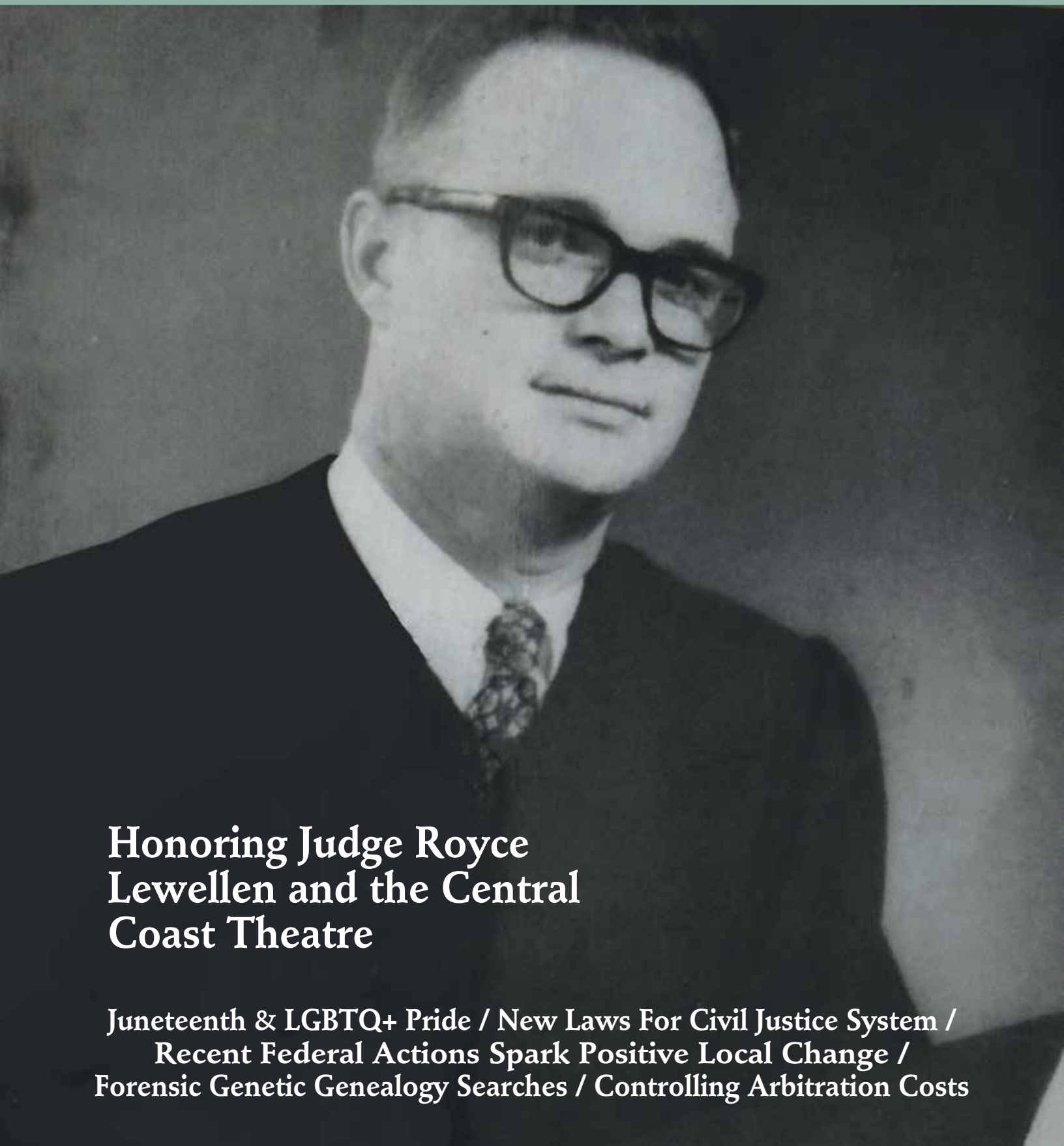


Santa Barbara Lawyer

Official Publication of the Santa Barbara County Bar Association
June 2021 • Issue 585



Honoring Judge Royce Lewellen and the Central Coast Theatre

**Juneteenth & LGBTQ+ Pride / New Laws For Civil Justice System /
Recent Federal Actions Spark Positive Local Change /
Forensic Genetic Genealogy Searches / Controlling Arbitration Costs**

Over
800
Million Sold

Top 5 in Total Number of Closed Escrows since 2000*
Top 10 in Total Dollar Volume Sold since 2000*

Former Practicing Attorney
UC Hastings College of Law • Order of the Coif

- 360° Marketing Plan for each Listing
3D Tours, Video Tour, and more, tailored
to client's needs.
- Member, Santa Barbara, Ventura,
and Santa Ynez Real Estate Boards
- Former Instructor Real Estate Law
and Practice Courses at SBCC (21 Years)

Real Estate Experience You Can Count On

Gary Goldberg

GARY GOLDBERG
805.455.8910
gary@coastalrealty.com
www.garygoldberg.net

COASTAL  PROPERTIES

*Rankings based on market penetration by individual statistics from the SBOR MLS through 11/20

DRE #01172139

Get the Best Coverage at the Best Price

Selecting the right insurance broker is the first step in protecting your assets, clients, reputation and practice. You need a policy that serves your best interests at an affordable premium, and we offer you that choice.

Walter R. Anderson Insurance has specialized in lawyer malpractice insurance since 1981. We negotiate terms with 19 insurers throughout California, so we can offer you the best coverage options at the best prices.

Get the Best Choice of Coverage and Price

If fifty percent of your practice is devoted to one category, and you've had no claims in the last five years, you should be eligible for a large discount in your insurance premiums.

**Call for an estimate:
805.682.8885**

Or visit us online and complete
the law firm information form:
Lawyers-Insurance.com
Click on Get Started Now

**WALTER R. ANDERSON
Insurance Services, Inc.**

3757 State Street, Suite 2B
Santa Barbara CA 93105
TEL: 805.682.8885
FAX: 805.563.1160

info@lawyers-insurance.com
CA License: 0711805

2021 Officers and Directors

Officers

ELIZABETH DIAZ

President
Legal Aid Foundation
301 E. Canon Perdido
Santa Barbara, CA 93101
T: (805) 963-6754
ediaz@lafsbcb.org

ERIC BERG

President-Elect
Berg Law Group
3905 State St Ste. 7-104
Santa Barbara, CA 93105
T: (805) 708-0748
eric@berglawgroup.com

JENNIFER GILLON DUFFY

Secretary
Rimon Law
200 E. Carrillo Street, Suite 201
Santa Barbara, CA 93101
T: (805) 618-2606
jennifer.duffy@rimonlaw.com

STEPHEN DUNKLE

Chief Financial Officer
Sanger, Swysen, & Dunkle
222 E. Carrillo St, #300
Santa Barbara, CA 93101
T: (805) 962-4887
sdunkle@sangerswysen.com

AMBER HOLDERNESS

Past President
Office of County Counsel
105 E. Anapamu St, #201
Santa Barbara, CA 93101
T: (805) 568-2969
aholderness@co.santa-barbara.ca.us

Directors

BRADFORD BROWN

Law Offices of Brad Brown, APC
735 State St. Ste 418
Santa Barbara, CA 93101
T: (805) 963-5607
brad@bradfordbrownlaw.com

IAN ELSENHEIMER

Allen & Kimbell, LLP
317 E. Carrillo Street
Santa Barbara, CA 93101
T: (805)963-8611
Ielsenheimer@aklaw.net

TAYLOR FULLER

Herring Law Group
559 San Ysidro Road
Ste G
Santa Barbara, CA 93108
tfuller@theherringlawgroup.com

RICHARD LLOYD

Cappello & Noel LLP
831 State St
Santa Barbara, CA 93101
T: (805) 564-2444
rlloyd@cappellonoel.com

TERESA MARTINEZ

Office of County Counsel
105 E. Anapamu St. # 201
Santa Barbara, CA 93101
T: (805) 568-2950
teresamartinez@co.santa-barbara.ca.us

TARA MESSING

Environmental Defense Center
906 Garden Street
Santa Barbara, CA 93101
T: (805) 963-1622
tmessing@environmentaldefensecenter.org

ERIN PARKS

Attorney at Law
625 E. Victoria St.
Santa Barbara, CA 93103
T: (805) 899-7717
law@erinparks.com

JESSICA PHILLIPS

Maho & Prentice LLP
629 State St., Ste 217
Santa Barbara, CA 93101
T: (805) 962-1930
jphillips@sbcacalaw.com

MICHELLE ROBERSON

Sierra Property Group, Inc.
5290 Overpass Rd, Bldg. C
Santa Barbara, CA 93111
T: (805) 692-1520 *102
michelle@sierrapropsb.com

RUSSELL TERRY

Reicker, Pfau Pyle & McRoy LLP
1421 State St. Ste B
Santa Barbara, CA 93101
T: (805) 966-2440
rterry@rppmh.com

Staff

LIDA SIDERIS

Executive Director
15 W. Carrillo St, Suite 106
Santa Barbara, CA 93101
T: (805) 569-5511
Fax: 569-2888
sblawdirector@gmail.com

CONTRIBUTING WRITERS
Hon. Denise de Bellefeuille (ret.)

Linda Krop
Rachel Kondor
Victoria Lindenaue
Tara Messing
Renee Nordstrand
Robert M. Sanger

EDITOR
Erin Parks

ASSISTANT EDITORS
Tara Messing
Lida Sideris

MOTIONS EDITOR
Michael Pasternak

PHOTO EDITOR
Mike Lyons

GRAPHIC DESIGN
Baushke Graphic Arts

Submit all **EDITORIAL** matter to
sblawyermagazine@gmail.com
with "SUBMISSION" in the email
subject line.

Submit all **MOTIONS** matter to
Michael Pasternak at
pasterna@gmail.com

Submit all **ADVERTISING** to
SBCBA, 15 W. Carrillo Street,
Suite 106, Santa Barbara, CA 93101
phone 569-5511, fax 569-2888
Classifieds can be emailed to:
sblawdirector@gmail.com

Mission Statement
Santa Barbara County Bar Association

The mission of the Santa Barbara County Bar Association is to preserve the integrity of the legal profession and respect for the law, to advance the professional growth and education of its members, to encourage civility and collegiality among its members, to promote equal access to justice and protect the independence of the legal profession and the judiciary.

