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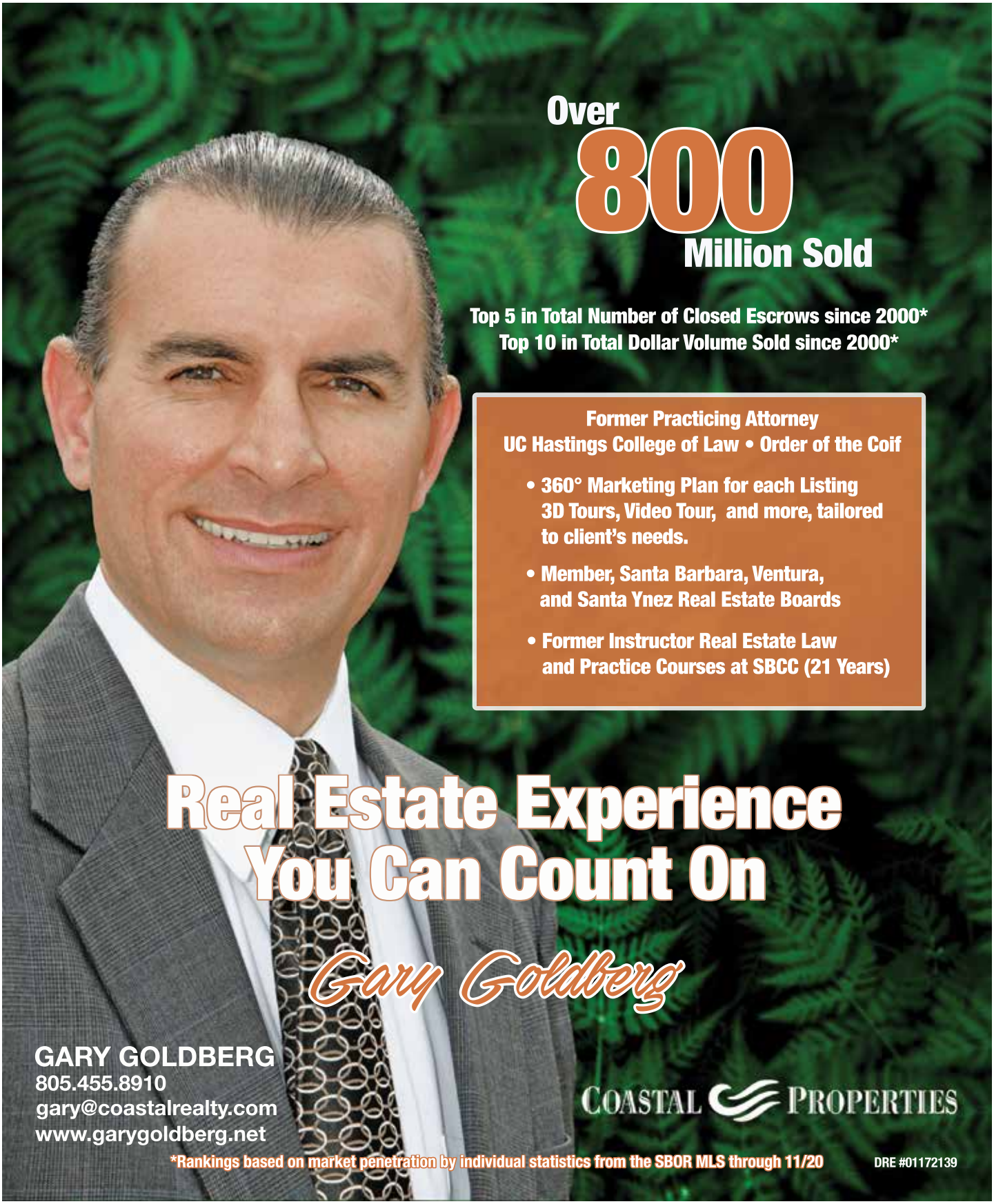
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President
Berg Law Group
3905 State St Ste. 7-104
Santa Barbara, CA 93105
T: (805) 708-0748
eric@berglawgroup.com

JENNIFER GILLON DUFFY
President-Elect
Rimon PC
200 E. Carrillo St #201
Santa Barbara, CA 93101
T: (805) 618-2606
jennifer.duffy@rimonlaw.com

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

ERIN PARKS
Chief Financial Officer
Attorney at Law
625 E. Victoria St, Garden Ste
Santa Barbara CA 93101
T: (805) 819-7717
law@erinparks.com

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

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

RAYMOND CHANDLER
Law Office of Raymond Chandler
15 W. Carrillo St #220
Santa Barbara CA 93101
T: (805) 965-1999
Rdc@rdclawoffice.com

IAN ELSENHEIMER
Ferguson, Case, Orr, Paterson, LLP
1050 S. Kimball Rd
Ventura, CA 93004
T: (805)659-6800, x203
IElsenheimer@fcoplaw.com

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

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

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

DAVID TAPPEINER
DT Law Partners, LLP
125 E. Victoria St. Ste I
Santa Barbara, CA 93101
T: (805) 456-8324
David@DTlawpartners.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

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

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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.

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CONTRIBUTING WRITERS
Samantha Baldwin
J. Jeff Chambliss
Jenna Gatto
Jessica Phillips
Michelle E. Roberson
Robert M. Sanger
Pamela Tanase
Michael White

EDITOR
Michelle E. Roberson

ASSISTANT EDITORS
Jenna Gatto
Marietta Jablonka

MOTIONS EDITOR
Michael Pasternak

PHOTO EDITOR
Mike Lyons

GRAPHIC DESIGN
Baushke Graphic Arts

* * *

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Bobby Baksh, photo credit Mike Lyons

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Spotlight on Bobby Baksh

2021 Legal Community Appreciation Award Recipient

Introduction by Jenna Gatto

Bobby Baksh with Guneet Kaur receiving Legal Community Appreciation

On June 7th at a ceremony held in Judge Anderle's Courtroom, Bobby Baksh was awarded the Santa Barbara County Bar Foundation 2021 Legal Community Appreciation Award. This award was established in 2016 to honor a legal professional who has exhibited outstanding contributions to our community. Bobby is best known for his tireless efforts behind the scenes in the courts, dutifully supervising a talented group of legal process clerks. Hearing Bobby describe the utmost joy that he derives from training his team of clerks, one cannot help but understand the pride that he takes in his work. Bobby's dedication to facilitating excellence in the legal process is felt far and wide by the rest of the legal community, and we commemorate his much appreciated hard work.

What does this award mean to you?

To me, it means that the serious work that I put in every day and the quality of the results are recognized and appreciated by the wider legal community.

How long you have been working for the SB Courts?

I am now about to complete seventeen years of service and look forward to devoting many more to the court.

What are your job duties/what do you find most fulfilling about your job?

I am the south county civil legal process supervisor responsible for planning, assigning, reviewing and evaluating the work of a dedicated group of legal process clerks whose assignments comprise all aspects of the civil division legal processing. I am also responsible for evaluating work products, methods and procedures, and implementing approved policies and procedures.

A part of my job that gives me much satisfaction is the opportunity to help hire, train and develop the folks on our team who serve the public as they engage the judicial system. I also derive much satisfaction from the camaraderie I experience working together with my court family and the legal community.

If you could change one thing about the judicial system what would it be?

Impediments to accessing justice are a harmful byproduct of income inequality. With increasing income inequality, it is imperative that there be increased equal access to the courts. One way this can be achieved is by expanding the availability of free or low-cost services for low income and vulnerable unrepresented litigants, who are very numerous in family law cases.

Wisdom gleaned from working for the courts?

To treat everyone with the respect and the human dignity they deserve, regardless of the reasons they are seeking services at the court.

Who were/are your mentors? What were important lessons they taught you?

I have been fortunate to have had many mentors along the way from those at the New York City law firm where I worked to the many colleagues at the Santa Barbara County Superior Court. The judges that I have worked with are role models to emulate in the way I conduct my professional life.

What do you do in your spare time? Hobbies?

I enjoy long hikes on the beach and travelling to exotic places far and wide. My travels have taken me to countries

on six continents and to the shores of four of the world's oceans. My favorite countries to visit are Italy and Japan. Back in Santa Barbara, I try to recreate some of the meals I have encountered on my travels.

Are there any changes in the legal community you're excited about?

