

the ACBA **B**ULLETIN

THE MAGAZINE OF THE ALAMEDA COUNTY BAR ASSOCIATION

ACBA

VOLUME 41
NUMBER 1
SPRING 2010



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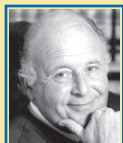
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The Alameda County Bar Association (ACBA) was established in 1877 and has a membership of 2,100 attorneys, judges, law students, and other legal professionals. The ACBA administers numerous programs and activities to benefit attorneys and the community.

Our mission is to promote professional development, ethics, and civility in the practice of law; to promote diversity in the legal community; to promote civil rights and the fair and equitable administration of justice; to improve access to legal services for residents of Alameda County; and to promote communication and cooperation among the bench, the bar and the community.

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Building on a Strong Foundation

I HAVE BEEN A MEMBER OF THE ALAMEDA COUNTY BAR ASSOCIATION SINCE MY ADMITTANCE TO THE STATE BAR OF CALIFORNIA IN 1975. I've been with Burnham Brown even longer, having joined the firm as a summer law clerk in 1973. I am proud to be a part of both organizations because of the principles they are built on, and the fact that those core principles remain primary goals today, and continue to be relevant to a thriving law practice.

I am honored and humbled to serve as your president this year, and feel fortunate to be part of such a strong and dynamic bar. For example, despite the downturn in the economy, the ACBA remains in a good financial position. In fact, membership numbers for 2009 were on par with those for 2008—perhaps because, now more than ever, many lawyers realize that belonging to a professional association helps one develop the contacts and working relationships that are critical to professional and financial success.

Another benefit of ACBA membership is access to exclusive discounts on goods and services members need to succeed. The ACBA now has nineteen member benefit providers, including insurance providers, financial services, transportation companies, as well as executive services for busy legal professionals, such as discounts on ABA publications, website development, credit card processing, and more. Not only do these benefits give our members the services they need, but the ACBA also, in some cases, receives additional revenue to support our work. Our ongoing goal is to add at least one new benefit every quarter. For more information on your member benefits, I urge you to read more about them on pages 26-27 of this issue.

In addition to maintaining ACBA membership, we have enjoyed increased membership in our sections and significant growth in attorney members with fewer than five years in practice and law students. Much has been accomplished in fostering cohesiveness and synergy amongst the ACBA's many diverse programs, sections, and committees, allowing entities to work more

collaboratively and enabling staff to better respond to members' needs. For example, in 2009, the ACBA offered 54 MCLE programs, up from 48 in 2008. We also managed to streamline costs while at the same time seeing an increase in the number of participants at each program, which in turn enables us to offer even more. This year also promises to be exciting. Staff is working to develop new sections, such as Green Law and a Legacy Lawyers Section, and we will be adding digitized MCLE library to our list of achievements this year.

Probably most exciting of all is the acquisition of a robust, unified association management database, The Associate. The ACBA signed a contract with Intus Technologies, creator of The

Staff is working to develop new sections, such as Green Law and a Legacy Lawyers Section, and we will be adding digitized MCLE to our list of achievements this year.

Associate, at the end of 2009, and staff is already immersed in the conversion and implementation process. The new database will not only benefit staff with increased efficiency and ease-of-use, it will also open up a wealth of members-only functions on our website, which is also getting a facelift. By fall 2010, members will be able to log into the ACBA website to update their contact information, register for MCLE programs, view their MCLE credits, submit fee declarations, and much more.

While we have a lot of projects in the hopper for 2010, I am also looking forward to building on some of our past achievements. The East Bay Diversity Bar Coalition and its award-winning Judicial Mentoring Project is but one illustration of the ACBA's commitment to fostering the



GREGORY D. BROWN



PRESIDENT'S MESSAGE

necessary inclusiveness in our profession. As I mentioned in my remarks at Installation, Judge Stuart Hing was a mentee in the first round of the Judicial Mentoring Project, mentored by the formidable Judge Carl Morris. Now, Judge Hing is participating again, this time as a mentor. This commitment to diversity and this drive to give something back when in a position to do so makes me very proud to be a part of the ACBA.

Last but possibly most importantly, we will continue to answer the charge to help ensure that those in need have access to legal services. The Volunteer Legal Services Corporation (VLSC) will continue to add more volunteers and advice clinics, and we hope to pursue funding under AB

590, the Sargent Shriver Civil Counsel Act, to do even more for the low-income community.

As I start my year as your president, I would like to honor those who come before me, and thank my fellow boardmembers and the ACBA staff for helping me prepare for this important undertaking. I look forward to working with you this year.

ACBA PRESIDENT GREGORY D. BROWN, partner at Burnham Brown in Oakland, is an accomplished civil trial attorney and risk management counselor with over 30 years of experience. A professionally trained ADR provider, including advanced mediation skills, he has resolved hundreds of pending state and federal court claims through ADR processes.

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Economy impacting placement process— Care managers and placement consultants can help

INCREASINGLY, WE ARE SEEING FAMILIES WHO FEEL FORCED TO DELAY PLACING AN ELDER IN ASSISTED LIVING OR SKILLED NURSING FACILITIES FOR ECONOMIC REASONS.

The elder’s resources may have declined due to the recession, or the family’s overall financial situation may be compromised so that others are unable to contribute to the cost. This may result in increasingly difficult care situations at home, sometimes leading to a decline in health or even injury.

For example, if Mom is falling in her home and really needs a supervised setting, a delay in placement may place her at risk for fall injuries. If Dad is repeatedly hospitalized for dehydration because he is not eating properly or consuming enough fluids, some difficult decisions may need to be made. But how is the cost to be met?

As we know, MediCal pays for skilled nursing only, and then only when the resource limits are met. Many facilities do not take MediCal at all. Even if the preferred one does participate in the MediCal program, it may expect a period of private pay initially. As for assisted living, private resources must pay. Especially in a dementia situation, this can be quite expensive.

Rather than bury their heads in the sand and hope nothing drastic happens, clients should be

encouraged to seek the help of a good placement service or care manager to assist in considering the options. Facilities with empty beds or rooms may be quite willing to negotiate about costs. A needs assessment will start identifying places that may be appropriate, given the resources available and the location preferred. Going with family members to visit those places, and asking questions that the family may not think about, the placement consultant or care manager can make the process much less stressful, and may be able to reduce the monthly cost.

Rather than bury their heads in the sand and hope nothing drastic happens, clients should seek the help of a good placement service or care manager.

In one recent case, the placement consultant identified three places, visited them with the son and daughter-in-law, negotiated some cost reductions, and helped the transition by suggesting that the new room be set up exactly like the mother’s bedroom at home, down to pictures on the wall and the rug on the floor. The transition went very smoothly, and the family was happy to have a professional member of the team at this critical time. The care is still expensive, but the cost of the consultant was more than justified by the negotiated monthly savings and the stress reduction all around.



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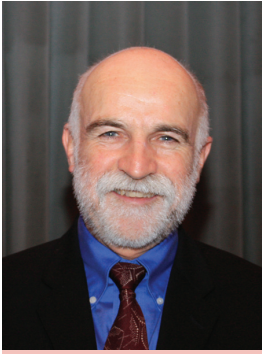
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PRISCILLA CAMP is an elder law attorney with the firm of Camp Rousseau Montgomery LLP in Oakland. A graduate of Golden Gate University School of Law, she has been active in the ACBA Volunteer Legal Services Corporation (VLSC). Visit her firm’s website at www.crmlegal.net.



