

Santa Barbara Lawyer

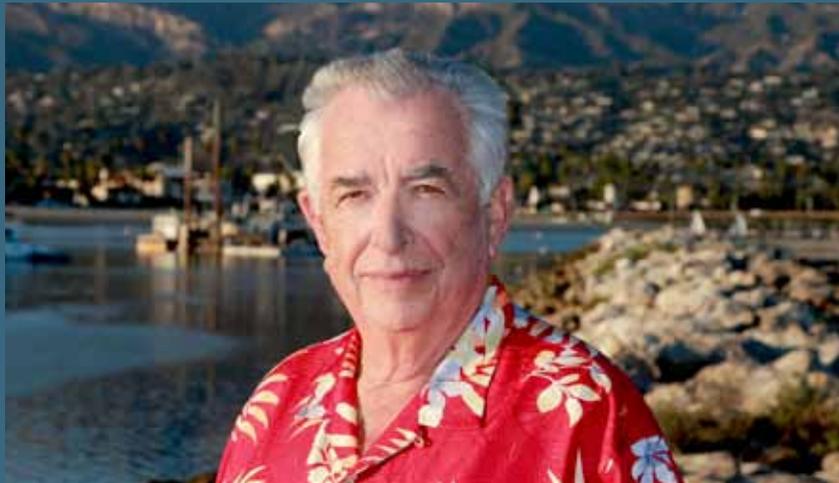
Official Publication of the Santa Barbara County Bar Association
February 2015 • Issue 509





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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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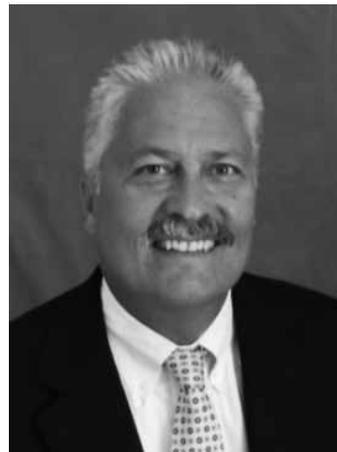
This month's cover features Honorable Ruggero J. Aldisert, who passed away on December 28, 2014, at the age of 95. Judge Aldisert is pictured at the October 2014 Santa Barbara County Bar Association annual dinner in the company of his colleagues and fellow members of the judiciary.

New Judges Announced

On December 12, 2014, Governor Brown's office issued a press release announcing the appointment of Gustavo E. Lavayen and Pauline Maxwell to judgeships in the Santa Barbara County Superior Court.

Lavayen has served as senior deputy county counsel in Santa Barbara County since 2013, having previously served in several positions, including chief deputy county counsel and deputy county counsel. Lavayen served as a deputy district attorney at the Santa Barbara County District Attorney's Office from 1985 to 1990 and was an attorney in private practice from 1984 to 1985. He earned a Juris Doctor degree from the University of California, Hastings College of the Law and a Bachelor of Arts degree from the University of California, Santa Barbara. He fills the vacancy created by the retirement of Judge James F. Iwasko.

Maxwell has served as a commissioner at the Santa Barbara County Superior Court since 2010, where she was a staff research attorney from 2006 to 2010. She was an adjunct professor at the Santa Barbara College of Law from 2007 to 2009, a senior litigation associate at Grokenberger



Gustavo E. Lavayen



Pauline Maxwell

and Smith from 2002 to 2006, in-house counsel at Tenet Healthcare from 2001 to 2002 and a litigation associate at Foley and Lardner from 1997 to 2001. Maxwell earned a Juris Doctor degree from the University of California, Los Angeles School of Law and a Bachelor of Arts degree from the University of California, Santa Barbara. She fills the vacancy created by the retirement of Judge Denise de Bellefeuille. ■



Santa Barbara
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Association

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President's Message

BY NAOMI DEWEY

My message this month is short, but I want to share two pieces of good news, and also, some sad news from the legal community.

First, the news from the California Economic Forecast, led by Santa Barbara's own Mark Schniepp, is good for the first time in a number of years. Many of us have already felt this with increased work from clients eager to expand businesses, set up new ventures and invest in real estate. According to Mr. Schniepp and his group of economists, consumer spending was up 8 percent between Black Friday and Christmas, oil prices and interest rates continue to fall, and the dollar is strong. Mr. Schniepp even goes so far as to predict a 65 percent chance of additional rainfall over the coming months, although I will defer to the meteorologists on that one, but I hope that you are all reaping the benefit of the improving economy as we struggle through the drought.

The second piece of good news stems from our court system. For many years, locally and statewide, the courts have struggled with decreased funding and increased caseloads. In Santa Barbara, strong leadership of the Superior Court has protected us to a degree, but we have still seen an impact in proposed court closures, reduced clerical hours and

significant cuts in staffing. I am a strong believer in the power of electronic case management as a tool to increase efficiency and cut costs, and over the coming months we will see new systems rolled out by the Court that promise exciting changes. In addition, the Court has been fortunate to receive a grant to fund work by consultant John Greacen, whom I met in January. Mr. Greacen will look at the roll-out of new software and help our court staff and Judicial Officers brainstorm ways to work smarter as we move further into the electronic age. He is consulting with representatives from throughout the legal community, and if you have feedback about ways in which our Court's administrative process could be improved, I am happy to share your input.

