

# Santa Barbara Lawyer

Official Publication of the Santa Barbara County Bar Association  
March 2025 • Issue 630



## Bench & Bar Conference 2025

*Inside: Voir Dire in Karen Read Murder Trial—Different Procedures. Different Results / Newell v. Superior Court—Defining Real Property Claims and Lis Pendens in California Trust Litigation / International Law / All Rise: Living our Legal Life Meaningfully / AAML'S Free Trial Basics Seminar*



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625 E. Victoria St., Garden Suite  
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(805) 899-7717  
law@erinparks.com

\*\*\*

### BARBARA CARROLL

Santa Barbara County Counsel  
105 E. Anapamu St., Rm. 201  
Santa Barbara, CA 93101  
(805) 568-2950  
bcarroll@countyofsb.com

### JOHN DERRICK

21 E. Pedregosa St.  
Santa Barbara, CA 93101  
(805) 284-1660  
jd@johnderrickADR.com

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21 E. Carrillo St., Ste. 200  
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(805) 248-7118  
scott@markcoffinlaw.com

### TERESA MARTINEZ

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

### MATTHEW MOORE

Moore Family Law & Mediation  
148 E. Carrillo St.  
Santa Barbara, CA 93101  
(805) 697-5141  
matthew@moorefamlaw.com

### ROBIN OAKS

Attorney at Law  
Santa Barbara, CA  
(805) 685-6773  
robin@robinoaks.com  
www.robinoaks.com

### NICOLETTE PAULLIN

Snyder Burnett Egerer, LLP  
3757 State St., #2A  
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(805) 692-2800  
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### Staff

### MARIETTA JABLONKA

*Executive Director*  
15 W. Carrillo St., Ste. 106  
Santa Barbara, CA 93101  
(805) 569-5511  
Fax: (805) 569-2888  
sblawdirector@sblaw.org

### CHRISTY BARKEY

*Legal Assistant*

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### CONTRIBUTING WRITERS

Craig Bates  
Barbara Carroll  
Greg Herring  
Robin Oaks  
Robert M. Sanger  
David B. Shea

### CO-EDITORS

Taylor Fuller  
Scott A. Jaske

### ASSISTANT EDITORS

Nicole Coulter  
Marietta Jablonka

### MOTIONS EDITOR

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Mike Lyons

### GRAPHIC DESIGN

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# 2025 SBCBA Bench & Bar Conference

BY BARBARA CARROLL

The Santa Barbara County Bar Association's 2025 Bench & Bar Conference took place on Saturday, January 25, 2025, at the Colleges of Law Santa Barbara campus. The Conference was again held in the popular hybrid format, with roughly half the attendees participating in-person, and the other half attending via Zoom. Attendees earned up to six Continuing Legal Education credits, including credits in the mandatory subjects of Civility, Prevention and Detection of Substance Abuse (Competence) and the Recognition and Elimination of Bias.

The morning sessions started with a presentation on § 1983 civil rights litigation by Michael Youngdahl and Julius Abanise, both from Santa Barbara County Counsel. Mr. Youngdahl and Mr. Abanise utilized Fourth Amendment use of force examples throughout their presentation to provide current real-life examples of these types of cases.

The civil rights litigation session was followed by District Attorney John Savrnock and Public Defender Chief Trial Deputy Matt Speredelozzi discussing recent changes in criminal law. Mr. Savrnock discussed California Penal Code section 741, which just went into effect in January 2025. Section 741 requires prosecuting agencies to remove identifying information about race and ethnicity from law enforcement reports with the aim of reducing unconscious bias in charging decisions. Mr. Speredelozzi complimented the discussion of § 741, and the presentation on § 1983 liability, with an overview of the Racial Justice Act.

The morning sessions ended with an informative wellness/detection and prevention of substance abuse presentation by SBCBA Wellness Director Robin Oaks and David Paul, M.D. and Ph.D., and Bonnie Paul, Ph.D.

The Keynote Speaker this year was the Honorable Hernaldo Baltodano of the Courts of Appeal, Second Appellate District, Division Six. Justice Baltodano presented an inspiring talk about his own story as an immigrant, as well as his own experiences with imposture syndrome, breaking down barriers, combating tribalism, as well as the impact and importance of mentoring.

The afternoon sessions began with a discussion of the Second Amendment by Pepperdine Professor Jake Charles.

In keeping with his scholarly profession, the session provided information on the analysis of the Second Amendment, and Supreme Court cases discussing the analytical framework for these issues.

The last session of the day was a Judicial Panel featuring the Honorable Thomas P. Anderle, the Honorable Von T. Deroian and the Honorable Pauline Maxwell. The judges spoke about civility in the courtroom in the context of zealous advocacy, the Rules of Professional Conduct and the First Amendment.

At the conclusion of the conference, attendees enjoyed a social wine and cheese hour where those in-person participants availed themselves of the opportunity to network and chat with friends.

From the Bench & Bar Committee members, we are particularly grateful to the speakers who volunteered their time to take part in the annual Bench & Bar Conference, without whom this type of event simply could not take place.

This year's conference was sponsored by Law Copy, American Rivera Bank, Judicial Arbitration & Mediation Services ("JAMS"), and facility sponsor the Colleges of Law, who graciously provided the Santa Barbara campus to the Bar Association without an event fee. Thank you also to Tom Foley for providing wine to support the Wine and Cheese Reception at the conclusion of the Conference.

Our thanks also to Bar Association Director, Marietta Jablonka, whose efforts in organizing and supporting this organization's events are always appreciated. We are also thankful for Richard Llyod, Scott Jaske, Teresa Martinez, our President Michelle Roberson and Christy Barkey, for technical support, for helping manage speakers and attendees, and for their help with set-up and takedown.

For those of you who attended, we hope you found the event both rewarding and enjoyable. Please keep an eye out for our MCLE and events calendar as we will be hosting more events this year. We hope to see you again next year for the 2026 Bench & Bar Conference. ■

