to the sport that has been called “chess at 70 mph.” Studies have shown that the only thing that moves faster than a fencer’s sword tip is a markman’s bullet.

Throughout this entire ordeal, the fencing and legal communities were there. They sent
me cards, called, sent messages through my wife. My coach came to my house to help me do footwork drills to get my balance back and allow me to walk. When he started, he literally had to keep his fingers on my back to counterbalance me or I would fall over. Along with working at home, I was in speech and physical therapy. My goal was to return to work quickly—which I did in five weeks—and to qualify and fence in the Summer National tournament, which I also did. My goal at nationals was to have fun and finish on my feet. I did both. While I would have liked to have finished higher in the rankings, it beat the alternative. Unfortunately, the story has a sequel.

In February of last year I had my follow-up angiogram at Barrow. I was greeted in recovery by the surgeon who had placed the stents and told I was one of the rare individuals whose aneurysm kept growing. That wasn’t all. The walls of the vessels above the aneurysm were also showing signs of weakening.

We asked about options and if I was in any imminent danger. The surgeon told me he was referring the case to the open vascular surgeons in his group since there was no endovascular solution. And to prevent any mishaps, I was to stop fencing until the problem was treated. The increase in adrenaline and blood pressure could put a damper on a tournament if the aneurysm blew.

I was referred to Dr. Robert Speitzer, considered to be the world’s number-one open vascular neurosurgeon. After research, a review of my case and discussions with colleagues, Dr. Speitzer concluded that the best option for me was a bypass of the basilar artery. To gain access to the artery, he would make an incision along my hairline from mid-face to the front of my ear. At my temple he would remove a section of skull and part of the orbit of my eye and remove part of the dura mater where my jaw connects to my skull. He would then be able to clip off the basilar artery and use a vessel from my scalp to bypass the damaged vessel.

When we met Dr. Speitzer in May, his first words to me after “hello” were “This operation carries the risk of death, paralysis, blindness and stroke. Pretty much anything. What would happen if I didn’t elect the surgery? The answer was pretty simple. If I were to ignore the problem (which is what I really wanted to do), the vessel would continue to grow and bleed out again, causing another stroke and who knows what sort of damage, or it could burst, resulting in instant death.

I decided to try and get back into the tournament as if I were training for the fencing nationals. I would get in the best physical and mental shape I could.

The operation took about seven hours. However, rather than being “just” a bypass, it ended up being a bypass and resection of the basilar artery.

At 2 a.m. two nights after the surgery, my wife was called and told I was having respiratory distress. They did an angiogram to make sure there was nothing wrong at the surgery site. Four hours later I was resting comfortably. The next showed everything was fine. They concluded I’d had a seizure and started treating me for it.

There was an additional setback. I developed pneumonia, which meant frequent pumping out of fluid from my lungs. I didn’t have much of an appetite, but that didn’t matter since I was being fed through a tube in my nose. Let me tell you, those sandwiches with chunky peanut butter were tough to get down.

After three weeks in the ICU I was transferred into the rehab unit, where I had speech, occupational and physical therapy. I had to learn to form words and walk again. Since I wore a lot of my tournament T-shirts, staff members figured out I was a fencer. I told them how fencing had speeded up my recovery after the first surgery and convinced them to let me do footwork, lunges and work on small motor skills. This also helped me rekindle mind-body connections. One of the therapists even found some plastic stage sabers to help me with counterbalancing. I did footwork every day. A couple of the therapists, impressed with its effectiveness, said they were going to incorporate fencing moves into routines for other patients. I went from a wheelchair to a walker to walking in five days.

Full recovery this time has not been as fast, however. It was three months before I could drive. I still experience mind-body connection difficulty.

Even so, I am fencing again, despite my disconnect issues—my mind orders my legs to move, and they react by looking around to see who yelled at them. In March I fenced in a tournament in Chicago and qualified in foil and epee for the U.S. Fencing Association’s Summer National Tournament in San Jose, where I will join more than 3,000 fencing brethren competing in various division and weapon categories. Do I expect to be on the podium receiving a medal? No, but I expect to finish on my feet and have fun. I credit being on my feet and on the right side of the grass to much of the support offered by my fencing friends.

How does fencing help in my job? It helps me make my mind focus and think about my feet. It teaches me to read an opponent and react. In fact, I recently was in a meeting with the CEO and an external counsel talking about equity plans and was able to retrieve information on stock plans, phantom stock, SARs, ISOs and NSOs from the far reaches of my memory. I still have a long road to walk, but thankfully I have an amazing support network to walk with me.

Deryll Weiss is general counsel/security of Telegain Corporation in San Diego and can be reached at dweiss@telegain.com.
Surfing pervades San Diego culture, so why not the legal culture? Local attorneys, members of the Association of Surfing Lawyers (ASL), carry the aloha spirit to the courtroom and beyond. San Diego has about 15 official ASL members but horde of local enthusiasts, including Cardiff attorney Gary Baum, the president of the Swami’s Surfing Association.