Santa Barbara Lawyer

Official Publication of the Santa Barbara County Bar Association
June 2021 • Issue 585

Articles

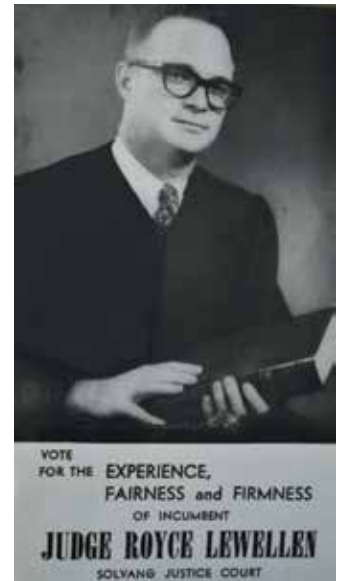
- 7 Juneteenth & Lesbian, Gay, Bisexual, Transgender and Queer + Pride Month, *Erin Parks*
- 10 Honor Judge Royce Lewellen – Honor Central Coast Theatre, *Hon. Denise de Bellefeuille (ret.)*
- 12 Brief Update on Improvements to the Civil Justice System Due to COVID-19, *Renee Nordstrand*
- 14 Recent Federal Actions Spark Positive Local Change to Address the Climate Crisis, *Linda Krop, Tara Messing, Rachel Kondor*
- 18 Regulation of Forensic Genetic Genealogy, *Robert M. Sanger*
- 21 Through the Roof or Down to Earth? How to Control Arbitration Costs, *Victoria Lindenauer*

Sections

- 23 Section Notice
- 24 Motions
- 25 Verdicts & Decisions
- 26 Classifieds

On the Cover

Royce Lewellen served as Solvang Justice Court Judge (from 1969 to 1975) and Santa Barbara County Superior Court Judge from 1975 to his retirement in 1989.



Life happens. And you want to be ready when it does.

Let us help you take care of what matters most

Getting to know you and what you care most about — planning for college, taking care of an elder family member, passing a legacy to future generations, buying a second home — is so important. Once we understand your priorities, together, we can help you pursue the goals you've set for yourself and your family. Call to learn more today.



Merrill Lynch Wealth Management

The Gamberdella-Spruill Group
1424 State Street
Santa Barbara, California 93101
805.963.6310
marc_gamberdella@ml.com
www.fa.ml.com/gamberdella_spruill

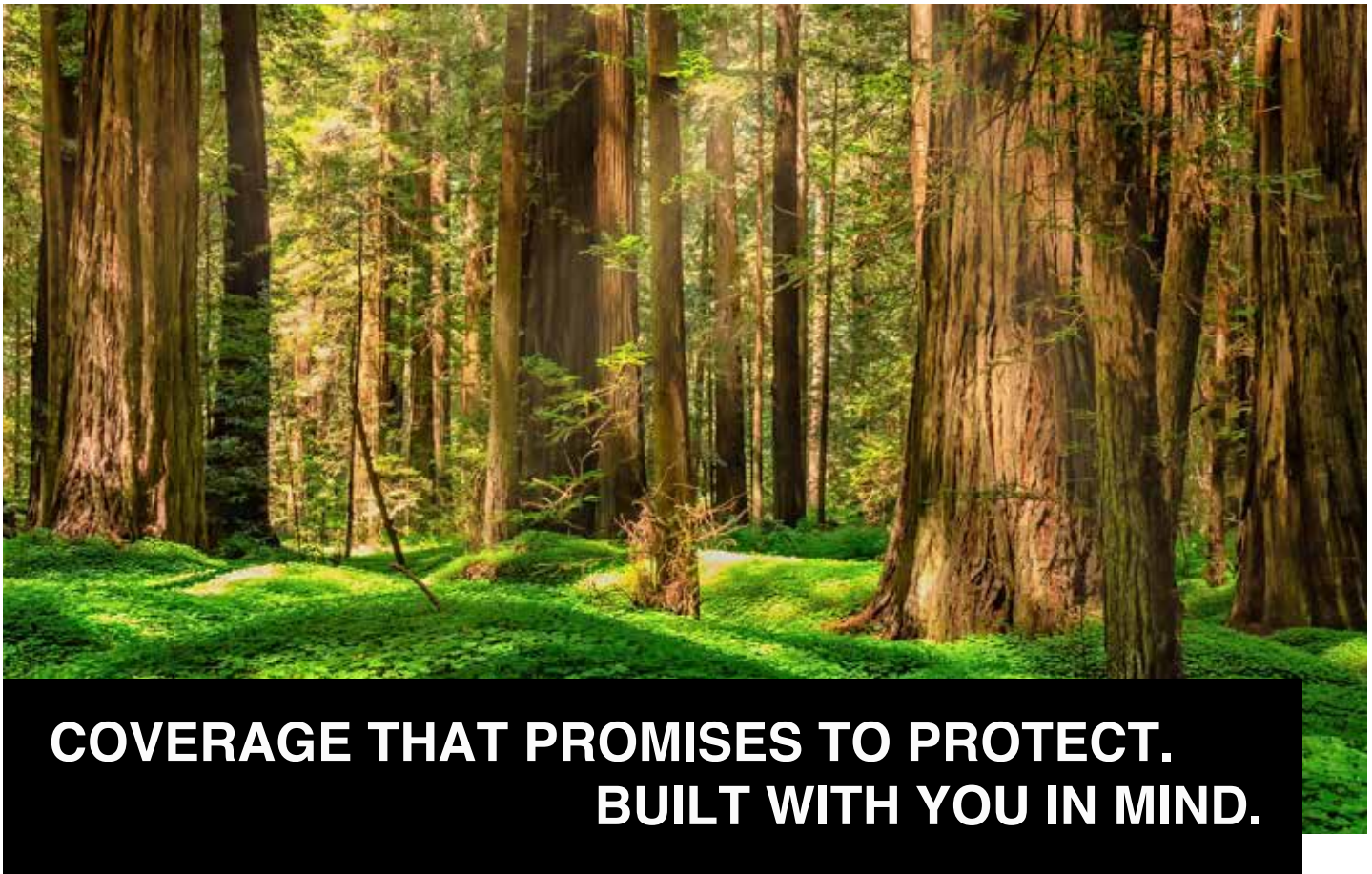


Merrill Lynch, Pierce, Fenner & Smith Incorporated (also referred to as "MLPF&S" or "Merrill") makes available certain investment products sponsored, managed, distributed or provided by companies that are affiliates of Bank of America Corporation ("BoFA Corp."). MLPF&S is a registered broker-dealer, Member SIPC and a wholly owned subsidiary of BoFA Corp. Banking products are provided by Bank of America, N.A., Member FDIC and a wholly owned subsidiary of BoFA Corp.

Investment products: **Are Not FDIC Insured** | **Are Not Bank Guaranteed** | **May Lose Value**

© 2019 Bank of America Corporation. All rights reserved.

ARXNBK9X Vault-BA14M7 | MLWM-320-AD | 471089PM-0819 | 08/2019



COVERAGE THAT PROMISES TO PROTECT. BUILT WITH YOU IN MIND.

Becoming a member of Lawyers' Mutual is more than choosing an insurance provider, it's joining a community of your peers and receiving our promise to protect you.

All of our innovative policies are designed in conjunction with underwriting, claims and insurance experts who hold over 100 years of experience in the legal malpractice industry.



Member Benefits



Continuing Legal Education



Cyber Coverage

Unique programs, specialty rates, credit card payments, instant financing and exclusive member benefits are all part of your Lawyers' Mutual policy that has made us the premier provider for the past 43 years.

Protect yourself. Protect your clients. Protect your future.

www.lawyersmutual.com



**LAWYERS'
MUTUAL**
INSURANCE COMPANY

Our strength is your insurance



Juneteenth & Lesbian, Gay, Bisexual, Transgender and Queer + Pride Month

BY ERIN PARKS

Lesbian, Gay, Bisexual, Transgender and Queer + Pride

June 2021 marks the 51st anniversary of Lesbian, Gay, Bisexual, Transgender and Queer Plus (LGBTQ+) Pride traditions. This month those of us that were alive and/or conscious in June 1969 are called to remember back to the events of the Stonewall Uprising where the patrons of the Stonewall Inn in New York City protested in resistance to the common harassment and persecution of the LGBTQ+ community by law enforcement. This uprising marks the beginning of the movement to outlaw discriminatory laws and practices against LGBTQ+ Americans.

Presidential Proclamations and Executive Orders followed the Pride movement to rule on related substantive issues of law, and to make pertinent announcements to the American public. In 1998, President Clinton issued an Executive Order expanding equal opportunity employment by prohibiting discrimination based on sexual orientation under federal law. (Executive Order 13087, 63 F.R. 30097 (June 2, 1998).) On June 11, 1999, Proclamation No. 7203 was issued for Gay and Lesbian Pride Month. (Proclamation No. 7203, 3 C.F.R. 50 (1999).)

On June 1, 2009, President Obama issued the following Proclamation for Lesbian, Gay, Bisexual and Transgender Pride Month:

Forty years ago, patrons and supporters of the Stonewall Inn in New York City resisted police harassment that had become all too common for members of the lesbian, gay, bisexual, and transgender (LGBT) community. Out of this resistance, the LGBT rights movement in America was born. During LGBT Pride Month, we commemorate the events of June 1969 and commit to achieving equal justice under law for LGBT Americans.

LGBT Americans have made, and continue to make, great and lasting contributions that continue to strengthen the fabric of American society. There are many well-respected LGBT leaders in both the arts and business communities, and in all industries.

LGBT Americans also mobilized the Nation to respond to the domestic HIV/AIDS epidemic and have played a vital role in broadening this country's response to the global HIV pandemic. Due in no small part to the determination and dedication of the LGBT rights movement, more LGBT Americans are living their lives openly today than ever before....



Erin Parks

The LGBT rights movement has achieved great progress, but there is more work to be done. LGBT youth should feel safe to learn without the fear of harassment, and LGBT families and seniors should be allowed to live their lives with dignity and respect ... I continue to support measures to bring the full spectrum of equal rights to LGBT Americans ... enhancing hate crimes laws, supporting civil unions and Federal rights for LGBT couples, outlawing discrimination in the workplace, ensuring adoption rights, and ending the existing "Don't Ask Don't Tell" policy in a way that strengthens our Armed Forces and our national security.

These issues affect not only the LGBT community, but also our entire Nation. As long as the promise of equality for all remains unfulfilled, all Americans are affected. If we can work together to advance the principles upon which our Nation was founded, every American will benefit. During LGBT Pride Month, I call upon the LGBT community, the Congress, and the American people to work together to promote equal rights for all, regardless of sexual orientation or gender identity.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2009 as Lesbian, Gay, Bisexual, and Transgender Pride Month. I call upon the people of the United States to turn back discrimination and prejudice everywhere it exists. (Proclamation No. 8387, 74 F.R. 26929 (June 4, 2009). (<https://www.loc.gov/law/help/commemorative-observations/pride.php>; <https://www.loc.gov/lgbt-pride-month/>; [https://](https://www.loc.gov/lgbt-pride-month/)

www.loc.gov/lgbt-pride-month/about/#pride-50th-anniversary.)

