

# *Santa Barbara* Lawyer

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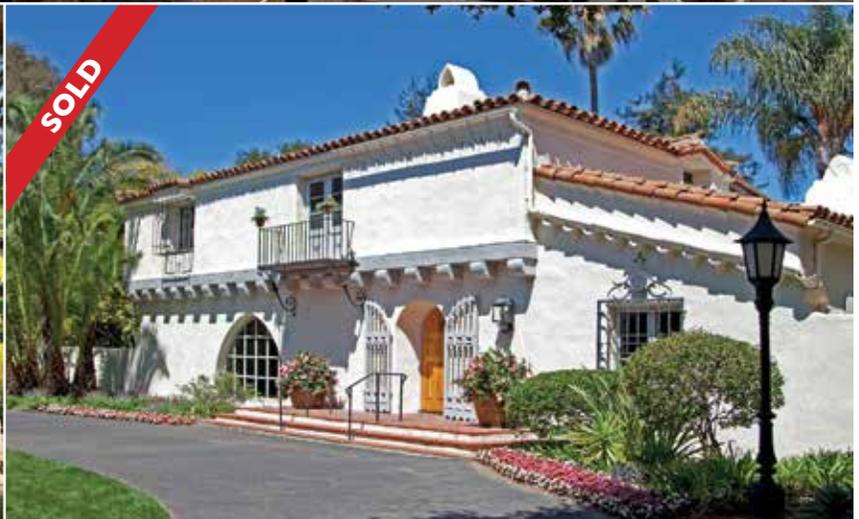
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# Santa Barbara Lawyer

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# Mission Statement

*Santa Barbara County Bar Association*

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Photo by Lida Sideris.



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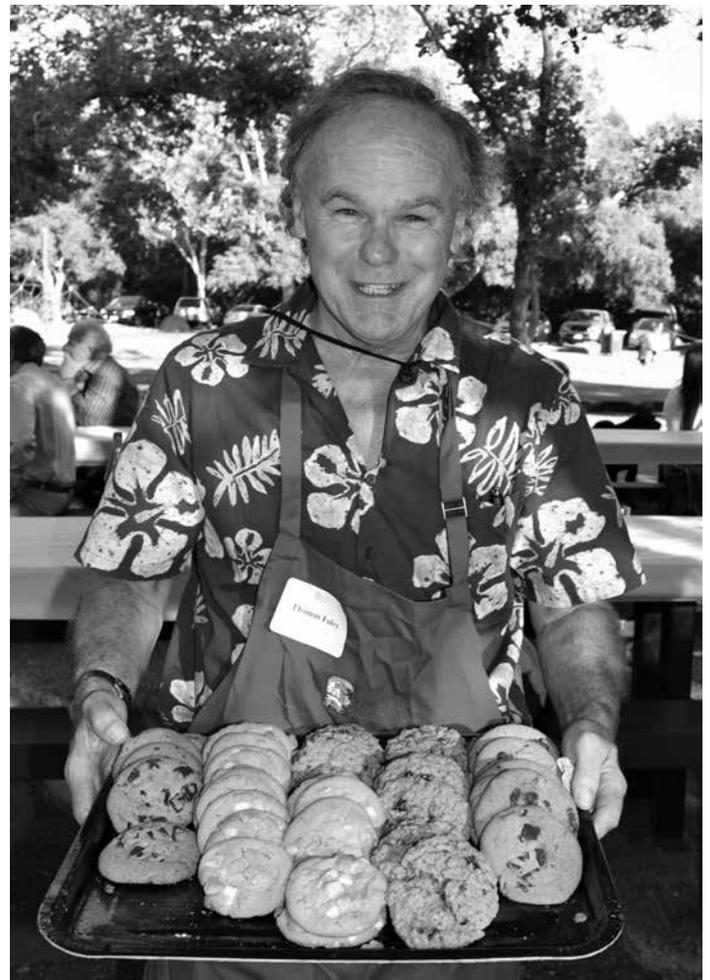
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*Tom Foley offers cookies for dessert at the SBCBA BBQ. For more coverage, see page 18.*

# The Consummate Storyteller:

## An Interview with Justice Arthur Gilbert, Presiding Justice of Division Six of the California Court of Appeal

BY JENNIFER GILLON DUFFY

I sat in his rotunda-shaped office in Ventura on a dreary morning. Items of nostalgia from years of collecting, along with awards and accolades from a distinguished career, filled the room. His melodic, baritone voice drew me in immediately. It felt like he could talk to anyone about anything.

Presiding Justice Arthur Gilbert shared so many experiences with me: being a writer for the *UCLA Daily Bruin* newspaper in college, as I had been, his admiration for author Robert Rosenstone, meeting his idol Ray Bradbury, writing a column for the *Daily Journal* that has turned into two published books, his passion for performing as a jazz pianist with the award-winning Big Band of Barristers in Los Angeles, etc., etc., etc.

As we spoke, I wrote “the consummate storyteller” down the side of my notepad. I didn’t want to forget that moment, that feeling, that phrase.

Sitting next to me was Lauren Nelson, Justice Gilbert’s (and the Court’s) most senior Research Attorney. Justice Gilbert started with the Court of Appeal in December of 1982. Ms. Nelson started with the Court in early 1983. They both consider their relationship to have been together since the beginning of the Court. As Justice Gilbert said, “Lauren makes me look good.”

Justice Gilbert is a storyteller.

He shared the advice Ray Bradbury gave him decades ago: “Write 1,000 words a day, every day, and you’ll write away all the dead wood and clichés, and your true voice will come out.” Justice Gilbert took that advice to heart. He has written a monthly column for the *Daily Journal* since the 1980s. His first 20 years of columns were published in 2008 in a book called “Under Submission: The Columns

of Arthur Gilbert.” His Volume II published in December of 2017. Every dollar of profit goes to charity.

Parts of our interview follow. (Any paragraph that starts with “Lauren:” reflects Lauren Nelson’s comment. Otherwise, the comments are from Justice Gilbert.)

### ***Tell me about how your Court operates.***

This is a collegial court. The other Justices and I are very, very close friends. It’s a very tight group.

All of us at the court, we dress any way we want, and everyone is on a first-name basis. I don’t believe in this “Judge-itis” stuff. We’re all people. Judges and attorneys come in and out of each other’s offices, consulting, all trying to solve a problem.

We’ve been told that we have a very informal court. I don’t know how people know this, but it is true. My philosophy is that, if everyone is relaxed, and the litigants know what the jurists still want to know and understand about the case, there will be a better oral argument. I tell the lawyers what my problems are, what I don’t know or understand. I will make a proposition and ask them to tell me if I’m wrong, and if so, why. The point is to get to the answer.

I live in Los Angeles and commute to Ventura two or three days a week on non-argument weeks, and four days a week on argument weeks. I can write and sign opinions from anywhere. But as PJ, it is important to me to be here regularly. I want to be face-to-face, not just do things by memo.

### ***How do you start writing your opinions?***

I like to write an opening paragraph of what the case is about, before oral argument happens. It helps me figure out if I really understand the case. If I can’t write that paragraph, I know I don’t understand the case and need more information or more time with it, or both.

### ***What is your best advice on writing?***

I wrote a piece that I should give to you. It’s in my book – Volume II. Brian Garner, the Editor of Black’s Law Dictionary, wrote the forward.

You’ve got an assignment. In chapter 12 of my book at page 601, read *The Frightful Adventure of Judge Learned Foot*.



*Presiding Justice Arthur Gilbert and Senior Research Attorney Lauren Nelson*

Read that and how it turned out. It will tell you how I feel about writing. And Lauren is an exponent of that. It's a real collaborative effort of the research attorneys and me.

### ***Learned Foot. That's funny. Can I quote right from the book in my article?***

Yes.

If you look at opinions of the great jurists, Traynor, Holmes, Cardoza, they are all short, brief opinions. Life is more complicated now. There are cases with long histories that need to be explained. But in general, be brief.

Editor: *The Frightful Adventure of Judge Learned Foot* is both funny and poignant. The lessons are clear. Some are: Know your goal when writing a brief or motion. Don't write through the problem to understand it. Don't assume the reader knows the subject as well as you do. The column includes a list of points for writing an excellent brief. One should really read the piece, to get the full meaning and value of it. But briefly, these points are:

- Be wary of your opponent's brief.
- In your brief, state the following succinctly:
  - Nature of the case
  - Issues or questions to be decided
  - What the ruling should be
  - Pertinent facts
  - Argument
  - Conclusion
- In your rough draft, highlight your weaknesses and then try to write a response to the weak points.
- Make the brief interesting and persuasive.
- Write with the reader in mind.
- Write in a style that is crisp, concise, and that sparkles with clarity.
- Short sentences usually deliver more power than long ones.
- Make the brief short, even though it takes a longer time to write.
- Avoid pest phrases (with many examples).
- Do not pad. The most dependable friends we have are nouns and verbs.
- Do not use nouns for verbs unless you plan to work for the Pentagon.
- Keep in mind that the brief is more than a collection of examples of good grammar and syntax.
- A verb must agree with its subject and number.
- Use parallel construction.
- After writing the masterpiece, put it away for a day or two.
- Use these rules as a reminder.