*Barbara Carroll is the Senior Deputy County Counsel for Santa Barbara County.*

**See event photos beginning on page 8.**



*Barbara Carroll*



Keynote Speaker Hernaldo Baltonado



Judge Maxwell, Judge Deroian, Judge Anderle



Michael Youngdahl and Julius Abanise

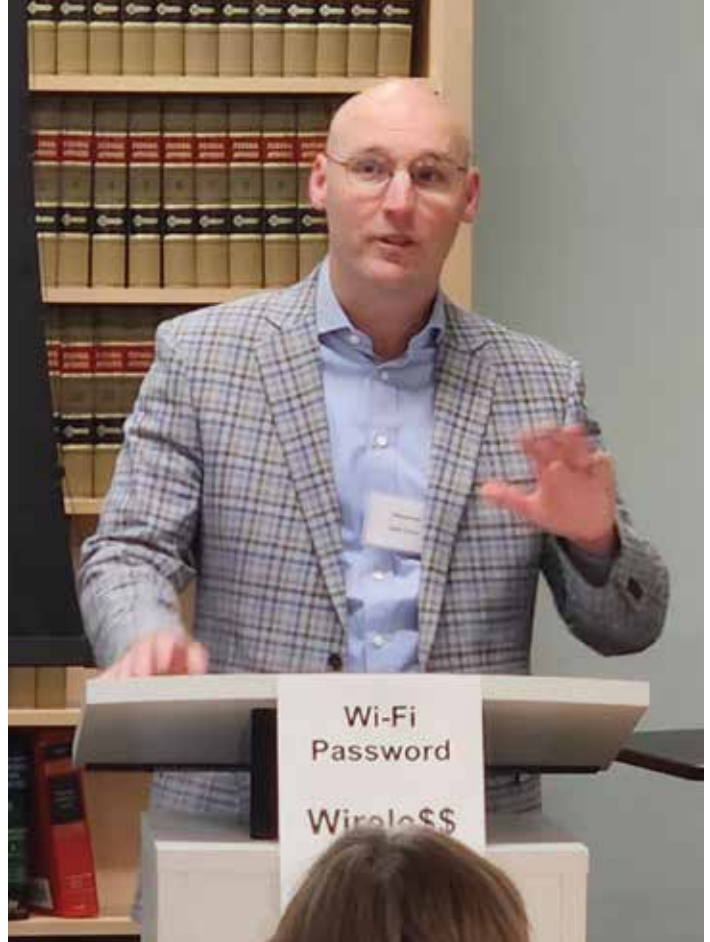


Robin Oaks





Judge Maxwell, Judge Deroian, Judge Anderle



Pepperdine Professor Jacob Charles

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# Voir Dire in Karen Read Murder Trial— Different Procedures. Different Results?

BY CRAIG BATES

The Karen Read murder trial in Massachusetts has been a closely watched crime drama capturing national interest. Read, 45, pleaded not guilty to charges of second-degree murder, vehicular manslaughter while intoxicated, and leaving the scene of a collision resulting in death. The decedent, John O’Keefe, a Boston Police officer, was Read’s boyfriend. His body was found with signs of physical trauma in the snow, on January 29, 2022, outside the home of a fellow Boston Police officer in Canton. Prosecutors believe Read ran him over with her car after an argument after which O’Keefe got out of the car. Read is alleged to have been intoxicated, striking O’Keefe while driving in reverse, then fleeing the scene, leaving O’Keefe to die. The first trial ended in a mistrial when jurors could not agree on a verdict and a second trial is set for April 2025.

Throughout the United States, the process of selecting a jury can vary significantly from state to state. During the high-profile prosecution against Karen Read, I was brought in to provide visual support and experienced first-hand how the differences in jury selection in Massachusetts, as opposed to California, could potentially influence the outcome of this case.

The jury selection process, well known as *voir dire*, allows the Judge and the attorneys from both sides to question potential jurors to ensure they can be fair and impartial. Attorneys are given a limited number of peremptory challenges, which allow them to dismiss a juror without cause or providing a reason. However, these challenges cannot be used to discriminate based on race, gender, or other protected groups.

In California, a pool of 12 to 18 prospective jurors are

brought into a courtroom and seated in the jury box for open questioning from the attorneys representing each side. During this exchange jurors are screened to better understand their life experience and to determine if they can be fair and impartial.

In both California and Massachusetts, once jurors are brought into the courtroom, they are asked by the judge a series of questions which relate to financial hardships, strong biases or opinions, and any familiarity with any parties or witnesses involved in the case; this questioning of the jurors is conducted in open court.

Massachusetts, however, has a different approach to the jury selection process. In the *Read* case, the jurors were asked the initial questions by the judge in open court. Following that, each juror, randomly selected by juror number, was asked to come to judge’s sidebar with the attorneys present. The Judge then proceeded to further ask a series of questions about that person’s qualifications to sit as a juror. Next, the attorneys were given the opportunity to question the potential juror, at sidebar, until a final decision was made to either excuse the juror for cause, excuse the juror with a peremptory challenge from the defense or prosecutor or seat the juror.

This process, although very time-consuming, gives prospective jurors a more private environment to be open and candid about their answers to the questions presented by the Judge and attorneys.

Another notable difference occurs at the conclusion of presentation of the evidence and after both sides rest. In Massachusetts, the twelve deliberating jurors are not selected from the panel until the case is given to them at the close of evidence. The judge then selects the jury foreperson.

This is in stark contrast to California, whereby, upon completion of the evidence, the 12 selected jurors decide



Craig Bates

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These differences in jury selection between California and Massachusetts could have a significant impact on the outcome of a case.

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Continued on page 19



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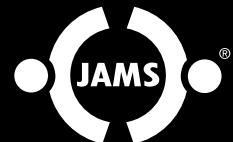
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# Newell v. Superior Court—Defining Real Property Claims and Lis Pendens in California Trust Litigation

BY DAVID B. SHEA

Can a beneficiary’s challenge to trust amendments based on allegations of undue influence justify recording a lis pendens on trust held real property? This question, at the heart of *Newell v. Superior Court of Los Angeles County* (2024) 107 Cal.App.5th 728 [328 Cal.Rptr.3d 322], pushes the boundaries of trust law and real property rights. The case forces attorneys to confront whether such disputes directly affect property title, elevating routine trust contests into high-stakes battles over real property claims. By defining when lis pendens can be applied in trust litigation, *Newell* not only empowers beneficiaries to protect trust assets, but also exposes the potential for misuse, raising critical questions about fairness and balance in trust administration.

*Newell* clarifies when a beneficiary’s challenge to trust amendments can constitute a “real property claim” under California law. The decision establishes clear conditions for recording a lis pendens in trust disputes, providing critical guidance for navigating the intersection of trust law and real property rights.

Lucy Mancini Newell, the original beneficiary of her parents’ trust, challenged amendments executed by her father, Arthur Mancini, alleging undue influence by his caregiver, Neneth Rollins. Six months after Rollins began working for Arthur, then 89, as his caregiver, Arthur executed a second restatement of the trust. Drafted by attorney Edgardo Lopez—recommended by Rollins—the restatement named Lopez as the successor trustee and allocated 9% of the trust’s gross assets as trustee “compensation.” It also directed 51% of the trust’s assets to Rollins and 40% to Newell.

In April 2021, Arthur amended the trust again, increasing Lopez’s “compensation” to 15%, naming Rollins as the sole successor trustee if Lopez could not serve, and giving 100% of the remaining trust assets to Rollins, effectively disinheriting Newell. After Arthur’s death later that year, Newell discovered these changes and filed a petition challenging the amendments as products of undue influence. She further alleged that Rollins, during her tenure as trust-

ee, misused trust funds to purchase a property in Van Nuys, which she held in her capacity as successor trustee of the trust. Upon learning this, Newell amended her petition to request the Court impose a constructive trust on the property and recorded a lis pendens, asserting that her claims directly impacted the property’s title.

Rollins moved to expunge the lis pendens, arguing that Newell’s claims focused on the validity of the trust amendments rather than the property itself. The probate court agreed, ruling that Newell’s petition did not constitute a “real property claim” under Code of Civil Procedure section 405.4. It reasoned that, even if successful, the petition would not directly change the title to the Van Nuys property but would only alter trustee and beneficiary designations.

The Appellate Court reversed, holding that Newell’s petition qualified as a real property claim under Section 405.4. Citing *Kirkeby v. Superior Court* (2004) 33 Cal.4th 642, the Court emphasized that a real property claim must directly affect title or possession. It further explained that a trustee holds legal title to trust property, and a change in trustee necessarily impacts the title. If Rollins were removed as trustee and a new trustee appointed, the legal title to the Van Nuys property would directly change, thereby satisfying the statutory definition of a real property claim.