Since 1970, LGBTQ+ people have continued to gather in June to march in the streets with Pride and demonstrate for equal rights for LGBTQ+ Americans. In June 2000, I spent the morning steering a Santa Barbara Outrigger Canoe crew to victory around the Statue of Liberty. Afterwards, my teammates and I ran into the New York City Pride parade. It was great fun to march through the streets in support. I call upon the Santa Barbara County Bar Association community to find an opportunity to march with Pride this June of 2021.

“Juneteenth National Freedom Day: A day of observance.”

I never felt so white or ignorant as when my college student daughter first told me about Juneteenth. I thought – where have I been? I have represented discriminated California workers since 1992, how could I not know about Juneteenth? From that day forward, I committed to never forget Juneteenth and to spread awareness when presented with the opportunity. Thank you in advance for reading.

The origin of Juneteenth is found in the emancipation of African American slaves during the Civil War, specifically in Texas. The history of Texas is inextricably tied with California's as both states were born out of the politics of slavery. California was admitted to the Union as part of Congress' Compromise of 1850 – California was to be a “free” state; Texas remained a slave state. Yet, while “free”, California experienced “a remarkable continuance of slavery” until the end of the Civil War. One pioneer observed that “[f]rom 1849 to 1861, the State of California was...as intensely Southern as Mississippi or any of the other fire-eating States.” (<https://californiahistoricalsociety.org/blog/the-history-of-juneteenth/>.)

At the end of the Civil War, as the U.S. military took back control, Texans simply carried on acting like a slave state, feeling protected by their remoteness. On June 19, 1865, three months after Lee's surrender, Major General Gordon Granger, the commander of Texas, proclaimed to all Texans that “all slaves are free” with “an absolute equality of rights and rights of property between former masters and slaves, and the connection therefore existing between them becomes that between employer and free laborer.” (Id.)

African Americans chose the day of Granger's order as

“THERE ARE LAWYERS AND THERE ARE GREAT LAWYERS. AND THEN THERE ARE LAWYERS' LAWYERS.”

– Marshall Cole, Partner

Advisement and Representation for
Lawyers and other professionals.
nemecek-cole.com • 818.788.9500



an opportunity to celebrate freedom. For generations, Black Texans commemorated Juneteenth with parades and Texas-style barbecues. During the great migrations, Texans moved farther West and brought Juneteenth with them.

In 1980, Texas was the first state to declare Juneteenth a state holiday. (Id.) In 2003, California's legislature passed a resolution adding Section 6719 to California's Government Code, recognizing Every 3d Saturday in June as a day to join in celebration, honor, and reflection of the significant roles that African Americans played in US history and the enrichment of our society through their steadfast commitment to promoting freedom, brotherhood, and equality. (SB 812, Vincent.)

Last Juneteenth arrived as demonstrations continued in the streets of the United States, protesting systemic racism and the killing of George Floyd on May 25, 2020. This Juneteenth, many Americans feel the relief and emotion arising from the April 20, 2021 jury verdict finding police officer Derek Chauvin guilty of all charges for George Floyd's death. The lyrics of "The Times They Are A Changin'", are more apropos this Juneteenth than ever:

Come gather 'round people
Wherever you roam
And admit that the waters
Around you have grown
And accept it that soon
You'll be drenched to the bone
If your time to you is worth savin'
And you better start swimmin'
Or you'll sink like a stone
For the times they are a-changin'

Come writers and critics
Who prophesize with your pen
And keep your eyes wide
The chance won't come again
And don't speak too soon
For the wheel's still in spin
And there's no tellin' who
That it's namin'
For the loser now
Will be later to win
For the times they are a-changin'

Come senators, congressmen
Please heed the call
Don't stand in the doorway
Don't block up the hall
For he that gets hurt

Will be he who has stalled
The battle outside ragin'
Will soon shake your windows
And rattle your walls
For the times they are a-changin'

Come mothers and fathers
Throughout the land
And don't criticize
What you can't understand
Your sons and your daughters
Are beyond your command
Your old road is rapidly agin'
Please get out of the new one
If you can't lend your hand
For the times they are a-changin'

The line it is drawn
The curse it is cast
The slow one now
Will later be fast
As the present now
Will later be past
The order is rapidly fadin'
And the first one now
Will later be last

For the times they are a-changin'
(Bob Dylan & The Band (1964) "The Times They Are A Changin'".) ■

Erin Parks is the Editor of the Santa Barbara Lawyer. Since 1992, she has been a solo practitioner emphasizing Employment Law and representing black and LBGTQ+ employees in their fight against discriminatory workplace practices because equality in the workplace is a fundamental right. Ms. Parks can be seen at www.erinparks.com and contacted at law@erinparks.com.

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.

Honor Judge Royce Lewellen – Honor Central Coast Theatre

BY HON. DENISE DE BELLEFEUILLE (RET.)

Last September 2nd, 2020, in the terrible year of Covid-19, Santa Barbara County lost one of its giants when retired Superior Court Judge Royce Lewellen died of congestive heart failure just 23 days shy of his 90th birthday.

He and his first wife Judy raised three remarkable sons, and after he retired from the Bench, he and Louis Lucas established Lucas and Lewellen Vineyards, which has grown into an internationally recognized winery, with 400 acres planted and 24 varieties grown. He is the only judge from our Santa Barbara County Court with his own Wikipedia page!

I first encountered Judge Lewellen as a young prosecutor, newly transferred from the San Bernardino District Attorney's Office to the Santa Maria branch of the Santa Barbara District Attorney's office. I tried a lengthy child molestation case before Judge Lewellen and remember how impressive he was as a model judge - patient, dignified, courteous, in full command of the proceedings, and *kind* to everyone involved in the case. He certainly influenced my own judicial philosophy when I became a judge myself in 1994, four years after he retired from the Bench.

Royce Lewellen's exemplary style as a judge influenced a generation of lawyers for the better. Judge Bobbi Beck, the first woman appointed to the Bench in Santa Barbara County, was so impressed with Judge Lewellen's greatness that she successfully campaigned to have the Santa Maria Court complex named for him in 1992, just two years after he left the Bench, and while he was still very much alive. It is a rare honor for a living person to have a courthouse named for him or her. The only other example that comes to mind is California's Chief Justice Ronald George for whom the Supreme Court building in San Francisco was renamed after his retirement in 2011. Judge Lewellen is in good company there.

Imagine how delightful it was when my husband, Santa Barbara Superior Court Judge Jim Herman, and I moved to the Santa Ynez Valley in 2006 and, Judge Lewellen (Royce), took us under his wing to introduce us to a rich social and

philanthropic life in this magical place. Perhaps he took an interest in Jim because they both hail from the "Show Me" state of Missouri. They both had joined the Air Force, Royce in the 1950s, Jim during the Vietnam War era - which took each of them in turn to California, where they attended law school and stayed to build their lives. The winter weather in Missouri most likely had something to do with their respective decisions to make their fortunes in the Golden State, and California is a richer place for it.

Jim and I certainly felt lucky to count Royce and his wife, Dr. Ann Foxworthy, as our friends and neighbors. We are just two among hundreds, literally *hundreds* of lucky people Royce and Ann counted as friends and included in fun, philanthropic events in the Santa Ynez Valley over the past several years.

Giant is the right word to describe this remarkable man. In Royce's lifetime he did much good for many causes. In addition to his work as a judge on the Santa Barbara Superior Court, he first established a robust civil practice in Solvang, and was a founder of the Community Bank of Santa Maria and the Solvang Festival Theater. He was an early supporter of the renowned theater company Pacific Conservatory of the Performing Arts (PCPA), which is affiliated with Allan Hancock College, and he was a catalyst for bringing PCPA to the Solvang Festival Theater once it was constructed.

Royce Lewellen believed in the arts as a vital part of life. In 1974, he and other Solvang business leaders imagined a 700-seat outdoor theater as a summer performance space to boost tourism and provide cultural enrichment to Santa Ynez Valley and Santa Maria residents. He and Roger Nielsen *mortgaged their own homes* to raise the money to buy the land on which the Solvang Festival Theater was built. Once PCPA was on board to use the new theater for an outdoor summer season, a happy partnership began that continues to this day.

Another happy partnership owes its origins to PCPA and the Solvang Festival Theater. When Dr. Ann Foxworthy was the Superintendent/President of Allan Hancock College, Royce came to see her to discuss forming a foundation to support PCPA. Ann and Royce were married on June 23, 2004 in Balquhiddy Parish Church in Scotland, where Rob Roy McGregor is buried. Although neither Ann nor Royce has any Scottish ancestry, they did share a love of adventure and spent their time traveling the world. They went on walking trips with hiking friends in Spain, Japan, Ireland, and France, and made several trips to Australia and New Zealand. They visited gardens, megalithic monuments, and art museums all over Europe. Ann's background as an art historian made their museum visits exceptionally rich.

Royce's love of outdoor adventures was truly a lifelong passion. From his early Air Force days until the summer of 2019, he made annual mule packing trips to the Sierras with his sons and their friends. Judge Rod Melville, one of Royce's closest friends from the Court, was a regular on these expeditions. Just think - Royce was in the saddle for the last of these legendary adventures when he was 87-years-old!

In 2016 Ann joined the board of directors of the Solvang Festival Theater and took command of an effort to raise \$4.7 million to renovate the now 47-year-old venue. Built in 1974 in merely 58 days, it sorely needs a 21st century makeover. Under Ann's leadership, the campaign has reached 70% of the end goal. When Royce died last summer, the outpouring of sadness at the loss of such a beloved person soon translated into spontaneous donations to the theater renovation project of over \$300,000, all in memory of Royce. Ann formulated a plan within the campaign to name the ticket tower in Royce's honor. The ticket tower is the first thing patrons see as they approach the theater. The Solvang Theaterfest (a 501c3 non-profit corporation) continues to accept donations in the name of "Royce Lewellen Fund," Solvang Festival Theater, P.O. Box 917, Solvang, California 93464. ■

Judge Denise de Bellefeuille (retired) served on the Santa Barbara County Municipal and Superior Courts from 1994 to 2014. Before that, she was a prosecutor for 13 years. She lives on a five-acre farm with her husband, Santa Barbara Superior Court Judge James Herman. They have a vineyard, lavender patch, 8 ducks, 7 chickens, 3 goats and 2 dogs. She serves on the Board of Directors for the Solvang Festival Theater.

Since 1964 (excluding the pandemic), PCPA has presented exemplary year-round theatre and provided excellent training for community college students by resident theatre professionals. PCPA is the only resident professional company and the sole community college program on our Central Coast.