*"Gilbert P.J."*

### ***How do you work with pro pers?***

Argument is friendly for pro pers. We try not to make it intimidating for them. When a pro per comes in, they are scared. I welcome them, and say, "Look, you probably haven't been in this Court before. So, this is what we do, how it happens. We are just people, trying to decide, but we must stay within the record. There may be something you want to tell us, but we must stay within the record. We have to decide if the trial court made an error, and we are bound by a lot of things they say, and I know there is a lot of other things you want to tell us, but we are bound by it." We tell them that, and many are so appreciative.

### ***How many cases do you generally have, and how often to do you do oral argument?***

We have two oral arguments once a month, civil and criminal. All Courts of Appeal function pretty much the same way across the state. Some do it all in one day. I decided that it's too much for everyone that way. The lawyers are waiting around. So, I decided we would have criminal one day and civil the next. The second Wednesday and Thursday of each month is oral argument. Prior to oral argument, we are working up cases. Lauren is working on a case, and she will give me a draft, and I might make a suggestion or two with Lauren, but everything is usually perfect with Lauren, you don't have to do anything. I feel like I'm working for her!

Lauren: He gave a toast at my wedding! And that's what he said. Do you remember? You said, sometimes you feel you are working for me. (Everyone laughs.)

### ***How are cases assigned?***

I do a blind draw. Theoretically, as PJ, I can assign cases.

I don't want to do that because I don't think it's fair to litigants, and I don't want that burden of giving a hard case to one, or assign cases based on the experience of a particular jurist. I'm a generalist.

We read all of each other's cases. I think it is much fairer. And most of the divisions do this now, a blind draw.

There are three justices on the case. One is the author. The other two are on the case, and they can concur or dissent.

At our conferences, prior to oral argument, we sit around my conference room, and yell and scream at each other and have a lot of fun. (Chuckles.) And we make suggestions to each other on presentation and writing, grammatical changes, revisions. We are one of the few divisions that do that. Some will never do that. Some don't let another justice speak with their research attorney. And we meet in person. Some just write memos to one another. We have a very open Court. We walk into each other's chambers. Anyone can walk into Lauren's office and ask her questions about one of my cases, or their case. It is an open door.

### ***How is your caseload?***

Our caseload is relatively light compared to when Lauren first started.

Lauren: When we first started in 1983, really, I think some clerk's offices had saved up cases. You'd walk into our office and all the tables were covered.

We were a new division, and we took cases from Bakersfield that had originally taken San Luis Obispo cases, and they knew we were being created, so they just let the cases stack up. And San Francisco was way behind. So, the Chief Justice [of the Supreme Court] decided to share those cases across the state, so here we were, doing 175 cases per year, per Judge. That's like a term paper every day. Steve Stone was the Presiding Justice then, and he said, "We're cutting it off at 175. Don't even try to do more. That is your maximum." Now we do about 135, and new justices think we are working so hard, but they have no idea. We were killing ourselves, working day and night. We had a special meeting with the research attorneys and said, this is what we are dealing with. It's not private practice, but it's a lot of work. And we did it. We all got through it.

### ***How important is oral argument for litigants?***

I think oral argument helps crystalize ideas in your mind. We seldom change the result. In a few cases we have. But, it crystalizes the issues in our minds, by talking about it.

Justice Yegan doesn't ask a lot of questions unless he is really fired up. He said something, and it is true. He said that Steve Perren and I are talkers. We like to articulate, and we are able to resolve things by talking and writing. He likes

to see it on paper. He says, "Write it out. I'm better with it." He thinks that oral argument is usually a waste of time.

I don't think it's a waste of time at all. And we have conferences afterwards. We sit around my conference room table and talk. But Yegan is also right that many times, oral argument doesn't really add much. We've already spent so much time working up the case already.

### ***Did you always know you would end up a judge?***

Absolutely not.

### ***Did you always know you'd be in law?***

No. I have to be honest. I went to law school because I didn't know what else to do. But, I was cutting class and going to the English Department because Alfred Kazin, a really famous literary critic of the 50s, was teaching a course, lecturing on *The Catcher in the Rye*. There were a lot of cultural things going on then. I loved being at Berkeley. I even went to graduate school at Berkeley in English after law school. But then when I was there, it wasn't as creative as I thought. So, I took the bar exam and dropped out.

At that point, I didn't really know what I was going to do. Travel around Europe? And then a job came up. A friend of mine worked at the City Attorney's Office and said, "It's really fun to try cases. Come down." So, I went down to LA where I was born. It looked like fun. He said, "Just interview." At the interview they hired me.

I tried the first consumer fraud case in California. It was fun.

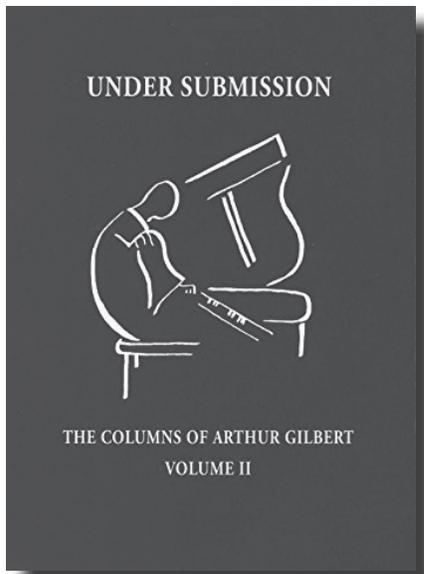
I was fairly good at it. So, I said, maybe I'll stay in the law. Then, I ended up being in a small boutique firm. We did very well, beyond what I ever dreamed we could do. And I found the quality of my life eroding, the more successful we became.

I wound up managing Ed Edelman's campaign for LA Supervisor, which is a whole story in itself. It was something I had never done in my life. I was managing his campaign and met everybody. I worked my tail off and really learned a lot. And I still could practice law a little bit. Ed became Supervisor.

Then Jerry Brown was running for Governor. So, I went with his campaign. Jerry became Governor.

I wrote a one-sentence letter to Jerry: "I think I'd be interested, if you're so inclining, to an appointment on the court." I didn't say which court. I was 37 years old. He wasn't appointing anyone for eight months.

Jerry called and said he was appointing me to the court in Burbank. I said, "I can't do that! That's so far away. How about LA?" He said, "Ok, LA." So that was it.



I was his second appointment to the Los Angeles Municipal Court.

Ed Edelman and I focused on women's rights and the gay community. I went out into that community and met people who were really harassed. I thought it was an outrage.

I took over traffic court. It was the largest traffic court in the world. People could only come in at certain times. Why? Let them come in whenever they want. And so, we changed that overnight.

I started a drunk driving program. I started community service. We never had that before. It wasn't my original idea. It was Eric Younger's idea. His father ran against Jerry Brown. He was pushing it, and no one would do it. So, I called him. "Eric, I really like this idea. I'm going to do it." So, I just did it. I had radio interviews, and I said it was Eric Younger's idea, I'm just implementing a good idea.

Spanish-speakers were coming in on warrants. They didn't even know what the traffic ticket said, since it was in English. I had a Mexican bailiff. I said to him that we ought to have tickets in Spanish. So, we just did it, overnight. The Sheriff's Department thought it was a good idea and started doing it. There was a big news conference. I was like, famous. I was in the press all the time. The *LA Times* was supporting me all the time.

The drunk driving program for first time offenders: That got lots of press. Burt Pines was the LA City Attorney. He said we should have jail for first time offenders. And I said, "No, they don't understand what this is about." I wrote a letter to the *LA Times*, which put that letter in its Sunday editorial, supporting me over Burt Pines.

I just loved my job. It was so much fun. I was having a ball.

There was a statute called Penal Code Section 647a. It made it a crime to solicit a lewd act in a public place.

Cops would pose as gay guys, go to gay bars, and entice a potential defendant to solicit them to have sex. Then an arrest would follow.

Ultimately, these cases were all in Municipal Court. They went to me. I had 60-100 of those cases.

The Brown Act: Famous Willie Brown was the Speaker of the Assembly. He was a wild guy. There was an act that he and another legislator wrote that said that consenting adults could do whatever they want in private. It wasn't a law specifically for gay people. In my opinions I cited the Brown Act in these 647a cases and said, "If you can do it, you ought to be able to talk about it." Isn't that really what it's all about?

My opinion became famous. *Playboy Magazine* wrote it up.

The Supreme Court, in a separate case, ruled that section 647a was unconstitutional, just as I had done. I remember, they called me, from *Playboy*, and said, "The Supreme Court listened to you." I said, "They didn't, so no, don't write that. The Supreme Court decided this independently." This was a really great Supreme Court.

Then I went on the Superior Court for a short time, from 1980 to 1982, then I went onto the Court of Appeal.