While the Appellate Court clarified the legitimate use of lis pendens in trust disputes, it also highlighted the potential for misuse. Filing a lis pendens can sometimes be a strategic maneuver to pressure the opposing party into a settlement. By creating obstacles for the trustee to manage or sell property, a claimant might gain undue leverage, even when the connection to the property title is tenuous or incidental. Such tactics can complicate trust administration, inflate litigation costs, and delay resolution for all parties involved.

To address such concerns, the court emphasized procedural safeguards against lis pendens abuse, as outlined in *Shoker v. Superior Court* (2022) 81 Cal.App.5th 271, and *DeMartini v. Superior Court* (2023) 98 Cal.App.5th 1268. Section 405.32 requires the claimant to demonstrate the probable validity of the real property claim, ensuring lis pendens is used appropriately and preventing frivolous claims from unduly encumbering trust property during litigation.



David B. Shea



California law also requires courts to apply a “demurrer-like analysis” under Section 405.31 to determine whether a pleading states a real property claim. This involves assessing whether the litigation’s outcome would affect title or possession, without delving into the case’s merits. The Appellate Court concluded that Newell’s petition met this standard because removing Rollins as trustee would alter the titleholder of the Van Nuys property.

The ruling in *Newell* affirms that lis pendens can be a powerful tool for protecting trust assets, particularly in cases where real property is at risk of being sold or encumbered during litigation. Beneficiaries often face situations where trust assets, including real property, are at risk of mismanagement or dissipation before the resolution of disputes. The lis pendens serves as a critical mechanism to preserve the status quo, ensuring that disputed assets remain available for proper adjudication and distribution.

At the same time, the decision underscores the importance of judicial oversight in determining when lis pendens is appropriate. By affirming that a real property claim must directly impact title or possession, *Newell* sets clear limits on the use of lis pendens in trust disputes, preventing its application in cases where the connection to property title is tenuous or incidental. This balance is vital to ensuring that trustees retain the ability to manage trust assets effectively while protecting beneficiaries’ interests.

The Court’s interpretation of a real property claim bridges the gap between equitable and legal interests, reinforcing procedural protections available to beneficiaries. It ensures that beneficiaries are not confined to abstract equitable claims but can assert direct interests tied to specific trust-held assets when appropriate. However, *Newell* also highlights the need for careful advocacy in trust litigation, as the misuse of lis pendens could lead to unnecessary delays, increased costs, and administrative complications.

*Newell* offers essential guidance for trust and estate practitioners, affirming that a beneficiary’s challenge to trust amendments can constitute a real property claim when trust-held real estate is involved. By defining the proper use of lis pendens, the decision not only protects beneficiaries’ interests but also preserves trustees’ ability to manage assets effectively. For attorneys, *Newell* underscores the power of procedural tools and the critical need to balance competing responsibilities in trust disputes. ■

*David B. Shea, a Partner at Ferguson Case Orr Paterson LLP, is a certified specialist in Estate Planning, Trust, and Probate Law. Building on his extensive litigation background, he also serves as a mediator, guiding parties toward practical and collaborative resolutions in trust and estate disputes.*

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# International Law

BY ROBERT M. SANGER

## Introduction

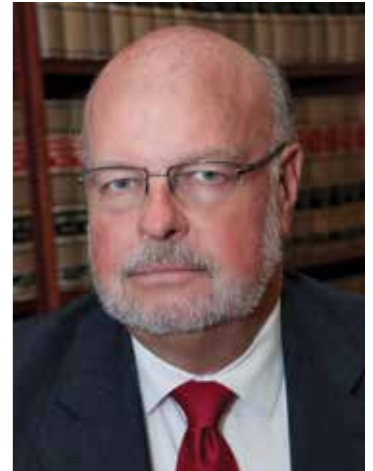
This *Criminal Justice* column will address the importance of international law, particularly as it has advanced since the Second World War regarding international aggression, annexing of territory, genocide and ethnic cleansing. The article will reflect on the importance of all nations honoring international law and the dangers of any nation taking positions that imply that it is above the law. There seems to be a developing lack of respect for international law replacing it with a nativistic appeals in a number of nation states.<sup>1</sup> The approach may be marginally popular among an uninformed public and may satiate some autocratic inclinations -- but it is retrogressive and dangerous.

International law is a part of the Constitution and laws of the United States and has been the basis for international tribunals in which the United States has participated. The acceptance of international law requires a mindset on the part of diplomats and the population at large to make it work. Now is not a propitious time in history to abandon a commitment to international law particularly as it relates to avoiding armed conflict, annexation of territory, and other fundamentals related to the peaceful coexistence—and, in fact, the existence—of people around the world.

## International Law and the United States

The law of nations or “international law” was ratified as a part of the law of the United States in 1789. Article I, Section 8, of the United States Constitution gives the power to Congress to “define and punish. . . offenses against the Law of Nations.” Article II, Section 2, provides that “the President shall have Power, by and with the Advice and Consent of the Senate to make Treaties, provided two thirds of the Senators present concur.” Ultimately, treaties are part of the supreme law of the land as stated in Article VI. In addition, Congress and the president can enact legislation—not requiring the two thirds vote of the Senate otherwise required for formal treaties—that have the effect of making agreements with other countries. And, of course, there are some instances where the President can make unilateral agreements in limited circumstances.<sup>2</sup>

International law is reliant on otherwise independent nation-states accepting certain norms. It is generally recognized that there are four “sources” of international law. The first is by treaty, accord, convention or other agreement between two or more states. The second is by a custom that has been accepted in practice by states which have a history of interacting with each other.<sup>3</sup> The third is by way of general principles



Robert M. Sanger

of law that are common to the internal law of participating states. The fourth is the natural law of fundamental rights. The first three depend on agreement or consent of the various states. The fourth, natural law or “*jus cogens*,” is regarded as so fundamental that it constitutes a set of universal norms that do not require consent and has been used as the basis for international prosecutions.

International peace and order as well as the success of international commerce are dependent on international law. Hopefully, gone are the times of unprovoked invasions, genocide, ethnic cleansing, and annexing of territory—at least among the greater powers of the world. The dangers of world conflict are—and have been since the end of World War II—existential. International law has reduced major international military conflict thus giving the human race a little more time on this planet.

There are a number of important treaties that have been signed by the majority of the nations in the world. The overarching *Vienna Convention on the Law of Treaties* is an international agreement covering the procedures relating to implementing, enforcing and maintaining treaties. It was written in 1969 and was deemed effective by the United Nations upon the signing of 35 states in 1980. At this time, 105 nations have signed the treaty. The treaty was submitted to the United States Senate for ratification by President Nixon in 1971, however, to this date it has not been ratified by the Senate and the United States is not a party. Nevertheless, the courts of the United States and the executive branch have considered the Vienna Convention, which places international law above military force in conflict resolution, to be an “authoritative guide to the customary international law of treaties.”<sup>4</sup>



### ***The Dangers of Ignoring International Law***

The historical analysis of international relations in the late 19th, the 20th and 21st centuries demonstrates that the manipulation, and outright disregard, of international law often preceded conflict. At the moment, it appears that the presence of international law to avoid conflicts is at a dangerous point of failure. This is not only as a result of blatant violations of international law but as a result of intranational disregard of traditional principles. History tells us that, in modern times, it is cynical disregard of law that begins the process leading to actual conflict. That disregard and manipulation are thought to be clever and are often invoked by people who are not nearly as clever as they may think. Competing egos, self-promotion, unwarranted confidence, incompetence in diplomacy, and ignorance of the facts lead to disasters. Much of this is encouraged by the power of nativistic rhetoric that appeals to an uninformed public.