Baum sees surfing as an integral part of framing his day. “Surfing gives you a better perspective on the day,” he says. “It energizes you and can charge you up.” And on getting charged up in the courtroom, Baum admits that “Once you run into a situation in a courtroom, you need to focus and have your energy at its highest. But then you say to yourself, ‘I’ve been out in Hawaii when it’s been kind of big, and I know if I stay focused, I’ll be fine.’ Or I say, ‘This is merely a courtroom and not an outer reef. There’s nothing I can’t handle.’ It sounds cliche and a bit romantic, but it’s true.”

Around San Diego, Baum has seen local judges and commissioners getting suited—wet suited, that is—at local beaches. “There are so many lawyers who surf that it’s become an acceptable alternative sport,” he remarks. Many attorneys also say that they find themselves talking about surfing as a common point of interest with other attorneys or opposing counsel while waiting on a judge at a hearing or between mediation sessions.

Although when on shore, attorneys perceive themselves to have special stresses arising from the demands of the profession, in the water many defer to...
the knowledge that they are in a different environment where purported reliance on special skills and knowledge goes only so far.

Asked what he thought of the shark attacks just off the Solana Beach shore in late April, Baum says, "I try not to, actually. It's a scary proposition." If only "sharks in the water" always referred to the ASL.

The ASL was started by former San Diego resident and University of San Diego School of Law graduate David Olan, a personal-injury sole practitioner from Los Angeles. Actually, he lives in Malibu (east First to Third Point for south swells) and has a loft in Santa Monica (for good surf in the winter at Venice breakwater or Bay Street).

Officially, the ASL is a nonprofit organization of attorneys who promote and preserve the lifestyle, causes and concerns of surfers around the world and who promote good will, balance, camaraderie and networking among surfing lawyers. But when it comes down to it, it's about fun and restoration.

"We're stressed and oftentimes overworked," Olan comments. "It's a wonderful release to jump into the cold water from the frying pan."

Olan surfed during law school and then to supplement his professional life. Seeing other lawyers in the lineup spurred the thought that his informal e-mails to colleagues from the legal profession and from volunteering on the Surfrider Foundation executive board could turn into something more, and he started the organization. He always has fun, he says, and the sessions are usually a good group.

"Lawyers are very powerful, and surfers are very passionate, so when you mix the two, you have an interesting group," he says. For the most part, ASL members include personal-injury or criminal-defense lawyers. Olan finds they generally have more flexibility in their schedules. They are also, he figures, the types of lawyers who might be more adventurous.

Getting in the water may also be an alternative to the traditional golf game for law firm partners to round up new business for their firms. Olan says he often meets new clients from surfing. Today's surfers, after all, are no longer the beach bums of the 1960s. "Today it's so mainstream," he says. "There are real estate professionals, accountants and stockbrokers who are in the water."

News of surf sessions and other events often travels informally by word of mouth and e-mail chains. ASL events feature both kinds of board meetings—plenty of time to surf, as well as desk meetings where members provide MCLE-compliant lectures. Past retreats and seminar locations have included Mexico, Fiji and El Salvador. Educational meetings and speakers do not, as one might think, focus solely on varying aspects of surf law (one seminar did provide legal analysis of reef building) but instead provide education on areas of interest to members, trial techniques and other general areas.

And then some meetings, of course, are more board-oriented. Last March, the ASL sponsored an event in San Diego featuring Nat Young, the 1966 world surfing champion.

For more information about the Association of Surfing Lawyers, visit www.surfinglawyers.com.

Emily Grant is an associate at Hering & Sager and can be reached at eggrant@hersinigleran.com.

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GOING Green?
How the legal community helps the environment

BY ERIN DRENNING

From the pickup of plastic water bottles in our landfills to the impending encroachment of icecap melt on our shorelines, the effect of pollution and overconsumption of natural resources has reached a boiling point in San Diego, just as it has across the globe. Area attorneys, firms and government agencies gave San Diego Lawyer a look into their environmentally friendly practices, offering inventive and varying answers to the question "How are you going green at work?"

"Procopio is continuing its commitment to protecting the environment by adopting a firm-wide "green initiative" that will use the recommendations of the American Bar Association's law firm sustainability challenge as a starting point. ... We are seeking out new ideas, such as purchasing only 100 percent post-consumer waste recycled paper, processed chlorine-free or using soy-based inks, increasing eco-reminder information and signage and establishing a Green Council and Green Library." — JOHN LORISI, partner, Procopio, Cory, Hargreaves & Savitch.

"I am the recycle queen of Chambers 1. With Judge Gonzalez’s blessing, we are able to do some recycling and maintain a little 'green' in chambers ... When any electronic equipment, such as computers, is replaced, the clerk's office recycles these, along with tonsers and printer cartridges." — BONNI CRAW, administrative assistant to Chief Judge Irma E. Gonzalez, United States District Court, Southern District of California.

"Last year Luce Forward formed a committee focused on pursuing new environmentally friendly practices in all of its offices statewide. 'Green' measures already in effect include an extensive recycling program for paper in all copiers and printers, as well as for printer cartridges, the use of energy-efficient lightbulbs that turn off when the office isn't in use and a transportation allowance for employees that completely pays for their taxi or train passes." — PATT BALAMON, director of facilities, Luce Forward Hamilton & Scripps.