### ***How often do litigants waive oral argument?***

In criminal law, they do all the time. I understand why.

There was a radical change in criminal law 20 or some years ago; *Illinois v. Gates*, the totality of the circumstances case. With criminal law, with all the new statutes coming out trying to undo the problems with three strikes, we realized that what we did was overkill, we are choking to death, and we're putting non-violent people in prison for a long time. It costs the state a fortune and isn't solving the so called "crime problem." So now we have a much more enlightened view. We must interpret the laws and where they apply and under what circumstances. So, there are a lot of waivers.

When the three strikes law came out, I was vehemently opposed to it, and I was concerned about the unlimited discretion it seemed to give to prosecutors filing three strikes. I thought the courts were losing a degree of their autonomy. But I must say, I was so impressed with all of the prosecutors in the tri-counties, and how fair they were about what to prosecute as three strikes. They were conservative. My perceptions were so wrong.

### ***Lauren, do you and the other Research Attorneys come to Court for oral argument?***

Lauren: We used to. But our IT people arranged it a good

*Continued on page 24*

# Identifying Sequential Writing

BY SHEILA LOWE, MS, CFDE

In these days of electronic record-keeping, the forensic document examiner is still contacted by attorneys to determine whether handwritten entries in a log or diary were made sequentially—at one time—or at separate times. An example of this type of case is an insurance company that received hundreds of bogus claims from a particular chiropractic office.

After a lengthy investigation, it was determined that over a period of time, office personnel had solicited more than 200 people on the street to come into the office and sign log sheets repeatedly, usually about 30 times each in one sitting, but listing different dates on each entry. These individuals were paid a few dollars and sent on their way. The chiropractor then billed the insurance company for what amounted to thousands of visits when little or no service was actually provided. Thus, the insurance company needed proof that the log sheets were being signed in one sitting or in groups of sittings. This article offers reasons why it is possible to make such a determination and a process for doing so.

Some factors to consider in an examination of this type are how the margins are laid out on the page, the spacing between the lines, the handling of paragraphs, and any abrupt changes in the quality of the handwriting that could point to parts of the document having been prepared under various circumstances.<sup>1</sup>

Synchronous writings<sup>2</sup> were written:

- on one occasion
- in the same writing position (sitting, standing, or leaning over)
- with the same media (pen and paper)
- on the same surface (table, counter, lap, or other)
- for the same purpose (two or more copies of the same document)
- by the same person
- in the same mental and physical state.

Research indicates that, looking at factors such as size, spacing, slant, and margin drift (margins moving to the left or right as they proceed down the page), signatures made

in one sitting tend to have more similarities than those that are done separately. The width of the signature may also increase. Both internal and external influences have an effect on the production of writing.

## **External influences include the following:**

- writing instrument
- writing position
- writing media (pen, pencil, paper, writing surface)
- paper position relative to the writer
- writing space
- interruption/no interruption of writing
- Interruptions in the writing process of even fifteen minutes are undoubtedly going to be accompanied by some adjustment in the writing position and/or in the orientation of the documents to the writer, which may have some effect on the product.

## **Internal influences include the following:**

- state of mind
- age
- physical health
- chemicals (alcohol, medications, recreational drugs)
- consistency of writing position

Some other important factors to consider when examining logged entries include the environment and conditions in which the log sheets were constructed. Where did the patient sign in? Standing at a desk? Using a clipboard to write or on a magazine? What were the ergonomics of that sheet? How were the patients positioned when they wrote? What about available pens? Were they all from the same clinic or did the patients use their own? (Note: Dates should be checked to see that the clinic was open on the days the signatures were dated).

Consistency is the key to determining whether or not writing was produced in one or more sittings. When there are inconsistencies, look for a reason: a change of writing instrument when ink has run out; writing fatigue, etc. When writing without stopping, you gain momentum, which may affect the writing's rhythmic patterns.



Sheila Lowe

# S.A.F.E. House Santa Barbara Opens Its Doors to Survivors of Human Trafficking

BY TERESA M. MARTINEZ

The Junior League of Santa Barbara County, in partnership with 4 Kids 2 Kids, a Ventura County non-profit organization whose mission is to rehabilitate survivors of human trafficking, has opened a short-term residential therapeutic rehabilitative program in Santa Barbara County for girls fleeing human trafficking, known as S.A.F.E. House Santa Barbara. With only 18 beds of its kind in the state, this is a huge achievement for our community.

When we think about human trafficking, we typically don't think about Santa Barbara. But, the Central Coast has been identified as a natural transit corridor for trafficking activity between metropolitan areas to the south and north.<sup>1</sup> Santa Barbara County is susceptible to human trafficking activity as a tourist destination with a transitory population and migrant labor market.<sup>2</sup> According to Megan Rheinschild, Victim Assistance Director with the Office of the District Attorney for Santa Barbara County, what compounds this problem is the economic vulnerability that many children in our county face.

With over 500 children in the foster care system<sup>3</sup>, and around 30%<sup>4</sup> of children living in poverty Countywide<sup>5</sup>, these vulnerable children make for prime victims for traffickers. In fact, human trafficking is so prolific in Santa Barbara County, that in 2016, the Santa Barbara County District Attorney's Office and Santa Barbara County Sheriff's Office received \$1.34 million from the U.S. Department of Justice ("DOJ") under the Trafficking Victim Protection Reauthorization Act to combat human trafficking in this county through investigation and prosecution.<sup>6</sup>

Both federal and state laws have been passed since 2000, including the Trafficking Victim Protection Act and its amendments, to enhance the capacity of prosecutors to bring human traffickers to justice for their crimes, provide increased services to trafficking victims, and create civil remedies for victims of trafficking to obtain actual and punitive

damages against their traffickers.<sup>7</sup> Prior to these laws, prosecutors used various federal statutes, such as the Mann Act<sup>8</sup>, which prohibited knowingly transporting any individual in interstate or foreign commerce with intent that the individual engage in prostitution, and other involuntary servitude and labor statutes. However, the existing laws were being narrowly interpreted by courts to cover only certain types of servitude and were inadequate to deter trafficking and bring traffickers to justice.<sup>9</sup>

With the improvements to the legal scheme and the DOJ grant funding, the Sheriff's Department and District Attorney's office have been able to combat human trafficking locally with specialized resources. Since January 2017, the DA's office has contacted 54 potential victims of human trafficking in our county, (30 of which were minors,) and identified 13 pimps, of which 12 were arrested and prosecuted. Additionally, the District Attorney's Office Human Trafficking Task Force, along with local law enforcement, conducted a "John Sting," where 36 buyers were arrested and charged.<sup>10</sup>

The S.A.F.E. House fills a critical need in our community for therapeutic services and intervention for survivors of sex trafficking. To donate to the S.A.F.E. House, please visit [www.jlsantabarbara.org/donate/](http://www.jlsantabarbara.org/donate/). ■

*Teresa M. Martinez is an attorney at Buynak, Fauver, Archbald & Spray, LLP specializing in estate and business planning. Ms. Martinez serves as a trusted advisor to her clients, providing general counsel services to for- and non-profits in areas such as formation, board governance, employment, and succession planning.*

*The Junior League of Santa Barbara was highlighted in this Magazine in its February 2018 Philanthropy Corner section, in which this S.A.F.E. House was discussed as anticipated to being opened in the coming months.*

## ENDNOTES

- 1 <https://www.countyofsb.org/da/humantrafficking.html>
- 2 Id.
- 3 County of Santa Barbara, Social Services, Foster Care; available at [http://cosb.countyofsb.org/social\\_services/default](http://cosb.countyofsb.org/social_services/default).



Teresa M. Martinez

Continued on page 19

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Welcome to the

# PHILANTHROPY CORNER

BY JENN DUFFY, EDITOR



Featuring Philanthropy Organizations



This month's featured philanthropy organizations focus on CHILD ADVOCACY. They are:

## **Child Abuse Listening Mediation (CALM)** *and* **Court Appointed Special Advocates (CASA).**

### **CALM**

CALM's mission is to prevent childhood trauma, heal children and families, and build resilient communities throughout Santa Barbara County. From intake to completion, CALM therapists support families to develop consistent, safe, structured home settings that facilitate recovery, and guide children and caregivers through research-based treatment programs. CALM provides nationally recognized, evidence-based treatment that has proven effectiveness in preventing abuse from occurring and improving the lives of traumatized children.

CALM serves clients throughout Santa Barbara County, including Carpinteria, Goleta, Lompoc, Guadalupe, New Cuyama, and Santa Maria. In the last fiscal year, 1,747 clients received preventative and therapeutic services at CALM; ten preschools and learning centers participated in the Mental Health Consultation program; and over 1,500 schoolchildren, teachers, and child-serving agencies received child abuse prevention education. CALM's target population includes low income children and youth who have experienced physical or sexual abuse, neglect, or been exposed to domestic violence, and families in crisis who have neither the experience nor the resources to effectively use available community services, or are prevented from doing so through language barriers.