The Fisherman



copter stop on way to Milford Sound

Travelling with friends in New Zealand



Turkish Delight



Judges Melville and Lewellen in the Sierras



Wedding photo of Royce Lewellen and Anne Foxworthy

Brief Update on Improvements to the Civil Justice System Due to COVID-19

BY RENEE NORDSTRAND

While perusing my law journals for the latest information that might affect my civil personal injury practice, I learned about new laws that will permanently improve our civil justice system. The Consumer Attorneys of California, Legislative Counsel, deserves the credit for the following update.¹

New laws came about when the COVID-19 pandemic shut down the courts and the legislature. Governor Gavin Newsom granted authority to Chief Justice Tani Cantil-Sakauye to begin making emergency rules and procedures. Once the Legislature resumed, Assembly Bill 3366 was signed by the Governor which made that authority statutory, giving the Chief Justice emergency authority to authorize certain actions by the courts in response to emergency conditions.² In addition, a few bills affecting the civil justice system got through the legislature, which helped move justice forward.

The pandemic has brought more efficiency to the courts, including my favorite - remote court appearances in every courthouse. Senate Bill 1146 (SB 1146) codified Judicial Council Emergency Rules 11 and 12 allowing for remote depositions and electronic service.³ SB 1146 amended sections 1010.6 and 2025.310 and added section 599 of the Code of Civil Procedure. Section 599 allows trial deadlines to be continued during the shutdown.⁴

Assembly Bill 2165, effective January 1, 2021, amends Section 1010.6 of the Code of Civil Procedure, and clarifies procedures governing electronic filing of court documents.⁵ When a document is submitted for electronic filing the entity receiving the document must promptly send a confirmation of receipt indicating the time and date of receipt. If the document meets all the filing requirements and the fee has been paid, the court must promptly send confirmation of filing. If the document does not meet the requirements, the court must promptly send the rejection and reasons for the rejection, including the date the clerk sent the notice. The bill tolls any applicable statutes of limitation for the period between when a complaint or cross-complaint is received and when it was rejected, and provides the filer one

additional day to submit the complaint or cross-complaint in a form correcting errors that caused it to be rejected. The party seeking tolling cannot make any changes other than those that caused the document to be rejected. AB 2165 also clarifies that courts are not to charge fees for electronic filing and electronic service that exceed the court's actual cost for providing those services.



Renee Nordstrand

Assembly Bill 2723, also effective January 1, 2021, amends Section 664.6 of the Code of Civil Procedure. It authorizes attorneys for parties in civil litigation to sign a stipulated settlement agreement on the litigants' behalf, which will be useful during these socially distant times.⁶

While there is no date set for reopening civil jury trials in Santa Barbara's Courthouses, the Los Angeles Superior Court is taking a novel approach to fast-track personal injury cases. On April 29, 2021, Presiding Judge Taylor of the Los Angeles Superior Court issued a press release announcing a voluntary fast track personal injury Bench trial pilot program that will run from May 3, 2021 until November 1, 2021. The hope is that parties will have access to a bench trial within 60 days.⁷ ■

Renee J. Nordstrand is a partner at NordstrandBlack P.C. AV rated by Martindale Hubbell, Renee exclusively represents Plaintiffs throughout California in personal injury matters.

1. Takhar, *Update from CAOC Legislative Counsel* (March 2021) *The Advocate Magazine*. See also [https://www.caoc.org/?pg=legislation#:~:text=AB%202723%20\(Chiu\)%20%E2%80%93%20This,1%2C%202021](https://www.caoc.org/?pg=legislation#:~:text=AB%202723%20(Chiu)%20%E2%80%93%20This,1%2C%202021).
2. Assem. Bill No. 3366 (2019-2020 Reg. Sess.).
3. Sen. Bill No. 1146 (2019-2020 Reg. Sess.).
4. Code Civ. Proc., 599.
5. Assem. Bill No. 2165 (2019-2020 Reg. Sess.).
6. Assem. Bill No. 2723 (2019-2020 Reg. Sess.).
7. Copies of the press release or Expedited PI Court Trial Request Form can be obtained by emailing the author at rn@nblaw.us.

Montecito Executive Suites

Office Space Reimagined



Welcome to Montecito Executive Suites, a new all-inclusive office space on State Street in the heart of downtown Santa Barbara! This stunning two story Mediterranean style building, conveniently located in the financial district adjacent to the Santa Barbara County Courthouse, features an elegant lobby, high ceilings, full service private offices and workstations, two fully equipped kitchens, a luxurious meeting room, two state of the art conference rooms with fireplaces and Zoom capability, an elevator, ADA compliant and direct access to a City parking lot. We are also the proud recipient of a Green Award for outstanding sustainable building achievement.

Our amenities include WiFi, complimentary beverages, copiers and scanners, all utilities, security cameras, key card access, nightly security, janitorial services, central air conditioning and heating, bike storage room, full time concierge services, and much more! We are pleased to offer meeting rooms to all Non-Profit organizations Free of Charge!

For our clients' protection, we have implemented all safety measures in compliance with California's Covid-19 guidelines. Our professional Concierge welcomes guests, monitors staff and visitors' temperatures, provides mail and courier management, supplies refreshments and handles all meeting room and conference arrangements.

We offer a wide range of office configurations with flexible monthly or longer term options customized to suit both your business needs and budget. Whether you are an entrepreneur, start-up or an established firm seeking to maximize productivity, Montecito Executive Suites provides the ideal affordable solution!

Call (805) 966-1855 to schedule a tour at 1020 State Street in Santa Barbara!



WWW.MONTECITOEXECUTIVESUITES.COM

EXCLUSIVELY MARKETING BY SANTA BARBARA INVESTMENT COMPANY

Recent Federal Actions Spark Positive Local Change to Address the Climate Crisis

BY LINDA KROP, TARA MESSING, RACHEL KONDOR

Recent events playing out at the federal level will have major implications for the South-Central coast, especially in the arena of oil and gas development. This article will explore the local impacts arising from the Biden administration's recent actions to address the negative effects of climate change while ensuring the "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income,"

U.S. Department of Interior (DOI) Tackles Climate Change

On March 15, 2021, the Senate voted 51-40 to confirm Deb Haaland to lead the Department of the Interior (DOI). As a member of the Pueblo of Laguna, Secretary Haaland's confirmation is momentous as she is the first Native American to serve as a cabinet secretary. In her role, she is leading the agency responsible for executing efforts to combat climate change and address environmental justice.

Secretary Haaland has wasted no time getting to work. A mere month after her confirmation, she issued two Secretarial Orders (SO) to establish a Climate Task Force and strengthen scientific integrity, respectively.

- To implement President Biden's Executive Order (EO) 13990, entitled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" (January 20, 2021), and EO 14008, entitled "Tackling the Climate Crisis at Home and Abroad" (January 27, 2021), SO 3399 established a Climate Task Force to develop a strategy for reducing climate pollution, increasing resilience, prioritizing environmental justice, and accelerating renewable energy development, among other things. The SO also directed DOI Bureaus and Offices to utilize science in the analysis conducted pursuant to the National Environmental Policy Act (NEPA) and improve transparency and public engagement in DOI's decision-making process.

- SO 3398 rescinded several Trump-era Secretarial Orders, which addressed controversial issues like fossil fuel development, coal leasing, and streamlined permitting, on the grounds that the Orders "are inconsistent with the Department's commitment to protect public health; conserve land, water, and wildlife; and elevate science."



Linda Krop

In issuing these two new Secretarial Orders, Secretary Haaland recognized "that signing Secretarial Orders alone won't address the urgency of the climate crisis," but she is "hopeful that these steps will help make clear that we, as a Department, have a mandate to act."

DOI's New Priorities May Hinder Efforts to Streamline Oil and Gas Permitting in the County

Secretary Haaland's recent actions demonstrate a commitment to tackling the climate crisis, identifying solutions to make our communities more resilient, and transitioning to a clean renewable energy future. Although the DOI's priorities have shifted drastically under the Biden administration and Secretary Haaland's leadership, it has yet to be seen whether the agency's plan to expedite oil and gas permitting in Santa Barbara County (County), at the expense of wildlife and plants protected under the Endangered Species Act (ESA or Act), will go forward.

Right now, the United States Fish and Wildlife Service (Service) is considering whether to finalize the General Conservation Plan for Oil and Gas Activities in Santa Barbara County (Plan). The proposed Plan would streamline "take" permits for oil and gas projects that would harm or kill three species protected under the ESA: the California red-legged frog, California tiger salamander, and Lompoc yerba santa. The Plan would cover 674,220 acres throughout the County, including coastal areas, and would open the door for more fossil fuel energy generation in areas that support a mosaic of natural habitats for protected species.

Oil and gas development can have a devastating impact on imperiled species by grading over their habitat, polluting

streams, and groundwater, and killing them during construction, trucking, and spills. Despite the alarming trend towards species extinction, the Plan would allow for the permanent destruction of 675 acres of California tiger salamander habitat, at least 355 acres of California red-legged frog habitat, and 27.5 acres of habitat for the Lompoc yerba santa. In addition to destroying habitat, oil companies could kill a certain number of tiger salamanders and red-legged frogs each year under the Plan.



Tara Messing

Congress established the ESA to halt and reverse the severe trend toward species extinction. To achieve this ambitious goal, the Act prohibits the “taking” of protected species but provides a limited exception, by permit, if it occurs as a result of lawful activities.¹ Prior to issuing this permit, a conservation plan must provide a strategy for avoiding, minimizing, and mitigating harm to protected species and their habitats from an applicant’s activities.² Unfortunately, the Plan will not fulfill these conservation obligations, especially since many of the measures in the Plan to minimize and mitigate take will not do so to the “maximum extent practicable,” as required under Section 10 of the Act.³

Efforts to conserve species and promote biodiversity are critical right now as the world faces the threat of extinction of approximately one million animal and plant species—more than ever before in human history.⁴ Due to the hazards that oil and gas development present to the survival of wildlife and preservation of their habitats, on April 12, 2021, Congressman Salud Carbajal wrote to Secretary Haaland, requesting that the DOI/Service withdraw the Plan. No decision has been made by the agency at this time. The Environmental Defense Center (EDC), on behalf of its clients,⁵ continues to advocate for the withdrawal of this Plan to conserve these species and their habitats.

