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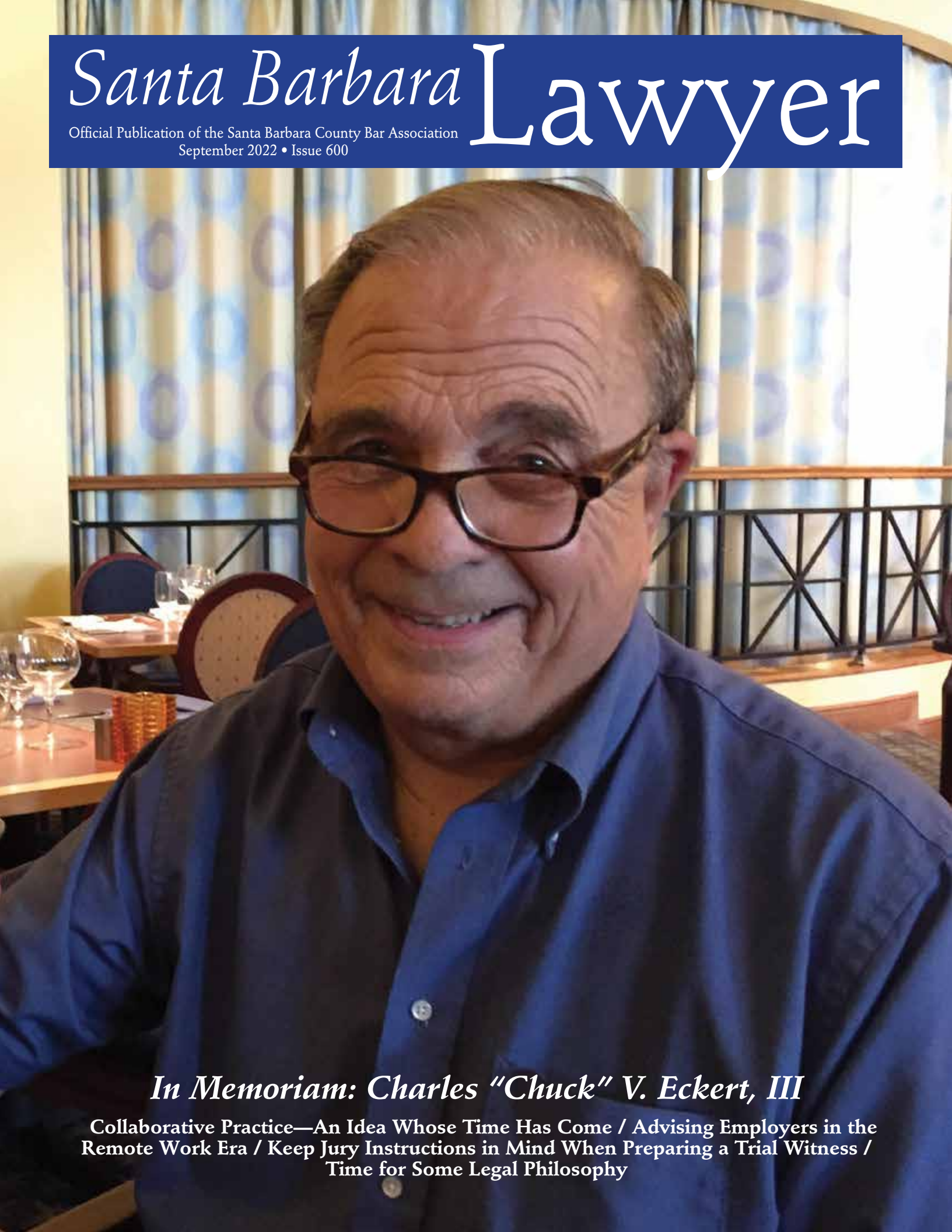

In Memoriam: Charles "Chuck" V. Eckert, III

Collaborative Practice—An Idea Whose Time Has Come / Advising Employers in the Remote Work Era / Keep Jury Instructions in Mind When Preparing a Trial Witness / Time for Some Legal Philosophy

Santa Barbara County Bar Association
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ERIC BERG
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

CHRISTY BARKEY
Legal Assistant

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.

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CONTRIBUTING WRITERS
Alex Craigie
David Grokenberger
Betty Jeppesen
Jared Katz
Marla A. Pleyte
Celia Rosas
Robert M. Sanger
Antonia Eckert Shaw
James H. Smith

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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On the Cover

Charles "Chuck" V. Eckert, III

Charles "Chuck" V. Eckert, III 9/9/1935 – 3/24/2022

By Antonia Eckert Shaw

Native Santa Barbaran and lifelong resident, Charles "Chuck" Vincent Eckert, III passed away March 24, 2022. Chuck was a brilliant attorney, a successful entrepreneur, a loving family member and a loyal friend. He was my grandfather but, like he was for so many other legal professionals, he was also my mentor.

Chuck was born on September 9, 1935 and had an idyllic Santa Barbara childhood attending local Goleta and Santa Barbara Elementary, Junior High and High Schools. He went on to the University of California at Santa Barbara earning his BA in Political Science in 1957, graduating with highest honors. He studied law at UC Berkeley, graduating in 1960.

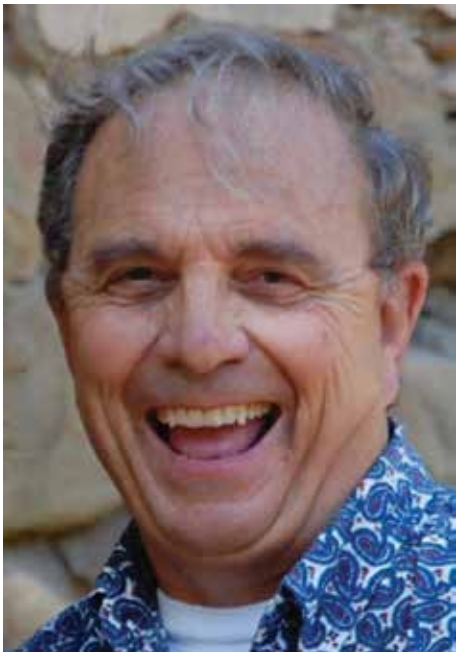
After being admitted to the California Bar in January 1961, Chuck returned home to Santa Barbara and opened his own law practice, becoming the first fulltime attorney in Goleta. During his career, he accomplished many more firsts: He was the first to try both criminal and civil jury cases in the Goleta Justice Court; he had the first Civil Jury Case tried in the Goleta Justice Court; he was the first Goleta lawyer to have both a Civil and a Criminal case appeal officially reported.

His law practice grew, and over the years Chuck took on several law partners: Brian O'Gorman, Bob McFarland, Jim Smith, Richard Tyler, David Grokenberger and Casey Hoppell. My grandfather held many positions in various legal organizations: In 1989, he served as President of the American Board of Trial Advocates (Santa Barbara, Ventura and San Luis Obispo), he was a member of Consumer Attorneys of California, he was an arbitrator, and served as Superior Court Judge *Pro Tem*.

It is such a privilege to be Chuck Eckert's granddaughter. He supported me in everything that I did, in my triumphs and tribulations and allowed me to learn from him firsthand. Following in his footsteps, I was admitted to the California Bar in 2012, and prior to becoming a licensed attorney, I worked as a real estate agent/broker for both my dad and grandfather's property investment and property management companies.

In January 2021, when he changed his license to inactive, retiring from the practice of law that he had crafted over the last 60 years, he proudly reminded me that he had just retired the lowest bar number of those active attorneys in town. I was fortunate enough to work together with him for over 20 years and the path he paved for me to follow, along with the opportunity to continue with his law practice is not taken for granted.