CALM was founded in 1970 as a resource to help stressed parents before they hurt their children. After more than four decades, CALM remains the only nonprofit organization in Santa Barbara County solely focused on preventing childhood trauma and healing children and families

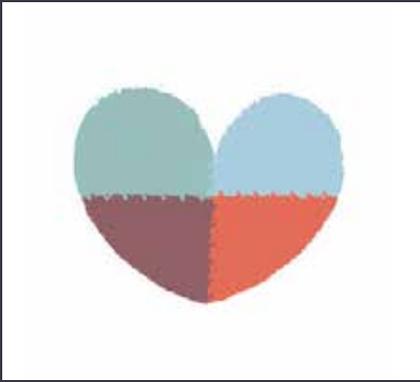
### **CASA**

The mission of CASA of Santa Barbara County is to assure a safe, permanent, nurturing home for every abused and/or neglected child in Santa Barbara County by providing a highly trained volunteer to advocate for them in the Court system. CASA fulfills this mission by the careful recruitment, training, and supervision of volunteers who are then assigned to a child in the foster care system. The primary objective of CASA is to represent to the Court the best interests of the abused and neglected child to whom he or she has been assigned. The Court gives CASA investigative authority to examine all aspects of a child's case and to explore all viable avenues to achieve a stable home environment for that child. CASA becomes the child's voice in court.

The goal of CASA is to prevent abused, neglected, and abandoned children from becoming lost in the foster-care system. Volunteer advocates meet with the child once per week; gather information from all interested parties (attorneys, teachers, etc.); advocate for the child's unmet needs; submit a court report to the Juvenile Court Judge for each hearing; attend all Court hearings and monitor the child's case until he/she is placed into a safe, permanent, nurturing home.

---

*If you have volunteer opportunities you would like to have listed in the Philanthropy Corner, please contact Jenn Duffy at (805) 963-0755 or [JDuffy@fmam.com](mailto:JDuffy@fmam.com).*



# calm<sup>®</sup>

## GET INVOLVED



### VOLUNTEER YOUR TIME

Provide childcare, clean toys, or organize therapy rooms weekly.

### ADOPT A FAMILY



During the holidays, adopt a CALM family and help provide toys, books, and essentials for our families in need.

### ATTEND CALM EVENTS



Attend CALM at Heart in Santa Barbara, Ladies Get Loud in Santa Maria or join us at an open house.

### DONATE



Make a donation on our website, [calm4kids.org](http://calm4kids.org).

## SOCIAL MEDIA

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## CALM'S MISSION

*To prevent childhood trauma, heal children and families, and build resilient communities throughout Santa Barbara County.*



## PREVENTING CHILDHOOD TRAUMA

*Our Early Childhood Prevention and Intervention program strengthens the entire family to prevent abuse and build stronger relationships.*



## HEALING CHILDREN AND FAMILIES

*Core to our mission has always been helping families who have experienced abuse. We support children of all ages to tell their stories so healing can begin.*



## BUILDING RESILIENT COMMUNITIES

*We are working to build a trauma-informed community. We partner with and empower all systems that work with youth to make lasting change.*



**Santa Barbara:** (805) 965-2376

**Santa Maria:** (805) 614-9160

**Lompoc:** (805) 736-6495

**Court Appointed Special Advocates (CASA) for Children** trains and supports community volunteers to advocate for children in the foster care system who have experienced abuse or neglect.

## CASA BY THE NUMBERS:

Last year in Santa Barbara County,



**More than 500** children entered foster care due to abuse or neglect.



**303** CASA volunteers advocated for **509** children.



**91** new CASA volunteers were trained and sworn-in by the local judge.



**More than 1,000** reports were written for the court, outlining what is in the best interest of the child.



**Less than 3%** of children served by a CASA volunteer returned to foster care.



Every month, **10-15 more children** enter the foster care system because their home is unsafe.

**We must continue to grow so that every child can have a CASA volunteer!**



**COURT APPOINTED SPECIAL ADVOCATES**  
Serving our community's most vulnerable children.



**CASA**

Court Appointed Special Advocates  
**FOR CHILDREN**

**SANTA BARBARA COUNTY**

“Being in foster care is living in a constant state of flux: homes, schools, families... *everything is always changing*, often suddenly without warning. **My only constant was my CASA volunteer.** Without her, *I would have been lost in the system.*”

- Melissa, foster care alumni

**Volunteer. Donate. Get Involved.**

**SBCASA.ORG**

Lowe, *continued from page 10*

Because synchronous writing reveals a rhythmic pattern as it moves down the page, one or two signatures by themselves are not enough to create a pattern. Retired document examiner John Cerlanek made a study of this phenomenon. After examining more than two thousand samples, he determined that patterns are usually seen from about the 3<sup>rd</sup> signature from the top.

### What to look for

Any interruption in the writing process and/or placement of the document to the writer can affect the end result. Variation will usually be lower where the external and internal influences are constant. Much depends on the writer, but in a high percentage of cases, synchronous entries tend to have greater internal consistency (less variation) in these areas:

- overall style
- arrangement/location
- size
- alignment
- use and manner of abbreviations
- angle
- pen pressure
- ink, instrument, pen performance
- increased left margin drift

**Synchronous signatures** signed or written in one sitting have less variation overall in the following factors:

- speed
- legibility
- initials and finals blunt
- degree of slant less

- word length
- letter size
- pressure
- word space
- diacritics
- greater consistency overall
- greater adherence to baseline

**Asynchronous signatures** are unlikely to exhibit the same pattern down the page. Rather, there will be greater variation overall and in the following factors:

- speed
- slant
- letter construction
- final strokes
- pressure
- word lengths
- legibility
- margin drift
- style remains consistent throughout
- legibility
- angles gradually give way to curves
- baseline not followed as closely
- internal consistency greater

Another area to consider is burr striations, which are seen in writing done with ballpoint pens. Striations are caused by imperfections in the ball or miniscule bits of lint or other material that collects on the ball head. By viewing enlarged photographs of the ink line, it is possible to identify consistent ink striation patterns. If the same striations appear in several logged entries, it indicates that the pen stayed in the same position in the hand. If the writer had laid down the pen and picked it up at a later time, the chances that the exact same striation patterns would appear are astronomical. ■

*Sheila Lowe has been a court-qualified forensic handwriting examiner since 1985 and is a certified forensic document examiner by the Scientific Association of Forensic Examiners. She can be reached at [sheila@sheilalowe.com](mailto:sheila@sheilalowe.com).*

### REFERENCES

1. *Scientific Examination of Questioned Documents*, Revised Edition, Hilton Ordway. CRC Press. 1992.
2. *Handwriting Identification: Facts and Fundamentals*. Huber, Roy A. And A.M. Headrick. CRC Press, 1999.
3. *A Close Look at the Significance of Margin Drift: What does It Really Tell Us?* Bey, Robert F. And Dennis J. Ryan. The American Society of Questioned Document Examiners, Inc., 1999.
4. *Logged Entries: Made Separately or Sequentially?* Matley, Marcel B., 1990.



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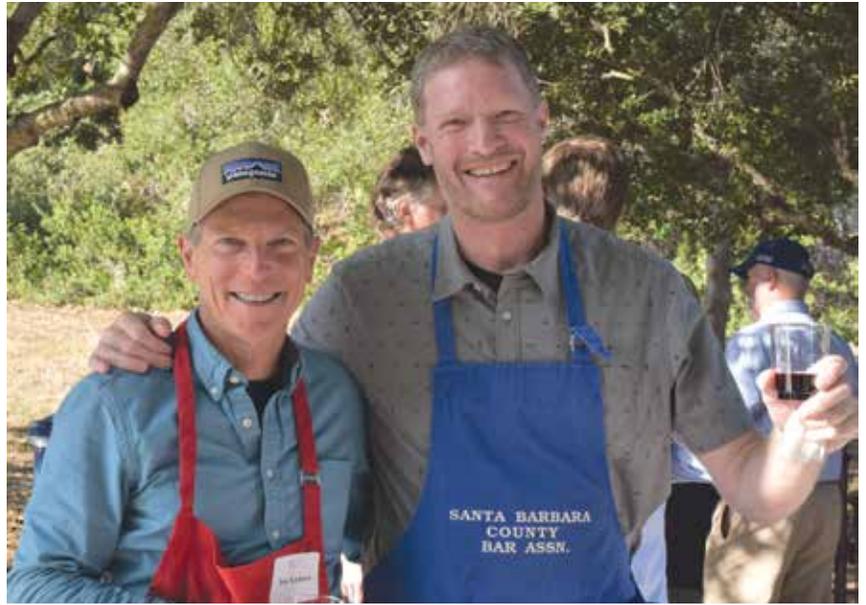
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Marisa Beuoy, Rusty Brace, Tom Foley



Joe Liebman, Eric Burkhardt

## SBCBA BBQ

The Santa Barbara County Bar Association would like to thank all who joined us for our Annual BBQ at Tucker's Grove. The weather was perfect, the food excellent, and the company wonderful. Special thanks to our talented and enthusiastic volunteers (some of whom have generously contributed their considerable skills for decades!):

- Chefs Rusty Brace and Mack Staton for the delicious dinner entrees, along with their highly capable crew members: Tom Foley, Marisa Beuoy, Paul Roberts, and Bill Duval;
- We missed our long-time expert Bartender Will Beall, but we appreciate Eric Burkhardt who ably served the drinks in Will's stead;
- Sommelier Joe Liebman who yet again donated the fine wine (as always, the compliments flowed as well!); and
- Beer brewer Greg Herring who shared his incomparable home brew with us.