For instance, the book *Sleepwalkers*,<sup>5</sup> chronicles in extreme detail the machinations of the purported leaders, factotums, purported diplomats, and political functionaries among the

nation states of pre-World War I Europe. Most of them thought that they were the smartest person in the room. They were all male and almost all embodied and exuded a form of what we would call today toxic masculinity. There was no real understanding of the serious consequences of throwing their chests out and making chauvinistic—and often narcissistic—pronouncements. The largely uninformed (or misinformed) public rallied around their nativistic jargon. And then, whoops, a World War ensued.

### ***The Development of International Law Regarding Aggression***

Following the First World War, there was an attempt to create a meaningful League of Nations to avoid future wars. Not much came of that but in 1927 the Kellogg-Briand Pact was entered into by most of the countries around the world. Many, including the United States, created their own reservations in signing statements. Despite the reservations, it was known as the “*General Treaty for Renunciation of War as an Instrument of National Policy*.” It purported to end wars

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of aggression and, in particular, wars to conquer territory. Following the Second World War, Kellogg-Briand as well as other treaties and international agreements in conjunction with natural law<sup>6</sup> became the basis for the Nuremberg<sup>7</sup> and Tokyo trials.<sup>8</sup> The United Nations in the 1950's embarked on a process of creating resolutions, charters and international agreements attempting to define wars of aggression and to outlaw them.<sup>9</sup>

The fact is that, in the last couple of decades, major powers have not engaged in wars of aggression to obtain geographical territory—with the notable exception of Russia's military invasion of the Crimea, their Donbas war and their current war of aggression in Ukraine. Concurrently, with these same exceptions, the idea of annexing territory for national expansion and concept of colonization has been all but dormant. Genocide and ethnic cleansing have only occurred among minor powers. The progress among the major powers to obtain international stability has been historic. Well, at least until the change in the Oval Office in 2025.

### **The Current Administration**

The current president has already withdrawn from the Paris Accords and has brought virtually every executive-legislative international agreement into question. Project 2025 called for the president to withdraw from agreements, “recalibrate” how treaties are entered into, to declare unratified treaties “stale,” and to freeze ongoing treaty negotiations.<sup>10</sup> Pre-election rhetoric, the 2025 Inaugural Address and post-election posts on social media have all suggested that annexation of territory, including Greenland, the Panama Canal, and Canada, is a priority for the current administration. Threats of force internationally, including within Mexico and Panama, have been floated. And recently, although there has been no indication so far of actions on the part of the United States, the current administration has suggested that Gaza be “cleaned out” of Palestinians which would not only involve acts of aggression but suggests genocide and ethnic cleansing.

The point is not to take sides on political issues but to make it clear that developments in international law since World War II have trended against wars of aggression, annexation of territory, colonization, genocide and ethnic cleansing. Just as in the lead up to the first World War, nativistic and aggressive positioning on behalf of nation states can lead, unintentionally, to a global conflict. Chauvinistic pronouncements, even though they are cheap and gather the domestic support of the uninformed public, can lead to serious consequences.

International law requires international cooperation. The America First Policy articulated in the Project 2025 manifesto and now blatantly stated in Executive Order 14150<sup>11</sup> may seem patriotic or appeal to national group identity but it is antithetical to international cooperation. Of course, American diplomats are supposed to advocate for American interests but taking such a nativistic stance, while it plays to the psychology of the masses, runs counter to the idea of promoting peace and coexistence in a volatile world. International law is actually not all that progressive and tends to reinforce the status quo, particularly with regard to economic injustice and violations of individual human rights.<sup>12</sup> People psychologically are predisposed to align with their nation state and are reluctant to align with other nation states in a group effort.<sup>13</sup> The mindset of international cooperation, to the extent leaders can help engender that mindset, does not benefit from nativistic proclamations.

### **Conclusion**

Current events provide all the more reason to recommit to cooperation through international law and, specifically, to resist the effort to reverse the trend developing since the 1940's. International law is based on treaty, accord, convention and other agreements. It is also based on customs in international relations and on general principles of law that are common to the internal law of participating states. In addition, it is profoundly based on natural law or “*jus cogens*” which are principles so fundamental that they constitute a set of universal norms that do not require consent. Both the Nuremberg and Tokyo International Tribunals were based on all four of these foundations. International law exists as long as we accept it. While nativistic aggressive talk and unilateral measures may be popular with an uninformed base, they are not only contrary to international law, they are dangerous. ■

*Robert Sanger has been practicing as a litigation partner, now principal shareholder at Sanger Law Firm, P.C., in Santa Barbara for over 50 years and has been a Certified Criminal Law Specialist for over 40 years. Mr. Sanger is a Fellow of the American Academy of Forensic Sciences (AAFS) and has been an Adjunct Professor of Law and Forensics at the Santa Barbara College of Law. He is an Associate Member of the Council of Forensic Science Educators (COFSE) and is Past President of California Attorneys for Criminal Justice (CACJ), the statewide criminal defense lawyers' organization. Mr. Sanger has also been a Lawyer Delegate to the Ninth Circuit Judicial Conference. The opinions herein do not necessarily reflect any of the organizations with which he is associated. Copyright, Robert M. Sanger, 2025.*

ENDNOTES

- 1 The America First position, similar to the position taken in the same name prior to World War II, is official United States foreign policy. See, e.g., Executive Order 14150, signed January 20, 2025, and filed January 28, 2025.
- 2 See, *Am. Ins. Ass'n v. Garamendi*, 539 U.S. 396, 415 (2003); *United States v. Belmont*, 301 U.S. 324 (1937); *Dames & Moore v. Regan*, 453 U.S. 654 (1981).
- 3 *The Paquete Habana*, 175 U.S. 677 (1900).
- 4 *Chubb & Son, Inc. v. Asiana Airlines*, 214 F.3d 301, 309 (2d Cir. 2000); *Fujitsu Ltd. v. Fed. Express Corp.*, 247 F.3d 423, 433 (2d Cir. 2001).
- 5 Christopher Clark, *Sleepwalkers: How Europe Went to War in 1914*, (Penguin Books Ltd., 2013).
- 6 M. Cherif Bassiouni, *Crimes against Humanity: Historical Evolution and Contemporary Application*, (Cambridge University Press, 2011).
- 7 See, e.g., Telford Taylor, *The Anatomy of the Nuremberg Trials*, (Skyhorse Publishing, 1993).
- 8 See, e.g., Gary Bass, *Judgment at Tokyo*, (Deckle Edge, 2023).
- 9 "Definition of Aggression," General Assembly resolution 3314 (XXIX) 14 December 1974.
- 10 Paul Dans, Steven Groves (ed.), *Mandate for Leadership: The Conservative Promise, Project 2025*, (the Heritage Foundation, 2023).
- 11 See endnote 2 above.
- 12 See, John Linares, *A Naturalized Jurisprudence for International Law*, University of Pittsburgh School of Law, Working Paper 2025-02 (2025).
- 13 See, Linares, n. 14, *supra*, pp. 5-6 and the sources cited there in, particularly n. 21.

Bates, *continued from page 12*

amongst themselves who will be the foreperson and the alternates are released from deliberating until and if called to replace any of the original 12 jurors.