My grandpa was a giving man but was most generous with his time and with the wisdom he had to share. He made sure to devote his life not just to his own business, but to his large family and many friends. Chuck had a wife,



four children, 10 grandchildren and 13 great grandchildren. He did his best to never miss a birthday celebration or a holiday get together, dressing up as Santa Claus at both family and work Christmas parties every year. He loved sports, was an avid bowler and a big baseball fan. He was a lifelong member of the Santa Barbara Elks Lodge #613, proudly wearing his 50-year member belt buckle. My grandpa enjoyed his leisure time, traveling with family over the years, tending to his avocado orchard on the weekends and spending time at his cabin off of Paradise Road, overlooking the Santa Ynez River. He lived an admirable life, having the utmost respect and love for others, and leaving an everlasting legacy that we are honored to carry on. ■

Antonia Eckert Shaw was born and raised in Santa Barbara and Goleta. Attending Cal Poly San Luis Obispo's Orfalea School of Business and Santa Clara Law School, she returned to Santa Barbara to work with her grandfather and father, as a Real Estate Broker and In-House Attorney for both Eckert Investments and Excellence in Property Management, Inc. Antonia was an associate of her grandfather's firm from 2012-2021. She continues to work with her dad in property management and has her own solo practice specializing in Landlord/Tenant Law and Estate Planning. Antonia lives in Goleta, is married and has four young sons.

Antonia Eckert Shaw with Charles V. Eckert, III

Chuck Eckert; Employer, Mentor and Friend.

By James H. Smith

Upon graduating from law school in 1978, I was hired by Chuck at his growing Goleta law firm, then known as Eckert O'Gorman & McFarland. There I would remain for 17 wonderful years.

Chuck, a longtime member of the American Board of Trial Advocates, was much more than a great attorney: he was a scholar of the law. In the areas of his practice, he not only had a command of the law, he also knew how the law evolved and why.

No one employed by Chuck worked for him. You worked with him. From the most junior attorney to the most senior, he respected, solicited and valued input from all. I never observed Chuck belittle or criticize another attorney. Chuck would say *"devote your precious time and resources to addressing the issues and if possible, along the way, may your opponent become your friend."* After leaving Chuck's firm, I stayed in close contact. I often found myself calling him to discuss matters I was dealing with. His advice and wisdom was invaluable.

If Chuck had a fault it was his love for the game of real life Monopoly. Chuck acquired hundreds of rental units spread across the Country. This consumed an enormous amount of his time and energy. However, along with a very successful law practice, that allowed him to generously donate to many local and national causes.

I am forever grateful to have had the privilege and opportunity to know and work with Chuck. He will be greatly missed and always remembered. ■

Judge Thomas P. Anderle; Antonio Romasanta; Charles V. Eckert, III; (bottom) Antonia Eckert Shaw

A Tribute to Charles V. Eckert, III:

Husband, Father, Lawyer, Businessman, and Friend

By David Grokenberger

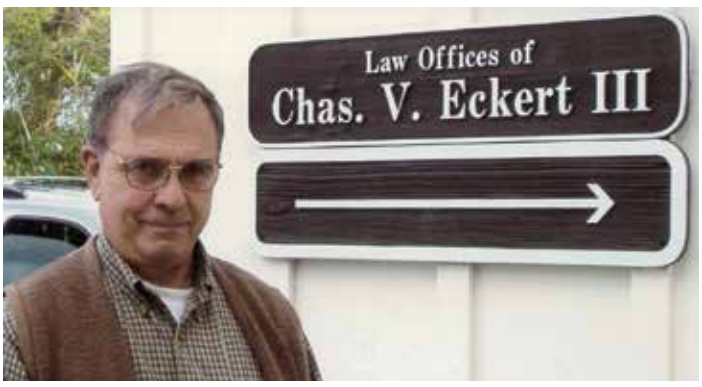
Chuck was many things to many people. A common denominator to how he interacted with family, colleagues, and even opposing parties was a consistent patience, attention to details and an attitude that embraced the academics of the issues. He was and is a man to be admired for achievements and his ability to balance the demands of life without forgetting the humanity of those in his life.

Now that said, he also had a sense of humor which he used to keep his associates on their toes! Chuck hired me in 1975. When I started with his firm, I was just graduated and waiting for the bar results. One of his first assignments was to draft a complaint for fraud and breach of contract. Not so hard I thought as that assignment was carefully "sampled" in Cal Pleadings and Practices. Wrong!

After five drafts of the complaint having adopted all his notes and changes to the 4th draft, Chuck was about to send me off for a 6th draft when he said: "Didn't they teach you pleadings in law school?" To which I replied: "No, they said you would do that!" I then added that this latest draft was really all his notes and edits I adopted. He looked at me and said: "What did you learn from this exercise?" I said I don't know. To which he replied: "There are lots of ways to plead, so next time just file it."

So, I did. I added I'll just "chuck" the prior drafts. His parting comment was: "We don't 'chuck' things around here." I still think we did and were required to do so.

Chuck was a brilliant academic. He was Judge material but seemed to enjoy mentoring his associates. I am grateful to my "Father-in Law." He will be missed and his memory cherished. ■



SBRPA Remembers Charles V. Eckert, III

By Betty Jeppesen, SBRPA Board President

As the current President of the Santa Barbara Rental Property Association (SBRPA), I am honored to write about one of our Board Members and former President of SBRPA who passed away. Charles V. Eckert III (known as Chuck) worked diligently for SBRPA for 5 decades. Chuck monitored the happenings in Isla Vista as well as Goleta and Santa Barbara. He was an attorney as well as a property investor. He would attend meetings; give talks; help and guide both members of SBRPA and members of the Santa Barbara community in so many ways. He inspired many new attorneys including his granddaughter Antonia Eckert who has taken over his practice. He won the Charles Stevens Award which is the highest honor that SBRPA can bestow. After his passing, the Board of Directors of SBRPA voted unanimously to create an award named after Chuck. The Charles V. Eckert III award will be presented, as earned, to a recipient who displays the same "exceptional service" that Chuck gave to the community. He will be missed. ■

Collaborative Practice—An Idea Whose Time Has Come

By Marla A. Pleyte

The mere mention of the term collaborative law can draw an impassioned response from some attorneys. Some dismiss it as cumbersome, inefficient, and even unethical. Others light up with enthusiasm as they extol its myriad virtues. Most attorneys, however, do not really know what collaborative law is or how the process works. The typical client is not even aware that it exists as an option.

Collaborative law thrives in pockets of the United States, and even has a presence internationally. This form of practice emerged in the 1990s in response to attorneys' mounting frustrations with a legal system that allows parties to use threats of litigation as a negotiation tactic and where resorting to litigation can have financially and emotional devastating consequences to the parties involved.[1]

What is Collaborative Law?

So, what is collaborative law and why might it be a good choice for certain cases? When is it appropriate and when is it not? Is it unethical, as certain attorneys contend? Does it result in 'fair' and just outcomes?

To understand collaborative law, one must first understand what it is not. First, it is not mediation. The attorneys are not neutral mediators – they are each advocating for their own client's position, albeit within a well-controlled collaborative process. Second, is not litigation. The attorneys cannot resort to asking the court to resolve issues – if the parties can't resolve an issue by an agreement and require the court's assistance to resolve an issue, then the collaborative attorneys must terminate their involvement in the case. Third, it is not two attorneys of record engaging in good faith negotiations—there is more structure, transparency, and open communication.