TIM H. HALLAHAN

Cross-Examining Expert Witnesses

IT ISN'T EASY TO CROSS EXAMINE EXPERTS, MOST OF WHOM ARE PROFESSIONAL WITNESSES. Learn as much as possible about the narrow area of the expected testimony, and decide whether to cross examine at all. San Jose trial lawyer Craig Needham says his experts do their best work during cross-exam. If you decide to cross, the areas of inquiry should be limited to those that are safe and worth the risk and effort.

When cross examining an expert, the range of permissible questions is wider than for fact witnesses. Evid. Code §721. In addition to the normal subjects for cross, counsel should consider contradictory positions in the witness's writings, inconsistent testimony in previous trials or depositions, facts and sources of information the



Raoul Kennedy is fond of saying, “An **expert witness** is like a **machine gun nest**. If you **attack head on**, you’re likely to be **carried out feet first**.”

expert didn't consider, ways of bolstering the cross examiner's own experts, hypothetical questions, and bias as indicated by, say, the types of lawyers or parties who usually hire this expert.

Despite this multi-front attack, good trial lawyers rarely go toe to toe with experts over their theories or method of analysis. It is hard to score points against someone who is by definition an expert in the area of inquiry. Any ground gained there is usually lost again on redirect. As Raoul Kennedy is fond of saying, “An expert witness is like a machine gun nest. If you attack head on, you're likely to be carried out feet first.” It's best to assault on the flanks, going after things like qualification gaps, lack of personal observation, and sources not considered in this case.

Ask tight, precise leading questions to control the witness and avoid damaging explanations. Choose a thematic structure to keep the witness off balance.

Uncover bias whenever possible. Challenges to an expert's impartiality fall into three basic areas:

Fees: Because all of the experts are being paid, there is little ground to be gained here unless such fees make up an inordinate proportion of the witness's income or are dramatically higher than the what you are paying yours.

Relationship with the other side: Some witnesses seem to be lackeys for certain law firms, testifying to similar conclusions in case after case.

Positional bias: Sometimes counsel can show that the other side's expert is rigidly entrenched in a certain professional, scientific, or intellectual position for example, the psychiatrist who has never found a criminal defendant sane or competent.

Other ways to weaken the expert

- **Limit the scope of the witness's expertise.** Though the witness is highly qualified in a specialized area, perhaps you can recast the issues so as to place them beyond the witness's competence.
- **Stress missing credentials.** An expert witness may be minimally qualified to testify and still lack certain important certifications, degrees, or licenses.
- **Contrast your expert's credentials.** It is especially persuasive to point out an adverse witness's missing credentials when they contrast with your expert's superior credentials.
- **Discredit the witness altogether.** Discrediting the witness altogether is seldom successful unless the expert has grossly overstated or falsified her qualifications.

- **Reveal inconsistencies.** Pounce on any prior inconsistent statements by the expert in prior writing or testimony. It's safest to simply elicit the inconsistency without asking for an explanation.
- **Affirm your own expert.** You may be able to accredit your own witness by getting the adverse witness to acknowledge the reliability of her data, the validity of her assumptions, or the legitimacy of her credentials.
- **Obtain testimony favorable to your case.** Whenever possible, obtain testimony from an opposing expert that supports your theory of the case. Be positive of the answers before launching into this sort of cross.
- **Point out omissions.** Experts are sometimes vulnerable to charges that they neglected to consider certain factors or to conduct essential tests or procedures.
- **Use other treatises.** A form of cross examination unique to experts is impeachment through the use of a learned treatise, as long as the expert admits to having relied on it, she or another expert acknowledges it as authoritative, or it has been admitted by judicial notice. Evid. Code section 721(b).
- **Criticize the opposing party's conduct.** It may be possible to draw from the opposing expert criticism of her own party's conduct.
- **Elicit specific contradictions.** Sometimes an expert will open the door to being impeached by otherwise impermissible evidence. For example, subsequent repairs might come in once the expert testifies that nothing else could have been done to make a particular car safer.
- **Use hypothetical questions.** A skilled cross examiner can pose a hypothetical question, varying the details bit by bit until the witness's opinion and method of analysis look flawed or even absurd.

Discrediting an expert witness isn't always a pleasant undertaking, and it requires research, preparation, and confidence. It can make the difference in your case, so it is definitely worth a shot.

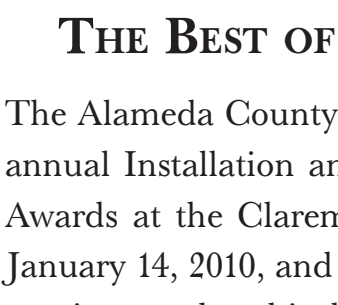
TIM HALLAHAN is director of the Advocacy Skills Program at Stanford Law School, an education attorney with the Administrative Office of the Courts, a national CLE speaker, and co-founder of the Hecht Training Institute, a litigation skills training firm. He is also chair of the ACBA Communications Advisory Committee. Contact him at thh47@pacbell.net.

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THE BEST OF WHO WE ARE

The Alameda County Bar Association held its annual Installation and Distinguished Service Awards at the Claremont Resort and Spa on January 14, 2010, and one of the refrains of the evening was the ethical responsibility of lawyers, judges, and advocates to help bridge the justice gap in our society. From the compelling keynote speech of Assemblymember Mike Feuer, to the accomplishments of the recipients of our Distinguished Service Awards, to President Greg Brown’s pride in the ACBA’s accomplishments in the fight for equal access to justice—the prevailing attitude of the evening was about, as Assemblymember Feuer so eloquently phrased it, “being the best of who we are and lifting each other up.”



CLOCKWISE FROM TOP LEFT: Rhoda and Judge Stuart Hing; Sally Elkington and Charlie Bendes; Judges Delbert Gee and John True, III; Judges Carl Morris and Gordon Baranco; Stephanie Sato and Brandon Carbullido; Elaine Needham and Pam Orloff; Rosario and Victor Ochoa; Greg Brown and Jud Scott; Judge Robert McGuinness and Nancy O’Malley; Barbara Bryant and Micha Star Liberty; Lyle Cavin and Pat Parsons; Bill Adams and Michael Ward; Natalie Seid and Maighna Jain; Judges Jon Rolefson and Robert Freedman.

Judge Stuart L. Hing served as the evening's master of ceremonies. Appointed to the Superior Court of California, County of Alameda, in July 2008, he was previously a deputy district attorney in the Alameda County District Attorney's Office for 23 years. He is also currently co-chair of the East Bay Diversity Bar Coalition.

In addition to Judge Hing's natural humor and charm at the podium, guests also enjoyed musical entertainment by Carla Kaufman and friends, as well as a lush buffet of the Claremont's most luxurious offerings.

A champion of legal services

The ACBA was particularly honored to have Assemblymember Feuer, himself a champion of pro bono work, as keynote speaker. He was elected to the California State Assembly representing the 42nd Assembly District in Los Angeles in 2006. A graduate of Harvard College and Harvard Law School, he served as executive director of Bet Tzedek Legal Services, the House of Justice from 1986 until 1994, which provided free legal assistance to more than 50,000 primarily elderly and disabled clients during his tenure.