These differences in jury selection between California and Massachusetts could have a significant impact on the outcome of a case. While both states' goal is to select an impartial jury, the procedures they employ to achieve this goal have obvious differences in how potential jurors are required to disclose sensitive personal details, potentially leading to different outcomes in similar cases. What do you think? Does this process necessarily lead to the selection (*or non-selection*) of jurors who otherwise would have been excused or empaneled?

*Craig Bates is the Principal at Telegenics, Inc., providing legal video and visual litigation support for attorneys in Southern California, and elsewhere, for 40 years. <https://telegenics.com>*

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# All Rise: Living Our Legal Life Meaningfully

BY ROBIN OAKS

“When we are no longer able to change a situation, we are challenged to change ourselves. Everything can be taken from a man but one thing: the last of the human freedoms — to choose one’s attitude in any given set of circumstances, to choose one’s own way.”

– Viktor Frankl, *Man’s Search for Meaning*

At the recent Bench & Bar Conference, I presented “Law as a Healing Profession: Mind-Body-Emotion Strategies that Promote Successful Lawyering.” During this talk that qualified for MCLE Prevention and Detection Competence credit (“Substance Use, Mental Health Issues”), I explored from a holistic perspective a variety of *prevention* strategies that foster flourishing as legal practitioners - from the inside out. Healing comes from the word “to make whole” and flourishing refers to resilience, strengths, and well-being skills that help us successfully navigate legal work life. As a backdrop, I provided my own legal career as an embodied hopeful but cautionary tale about how I learned skills for lawyering well—and sustainability.

I also invited two guests, David Paul, M.D., PhD. and Bonnie Paul, PhD, to join me and share their work as founders of the Freedom to Choose Project (FTCP) that focuses on working with people who are incarcerated.<sup>1</sup> FTCP has been recognized as a leader in the field of prison rehabilitative programs, and through the dedicated work of its staff and volunteers, it has dramatically improved the quality of life of its participants and the greater community. Many of these same mind-body-emotional skills taught through the FTCP are those that can support stress management and resilience for legal professionals.

The Freedom to Choose Project’s name was inspired by Viktor Frankl’s work, known as logotherapy, which comes from the Greek word for “meaning.” In his inspiring book, *Man’s Search for Meaning*, Frankl, a psychiatrist and neurologist who survived the horrors of Nazi death camps, elo-

quently explores how our primary human drive is not striving for pleasure or power, but the discovery of what each individual finds meaningful through living one’s life.

I reminded the audience of the maxims espoused by Socrates and Plato (i.e., questioning to discover *Truth* through the Socratic method): “Wisdom Begins in Wonder” and “Know Thyself.” I labeled the themes for my talk, the ABCs: Awareness, Balancing, Connection and Choice. Emotional intelligence involves *awareness* of self and others, emotional self-regulation *balancing* and relationship skills, and creating meaningful *connections* through our contributions and *choices* for living in and relating to the world.

One significant aspect of lawyering that calls for raising awareness is recognizing that law is a trauma-based profession. Yet, we are often ill-prepared for dealing with these types of stressors in legal practice. We may often 1) interact with clients who are emotionally distressed, in conflict, or traumatized, 2) listen to and evaluate traumatic events and crisis concerns, and/or 3) review disturbing images of violence and harm. As a result, we may suffer “vicarious trauma” or “secondary trauma” effects. Symptoms of vicarious trauma include emotional numbness or detachment, difficulty concentrating and sleeping, immune system dysfunctions, anxiety, digestive issues, and fatigue. It’s important to be trauma-informed and recognize how trauma affects our clients. In my legal work conducting investigations of workplace harassment complaints and through my well-being services, which include providing stress management support to parties in legal proceedings, understanding how to skillfully interview without re-traumatizing people is critical.

Immediately after law school, I worked in a judicial clerkship at the U.S. District Court, for the District of Columbia. The judge I worked for was wise, mindful, and highly emotionally and cognitively intelligent. This legal environment was exciting, energizing, and motivating. After the clerkship, I then began working in a large law firm setting doing environmental and employment litigation. This was a completely different legal experience. I loved practicing law, and the pay was good enough, but the environment was dehumanizing. There were few meaningful



Robin Oaks

connections, minimal opportunities for client contact, and low decision latitude.

Decision latitude refers to the number of choices—internal or external—one believes one can access or control. Depression, anxiety and auto-immune and coronary disease are correlated with measures of high job demands and low decision latitude—and lack of supportive autonomy. The only meaningful connection I had during that experience was with a young partner who had laterally been hired around the time I became an associate.

He initially made an effort to cultivate supportive connections with associates, but in time became more remote, disconnected, and stressed. After seven years working at the firm, when I shared with him that I had decided to leave, he confided that he envied my decision, but stated he could not quit his job because he had “too many responsibilities.” Sadly, I heard a few years later that he died from a heart attack at the age of 48.

Many lawyers identify as “achievers,” trained to be in control and power through work challenges, ignoring self-care. Susan Daicoff, a former attorney turned psychologist, writes about “the cognitive trap” of legal professionals. Thinking by itself cannot deal with emotions, tension, and nervous system dysregulation. Daicoff describes how thinking one’s way out of emotional distress creates a sense of helplessness—and then more stress, catastrophic thinking, pessimism and depressive thoughts that lead to maladaptive coping in the form of substance use or other addictive behaviors. Perfectionism and work overcommitment may be culturally valued for success, but they contribute to avoidance of overwhelm, tension, loneliness, and depressive thoughts and anxious feelings.

In a recent large study of attorneys<sup>2</sup> in California and Washington D.C., eighty percent (80%) reported that they were current drinkers (alcohol), and thirty percent (30%) of those who drank scored in the “hazardous” drinking range, with fifty percent (50%) who scored as “risky” drinking. Whether something is considered an addiction is a phenomenological assessment; what constitutes harm from substance use is an individual matter. However, a recent advisory by the Surgeon General reported research results confirming alcohol consumption (in even small amounts) is associated with increased risk for seven different types of cancers.<sup>3</sup>

Knowing how to self-regulate our nervous system and co-regulate others are crucial lawyering skills. For instance, our voice tone and pace, facial expressions, presence, and words create co-regulating cues of safety for our clients and colleagues. Feelings of safety and connection create the best conditions for clear thinking, focus, creativity, and


productivity. A few examples of emotional self-regulation balancing practices include breathwork, touch, being in nature, connecting with others and pets, playing, mindfulness and meditation, visualizations, singing, music, exercise, movement, dance, and journaling.

About fifteen years into my legal career, I moved to California and started a law firm (Ehrlich & Oaks). I eventually decided to begin a solo practice providing legal services as a workplace complaint investigator and conflict resolution consultant. I didn’t know at the time why I was becoming seriously ill, but eventually found out that it was environmental toxins, including black mold, in my external environment that caused my immune system to break down. However, my unskillfulness in navigating work stressors and changes also played a part in my dis-ease.

It was through my healing journey that I came to understand, study, and then become certified in a range of mind-body practices and professional competencies (what I refer to as *life laws* for *PROS*). I trained with professionals from around the world in various medicine, psychology,

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business, coaching, ancient wisdom practices, and wellness and well-being mind-body cosmologies.

Martin Seligman, a psychologist who first introduced Positive Psychology research to the psychology field, explains what post-traumatic growth means: “People who experience a crisis or trauma often emerge stronger and wiser than they were before because they have developed new coping strategies, perceptions, inner strengths, and connections and ways of thinking about and navigating the world.”