More gratitude goes to SBCBA Board Members, Elizabeth Diaz and Rosaleen Wynne for their very generous assistance, to SBCBA Events Chairs Joe Billings (especially for the clean-up help), Steve Dunkle and Iulia Davies, and, as always, to our ace photographer, Michael Lyons.



Jacqueline Anker, John Rydell, June Anderle, Judge Tom Anderle, Renee Fairbanks

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SBCBA President Jeff Chambliss addressing diners

## Feature

Martinez, *continued from page 11*

- aspx?id=46581, last visited June 30, 2018.
- 4 Public Policy Institute of California, *Child Poverty and Related Factors by Region and Local Area, 2011-2014*; available at <http://www.ppic.org/data-set/child-poverty-and-related-factors-by-region-and-local-area-2011-2014/>, last visited June 30, 2018.
  - 5 According to the Public Policy Institute of California, there are 38% of children age 0 to 17 living in poverty in the Santa Maria/Orcutt area; 31% in Lompoc, Guadalupe, Solvang, and Buellton; and 19% on the South Coast.
  - 6 Santa Barbara County Sheriff's Office, *Human Trafficking Operations Results, February 2, 2018*, available at <https://www.sbsheriff.org/human-trafficking-operation-results/>, last visited June 30, 2018.
  - 7 See *Victims Of Trafficking And Violence Protection Act of 2000*, PL 106-386, October 28, 2000, 114 Stat 1464; *Trafficking Victims Protection Reauthorization Act of 2003*, PL 108-193, December 19, 2003, 117 Stat 2875; *Trafficking Victims Protection Reauthorization Act of 2005*, PL 109-164, January 10, 2006, 119 Stat 3558; *William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008*, PL 110-457, December 23, 2008, 122 Stat 5044; *Violence Against Women Reauthorization Act of 2013*, PL 113-4, March 7, 2013, 127 Stat 54; and 2005 Cal. Legis. Serv. Ch. 240 (A.B. 22) (West).
  - 8 18 U.S.C. §§ 2421-2424
  - 9 *Victims of Trafficking and Violence Protection Act of 2000*, PL 106-386, October 28, 2000, 114 Stat 1464
  - 10 June 25, 2018 Interview with Megan Rheinshild, Victim Assistance Director with the Office of the District Attorney for Santa Barbara County.



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# A New Philosophy in the Supreme Court

BY ROBERT SANGER

This is a positive article about the soon-to-be-newly-minted United States Supreme Court. No, this is not written by a guest columnist and, yes, the present author still holds progressive views regarding criminal justice. Assuming the Supreme Court and other branches of government continue to function – even if in less than an optimal fashion – we, as lawyers, have to work with what we have. We have a conservative Supreme Court with, presumably, conservative principles, and that is with which we must work.

One of the characteristics often seen in individual Supreme Court Justices is the tendency to rise above the politics that may have gained them their seat and to look at matters in a broader perspective. That is a natural and desirable result of a lifetime appointment. As commented upon previously in this *Criminal Justice* column, Supreme Court Justices become aware that what they write will be in the books forever, and their legacy will not be appreciated by future generations if petty politics rather than matters of principle guide those writings.

There is no question but that the Supreme Court will be comprised of Justices who reflect conservative politics and also conservative principles. Those principles will have significance for criminal justice issues. Hence, this *Criminal Justice* column will look at some of those principles and how they might be applied, with jurisprudential integrity, to matters at hand.

## ***The United States Supreme Court and Conservatism***

Some of us, who went to college in the 1960's, studied the Supreme Court as an institution that often stood up for the rights of individuals against the power of the state or, occasionally, the federal government. There was debate about an activist court but there was also an acknowledgment that principles inevitably played a role in resolving the issues before the Court. Concepts like privacy, freedom and equality found constitutional life as principles not just as words on paper.

By the time I was in law school in the early 1970s, the jurisprudential world seemed to turn upside down. There was talk of a “constitutional counter-revolution” whereby Supreme Court appointees would “undo” the revolution of rights, freedom, and equality that had been forged by the Earl Warren Court.<sup>1</sup> Nixon appointed a new Chief Justice, Warren Burger, and then tried to appoint two unqualified and politically compromised Justices.<sup>2</sup> This was followed by a too-blatant attempt at politicization by nominating Robert Bork. But, Nixon eventually was able to appoint three Associate Justices, including William Rehnquist, who would later become Chief. This was followed by one more appointee by Ford in the 1970s and four by Ronald Regan in the 1980s.

Suffice it to say, even before the appointments by George H.W. Bush, the Court seemed by its membership to be leaning severely (or, in the opinions of some, triumphantly) to the right. Yet, the predicted “counterrevolution” did not come. There was much gnashing of teeth and a plethora of five-to-four decisions, often with multiple opinions. There was certainly a moderate and, at times, conservative trend in many areas of law. Nevertheless, the wheels did not completely come off the Constitution and Bill of Rights. In particular, there were disappointments but no sea change in the area of criminal law and procedure.

In fact, Justice Scalia, for one, led the Court in revitalizing the principles behind certain areas of criminal constitutional law. He spirited the line of cases that re-established the right to a jury trial on all matters of fact, except prior convictions, that might increase a criminal sentence.<sup>2</sup> He also insisted on the right of confrontation, which had a significant effect in curbing the exceptions to the exceptions that had increasingly allowed the government to admit a wide range of testimonial hearsay evidence in criminal cases.<sup>4</sup> In addition, there was a revived interest in the rule of lenity,<sup>4</sup> in notice to the accused,<sup>6</sup> and some sort of rationality in sentencing.<sup>7</sup> In doing so, Scalia was abiding by principles of constitutional law that he believed promoted the integrity of the criminal justice system.

The point is that conservatism was not antithetical to criminal justice issues; criminal justice is a concern of con-



Robert Sanger

servatives as well as progressives. This was brought home dramatically a few years ago when the National Association of Criminal Defense Lawyers (“NACDL”) and the Heritage Foundation jointly attacked the lack of statutorily-required mental states in federal legislation.<sup>8</sup> There is every reason for criminal law scholars and criminal practitioners to find other jointly-held principles in the pursuit of criminal justice. We can harken back to the venerable history of political philosophy, but also to the idea that principles have a role in practical discussions about broad issues of justice as advocated by Herbert Wechsler<sup>9</sup> or Michael Sandel.<sup>10</sup> The practical resolution of the broad issues of justice, such as those considered by the Supreme Court in the area of criminal justice, should involve an appeal to principle. If so, progressives and conservatives need to find common principles, and the conservatives are holding the power.

### **Conservative Values and Criminal Justice**

With the retirement of Justice Anthony Kennedy, all members of the present Court, including, of course, the Justice to fill Justice Kennedy’s vacancy, will have been appointed in the 1990s or 2000s by the two Bushes, Clinton, Obama, and now Trump. The Bush and Trump appointees on the Court -- Justices Thomas, Roberts, Alito, and Gorsuch, and, no doubt, the one to be appointed to the Kennedy vacancy -- will all be doctrinally aligned with conservative and libertarian principles.

That is no longer left to chance, nor to presidential interviews, nor to the confirmation process. Republican Presidents since the 1990s have all used the Federalist Society as a clearing house for their candidates. There is no need for the President to admit to a “litmus” test, since the Federalist Society will not approve of anyone who does not follow the conservative or libertarian doctrine. This has proven to be deeply disturbing to progressives or even moderates on many social issues and is not likely to be less disturbing on those issues with the next Trump appointee.<sup>11</sup>

However, there potentially is good news for criminal justice issues. This is not said cynically or because the current administration does not seem to find that the rule of law applies, for instance, by circumventing the pardon system in the Justice Department and bequeathing dispensation to cronies and doctrinaire conservatives, undermining the Federal Bureau of Investigation and the Justice Department itself, or flouting the laws pertaining to self-dealing, truthfulness to federal officials, or transparency to the public. To the extent that any of this seems to be a “liberal” interpretation of criminal laws, it is not doctrinal but, instead, is entirely situational. So, that is not the good news.

The good news is that we should be able to count on

Supreme Court Justices to have a commitment to the rule of law. Progressives and conservatives will not agree on everything, but, we can hope, Justices will agree that the rule of law should be a bedrock principle.<sup>12</sup> If we are all playing by the same basic rules, we should be able to address criminal justice issues in terms of values that are in fact shared, not just when they apply to corporate and white-collar defendants, but as they apply to everyone in society.