"Littler Mendelson San Diego is proud to support various recycling efforts, and we hope to have opportunities in the future for additional ways to support a sustainable environment. Among the things we currently do are ... encouraging the use of glassware and ceramic coffee cups to reduce our use of foam cups ... and supporting our employees who walk and take public transportation to work. One reason we remained downtown when we moved our location two years ago was to remain accessible by public transportation, which was not readily available in North County."


"My office has been going green for several years. Bottles, glass and aluminum are routinely recycled. Paper is shredded and recycled as well. All attorneys and staff are asked to make a dent in global warming by making sure lights and computers are turned off when not in use." — JOSH GLENSMITH, The Law Offices of Joshua Glensmith.

"Higgs, Fletcher & Mck is recycling paper, cans, bottles, batteries, computer equipment and burned-out kitchen appliances. We are in the process of purchasing recycled paper cups, and we are using low-energy lights where they are permitted." — ANNE RUSWORTH, human resources director, Higgs, Fletcher & Mck.

"Our Worlddoc document management system allows the electronic storage of virtually all case materials (except the infamous ROPEL), allowing easy electronic access, which often eliminates the need to copy from the hard file. This system is also integrated to our e-mail, which allows the open of electronically stored e-mails without having to print them." — WILLIAM PAUL, partner, Stutz Ariano Shiroff & Holtz.

"The Sheriff's Department recycles toner and ink cartridges, as well as nonconfidential paper. We also have offices equipped..."
with motion sensors designed to shut the lights off after a short period of time with no movement.”  
—ROBERT FAGIN,  
chief legal adviser, Office of the Sheriff, Legal Affairs

“We were the only law firm to receive an award from the San Diego Association of Governments in 2008, and we are in very good company. These awards recognize organizations for their contributions to reducing traffic congestion and improving mobility in the region. Pillsbury’s San Diego office encourage employees to utilize public transportation and carpool, as well as offer flexible schedules and the ability to telecommute, wherever reasonable. The firm subsidizes the use of public transit by reimbursing employees for the full price of a Coaster, bus or trolley pass each month.”  
—TANIA SMITH  
director of corporate social responsibility, Pillsbury Winthrop Shaw Pittman

"While Sheppard Mullin has had an informal recycling program for some time, this year the firm is enacting a comprehensive Sustainability Program in order to participate in the ABA-EPA Law Office Eco-Challenge, a pilot project that encourages use of renewable energy and more efficient use of resources."  
—CRISTYNA COSTS, associate, Sheppard Mullin Richter & Hampton

"Under the leadership of Attorney General Jerry Brown, the state Attorney General’s office kicked off an aggressive statewide green program in January of this year. The office is taking a leading role in litigation cases to reduce global warming and greenhouse gas emissions, and it is putting its words into action by reducing the environmental impact of its own operations. In short order, the office converted to 100 percent recycled paper, stepped up recycling efforts, promoted duplex printing to reduce paper usage, participated in computer-reuse and other environmental projects and established contacts with community environmental agencies, like the UCSD Environment and Sustainability Initiative. The office has even sold eco-friendly shopping bags to staff!"  
—TEO DICKER, deputy attorney general, Office of the Attorney General

“Our firm has recycling containers in all rooms and offices to recycle paper, cans, glass and plastic. The firm also participates in a beach cleanup day in the fall.”  
—LISA FRUNZI, associate, Farmer Case & Fedor

“The Office of County Counsel strives to employ green policies. In addition to recycling paper, toner, cases, etc., we also purchase recycled and eco-friendly office supplies and food service items. Further, we employ technology whenever possible to lessen the need for paper documentation, have made ‘Having a Greener Workplace’ the topic of our County Counsel Managers Conference this year and are currently exploring other green avenues, such as hybrid cars.”  
—ANGIE DEVOS,  
administrative analyst III, Office of County Counsel

“At Heller Ehrman in San Diego, besides the usual ‘green’ practices of recycling or carpooling when possible, the air conditioning is shut down on the weekends, and anyone who needs to work in the office on the weekend specifically requests air conditioning on his or her area of the floor, thus conserving energy. We also use motion sensors for our office lights.”  
—TAMMY BOGGS, associate, Heller Ehrman

“Our office is in the process of obtaining its ‘green certification,’ the guidelines of which include replacing cleaning supplies with less toxic alternatives and purchasing hospitality supplies in bulk as opposed to single-serving sizes to reduce packaging waste. Also, on an unrelated but interesting note, the hardwood floor in our lobby is made of recycled railroad ties.”  
—SHANNON ERICKSON, associate, Best & Krieger

Care to share some of your eco-friendly practices with the San Diego legal community? Contact us at erin@sdlaw.org. If you are interested in participating in the ABA-EPA program to which both Procopio and Sheppard Mullin have committed, visit www.abanet.org/environ/ecochallenge/overview.shtml.