The central tenets of collaborative law include the following: [2, 3, 4]

- The clients, although each represented by independent counsel, largely control the process and outcome, can maintain privacy over their finances and personal circumstances, and have an enhanced set of settlement options available to them relative to a litigated outcome;
- The clients are fully informed and sign an agreement that they are agreeing to not utilize the court to resolve disputes while engaged in the collaborative process (however, a client can terminate the collaborative process at will);

Marla A. Pleyte

- Good faith negotiations, open and full disclosure, communication techniques, and problem solving skills are used during a series of collaborative meetings involving the parties, their attorneys, and neutrals such as financial professionals, accountants, and mental health professionals; and,
- Neither lawyer (nor the neutrals) can participate in litigation after signing on as a collaborative advisor – if the case goes to court, the professionals involved are terminated, which aligns the incentives of the parties and professionals to resolve the case on mutually agreeable terms.

The collaborative process, if handled properly, builds trust between the parties and helps maintain a constructive relationship between them. This is particularly important where the parties will continue to have an ongoing relationship, such as a divorcing couple with children, siblings trying to sort out a contested estate issue, or even business partners trying to resolve a difference. It is also likely to result in a much more cost-effective and nuanced solution, tailored specifically to a client's particular circumstances and goals.

Why Hasn't Collaborative Law Gained More Traction in Santa Barbara County?

Many potential litigants in Santa Barbara County do not seriously consider alternative methods of dispute resolution, such as mediation or collaborative law. Why is this?

First, despite its potential benefits, collaborative law is not appropriate for every case. Certain cases are so high conflict that the collaborative process would be over before it began. In some circumstances, there is no room for compromise and the court must decide a winner and a loser.

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Some parties crave the intensity and conflict of litigation, which they will not find satisfied in the collaborative process. But most cases, even those with seemingly intractable issues involving custody or the division of hard to value or divide assets, have the potential to be successfully resolved through the collaborative process.

Second, there is no well-established local system of mediation or collaborative practice where clients can readily find professionals who can seamlessly work to resolve an entire case. Attorneys may also discourage these options, being reluctant to relinquish any degree of control over the client and case resolution due to trust issues with mediators or opposing counsel. Unrepresented parties may find mediation to feel ad hoc and precarious, as they have to navigate not only the mediation process itself, but also the selection of consulting attorneys from whom to receive legal advice and for review of the final agreement. Collaborative law, while a known option in some regions, simply does not have meaningful visibility to clients in Santa Barbara County.

Third, the quality of the collaborative process is only as good as the professionals involved. If the professionals are not properly trained or do not embrace a collaborative mindset, the collaborative process will not be as successful as it should be. While all collaborative practitioners, including neutrals, should have a certain amount of experience in their practice area and must go through a specified training process in order to handle collaborative cases, it is critical that collaborative practitioners also believe in the collaborative process and are collaboratively oriented. Not all attorneys or professionals are a good fit for collaborative law - an attorney who thrives in the excitement of litigation and who loves to make a thundering closing argument before the court should probably remain in the litigation trenches.

Finally, and perhaps most importantly, potential litigants do not actually have the ability to readily identify which dispute resolution option is best for them because legal services are a ***credence good.*** A credence good is one where the consumer is not able to actually determine the quality of the product or service they have purchased, or even its necessity.[5] A credence good exists when the provider of a service has superior information and understanding, so the buyer needs to trust the reputation and honesty of the seller and hope for the best.

This is one reason why consumers of legal services depend so heavily on recommendations and referrals from trusted friends or family members. While some clients have extensive experience with the legal system and are in a position to independently and effectively analyze the advice of legal counsel, most are not. A client going through a divorce or trying to sort through a heated estate administration likely not only lacks experience and knowledge relating to the legal process, they very likely lack an understanding of some or all of the underlying issues as well. For example, in a divorce case, a client almost certainly has no familiarity with family law and court procedures and may not fully grasp even their own family finances, including tax issues and the character and value of assets such as businesses, retirement assets, or other investments.

This leaves many parties involved with the legal system without an understanding of the process, forcing them to depend heavily on their attorneys to advise them as to the proper course of action. As a result, clients may pursue resolution in court because that is the process with which the legal system, including their attorneys, is most familiar. And, once the case starts down the path of litigation, clients have increasingly little say in how the case is managed and how it is ultimately resolved as discovery deadlines, motions, and preparation for trial become prioritized over interest-based resolution of issues[6].

Is Collaborative Law Recognized by the Courts? Is it Ethical?

The American Bar Association has recognized collaborative law as a valid and effective form of dispute resolution[7] and includes detailed information about collaborative law in its client handbook for divorcing clients. Many states have adopted statutes or rules patterned after the Uniform Collaborative Law Act ("UCLA"), which was approved by the Uniform Law Commission in 2009. As of November 2021, just under half of the states had enacted such statutes or rules, although California is not one of them.[8] Some states, such as Florida, have even implemented comprehensive collaborative law guidelines, forms, and agreements for use by family law attorneys and courts.[9]

Although California has not adopted the UCLA, the California legislature did formally recognize the "collaborative law process" in 2007. California Family Code Section 2013 specifically authorizes the practice of collaborative law in the family law context. Section 2013, in its entirety, provides:

> *"(a) If a written agreement is entered into by the parties, the parties may utilize a collaborative law process to resolve any matter governed by this code over which the court is granted jurisdiction pursuant to Section 2000.*
>
> *(b) "Collaborative law process" means the process in which the parties and any professionals engaged by the parties to assist them agree in writing to use their best efforts and to make a good faith attempt to resolve disputes related to the family law matters as referenced in subdivision (a) on an agreed basis without resorting to adversary judicial intervention."*

Certain areas of California, including Sacramento, Los Angeles, and Westlake Village/Ventura, have built well-functioning and visible collaborative practice groups. Collaborative Practice California (commonly referred to as "CP Cal") is the statewide organization of California collaborative practice groups. It has developed guidelines, training materials, practitioner tools, and promotional materials that are used by collaborative practice groups throughout the state. Despite the development of certain successful collaborative groups and the efforts of CP Cal, collaborative law still remains largely off the radar in California.

In other parts of the country and world, collaborative law is much more widely used and accepted. It is estimated that there are currently 25,000 fully trained collaborative professionals in the world, with about 200 collaborative law groups across 24 countries.

The International Academy of Collaborative Practitioners ("IACP") sets a minimum standard for those professionals wishing to practice collaborative law.[10] It requires successful completion of:

- Fourteen hours of introductory collaborative practice training;
- At least one thirty-hour client centered facilitative conflict resolution training (of the kind typically taught in mediation training); and,
- An additional fifteen hours of interest-based negotiation, collaborative, or mediation training.

While this training is a prerequisite for becoming a certified collaborative professional, its usefulness extends beyond the practice of collaborative law. Many attorneys who participate in such training find that it enhances their practice even in non-collaborative contexts by enhancing their ability to effectively negotiate and settle contested issues using these newly learned techniques and skills.[11]

Collaborative Law Returns to Santa Barbara

Over the years, several attempts have been made in Santa Barbara County to establish a functional collaborative law group. While there are a number of fully trained professionals who have successfully completed collaborative cases in the area, the idea of collaborative practice has not gained momentum in Santa Barbara County like it has elsewhere. A renewed effort is currently underway to revitalize the Santa Barbara Collaborative Law Group. Attorneys in all areas of practice are encouraged to consider whether collaborative law might be a good fit for their practice, including, but not limited to, practitioners in the areas of family law, estate planning and administration, and workplace and business law. ■

If you are interested in obtaining more information about the Santa Barbara Collaborative Law Group, including information about upcoming events and trainings, please contact John Duffy of Zen Wealth Consultant Services, LLC at john@zendivorcesolutions.com.