We could hold out some hope for rational criminal justice jurisprudence based on the breadcrumbs left by Justice Scalia and the NACDL/Federalist Society joint publications mentioned earlier. However, a clarion conservative call for criminal justice reform was just issued by *The American Conservative Magazine* entitled, “Where the Right Went Wrong on Criminal Justice.”<sup>13</sup> The piece is a collaboration between the R Street Institute (a conservative Washington D.C. think tank) and *The American Conservative Magazine* (a conservative/libertarian political magazine).

In the article, several key points are made that can form a basis for legal arguments before the Supreme Court (and lower courts), founded on principles of jurisprudence, that conservative Justices can proudly adopt as a part of their doctrinal legacy. The article takes as its centerpiece the thought that “there are certain bedrock principles of those on the Right: limited government, economic responsibility, and a belief that our Founding Fathers laid out sacrosanct rights in our Constitution.” Somewhat ahistorically, at least as present history is being recorded, they also say, “A firm belief in the importance of family, morality, and, for some, faith has generally guided the application of these principles.”<sup>14</sup>

The article then takes on the “tough on crime” mantra, saying that the “lock ‘em up and throw away the key” sensibility of yesteryear, [has] tarnished the image of Republicans and conservatives in the minds of many.” The authors support the argument by saying, “The fact that the United States, with nearly 2.2 million Americans behind bars, incarcerates more of its citizens than any other nation, is not a point of pride. This shameful position is put in even starker relief when one considers that the nations with the second and third highest number of incarcerated individuals are China and Russia, respectively.” They point to success of criminal justice reform and the decrease in prison population in states like Texas as being the direction of the future.

While there is a lot in the article about how the Republican Party went wrong and is alienating a potential voting bloc of people of color, the article also appeals to the history of Republicans as the party that ended slavery. In a key passage, and one that might resonate with Supreme

Court Justices, the authors say, “Rather, conservatives must go back to the principles of liberty and dignity that first defined their party. Applying these principles to criminal justice reform would allow conservatives and Republicans to separate themselves from the image of being largely a party of white America.” If this is taken as doctrinally significant, it leads away from the politics and misconduct of the current administration and re-establishes a moral basis for discourse – one that conservatives and progressives could use as a basis for criminal justice dialogues.

The article goes on to emphasize the need to return to principle, “As is fitting for a movement that holds a reverence for tradition, the rebirth of a conservative identity begins with a return to origins on matters of morality. Those on the Right have long injected matters of morality into political discourse and expected government to incentivize model human behavior.... But whether the source of one’s morality is secular or ecclesiastical, criminal justice reform represents an opportunity for morally-minded conservatives to forge a revitalized, persuasive conservative identity.” Again, call to morality is something upon which there can be agreement in principle and progress in reality.

The article also takes on more specific issues. It addresses the toll of incarceration on individuals and their families, in addition to the affront to human dignity of “abhorrent prison conditions,” the unnecessary “stigmatization” of the formerly incarcerated and the “no shortage of ways in which the justice system cheapens life.” It goes on to address the unfairness of pretrial detention and the fact that the poor are detained because they cannot afford bail. It says, “Conservatives must ensure that individuals do not suffer unnecessary or unjustified loss of freedom and must work to increase the post-release opportunities for those who are incarcerated.”

The article may be the first in a series of articles on the subject. One of the authors is the Director for National Security and Criminal Justice Policy at the R Street Institute and a former police officer, U.S. Army officer, and federal prosecutor. The other is a Senior Fellow of Criminal Justice and National Security Policy at the same institute. The article is consistent with, but goes beyond, the positions articulated elsewhere in conservative circles. Importantly, it does not just apply to white collar or corporate defendants, but to the community at large.

## Conclusion

Progressives, conservatives, and everyone else, including the United States Supreme Court Justices themselves, should be addressing constitutional criminal justice issues using principles of limited government, family, human

dignity, fairness, and morality. The majority of the Court sets the dialogue, and if it is set in these doctrinal terms, then that is the language in which we need to address the issues. While progressives may be dismayed with the Supreme Court across the board, they cannot give up. We had no choice but to deal with the make-up of the Court as it changed in the 1970s, and we have no choice now. We did not give up then, and we should not now. ■

*Robert Sanger is a Certified Criminal Law Specialist and has been practicing as a criminal defense lawyer in Santa Barbara for over 40 years. He is a partner in the firm of Sanger Swysen & Dunkle and Professor of Law and Forensic Science at the Santa Barbara and Ventura Colleges of Law. Mr. Sanger is Past President of California Attorneys for Criminal Justice (CACJ), the statewide criminal defense lawyers’ organization, and a Director of Death Penalty Focus. Mr. Sanger is also an elected Member of the American Academy of Forensic Sciences (AAFS) and an Associate Member of the Council of Forensic Science Educators (COFSE). The opinions expressed here are his own and do not necessarily reflect those of the organizations with which he is associated, or of this publication. ©Robert M. Sanger.*

## ENDNOTES

- 1 See, e.g., Richard Funston, *Constitutional Counterrevolution?*, Schenkman Publishing Co. (1977).
- 2 G. Harrold Carswell and Clement Haynsworth.
- 3 E.g., *Apprendi v. New Jersey*, 530 U.S. 466 [2000]; *Ring v. Arizona*, 536 U.S. 584, 602 (2002); *Blakely v. Washington*, 542 U.S. 296 (2004); *United States v. Booker*, 543 U.S. 220 (2005).
- 4 *Crawford v. Washington*, 541 U.S. 36 (2004); *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009).
- 5 *Sorich v. United States*, 555 U.S. 1204 (2009) (Scalia, J., dissenting from denial of certiorari).
- 6 *Johnson v. United States*, 576 U.S. \_\_\_\_ (2015).
- 7 *Koon v. United States*, 518 U.S. 81 (1996); *United States v. Booker*, 543 U.S. 220 (2005).
- 8 Brian W. Walsh and Tiffany M. Joslyn, *Without Intent How Congress Is Eroding the Criminal Intent Requirement in Federal Law*, The Heritage Foundation and National Association of Criminal Defense Lawyers, (2010)
- 9 Herbert Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 *Harvard Law Review* 1 (1959).
- 10 Michael Sandel, *Justice*, Farrar, Straus and Giroux (2010).
- 11 This is written before the disclosure of the next nominee or nominees to replace Justice Kennedy.
- 12 I do not want to get too carried away in light of the “overruling” of *Korematsu v. United States*, 323 U.S. 214 (1944) with its simultaneous replacement by the Chief Justice of an eerily similar doctrine in *Trump v. Hawaii*, \_\_\_\_ U.S. \_\_\_\_ (June 26, 2018). There is time, one hopes, to reflect more on the legacy and less on political results.
- 13 Arthur Rizer and Lars Trautman, “Where the Right Went Wrong on Criminal Justice,” *The American Conservative Magazine*, July 6, 2018.
- 14 We will accept this as aspirational although belied by the conduct of the current administration.

Duffy, *continued from page 9*

20 years ago that we can just sit at our desks now and click on an icon.

They sit at their computers and listen. If they want to come down, they can.

Lauren: So that really saves a lot of time. And sometimes, I just wait until the next day. Everything is recorded, so, I can just hone in on the argument I really want to see.

***What you've said is that your opinion is rarely changed with oral argument. So, it is the briefs that are key. What do you want and don't want in your briefs, tips....?***

Here's a tip. When I was a lawyer, I used to pretend I was a judge and ask myself, what would you want to read if you were the judge? You'll be surprised. When you ask yourself questions, you'll supply all the answers.

I have this philosophy. What's life all about? Life is all about stories, and a concern and an attempt to predict the future. If you watch any news program, they are all saying, "What if Trump does this? What if he does that?" We have experts saying this might happen, that might happen. They are predicting things. That's what law is all about. Medicine. Anything. People are predicting things.

We are living ... pardon me for sounding like a sophomore in college ... in a chaotic world. We try to give coherence to our lives and to everything about our relationships with the world and each other through stories. That gives some coherence.

So, law is a story about somebody who thinks they got the short end of the stick. They want to do something about it and get redress.

The client tells the story to you in your office. You put it into the framework of the law. You write a letter to the other side. That is a story. A trial is a story. And when we write an opinion, it's a story.

So, what's the story?

It is always educated guesses on the future. It is so ambiguous because we are using words, language, and words in context. Statutes. What do they mean? Sometimes it's easy. But often, that's not the case. People are saying jurists will rule this way, or that way. But everybody is just guessing.

We have a case right now that, with a literal interpretation of the statute, the result would defy common sense. It's the Gilbert "Give Me a Break" Test. We talk about it and how do we write it so that it coheres.

The point is that very ethical, sincere, hard-working jurists will come to completely opposite conclusions. And how are we influenced by our own backgrounds, experi-

ences, and biases?