Erin Dumoulin is a Pro Bono Program staff attorney at the Legal Aid Society of San Diego, Inc, and can be reached at erin@sdlaw.org.

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FEELING THE HEAT

BY RICHARD FINKMOORE

In a series of reports last year, the world’s climate scientists announced their most forceful conclusions yet: The Earth’s climate is changing; human activity is the primary cause of this change; and the impacts of a warmer world will be profound. The authoritative Intergovernmental Panel on Climate Change (IPCC), drawing upon research conducted by approximately 2,500 climate experts, found that the warming of the climate system was "unequivocal" and that observed temperature increase is more than 90 percent likely to be due to increased emissions of greenhouse gases from power generation, transportation, agriculture and other economic sectors. The IPCC’s reports were approved by 190 governments around the world, including the United States, partly as a result, the panel’s findings are considered by many to be somewhat conservative.

In the last decade, new and more comprehensive climate data, more sophisticated data analysis and improved understanding of climate processes have resulted in a much higher degree of confidence in scientific projections of future climates, particularly at global and continental levels. While scientists have begun to simulate regional climate changes and impacts, it is important to keep in mind that the degree of confidence in projections at the regional level is less than at the larger scales.
What We Know About the Climate Outlook

The small increases in absolute temperature referred to in the studies discussed below may seem trivial. However, these differences are quite unlike day-to-day or morning-to-midday fluctuations in temperature, which are always much larger. Global and regional warming of only 1 or 2 degrees, sustained for long periods, adds huge amounts of energy to the climate system, which in turn produces dramatic long-term changes in climate, not just local weather. It is important to realize that, as stated in the British government’s Stern Review on the Economics of Climate Change, a global warming of only 5 degrees Celsius (9 degrees Fahrenheit) would be "for outside the experience of human civilization." Indeed, the difference between temperatures today and those during the last glacial period is about 5 degrees C.

Temperatures: The IPCC’s 2007 synthesis determined that average Northern Hemisphere temperatures during the last half of the 20th century were very likely higher than during any other similar period in the last 500 years and likely the highest in at least the last 1,300 years. Trends in North America, especially in the western United States, are quite similar, with "substantial warming" in the continental interior from 1955 to 2005. Drawing upon 50 scientific studies, the Rocky Mountain Climate Organization reported in March 2008 that in just the last five years, average annual temperatures in the Colorado River basin rose by 1.2 degrees C. (2.2 degrees F)—about 70 percent more than for the world as a whole.

A study published last year in Science, the journal of the American Association for the Advancement of Science, predicted that globally during the coming decade, temperatures in at least half the years after 2009 will exceed the warmest year currently on record. In the western United States, the warming is likely to be 2-3 degrees C. (3.6-5.4 degrees F) late in this century, but possibly by 2050. For California, even at the lower range of projected warming, temperatures are expected to rise almost as much over this century.

Rainfall: The IPCC has determined that while rainfall in North America will increase over most of the continent, it will decrease in the U.S. Southwest. A second study appearing in Science last year came to the following striking conclusion: The new climate norm in the Southwest—emerging in a time frame of years to decades—will be as arid as the Dust Bowl years and "unlike any climate state we have seen in the instrumental record" extending back over 100 years. The region will continue to suffer through periodic droughts caused by La Niña events, but these droughts "will be worse than any since the medieval period" of megadroughts in the region. This projection of a persistently more arid climate baseline has direct implications for water availability in the Southwest and areas dependent on rainfall there.

Freshwater supply: While stream flow in the eastern United States has increased during the last 60 years, it has decreased by 2 percent per decade in the central Rocky Mountain region, the IPCC has found. Spring and summer snow cover also has decreased in the western United States. Stream discharge in the Colorado River basin has decreased, and the flow has been further reduced by more evaporation due to temperature rise. According to a 2006 study prepared for...
The new climate norm in the Southwest—emerging in a time frame of years to decades—will be as arid as the Dust Bowl years and "unlike any climate state we have seen in the instrumental record" extending back over 100 years.

Water stored in the mountain snowpack is a major natural reservoir for California. Increased winter and spring flows from snow melt increase the potential for flooding during the wet season, while summer flows supplying water for crop and agricultural use will be diminished when they are most needed in the dry season. According to a study published in the Proceedings of the National Academy of Sciences, capturing runoff early in the year to compensate for summer and fall shortages would take much of the flood-protection capacity in man-made reservoirs, forcing a choice between flood protection during the winter and maintaining water in storage for use later in the year.

UCSC scientists have concluded that rivers already over-allocated and dependent on captured snow melt—such as the Colorado—are "especially vulnerable" to climate change. Several studies estimate reductions in runoff in the Colorado River basin at between 10 and 30 percent over the next 30 to 50 years, affecting the water supply of tens of millions of people. Primarily due to a decade-long drought, the Colorado River reservoirs Lake Mead and Lake Powell are currently half-empty. Anticipating even lower levels in the future, the Southern Nevada Water Authority, the water supplier for Las Vegas, last year began a project to install a deeper intake pipe near the bottom of Lake Mead. In a February 2008 report, the Scripps Institution of Oceanography of the University of California, San Diego—using conservative estimates—concluded that, based on anticipated climate changes and in the absence of reductions in water use, there is a 50 percent likelihood that Lake Mead will be dry in just 13 years.