The new state-of-the-art Self-Help Center (SHC) which opened on June 9, 2022 in the Historic Courthouse Building (next to the clerk's office). This one-stop-shop is the new location of the Legal Resource Center and the Family Law Facilitator's Office, which were previously located on different floors of the courthouse building.

The SHC is fully equipped with a comfortable lobby, private offices, and a meeting space that doubles as a training/conference room. The County of Santa Barbara, the Judicial Council and the Legal Aid Foundation were helpful partners in accomplishing this dream of the court's CEO, Darrel E. Parker.

Combining these offices has eased access to justice and elevated service to those seeking free legal assistance.

Who is your legal hero/ine (if any)?

The tenacious Justice Ruth Bader Ginsburg (the Notorious RBG). Her life is the story of overcoming obstacles of discrimination and bigotry in her personal life and clearing a path for all Americans who followed.

What do you perceive as the greatest obstacles to justice, if any?

Legal Language and Knowledge of the Legal System. A significant number of citizens lack understanding of the legal rights they have, what services are accessible to them, or how they can explore a system with complex rules and procedures.

What is your greatest fear?

As honored as I was to receive the Santa Barbara County Bar Foundation Legal Community Award, it aroused in me my greatest fear — public speaking. Through the experience I learned a valuable lesson that with proper preparation one can overcome one's fears.

What is your most treasured possession?

My most treasured possessions are the many letters and cards (often predating digital mail) that I have received from my friends and family through the years. It brings me joy to reminisce about people and events of the past.

What is your motto?

Be brave, be calm and strive to be the voice of reason. ■

Bobby Baksh with his Santa Barbara Superior Court colleagues

Food From the Bar

By Michelle E. Roberson

When I was in grade school, my aunt would take the bus from her federally subsidized apartment across the street from the Los Angeles Rose Garden to South Hollywood just to take care of me and my siblings over the summer. We had the most amazing adventures either walking or taking public transportation all over LA. Sometimes those jaunts included meeting up with new friends while enjoying fresh lunch at a local park.

Never did I ever think that I was one of the thousands of kids with food insecurity. Yet, in retrospect, it makes sense now that I never owned a lunch bag and had the little yellow perforated lunch tickets instead of Lunchables. As a kid, I just had a great time at the park and got a picnic.

You may have seen it and maybe even have contributed to Food from the Bar in the past. But have you really thought about it? The End Summer Hunger campaign funds the Picnic in the Park ("PIP"), which is a summer lunch program for children under eighteen. It happens every weekday June through August. They operate ten sites throughout Santa Barbara County from Carpinteria through Santa Maria. The amount of data and planning is overwhelming to comprehend, but the FoodBank does this in conjunction with various agencies and organizations to assure that there are no duplications in efforts.

Children Facing Food Insecurity

In Santa Barbara, a whopping 1 out of 4 individuals rely on the FoodBank for food. Of those, forty percent (40%) of the individuals served are children. Therefore, there is a heightened awareness for children as that is the main demographic. During the summer, families are put in a difficult financial situation for parents that work. With rising prices across the board, having to worry about an additional meal now that the kids are out of school is something nobody should have to worry about.

The goal is to make the picnics at the park welcoming for everybody and exciting for the kids. Physical and nutritional activity are the primary focus. They have soccer balls, jump ropes, activity books, sensory, hands-on games, and more.

Nobody is turned away. Nobody. There are some complications if children show up without a primary caretaker, but the professionals have figured this out too with additional outreach and one-on-one interactions. This year, they are reintroducing the activities and social aspect of being together after two years of grab-and-go meals, though they do continue to be an option.

Michelle E. Roberson

COVID-19 Impact

During the pandemic, the USDA reimbursed school districts for providing free meals to all students since the start of the pandemic. The Department of Agriculture has committed to doing this through the 2021-2022 school year. Prior to this, the reimbursement only came to those that were enrolled in the National School Lunch program (for those that were income qualified).

Many opponents to this model felt that this was "lunch shaming" students that were obviously low-income if they qualified for free lunches, or worse, families would refuse to apply for fear of disclosing income or immigration status.

Governor Newsom and the legislature have reached a budget agreement to launch the universal school meals program that will ensure that all students be provided breakfast and lunch at school, without the need to qualify. Notably absent, however, is what happens when they are out of school?

Additionally, while the qualification process was less than perfect, it did provide a lot of data. The information gathered could prepare organizations such as the FoodBank to understand how many kids may be needing a meal due to the number of kids that qualified for the National School Lunch program.

Costs to Run Program

In 2021, the summer program served 39,000 lunches. In 2022, they will serve 25,000 lunches.

This is not one single organization simply trying to fund a machine. The decrease is due to the coordination with the schools that are aware will be serving lunches over the summer.

The summer program costs $223,000 to run and approximately half of the cost is the meals. The remaining costs are for professional nutrition team and staff, supplies, transportation, and promotional materials. The sites, however, are run by entirely volunteers, which reduces in staffing costs.

Additionally, they work in partnership with the local

public agencies, including schools, to avoid duplication of efforts. They are very deliberate and targeted in their approach and goals: feed the hungry, make it fun.

Why Food From The Bar?

In 2011, Angela Roach, former Board Member and President of Santa Barbara Women Lawyers (SBWL), SBWL Foundation, and the Santa Barbara County Bar Association, and now Vice President, Associate General Counsel at the technology company Analog Devices, Inc., learned that other counties in Northern California had organized 'Food From the Bar' drives to support local food banks. While serving on the Board of SBWL, Angela and her fellow Board members thought, why not in Santa Barbara?

Angela discussed the idea with fellow SBWL Board members, including Emily Allen and Danielle DeSmeth, and the Foodbank of Santa Barbara County. The team determined that the the PIP program was in need and that was where the Bar could make a significant difference in our community. The first Annual Food from the Bar took place in July 2011 and raised $6000. Nearly all local legal organizations participated and rallied behind the great cause. Two years later, in 2013, the Drive raised over $15,000 with additional sponsors and participation. In 2014, the Drive raised a similar amount of money, boasted lead sponsors, and a kick off event at Intermezzo who contributed a portion of the proceeds to the Drive. As Jennifer Smith, Director of the Legal Aid Foundation, remembers, many attorneys came to mingle and support the drive.

Then the pandemic hit.

This leaves a gaping hole of over 4,000 meals our legal community would provide to the kids.

Yes, we had fun together. Yes, there are still opportunities to get your name out and do local sponsorships. However, let's not kid ourselves. The fundraising efforts are hard work and, anybody who has ever volunteered hours and hours putting on an event has likely muttered: "I would have rather written a check."

SCAN ME

This is your opportunity. Write a check. Open that wallet. Let's raise at least $15,000 and, maybe next year, we could go back on the upswing, break bread together, and strive to get closer to San Francisco levels.

But, if you want to volunteer instead, please email volunteerSB@foodbanksbc.org to receive more information.

Picnic in the Park locations in south Santa Barbara County include:

- **Goleta Valley Community Center**, 11am-12noon, 5679 Hollister Ave., Goleta (June 6-Aug 12)
- **Santa Barbara Public Library**, **Tuesday – Friday ONLY**, 12-1pm, 40 E. Anapamu St., Santa Barbara (June 7-Aug 12)
- **Parque de los Niños**, 520 Wentworth Ave, Santa Barbara, (June 6-Aug 12)
- **Aliso Elementary School**, 11am-12noon, 4545 Carpinteria Ave., Carpinteria (June 13–Aug 12)
- **Carpinteria High School**, 11:15am-12:15pm, 5351 Carpinteria Ave., Carpinteria (June 13-July 8)

Picnic in the Park locations in north Santa Barbara County include:

- **Minami Park**, 11am–12pm, 600 W. Enos Dr., Santa Maria (June 13-Aug 5)
- **Grogan Park**, 11:45am-12:45pm, 1155 W. Rancho Verde, Santa Maria (June 13-Aug 5)
- **Tunnell Park**, 11am-12pm, 1100 N. Palisade Dr., Santa Maria (June 13-Aug 5)
- **Evans Park**, 11:30am-12:30pm, 200 W. Williams St., Santa Maria (June 13-Aug 5)
- **Santa Maria Boys & Girls Club**, 12-1pm, 901 N. Railroad Ave., (June 13-Aug 5)
- **Red Oaks Baptist Church**, 11am-12pm, 3600 Pinewood Rd, Solvang (June 13-Aug 5)

A young girl enjoys a nutritious meal at Picnic in the Park.