Marla A. Pleyte practices in the areas of estate planning and transactional family law, with offices in Santa Barbara, Hollister, and Three Rivers. A Certified Specialist in Family Law by the State Bar of California's Board of Legal Specialization and trained Collaborative Practitioner, her knowledge of both family law and estate planning benefits her clients in both practice areas.

ENDNOTES

1 Juetten, Mary. *"Why are only family law lawyers using collaborative law?"* ABA Journal. https://www.abajournal.com/columns/article/evaluating-collaborative-law-outside-of-matrimonial-matters

2 International Academy of Collaborative Professionals, *Standards and Ethics*. https://www.collaborativepractice.com/system/files/IACP%20Standards%20and%20Ethics%202018%20%281%29.pdf

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5 *See, e.g.,* Emons, Winand. "*Credence Goods and Fraudulent Experts.*" The RAND Journal of Economics, Vol. 28, No. 1 (Spring 1997), pp. 107-119.

6 "Interest-based negotiation, or integrative negotiation, involves exploring the deeper interests underlying parties' stated positions to identify potential tradeoffs and win-win opportunities across issues and interests." *What is Interest-based Negotiation?* Program on Negotiation. Harvard Law School. https://www.pon.harvard.edu/tag/interest-based-negotiation/#:~:text=Interest%2Dbased%20negotiation%2C%20or%20integrative,opportunities%20across%20issues%20and%20interests.

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Advising Employers in the Remote Work Era

By Alex Craigie

In the July *Santa Barbara Lawyer*, Workzones founder Pamela Tanase declared that remote work and "hybrid work schedules are here to stay." While her piece highlighted how coworking spaces fill a need occasioned by remote and hybrid work models, lawyers who regularly counsel employers face a more urgent need. We must help our clients navigate through a new and unfamiliar territory where missteps are costly. This article highlights the biggest traps for unwary employers with the goal of keeping our clients out of trouble.

Equal Treatment and the Discrimination Claim

Fully remote or hybrid on/offsite work schedules present potential claims of unequal treatment or, worse, discrimination. Anytime two or more similarly situated workers are treated differently it can present a problem. In its simplest form, morale suffers, and bad feelings can pollute an otherwise healthy workforce.

Morale concerns aside, a risk for a discrimination claim arises when an employee feels she is treated differently and deprived of benefits enjoyed by co-workers such as the luxury to choose to work remotely, and she can connect the treatment to a protected classification. The list of protected classifications in California is long, and includes gender, race, national origin, disability, religion, sexual orientation, and others.

For example, if a female employee demonstrated during the pandemic that she can remotely perform her job successfully, but is required to return to the workplace, while a male counterpart is permitted to continue working remotely, this opens the door to a disparate treatment gender discrimination claim. As I counsel clients daily, even if we ultimately prove a legitimate business reason for the decision, the cost of fighting a claim and the risk of costly liability is always a losing battle for California employers. It is much better to make the right decision on the front end.

It may not be preferable or even feasible for every employer to adhere to strict guidelines about who works onsite and who works remote and why. The crucial takeaway is that treating similarly situated employees differently, such as allowing remote work, opens employers up to a range of negative outcomes, including erosion of morale and, worse, a claim of discrimination.

Alex Craigie

Wage and Hour Traps

For anyone who is not already aware of the minefield California employers must tread to comply with our state's complex and punitive web of wage and hour laws, now is the time to sit up and take notice.

Two favored claims among lawyers who pursue wage and hour claims is for unpaid wages and failure to pay overtime. These can be easy to prove and, on prevailing, fee-shifting statutes permit employees' lawyers to recover their fees with no reciprocal risk on the part of a plaintiff.

Nonexempt employees[1] working remotely present challenges for timekeeping which can translate into unpaid wage or overtime claims. Working offsite enlarges the opportunity for unscrupulous employees to seek payment for unworked time lounging on the beach or unworked or unreported overtime. Even companies with a clear policy requiring approval before employees work overtime must pay for claimed overtime and discipline any failure to obtain prior approval. Questioning and refusing to pay claims for wages or overtime risks a claim before the Labor Commissioner or a civil action in court.

Nonexempt employees must be paid at least the minimum wage for every hour worked. Further, California nonexempt employees are entitled to receive overtime pay at a rate of 1.5 times their regular rate of pay for (1) all hours worked beyond 8 hours per day; (2) 40 hours per week; and (3) for the first 8 hours worked on the seventh consecutive day of work in a workweek. Employees are to be paid double their regular rate of pay for all hours worked beyond 12 hours in any workday and for all hours worked beyond 8 on the seventh consecutive day of work in a workweek.[2]

Fortunately, there are several products available, including software and apps, that make it possible to require nonexempt workers to remotely record their time. These generally permit employers to preserve the recorded data and I always recommend all such records be retained for a

minimum of 4 years.

The failure to provide required meal and rest breaks is another favorite claim of wage and hour attorneys. Non-exempt employees in California are entitled to a 30-minute unpaid, uninterrupted, duty-free meal break by the end of their 5th hour of work, and another such break by the end of their 10th hour of work.[3] They are also entitled to a 10-minute paid, uninterrupted, duty-free rest break for every four hours worked or major fraction thereof.[4]

It is difficult enough enforcing meal and rest breaks when employees are onsite. When they work remotely, the risk of claims—whether legitimate or otherwise—is much higher. I personally tried a case pre-Covid in which a worker testified she *always* worked 10+ hours each day and never took a break except to occasionally grab an apple from her fridge. Thankfully, her testimony was heavily discounted, yet this demonstrates how far some will go to abuse wage and hour laws for their benefit.

At a minimum, employers who use time-keeping software should require workers to also track all meal breaks. It is important also to remember that, in the present age when supervisors and co-workers think nothing of communicating with employees at all hours using email, Slack, text or other messaging, anytime a nonexempt worker performs any work at all, including responding to text or other communications, she must be paid for that time.[5] This, too, can set up a claim for unpaid wages and/or overtime.

Reimbursement of Expenses

While most employers understand, perhaps intuitively, that workers are entitled to reimbursement for all necessary expenditures or losses incurred "in direct consequence of the discharge of his or her duties,"[6] the reach of this obligation is sometimes surprising.

Regarding fully remote or hybrid workers, a straightforward application of this principle requires an employer to consider what tools employees use to carry out their job duties. Such items commonly include a computer, video-conferencing camera, WiFi, a phone and, in some circumstances, a desk and/or chair.

One area where employers get into trouble is second-guessing employee reimbursement requests. For example, if an employer gives employees the option to work where they desire, on or offsite, they might find it puzzling or frustrating when they must shoulder the costs of an employee's home WiFi and modem when these are already available at the workplace. Similarly, a client was stunned to learn they must pay a portion of a worker's mobile phone plan as reimbursement for text communications, even though the plan includes unlimited text messages.

The reimbursement rule should not be complicated, but it strikes many as unfair. My advice is to err on the side of reimbursement when the possibility exists. The prospect of penalties, attorney's fees and interest looms large in wage and hour law and the prospect of class action or PAGA lawsuits[7] only heightens the risk.

Other Concerns

It is not possible within the confines of this article to fully address all the issues employers face due to the current trend toward remote and hybrid work. Additional issues which require consideration include:

Workers' compensation insurance coverage for injuries occurring offsite as part of a remote work policy. Employers should consult their broker to ensure they are properly covered.

If any employees are working remotely in another state, employers must ensure they comply with each state's payroll and tax laws.

Cybersecurity and data privacy issues must be addressed, particularly if workers are working remotely in public places and can download or print confidential information without onsite protections.