Roger Pulwarty, a climate scientist at the National Oceanographic and Atmospheric Administration, says of the Colorado River water supply: "You just need to know we're drying...[The] argument over whether it's 15 percent drier or 20 percent drier? It's irrelevant. Because in the long run, that decrease, accumulated over time, is going to dry out the system."

Other Climate Change Impacts

Of course, the impacts of climate change on San Diego are not limited to acute water stress. The California Climate Change Center report found that in a midrange "business as usual" emissions scenario, California would face a sea-level rise from 14 to 22 inches, two and a half to four times as many heat-wave days, two to six times as many heat-related deaths in urban centers, and a 55 percent increase in the risk of large wildfires. Other consequences include alteration of plant and animal communities and loss of biologic diversity.

The Importance of Prompt Emissions Reductions

As countries struggle—sometimes half-hearted, always slow—to agree on a global response to the new reality, the implications of a changed climate are beginning to hit home. Much of the public is now aware that consequences include sea-level rise, longer and hotter heat waves, the loss of plant and animal communities, and more intense storms. However, far fewer people understand that these impacts of climate change will continue for centuries, even if global greenhouse gas emissions are dramatically reduced in the next few decades. This is a result of the long lifetime of such gases in the atmosphere and of the inertia of the climate system.

If annual emissions continue at today's levels, atmospheric concentrations of greenhouse gases by 2050 will be double those of pre-industrial levels. Sustained concentrations at this level will likely heat the Earth to temperatures not seen since the middle of the Pliocene, around three million years ago. But of course, emissions will not continue at today's levels; they now are accelerating more rapidly than ever.

Strong national and international action must be taken very, very soon in order to avoid the worst impacts of the climate crisis. But humans have changed the atmosphere enough so that our climate for the next two generations has already been determined. Our predicament and our challenge was described in the U.K.'s Stern Review: "What we do now can have only a limited affect on the climate over the next 40 or 50 years. On the other hand, what we do in the next 10 or 20 years can have a profound [and beneficial] effect on the climate in the second half of this century and next."

Professor Richard Whitehouse teaches environmental law at California Western School of Law and can be reached at rwhitehouse@cwsl.edu.
The county’s law libraries hold a wealth of stories — but face a fight for funding

BY CLAUDE WALBERT

dark-haired woman, apparently upset, recently dragged herself into the San Diego County Public Law Library. She was reticent but managed to announce her purpose in coming there: “I want my fourth back.”

Librarians in the downtown San Diego main law library were at first confused, says Gina Catalano. But she understands the need to question the many library users who, like that woman, are far from clear about the intimidating legal world. The librarians soon learned that the woman had stated precisely what she wanted: termination of her probation and restoration of her Fourth Amendment right to be free of searches without reasonable cause.

Catalano, a reference librarian who practiced law for seven years before changing careers, directed the woman to self-help materials that explain how to seek early termination of probation.

At the main library in downtown San Diego and the branches in Vista, El Cajon and Chula Vista, self-represented library users make up about half of the 107,000 people who visit one of the libraries each year, says Robert Riger, director of the public law library. In formal legal language, they are designated as in propria persona, or simply as pro per.

Other users include lawyers from large and small firms, appellate and Superior Court judges, librarians from private law libraries, business owners and government officials. Use of the library is free and open to everyone as a public service, financed by a portion of San Diego County’s civil filing fees.

Besides a wealth of online references and 350,000 shelved volumes, the library contains such rarities as California statutes dating back to 1851 and codes from other states dating back to 1700; with those, researchers can reconstruct the law as it existed decades ago. It is only one of three depositories in California for appellate briefs, and has online access to treaties, presidential executive orders and law reviews. Yet many lawyers have walked past the main library but never entered, some even thinking it’s part of the jail next door on Front Street. Even fewer non-lawyers have known to look there for information, online or in books, not available in less specialized public libraries.

But as valuable as they are, California’s public law libraries have long faced funding problems. The collection must constantly be updated. For years, inflation has been raising the cost of books, online services and videos, just as in the legislature, competing legal interests and the Judicial Council are taking a renewed interest in the funding of the libraries because of tight budgets throughout the state.

Part of the interest derives from the transfer of responsibility for court buildings from counties to the state Judicial Council, which will manage the
facilities through its staff agency, the Administrative Office of the Courts. The state's law libraries, which are independent agencies, are exempt from the transfer, says April Heise, director of the county's general services department. The department is responsible for the county's law library and court buildings.

Although San Diego County is still in negotiations with the state, and the Board of Supervisors hasn't yet approved any transfers of court buildings, Heise says, "There's no expected change whatsoever for the law library." That is, unless legislators modify the rules for what can be transferred, she adds.