Michelle E. Roberson is a real estate broker and President/CEO of Sierra Property Group, Inc. where she oversees the management of residential and commercial units from Carpinteria to Goleta. She is also a local attorney that has represented both landlords and tenants on housing matters, though now refrains from her former litigation role by limiting her practice to providing consulting services for professionals.

Above: Family members at Healthy School Pantry, Foodbank of Santa Barbara County

A volunteer provides food to a hungry family. Photo by Canalino Jacqueline Pilar Photography.

Information about *all* locations where children can receive free lunch this summer is available by **texting "SUMMERFOOD" to 304-304** and entering an address to find the nearest lunch locations.

Bike Safety: A Few Summer Tips and Reminders!

By Jessica Phillips and Samantha Baldwin

Jessica Phillips

Samantha Baldwin

One of the best ways to navigate around our beautiful city is to hop on a bike. Whether you are a serious road cyclist, enjoy riding your beach cruiser, or utilize the city's BCycle electric bike share system, it is a great way to see all that our community has to offer from the mountains to the beaches.

Unfortunately, especially in the peak summer months, we see a spike in serious and catastrophic bicycle accidents. Many motorists, long accustomed to viewing the road as their domain, can be careless around cyclists. Many tourists find our city's traffic patterns and layout confusing and their attention is easily broken.

As you, your family, and friends enjoy all that Santa Barbara has to offer, we would like to share a few safety tips to be aware of this summer. Some familiar and some nuanced.

Always wear a helmet, **always**. Many of our catastrophic injury clients could have suffered significantly worse and permanent brain damage, if not for their helmet. It literally could be the difference between life and death. Stay in the bike lane as much as possible, leaving room to avoid hazarding including open doors, potholes, and signage. Many are unaware that a cyclist has the right to "take the lane" or ride in the middle of the lane when no bike lane is available, and the lane is not wide enough to safely ride next to a car. Ride with, not against, traffic. Maintain your bicycle including checking tire pressure, brakes, etc. Be aware of your surroundings, say in well-lit areas, and obey traffic laws.

If you find yourself in an emergent situation while riding a bike, you should first move out of the way of traffic and call 911—even if you don't think you are very injured. Adrenaline is real and we hear on a weekly basis that people thought they were fine immediately after an accident and within 24 hours, serious injuries begin to present. Your bike should be left where it landed and taking pictures of the scene is critical. Many times, after an accident caused by a road defect (pothole, large crack, roadwork without proper signage), it is quicky repaired and we are unable to later show what caused the accident or injury without real time photographs. Lastly, notify your insurance company and contact a lawyer.

If you or a loved one finds yourself is injured in a bicycle accident, we are here to help to make sure that you are compensated for any injuries or damage and that you are in the right hands in terms of medical care, your related billing, and getting your property repaired or replaced. ■

Jessica Phillips and Samantha Baldwin are partners and trial attorneys with Maho & Prentice. They focus their practice on Plaintiff's personal injury law and pride themselves in exceptional client service, while obtaining maximum results. They handle cases anywhere in the State of California and will speak with all potential clients free of charge. Feel free to reach out: jphillips@sbcalaw.com or sbaldwin@sbcalaw.com

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Remote Work Is Here to Stay. It's Time for Law Offices to Adapt.

By Pamela Tanase

It's been over two years since Gov. Gavin Newsom enacted a stay-at-home order to protect Californians from the spread of COVID-19. At the time, many people assumed the lockdown—including the abrupt shift of workers from corporate buildings to home offices - would only last a couple of weeks, and then we'd all return to normal.

But weeks turned into months, and months into years, and now we find ourselves in a new "normal." Amid repeated COVID-19 surges and ongoing uncertainty about the virus, reopening dates for many companies, including law offices, got pushed back multiple times. Meanwhile, workers adapted to at-home and hybrid work schedules. The initial awkwardness of Zoom meetings and working from a home office became comfortable and desirable for many workers. As lawyers and other professionals contemplate the future of office work, it's clear we cannot expect a return to the pre-pandemic status quo. And that's a good thing.

Flexible work arrangements didn't begin with the pandemic. According to a Gallup poll, 8% of "remote capable employees" (those with the ability to do at least some of their work from home) labored entirely from home before 2020. About a third had "hybrid" work arrangements, where they worked partially from home and partially at the office. These workers were typically employed in the technology field and were early adopters of online conferencing and team communication technology with apps such as Zoom and Slack.

The pandemic turned location-flexible work schedules mainstream. According to the Gallup poll, as many as 70% of remote-capable employees were working entirely from home in May 2020. Since then, the situation has shifted increasingly to the hybrid arrangement: Most remote-capable employees, including lawyers, continued to work from home at least some of the time as of February 2022, but the breakdown is a near-even split -- 42% had a hybrid schedule, and 39% worked entirely from home.

Workers overwhelmingly favor these arrangements over a full-time return to the office, the Gallup poll shows. People have realized that working remotely offers many advantages: less time spent commuting, the ability to juggle family obligations more easily, greater flexibility in deciding when and where to work. This is particularly the case for women, who still shoulder the burden of caregiving responsibilities. For people of color—who report facing greater stress at work because of their race or ethnicity—less time in the office may provide some relief.

Pamela Tanase

Remote work has other benefits too. During the pandemic, knowledge workers and their employers realized the extent to which tasks could be accomplished on a laptop from anywhere with a Wi-Fi connection. This created a newfound freedom for working professionals. Why not live in a different city or a vacation spot for a few months while continuing to clock in online?

Working from home has downsides, of course. A survey of more than 4,000 members of the American Bar Association in late 2020 found that many missed seeing people in the office, felt disengaged from their employer, and—especially those with young children—were overwhelmed trying to balance family and work responsibilities. Respondents also cited concerns about missing opportunities to interact with clients, generate business and receive recognition from higher-ups, otherwise known as proximity bias. Yet a majority still did not favor a full-time return to the office.

The verdict is clear: Attorneys and other knowledge workers overwhelmingly desire flexibility in their work schedules. In the ABA survey, 36% of lawyers reported wanting the option to choose their own schedule from week to week. The remaining respondents favored returning to the office some days of the week—with almost half supporting 1, 2 or 3 days maximum.

Some law firms have already embraced this trend. The Texas-founded Vinson & Elkins, for example, announced earlier this year that attorneys and staff would return to the office at least three days a week. Boston-founded Mintz, Levin, Cohn, Ferris, Glovsky and Popeo requested that attorneys aim to be in the office 60% of the time.

Hybrid work schedules combine the benefits of flexible work and the upsides of time spent in the office. These

upsides include the facilitation of in-person connection with managers and coworkers, collaboration on projects, workplace training and mentorship, and creating a shared company culture.

As we move into the post-pandemic world, it's clear that hybrid work schedules are here to stay. Given the hiring and retention challenges posed by the "Great Resignation," employers need to consider offering this type of flexibility moving forward to attract and maintain the best employees—particularly those who are women and people of color.

Office space in a hybrid world

In a world of hybrid work, employers need to ask themselves: Does it make sense to keep paying for a large, expensive office space that staff will only use part-time? With inflation, including rents, rising at the fastest rate in 40 years, cutting back on office costs is one financial move that can significantly impact a company's bottom line.

Yet most law firms and attorneys still need access to a professional, brick-and-mortar space where they can meet with clients, host staff meetings (either fully or partially in-person) and have a formal location for activities such as mediations and depositions. Maintaining a physical place of work is also important for providing workers with a sense of connection to the firm they work for, and to allow those who want to work in an office space to do so. However, the conventional model of a fixed office location with a designated desk for each employee may no longer be necessary for most knowledge-centered firms.

The solution is to utilize space at a coworking site. These flexible office buildings provide companies with access to individual offices, team suites, meeting rooms and board rooms at their convenience, yet they only pay for what they use. Many of these spaces, such as my company Workzones, also offer conferencing technology and IT support required for seamless "hybrid" meetings between on-site and remote workers. Coworking spaces provide employees with the perks of office life—in-person networking opportunities and a sense of community—yet cost companies far less.

In other words, coworking spaces provide all the advantages of a corporate office, but with a far more efficient use of space and resources. Rather than "downsizing" the office, I call this shift "rightsizing."