Assemblymember Feuer recently authored Assembly Bill 590, the Sargent Shriver Civil Counsel Act, a pilot project establishing the nation's first right to counsel in civil cases where basic needs are at stake. "What's happening in Sacramento can have a catalytic effect throughout the country," Feuer said, noting that he has already appeared before the New York State Senate, which is aspiring to replicate the project, and members of the Obama Administration, which is exploring creating such a program on the national level.

Honoring our local heroes

Guests also took inspiration from the deeds and words of the recipients of the ACBA Distinguished Awards. Assemblymember Feuer was presented with a special Distinguished Service Award for a Legislator for his unselfish and dedicated service to the people of California.

The Distinguished Service Award for a Judge was presented to Judge Delbert Gee. Judge Gee served as 2008-2009 co-chair of the ACBA East Bay Diversity Bar Coalition, which fosters diversity and fair access in the legal profession. He gave special thanks to his EBDDBC co-chair, Nedra Shawler, as well as ACBA staff.

The Distinguished Service Award for a Lawyer was presented to former Alameda County District Attorney Tom Orloff, who served in the DA's office for 40 years. Mr. Orloff recognized some of his former colleagues, including Judges Stuart Hing and Jon Rolefson, and credited his staff with "serving the people of Alameda County with competency, fairness, and the highest ethics."



TOP: Geoff Wood, Randy Morton, and Larry Lulofs
MIDDLE: Michael O'Connor, Eric Haas, and Commissioner Charles Smiley
BOTTOM: Melissa Rosengard, John Russo, Tom Orloff, and Pam Orloff



The Distinguished Service Award for a Barrister was presented to Stephanie Sato and Tom Ogas. Ms. Sato is currently secretary of the Barristers Executive Committee, and Mr. Ogas served as chair from 2008-2009. Both have worked tirelessly to provide valuable services to the ACBA's newer attorneys.

The Distinguished Service Award for a Law Firm was presented to Morton, Lulofs & Wood, LLP, a litigation and transaction firm with two offices in Alameda County. The firm recently joined the VLSC Guardians of Justice Campaign, which asks firms to make a significant five-year commitment to help VLSC provide legal services in Alameda County. Firm partner Larry Lulofs received VLSC's Volunteer of the Year Award in 2008 and currently serves as president of the VLSC Board of Directors. William "Randy" Morton accepted the award on behalf of the firm.

The Distinguished Service Award for a Community Organization was presented to the Oakland Public Library. The library partners with the ACBA Lawyers in the Library Committee to provide pro bono legal advice clinics at libraries throughout the city, helping more than 1,000 people in 2009 with family law, immigration, bankruptcy and debt collection defense matters, and more. Library Director Carmen Martínez accepted the award on behalf of the library.

The year ahead

Finally, President Greg Brown took the stage to share his plans for the year as ACBA president, including building on the ACBA's accomplishments promoting diversity, improving access to justice, and delivering new and better benefits to ACBA members.

CLOCKWISE FROM TOP LEFT: Assemblymember Mike Feuer; Oakland Library Director Carmen Martínez; Stephanie Sato and Tom Ogas; Michael O'Connor and Anna Nguyen; Kandis Westmore and Pam Kong; Judges Delbert Gee and Stuart Hing.

NEW MEMBERS: NOVEMBER 2009-JANUARY 2010

- | | | |
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RAISING THE BAR

Showcasing some of our best and brightest members

This Issue: Criminal Defense

Welcome to Raising the Bar, a new feature in which we profile some of our most dynamic members.

What's most satisfying about practicing criminal defense?

I really enjoy helping my clients and their families navigate through the criminal justice system. I particularly enjoy serving as a mentor for my young clients who, unfortunately, for the first time in their lives have someone they can trust and respect reaching out to help them. Last but not least, I truly feel that this is what God has called me to do. This is my purpose in life.

What's most frustrating?

There's never enough time to give every case and every client the attention I would like to give. I have to spread myself pretty thin to make sure everyone gets the help they need. I have to rely on the quality of my work to compensate for the lack of time.

What are a few very important trial advocacy tips?

Communication. Your client and their families have to know what's going on with the case and why. Send postcards, write letters, send emails, and visit as often as you can. The nature of the job requires that you often have to pass along bad news, but if you have prepared your clients and their families for the possible outcomes you will have saved them and yourself a lot of stress. Be efficient. Be on time. Do what you say you are going to do. Pick your battles. Always tell the truth! Always!

How do you avoid waiting around too much in court?

By communicating with the DA and my client ahead of time. Most attorneys

wait until their clients are in court before they speak to them. I visit my clients ahead of time and explain to them what we are going to do or not do at our next court appearance. I try as best I can to get an idea ahead of time from the DA regarding what we are going to do with the case. When I get to court I already know what is going to happen and what my next court date will be. The bottom line is be on time, be prepared, and take care of business.

What is key in establishing good working relationships with judges and DAs?

DAs and judges will work with you and help your client if they respect you. That respect comes from being on time, being honest, picking your battles, and doing your homework. You have to know your case well. Don't ask a DA or judge to do something for your client if you can't give them a real reason to do it. Don't waste their time or yours by making a pitch for something that really doesn't have merit.

What system do you use to keep yourself organized and efficient?

I have a great office manager/paralegal/legal secretary. The moment we get a new case we put together our file, our motions, our timeline, our letters, emails and postcards. We then put in our next court date and monitor the cases on a weekly basis. We use Outlook and all the Microsoft technology to stay on top of everything. If you do all of the hard work up front, the case will move along nicely.

To suggest a stellar ACBA member for a future edition of Raising the Bar, please email shannon@acbanet.org.



DARRYL A. STALLWORTH

Education

Juris Doctorate
UC Davis MLK Jr. School of Law

Bachelor of Arts, Political Science
UC Berkeley

Experience

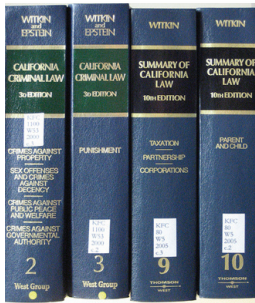
Solo Practitioner at the Law Office of Darryl A. Stallworth, a Professional Corporation, specializing in criminal defense

Partner at Taylor, Goins, & Stallworth LLP, specializing in criminal defense and personal injury from 2007-2009

Alameda County Deputy District Attorney from 1992-2007

Memberships

- Alameda County Bar Association
- ACBA Criminal Court Appointed Attorneys Program (Advisory Committee member and panel member)
- Charles Houston Bar Association (President 2001)
- California Association of Black Lawyers
- National Bar Association
- UC Berkeley NCAA Gender Equity Certification Committee



EMILY BERGFELD
REFERENCE LIBRARIAN

VerdictSearch Online and Expanded Westlaw Access Available at Law Library

THE ALAMEDA COUNTY LAW LIBRARY HAS AUGMENTED THE SELECTION OF ELECTRONIC SERVICES AVAILABLE FREE OF CHARGE TO LIBRARY PATRONS, purchasing access to VerdictSearch Online and to expanded Westlaw content. Westlaw is available on computer terminals at both the Main and Branch libraries. VerdictSearch Online is available at the Main Library only. Material retrieved from Westlaw or VerdictSearch can be printed on the library's print server at a cost of twenty-five cents per page, or saved to a flash drive. Material from VerdictSearch can also be emailed free of charge.