While law library professionals appear to be spared a transfer, funding is likely to remain a volatile issue. K. Martin White, president of the county law library board of trustees, says other cash-strapped agencies can doubt are looking at the civil filing fees and thinking, " Gee, we want some of that too ."

While trying to cling to income from filing fees, the library is beginning an effort to raise money from potential patrons for improvements to improve efficiency at the outlying main library. And White says the building's entrance, which is less inviting, needs improvements.

In recent years, money from the filing fees has kept San Diego County's public law library solvent. In the 2006-2007 fiscal year, the library received $3.5 million as its share of the civil filing fees. The year before, in 2005, the library paid $307,000 to the library's annual financial statement.

The financial statement shows that in the 2006-2007 fiscal year, salaries, wages, and benefits for 22 full-time employees and a half-dozen part-time workers amounted to $1.6 million. Data searches, books and other media cost $653,000. Operational expenses, such as insurance and computer software, cost another $413,000. Expenses, including depreciation, were $2.8 mil-

The year before, expenses were $2.1 million.

In the 2003-2004 fiscal year, the library received $2.7 million from filing fees, a library report shows. Total expenses were $3.1 billion. In 2005, the Administrative Office of the Courts took over from the counties the collection and distribution of revenue from the filing fees. Law librarians attribute the increases since then to greater efficiency and uniform calculation methods.

But future funding for the libraries remains unsettled, says Ruben Gomez, senior manager of the finance division of the Administrative Office of the Courts. "The catchword is uncertainty," he says.

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Consumer Attorneys of California, California Defense Counsel and the State Bar—each have three representatives on the commission. State Bar President Steven Heiser, director of the Orange County law library, says the state's law libraries "will be in a difficult situation" without funding to match increased costs. "There are times management is in the finance division of the Administrative Office of the Courts. "The catchword is 'uncertainty,'" he says.

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Bricks and bytes: Will there be a need for traditional smaller law libraries housing books since so many titles are available digitally?

BY KARLA CASTETTER

The permanence of digital material is still an unanswered question. Until this becomes clear, library directors cannot remove the printed material from their libraries. Each director must decide which print titles will be archived in a digital format by the vendors to be available to support the curriculum, faculty research and the law school mission, and which titles must be readily available on the shelves.

The American Bar Association Section of Legal Education publishes standards for the accreditation of law schools. The standards for law libraries were revised in 2007 to allow the option of giving patrons digital access to legal information in addition to or instead of print resources. The new standards emphasize quality in titles, choices over quantity in volume count. Libraries must continue to have space for computer, books, various types of seating, combination study/conference rooms, service counters, staff offices, printers/copiers, current and permanent displays and even the dreaded microform cabinets and digital readers/printers.

It is difficult to accept that in 2008, librarians must continue to purchase microfiche. However, law libraries need to make congressional hearings and other government documents available to our research communities. The digital databases in this subject area are not complete. Technology is available to digitize everything being archived in law libraries, but not every title has a market beyond academic needs, and therefore no vendors have created an electronic version of these materials. Instead of shelving the print versions, most librarians still rely on microfiche.

One of the best ways to assess the depth and breadth of a law library's collection is to view its online catalog. Just go to the law school Web site of interest and click on the library tab. If it has been a while since you have consulted an online catalog, plan to be surprised; the catalogs now have hyperlinks for almost all digital titles licensed by each library. This saves time for researchers with the necessary access password, such as faculty and students, who do not need to do a separate subject search in various databases. This kind of technology may make it possible to have fewer books if the full text is available via a link.

Since dependable online services can deliver primary case law, statutes, regulations and secondary explanatory law sources such as practice treatises, law reviews and other legal periodicals, each director can decide to remove selected titles and use the shelf space for other print resources. Academic libraries have a duty to support the interdisciplinary and empirical research projects carried out by faculty and student law-review writers. There continues to be a need to train law students for conducting both print and online research preparation for legal positions in offices that cannot afford online subscriptions. In addition to current legal materials online, academic libraries have subscriptions to historical digitized collections. HeinOnline legal classics includes books from the 17th to the 20th century. This is the best format to review such ancient texts, which can no longer be purchased. Some law school libraries also make course textbooks available for reserve checkout. Electronic textbooks for law lag behind other subject areas. Faculty and students use classroom software created by Thomson West, called TWEN (The West Education Network), or Blackboard, created by LexisNexis, to communicate syllabi, extra reading and discussions.

Unfortunately, the texts published by the same publishers are not available electronically. Copyright restrictions can keep a book from being digitized. When these issues can be worked out, it will be possible to search primary law and a larger universe of legal guides, articles and monographs simultaneously.

This capability will reduce the need to maintain print material. Until then, academic libraries will continue to house print material. The need for books to be shelved in law libraries has been reduced because of electronic availability but not eliminated. It appears bridges and bytes will need to share space for many more years.

A large number of books have been weeded out of the stacks of law libraries. Fortunately, these books do not all end up in a landfill. We get numerous requests for our old volumes. Law practitioners want to put these books on the shelves in their offices. Most of them do their research online, but their clients apparently like to see their lawyers surrounded by books.