Biden’s Pause on the Federal Fossil Fuels Program

Even before the Senate confirmed Secretary Haaland and just days after taking office, President Biden paused all new fossil fuel leasing on public lands and in offshore waters.⁶ The purpose of the suspension was to give the new admin-

istration time to “review questions of fact, law and policy” involving fossil fuel and mineral extraction on public lands and waters under the jurisdiction of the DOI.⁷

The Outer Continental Shelf Leasing Act (OCSLA) governs leasing of federal waters for oil and gas offshore.⁸ Under the OCSLA, the Secretary must conduct a “needs assessment” to determine a schedule for leasing that “will best meet national energy needs” and, in doing so, she must strike a balance between the need for new leasing and “the potential impact of oil and gas exploration on other resource values...and the marine, coastal and human environments.”⁹

Hitting the pause button on the federal fossil fuels leasing program was the right thing to do. In response to this EO, Secretary Haaland stressed that the federal fossil fuel leasing program is “fundamentally broken.”¹⁰ During the pause, she said, the DOI would examine whether the program “is delivering a fair return to American taxpayers, whether it fairly accounts for the impacts of climate... and whether we have the right mechanisms in place to avoid irreparable harm to wildlife, water, sacred sites, and beyond.”¹¹

Additionally, the U.S. Government Accountability Office (GAO) has had the DOI’s leasing program on its list of high risk federal programs for over a decade; however, the program has had no comprehensive review for over four decades.¹² With a new administration in place—and the effects of climate change bearing down on us—this is an opportune time for the DOI to analyze and assess the real need for new fossil fuel development, and to consider the impacts on the environment and human health.

No Need for New Oil Leasing

The DOI has essentially acknowledged that no new leases are needed right now because of a huge surplus of leases and approved permits to drill on public lands and offshore waters, in part because the previous administration conducted a fire sale on oil, gas, and mineral leasing.¹³ Industry currently “has stockpiled millions of acres of leases” and is “sitting on approximately 7,700 unused, approved permits to drill.”¹⁴ Some 26 million acres are under lease to the oil and gas industry onshore, of which more than half of those



Rachel Kondor

acres are unused and non-producing.¹⁵ Offshore, the situation is even more stark, with over 9.3 million acres of unused and non-producing acres of public waters under lease.¹⁶ Even with all these unused permits in effect, the United States is currently a net exporter of oil.¹⁷ New leases are clearly not necessary to meet national energy demand at the present time.

To that end, on April 15, 2021, EDC submitted comments regarding the DOI's pause in leasing and review of the federal leasing program. EDC advocated for the DOI to refrain from issuing any new leases under the program, both offshore and onshore, and to begin the process of reforming the program in a manner that balances the many important values of our public lands and waters. EDC also asked the DOI to consider whether a real need for additional leases exists, given the huge surplus of undeveloped leases, the effects of climate change, and how renewables projects and energy efficiency can offset the need for additional drilling going forward. EDC further asked the DOI to consider permanently protecting lands and waters under its existing authorities.

Lifting the Prohibition on New National Marine Sanctuary Designations

The National Oceanic and Atmospheric Administration's Office of National Marine Sanctuaries (ONMS) oversees fourteen national marine sanctuaries that protect American's "most iconic natural and cultural marine resources."¹⁸ Four of these sanctuaries – Channel Islands, Monterey Bay, Cordell Bank, and Greater Farallones – are located offshore of California.¹⁹ Designation of a new sanctuary begins when a nomination is submitted for consideration and ONMS decides to add it to the inventory of candidate sites.²⁰ Once accepted, a nomination is valid for five years.²¹ If the proposal is elevated to a formal designation process, it will be subject to an extensive agency and public review process that requires a demonstration that the area's natural resources and ecological qualities are of special significance; the area contains resources of special historical, cultural, or archaeological significance; the area supports present and potential economic uses; and the public benefits of the area, such as aesthetic value, public recreation, and access, depend on conservation and management of the area's resources.²² Other factors include whether the area provides or enhances opportunities for research in marine science and education, whether the area is threatened by adverse impacts from current or future uses, and whether designation as a national marine sanctuary would provide unique conservation and management value for the area.²³

On April 28, 2017, former President Trump issued an EO, "Implementing an America-First Offshore Energy Strategy,"

that prohibited ONMS from designating any new sanctuaries until and unless the proposal includes an accounting by the DOI regarding any potential energy or mineral resources within the proposed area.²⁴

On Day One of the Biden Administration, however, the President issued an EO that, among other things, revoked former President Trump's April 28, 2017 EO.²⁵ This action authorized ONMS to consider nominations for new sanctuaries and resume the designation process.

New Hope for a New Sanctuary

In June 2015, the Northern Chumash Tribal Council submitted a nomination for a new national marine sanctuary.²⁶ The Chumash Heritage National Marine Sanctuary (CHNMS) was proposed to protect the culturally and biologically diverse coast from Gaviota to the southern boundary of the Monterey Bay National Marine Sanctuary. One of the primary purposes of the new sanctuary is to protect the unique indigenous cultural resources and heritage of the Chumash and First Peoples, including Point Conception, which is sacred to the Chumash as the Western Gate. Another primary purpose is to protect the internationally significant ecological transition zone that supports high biological diversity.

ONMS accepted the nomination for the CHNMS on October 5, 2015.²⁷ Although former President Trump's EO placed a hold on the designation process, in 2020 ONMS agreed to renew the nomination for another five years.²⁸

Thanks to President Biden's January 20, 2021 EO, ONMS is now free to move the CHNMS nomination from the inventory of candidate sites to a formal designation process. EDC and many other organizations, businesses, and municipalities look forward to supporting the Chumash during this process.

Conclusion

Starting on Day One of the Biden Administration, many exciting climate solutions have been put into action at the federal level. The Administration has recommitted to scientific integrity, paused offshore leasing, and resumed the process for designating new national marine sanctuaries. These actions could have a ripple effect that is even more profound in Santa Barbara County. While the impacts of these recent federal actions are not entirely clear yet, the future looks brighter and EDC, on behalf of our clients, and along with our partners, will continue to advocate to protect the incredible natural resources that our County hosts. ■

Linda Krop is Chief Counsel of the Environmental Defense Center. Her work focuses primarily on energy and climate issues, as well

as preservation of open spaces and wildlife. In addition to working at EDC, Linda teaches Environmental Law at the University of California, Santa Barbara. Linda received her J.D. from the Santa Barbara College of Law.

Tara Messing is a Staff Attorney at the Environmental Defense Center. Her work includes litigation and advocacy related to clean water, climate and energy, and open space and wildlife. Tara received her J.D. from the University of Maryland Francis King Carey School of Law with a certificate in Environmental Law.

Rachel Kondor is a new staff attorney at EDC. After working for environmental advocacy organizations after law school, Rachel spent more than a decade working for federal lawmakers, as senior legislative assistant on environmental and tribal matters to Congressman Raúl Grijalva, and later as a local representative of Congresswoman Lois Capps. She received her J.D. from Lewis and Clark Law School in Portland with a Certificate in Environmental and Natural Resources Law.

EDC is the only non-profit public interest environmental law firm between Los Angeles and San Francisco and serves community organizations dedicated to environmental protection. Learn more at www.environmentaldefensecenter.org.

ENDNOTES

- 1 16 U.S.C. § 1538(a)(1)(B); 16 U.S.C. § 1539(a)(1)(B).
- 2 16 U.S.C. § 1539(a)(2)(A).
- 3 EDC Comment Letter on the Draft General Conservation Plan for Oil and Gas Activities in Santa Barbara County and Draft Environmental Assessment to the U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (May 6, 2020); 16 U.S.C. § 1539(a)(2)(B)(ii).
- 4 United Nations, *UN Report: Nature's Dangerous Decline 'Unprecedented'; Species Extinction Rates 'Accelerating'*, (May 6, 2019).
- 5 EDC represents the Sierra Club, by and through the Los Padres Chapter, Santa Barbara County Action Network (SBCAN), and EDC in administrative proceedings regarding the Plan.
- 6 Exec. Order No. 14008, 86 Fed.Reg. 7619, 7625-26 (January 27, 2021); see also Secretarial Order No. 3395, Department of the Interior (Jan. 20, 2021).
- 7 Secretarial Order 3395, Department of the Interior (Jan. 20, 2021).
- 8 43 U.S.C. § 1344 et seq.
- 9 43 U.S.C. § 1344(a); 43 U.S.C. § 1344(a)(1).
- 10 Dlouhy, *Future of 'Broken' Oil Program Under Review, Interior Head Says*, Bloomberg Green (April 2, 2021). <<https://www.bloomberg.com/news/articles/2021-04-02/future-of-broken-oil-program-under-review-interior-head-says>> [as of April 30, 2021].
- 11 *Id.*
- 12 U.S. Government Accountability Office, report, High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas (March 2021) < <https://www.gao.gov/assets/gao-21-119sp.pdf>> [last visited May 5, 2021].
- 13 U.S. Dept. of the Interior, Factsheet (Jan. 27, 2021) <<https://www.doi.gov/pressreleases/fact-sheet-president-biden-take-action->

- uphold-commitment-restore-balance-public-lands> [as of Apr. 14, 2021].
- 14 *Id.*
- 15 *Id.*
- 16 *Id.*
- 17 Blewitt, *The U.S. is Exporting Oil and Gas at a Record Pace*, Bloomberg News (December 12, 2017) <<https://www.bloomberg.com/news/articles/2017-12-12/u-s-fuels-the-world-as-shale-boom-powers-record-oil-exports>> [as of April 30, 2021].
- 18 <https://sanctuaries.noaa.gov/about/> [as of May 5, 2021]. For a full description of the National Marine Sanctuaries program, see National Marine Sanctuaries Act, 16 U.S.C. §§ 1431 et seq., 15 C.F.R. Part 922.
- 19 <https://sanctuaries.noaa.gov/> [as of May 5, 2021].
- 20 15 C.F.R. § 922.10(d).
- 21 9 FR 33855 (June 13, 2014).
- 22 15 C.F.R. § 922.10(b).
- 23 15 C.F.R. § 922.10(c).
- 24 Executive Order 13795, Sec. 4. 82 FR 20815-16 (April 28, 2017).
- 25 Executive Order 13990, *Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, Sec. 7. (January 20, 2021). See 86 FR 7041 (January 25, 2021).
- 26 Northern Chumash Tribal Council, *Chumash Heritage National Marine Sanctuary Nomination* (June 2015).
- 27 Letter from John Armor, Acting Director, ONMS, to Fred Collins, Northern Chumash Tribal Council (October 5, 2015).
- 28 85 FR 61935 (October 1, 2020).

**Experienced.
Trusted.
Proven.**

Mediator and arbitrator for the resolution of cases including:

- Business/Commercial
- Contracts, Employment
- Environmental and Real Estate
- Construction
- Wills and Trusts
- Family Law
- Personal Injury

Retired Judge, Elinor Reiner

Judge Elinor Reiner
MEDIATOR AND ARBITRATOR

To schedule a consultation, please call 805-879-7517
211 E. Anapamu Street • Santa Barbara, CA 93101
elinor@elinorreiner.com • WWW.ELINORREINER.COM

Regulation of Forensic Genetic Genealogy

BY ROBERT M. SANGER

The Criminal Justice column in the November 2019 issue of the *Santa Barbara Lawyer* covered some of the emerging issues regarding Forensic Genetic Genealogy (FGG) and FGG searches (FGGS).¹ The United States Department of Justice (DOJ) had promulgated an Interim Policy on Forensic Genetic Genealogical DNA Analysis and Searching (DOJ Interim Policy on FGGS).² Around the same time, Maryland state legislators proposed a new law effectively banning FGGS. While unsuccessful then, the same legislators introduced legislation this year that is viable and supported by the law enforcement community. If successful, Maryland would be the first state to enact such legislation.