Trial Filings, Forms & Secondary Sources on Westlaw

In addition to full-text state and federal primary law materials and law reviews, the library's subscription to Westlaw now includes access to California civil trial filings and to select formbooks and practice guides published by Thomson West. The law library is pleased to offer access to the following Westlaw files at both the Main and Branch libraries:

California State and Federal Civil Trial Court Filings (CA-FILING-ALL)

This database contains the full-text of select documents filed in California state and federal trial courts since the year 2000. Pleadings, motions, trial court memoranda, proposed orders, non-expert discovery documents, settlement agreements, and jury verdict forms can be retrieved using search templates, terms and connectors, or natural language searching. Using the search templates, database users can focus their results on pleadings that feature specific causes of action, and retrieve points and authorities that support or oppose a variety of termination, discovery, trial, and post-trial motions. These successfully filed documents can serve as model forms for drafting pleadings and motions.

Searching by party name or docket number, users can also retrieve and view the documents filed in a specific case. Results can be further limited by court, judge, attorney, or date filed.

California Civil Jury Instruction Filings (CA-JIF-CIV)

This file contains the full-text of jury instructions filed in California state and federal trial court cases since 2002. For each case, proposed and disputed instructions submitted by both sides are provided, along with the final version of the instructions read to the jury. Users can retrieve the text of jury instructions given in particular types of civil actions, or search by docket number or party name to retrieve all versions of jury instructions submitted in a case of interest.

United States Bankruptcy Court, N.D. California Trial Filings (CA-NBKR-FILING)

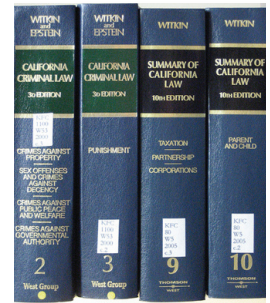
This file includes documents filed in U.S. Bankruptcy Court, Northern District of California since 2005, including motions for relief from automatic stay.

Legal Encyclopedias: American Law Reports (ALR), American Jurisprudence (AMJUR), California Jurisprudence (CAJUR)

Full-text searchable, electronic versions of American Law Reports, American Jurisprudence, and California Jurisprudence are available through the library's Westlaw subscription.

California Code Forms with Practice Commentaries (CACF)

Searchable by code section or keyword, the California Code Forms with Practice Commentaries database contains statutory forms associated with the following volumes of the California Code: Business and Professions, Civil, Civil Procedure, Commercial, Corporations,



EMILY BERGFELD
REFERENCE LIBRARIAN

Education, Elections, Family, Fish and Game, Food and Agricultural, Government, Insurance, Probate, Public Utilities, and Revenue and Taxation.

California Transactions Forms—Combined (CTF-ALL)

The California Transactions Forms database contains transactional forms included in the California Transactions Forms-Business Entities, California Transactions Forms-Business Transactions, California Transactions Forms-Estate Planning, and California Transactions Forms-Family Law practice guides published by Thomson West.

California Real Estate Forms (Miller & Starr) (MILCALRE-FRM)

Locate residential and commercial real estate transaction forms related to real property purchases, sales, leases, financing, and construction contracts published in Miller & Starr California Real Estate Forms.

Rutter Group—California Practice Guides: Multibase (TRG-CA)

Users can search the full-text or browse the table of contents of each title in the California Practice Guide series published by the Rutter Group. These popular treatises offer attorneys guidance at every stage of the litigation process.

California Civil Practice—Combined (CCP-ALL)

This file contains the full-text of each title in the California Civil Practice series. These litigation guides provide analysis of relevant primary law, procedural checklists, and form templates.

VerdictSearch Online: A Robust Case Valuation Tool

The VerdictSearch Online database is available to library users free of charge on computer terminals at the Main Library in Oakland. A robust case valuation tool, VerdictSearch Online contains searchable case reports for every jury verdict, settlement agreement, judgment, and ADR decision that has been reported in a VerdictSearch publication (formerly Jury Verdicts Weekly) since 1985. VerdictSearch publications summarize jury verdicts, judgments, settlements, and ADR decisions for select civil cases heard in state and federal trial courts in all 50 states, with an emphasis on personal injury cases. In addition to reporting information about the type of case, parties involved, injuries sustained, venue, and presiding judge, each case report discloses the monetary damages awarded or settlement terms reached.

Searching all VerdictSearch publications simultaneously, VerdictSearch Online allows users to identify relevant cases quickly. By limiting your search by type of injury, cause of action, party name, age or gender of plaintiff, court, presiding judge, and/or keyword, you can retrieve a targeted list of cases similar to your fact situation, helping you to predict potential damages. Determining the amount of damages a case may bring facilitates informed decision making with respect to accepting clients, requesting damages, and evaluating settlement offers.

A bibliography of the library's other case valuation resources can be found at the following website: <http://www.acgov.org/law/documents/CaseValuationBibliography.pdf>.

EMILY BERGFELD is a Reference Librarian at the Alameda County Law Library in Oakland, a position she has held for two years. She earned her undergraduate degree from UC Berkeley in 2005 and her Master's in Library & Information Science from San Jose State University in 2007. The Main Library is located at 125 12th Street between Oak Street and Madison Street in Oakland. The Branch Law Library is located at 224 W. Winton Avenue in Hayward. For information about library services, please visit www.acgov.org/law.

GUARDIANS OF JUSTICE CAMPAIGN

I believe that lawyers are the guardians of our system of justice. With the increasing and troubling divide between those who can afford legal representation and those who truly cannot, I believe that increasing pro bono service will be necessary by lawyers to attempt to ensure justice for all.

— Nikki Clark, Former VLSC Boardmember and Active VLSC Volunteer

A CALL TO ACTION FOR ALAMEDA COUNTY'S LEGAL COMMUNITY

The Volunteer Legal Services Corporation created the Guardians of Justice Campaign so that large firms, small firms, and solo firms can all join together with VLSC to bridge the justice gap in our community. To join Guardians of Justice, we ask that you make a commitment to support VLSC on an annual basis. By giving to the Guardians of Justice Campaign you will be leading the effort to close the justice gap by helping VLSC to:

- Sustain and enhance our current programs including pro per assistance clinics and pro bono referrals
- Continue to serve our existing 900 low-income and poor clients and help us increase our free legal programs to serve more clients
- Respond to emerging social issues that impact our community such as the current housing and foreclosure crisis

In turn, as a founding member your firm would be listed in all publicity and marketing materials and receive many benefits including but not limited to:

- Your firm name and/or logo will be posted on the ACBA website, acbanet.org.
- Your firm name and/or logo will appear on the VLSC home webpage.
- Your support will be highlighted in a story about the Guardians of Justice in *The Bulletin*

To learn more about how you and/or your firm can join Guardians of Justice, please contact VLSC Fund Development Specialist Michele Moore at (510) 302-2203.

GUARDIANS OF JUSTICE

LARGE FIRMS

BOIES, SCHILLER & FLEXNER LLP



LOMBARDI, LOPER & CONANT, LLP



SOLO AND SMALL FIRMS

BENNETT & JOHNSON, LLP
ELKINGTON LAW OFFICE
FURTADO, JASPOVICE & FURTADO LC

MORTON, LULOF & WOOD, LLP
ROISMAN HENEL LLP

SAVE THE DATE!