For example, I was the designated plaintiff in the case of *Gilbert v. Chang*. We challenged a constitutional provision that seemed to prohibit a jurist who retires from the bench from accepting public employment during what would have been the remaining term of office as a judge. Other jurists on the Court of Appeal weighed in. We were in the same position of insecurity and doubt of what a judge would do, and this is what we do for a living. What does this tell you? Different people look at the law differently, and the really good lawyers know that there are not absolute answers.

After a long history, we won that case.

***What other advice do you have?***

When you read a piece where one lawyer is really criticizing the other side, with adjectives about how absurd the argument is... My view is, take out the adjectives. Just write the story. Write it in a way that we'll come to that conclusion that their argument is absurd.

If you are going to cite a case, be honest. If the case is ambiguous, acknowledge that. If the case is against you, don't ignore it or misstate it. "This case appears to be against us, but here is why it doesn't apply or why it is wrong." You must deal with your weaknesses. It's common sense.

Lauren: Also, with the lawyers who go to extremes in their briefs, the next time the lawyer comes up on a case, we are wary. We know who doesn't cite the cases correctly. We remember them and don't know if we can trust what they say.

Take things down to the basics. People try to make things complicated because it gives them a sense of expertise that laypeople don't have. We all do it. Write in English. Not legalese.

***What is your particular stamp on the Court as Presiding Justice? How do you want your Court remembered?***

As PJ, my vote doesn't carry any more weight than anyone else's vote.

I think a PJ is there for a number of things. The PJ sets the tone of the division because I preside over oral argument. I ostensibly oversee the clerk's office. I don't oversee the staff for other justices. They are their private staff, and they interact with them as they will, and it is not within my authority or purview to do that. But I carry, I hope, some persuasiveness about how the Division is seen in the public.

We are very candid with each other about what are appropriate or inappropriate comments in an opinion. We need to treat everyone with respect. We must be careful at oral argument. We want to not only be fair but to have

the perception of fairness. An idle comment could be misinterpreted. I must be the most careful because humor and irony are part of my being.

***When you were judging, before the Court of Appeal, did you have any of your opinions overturned on appeal?***

I had one municipal opinion overturned on appeal. It was a 90-day sentence for a drug possession. I found it unconstitutional. The Appellate Department of the Superior Court, “No, it was constitutional. You’re wrong.” I said, “What? I’ve been reversed?” (Laughs.)

I did not have any of my Superior Court opinions reversed.

***Any last words of wisdom?***

Great lawyers lose. It happens. Remember that you are only as strong as your case.

Please be very honest about what the law is. We have great respect for great lawyers, even though they lose. It proves my point that there is no certainty in the law. We are all searching for it, but we can’t find it. It’s not there.

Don’t take yourself too seriously. Take your job seriously. And when you are arguing, or writing, or having any interaction with a judge or anyone, put yourself in the other person’s position and ask if you would feel comfortable in that position with what you are saying. Some people think that by being really aggressive and scaring everyone, you get your way. That may work on occasion with certain individuals. But in the long run, it doesn’t pay off. Your life is better and you are better as a professional if you are respected within the legal community.

Finally, remember that everything is a story. ■

*Jennifer Gillon Duffy is the Editor of this publication for 2018. She is a partner with Fell, Marking, Abkin, Montgomery, Granet & Raney, LLP, where she specializes in employment law and family law. She was offered this interview by Lauren*

*Nelson because they have volunteered together every Saturday for years with the Flower Empower Program of the Dream Foundation. It is amazing what can flow from following your passion.*

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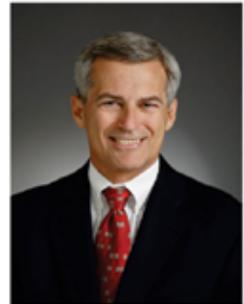
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THE SANTA BARBARA COUNTY BAR ASSOCIATION INVITES  
MEMBERS AND GUESTS TO OUR  
**2018 GOLF & TENNIS TOURNAMENT**  
FRIDAY, SEPTEMBER 21, 2018



**DINNER / RECEPTION**

So as to provide opportunity for the victors to boast of their athletic conquests, a post golf and tennis reception will begin at 5:00 at the Sandpiper Grill, to be followed by dinner starting at 5:30  
Dinner is \$50 per SBCBA Member/\$60 per non-SBCBA Member (*\$60/\$70 after September 7th*)

**GOLF**

Meet at the Sandpiper Golf Course at 11:30 a.m. Shotgun starts at 12:00 pm. Team prizes for 1<sup>st</sup> & 2<sup>nd</sup> places. Individual prizes for Longest Drive and Closest to Pin! Players must give some estimate of his/her handicap. You will be contacted regarding team assignments.

**\$105 to Play for SBCBA Members/\$115 for Non- Members – Includes green fees & cart.**  
(*\$115/\$125 after September 7th*)

**\$150 for BOTH Golf & Dinner for SBCBA Members/ \$160 for Non- Members**  
(*\$160/\$170 after September 7th*)

**TENNIS**

Meet at the tennis courts at the Santa Barbara Tennis Club at 1:00 pm for warm-up with round robin play starting at 1:30 pm. A committee will form teams, reserving the right to make equitable adjustments in all levels. Men and women will participate in the tournament in all levels.

Prizes to tournament winners!

**\$30 to Play per SBCBA Members/\$40 for Non- Members – Includes court fees & balls.**  
(*\$40/\$50 after September 7th*)

**\$75 for BOTH Tennis & Dinner for SBCBA Members/\$85 for Non-Members**  
(*\$85/\$95 after September 7th*)

**To register, please fill out bottom portion of this flyer and mail, with check, to:**

SBCBA 15 West Carrillo Street, Ste. 106, Santa Barbara, CA 93101

Please clearly specify GOLF HANDICAP or TENNIS RATING.

Questions? Call the SBCBA at (805) 569-5511

***Limited Number of Tee Sponsorships: Tee sign on course with your company name (\$100)***

<b>Name &amp; Phone Number</b>	<b>Handicap/ Rating</b>	<b>Tourney Fees</b>	<b>Lunch</b>	<b>Dinner</b>	<b>Vegetarian?</b>	<b>Total</b>

Amount Enclosed: \$ \_\_\_\_\_ (all fees are non-refundable)

# 2018 AWARDS

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## SANTA BARBARA COUNTY BAR ASSOCIATION

The Santa Barbara County Bar Association calls for nominations for 2018 awards for recognition of outstanding attorneys, law firms, and judges in our community.

### **Richard Abbe Humanitarian Award**

This special award, which is not given every year, honors a judge or attorney who evinces exceptional qualifications reflecting the highest humanitarian principles as exemplified by the late Justice Richard Abbe.

### **John T. Rickard Judicial Service Award**

This award honors one of our judges for excellence on the bench and outstanding contributions to the judiciary and/or the local court system.

### **Pro Bono Award**

This award recognizes an individual attorney who has donated at least 50 hours of direct legal services to low income persons during the previous calendar year.

### **Frank Crandall Community Service Award**

This award honors a local law firm's best efforts in providing pro bono services to community non-profit organizations. Factors considered in bestowing the award include:

- Existence of a firm policy encouraging pro bono services;
- Percentage of firm attorneys performing pro bono work;
- Nature and quality of pro bono work and hours per attorney;
- Leadership of community projects; and
- Services benefiting low income persons.

Please submit your nominations to Michelle E. Roberson at [Michelle@SierraPropSB.com](mailto:Michelle@SierraPropSB.com) by August 17, 2018. Include specific facts to support the award's criteria for each nomination.

*The In-House Counsel & Corporate Law Section and The Intellectual Property/Technology Business Section of the Santa Barbara County Bar Association present:*

## **New Professional Conduct Rules Coming November 1: Be Ready to Comply and Get MCLE Ethics Credit!**

On May 10 of this year, the California Supreme Court approved a new set of Rules of Professional Conduct that will become effective on November 1. The new Rules adopt the formatting of the ABA Model Rules and make some significant changes in California's existing ethics rules. The new provisions cover important issues, including fee retainers, ethical walls to prevent imputed disqualification, sexual relations with clients, and the representation of entities engaged in businesses that violate federal law but are legal under California law, e.g., cannabis operations. This presentation will cover the major changes to the Rules, with time for questions and discussion.

### ***Speaker: Richard C. Solomon***

As Professor of Law at Southwestern University Law School in Los Angeles for 25 years, Richard Solomon taught courses in legal ethics, employment law, and civil procedure. He is currently a member of the California State Bar Committee for Professional Responsibility and Conduct and a consultant on legal ethics issues. He is also an arbitrator, primarily for labor relations and employment disputes, a long-time Commissioner with the Santa Barbara County Civil Service Commission, and founding director and chair of the newly formed Santa Barbara County Immigrant Legal Defense Center. Richard earned his law degree at UCLA.