Seligman also studied lawyers specifically and wrote several articles about “Why Lawyers are Unhappy.”<sup>4</sup> He posits three main contributing factors for the “demoralizing” feelings and mental health issues of legal practitioners: 1) Pessimistic “explanatory style,” 2) Low decision latitude, and 3) Win-Loss game. He suggests strategies from the field of Positive Psychology that can help.

Seligman contends that the most stressful aspect of legal life is law as a “win-loss” game. Research confirms that win-loss systems create negative mindsets, feelings of loss of control and apathy, and chronic physical and mental stressors. He suggests that intentionally *living* our character strengths daily can buffer the stress caused by seeing our legal work only through a “win-loss” lens. Seligman and other researchers have studied human values by traveling the world to understand how virtues—and related character strengths play a part in life satisfaction across all cultures and are vital for both societal and individual flourishing.<sup>5</sup> (See **Living Your Character Strengths** exercise next page.)

As neurobiologist Robert Sapolsky notes—“behaviors

change biology.” We can influence our biology at the cellular and neurological level through what we think, feel, and do. Even in the most trying of external life circumstances, we always have “freedom to choose” our attitude and live our lives as worthwhile opportunities for growth and meaning.

Frankl writes in *Man’s Search for Meaning*, “It is a peculiarity of man that he can only live by looking to the future and this is his salvation in the most difficult moments of existence, although he sometime has to force his mind to the task. . . Man is given the opportunity to realize values in creative work. But there is also purpose in that life which is almost barren of both creation and enjoyment, and which admits but a possibility of higher moral behavior: namely in man’s attitude to his existence, an existence restricted by external forces. . . The point is not what we expect from life, but rather what life expects from us.”

Legal practice involves human suffering (sometimes our own); emotions are as much a part of law as thinking. Recognizing this, we must include emotional intelligence, relationship, and mind-body skills as part of our legal competencies. Practicing mindfulness *awareness* strategies and emotional self-regulation *balancing* skills that promote wellness and well-being help us *choose* our own way for building meaningful *connections* (inside and out) that support living and lawyering well. ■

*Robin Oaks has been an attorney for nearly four decades, and for twenty-five years has provided legal services focused on independent workplace investigations and mediations. For over two decades she has studied and become certified in a wide range of emotional intelligence, cognitive fitness, and mind-body healing practices especially useful for legal professionals and the stressors they face. She offers MCLE presentations, PROS training programs, witness well-being support, and individualized coaching sessions empowering legal professionals to thrive in livelihood and life. Contact: Robin@RobinOaks.com or 805-685-6773.*

### ENDNOTES

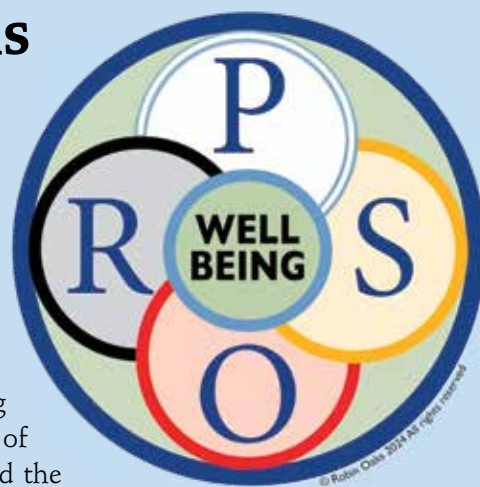
- 1 Freedom to Choose Project, <https://freedomtochooseproject.org/>
- 2 *Stress, Drink, Leave: An Examination of Gender-Specific Risk Factors for Mental Health Problems and Attrition Among Licensed Attorneys*, Justin Anker, Patrick R. Krill (2021)
- 3 <https://www.hhs.gov/surgeongeneral/reports-and-publications/alcohol-cancer/index.html>
- 4 *Why Lawyers are Unhappy* by Martin Seligman, et al., Volume 23, *Cardozo Law Review* (November 2001); *Authentic Happiness: Using the New Positive Psychology to Realize Your Potential for Lasting Fulfillment*, by Martin Seligman, chapter “Why Are Lawyers So Unhappy?”
- 5 Seligman, Steen, Park, & Peterson (2005)
- 6 <https://www.authentic-happiness.sas.upenn.edu/testcenter>



Robin Oaks

## Living Your Character Strengths (Virtues/Values in Action)

You can go to the UPENN's positive psychology "authentic happiness" site to take the VIA assessment survey<sup>6</sup> for a ranking score of your character strengths; however, regardless of what your score, your "signature strength" can be identified by choosing from the list below a character strengths that feels *most authentically you*—i.e., what is most enlivening for you to express in the world. Intentionally use your signature strength in a different way each day for one week. Create a simple chart keeping track of your actions. Try doing this exercise with others, and at the end of the week discuss what you've noticed. Consider delegating work around the understanding that applying one's strengths in life increases motivation, positive feelings, and productivity—and buffers against psychological distress.



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# AAML'S Free Trial Basics Seminar

BY GREG HERRING

Since 2015, the Southern California Chapter of the American Academy of Matrimonial Lawyers has annually presented a comprehensive **free** program, *Trial Basics Seminar*. *TBS* is geared toward family law lawyers with limited trial experience wanting to learn basic trial skills from the AAML's experts. We present *TBS* to reach out to our community, improve the skills of less-experienced family law lawyers and give back to our profession. At this point, we have taught nearly 1,500 attorneys!

*TBS* was originally presented as an "all live" event—limited to just 100 family law lawyers in a hotel conference room. During the pandemic, we switched to Zoom. Through that, we saw we could substantially expand our audience—including attorneys throughout the State. During the main seminar, our audience can still "stay close" by continually interacting with us *via* Zoom's "chat" and "Q&A" features.

We present *TBS* in two parts. The *main seminar* will be presented by Zoom all day on **Friday, April 4, 2025**. The companion live *Practicum* will be at UC Irvine all day on **Saturday, April 12, 2025**.

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ics range from motions *in limine*, opening statements, direct examinations, cross examinations, presentation of documentary and electronic evidence, expert witness considerations, closing arguments, and more.

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We recognize each family law case has different needs. We respect the availability of various alternative courses of resolution. But if a case cannot be settled, then the consequence is that the courts are there to decide the issues. Our job is to be prepared to expertly litigate those cases to their logical ends.

Anyone interested in attending *TBS* may register here: **[www.herringimmming.com/events](http://www.herringimmming.com/events)**.

Herring Imming was pleased to originally conceive and institute *TBS*. I am pleased to remain the event's ongoing Dean. Please feel free to contact me if you might have any questions or comments: Gregory W. Herring, Herring Imming LLP: 559 San Ysidro Road, Ste. G, Santa Barbara, California 93108; 805.983.6452 x100; gherring@herringimmming.com. Legal Administrator, Kristiné Kirschke, would also be glad to assist: kkirschke@herringimmming.com. ■

*Greg Herring is the ongoing Dean of TBS and is entering his 20<sup>th</sup> year as an AAML Fellow.*



Greg Herring

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Under AAA Rules

What you need to know about arbitration with the American Arbitration Association, from drafting effective clauses in contracts through to initiating cases and litigating under AAA rules. This highly informative program is aimed at both litigators and transactional lawyers. It will allow plenty of time for participants to ask questions and contribute their own perspectives.