Conclusion

The jury is out on whether remote work is here to stay. What is clear is that it is here *right now*. Every generation heralds change in our relationship to work, and businesses that recognize and responsibly adapt to that change thrive, while others fail. This is not to say that every employer must embrace a policy of remote, or even hybrid, work. Whether an employer can require a fully in-person workforce depends on many factors, including labor market forces. Any company that permits any form of remote or hybrid work, however, must take steps to understand and avoid the enhanced risks of such policies. Hopefully, this article contributes to that understanding. ■

Mr. Craigie is the Labor and Employment Section Head for the Santa Barbara County Bar Association. An AV-Preeminent rated trial lawyer, he helps businesses throughout California prevent, manage, and resolve employment disputes in a rapid and cost-efficient manner. Reach him at: Alex@CraigieLawFirm.com.

ENDNOTES

1 Nonexempt status means that the provisions of the Industrial Welfare Commission Orders cover an employee. See, https://www.dir.ca.gov/dlse/faq_overtimeexemptions.htm.

2 See, https://www.dir.ca.gov/dlse/faq_overtime.htm.

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Keep Jury Instructions in Mind When Preparing a Trial Witness

By Jared Katz and Celia Rosas, Mullen & Henzell LLP

Jared Katz

Celia Rosas

In a trial, the credibility of your witnesses can make or break a case. As a lawyer, you might win all the legal arguments and pre-trial motions, but if your witnesses do not stand up to cross-examination, you may end up being disappointed with the ultimate result. When preparing your witness to testify, it is helpful to keep in mind the relevant jury instructions that will apply to evaluating the credibility of the witnesses, including the following.

How well did the witness see, hear, or otherwise sense what the witness described in court? How well did the witness remember and describe what happened? Make sure to explain to your witnesses that it is important for them to be prepared and make sure they can provide their best detailed account of the facts at issue. They need to be prepared to explain what they know and how they know it. Even if they cannot remember perfectly, they should be confident in explaining what they can remember and be direct and honest about it.

How did the witness look, act, and speak while testifying? The jury will take great notice of the appearance of your witnesses and read their body language. They will notice if they are confident about what they are saying. Conversely, they will notice if they are nervous and seem jumpy. They will notice how they are dressed. They will notice if your witnesses make eye contact and give clear and direct answers or whether they appear to be avoiding the question. Make sure your witnesses remember they are being watched at all times and need to be aware of how they are presenting themselves.

Sometimes a witness may say something that is not consistent with something else the witness said. People often forget things or make mistakes in what they remember. You may consider these differences but do not decide that testimony is untrue just because it differs from other testimony. People are not computers. They do not always remember things perfectly. Two people experience and describe the same event differently. If you are faced with this circumstance, prepare your witnesses to explain why they have a different version of events or why they may not remember something with complete accuracy. The last thing you want is for your witnesses to come across as dissembling because they are trying to over-compensate for having an imperfect memory. Jurors can be forgiving of human imperfection but may not be so forgiving if they perceive a lack of transparency.

What was the witness's attitude toward this case or about giving testimony? If your witness seems engaged and ready to tell his or her story to the jurors, that is good. If your witness has a dismissive attitude or seems inconvenienced about having to be in court, that is not good. The jury is taking their time to be there and study the case; your witnesses should respect that and have a positive attitude about participating. Relatedly, if your witness is a party to the case, the jury is likely to notice if he or she is there present in court versus being missing in action.

When you are preparing your case, remember that most jurors have limited experience with lawsuits and will rely heavily on the court's instructions, including on how to evaluate the witnesses. The same jury instructions also are commonly relied on by judges in bench trials. Doing your best to prepare your witnesses for when these instructions are applied will help show your witnesses as credible and in a favorable light, maximizing your chances for a successful trial result. ■

Jared Katz is a litigation partner at Mullen & Henzell L.L.P., joining the firm in 2006 after practicing for many years at an international law firm in Los Angeles. He is a graduate of Princeton University and Loyola Law School. He handles disputes arising in a broad variety of practice areas, including involving business

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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 County Bar Association

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.

Please submit articles to Michelle Roberson at michelle@sierrapropsb.com.

Time for Some Legal Philosophy

By Robert M. Sanger

Robert M. Sanger

The end of the last term of the United States Supreme Court and the activities of some of the federal courts make us question what law really is. Challenging this ontological question are the increasingly publicized stories about police officers using excessive force, vigilantes using violence and politicians questioning election results before they occur. So, with apologies for retraumatizing my former Legal Philosophy students, it is a good time for practicing lawyers to again take a look at the question of *what is law*.

What is Law

Law, as a noun, should represent a *person*, *place* or *thing*. While it is personified in the statue of justice, it is not a person. It sometimes is characterized by a courthouse, legislative chambers, executive mansion, or even the heavens, but it is not a place. Although law is sometimes thought of as an ethereal presence, the closest we come is to saying what it is, is a thing. But what kind of thing?

Laws can be carved in stone, printed in books and retrievable from the Westlaw or LexisNexis databases. But that is not the thing that law is—those are just ways of publishing what someone deems the law to be. Aside from the various beliefs in divine revelation (under the conflicting tenants of the various religions), what we consider laws of the state are, just that, promulgations that are proclaimed to be law on behalf of the state.

Legal philosophers have spilled a lot—*a lot*—of ink on how the state can promulgate a proclamation with the claim that it is a law. This leads to endless philosophical discussions about the ontology of the state and, if there is such a thing as a state, what authority the state has to promulgate a proclamation and claim it has status as a law. Well, if reading this was not simply a soporific to induce sleep—or it was and you still have not dozed off—we get to the heart of the matter.

Law is simply what people accept to be law. The people can accept it because they are in fear of state sanctions (punishments) if they do not accept it.[1] They can accept it because they believe it is a representation of the "natural law"[2] or even the "divine law."[3] Or, they can accept it because they believe that they have given all,[4] or some,[5] social control to the sovereign. Or they can believe that they have accepted a process that promulgates the laws.[6]

The basis upon which people accept the law to be law is interesting but not what we are addressing here. In fact, it may be that most people accept law without thinking about it or do so out of custom or habit.[7]

Lawyers, having "law" in their title, generally take pride in interpreting and applying the laws to advise or advocate for their clients. Hence, the American Bar Association, and other organizations, emphasize the role of lawyers in promoting and preserving the "rule of law."[8]

Law is a Status Function

But what *is* law? Law is nothing more than a status function. That is, enough people accept it to be, therefore it is. To understand status function, consider things we regard as having value.[9] In your wallet, you may have paper money. If you have a $100 bill, you feel that you can fill up your tank with gas, buy a meal at a restaurant, or purchase some goods at the store. Why? It is otherwise just a piece of paper with no intrinsic value. It only has value in exchange for goods because people generally accept that the particular piece of paper has a status function. If people did not generally accept that that particular piece of paper has a status function representing some sort of agreed value, it could not be exchanged for gas, food or other goods.

The same can be said of, say, a college diploma or a professorship or a police badge. The degree has significance because people generally accept it as a representation of accomplishment that entitles the bearer to some privileges. A professorship has significance and is why people will wait in a classroom for the professor to show up and will be concerned about what kind of marks that person puts in a book a few months later. The police badge has significance because people generally accept that the person with the badge can give other people orders and even use force, including handcuffs and firearms, against other people who are unwilling to be handcuffed or shot. It is all

status function—the diploma, the mantle of professor, or the shiny badge—and if they are not accepted by others, they are meaningless.

Law itself, as a status function, has no significance unless it is accepted by people. The fewer people who accept it, the less significance it has. The dictator can only execute so many disobedients. If those remaining do not accept the dictates out of loyalty or fear, even raw power does not make law. But if—out of loyalty, fear, true belief, acquiescence, or an acceptance of the system—enough people accept the proclamations, then those proclamations can have the status function of law.