### ***Date and Time***

Wednesday, September 12, 12 noon

### ***Location***

Santa Barbara College of Law, 20 East Victoria Street, Santa Barbara

### ***RSVP***

Reserve via email to Chris Kopitzke,  
Chair of Intellectual Property/Technology Business Section,  
by Friday, September 7, [ckopitzke@socalip.com](mailto:ckopitzke@socalip.com)

### ***Cost and Payment***

\$25.00 – includes lunch

Checks payable to Santa Barbara County Bar Association

Mail by Friday, September 7, to SBCBA, 15 W. Carrillo St., Suite 106, Santa Barbara, CA 93101

### ***MCLE***

One hour LEGAL ETHICS credit (applied for)

## **THE OTHER BAR NOTICE**

Meets at noon on the first and third Tuesdays of the month at 330 E. Carrillo St. We are a state-wide network of recovering lawyers and judges dedicated to assisting others within the profession who have problems with alcohol or substance abuse. We protect anonymity. To contact a local member go to <http://www.otherbar.org> and choose Santa Barbara in "Meetings" menu.

**For SBCBA updates and information:**



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Dear Santa Barbara Legal Community:

Please help us support the Legal Aid Foundation of Santa Barbara County and Teen Court, CADA, with donations to the Pro Bono Bowl fundraiser sponsored by the Santa Barbara Barristers and the Santa Barbara Women Lawyers. The event will be held on Saturday, **August 25, 2018**, from 12:00-2:30 p.m. at Zodo's Bowling & Beyond. Teams of bowlers from law firms and local organizations will compete against each other for trophies and prizes.

Legal Aid Foundation of Santa Barbara County provides high-quality legal services to ensure low-income persons and seniors have access to the civil justice system in times of crisis – to secure safe, habitable shelter, adequate income, and protection from domestic violence and elder abuse.

“Teen Court puts an end to the ‘revolving door’ and empowers our young people to take responsibility for their actions and the actions of their peers.” - Judge Thomas Adams, founder of SB Teen Court

We are asking you and/or your firm or organization to consider one of the following sponsorship levels to support Legal Aid and Teen Court:

- Pro Bono Bowl **Partner** for a donation of \$1,500
- Pro Bono Bowl **Advocate** for a donation of \$1,000
- Pro Bono Bowl **Lane Sponsor** for a donation of \$500

Sponsorship Levels come with the following to memorialize your support for this worthy cause:

**Pro Bono Bowl Partner:**

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- Designation as “Partner” sponsor in thank you advertisement in SB Lawyer Magazine
- Designated lane with signage for you and your guests
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**Pro Bono Bowl Lane Sponsor:**

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In addition, tickets for individual participants are available for a donation of **\$50**.

Please contribute and help make Pro Bono Bowl festive, fun and profitable. Registration forms can be found on the Barristers website (<http://www.sbbarristers.com>) or by contacting the Barristers at **ProBonoBowl@gmail.com**. Please submit a registration form by **Monday, August 6, 2018** and return it with your check made payable to Santa Barbara Barristers (P.O. Box 21323, Santa Barbara, CA 93121). **Can't Bowl but still want to help?** Please consider sponsoring a lane for use by a Legal Aid or CADA teams. Donations are fully tax-deductible to the extent allowed by law. Feel free to contact us.

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Pro Bono Bowl to benefit  
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Santa Barbara County and Teen Court, CADA**

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Zodo's Bowling & Beyond, 5925 Calle Real, Goleta, CA

**EVENT SPONSORSHIP & REGISTRATION FORM**

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- INDIVIDUAL BOWLER \$50**
- Register for a place on a lane with a team of four other "Spare" bowlers – meet someone new from the Santa Barbara legal community! Includes tote bag.

- I can't participate but would like to make a donation in the amount of \$ \_\_\_\_\_.**

**PLEASE REGISTER BY August 1, 2018**

<p><b>MY TEAM WILL BOWL:</b></p> <p>_____</p> <p>(Print Team Name – Register Early to Reserve Team Name!)</p>	<p><b>I WILL SPONSOR A TEAM</b> <input type="checkbox"/></p>
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**2018 SANTA BARBARA COUNTY BAR FOUNDATION  
LEGAL COMMUNITY APPRECIATION AWARD  
CALL FOR NOMINATIONS**

Do you know a professional in the Santa Barbara County legal community who stands out amongst his or her peers by going the extra mile year after year? SBCBF is seeking nominations for its 2018 Legal Community Appreciation Award, to be presented at an Award ceremony to be held in the recipient's honor in the Fall at the Santa Barbara Club. The Award annually honors a legal professional (whether a local lawyer, judge, paralegal, secretary, or court staff) who has provided an outstanding contribution to the local legal system, either through achievement of professional excellence, volunteer service, or other commitment to the local legal community for a significant period of time.

Please fill out the nomination form below. **Nominations are due by August 10, 2018.** If you have any questions, please contact the SBCBF at [sbbarfoundation@gmail.com](mailto:sbbarfoundation@gmail.com). PLEASE RETURN YOUR NOMINATION FORMS TO SANTA BARBARA COUNTY BAR FOUNDATION, P.O. Box 21523, Santa Barbara, CA. 93121, and mark them CONFIDENTIAL.

\_\_\_\_\_  
Nominee's Name/Position

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Your Name/Position

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Nominee's Firm/Organization

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Your Firm/Organization

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Nominee's Street Address

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Nominee's Telephone (Day & Eve)

\_\_\_\_\_  
Your Telephone (Day & Eve)

**Categories (please indicate the categories that best describe Nominee's present position(s):**

- judiciary       private practice       non-profit       legal author/journalist
- government       prosecutor/public defender       state, local or women's bar leader
- academia       corporate/business sector       other (explain)

ATTACH ADDITIONAL PAGES TO DESCRIBE THE BASIS FOR YOUR NOMINATION, INCLUDING THE NOMINEE'S CONTRIBUTIONS TO THE LEGAL COMMUNITY, LETTERS OF RECOMMENDATION AND THE NOMINEE'S RESUME IF AVAILABLE.

The Litigation Section of the  
Santa Barbara County Bar Association presents:

## TAKING & DEFENDING THE ACCOUNTANT'S DEPOSITION

Speaker Thomas Neches, CPA shares lessons learned from being deposed more than 100 times as an expert. These lessons include: important steps to prepare the attorney and the expert for the deposition; fundamental questions to ask; simple questions that can be hard to answer and important the expert answers correctly; issues unique to CPA's; and professional standards for CPAs who act as experts. The course provides deposition tips and tricks of interest to both novice and experienced litigators.

- Why Depose the Expert?
- Taking a CPA's Deposition: The Fundamental Rule
- Defending a CPA's Deposition: The Fundamental Rule
- Know What the CPA Will Testify About
- Who Pays, When and For What?
- CPA License Lookup
- The Basic Questions—More Questions
- Only a CPA Can Perform an Audit or a Review
- Reports of Accountants
- Litigation Services and Applicable Professional Standards
- Factors Affecting Revenue

**Speaker: Thomas M. Neches, CPA, ABV, CFE, CVA, CFF**

During the past 28 years, Mr. Neches has provided expert testimony on business damages on behalf of plaintiffs and defendants in more than fifty cases, most notably *Image Technical Service, Inc., et al. v. Eastman Kodak Company*, in which the jury awarded ten plaintiffs \$23,948,300, trebled under antitrust law to \$71,844,900. He regularly provides MCLE courses on topics relating to forensic accounting. From 2003 to 2013, Mr. Neches was an Adjunct Professor at Loyola Law School.

**Date and Time:** Wednesday, **September 5th**, 12 noon to 1:00 pm  
**Location:** SB College of Law, Room 1, 20 East Victoria Street, SB  
**Reservations:** Via email to Mark Coffin, Litigation Section Chair, by Wednesday, August 29th, at [mtc@markcoffinlaw.com](mailto:mtc@markcoffinlaw.com)  
**Cost and Payment:** \$35 members, \$40 non-members (includes lunch)  
 Please mail checks by Wednesday, August 29th payable to Santa Barbara Bar Association, to:  
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Would you like to be published in the *Santa Barbara Lawyer*? Please email high-quality submissions to [JDuffy@fmam.com](mailto:JDuffy@fmam.com). Deadline is the 5th of each month for the following publication.

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# 2018 SBCBA SECTION HEADS

## Alternative Dispute Resolution

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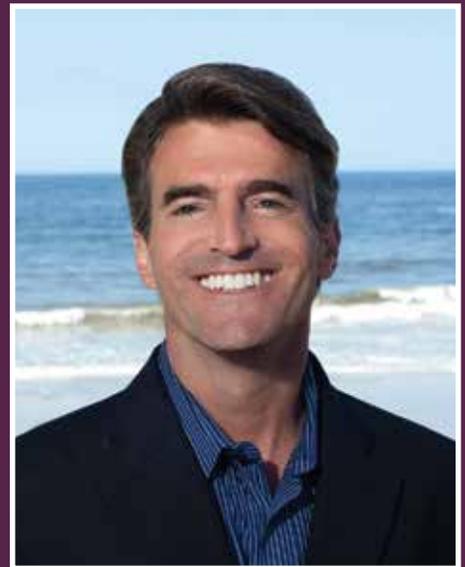
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