**Speaker:**

**Stephanie Cubacha**

Stephanie Cubacha is a Director of ADR Services for the Commercial Division of the American Arbitration Association – International Centre for Dispute Resolution (AAA-ICDR) based in the Los Angeles Regional Office. In this role Stephanie administers large complex cases, assists with recruiting arbitrators and promotes the AAA-ICDR’s mission and vision through outreach and education. Prior to joining AAA, Stephanie practiced family and immigration law in the Chicagoland area. Stephanie received her B.A. from the University of California, Berkeley and a J.D. from the Benjamin N. Cardozo School of Law in New York.

**Moderators:**

Hon. Frank Ochoa (Ret.) and John Derrick

**Date:**

Thursday, March 20, 2025

**Time:**

12 noon

**Venue:**

Zoom

**MCLE:**

1 hour (general)

**Price:**

\$20

**To register and pay:**

[sblaw.org/events-mcles/](http://sblaw.org/events-mcles/)

**Questions:**

[jd@johnderrickADR.com](mailto:jd@johnderrickADR.com)

Santa Barbara County Bar Association  
Employment Law Section Presents:

2025 Employment Law Update

**When:**

March 12, 2025 from 12:00 P.M. – 1:15 P.M.

**Where:**

Colleges of Law - Santa Barbara Campus

**MCLE:**

1 Hour (General or Specialized type of credit) MCLE Credit

**Speaker(s):**

**Jared Speier, Stradling Yocca Carlson & Rauth LLP**

On March 12th, Stradling attorney Jared Speier will present a succinct update on major labor and employment developments thus far in 2025. During this one-hour presentation, Jared will discuss important decisions and administrative guidance regarding arbitration agreements, confidentiality and non-disparagement provisions, wage and hour issues as well as other areas of concern to employers and the attorneys representing them.

**Price:**

Members: \$35 Non-Members: \$40. Lunch will be provided.

**Contact Information/RSVP:**

Please RSVP by March 7<sup>th</sup> to: Alex Craigie, Esq., The Craigie Law Firm, PC, 1482 East Valley Road, Suite 511, Santa Barbara, CA 93108, [alex@craigielawfirm.com](mailto:alex@craigielawfirm.com) (805) 845-1752, or Marietta Jablonka [sblawdirector@sblaw.org](mailto:sblawdirector@sblaw.org).

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# Santa Barbara Lawyer

## SEEKS EDITORIAL SUBMISSIONS

Articles should be submitted in Word format, including a short biography of the author. A high resolution photo of the author is desired. Articles should be 700 to 3,500 words in length.

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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# 2025 AWARDS



Santa Barbara County Bar Association

# SBCBA

**THE SANTA BARBARA COUNTY BAR ASSOCIATION CALLS FOR NOMINATIONS FOR 2025 AWARDS FOR RECOGNITION OF OUTSTANDING ATTORNEYS, LAW FIRMS, AND JUDGES IN OUR COMMUNITY.**

## **RICHARD ABBE HUMANITARIAN AWARD**

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

## **JOHN T. RICKARD JUDICIAL SERVICE AWARD**

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

## **PRO BONO AWARD**

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

## **JAMIE FORREST RANEY MENTORSHIP AWARD**

This award honors an attorney or judicial officer who has made a significant difference in the careers of other legal professionals through ongoing mentorship regarding professional growth, principals of professionalism, ethics, and law practice management, as did the late Jamie Forrest Raney.

## **FRANK CRANDALL COMMUNITY SERVICE AWARD**

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

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

Please submit your nominations to Cassandra Glanville at [cassandra@apexfamilylaw.com](mailto:cassandra@apexfamilylaw.com) by July 31, 2025. Include specific facts to support the award's criteria for each nomination.

### ATTORNEY SOUGHT

The Legal Aid Foundation of Santa Barbara County seeks an enthusiastic and compassionate individual who will thrive serving low-income clients in a non-profit law firm. The Housing Staff Attorney will work as part of a team of two other housing attorneys to advise and represent low-income and senior tenants regarding eviction defense (unlawful detainers), landlord-tenant matters, fair housing, and more. This is a full-time (37.5 hrs) exempt position.

Responsibilities include but are not limited to the following range of duties: conducting client interviews, providing advice and counsel, representing clients at all stages of unlawful detainer litigation - including but limited to law and motion, settlement conference, trials, post-trial relief; updating and inputting information into case management system; working collaboratively with support staff; providing education and outreach efforts directed at community members and service providers; grant reporting, evaluation, and monitoring; and other duties as assigned.

Salary range of \$90,000 to \$118,088 depending on experience. Applications will be accepted and on a rolling basis until the position is filled. Please submit 1) resume and 2) a list of references to [personnel@lafsbcc.org](mailto:personnel@lafsbcc.org).

\*\*\*

### LITIGATION ASSOCIATE SOUGHT

Price, Postel & Parma, a long-standing law firm in Santa Barbara, is seeking a litigation associate with superior credentials, at least 3-4 years of significant litigation experience and a current license to practice in the State of California. This is an outstanding and unusual opportunity to practice law with experienced trial attorneys and swiftly move into position of significant responsibility in the Firm. Compensation is commensurate with skills, education and experience. A current license to practice in California is required. Salary range for qualified candidates is \$115,000 to \$225,000. Please submit a cover letter and resume detailing your experience to Craig Parton at [cparton@ppplaw.com](mailto:cparton@ppplaw.com).

\*\*\*

For information on classified advertising rates, or to submit a classified ad, contact Marietta Jablonka, SBCBA Executive Director, at (805) 569-5511 or [sblawdirector@sblaw.org](mailto:sblawdirector@sblaw.org)

## — BENCH AND BAR RELATIONS MEETING —

As Assistant Presiding Judge, the Honorable Von Deroian has scheduled a Bench & Bar Relations meeting to take place on:

**Thursday, March 13, 2025 at 12:15 PM**

**The meeting will be held IN-PERSON in the Figueroa Street conference room and via Zoom video conference. Please log-in to our website [sblaw.org](http://sblaw.org) for Zoom link at [sblaw.org/events-mcles](http://sblaw.org/events-mcles)**

These Bench & Bar Relations meetings provide a forum for local members of the Bar to engage in an informal dialogue with the Assistant Presiding Judge as a means of raising issues and concerns that may not be otherwise addressed. All attorneys and paralegals are welcome to attend.

If you have a question you would like the Court to address, please send them to Bench & Bar Relations Chair, Tom Foley at [tfoley@foleybezek.com](mailto:tfoley@foleybezek.com)



# SANTA BARBARA COUNTY BAR ASSOCIATION

## LAWYER REFERRAL SERVICE

For a modest yearly enrollment fee of \$275, The SBCBA Lawyer Referral Service (LRS) is one of the most effective ways to help your community AND increase your client base. Participating attorneys give back 10% of client fees to the program. In 2023 LRS referred cases generating over \$600k in attorney's fees.

LRS is a State Bar certified, non-profit, public service dedicated to helping members of the Santa Barbara community find the legal assistance they need. LRS callers are directed to attorneys or other community services that are most appropriate to assist.

For more information about how you can become a member of the Lawyer Referral Service panel of attorneys or to request an application, email Marietta Jablonka at [sblawdirector@sblaw.org](mailto:sblawdirector@sblaw.org) or call 805-569-5511.