The Threat to Status Function of Law

The function of law in the modern state is to regulate behavior, including what is to be tolerated and what is to be punished (criminal law) and what is expected in relationships between people (torts, contracts, commercial law and family law).[10] If the promulgations of the state are not accepted, the status function fails. In other words, anything that undermines the acceptance of the system promulgating a purported law is a threat to the status function of that law. Currently, there are several examples of this threat to the status function of law in the United States.

Most prominently, the courts have been undermining the acceptance of certain laws, leaving the status function of those laws—and by extension, all laws—in question. The United States Supreme Court ended its last term with a series of cases that seemed to many people to be sheer partisan politics. There have also been a number of federal judges who have simply seemed to have engineered results to comply with the politics of the Federalist Society or the person who appointed them. It is not important to this analysis whether the reader agrees with the results or even thinks that they are intellectually defensible interpretations of precedent or the Constitution. What is important is that these decisions, rightly or wrongly, have been regarded as lawless by many people as not respecting precedent or the legislative or executive process. The lack of acceptance of the decision making means by which these judicially made

laws are promulgated (or the remaining laws when other laws are struck down) undermines the status function of law itself in this country.

Similarly, the increased attention to what people regard as excessive police force undermines the status function of the badge. Police officers have been recently documented on video using deadly force in cases where most people believe it was not appropriate. There is growing recognition that express and implied racial bias gives rise to the exercise of police power. Qualified immunity and prosecutorial decisions to not prosecute, are undermining the acceptance of some in the police. Again, whether any particular case is or is not an accepted use of police power, the fact that it is called into question affects the status function of the police. Hence, white people are now understanding why Black Americans have the discussion with their children about how to survive what should be otherwise innocent encounters with people displaying badges.[11] Whatever the reader may feel about this, the fact is that the status function of the police is affected. Reform proposals, other than to discontinue the function of police entirely, are designed to have the effect of restoring the status function of the police.

> Law itself, as a status function, has no significance unless it is accepted by people. The fewer people who accept it, the less significance it has. The dictator can only execute so many disobedients. If those remaining do not accept the dictates out of loyalty or fear, even raw power does not make law.

The increase in vigilante movements also represents a threat to the status function of law. Since the attack on the twin towers, by far the most people killed in terrorist attacks in this country have been by white supremacist vigilantes. The January 6, 2021 insurrection at the Capitol was a vigilante attack, notwithstanding the extent that it was encouraged by people in power as a failed *coup d'état*. People acting out in vigilante movements represent the fact they refuse to accept the status function of laws prohibiting violence and the private use of force, including deadly force. Those cheering them on, or accepting their behavior as good or inevitable, are undermining the status function of law. And, of course, those who proliferate debunked theories that elections they lost are fraudulent, are also directly attacking the status function of law.

It is no coincidence that the current vigilante groups embrace white supremacy and the confederate flag. It is also no coincidence that the greatest threat to the status function of law in the history of the United States occurred in the 1860's where these same beliefs led to the Civil War. It is also no coincidence that obsession with gun rights and a well-regulated militia has its roots in the "slave patrols" which were deemed necessary to warrant a constitutional amendment to keep the white minority in power over the Black majority in the South.[12] However, whether the reader believes that white people are treated unfairly or need more automatic weapons, the fact is that vigilante activity, for whatever cause, is a rejection of the status function of law by a significant part of the population.

Conclusion

So, if promulgations are law only if they maintain status function, we are at a point where that status function is called into question on several fronts. Like our planet's climate, the acceptance of the status function of laws is always in a precarious balance. We accept that the United States Treasury can print $100 bills. If their authority to do so is questioned—just as if the bill in the wallet was printed in someone's garage—the status function of that bill is undermined. It will not be accepted for that tank of gas, nice meal, or goods at the store. If justices and judges appear to be promulgating laws for political reasons, if police officers are perceived to not be themselves restrained by law, if vigilantes continue to be cheered on, and if politicians question the validity of elections, the status function of law in the United States is undermined and, at some point, ceases to exist.

It does not matter how the reader comes out on the underlying issues—should the Federalist Society's agenda prevail, should police be immune from prosecution or suit for excessive force, should vigilantes be applauded and should defeated politicians be encouraged to challenge election results as a matter of course—the fact is that the rule of law is at stake. This is not a radical idea. As lawyers, law is a part of our own status function—it is a part of our status title. Lawyers are attorneys at law and, without the law, lawyers have no function.

Unless lawyers are prepared to resort to anarchy or revolution—both of which are particularly destructive ideas and outside of our status function as lawyers—the acceptance of the status function of the law should be part of the equation in analyzing and effecting the application of laws and the legal system itself. Change in the laws is essential to a prospering society and challenges to existing laws are certainly appropriate. However, if we want to practice law, we need to maintain the precarious balance by which the status function of our laws is accepted. ■

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.

Endnotes

1 See, e.g., Austin, John, The Province of Jurisprudence Determined, (Orig. 1832, W. Rumble, ed., 1995) Cambridge: Cambridge University Press.

2 See, e.g., Fuller, Lon, The Morality of Law, (1965) Yale University Press.

3 See, e.g., Thomas Aquinas works but see a non-religious version of virtue ethics in the work of Philippa Foot, e.g., "Moral Arguments." 67 Mind 502–51 (1958).

4 See, e.g., Hobbes, Thomas, Leviathan, Cambridge University Press (Orig. 1651, Richard Tuck, ed., 1996),

5 See, e.g., Locke, John, The Second Treatise of Government (1690)

6 See, e.g., H.L.A. Hart, The Concept of Law, Oxford (1961).

7 The works of Friedrich Carl von Savigny, which are voluminous, are attributed with establishing the Historical School of Jurisprudence through his history of Roman law and subsequent work on nineteenth century contract law. See, e.g., Beiser, Frederick C., "Savigny and the Historical School of Law", The German Historicist Tradition, Oxford University Press, (2011) pp. 214–252.

8 Harkening back to Aristotle, "Rightly constituted laws should be the final sovereign." Aristotle, Politics, Oxford (Ernest Barker trans. 1946) Book III, Ch. 9, p. 127.

9 See, Searle, John, "Status Functions," Marija Jankovic, ed., The Routledge Handbook of Collective Intentionality, Taylor & Francis (2017).

10 This is not a strict dichotomy and there is much criticism of the overcriminalization of what some believe should be civil regulation. This is a concern of both the National Association of Criminal Defense Lawyers (of which I am a member) and the Federalist Society (of which I am not).

11 Not such a radical idea. "Modern" policing—particularly the paramilitary versions represented by body armor, automatic weapons, attack dogs, tanks and SWAT teams—are a relatively new development. See, Balko, Radley, The Rise of the Warrior Cop, Hatchette Books (2013, rev. ed. 2021); and Alexander, Michelle, The New Jim Crow, The New Press, (2010, rev. ed. 2012).

12 See, Hannah-Jones, Nikole, et al. (eds.). The 1619 Project, New York Times Company, (2021)

Verdicts & Settlements

Easbey v. City of Santa Barbara; Southern California Edison Company, Pacific Coast Tree Experts, Utility Tree Service, CN Utility Consulting, Inc.