Many companies have already embraced this model, including one Santa Barbara-based marketing company that since the pandemic has moved from renting a multi-office building to a subscription service with Workzones that allows staff access to one dedicated office whenever they please, plus a conference space for weekly meetings. According to Simon Dixon, CEO & Executive Creative Director, "As our firm has transitioned to a remote-based work environment, Workzones has provided the flexibility for us to have regular in-person group gatherings as needed. Also, when a team-member is looking for an oasis of calm to get some work done, whether escaping a spouse, kids, construction or the occasional internet outage, WorkZones is an extremely handy place for us to have access to! Simply put, in the new work environment, which appears here to stay (for good reasons!) Workzones provides a convenient, stable and welcoming work atmosphere."

The hybrid work model is here to stay. It's time for companies and professionals to permanently adapt. Combining remote work with a certain amount of office time offers the best of both worlds—giving workers the flexible scheduling they demand, while at the same time retaining the camaraderie and cohesive company culture facilitated by on-location interactions in a shared physical space. These combined benefits no longer require a giant, dedicated office building and burdensome lease requirements. Coworking spaces—once the domain of tech workers and startup entrepreneurs—are the cost-effective and smart solution for the post-pandemic world. ■

Pamela Tanase is the chief operating officer and co-founder of Workzones, a professional business club in downtown Santa Barbara, featuring executive suites, private offices and conference rooms by the day, month or year. Workzones is located at 351 Paseo Nuevo, 2nd Floor, Santa Barbara. For more information visit www.workzones.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.

As the Pendulum Swings: But, No Worries, We are Still No. 1

Local Criminal Justice Update

By J. Jeff Chambliss

The United States leads the world in incarcerating its citizens. This has been the case for a very long time. Fortunately in California, the Pendulum has started to move towards the middle though local initiatives to renovate the Santa Barbara County Main Jail at 4436 Calle Real ("South County Jail") threaten to undermine progress and perpetuate our local version of mass incarceration.

A silver lining of the pandemic is that the jail population in Santa Barbara—historically a disproportionate number of poor people of color—was at an all-time low of approximately 500 persons with no corresponding rise in crime. The broken or lack of linkage between mass incarceration and crime rates has been well documented in academia, but Santa Barbara County has been afforded its own social experiment during the last two years. Despite the falling crime numbers during the pandemic, the "system wide jail" number has crept back up to approximately 800 prisoners today.

In May 2021, through an Open Letter to the Board of Supervisors that was published in the Santa Barbara Independent *County Jail: If you Build It, They Will Fill It,* we[1] implored our county leaders to not spend $100 million to go back to our former incarceration rates given the lack of correlation between jails and crime. Passionate about bringing a voice to those systematically incarcerated in the past and, seeing that this would be the plan to continue in the foreseeable future, we knew that the discussion and planning could not solely be based on a presentation made to our supervisors by a single sheriff and select staff.

We did not know that we had a whole host of advocacy groups equally, if not more, passionate than we were about shifting the focus to diversion and rehabilitation programs instead of going back to expending an enormous amount of taxpayer funds to the business of incarceration.

Jeff Chambliss

Joining the Santa Barbara Defenders were The League of Women Voters, CLUE (Santa Barbara Clergy and Laity United for Economic Justice) as well as other local advocacy groups lobbying the Santa Barbara County Board of Supervisors to explore alternative uses for the South County Jail property. These groups were instrumental in communicating with the decisionmakers and the community the realities of the situation.

Reportedly, the Board recently received a jail population study/forecast to inform their choices. This is where they should have started: exactly what is our jail population expected to be considering the sharp decline during the pandemic and lack of crime increase?

It is not what happened, however. At the time of this writing, Santa Barbara County has already allocated millions to start renovations. Most disappointing is that these requests were based on two major fallacies, or "myths," presented to the Board of Supervisors by our current sheriff.

Fortunately, Santa Barbara Defenders was instrumental in debunking these myths put forth to the Board to justify full renovation of the South County Jail to continue as a jail. First, was the misconception that the settlement of a Federal Lawsuit brought by Disability Rights California required that the South County Jail be fully renovated. This was incorrect. It took communicating directly with plaintiff's counsel to clarify and confirm that there was no intention that the jail be fully renovated with the same capacity limits as part of its settlement agreement.

Second, was the assertion that by accepting state dollars to build the Northern Branch Jail, Santa Barbara County was obligated to fully renovate the South County Jail as a custodial facility. This was also an incorrect representation made by our Sheriff for the renovation requests. The Board of Supervisors had actually requested staff for a full year to confirm that accepting funds from the Board of State and Community Corrections would require a full renovation, but it never happened. The Santa Barbara Defenders wrote to them and received a response within three weeks.

Recently, the Criminal Law Section of Santa Barbara

Continued on page 20

Frivolous Lawsuits: Maybe…Maybe Not

By Michael D. White

It has been said that tort law is one of the "key concepts" of English common law, which, itself, forms the foundation of the nation's legal system and is one of the many benefits of living in a democratic country with a well-established judicial system

Tort law—one of the four major areas of law, applies to disputes in which one person is harmed by another—offers the opportunity to use the courts to achieve justice and set wrongs right.

But there is a drawback: Some folks go to court about things that make most of us shake our heads.

Most frivolous cases are dismissed early in the process, and attorneys who file frivolous cases can be sanctioned by the court.

Some cases, though, while appearing to be ridiculous on their face, do have a back story that correctly moves them from the realm of the absurd into the domain of legitimacy and reason.

Some cases, though, while appearing to be ridiculous on their face, do have a back story that correctly moves them from the realm of the absurd into the domain of legitimacy and reason.

The Big Spill

In 1994, such a case made national headlines and unleashed a wave of criticism from late night talk show hosts and talking-head politicians that heaped scorn on one Stella Liebeck, a 79-year-old woman, who had suffered third-degree burns after spilling coffee on herself while sitting in the passenger seat of a car in the parking lot of a McDonald's in Albuquerque, New Mexico.

The way this case was reported in the news completely left out the details of the incident and trivialized the severity of her injuries—she was hospitalized for eight days, required numerous skin grafts and was partially disabled for two years.

She initially sought only to cover her medical expenses, future medical costs, and her daughter's lost income—who watched over her for three weeks after the injury—all of which totaled around $20,000. In response to her claim, McDonald's offered only $800 in compensation.

Unable to pay her medical costs, she hired an attorney, who filed a lawsuit in New Mexico District Court accusing the McDonald's of gross negligence, offering the company settlement amounts from $90,000 to $300,000 in pre-trial mediation. McDonald's refused every offer.

During the trial, it was discovered that the coffee was served at more than 180 degrees Fahrenheit, which experts agreed could cause third-degree burns in as little as two seconds.

It also came to light that, over the previous decade, the fast food giant had received more than 700 reports of people being burned by its coffee and had settled for more than half a million dollars in compensation.

The jury ruled in Liebeck's favor, but still assigned her 20 percent of the fault. She was awarded $200,000 in compensation, which was lowered to $160,000 after her fault contribution was deducted. She also received $2.7 million in punitive damages, intended to discourage McDonald's from their gross negligent behavior. A judge later reduced that amount to $480,000, and the parties finally settled for an undisclosed amount.

What didn't appear in the media were the facts that Liebeck wasn't driving, she was a passenger in the vehicle; her burns weren't of the typical "spilled hot coffee" variety and required extended hospitalization and treatment; she initially only asked McDonald's to cover the portion of her medical bills that Medicare didn't take care of and lost wages, but the company had refused to pay; and, an active senior citizen, she never regained her full strength after the incident.

Perhaps, most telling, was the fact that McDonald's knew the coffee was dangerously hot because of earlier burn incidents that they had settled and testimony by a company representative that McDonald's had no plans to change the temperature of their coffee or warn customers.

The Man in the Glass Box

Twenty years before the McDonald's coffee incident an accident occurred that also made headlines and drew criti-

Continued on page 22

A More Troubling Opinion

By Robert M. Sanger

Last month this *Criminal Justice* column addressed the concurring opinion of Justice Thomas in *United States v. Vaello Madero* (595 U.S. __, 2022 WL 1177499, decided April 21, 2022, hereinafter "*Vaello Madero*"). One of the observations was that Thomas seldom writes a majority opinion on a significant topic and that his, often radical, separate opinions are generally not adopted in subsequent cases. Unfortunately, in the new case of *Shinn v. David Martinez Ramirez and Barry Lee Jones* (596 U. S. ____ (2022 WL 1611786, decided May 23, 2022, hereinafter "*Martinez Ramirez*"), Thomas' radical opinion was adopted as that of the Court. Justice Sotomayor filed a dissent joined by Justices Breyer and Kagan.