With good news often comes bad, and this month in *Santa Barbara Lawyer* we celebrate the lives of Judge Ruggero Aldisert, who swore me in as an attorney just eight years ago, and Christian Blasbichler, Managing Partner of Hager & Dowling, who died unexpectedly at the age of just 45. Both deaths are a reminder that we should live each day as if it were our last, focusing our professional and our personal lives on doing good in the world and improving the lives of those we touch. ■



Naomi Dewey



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In Memoriam — Honorable Ruggero J. Aldisert

The end of 2014 was a sad one for the extended legal family of Honorable Ruggero J. Aldisert, retired Senior U.S. Circuit Judge of the United States Court of Appeals for the Third Circuit. Judge Aldisert passed away on December 28 at the age of 95. His extended “legal family” includes approximately one hundred law clerks who had served over his years on the Bench in Pittsburgh, PA and Santa Barbara, CA, many of whom came together in Santa Barbara in October to celebrate his retirement.

In the October issue of *Santa Barbara Lawyer*, Judge Aldisert shared his thoughts on retirement, which he had elected only months earlier, after over fifty years on the Bench. Among those plans was his intention to charge ahead into a new career as a fiction writer that had begun last year with the publication of his novel, “Almost the Truth.”

The title of Judge Aldisert’s novel is ironic in that, for Judge Aldisert, there was no ‘almost’ to the truth; only the unvarnished, deeply studied and ethically based world of fact and law that he believed always led to the truth and, consequently, the right. As a jurist, scholar, teacher and man, the Judge – as his clerks called him – educated literally generations of judges, lawyers and legal scholars through

his opinions, his teaching, his many books and articles and his example.

In the close environment of chambers, the Judge’s law clerks had the privilege to learn from him through both the formal discipline of opinion writing and scholarship, and in casual daily interactions. For us, he was mentor, teacher, father figure and more. He generously shared with us the many stories of his fascinating life, and the lessons he had learned on his journey from small-town son of Italian immigrants, to serving as a Marine Corps officer during World War II, to becoming chief judge of one of the highest courts of the land and a world-renowned legal scholar. At the core of his teaching was respect for law, adherence to discipline and commitment to excellence. But, perhaps more importantly, he taught by example the importance of human values, of commitment to family, loyalty to friends, camaraderie with colleagues and empathy for others. Through it all, and despite the Marine Corps steel in his character, he always let his unique sense of humor shine through in his words and in the twinkle in his eyes. We will not forget those lessons. Nor will we forget how his entire family, particularly his wonderful wife Agatha, welcomed us into their fold.

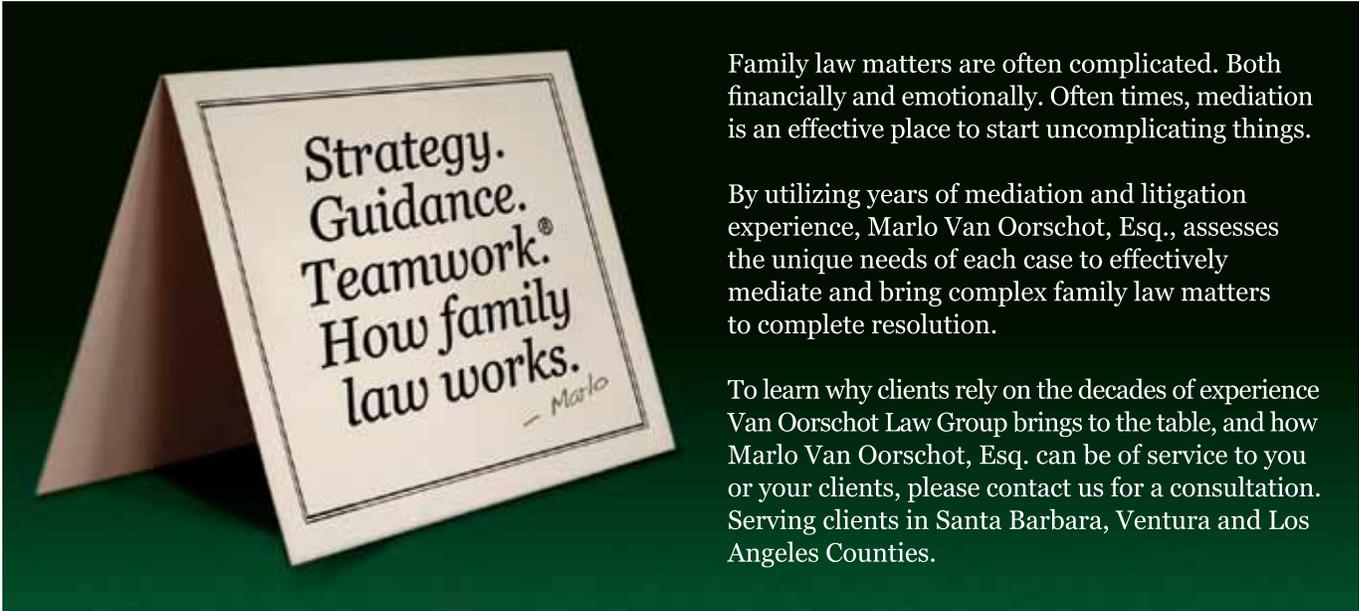
We love you Judge. You shaped us all and we hope that our lives and work have truly honored your memory. For we, along with your body of work, are your legacy. Thank you.