SUPERIOR COURT, COUNTY OF SANTA BARBARA

CASE NUMBER:	18CV00312
TYPE OF CASE:	Negligence
TYPE OF PROCEEDING:	Mediation
MEDIATOR:	Hon. Thierry Patrick Colaw, Ret
PLAINTIFF'S COUNSEL:	Renee J. Nordstrand of NordstrandBlack PC and Scott Ritsema of Law Offices of Bisnar/Chase
DEFENSE COUNSEL:	Dan Carobini and Tom Shapiro for City of Santa Barbara, Jason Booth and Ben Caplan of Law Offices of Booth LLP and in-house counsel Laura Myerson for Defendant Southern California Edison Company (SCE), Tom Tarcoff and Mary Kay Glaspy of Law Offices of Manion, Gaynor & Manning for Defendant Pacific Coast Tree Experts (PCTE), Jeff Leader of the Morgenstern Law Group for Utility Tree Service, Inc (UTS), Cary Wood and Domineh Fazel of Law Offices of Lewis Brisbois Bisgaard & Smith for Defendant CN Utility Consulting, Inc. (CNUC)

FACTS: On September 5, 2017, just past midnight, our 27-year-old client was electrocuted on San Pasqual Street in Santa Barbara when he came into contact with a broken electrical line as he walked on the sidewalk, causing burn injuries to most of his body. Two days before this injury there had been a microburst event during which a tree limb broke off a very large 50-year-old ficus tree, smashing a parked car. The City hired a contractor to clean up the debris. Approximately 17 hours later the City opened the street and sidewalk for public use and another limb from the tree broke off, contacting an overhead electrical line, causing the line to break and land in the path of the client.

INJURIES AND DAMAGES: Burn injuries requiring an eight-week hospitalization at Grossman Burn Center where he underwent five separate skin graft surgeries, permanent scarring.

PLAINTIFF'S CONTENTIONS: City of Santa Barbara failed to maintain inspect and maintain City owned trees in a safe condition, Southern California Edison Company (SCE) had a non-delegable duty to assure that vegetation and trees do not encroach on public utility lines and was therefore liable for the negligent work of their sub-contractors, Pacific Coast Tree Experts(for trimming and emergency clean-up work), CNUC for inspections, and Utility Tree Service which liability is derivative of PCTE's negligence based on it's non-delegable duty to adequately perform under the terms of its contract with SCE. CN Utility Consulting, Inc had contracted with SCE to do vegetation inspections in the area involving the subject tree, which work was sub-contracted to PCTE.

PLAINTIFF'S EXPERTS:	Greg Applegate, board-certified arborist Brent Moelleken, MD plastic surgeon John Nicholas, JN2 Electrical Consulting Co. Inc. Rick Sarkisian, PhD, vocational rehabilitation

	Thomas Zweber, M.D.
SPECIALS:	Approximately $800,000. (Haniff number)

DEFENDANT'S CONTENTIONS: Toxicology reports from Plaintiff's post incident medical records show that his BAC was just over 0.10 and that he had drugs in his system and therefore failed to recognize the danger of walking on the sidewalk that partially contributed to his injuries. Plaintiff had no recollection of the incident or his activities earlier in the evening.

SETTLEMENT DISCUSSIONS/PROCEDURAL STATUS: The parties had three mediations with Ret. Judge Colaw. Due to coverage disputes between the defendants the mediations mostly failed until those disputes were resolved prior to the final mediation.

RESULT: CNUC settled at first mediation for $325,000. All other defendants settled at the third mediation in June 2022 for a confidential amount.

McPherson, et al v. Fiore Management, LLC

SANTA BARBARA SUPERIOR COURT, ANACAPA DIVISION

CASE NUMBER:	21CV01196
DATE ACTION WAS FILED:	March 24, 2021
TYPE OF CASE:	Breach of Contract
TYPE OF PROCEEDING:	Jury
JUDGE:	Thomas P. Anderle
LENGTH OF TRIAL:	5 days
LENGTH OF DELIBERATIONS:	1 hour
DATE OF VERDICT OR DECISION:	June 10, 2022
PLAINTIFFS:	Lee McPherson; CanJV, LLC; MSLTD, LLC
CROSS-DEFENDANT:	Lee McPherson; CanJV, LLC; MSLTD, LLC; Christopher Beary
PLAINTIFFS AND CROSS-DEFENDANTS' COUNSEL:	Jared M. Katz and Celia Rosas of Mullen & Henzell, LLP
DEFENDANT AND CROSS-COMPLAINANT:	Fiore Management, LLC
DEFENDANT'S COUNSEL:	Kirk Retz of Retz & Aldover, LLP, and Fred Strasser of Damon and Associates, LLP
EXPERTS:	None

OVERVIEW OF CASE: Plaintiffs were early investors in a start-up cannabis company doing business under the name "Canndescent," owned by Defendant Fiore Management, LLC ("Fiore"). After an underlying business dispute arose between the parties, they entered into a confidential Settlement Agreement, under which Fiore purchased Plaintiffs' ownership interests in the company. But after Fiore failed to make the payments owed against the purchase price, Plaintiffs filed a lawsuit against Fiore. Fiore filed a Cross-complaint seeking to be excused from paying and to be awarded damages, claiming that Plaintiffs breached the Settlement Agreement by misusing the company trademark, causing harm to reputation, market dilution, loss of investors, committing fraud, and committing other contract breaches. Cross-defendants vigorously contested the merit of Fiore's contentions.

FACTS AND CONTENTIONS: The Complaint and Cross-complaint asserted competing claims for damages and declaratory relief. Plaintiffs' complaint included causes of action for breach of contract, breach of the implied covenant of

Continued on next page

good faith and fair dealing, accounting, and declaratory relief. Plaintiffs sought to be paid the amounts owed in their contract plus interest, which exceeded $4 million. Cross-defendants successfully argued that Fiore's claims against them lacked merit, defeating Fiore's claims to recover damages. The jury returned a unanimous verdict (12-0) in favor of Plaintiffs on all counts, awarding Plaintiffs together the sum of $4,028,955.52. Additionally, the Court awarded declaratory relief in favor of Plaintiffs, making a finding that Fiore litigated the case in bad faith (setting the stage for Plaintiffs to bring a further claim for malicious prosecution and abuse of process.)

RESULT: Plaintiffs were awarded $4,028,955.52, plus pre-judgment and post-judgment interest, along with a finding that Fiore litigated the action in bad faith.

Craigie, *continued from page 15*

3 See, https://www.dir.ca.gov/dlse/faq_mealperiods.htm. As mentioned supra, California's wage and hour regulations are highly complex, and include exceptions for specific circumstances and industries.
4 See, https://www.dir.ca.gov/dlse/faq_restperiods.htm.
5 *Troester v. Starbucks Corp.* (2018) 5 Cal.5th 829, 855–856 [235 Cal. Rptr.3d 820, 840, 421 P.3d 1114, 1130], as modified on denial of reh'g (Aug. 29, 2018) [California law "does not . . . permit an employer to require an employee to regularly work for nontrivial periods of time without providing compensation."]
6 Cal. Labor Code §2802.
7 PAGA can be a California employer's very worst nightmare. "The Labor Code Private Attorneys General Act (PAGA) authorizes aggrieved employees to file lawsuits to recover civil penalties on behalf of themselves, other employees, and the State of California for Labor Code violations." https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html.

Katz, Rosas, *continued from page 16*

matters, real estate, contracts, torts, partnerships, and trusts. Jared handles litigation matters in the Santa Barbara courts, as well as in the state and federal courts throughout the state.

Celia Rosas practices civil litigation with Mullen & Henzell L.L.P. She began her career at Clyde & Co US LLP in San Francisco, specializing in wrongful death and personal injuries arising from aircraft catastrophes, product liability, and insurance coverage. She has defended putative class action suits, as well as tried bench and jury trials in federal and state court. Ms. Rosas obtained her J.D. from the University of California, Hastings College of the Law and B.A. from the University of San Francisco.