In prior columns, over the years, the hope had been held out that so called conservative Justices would rise to the occasion as Chief Justice Roberts seemed to do from time to time. One would think that no one would want to be the Justice Taney of the Twenty-First Century. The Supreme Court Reports are on the shelves for as long as historians will maintain them and a Justice's favorable legacy, if he or she has one, will be considered in the light of jurisprudence—not in the light of assisting the Federalist Society or the MAGA world in achieving crass political goals.

A New Radical Supreme Court

The late Justice John Paul Stevens said that he was a conservative despite being criticized for not joining with other Justices to overturn established precedent, such as *Miranda v. Arizona*. He felt that the criticism was not well taken and that a true conservative—a Justice who was committed to the rule of law—did not overturn precedent to accomplish political purposes. While this commitment to a judicial philosophy made him reluctant to overturn Warren Court criminal procedure precedents, it also prevented him from overturing precedent holding that the death penalty did not violate the Eighth Amendment – even though he had become convinced that capital punishment was morally wrong.

That type of respect for the jurisprudence of the Court and Constitution is obviously lacking in the current majority of the Supreme Court which is willing to engage in radical departures from precedent and clever, though tortured, approaches to history and logic. As of this writing, we have not seen the actual opinion, nor do we know the final vote, in *Dobbs v. Jackson Women's Health Organization*. Given all the criticism relating to the archaic and disjointed logic of the leaked draft, maybe there will be a different outcome. Nevertheless, the fact that such a draft could garner even a tentative majority in conference is chilling. It is radical, and not by any means conservative, in the sense offered by Justice Stevens. Further commentary on that case will be reserved for the actual opinion.

Robert M. Sanger

However, make no mistake, the majority opinion of Justice Thomas in *Martinez Ramirez* is not based on jurisprudence and certainly not on precedent. It is a clever manipulation to move the government closer to the "Unitary Executive" that is a major part of the Federalist Society's agenda. It is much broader than this case but involves advancing the empirically verifiable trend of supporting government over individual and using the power of courts, including the Supreme Court, for that purpose. This trend is well documented elsewhere not only in criminal law but other areas of law that affect individual rights against the government and against corporate interests.

Recall that Justice Thomas, in his concurrence in *Vaello Madero* was prepared to overrule *Bolling v. Sharpe* (347 U.S. 497 (1954)), the companion case to *Brown v. Board of Education* (347 U.S. 483 (1954)), which held that the federally run District of Columbia schools, although not subject to the Fourteenth Amendment Equal Protection Clause, were bound by the Fifth Amendment Due Process Clause and could not segregate children according to their race. His tortured rationale to overturn *Bolling* would have upheld denying Mr. Vaello Madero's right to SSI benefits. He was a citizen of the United States from New York who moved to Puerto Rico. Thomas' view was that the Fifth Amendment did not protect him there from a denial of Equal Protection. But Thomas also would have cleverly shielded the federal government from any claims of discrimination under the Fifth Amendment which, maybe, might be supplanted by the Privileges and Immunities Clause that also only applied to citizens.

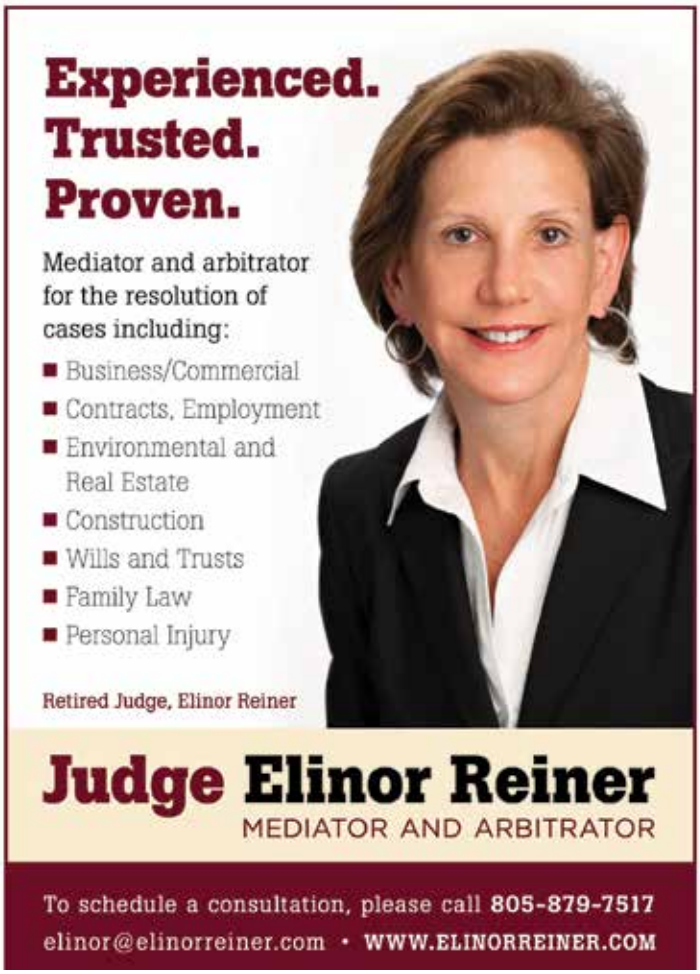
That argument protects the Unitary Executive from

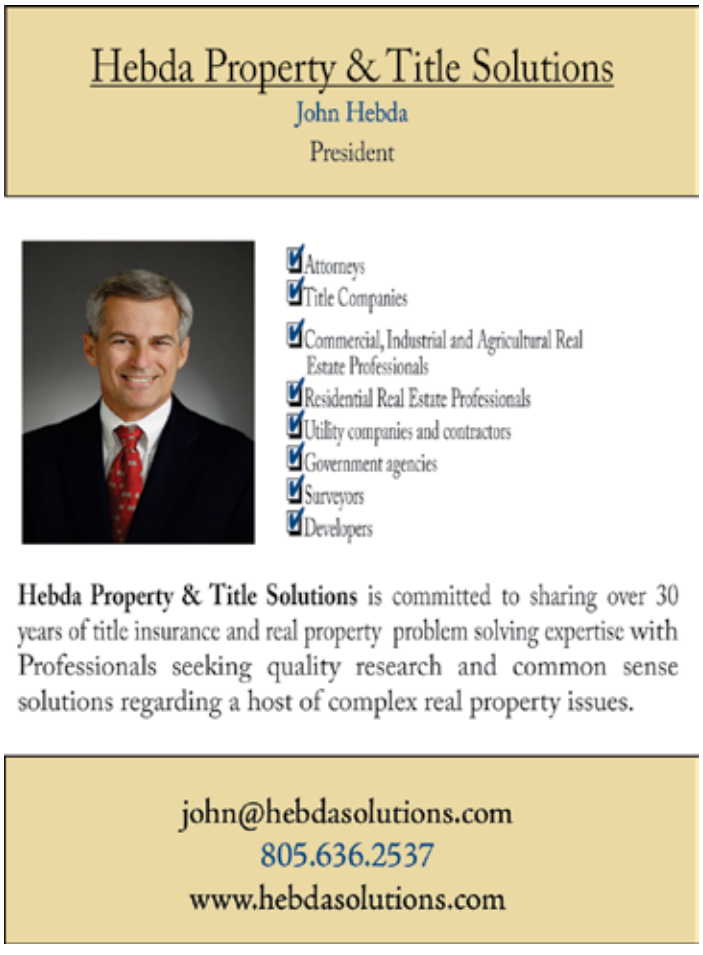
claims. Here in *Martinez Ramirez* the same dynamic is at work. Just this time, the majority of the Court went along with it. The so-called conservative idealogues want to protect the government form claims by criminal defendants—at least, by the marginalized people accused or convicted. The so-called conservative, Federalist Society, agenda makes exception for people like them including the Justices. There is a call for invoking the rule of lenity to avoid white collar prosecutions or gun possession offenses. There is conservative precedent on not allowing the government to put a GPS device on a car or, in come cases, to enter a home—it is cynically noted that conservatives have cars and homes that they want to protect. But, when it comes to the generally marginalized people on death row – disproportionately people who are poor, of color, mentally impaired, and often abused by family and society—the agenda is to limit the writ of habeas corpus.