**VOLUNTEER LEGAL
SERVICES CORPORATION**

JUSTICE FOR ALL: CELEBRATING PRO BONO

Join us as we honor the VLSC volunteers who provided pro bono legal services last year. There will be a delicious dinner, exciting silent auction, and musical entertainment. We will also honor our Volunteer of the Year, Mentor of the Year, Wiley W. Manuel Certificate Recipients, and Lawyers in the Library volunteers.

THURSDAY, MAY 20, 2010

5:30 - 8:30 P.M.

SCOTT'S SEAFOOD

JACK LONDON SQUARE, OAKLAND

EARLY REGISTRATION BY MAY 10, 2010

INDIVIDUAL: \$135 • TABLE OF 10: \$1,500

REGISTRATION AFTER MAY 10, 2010

INDIVIDUAL: \$160 • TABLE OF 10: \$1,800

Invitations will be mailed to ACBA members in April.

For more information, including sponsorship opportunities, please contact VLSC Fund Development Specialist Michele Moore at (510) 302-2203 or michele@acbanet.org.

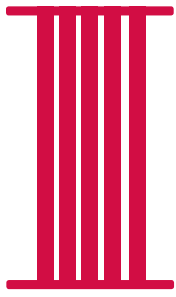
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**JUSTICE MING CHIN
KEYNOTE SPEAKER**



**SHERRY HU
MISTRESS OF CEREMONIES**



Kazan, McClain, Lyons, Greenwood & Harley, PLC

*Leaders in asbestos litigation and promoting diversity
in the legal community*

KAZAN, MCCLAIN, LYONS, GREENWOOD & HARLEY, PLC, IS KNOWN FOR ITS NATIONWIDE PRACTICE IN ASBESTOS

LITIGATION. Founded in 1974, the firm has filed over two thousand cases, primarily representing people with mesothelioma, a cancer with only one known cause: exposure to asbestos.

Every year, the firm is consulted by and gives advice to over a thousand potential clients. “We do one thing and we do it extraordinarily well,” remarks Managing Partner Steven Kazan.

With a staff of over 60, including 22 attorneys, the firm files 20 to 25 new cases each year. The firm is large enough to have extensive resources and many years of experience, yet small enough to ensure that every client receives individual and outstanding representation. All of the principals and many of the associates have extensive trial experience, and some of the principals are pioneers in asbestos litigation and among the most experienced mesothelioma lawyers in California. Steven Kazan

comments that “our reputation is one of superb skill and impeccable integrity; that’s what we’ve always been known for and that’s what we’ll continue to be known for.” The firm’s attorneys have been instrumental in winning precedent-setting rulings by the California Appellate and

Supreme Courts. The firm has represented clients across the United States, and in Canada, Mexico and the United Kingdom.

Kazan, McClain, Lyons, Greenwood & Harley, PLC not only seeks to redress the wrong done to each of its client, but also seeks to have a broader impact on improving the work-

place through public education and legislative advocacy. The firm does this primarily through the support of its nonprofit foundation, the Kazan, McClain, Abrams, Fernandez, Lyons, Greenwood, Harley & Oberman Foundation, Inc., as well as its participation in WORKSAFE!, a statewide coalition that supports occupational safety and health.

The firm not only seeks to **redress the wrong done to each client, but to have a broader impact on improving the workplace through public education and legislative advocacy.**

KAZAN, MCCLAIN, LYONS, GREENWOOD & HARLEY, PLC

FIRM TIMELINE

- 1974 Kazan, McClain, Lyons, Greenwood & Harley, PLC is founded.
- 1994 Kazan, McClain, Abrams, Fernandez, Lyons, Greenwood, Harley & Oberman Foundation is founded.

OFFICE

The firm is located at 171 Twelfth Street, Suite 300, on the corner of Twelfth and Madison Streets, across from the René C. Davidson in Oakland.

PRACTICE AREAS

- Claims
- Occupational Safety
- Impact Litigation
- Accidents
- Vietnam Veterans
- Lawsuit Anatomy
- Catastrophic Injury
- Chemical Exposure
- Lead

FOR MORE INFORMATION

Please visit kazanlaw.com.

Since its founding in 1994, the Kazan, McClain, Abrams, Fernandez, Lyons, Greenwood, Harley & Oberman Foundation has distributed more than \$15 million in grants to a wide array of community and civic organizations to support research of occupational and environmental diseases, public education about work-place health and safety, as well as education about the legal system and governmental process. This includes supporting internships and fellowships for public interest positions at several

labor organizations and public interest groups. In fact, one of the firm's attorneys, Denise Abrams, is a dedicated full-time pro bono attorney. She was also the founding director of the WORKSAFE! program in Northern California. Though WORKSAFE! now has six staff, including four attorneys, the firm continues its support of the program by housing it in the firm's offices.

In addition to being an ACBA Leadership Firm, the firm has been

the Labor and Employment Law Section of the State Bar of California, Women Lawyers of Alameda County, Trial Lawyers for Public Justice, and the Association of Trial Lawyers of America. At least three of the firm's attorneys have been the president of the Alameda Contra Costa Trial Lawyers Association. The firm's attorneys have also been active with the American Association of Justice.

Since its founding in 1994, the Foundation has distributed **more than \$15 million** in grants to a wide array of community and civic organizations. The partners donate more than \$1 million each year to the Foundation, and some of the firm's clients support the Foundation as well.



community organizations, funding scholarships and stipends for minority students going to law school, granting scholarships for schools to participate in high school mock trial programs, as well as supporting the county's law day program. The partners donate over \$1 million each year to the Foundation, and some of the firm's clients support the foundation as well.

The firm also maintains an active pro bono practice on behalf of

a loyal sponsor of *Justice for All: Celebrating Pro Bono*, the annual volunteer recognition event of the ACBA's Volunteer Legal Services Corporation. The firm's attorneys are also active in and on the boards of many other organizations, including: the Alameda Contra Costa Trial Lawyers Association, the Charles Houston Bar Association, Cal/OSHA's Advisory Committee, the National Lawyers Guild, Santa Clara County Committee on Occupational Safety and Health, the AFL-CIO Lawyers Coordinating Committee,

This article was compiled by Kaysi Holman, with assistance from attorneys and staff at Kazan, McClain, Lyons, Greenwood & Harley, PLC.

Kazan, McClain, Lyons, Greenwood & Harley, PLC is one of the Founding Members of the ACBA Leadership Firms, those firms that have achieved 100% membership in the ACBA.

We will profile our Leadership Firms in *The Bulletin*. Next issue: Boornazian, Jensen & Garthe!

ACBA LEADERSHIP FIRMS

The Alameda County Bar Association is proud of the relationships it has built with law firms throughout the county. Working together, we have the opportunity to enhance the practice of law and the administration of justice in Alameda County.

ACBA Leadership Firms was launched in 2009 to recognize and reward those law firms of ten or more attorneys that have 100% membership in the ACBA (i.e., every one of the firm's Alameda County attorneys is a member of the ACBA).