This Criminal Justice column, with a brief refresher, will pick up where it left off in November 2019 to discuss the issues and problems relating to FGGS and how the State of Maryland is dealing with them. Maryland is breaking ground for California and other jurisdictions which will have to address these same issues and problems eventually.

Forensic Genetic Genealogy Searches in Review

As a quick refresher, there are commercial companies, such as “23 and Me,” “AncestryDNA,” “Family Tree DNA,” “Living DNA” and “MyHeritageDNA,” which collect “voluntary” DNA samples from individuals who seek ethnological, medical or genealogical information. These databases may submit their analyses to other organizations which collect the data, such as GEDmatch. In addition, state and local and the federal government are creating their own databases. These are collections of the genomic profiles using single nucleotide polymorphisms (SNPs). A SNPs database provides information about the entire genome and not just the analysis of alleles at the 20 to 26 loci obtained for “offender” type databases (using short tandem repeat or STR) such as the Combined DNA Index System (CODIS) database. This means that genetic genealogical information may be sufficient to make familial comparisons that may lead law enforcement to contact relatives of a person of interest when neither the relatives nor the person of interest

was arrested or booked.

There have been questions raised over the Fourth Amendment and privacy issues relating to searches of SNP databases and the concurrent issue of consent. This has given rise to commercial decisions to allow customers to “opt out” of, and, eventually, to “opt in” to, making their DNA searchable. From the government’s side, this gave rise to the DOJ Interim Policy on FGGS effective in November of 2019 which has yet to be transformed into a permanent policy.³ The federal Interim Policy has some protections but it a policy guiding federal agents. It does not create rights for individuals, and it does not regulate the activities of state and local agencies, except to the extent that they are working in collaboration with DOJ agencies.



Robert M. Sanger

The Main Concerns Regarding Forensic Genetic Genealogy Searches (FGGS)

The two main areas of contention regarding FGGS are: (1) the search of the commercial genetic genealogical databases by law enforcement to identify persons of interest or suspects in unsolved criminal investigations; and (2) the surreptitious collection and use of DNA samples from suspects or persons of interest. Thus far, California has not enacted legislation that directly deals with these concerns. Maryland, on the other hand, has passed legislation through both houses which is now pending signature by the Governor.⁴ If signed, the Maryland law will take effect October 1, 2021. It goes far beyond the DOJ Interim Policy on FGGS, but it may not go far enough. Nevertheless, it is a good starting point for discussion of similar legislation in California and other states.

The first issue, the search of the databases, poses significant challenges. The collected material for everyone includes the single nucleotide polymorphisms (SNPs) which cover the entire human genome. That means that physical characteristics, such as ethnicity and physical features, can be ascertained that can give rise to forensic DNA phenotyping. Although race is a social construct, stereotypical conclusions can be derived from this data. In addition, predisposition to disease, medical data and psychological information can also be derived. All of this is accessed by

law enforcement with the primary goal of identifying a person of interest or a possible relative or group of relatives. However, there is a potential for reaching beyond that to involve racial profiling or claims of genetic predisposition or certain physical or psychological traits.

The second issue, collection of DNA samples by both law enforcement investigators and private individuals, presents potential problems. Law enforcement and other state agents will be subject to Fourth Amendment constraints but private individuals, unless acting at the direction of law enforcement, are not engaged in state action. The right of privacy found in the penumbra of the Bill of Rights and found expressly in Article I, section 1 of the California Constitution, may provide some protection. However, collection of DNA, by surreptitious or covert means, is a concern.

It is argued that the FGGS process is just investigative and leads to a suspect regarding whom other evidence will be required to convict. In other words, with a lead provided by FGGS, once the investigation focuses on a suspect, the other aspects of FGGS are irrelevant. It then becomes a matter of comparing the actual DNA sample of the suspect to that in evidence, and to also developing evidence to establish the relevance of the comparison. With “touch” DNA, transfer of DNA and just the general circumstances of where, when, and why relating to evidentiary DNA, a purported “match,” even if reliable, may not be relevant. In addition, other evidence in the case, including alibi evidence or, on the other hand, non-DNA evidence of criminality, may either break or make the case.

However, even if the database information is just a source for investigation and even if the collection of DNA from a subject or from a database is only a part of the initial collection of evidence, Fourth Amendment and privacy issues remain. Whether we take a textual, originalist, historical, or evolving principles approach, it is fundamental to our constitutional heritage that government intrusion into the lives of the people is not favored. Technology and “big data” facilitate government intrusion and the governmental/industrial complex facilitates non-governmental intrusion that has real consequences for individuals. Both issues—search of databases and surreptitious or covert collection of DNA samples—will require study over the years. One way or another, a jurisprudence will emerge.

Maryland’s Legislative Efforts

Thus far, as mentioned, Maryland is the only jurisdiction to enact a comprehensive statutory scheme relating to FGGS, pending the Governor’s signature. Of course, the DOJ tried to regulate its own agents administratively. In California’s current legislative session, there are several

ills that pertain to genetic information privacy but none specifically relating to FGGS. A Genetic Information Privacy Act that would have had some implications for this subject matter did not make it out of committee this year.⁵ So, Maryland appears to be leading the way on how these issues can be approached.⁶

Basically, Maryland’s SB187/HB240 provides that FGGS may not be initiated without judicial authorization based on an affidavit with the approval of a prosecutor. The affidavit must establish that the crime (or attempted crime) under investigation is murder, rape, a felony sex offense, or a criminal act presenting a substantial and ongoing threat to public safety or national security. Furthermore, the affidavit must establish that forensic sample to be the subject of the FGGS is reasonably believed to be deposited by a perpetrator or such crime or crimes and was collected from the crime scene, was collected from a person or item connected to the criminal event or was collected from the remains of an unidentified homicide victim. The affiant must also state that a Short Tandem Repeat sample⁷ was already submitted to the FBI’s Combined DNA Index System, and the statewide database, and failed to identify a perpetrator. And, finally, the affiant must state that, unless the crime presents an ongoing threat to public safety or national security, reasonable investigative leads have been pursued and failed.

This legislation is not perfect and, depending on how it is interpreted by the courts, it may not go far enough. The exception for crimes presenting a substantial and ongoing threat to public safety or national security makes sense if narrowly construed. However, it could be the exception that swallows the rule. A person who has committed almost any serious felony could be said to pose an ongoing threat - but then, so do a lot of people who have not committed a serious felony or any crime. Courts are already incorporating faux scientific future dangerousness “assessment tools” to make detention decisions and sentencing recommendations. This ongoing threat exception could use additional thought. Perhaps requiring “clear and convincing evidence” of the threat and individualized findings would help.

Maryland’s SB187/HB240 has other restrictions. Neither FGGS DNA forensic samples nor third-party samples may be used to determine predisposition for disease, medical condition, or psychological traits. Furthermore, only databases can be used that provide notice to the service users, and seeks acknowledgment and consent, for the use by law enforcement of their DNA data. The laboratories doing SNP or sequencing must be licensed by the state Health Office. Additionally, audio or video recorded informed consent will be required from any third party whose DNA is used

unless seeking consent would compromise the investigation, in which case, or in the case of covert collection, court authorization is required. The request for covert collection and any subsequent collection is subject to several safeguards and rules, including rules requiring the destruction of profiles, samples, and other records if a comparison is not successful or if a case is not filed.

Remedies to enforce compliance include both civil and criminal sanctions. Importantly, defense counsel and post-conviction counsel are given authority to seek to have DNA submitted for FGGS. In addition, the law also provides for covert collection of DNA from a putative perpetrator (whoever the defense thinks did it) by the lawyers for the accused. The government is given a role in the regulation and oversight of defense covert DNA collection and the requirements are somewhat elaborate. Again, the application of these rules could either provide a bit more of a level playing field for the accused or, if interpreted harshly, could impair otherwise lawful defense investigations.

Conclusion

California—as well as the United States Congress and the legislatures of other states—should give thought to drafting legislation to deal with both the search of the commercial genealogical databases by law enforcement and the surreptitious or covert collection and use of DNA samples from suspects or persons of interest. The Maryland example is a great start. Even more effort should go into creating rules that ensure that forensic science is used in a responsible fashion that serves the needs of law enforcement and the justice system without unduly intruding on individual rights. ■

Robert Sanger is a Certified Criminal Law Specialist (Ca. State Bar Bd. Of Legal Specialization) and has been practicing as a litigation partner at Sanger Swysen & Dunkle in Santa Barbara for 47 years. Mr. Sanger is a Fellow of the American Academy of Forensic Sciences (AAFS). He is a Professor of Law and Forensic Science at the Santa Barbara and Ventura Colleges of Law and an Associate Member of the Council of Forensic Science Educators (COFSE). Mr. Sanger is Past President of California Attorneys for Criminal Justice (CACJ), the statewide criminal defense lawyers' organization, and Past Chair of the Board of Death Penalty Focus. The opinions expressed here are those of the author and do not necessarily reflect those of the organizations with which he is associated. ©Robert M. Sanger.

ENDNOTES

1. See Sanger, “The Department of Justice Interim Policy on Forensic Genetic Genealogical DNA Analysis and Searching” (November

2019) Santa Barbara Lawyer, for overview of the history, issues and problems associated with FGGS.

2. United States Department of Justice Interim Policy Forensic Genetic Genealogical DNA Analysis and Searching (effective November 1, 2019), <https://www.justice.gov/olp/page/file/1204386/download>.
3. The DOJ Newsletter said, “A final Department policy on forensic genetic genealogy will be issued in 2020.” That has not occurred as of this writing. See, <https://www.justice.gov/opa/pr/department-justice-announces-interim-policy-emerging-method-generate-leads-unsolved-violent>.
4. Maryland Senate Bill 0187, passed April 12, 2021, and House Bill 240, passed March 27, 2021.
5. Sen. Bill No. 41 (2020-2021 Reg. Sess.).
6. The text of the bill can be found at: <https://legiscan.com/MD/text/SB187/2021>.
7. STR sample analysis is a common molecular biology method used to compare allele repeats at specific loci in DNA between two or more samples.