Martinez Ramirez

The decision in *Martinez Ramirez* was preceded by a Justice Gorsuch opinion the month before in *Brown v. Davenport*, 142 S.Ct. 1510, decided April 21, 2022). There, the Court restricted access to habeas relief on more technical grounds applying the Antiterrorism and Effective Death Penalty Act of 1996, 28 U.S.C. § 2254(d) to prevent the federal courts from overturning a state court determination on the grounds that the defendant was unlawfully shackled in front of the jury in violation of the Due Process clause and Supreme Court precedent (*Deck v. Missouri*, 544 U.S. 622 (2005)). This was not seen as a watershed decision but it has now been used a month later by Justice Thomas to overrule a long line of precedent in the *Martinez Ramirez* case.

The Thomas opinion for the Court in *Martinez Ramirez* is indeed radical. Besides overruling precedent, it is no more or less than a clever but disingenuous exercise of power to limit access to the federal courts by people who were wrongfully convicted and wrongfully sentenced to death. The Court acknowledged that people may use the writ of habeas corpus if they are wrongfully convicted and sentenced for crimes they did not commit and that, if they had incompetent counsel, they could raise that issue in a federal habeas corpus proceeding. The trick was to give habeas corpus lip service without repealing the Constitution (and the Magna Carta) but to make the remedy meaningless so





that the executive cannot actually be challenged by these largely marginalized—albeit wrongfully convicted and condemned—people.

The Thomas opinion for the Court accomplished this trick by holding that the condemned person can raise the claim but the federal courts are limited to the record presented by the incompetent lawyers in state court. In most cases where there was an incompetent lawyer who failed to raise a claim, that lawyer most likely would not have made a record of the facts supporting the claim. The holding is that the incompetence of the lawyer in not making a record is attributed to the habeas petitioner: "[A] state prisoner is responsible for counsel's negligent failure to develop the state postconviction record."

Conclusion

This case is not based on jurisprudence, it is a political result-oriented decision. It protects the government against the individual, particularly the marginalized individual, in the tradition of the Federalist Society's concept of the Unitary Executive. The tragedy, however, is that it will result in the actual death of people who are, in fact, innocent and who are being executed because they had ineffective lawyers who negligently failed to develop the record.

Worse yet, this is a trend in the Supreme Court, not only regarding the state killing of innocent people, but a trend to protect the government from legitimate claims of individuals. The only recourse, given the domination of the Court by Justices who are now willing to endorse these radical views, is for the Legislature to step up and pass statutes that protect individual rights. The amendment or repeal of AEDPA would be a good start in this area but there are so many other areas vulnerable to the majority's machinations that it will require a detailed plan of statutory protections. ■

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 48 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 College of Law. Mr. Sanger is an Associate Member of the Council of Forensic Science Educators (COFSE). He is Past President of California Attorneys for Criminal Justice (CACJ), the statewide criminal defense lawyers' organization.

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.

Chambliss, *continued from page 16*

County Bar Association sponsored an MCLE presentation by David Andreasen of the California Appellate Project on the most recent changes to California Criminal Law. Among the exciting changes discussed were measures to limit race-based dismissal of potential jurors, broader discretion for judges to recall state prison sentences, to strike or limit enhancements and limiting the length of probation grants.

Other well-founded measures in the last five years have mitigated the three strikes sentencing scheme, made low level property crimes and drug possession misdemeanors (Prop 47) and stopped the abhorrent practice of trying juveniles as adults. This author too well remembers when immediately after the three strikes law passed in the 1990's, the Santa Barbara County District Attorney sought at trial to send my client to prison for life for possessing a crack pipe with .01 (one/one hundredth) of a gram of burnt cocaine in it. We have come a long way since then but still have so far to go.

One man's humble opinion. However, as you could see, sometimes, one humble man could bring awareness to many movers and shakers that make a difference. ■

The views and opinions expressed by the author are solely their own current opinions regarding events based on their own perspective

ENDNOTES

1 This letter was written in my capacity as President for Santa Barbara Defenders. The Santa Barbara Defenders is a countywide organization of approximately 35 private criminal defense attorneys founded in 1997. The Author is a Past President of the Santa Barbara County Bar Association and the Santa Barbara Defenders.

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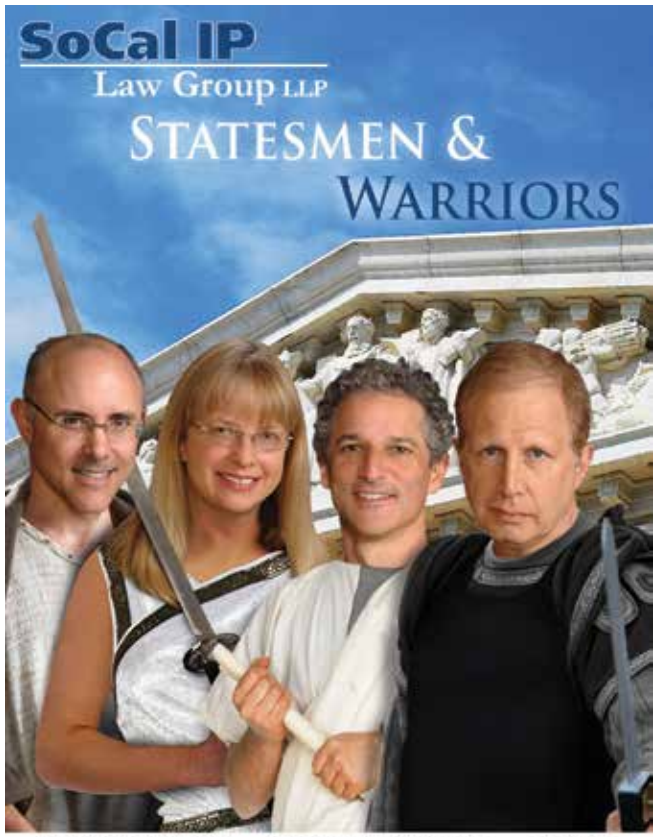

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White, *continued from page 17*

cism from across the country—that is, until all the facts were made known.

Charles Bigbee was a custodian for the City of Los Angeles making an annual net salary of $7,374.57.

On November 2, 1974, Bigbee was severely injured when an automobile driven by an inebriated Leona North Roberts crashed into the telephone booth in which he was standing, severing his leg and causing other severe injuries that permanently affected his ability to work.

Several other people in the area ran away when they saw the car out of control and heading towards the booth. Bigbee also tried to flee, but the door was jammed, trapping him inside.

His insurance policy only partially covered his medical expenses and he was left with more than $1,500 in unpaid bills and, unable to work, a constant barrage of calls from bill collectors.

He continued to require ongoing medical care, including being fitted for a prosthesis and a knee brace for his good leg, and procuring a wheelchair.

Unable to work, he expected his insurance to expire in a few months and so, he decided to sue.

His attorney, through his investigation, learned that a phone booth at the identical spot was struck and destroyed by another driver less than two years before and that the Pacific Telephone & Telegraph Co., owner of the booth, had replaced it with a malfunctioning door and without adding a guard rail or warning.

Looking at the scene of the accident, the attorney built the liability case, involving multiple parties contributing to the cause of action. The first was the woman who struck the booth with her car, the concession company that served her alcohol, and other related parties. They settled with Bigbee for $25,000, with the driver paying half.

With the resources from that settlement, Bigbee's attorney was able to mount a case against several companies who were responsible for the phone booth design, operation, maintenance and placement. These companies were highly profitable at the time and put up a united defense.

The case eventually wound up before the California Supreme Court with the companies settling for an undisclosed amount. Bigbee was able to return to work after a few years, albeit in a diminished physical role.

Like the now-legendary McDonald's coffee spill incident, the account of the accident that cost Charles Bigbee his leg and his livelihood made big headlines based only on a convenient part of the story.

What was missing from the widely accepted narrative was the fact that Bigbee saw the car coming, but was unable to escape the collision because the door to the phone booth wouldn't open and that the phone company had already received several complaints about people being stuck in the phone booth because the door easily jammed.

In addition, the telephone booth was located on a dangerous corner, and was actually a replacement for another phone booth that had been destroyed two years earlier in another car crash, and witnesses described seeing Bigbee struggling to open the door and escape the phone booth as the drunk driver barreled toward him at high speed.

Bigbee suffered from depression for the rest of his life and it took nearly a decade to reach a settlement with the companies responsible for the design, maintenance and placement of the phone booth.