Professor Karla Castetter is library director at Thomas Jefferson School of Law and can be reached at karlace@jsj.edu.
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CIVILITY

“Our character ... is an omen of our destiny, and the more integrity we have and keep, the simpler and nobler that destiny is likely to be.”
—George Santayana (1883-1952)

BY ALI DAD VAKILI

To live a simple and noble life as a lawyer in today’s litigious world seems an impossible ideal. Several months ago, I was invited to join the San Diego County Bar Association’s Committee on Civility, Integrity and Professionalism. At first, it struck me as a bit odd that there was a need for such a committee. After all, aren’t lawyers held to the highest standards of many, if not most, professions? Aren’t lawyers the protectors of the rule of law and justice? Well, then, where do civility, integrity and professionalism fit into this otherwise legal collage of duties, obligations and the art of lawyering?

Many of us would agree that our legal system is built upon a foundation of morality. Without a sense of right and wrong, good and evil, many of the laws society adopts wouldn’t make much sense. If morality plays such an important part in our legal system, doesn’t it stand to reason that those chosen to protect and defend the system should practice their profession with the same sense of morality? It would appear so, but then reason and reality are often uncomfortable bedfellows.

In speaking with lawyers who have been practicing for almost longer than I have been around on this planet, it seems that over the years, the profession of law has undergone quite a few changes. Somewhere along the path of zealously advocating, many lawyers seem to have lost their way. What was once considered a noble profession is now oftentimes the subject of many jokes, all of which seem to evidence a lack of those same key principles of civility, integrity and professionalism.

Over the years, there have been countless examples where lawyers and judges have engaged in uncivil and unprofessional conduct. A 1995 New York personal-injury case resulted in the following statements made by an attorney-plaintiff:

You're so scummy and so slimy and such a perversion of ethics or decency because you're such a scared little man, you're so insecure and so frightened and the only way you can impress your client is by being a nasty, mean-spirited and ugly little man, and that's what you are. That's the kind of prostitution you are in.

Although most of the more entertaining examples (as seen above) come from conduct in the courtroom, there are also plenty of examples of unprofessional conduct that occur outside the courtroom.

In a 1994 Delaware case, the following exchange garnered considerable attention as a despicable display of uncivil and unprofessional conduct during a deposition:

Question: Do you have any idea why Mr. Oresman was calling that material to your attention?
Mr. Jamal: Don’t ask me. How would I know what was going on in Mr. Oresman’s mind? Don’t answer it. Go on to your next question.
Mr. Johnson: No, Joe—
Mr. Jamal: He’s not going to answer that. Certify it. I’m going to shut it down if you don’t go to your next question.
Mr. Johnson: No, Joe—
Mr. Jamal: Don’t “Joe” me, asshole. You can ask some questions, but get off that. You could gag a maggot off a meat wagon. Now, we’ve helped you every way we can.

So how did it come to this? How did those unfortunate lawyers lose their way and taint the profession with tactics better suited for a medieval assassin? After all, we lawyers inhabit and maneuvers to achieve the best outcome for the client regardless of the means employed. This Machiavellian approach has resulted in some lawyers engaging in inappropriately and improper behavior.

As part of the San Diego County Bar Association’s year of Civility, Integrity and Professionalism, the SDCBA took upon itself the task of updating and expanding the original Civil Litigation Code of Conduct created some 20 years ago. This effort was championed by many well-known and respected members of the bench and the bar who participated in the Civility, Integrity and Professionalism Committee chaired by Edward Chapin and Patrick Horsy. The CIP Committee’s revision of the original Civil Litigation Code of Conduct

“There is nothing inconsistent about being a vigorous advocate and being a lawyer of integrity.”
two principles go hand-in-hand, and indeed the practice of law with a strong sense of ci-
vility and integrity actually better serves the client, the public and the judicial system by
promoting a fairer and more just system. Moreover, what kind of example is set by
trying to uphold a client’s legal rights by
trampling on fairness and civility?

The Code of Conduct provides a map
to help guide lawyers in drawing the line
between professional and inappropriate
behavior. Recognizing there is a problem is
half the battle; the other half is taking
those extra steps to establish the rules of
court that all lawyers can adopt as their
aspirational goals. With everyone using the
same rulebook, we can then concentrate
on practicing the art of lawyering in a
clean and fair manner.

The newly revised Code of Conduct is
available on the SDCBA’s Web site at
www.sdcba.org/codesofconduct.html. If you
haven’t read it yet, please take a few mo-
ments to review it, and the next time you
are in court, taking a deposition or negoti-
ating a transaction, keep it in mind. Hope-
fully, your opposing colleagues will be doing
the same.

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2 PromiseCom Communications Inc. v. QVC Network
Inc., 637 A.2d 34 (Del. 1994).
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San Diego County Bar Foundation Distinguished Lawyer Memorial

The San Diego County Bar Foundation inducted six attorneys and judges to the Distinguished Lawyer Memorial in a ceremony at the San Diego Bar Center on May 21. Hon. Howard Bechafsky, Hon. J. Michael Bollman, Hon. John Rhoodes, Richard Sweat, Daniel Tobin and Joseph “Jay” Wheeler join 83 others who are already part of the memorial, located on the third floor of the Hall of Justice.