2021 Bench & Bar Meetings

As Assistant Presiding Judge, the Honorable Pauline Maxwell has set the schedule for the Bench and Bar Meetings that will take place as follows:

August 19, 2021
November 18, 2021

These Bench and Bar Meetings will be held via Zoom. They provide a forum for local members of the Bar to engage in an informal dialogue with the presiding judge as a means of raising issues and concerns that may not otherwise be addressed. All attorneys and paralegals are welcome to attend. For any practitioners wishing to submit agenda items for consideration before any of the scheduled meetings, please email those items to Ian Elsenheimer: Ielsenheimer@aklaw.net

Santa Barbara Lawyer Wants You!

The focus of the *Santa Barbara Lawyer* in 2021 is to create a forum to engage in rich and provocative conversations across power-differentiated communities, geographic distances, and disciplinary divides. *SBL's* editorial staff invites SBCBA members to remit articles about social justice, inclusion, and privilege, particularly how these issues pertain to our community. We also strongly encourage the submission of rigorously researched articles that show how law is deeply engaged with socio-political, cultural and climate issues. ■

Through the Roof or Down to Earth? How to Control Arbitration Costs

BY VICTORIA LINDENAUER

Recently I served as arbitrator in a four-day personal injury arbitration. The associated photo of arbitration binders reflects some, but not all, of the documents delivered to me by *one side* in the case. The photo does not include the additional documents delivered on flash drives. Granted, there were six claimants and more than ten experts. Sometimes it is entirely appropriate for litigants to submit large amounts of documentation; other times, it is not. The adage, “Time is Money” should be at the top of all litigators’ minds when preparing and presenting a case. Otherwise, a snowball effect can send expenses out where the buses do not run. Fortunately, there are ways to streamline the process and control costs.

Streamlining in Preparation for Arbitration

Tailor the volume and complexity of evidence and exhibits to the value and/or policy limits applicable to the case. This should be obvious but sometimes momentum and ego obscure the time-honored maxim: “Do not spend more on the arbitration than the case justifies.”

Many exhibits, such as those reflected in the photo of arbitration binders, are never offered into evidence. In my recent case, much of the superfluous material consisted of foundational documents utilized by experts in evaluating claims and preparing reports. During the hearing, counsel stipulated that the arbitrator need not review thousands of pages of such foundational documents. Best practice, however, would have those stipulations reached prior to delivery of the documents to the arbitrator. Otherwise, the cost value of the stipulations is lost when an arbitrator has already spent time reviewing the documents pre-hearing.

Speaking of submission of evidence, if a good relationship exists with opposing counsel, communicate early about presenting a joint exhibit binder to the arbitrator. Otherwise, the arbitrator may spend an inordinate amount of time identifying duplicate exhibits. Presenting a joint exhibit binder does not preclude counsel from submitting additional exhibits on behalf of their clients.

Prepare and submit chronological summaries of medical records and highlight significant information. The arbitrator will look at the actual records as well, but a lot of arbitrator time and client expense can be saved if chronologies are prepared by counsel. This particularly applies to cases where there are a lot of medical records and/or complex issues. *Somebody must do it!*



Victoria Lindenaauer

Make sure physician witnesses read the medical records before testifying! It is frustrating (and time consuming) for all who must sit and watch the doctor flip back and forth through records while the arbitration clock is ticking.

Remember to review California’s Rules of Court, Rule 3.823, which allows the introduction of written reports, documents and witness statements, provided specific conditions are met.

If you have videotaped expert depositions, consider submitting excerpts of them in lieu of live testimony. (Code Civ. Proc., § 2025.340.)



Many exhibits, such as those reflected in the photo above of arbitration binders, are never offered into evidence.

BONGIOVI MEDIATION

Mediating Solutions since 1998

Mediator • Arbitrator • Discovery Referee

“There is no better ambassador for the value of mediation than Henry Bongiovi.”



HENRY J. BONGIOVI

AV Preeminent Rating
(5 out of 5)

AVVO Rated ‘Superb’
(10 out of 10)

Conducting Mediations
throughout California

805.564.2115
www.henrybongiovi.com

Hebda Property & Title Solutions

John Hebda
President



- ✓ Attorneys
- ✓ Title Companies
- ✓ Commercial, Industrial and Agricultural Real Estate Professionals
- ✓ Residential Real Estate Professionals
- ✓ Utility companies and contractors
- ✓ Government agencies
- ✓ Surveyors
- ✓ Developers

Hebda Property & Title Solutions is committed to sharing over 30 years of title insurance and real property problem solving expertise with Professionals seeking quality research and common sense solutions regarding a host of complex real property issues.

john@hebdasolutions.com
805.636.2537
www.hebdasolutions.com

Arbitration

Consider stipulations with opposing counsel regarding the following: 1) admissibility of specific evidence; 2) briefs in lieu of opening statements; 3) expert qualification foundation (such as orthopedic surgeons) or submit *curriculum vitae* in lieu of live testimony to establish qualifications.

Consider whether the “generic” motions *in limine* (e.g., exclusion of evidence not produced in discovery) are truly necessary considering the absence of a jury.

Further, arbitrators are frequently faced with motions *in limine* to exclude evidence of insurance policy limits. Currently, there is no case law mandating the admission or exclusion of such evidence by arbitrators. It remains a matter of preference for the arbitrator.

The arbitrator may appreciate hard copies of briefs and exhibits, as well as digital versions. Per your arbitrator’s preference, e-mail briefs in Word or WordPerfect to allow for cutting and pasting. This will likely save time in the authoring of the award.

Streamlining at the Arbitration Hearing

If it is a clear liability personal injury case, there is probably no need to dwell on the details of the accident (unless there are significant biomechanics issues).

If you are not presenting live testimony from your expert(s), make sure your expert(s) have responded in their videotaped testimony or reports to the opposing experts’ reports. Listen to the testimony of the opposing expert. There may be new information and opinions not previously disclosed in discovery! You need not bother with a lot of cross-examination about the expert’s hourly rate and earnings; arbitrators usually know. Do not ask the experts if they “remember having their deposition taken.” Use proper impeachment techniques by asking your questions and reading from the transcript if appropriate. (Code Civ. Proc., § 2025.620.)

Consider waiving closing arguments if you have thoroughly argued your case in an arbitration brief. Alternatively, plaintiff/claimant may want to waive closing. If defendant/respondent then chooses to make a closing argument, plaintiff/claimant will have the opportunity to reply.

Come into the arbitration with a closing argument outline. The outline can be edited as evidence is introduced and will help avoid repetition.

Bottom line: “Good judgement is the result of experience and experience the result of bad judgement.” Anonymous saying frequently attributed to Mark Twain. ■

Victoria Lindenauer is a full-time mediator, arbitrator, and discovery referee. She is at: carringtonlindenauer.com

**Santa Barbara County Bar Association Criminal Law Section
Presents:**

“Representing Incarcerated TGI People”

When: June 17th, 2021 from 12:00 P.M. – 2:00 P.M.

Where: Zoom

MCLE: 1.5-Hours Elimination of Bias in the Legal Profession and Society - MCLE Credit (pending)

Speaker: Alex Binsfeld

Alex Binsfeld (they/them) is a white non-binary queer person who is the Legal Director of the Transgender, Gender-Variant, and Intersex Justice Project (TGI Justice Project). They were born & raised in the San Francisco Bay Area and graduated from the University of California, Hastings College of Law with a social justice concentration. They have engaged in transgender rights advocacy for nearly a decade as a student activist, law clerk and volunteer.

About the Event: The TGI Justice Project works in collaboration with others to forge a culture of resistance and resilience to strengthen us for the fight against human rights abuses, imprisonment, police violence, racism, poverty, and societal pressures. The mission of TGIJP is to challenge and end the human rights abuses committed against Black, Black/Brown trans people inside of California prisons, jails, detention centers and beyond. This presentation covers basic skills to branch out into pro-bono support of TGI people and the TGI Representation Network where one can gain expert mentorship and entry-level non-litigation cases.

Price: Members \$10/Non-Members \$15

Please mail checks by **Thursday June 10th, 2021** payable to Santa Barbara Bar Association, 15 W. Carrillo Street Suite 106, Santa Barbara, CA 93101.

You may also click the link [here](#) to pay via Venmo, or go to <https://venmo.com/sbcb>

Contact Information/RSVP: Please RSVP by **Thursday, June 10th, 2021** to: Jeff Chambliss, Esq. jeff@chamblisslegal.com and Lida Sideris sblawdirector@gmail.com



Motions

Brownstein Hyatt Farber Schreck welcomes **Stacie Nyborg** to its Corporate & Business Department in Santa Barbara as of counsel.

With strong corporate and transaction experience, Nyborg focuses on wealth transfer, business succession planning and estate planning. She counsels corporate and individual clients, analyzing risks and achieving their goals on a wide range of legal issues. Her experience with business, venture capital, securities and mergers and acquisitions allows Nyborg to maximize her clients' business objectives. Often operating as outside general counsel, she advises on investor financing, corporate governance, contract drafting and negotiations, intellectual property management and tax strategies. Nyborg also guides clients on wealth transfer and estate planning matters, including business succession planning, charitable giving, and estate and gift tax strategies. Working with small businesses and sole proprietorships, high-net-worth individuals and families, and nonprofits, she regularly interfaces with city and state government agencies and regulatory bodies on behalf of clients.

Nyborg earned her B.A. from Yale University and her J.D. from the University of Southern California Gould School of Law.

Natasha Bhushan has joined **Hollister and Brace** as an associate attorney. Natasha received her J.D. from Cornell Law School in 2012, and her B.A. in Economics with honors from the University of California, Irvine in 2007. She is interested in the intersection of law and public policy, especially as related to environmental and water law. Prior to joining the firm, Natasha practiced at an appellate firm in Los Angeles for several years. Her practice there gave her a broad base of experience in civil appeals and writs, and honed her persuasive writing talents. Having grown up on the Central Coast, Natasha is happy to be back in the



Natasha Bhushan

area. Out of the office, you can find Natasha baking cakes and enjoying the natural beauty of Santa Barbara County with her husband and two children.

Mullen & Henzell LLP is pleased to welcome two new attorneys to its growing team. **Linda Khachek** and **Sean Stratford-Jones** joined the firm earlier this year.



Linda Khachek

Linda is an associate in the firm's Estate Planning Group. Her practice includes estate planning, probate, trust administration, incapacity planning, and conservatorships. Linda serves as a trusted advisor to her clients and is passionate about creating estate plans that allow clients to protect and provide for their families. Originally from Pennsylvania, Linda worked at the Vanguard Group prior to attending Southwestern law school, managing the needs of high net worth individual and institutional clients. While in law school, Linda externed at the Department of Justice. Prior to joining the firm, Linda developed her trusts and estates practice while working at Fell Marking Abkin Montgomery, Granet & Raney, LLP, and Mercer Advisors in their Family Wealth Services office. Linda currently serves on the board of the Santa Barbara Hospice Foundation and Hearts Therapeutic Equestrian Center. Linda is also fluent in Armenian.