THE FIRST AND FOUNDING MEMBERS OF LEADERSHIP FIRMS:

**Boornazian,
Jensen &
Garthe**
A Professional Corporation



Being a Leadership Firm means:

- The firm's name and logo appear on the ACBA website with live links to the firm's website. This is a great way for your firm to stand out in the crowded legal field;
- Each issue of *The Bulletin* will include a substantive profile of one of the Leadership Firms—another way to raise your firm's visibility in the legal community. **This issue features a profile of Kazan, McClain, Lyons, Greenwood & Harley, PLC.**
- An annual Managing Partners Forum, currently in the planning stages, will give firm leaders an opportunity to gather and share the unique issues that face them; and
- Additional benefits to reward and recognize the Leadership Firms are being explored by the ACBA.

For more information about Leadership Firms, or to get your firm on board, please contact Thelma Garza at 510.302.2209 or thelma@acbanet.org.

LRS PANEL PROFILE: J. EDWARD KERLEY



The ACBA Lawyer Referral Service salutes ACBA member and LRS panel attorney **J. EDWARD KERLEY**, who is representing Granite Expo in Emeryville on a contingency basis. Granite Expo was in the process of remodeling when a fire, eventually determined to have been caused by welders, caused more than \$5 million in damage and inventory loss.

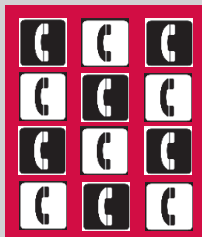
In late 2009, Mr. Kerley secured a \$1 million settlement from the welding contractor, which meant a generous payoff for his work and \$60,000 in referral percentage fees to help support LRS. Mr. Kerley hopes to recoup the balance of his client's losses in trial. He will represent Granite Expo in a case against the contractor this May and a case against Granite Expo's insurance brokers at a yet-to-be-determined date.

Mr. Kerley is a partner at Hereford Kerley LLP in Oakland, where his practice is focused on employment,

corporate, insurance, and business transactions. Prior to co-founding the firm, he held positions with law firms both in the U.S. and abroad. He has been a member of the LRS panel since 2006 and served on the LRS Governing Committee in 2007.

Mr. Kerley enjoys participating on the Lawyer Referral Service because it enables him to help a wide range of clients who need legal representation and aren't sure where to turn. He also refers those cases he can't handle back to the LRS for placement, and encourages his fellow ACBA members to do the same to help support this vital program and ensure that members of the public receive high-quality legal representation.

Hello! LRS is calling!



The ACBA Lawyer Referral Service is fortunate to have a strong and talented intake staff.

Whether they're helping panel attorneys or clients, these three superstars give every interaction their full professionalism, patience, and good cheer.



BARBARA RICHARD

Joined the ACBA in 2007

Her favorite part of the job: "The genuine appreciation from callers when an attorney is matched with their legal issue."



SHREE BENJAMIN

Joined the ACBA in 2002

Intake Referral Coordinator since 2006

Her favorite part of the job: "Knowing that clients will be referred to someone who is knowledgeable and experienced."



TOM RINGHAM

Joined the ACBA in 2007

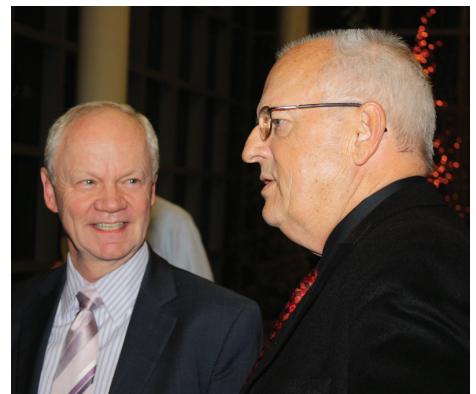
His favorite part of the job: "The legal system isn't user-friendly in the best of times, and people come to us under stress and often with few financial resources. We help these people navigate a difficult process."



ACBA Holiday Reception

December 3, 2009

Caffè Verbena



TOP ROW, LEFT TO RIGHT: Jamie Alcabes, Judge Frank Roesch, and Lewis Van Blois; Judge Winifred Smith, Judge Evilio Grillo, and Bill Adams

SECOND ROW: Dorene Kanoh and Chris Noma; Toni Mims-Cochran and LaJoyce Porter; Eric Behrens and Gary Gwilliam

THIRD ROW: Greg Silva and Bill Du Bois; Jack Schwartz and Seth Feinberg; Steve Blitch and Kaysi Holman

BOTTOM ROW: Nedra Shawler and Marlon Monroe; Marc-Tizoc Gonzalez and Susana Gonzales

First Steps Toward a Law Firm Social Networking Policy

RANDY WILSON

Let's say your firm hires a new lateral. After he starts work, it comes to light that he badmouthed his old firm on Twitter. The legal blogs pick up the story, it goes viral and suddenly the news about your firm's exciting new star gets replaced by gossip about a disgruntled partner who said rude things about his former employer. Or, let's say you have an attorney at your firm who maintains his own blog unmonitored by the firm and trips over conflict issues or uses your firm's logo, branding, or messaging in potentially damaging or embarrassing ways. Does your firm have a clear policy explaining your firm's stand on social networking to prevent problems down the road?

Dangers of LinkedIn recommendations

Social networking issues arise with all law firm employees not just attorneys. These issues range from lost productivity checking Facebook or from staff soliciting others for LinkedIn recommendations. For example, if a paralegal solicits a LinkedIn recommendation from a partner who agrees to give him or her a glowing recommendation, this could pose problems if the paralegal is subsequently terminated for cause and sues. Every employee should be counseled about the use of LinkedIn recommendations.

Companies and law firms are using social networking in the hiring process

While there are risks associated with companies allowing their employees to use social networking, it is a useful tool, particularly during the hiring and screening process. According to a study published in 2009, Harris Interactive found that 45% of all employees use social networking to screen candidates. That number jumps to 53% for professional services such as law firms. The top three social networking sites for employer screening are Facebook, LinkedIn, and MySpace.

Employers reported that 35% of the time they found content that discouraged them from hiring candidates with the top three red flags being inappropriate photos, evidence of drug use or excessive drinking, and badmouthing a previous employer. However, they also found content on those sites that made them more likely to hire someone, for instance a profile that

documents the candidate's relevant skills and talents or that the candidate's personality seems like a good fit.

But there are liability risks in doing so

Employers need to be aware that researching job candidates by using social networking websites has its legal downsides as well. There are local, state, and federal laws regarding race, age, disability, religion, sexual orientation, and so on that protect individuals against discrimination. If a candidate who falls into one these categories posted information that reveals such pertinent, personal information on a social networking website, and if that person can prove that a potential employer viewed such information before denying them a position, it could result in liability on the employer's part.

How should law firms cope with these issues?

First, the policy should be developed with input from partners, associates, staff, administrative managers, IT, marketing and human resources. Those tasked with writing the policy should be educated in how social networking works, appropriate and inappropriate use and the pitfalls as well as benefits. Next, this group's role needs to be ongoing as this will be the first version of a policy that will evolve. Social networking isn't going away, but it's also likely to look very different within the next couple years. Your policy will evolve with the technology.

Cracking down doesn't work

Law firms must first face the reality that social networking has loosened control over communications with employees, clients, prospects and the larger society. If they don't and instead enforce draconian measures, they will create poor

MCLE CREDIT

Earn one hour of general MCLE credit by reading the article and answering the questions that follow. Mail your answers with a check for \$20 to the address on the answer form. You will receive the correct answers with explanations and an MCLE certificate within two weeks.