## SBCBA SECTION CHAIRS

### Alternative Dispute Resolution

Judge Frank Ochoa (805) 451-1240  
[frankochoa@destinationadr.com](mailto:frankochoa@destinationadr.com)  
John Derrick (805) 284-1660  
[jd@johnderrickADR.com](mailto:jd@johnderrickADR.com)

### Bench & Bar Relations

Tom Foley (805) 962-9495  
[tfoley@foleybezek.com](mailto:tfoley@foleybezek.com)

### Civil Litigation

Lisa Petak (805) 420-6007  
[lpetak@fennemorelaw.com](mailto:lpetak@fennemorelaw.com)

### Criminal

Doug Ridley (805) 208-1866  
[doug@ridleydefense.com](mailto:doug@ridleydefense.com)

### Diversity & Inclusion

Teresa Martinez (805) 568-2950  
[tmartinez@co.santa-barbara.ca.us](mailto:tmartinez@co.santa-barbara.ca.us)

### Employment Law

Alex Craigie (805) 845-1752  
[alex@craigielawfirm.com](mailto:alex@craigielawfirm.com)

### Estate Planning/Probate

Lori Lewis (805) 966-1501 x267  
[llewis@mullenlaw.com](mailto:llewis@mullenlaw.com)

### Family Law

Renee Fairbanks (805) 845-1604  
[renee@reneefairbanks.com](mailto:renee@reneefairbanks.com)  
Marisa Beuoy (805) 965-5131  
[beuoy@g-tlaw.com](mailto:beuoy@g-tlaw.com)

### Mandatory Fee Arbitration

Eric Berg (805) 708-0748  
[eric@berglawgroup.com](mailto:eric@berglawgroup.com)

### In House Counsel/Corporate Law

Betty L. Jeppesen (805) 450-1789  
[jeppesenlaw@gmail.com](mailto:jeppesenlaw@gmail.com)

### Intellectual Property

Christine Kopitzke (805) 845-3434  
[ckopitzke@socalip.com](mailto:ckopitzke@socalip.com)

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Jake J. Glicker (805) 966-2440  
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*If you are interested in serving as a SBCBA Section Chair, please contact Marietta Jablonka, SBCBA Executive Director at (805) 569-5511 or [sblawdirector@sblaw.org](mailto:sblawdirector@sblaw.org)*

# March 2025

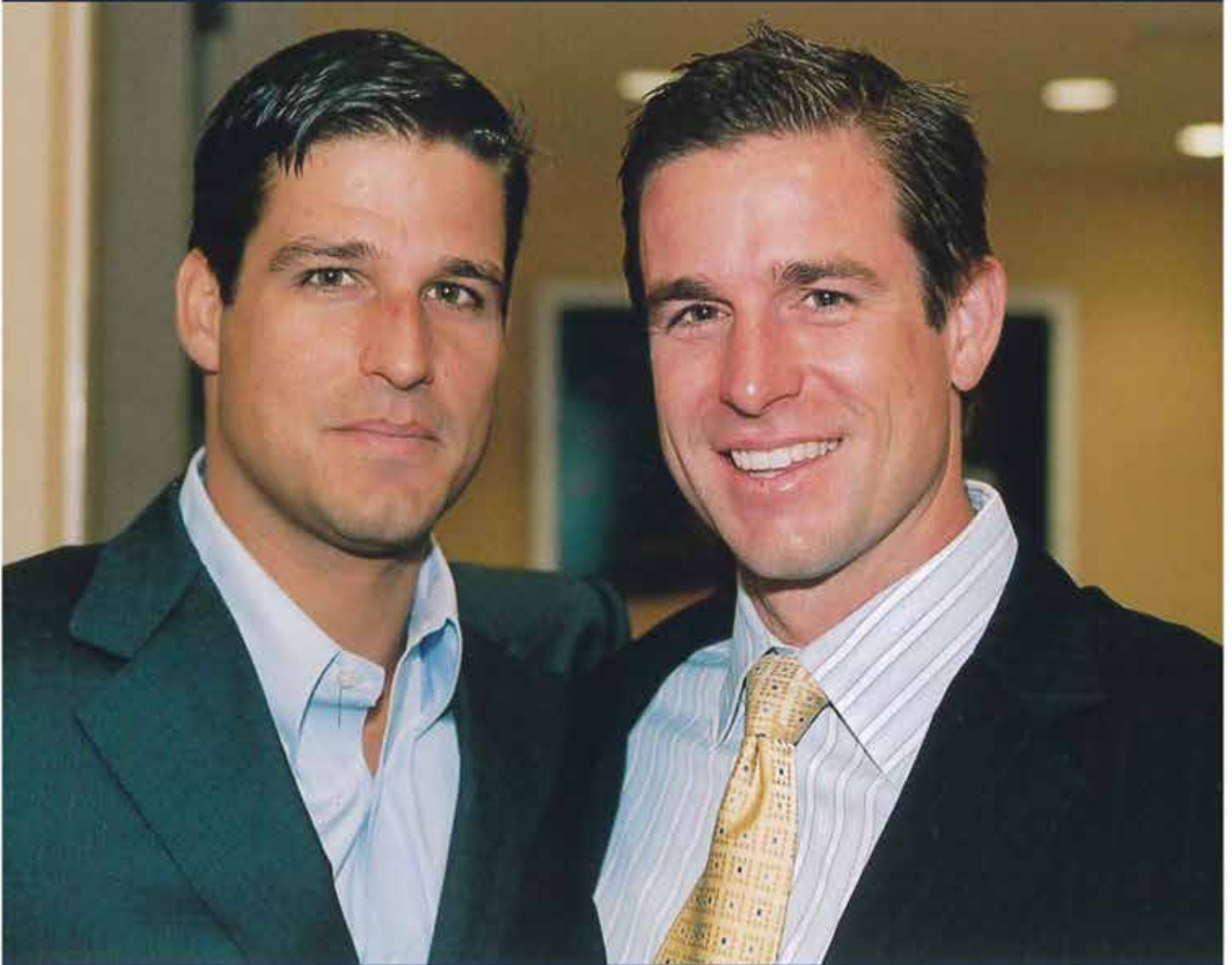


Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5 SBCBA Monthly Happy Hour	6	7	8
9 Daylight Savings Time Begins	10	11	12 SBCBA Presents: <b>MCLE</b> : 2025 Employment Law Update	13	14 Pi Day	15
16	17 St. Patrick's Day	18	19	20 SBCBA Presents: <b>MCLE</b> : AAA Arbitration	21	22
23	24	25	26 SBB & SBCBA Present: <b>MCLE</b> : Civility in the Legal Profession	27	28	29
30	31 Cesar Chavez Day					

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

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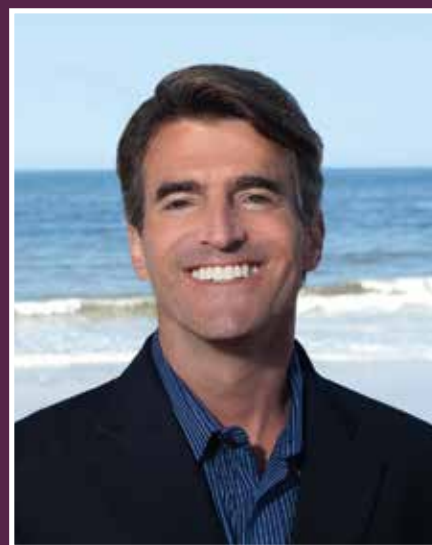
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