Sean is an associate in the firm's Labor and Employment Group. He advises and represents employers in a broad range of employment law matters including discrimination and harassment, retaliation and wrongful termination, leaves of absence, and compliance with wage and hour laws. Prior to joining the firm, Sean clerked for the Honorable Manuel L. Real at the District Court for the Central District of California and worked for a Santa Barbara law firm representing workers' compensation insurance carriers and employers. While completing his law degree at USC, Sean served as an editor for the Southern California Law Review and earned Order of the Coif honors. In his free time, Sean enjoys skiing, traveling, and playing tennis. ■



Sean Stratford-Jones

Verdicts & Decisions

Nicole Nagel et al. v. Tracy A. Westen et al.

COURT OF APPEAL, SECOND DISTRICT, DIVISION 6

CASE NUMBER:	2 nd Civil No. B300552
TYPE OF CASE:	Appeal from the dismissal of fraudulent transfer action on oral motion for judgment on the pleadings
TYPE OF PROCEEDING:	Appeal
JUDGE:	Justices J. Perren, P.J. Gilbert & J. Yegan
DATE OF DECISION:	1/7/2021, as modified on denial of rehearing 2/1/2021
PLAINTIFF/APPELLANT:	Nicole Nagel
PLAINTIFF'S COUNSEL:	Jeffrey B. Valle, Jennifer Laser and Ilan Wisnia of Valle Makoff, LLP
DEFENDANTS/RESPONDENTS:	Westen Family Group, LLC; Derek Westen; Peter K. Westen & Westen Family Trust; Westen Family Group, LLC; Derek Westen; Peter K. Westen & Westen Family Trust
DEFENDANTS/ RESPONDENTS' COUNSEL:	John Derrick, appellate counsel for Westen Family Group, LLC, Derek Westen, Peter K. Westen & Westen Family Trust Scott B. Campbell and Nathan C. Rogers of Rogers, Sheffield & Campbell, trial counsel for Westen Family Group, LLC, Derek Westen, and Westen Family Trust Ian M. Guthrie of Schley Look Guthrie & Locker, trial and appellate counsel for Tracy A. Westen, Linda Lawson, and the Westen-Lawson Trust.

SIGNIFICANCE OF PUBLISHED DECISION: The *Santa Barbara Lawyer* reported the Santa Barbara Superior Court's dismissal of Nicole Nagel's fraudulent transfer case against all defendants on an issue of first impression in California. (Verdicts & Decisions, *Santa Barbara Lawyer* (July 2019) p. 22: <https://sblaw.org/wp-content/uploads/2019/07/July-2019.pdf>.)

In January 2021, the Court of Appeal reversed the Santa Barbara Superior Court's decision. In a published opinion, ruling on a matter of first impression in California, the Second District Court of Appeal held that the trial court misinterpreted the Uniform Voidable Transactions Act and erroneously concluded that an actionable fraudulent transfer required a third-party transferee. The case has been remanded to the Santa Barbara Superior Court for trial. ■

LIFE CARE PLANNER

Injury & Disability Consultant



Karen Luckett
OTR, CLCP, CCM, CDMS

TBI • SCI • BURNS

PTSD • ORTHO • CRPS

AMPUTATIONS

Personal Injury | Work Comp | Med Mal

injuryxpert@gmail.com

805.570.0306

TWO OFFICES FOR RENT

For rent (available March 1) two professional furnished offices (11'8" x 8'8" for \$1,200.00 and 11'8" x 10'9" for \$1,350.00). Includes a shared reception, two conference rooms, kitchen and workroom with copier. Located in a great Santa Barbara Downtown location across from the Courthouse and above the old Café Ana. Please contact Howard Simon at hsimon@jhslawsb.com for further information.

HAGER & DOWLING, LLP SEEKS ASSOCIATE ATTORNEY

Highly respected Santa Barbara civil litigation firm seeks associate attorney with civil litigation and insurance law background.

The applicant must have excellent verbal and writing skills, work well both independently and in a team environment, exceptional legal research and enjoy litigation. Competitive benefits include, health and dental insurance, free parking and 401k plan.

Respond with resume, cover letter and references to kcallahan@hdlaw.com

HIGH QUALITY, EXECUTIVE OFFICE SPACE

Space available for sublease in a historic building in downtown Santa Barbara, two blocks from the Court House. First floor individual offices and suites available in addition to secretarial/assistant space. This building offers shared use of all amenities including receptionist, three conference rooms, kitchenette, elevator, and copy room featuring a high speed color copier with fax and scan capabilities.

COVID 19 Accommodations: The building's air conditioning system has been upgraded to include more fresh air circulation in addition to the installation of IWave technology to filter out COVID 19. We have also instituted enhanced cleaning protocols, automatic hand sanitizer dispensers, and maintains mandatory mask wearing.

Until such time as the Governor of California lifts all COVID 19 restrictions, the current monthly lease rate per office will be \$300. Once all COVID 19 restrictions have been lifted the monthly rent will increase to \$500 per month, per office. Please contact Jeanette Hudgens, 805 962-9495, with inquires.

2021 SBCBA SECTION HEADS

Alternative Dispute Resolution

Dr. Penny Clemmons (805) 687-9901
clemmonsjd@cs.com

Bench & Bar Relations:

Ian Elsenheimer (805) 963-8611
ielsenheimer@aklaw.net

Civil Litigation

Mark Coffin (805) 248-7118
mtc@markcoffinlaw.com

Criminal

Jeff Chambliss (805) 895-6782
Jeff@Chamblisslegal.com

Employment Law

Alex Craigie (805) 845-1752
alex@craigielawfirm.com

Estate Planning/Probate

Connor Cote (805) 966-1204
connor@jfcotelaw.com

Family Law

Renee Fairbanks (805) 845-1604
renee@reneemfairbanks.com
Marisa Beuoy (805) 965-5131
beuoy@g-tlaw.com

In House Counsel/Corporate Law

Betty L. Jeppesen (805) 450-1789
jeppesenlaw@gmail.com

Intellectual Property

Christine Kopitzke (805) 845-3434
ckopitzke@socalip.com

Mandatory Fee Arbitration

Eric Berg (805) 708-0748
eric@berglawgroup.com
Naomi Dewey (805) 979-5160
naomi@trusted.legal
Vanessa Kirker Wright (805) 964-5105
vkww@kirkerwright.com

Real Property/Land Use

Joe Billings (805) 963-8611
jbillings@aklaw.net

Taxation

Peter Muzinich (805) 966-2440
pmuzinich@gmail.com
Cindy Brittain (805) 695-7315
cindybrittain@gmail.com

ASSOCIATES – JOB OPENINGS

Ventura County's largest law firm, Ferguson Case Orr Paterson LLP, seeks top caliber associates in the areas of litigation, family law and real estate transactions. The ideal candidate has 3 to 5 years of experience, strong academic credentials, and excellent writing and communication skills. Ties to the Ventura County area are a plus. This is an ideal opportunity to build your career in a great community with an esteemed law firm that pays competitive salaries and benefits. Please send a resume with a cover letter introducing yourself and describing your experience. Applicants without litigation experience will not be considered. Please send resumes to sbarron@fcoplaw.com

PARALEGAL – LITIGATION

Ferguson Case Orr Paterson LLP seeks a full time, top-notch paralegal experienced in litigation. An ideal candidate has at least 5 years of experience in litigation, including drafting discovery, basic pleadings, electronic discovery, and case management. Our litigation department covers many different areas of the law, including employment, real estate, intellectual property, trusts and probate, personal injury, and business disputes. Please send your resume with a cover letter introducing yourself and describing your experience to sbarron@fcoplaw.com. Applicants without relevant experience will not be considered.



Helping employers prevent, manage and resolve employment disputes in a quick and cost-effective manner



791 Via Mañana
Santa Barbara, CA 93108



(805) 845-1752
Alex@craigielawfirm.com
www.craigielawfirm.com

VERDICT RESOURCES

Forensic & Litigation Support Services



JOHN TROXEL
Investigations and
computer forensics
for law firms
since 1996

“ We used **Verdict Resources** to forensically analyze computer data for litigation involving a client's former employee. They literally cracked the case by finding key evidence despite those computer files were password protected. Verdict Resources decrypted the password which was remarkable considering it was in a foreign language. We will continue to use Verdict Resources for any investigative needs. ”
– Robert Curtis, Esq.

Call us at (805) 572-7669
or visit www.verdict.net today.

Hot Writs & Cool Appeals



Herb Fox, Esq.
Certified Appellate Law
Specialist*
A Full Service Appellate
Boutique

Appeals and Writs
Post-Trial and Anti-SLAPP Motions
Appellate Opinion Letters
Trial and Post-Trial Consultations

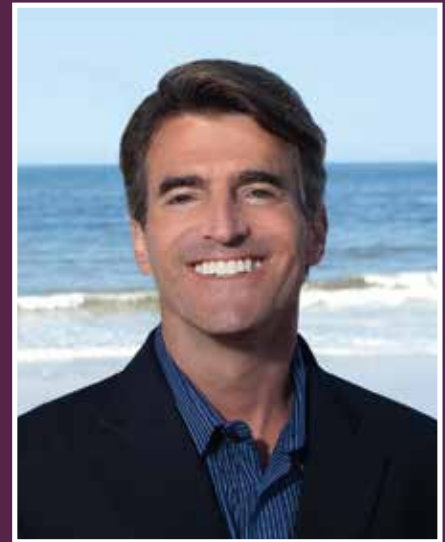
805.899.4777
HFox@FoxAppeals.com
www.FoxAppeals.com

Hourly, Flat and Contingency Fees Considered
Southern California Appellate Superlawyer®
AV® Rated / AVVO® Rating 10
*Board of Legal Specialization, Cal. State Bar

Santa Barbara Lawyer

The Santa Barbara County Bar Association
15 W. Carrillo St., Suite 106
Santa Barbara, CA 93101
Change Service Requested

PRSRT STD
U.S. Postage Paid
Santa Barbara, CA
Permit #734



DANIEL ENCELL

"The Real Estate Guy"

Call: (805) 565-4896

Email: danencell@aol.com

Visit: www.DanEncell.com

DRE #00976141

• Montecito • Santa Barbara • Hope Ranch • Beach •

- #4 Berkshire Hathaway Agent in the Nation
- Wall Street Journal "Top 100" Agents Nationwide (out of over 1.3 million)
- Graduate of UCLA School of Law and former attorney
 - An expert in the luxury home market
 - Alumnus of Cate and UCSB

Remember — it costs no more to work with the best
(but it can cost you plenty if you don't!)

Each year, Dan spends over \$250,000 to market and advertise his listings. He has sold over \$1.5 Billion in Local Real Estate.



BERKSHIRE HATHAWAY
HomeServices
California Properties