> *"I partook of alcoholic beverages in 1993, July 1st, as a result I caused myself to violate my religious beliefs. This was done by my going out and getting arrested,"* wrote Brock in the lawsuit he filed in federal court.

On the Other Hand…

Equal protection under the law, and the right to sue are basic tenets of our justice system.

That being said, however, there are lawsuits that raise eyebrows and are genuinely "frivolous."

Such a claim—often called a bad faith claim—is defined as "*a lawsuit, motion or appeal that is intended to harass, delay or embarrass the opposition*" and "*lacks any arguable basis either in law or in fact.*"

That means, in a frivolous claim, either "*the 'factual contentions are clearly baseless,' such as when allegations are the product of delusion or fantasy*," or "the claim is '*based on an indisputably meritless legal theory.*'"

Some notable examples of these flights of delusion and fantasy follow…

"I Made Me Do It"

An inmate in a Chesapeake, Virginia, lock-up came up with an exceptionally innovative lawsuit.

In 1995, Robert Lee Brock sued himself for $5 million, claiming that he had violated his own civil rights when he was arrested two years earlier for breaking and entering and grand larceny.

"I partook of alcoholic beverages in 1993, July 1st, as a result I caused myself to violate my religious beliefs. This was done by my going out and getting arrested," wrote Brock in the lawsuit he filed in federal court.

But because he had no income in jail, Brock asked that the state pay him the multi-million dollar settlement.

A judge dismissed his claim as "ludicrous," but acknowledged Brock's "innovative approach to civil rights litigation."

But because he had no income in jail, Brock asked that the state pay him the multi-million dollar settlement.

A judge dismissed his claim as *"ludicrous,"* but acknowledged Brock's *"innovative approach to civil rights litigation."*

Taken to the Cleaners

In 2007, Roy Pearson, a Washington, D.C., judge, filed one of the most awe-inspiring, and well publicized, lawsuits of recent times when he sued a small mom-and-pop dry cleaner over a pair of pants.

Pearson claimed that the shop's owners, Jin and Soo Chung, misplaced his pants after he brought them in for a $10.50 alteration, and then tried to return a cheap, imitation pair of his $800 trousers.

Pearson initially demanded $15,000 for emotional distress and $15,000 in punitive damages against the Chungs for losing his pants in 2005. He based his claims on D.C. consumer protection law and signs at the cleaners that proclaimed, "Satisfaction Guaranteed" and "Same Day Service," with "All Work Done on Premises."

According to *Bloomberg Law*, Pearson's compensation demands "escalated dramatically" as the case went on.

Though the Chungs felt they'd done nothing wrong, they made three attempts to settle with Pearson for $12,000.

Unimpressed, the judge sued the Chungs and their son, asserting that the signs posted in the store represented an "unconditional guarantee" that entitled him to a considerably larger settlement, which he defined as $1,500 per defendant for each of the estimated 12,000 days that the signs appeared in the dry cleaners.

Pearson also sought compensation for $90,000 to rent a car needed to drive to another dry cleaner, $3 million for emotional distress, ongoing services from the dry cleaner, and legal fees—even though Pearson represented himself.

The total amount of the lawsuit hit $67 million, which was later reduced to an eye-opening $54 million.

During the litigation, Pearson misquoted a case and accused the trial judge of bias. His litigation choices made the case time-intensive, according to findings of fact.

A judge in the District of Columbia ruled in favor of the Chungs and ordered Pearson to pay the couple's court costs, and their attorney fees as well. In a further blow to Pearson, a committee refused to reappoint him to his job as an administrative law judge, in part because of the questionable behavior he displayed in the Chung case.

"As his theories expanded and his tactics grew more extreme, [Pearson] failed to comply with his continuing responsibility to conduct an objective evaluation of the merits of his claims," the appeals court said, adding that Pearson's total damages figure of more than $67 million was "shocking in itself" while… "The constituent parts" of that figure were "equally troubling."

Pearson, the court said, "Did not make the required objective inquiry into whether his liability claims had even a faint hope of success."

Instead, he "did the opposite, steadfastly refusing to acknowledge contrary legal authority, engaging in extensive puffery, and pressing his preferred interpretations of the signs even after they were rebuffed by his own witnesses at trial. Indeed, even in his filings in this disciplinary case, he has continued to refer to his theories as 'indisputable.' "

Chili Con…Dedo?

In March 2005, Anna Ayala filed a claim against a Wendy's franchise owner in San Jose, Calif., asserting that she had found a human fingertip in a bowl of chili.

The bad publicity that resulted cost the fast food change approximately $21 million in lost sales and, the company computed, cut business at some northern California locations by as much as 50 percent.

An exhaustive inspection of Wendy's supply chain and the restaurant in question by authorities found no evidence of missing fingers, and suspicion soon turned on Ayala, who was eventually arrested and found guilty of attempting to extort money from the fast food chain.

She served four years of a nine-year sentence, and, as a condition of her probation, was banned from ever returning

to the restaurant that she sued.

And where did the finger come from?

It was traced to a co-worker of Ayala's husband, who lost it in a work accident and gave it to the couple to…wait for it…settle a $100 bet.

"Brainless Bile"

In January, 2022, a man in rural Georgia filed a lawsuit against the discount store giant Dollar General over the music played in their stores.

Carl Schwartz, the attorney filing the suit, alleges that the mainstream country music regularly played over their loudspeakers "has attributed to the man's mental anguish and caused him irreparable emotional harm over the years."

According to Schwartz, his client, "a regular customer of Dollar General, has been subjected to a distressing amount of Luke Bryan, Walker Hayes, and Kane Brown during each visit to one of their establishments. The constant barrage of trucks, appropriated slang, and shallow subject matter has caused him an unreasonable amount of anger, sadness, and physical discomfort."

> Imprisoned pimp Sirgiorgio Sanford Clardy sued Nike for $100 million in 2014, claiming his Air Jordan sneakers should've come with the warning that they could be used as a dangerous weapon.

Schwartz went on to say that no matter what Dollar General store his client would visit, "the same brainless bile was pumping through the speaker system as he attempted to dash in for paper towels or a six pack of Pabst."

He would establish "that the endless loop of Florida-Georgia Line, Thomas Rhett, and Sam Hunt brought real and provable trauma upon his quality of life…that '*Shake It for the Catfish*" song alone should be barred from use as a war prisoner coercion method."

Attorneys for Dollar General issued a statement, saying that the lawsuit was 'frivolous' and that "any judge would throw out the case on its lack of merit alone. The plaintiff, while not named to the public at this time, is a well-known troublemaker once banned from one of our competitors over similar matters."

The unnamed plaintiff has said that he is willing to settle out of court for Turnpike Troubadours tickets, room and board.

Having It Your Way

A South Florida lawyer has filed a federal lawsuit seeking class-action status alleging that Burger King has misled customers by portraying its food as being much larger compared with what it has served to customers in real life.

The suit, brought by attorney Anthony Russo, alleges Burger King began inflating the size of its burgers in images around September 2017.

Before that, the suit claims, Burger King "more fairly" advertised its menu items. Today, however, the size of virtually every food item advertised by the company, is "materially overstated," the lawsuit asserts.

Russo and the plaintiffs he is representing single out advertisements for Burger King's trademark Whopper, saying the entire burger is 35 percent larger than the real-life version, with double the meat than what is actually served.

The suit cites as witnesses multiple YouTube users who specialize in food reviews and Twitter users who complained about their orders, and seeks class-action status, demanding monetary damages and a court order requiring Burger King to end what it says are its "deceptive practices."

More is Less

Chicago resident Stacy Pincus filed a $5 million class-action lawsuit against Starbucks in April 2016, claiming the company puts too much ice in its cold drinks.

The lawsuit accused Starbucks of advertising iced drinks as 24-ounce beverages when the cup only contained 14 ounces of fluid.

Named the most frivolous lawsuit of 2016 by the U.S. Chamber of Commerce Institute for Legal Reform, the $5 million was dismissed that same year by a federal judge in Chicago.

Less is More

Robert Bratton of Missouri filed a lawsuit claiming that the Pennsylvania-headquartered Hershey Company intentionally sells packages of Whoppers, Reese's Pieces and other products that are only "partially full."

In May 2017, Bratton's $5 million class-action lawsuit was given the green light to move forward by U.S. District Judge, but, the following February, the case was thrown out of court.

After studying the facts, the judge concluded that Bratton wasn't really harmed because even though he realized that the packages of Whoppers and Reese's Pieces candy

weren't full, he continued to buy them.