Law Week Luncheon

The annual Law Week Luncheon was held May 2 at the SDCBA Bar Center, during which the Bar’s 2008 Service Awards were presented and winners of the SDCBA student poster and essay contests were recognized.
Defenders Dinner

The board of directors of Appellate Defenders and Federal Defenders presented the 2008 Defender Dinner on April 25 at the Westin Hotel downtown. Award winners Gary Gibson, Dennis Rimjoh and Peter Hughes were recognized for their achievements and exceptional contributions to the legal community.

Tom Homann Awards

The Hard Rock Hotel downtown hosted the Tom Homann Law Association's 15th annual dinner and awards on May 8. The celebration was highlighted by a keynote speech by Hon. Judith McConnell.

Lawyers Club Dinner

Women trailblazers were honored at the annual Lawyers Club Dinner held on May 29 at the U.S. Grant. The Lawyers Club of San Diego paid homage to local legal pioneers, celebrated award winners and applauded longtime White House reporter Helen Thomas, who was presented with the club’s Icon Award in recognition of her achievements in journalism.

Red Boudreau Dinner

Accomplished San Diego attorney and retired Marine Brigadier General Michael Neil was honored May 17 at the 24th annual Red Boudreau Trail Lawyers Dinner, held at the U.S. Grant. Neil received the Daniel T. Broderick III Award at the event, which benefited children’s services at St. Vincent de Paul Village.
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Finding the Firsts

A s I write this, I am in the middle of a history "power point" for a local bar organization, titled "Who's on First." Closer to—gather names of people who were first at something in the legal community. As I and the history committee discovered, this isn't such an easy list to put together. (I doubt I am the first to discover this.)

There are easy names to start with: first judge in San Diego (Oliver Witherby, 1850), first female attorney in California (Clara Shortridge Foltz, 1879)—practiced here in 1888, San Diego's first female judge (Madge Bradley, 1932) and first African-American judge (Earl Ira Gilliam, 1963).

But already, just with these four, we run into the need for clarification. Foltz, for example, was primarily in San Diego to run a newspaper, not as a lawyer (although she did have a small practice). Bradley was the first female judge of the Municipal Court, downtown—and in that position, also the first presiding judge of the Municipal Court in San Diego. The first female judge of the Superior Court is lesser known yet significant: Artie G. Henderson (1978), 25 years after Bradley broke the barrier on the Municipal side. Meanwhile, the first female judge of the Municipal Court in the South Bay was Mary Golden Gell (1976). This raises the question: Who were the first female presiding judges in North County and East County? Does it matter that elevations occurred when the courts consolidated? Do you go back to the days of the Justice Court to establish "firsts?"

Gilliam was not only the first African-American Municipal Court judge but the first African-American Superior Court judge (1973) and District Court judge (Southern District of California). Elizabeth Riggs was the first female and first African-American female judge (Municipal, then Superior Court) in East County (1979, 1998). Listing Gilliam and Riggs but not other race-classified "firsts" runs the risk of perceived slight—so we looked at the first Asian judges (broadly defined into, among others, Japanese and Chinese, male and female) and first Hispanic judges (among others, Mexican-American and Hispanic, male and female).

And this was the easy part. Finding finns in law firms created the problem of choosing which finns (and only those that still exist) and whether to look at first hired and/or first partner. Then there are the law organizations, like the County Bar, which had its first female president (Melinda Laos) in 1985 and its first African-American president (Regina Perry) in 1995. But do you highlight the first woman president of Lawyers Club? The first African-American president of the Earl B. Gilliam Association? Or the first Filipino-American president of the Filipino-American Lawyers of San Diego? (The attorney directory lists 45 law-related organizations. It makes my head spin.)

One cannot simply retreat to the safety of structure. For example, the first local courthouse was built in Old Town in 1847. No, it isn't the Whaley House, but because of confusion created in part by the Whaley House organization (its official Web site discusses the structure's role as a courthouse—but fails to mention the one that preceded it), the nonprofit that oversees the maintenance of the courthouse museum in Old Town State Historic Park calls itself First San Diego Courthouse, Inc. One of the FSDC, Inc. founders, June Moser, was the first female San Diego County Grand Jury foreperson.

The lesson here, I think, is to not worry about the title—it is what it is. Legacies, in the long run, are built on good works and not necessarily by being "first."

This is my first column dealing with finns, and I hope it is my last. * •

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Attorneys and law student volunteers participated in Community Housing Works' annual facade of single-family homes in the City Heights neighborhood of San Diego on June 3. "I'm approximately four hours, we transformed the home as signed to the Bar into a beautiful home," says Gary Luturno, chair of the County Bar's Community Service Committee. "When we finished, I got a big hug from the owner and resident." Left to right: Gary Luturno, Torey Montgomery and Stephanie Chow. Barry Carlton is a deputy attorney general and can be reached at barry.carlton@cao.ca.gov.

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