Past Presidents Luncheon
SAVE THE DATE

A call to Judges and Past Presidents of the Santa Barbara County Bar Association to save the date for the Past Presidents luncheon on September 22nd at the University Club of Santa Barbara. If you have not received an invitation or are interested in being a sponsor, please contact Marietta Jablonka at sblawdirector@gmail.com or 805-569-5511. Also, if anyone has a new associate working for them that was admitted to the Bar between 2020 and now, please forward their names so they may be invited to the luncheon. The event is for new bar admittees and is a prime opportunity to meet and mingle with distinguished members of the Bench and Bar. We are combining years as the luncheon has not been held since 2019 due to Covid-19.

THE OTHER BAR NOTICE

Meets at noon on the first and third Tuesdays of the month at 330 E. Carrillo St. We are a statewide 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.

Motions

Jasper T. Ballard

The law firm of **Ghitterman, Ghitterman & Feld** is pleased to announce that attorney **Jasper T. Ballard** has joined the firm. He will practice out of their Santa Barbara office.

Mr. Ballard graduated from California Western School of Law in San Diego and passed the California Bar exam in 2006. Ballard has served as a Federal Public Defender in San Diego and Deputy Public Defender in Riverside County. He also worked as a Deputy District Attorney in Riverside and, most recently, as a Chief Trial Deputy for the Santa Barbara Public Defender's Office for five years.

Jasper has a plethora of unique work experiences including twenty-three criminal defense jury trials and fifteen felony prosecution jury trials. The knowledge gained from practicing law on both the prosecution side and the defense side equips him with a well-rounded expertise in the field of law.

Jasper's home state is Georgia and every football season he enjoys cheering on the Georgia Dawgs. He spends his spare time with his kids outside enjoying everything the central coast has to offer.

The firm is pleased to be adding an attorney with such extensive experience, passion for helping clients, and motivation to join in their mission of having a relentless commitment to protect their clients' rights.

* * *

Prominent local law firm **Thyne Taylor Fox Howard** is proud to announce it has hired a new associate attorney, **Adam Carralejo**. Adam is a trial attorney with broad expertise and a strong, ethical reputation.

Adam Carralejo

Adam began his legal career advising clients on Estates and Trusts including having successfully litigated the infamous case of *Butler v. LeBouef*, in which an unethical estate planning attorney took advantage of an elderly client as part of a common scheme or fraud. Adam then moved to Los Angeles where he served as an attorney advising Homeowners Association boards and representing Homeowners Association homeowners. Next, Mr. Carralejo moved to the San Francisco area where he practiced law with the top Construction Defect firm in California, successfully prosecuting some of the largest corporate builders on behalf of individual homeowners, small businesses, and associations. Adam is committed to communication with clients and adversaries and he understands that the most cost-effective representation comes with prompt communication on critical issues.

Adam Carralejo is a Santa Barbara native who is happy to come home. He is a graduate of Dos Pueblos High

School, UCSB, and the Santa Barbara College of Law. Adam graduated top of his law school class with honors, but he considers his highest achievement to be the satisfaction of his clients. Thyne Taylor Fox Howard is a highly regarded downtown Santa Barbara law firm with a focus on civil litigation, trust and estate planning, entertainment law, and real estate law.

* * *

Herring Law Group welcomes its newest attorney, **Jack Ucciferri**. A long time Santa Barbara resident, he brings a unique resume as a local businessman now engaged in the full scope of family law. Jack possesses a welcome level of experience, maturity, and perspective toward resolving our typically complex cases. HLG looks forward to growing together in its team-oriented firm.

Jack Ucciferri

* * *

If you have news to report such as a new practice, a new hire or promotion, an appointment, upcoming projects/initiatives by local associations, an upcoming event, engagement, marriage, a birth in the family, etc., the Santa Barbara Lawyer *editorial board invites you to "Make a Motion!" Send one to two paragraphs for consideration by the editorial deadline to our Motions editor, Mike Pasternak at pasterna@gmail.com. Any accompanying photograph must have a minimum resolution of 300 dpi.* Santa Barbara Lawyer *retains discretion to publish or not publish any submission as well as to edit submissions for content, length, and/or clarity.*

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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.

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Suite is shared with a business/ transactional/ tax attorney, and includes 4 4-ft. lateral files and overhead storage in reception. A short walk to the Courthouse, County Building, numerous banks, and State Street. City Lot 8 parking is located directly behind the building, with other city lots available nearby with monthly parking. Referrals possible depending on your availability, specialties and experience.

$1,500 for rent plus 1/3 share of cable internet, security system, bottled water service and janitorial (currently $125/ month) - $1,625 total. Contact at 805-963-1120 or rwo@transdental.com.

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Meghan Dohoney: Contract Attorney Available for Legal Research/Writing. Freelance attorney in Oxnard available to provide legal research and writing services to other attorneys on a project-by-project basis. Former judicial law clerk to federal judge in San Diego for three years. Licensed in California. For more information, please visit www.meghandohoney.com.

LITIGATION ASSOCIATE SOUGHT

Price, Postel & Parma, a long-standing law firm in Santa Barbara, is seeking a litigation associate with superior credentials, 3-4 years of significant litigation experience and a current license to practice in the State of California. Compensation is commensurate with skills, education and experience. Please submit a cover letter and resume via email to Craig Parton at cparton@ppplaw.com.

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ESTATE PLANNING ASSOCIATE SOUGHT

Price, Postel & Parma LLP, a long-standing law firm in Santa Barbara with roots dating back to 1852, is seeking an associate attorney with superior credentials to practice in our trusts and estates department. We are looking for a candidate with 3-7 years of significant experience in the area of trusts and estates. This is a full-time position in our Santa Barbara office. Candidates must be a member of the California State Bar. The ideal candidate will have experience drafting revocable trusts, irrevocable trusts, wills and all other estate planning documents, in addition to experience working on post-death trust administrations, probates, and conservatorships. LL.M in Taxation or other significant tax background is preferred. The law partners in the trust and estates department walk alongside associates and guide them through all levels of estate planning, beginning with straightforward estate plans and working up to highly complex estate planning and trust administration matters. Our trust and estates team includes highly trained paralegals and legal assistants well versed in this area of law. If you are a qualified trusts and estates attorney interested in working in downtown Santa Barbara, please submit your resume to Ian Fisher, at ifisher@ppplaw.com or Kristen Blabey, at kblabey@ppplaw.com.

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SEEKS SETTLEMENTS, VERDICTS & DECISIONS

SBL encourages all SBCBA members to share notable non-confidential settlements, verdicts or decisions. The data is valuable to our membership. Please submit information to Victoria Lindenauer (Lindenauer_mediation@cox.net) or R.A. Carrington (ratc@cox.net).

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Please contact Jeanette Hudgens
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matthew@moorefamlaw.com

Bench & Bar Relations:
Richard Lloyd (805) 564-2444
RLloyd@cappellonoel.com

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
Marla Pleyte (805) 770-7080
marla@marlapleyte.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

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

Taxation
Peter Muzinich (805) 966-2440
pmuzinich@gmail.com
Cindy Brittain (323) 648-4657
cbrittain@karlinpeebles.com

September

2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5 Labor Day	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21 International Day of Peace	22 The SBCBA Presents: Past President's Luncheon	23	24
25 Rosh Hashana Begins	26	27	28 The SBCBA ADR Section Presents MCLE: In the Room, on Zoom & the Hybrid Room	29 National Coffee Day	30	

The Santa Barbara Bar Association is a State Bar of California MCLE approved provider. Please visit www.sblaw.org to view SBCBA event details. Pricing discounted for current SBCBA members.

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