And buy he did— over the course of a decade, according to court records, Bratton bought more than 600 packages of the the company's products.

Cutting It Close

A group of Chicago plaintiffs filed a class-action lawsuit in 2017 against Home Depot, because the 4 x 4 lumber being sold in its stores actually measures 3.5 x 3.5 inches.

Home Depot and other lumber suppliers have explained that 4 x 4 is just the name of the boards, as the industry-standard dimensions actually are 3.5 inches by 3.5 inches. Nevertheless, the plaintiffs sought more than $5 million in damages.

On March 12, 2018, U.S. District Judge Sharon Johnson Coleman rejected the plaintiffs' claim and dismissed the case against Home Depot without prejudice.

You Say Potato…

Dr. Edward Gamson and his partner booked a first-class flight on British Airways to travel from London to Granada, Spain, in 2014.

A ticket mix-up sent the North Bethesda, Maryland, couple to the small Caribbean island country of Grenada instead.

Grenada was spelled correctly on their tickets, but the couple didn't notice they were headed in the wrong direction until 20 minutes after their St. Lucia-bound flight departed from London.

In total, they took seven different flights over three days to finally get to Lisbon, Portugal, where Gamson had a conference — the Granada, Spain, trip was supposed to be an added excursion — which cost $2,776.

He tried to sue British Airways for $34,000, which he said covered his first-class flights and lost wages, but his case was dismissed.

Deadly Footwear

Imprisoned pimp Sirgiorgio Sanford Clardy sued Nike for $100 million in 2014, claiming his Air Jordan sneakers should've come with the warning that they could be used as a dangerous weapon.

Clardy received a 100-year prison sentence for stomping on the face of a Portland, Oregon, prostitution customer who tried to flee a motel without paying. Clardy served as his own litigation lawyer, appearing by video feed from where he was incarcerated.

Nike lawyers spoke for less than 90 seconds, reported *The Oregonian*, whereas Clardy rambled on—often off-topic—for most of the rest of the hearing. After he failed to prove his case, it was promptly dismissed.

This Bud's For You

Richard Overton sued St. Louis-based Anheuser-Busch in 1991 for $10,000, asserting that its advertisements were "untrue, deceptive and/or misleading" in that Bud Light television commercials led consumers to buy products that were "dangerous" and could lead to addiction or death.

According to the suit, Overton "pointed to [Anheuser-Busch's] television advertisements featuring Bud Light as the source of fantasies coming to life—fantasies involving tropical settings with beautiful women and men engaged in unrestricted merriment."

Alas, as it turns out, drinking beer does not automatically mean you'll be transported to a tropical utopian nirvana inhabited by staggeringly beautiful, well-toned hedonists.

Overton sought monetary damages because he alleged that the "misleading advertisements had caused him physical and mental injury, emotional distress and financial loss."

The Michigan Court of Appeals dismissed Overton's case based on his "failure to state a claim upon which relief could be granted."

The court found that the dangers associated with consuming beer are "well-known and therefore didn't have to be explicitly stated in a commercial."

No Good Deed…

In 2004, as a gesture of goodwill, Colorado teens Taylor Ostergaard and Lindsey Zellitti decided to bake cookies for their neighbors.

Wishing for their good deeds to remain anonymous, the girls knocked on the doors of nearby houses, and leaving packages with heart-shaped gift tags that read, "Have a great night. From the T and L Club," before running away into the darkness.

At 10:30 p.m., the girls visited the home of 49-year-old Wanita Renea Young who, startled by the "shadowy fig-

ures" on her doorstep, called the police, who arrived to find nothing to suggest that a crime had been committed.

Still, the experience reportedly gave Young an anxiety attack and, the following day, was admitted to the hospital.

Ostergaard and Zellitti visited Young in the hospital and apologized with their families even offering to pay her medical bills.

But, no. Instead of forgiving the well-intentioned young ladies and moving on, the disgruntled woman sued them.

A Durango judge awarded Young almost $900 for medical expenses, but denied her demand for nearly $3,000 in punitive damages, including lost wages and the cost of installing new motion-sensor lights on her front porch.

When the ruling made local and later national headlines, Ostergaard and Zellitti received donations from all over the country to help them pay the $900 judgement.

A Two-Sided Coin

Just as in the cases of Stella Liebeck and Charles Bigbee, many of those who have brought suit in court claiming injury have, indeed, suffered severe physical and emotional pain due to another party's negligence.

Others, though, with visions of dollar signs dancing in their heads, file tort suits for petty reasons, such as dissatisfaction with a product's presumed effect or performance, unfulfilled expectations, or a personal grudge against another individual.

Whatever the case, be it valid and compelling or absurd and flip, the tort system proves itself over and over, every day as a workable venue for individuals to redress their grievances, and exercise what is a fundamental right in our justice system.

Off and Running

"Fear Factor" viewer Austin Aitken sued NBC for $2.5 million in 2005 because a segment where contestants ate rats mixed in a blender caused him to vomit, become disoriented and run into a doorway.

He felt the stunt went "too far," but was unable to turn the television off fast enough to avoid the stunt. The outcome wasn't quite as Aitken had hoped, however.

His frivolous lawsuit was dismissed, and U.S. District Judge Lesley Wells warned him against filing an appeal. ■

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The SBCBA Family Law Section Presents:

"NOT MA's BED"

A mnemonic checklist for presenting expert testimony under *Sanchez*

When:
July 27, 2022 at Noon

Where:
Santa Barbara College of Law

MCLE:
1 Hour General MCLE

Speaker(s):
Hon. Jackson Lucky (Ret.)

About the Event:
Join Judge Jackson Lucky for a step-by-step approach to conquer *Sanchez* issues for property valuation, vocational evals, and forensic accounting. Learn how *LaBass & Munsee* can release you from hearsay's grip, and *Veamatahau* can give you the "background information" you need to overcome a *Sanchez* attack.

Price: $30

Contact Information/R.S.V.P.:
Please RSVP to assistant@reneemfairbanks.com and send your checks made payable to Santa Barbara County Bar Association to Law Office of Renee M. Fairbanks, 15 West Carrillo Street, Ste. 211, Santa Barbara, CA 93101.

RSVP Deadline:
July 20, 2022

Santa Barbara County Bar Association

Santa Barbara Lawyer asks "What Did You Do on Your Summer Vacation?"

In its October issue, *Santa Barbara Lawyer* will publish photos and short descriptions of SBCBA members' summer vacation travels.

Please submit one or two photos along with a short description about your vacation by September 5th to:

Michelle Roberson at michelle@sierrapropsb.com.

Staycation photos are welcome, too!

Santa Barbara Lawyer seeks editorial submissions.

Articles should be 700 to 3,500 words in length.

Articles should be submitted in Word format, including a short biography of the author. A high resolution photo of the author is desired.

Please submit articles by the 8th of the month for publication in the following month's issue. The editorial board of *Santa Barbara Lawyer* reserves the right to edit for accurateness and clarity, or reject any submission if it does not meet magazine guidelines.

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Alex Craigie (805) 845-1752
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Estate Planning/Probate
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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

Real Property/Land Use
Joe Billings (805) 963-8611
jbillings@aklaw.net

Taxation
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July

2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3 Air Conditioning Appreciation Day	4 Independence Day (Courts Closed)	5	6	7	8	9
10	11	12	13	14 Bastille Day	15	16
17	18	19	20 International Chess Day	21	22	23
24	25	26	27 SBCBA Family Law Section Present MCLE: "Not Ma's Bed"	28	29 Islamic New Year	30

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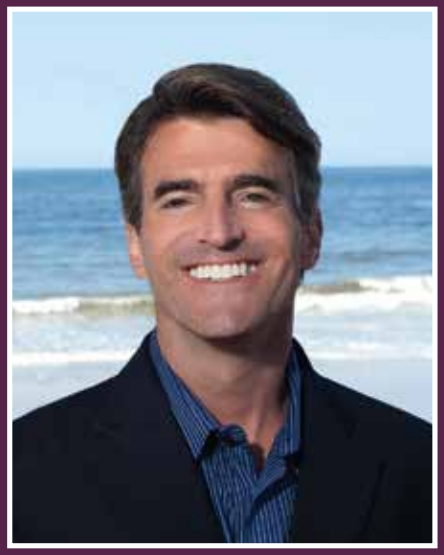

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