CERTIFICATION

The Alameda County Bar Association has been approved by the State Bar of California as a continuing legal education provider. This self-study activity qualifies for MCLE credit in the amount of one hour of general credit. ACBA PN#297.

morale, viral bad press, stifled creativity and brain drain. Once the new reality is accepted, then law firms can craft a policy that encourages appropriate use of social networking during working hours and beyond.

Employees must face a new reality, too. They put their careers at risk by inappropriate use of social networking. That's why it's essential that the firm's social networking policy include a training component. Employees have a strong incentive to use social networking to benefit their organizations, but they need to know how the appropriate use of social networking will benefit them.

Privacy, privacy, privacy

While a law firm's social networking policy should address a number of functions - legal and business risks, appropriate and inappropriate behavior - the critical issue is privacy. If employers and employees understand how to protect their privacy, they can avoid many of the problems inherent in social networking. It's critical to understand the terms and conditions of social networking sites which outline how the site uses their information. All users of any given social networking site also need to understand the privacy settings of these sites. Do they automatically make a user's information public?

Facebook & Google Buzz privacy controversy

This was what Facebook did by default and they were sued by the Office of the Privacy Commissioner of Canada. Out of that litigation, Facebook agreed to change its privacy settings so that users can choose to make content public rather than having to proactively choose to make it private. It is expected that more social networking sites will follow suit.

But late last year, Facebook changed its privacy settings causing even more controversy because privacy groups say the company is making more personal information publicly available. Class action lawsuits have been filed. Now Google's new social networking application, "Buzz" has been attacked for similar types of issues that make Gmail users' private information, public. Before companies set up "fan" pages or profiles, they need to know exactly

what kinds of privacy setting and rights they have by agreeing to participate in a social networking platform. The same goes for individuals setting up their personal profiles.

Risks of innovation

The rise of social networking, like all innovations, follows a predictable pattern. There is the initial gee-whiz factor and the blank stares from most people when early adopters enthuse over the latest innovation. Then there is broader adoption and the ensuing hype over how Twitter is a panacea. Then a backlash develops based on exaggerated claims, ignorance and fear. Finally, the technology becomes such a basic part of doing business that it no longer garners unusual attention. Society by then is on to the next innovation. Right now, we are in the backlash stage, and law firms that are educated and act with common sense and thoughtfulness can develop policies that give them confidence that their use of social networking is just another part of business as usual.

RANDY WILSON is an attorney, legal marketing consultant and frequent presenter on various marketing and social networking topics. A member of the ACBA Business Section Executive Committee, he co-presented, with Kelly Savage Day, the February 25, 2010 ACBA MCLE program, "Social Networking: Flash in the Pan or Here to Stay?"



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First Steps Toward a Law Firm Social Networking Policy

SELF-TEST

1. Law firms should seriously think about developing social networking policies.
True___ False ___
2. Making a LinkedIn recommendation is harmless.
True___ False ___
3. Fifty-three percent (53%) of professional firms use social networking sites for screening job candidates.
True___ False ___
4. LinkedIn is the #1 site employers use for screening job candidates.
True___ False ___
5. More than half the time professional services employers find content that discourages them from hiring a candidate.
True___ False ___
6. There are local, state and federal laws that protect some individuals against use of social networking sites for screening purposes.
True___ False ___
7. Social networking policies should be developed with assistance from the company's HR department.
True___ False ___
8. If you write a social networking policy, your company won't have to think about the issue anymore.
True___ False ___
9. Draconian social networking policies are the only way to ensure that your workforce remains productive.
True___ False ___
10. Employees have an incentive to use social networking to assist their employer.
True___ False ___
11. Facebook has been very reluctant to share personal information about their members.
True___ False ___
12. Facebook has been subject to class action lawsuits over its privacy standards.
True___ False ___

HOW TO RECEIVE ONE HOUR OF MCLE CREDIT

Answer the test questions above, choosing the one best answer to each question. Mail this page and your payment for \$20 to:

Alameda County Bar Association/MCLE
70 Washington Street, Suite 200
Oakland, CA 94607

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Firm Name: _____

Address: _____

City, State, Zip: _____

Phone: _____ Email: _____

Visa MasterCard Amex Check (payable to ACBA)

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Card Number: _____

Expiration Date: _____

Signature: _____



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The ACBA's 2009 Membership Survey revealed that a whopping **59% of responding members were unaware of the money they could be saving** by taking advantage of the discounts available to them as part of ACBA membership.

We recently launched our new ACBA Member Benefit Blast, a regular email to our members highlighting a particular member benefit. Watch your inbox, and, if we don't have your email address, please contact the Membership Department at (510) 302-2201 so that we can add you to our mailing list.



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Our aim is to be in touch with our members' needs—if you have suggestions for membership benefits we are not currently offering, please let us know! Contact ACBA Associate Director Thelma Garza at (510) 302-2209 or thelma@acbanet.org with your feedback.

The Alameda County Bar Association (ACBA) is the premier association for legal professionals in Alameda County, with over 2,100 members who reflect the talent and diversity of the constituents we serve.

By joining the ACBA, you will:

Network with Alameda County judges, attorneys and other legal professionals at our annual receptions and section socials.



Stay sharp with quality MCLEs in a variety of practice areas, offered at a significant discount to our members.

Keep current and connected with a complimentary subscription to the ACBA's magazine for legal professionals, *The Bulletin*, as well as monthly updates in our e-newsletter, and a complimentary copy of the ACBA's Membership Directory.

Learn to lead by becoming involved in one of our nine section executive committees, which plan MCLEs and socials throughout the year.



Gain experience while you serve the community by volunteering with ACBA's Volunteer Legal Services Corporation.



Grow your practice through the Lawyer Referral Service, Court Appointed Attorneys Program and Fee Arbitration Program.

Enjoy discounts on professional and personal resources, including travel and transportation, insurance, financial service, and services to help busy legal professionals succeed!

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Distinguished Barristers Stephanie Sato & Tom Ogas



DENNIS CHIN

STEPHANIE SATO AND TOM OGAS WERE RECENTLY HONORED WITH THE ACBA DISTINGUISHED SERVICE AWARD FOR A BARRISTER.

Stephanie graduated from Santa Clara University School of Law and practices family law at Stonehouse and Silva. She is Vice-Chair of the Barristers Executive Committee and served as Secretary in 2009. Her dedicated work in the development of the Barristers Mentorship Project has earned her praise from colleagues and peers. Additionally, she is a member of the Earl Warren American Inn of Court, and spends many hours volunteering in both ACBA activities and the community at large.

Tom graduated from Pepperdine University School of Law, has a criminal defense practice in Oakland, and teaches criminal law at California State University East Bay. Tom served as Chair of the Barristers in 2008 and 2009. During his five years on the Executive Committee, he also served as Secretary and had an integral role in the implementation of the Barristers Golf Classic and the Barristers Mentorship Project. Tom also volunteers with Lawyers in the Library and volunteers at mock trials and is a member of the Earl Warren American Inn of Court.

What do you enjoy doing when you are not practicing law?

Stephanie: I enjoy spending time with my husband, cooking, eating out, watching NBA basketball and participating in community service in the Japanese American community.

Tom: I have two dogs, and I enjoy taking them on off-leash hikes at East Bay Regional Parks.

What was your favorite class in law school?

Stephanie: Family law. A close second was federal personal income tax.

Tom: Advanced trial practice. If we weren't playing lawyers or playing witnesses, we were sitting in an actual jury box as jurors, deliberating in the jury room, and coming back with verdicts. We had two long classes twice a week, and got to do a lot of mock trials from every angle.

What motivates you to help in the community?

Stephanie: The community has given me so many good experiences and I want to give back. I feel a responsibility to look beyond my own job, family, and friends to give back to the community. Even when I'm tired from a long week, I always feel more energetic and happy after participating in community service. This week I am teaching interview skills to a group of young women judging a speech contest for high school students. I enjoy watching people grow and develop new skills, and I enjoy providing constructive criticism and support.

Tom: I spent my first five years as a Public Defender. To do that job, you have to care about something bigger than yourself or even your assigned clients—you have to care about justice. Giving free legal assistance to people who can't afford to pay just feels like the right thing to do, and that feeling doesn't go away after you decide to go into business for yourself.

Do you have any advice for young lawyers?

Stephanie: For those having a difficult time securing your first job, volunteer to gain legal experience and meet people, and be flexible about what you are looking for. For those already working, focus on gaining good lawyering skills, meeting people, and bringing in business. Develop a good relationship with your employer and coworkers, and earn a reputation for being intelligent, reliable, hardworking and a pleasure to work with.

Tom: Get involved. You need friends and contacts in the legal world to for advice and support. This is not an easy job, and law school only gives you a foundation.

DENNIS CHIN teaches legal ethics at California State University East Bay and serves on the ACBA Board of Directors. He was the recipient of the 2009 ACBA Distinguished Service Award for a Barrister.

The November 2009 - February 2010 Meetings

AT THE NOVEMBER 3, 2009 MEETING OF THE ACBA BOARD OF DIRECTORS, the Board approved the minutes of the October 6, 2009 meeting and took the following actions:

1. Approved releasing the revised ACBA Bylaws dated October 29, 2009, for public comment for a period of 60 days.
2. Elected the following to serve terms on the ACBA Board of Directors beginning on January 1, 2010: President Elect: Wayne S. Nishioka; Vice-President: Sally J. Elkington; and Directors Jason Clay, Dennis Chin, Robert Frassetto, Yasmin James, and Toni Mims-Cochran.
3. Approved the 2010 budget of approximately \$1.7 million and projecting a slight deficit.
4. Approved the purchase of an updated, integrated database, the Associate, from Intus Technologies, for \$186,295, with the \$76,295 down payment to be expended from the 2009 ACBA cash account; approved increasing the amount previously authorized to be withdrawn from ACBA reserves in 2010, from \$100,000 to \$110,000, to pay the remaining balance of the database purchase price in two payments of \$45,000 and a final payment of \$20,000 upon completion of the project; and approved the purchase of new hardware and software necessary to support the new database, and that the funds for this purchase be expended are not to exceed \$13,700.
5. Approved the following for Distinguished Service Awards in 2010: Attorney: Tom Orloff; Judge: Judge Delbert Gee; Law Firm: Morton, Lulofs & Wood, LLP; Barrister: Stephanie Sato and Tom Ogas; and Community Organization: the Oakland Public Library.
6. Adopted the ACBA Section Support Plan as a voluntary alternative to current section accounting practice.
7. Adopted the CAAP Advisory Committee's recommendation that CAAP Rule K(3) remain unchanged, and directed staff to review the rules and tighten the timeframe for review of disciplinary action.
8. Adopted the revised "Rules for Suspension, Removal or Other Disciplinary Action from Alameda County Bar Association Attorney Panels" and directed that these rules be

incorporated into the existing rules of CAAP and LRS.

AT THE DECEMBER 1, 2009 MEETING, the Board approved the minutes of the November 3, 2009 meeting and took the following actions:

1. Ratified the President-Elect's appointments to the CAAP Committee for 2010 as follows: Chair: Greg Brown; Vice-Chair: Lorna Brown; reappointed members: Lorna Brown and James McWilliams; and new members: Andrea Auer, Michael Berger, Darryl Stallworth, and Paul Wellenkamp.
2. Approved presenting a Distinguished Service Award for a Legislator to Assemblymember Mike Feuer, author of AB 590, the Sargent Shriver Civil Counsel Act, and keynote speaker at the ACBA Installation event in January 2010.
3. Recognized and thanked ACBA boardmembers for their excellent work in 2009.

AT THE JANUARY 12, 2010 MEETING, the Board approved the minutes of the December 1, 2009 meeting and took the following actions:

1. Approved the following dues for attorneys participating on the 3150 panel as recommended by the LRS Governing Committee and staff: ACBA members: \$250 for attorneys in practice less than five years, \$350 for attorneys in practice five years or more; non-ACBA members: \$350 for attorneys in practice less than five years, \$450 for attorneys in practice five years or more.
2. Approved LRS rule revisions as recommended by the LRS Governing Committee and staff:

Rule 5. Modest Means Panel: Add the following footnote to the first paragraph: "Representation of Minors (3150 panel) cases are limited to the rates/payment guidelines established by the ACBA's contract with the Court. Forwarding fees to LRS on court-appointed cases are waived for 2010."

Rule 6. Eligibility and Registration: Add the following footnote to paragraph (c): "In 2010, members of the 3150 panel shall be covered by an errors and omissions insurance policy maintained by the ACBA. After 2010, attorneys on the 3150 panel will be required



SALLY J. ELKINGTON

BOARD OF DIRECTORS UPDATE

to secure and maintain their own errors and omissions insurance policies.”

Rule 7. Fees and Reports: (1) Replace paragraph (a) with: “LRS panel membership fees are set by the ACBA Board of Directors upon recommendation by the LRS Governance Committee. Each applicant shall remit the annual membership fee with completed application”; (2) Delete “conservatorships”; (3) Add the following footnote to paragraph (c): “Forwarding fees are waived on court-appointed representation of minors cases during 2010.”

3. Rescinded the policy adopted on November 5, 2002 regarding co-sponsorship of other bars’ events. In the future, the executive director, in consultation with the Admin Committee, will approve, on a case-by-case basis, co-sponsorships with other bar associations, legal services providers, and law firms.
4. Adopted the revised version of the “Rules for Suspension, Removal, or other Disciplinary Action from Alameda County Bar Association Attorney Panels” and directed that these rules be incorporated into the existing rules of the Criminal Court Appointed Attorney Program and the Lawyer Referral Service: “The composition of the QAS will consist of three

individuals, namely, the current Chairs of the LRS and CAAP Committees and a Vice-Chair of either committee. If a member of the QAS is unavailable, or if a conflict of interest should arise with a member of the QAS, then the Board Liaison of either committee, depending upon availability, will serve on the QAS. No more than one member of the QAS shall be an active member of the same panel as the offending panel member.”

At the February 6, 2010 Meeting, the Board approved the minutes of the January 12, 2010 meeting and took the following actions:

1. Adopted revisions to the ACBA Strategic Plan.
2. Approved the recommendations of the Admin Committee, Finance Committee, and staff, to forgive \$55,000 of the \$110,198 VLSC debt incurred through 2003.

ACBA VICE-PRESIDENT SALLY J. ELKINGTON is a bankruptcy attorney in Oakland. A graduate of New College of California School of Law, she is past chair of the ACBA Bankruptcy Section and the Judicial Appointments Evaluation Committee.



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