Humbly,

for the family of Aldisert Law Clerks,
Caitlin Larsen (Santa Barbara, CA, 1987-1989)
Eugene Schoon (Pittsburgh, PA, 1980-1982)

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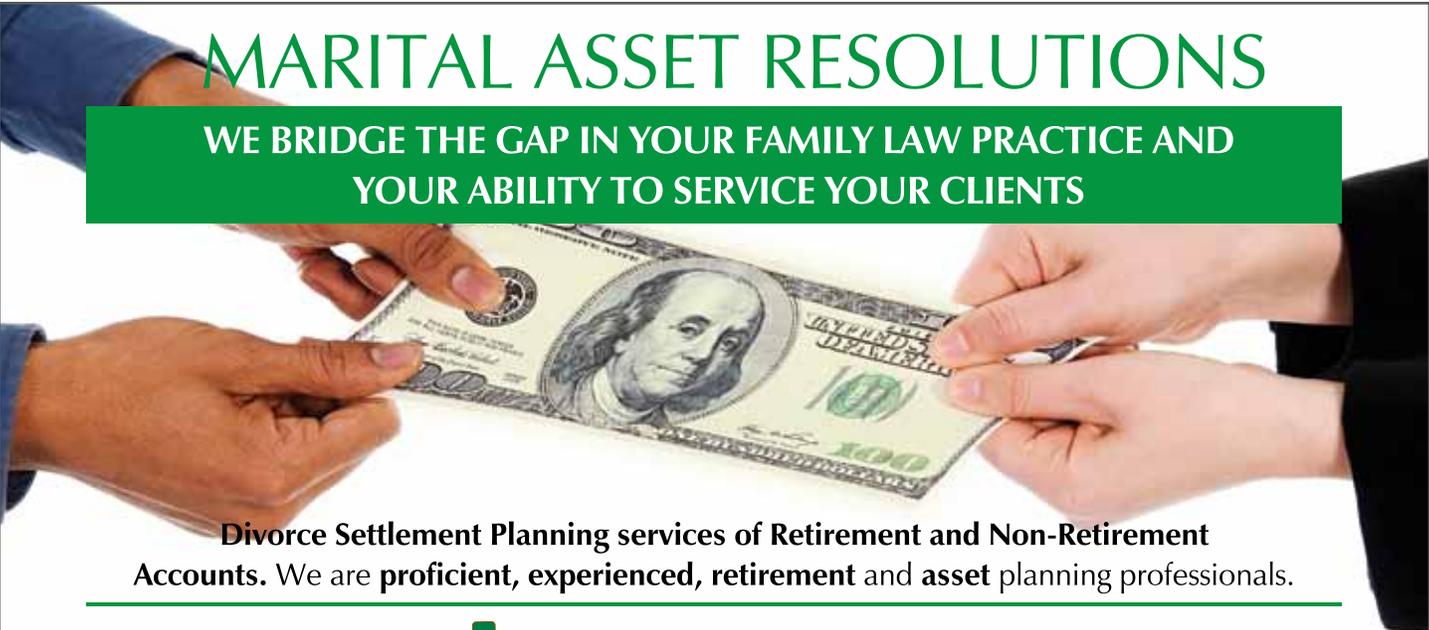
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The Esquire Issue: Sillious Maximus

By SUSAN H. MCCOLLUM

After graduating from law school, someone congratulated me on my entitlement to use the term “Esq.” after my name. I even had one person suggest that although I was entitled to use “Esq.” after graduating from law school, I could not use the term lawyer until being properly licensed by the State Bar. Being the rather trusting and perhaps gullible person that I am, I started using “Esq.” without question.

Soon, another person suggested to me that my use of the term “Esq.” following my name was inappropriate as it was a term specifically applying to the male gender. I finally did my own research, read an article or two and dropped the use of “Esq.” altogether. Now, when I see others use it, I tend to smile in amusement.

The dictionary definition of “esquire” states, “a title of courtesy placed after a man’s surname and corresponding more ceremoniously to ‘Mr.’: in the U.S., now used for lawyers, male and female.” Nevertheless, the history of the word persuaded me that its use is irrational and may be considered either degrading or pompous.

The term “esquire” is a middle English word. In modern English, one would say “squire.” The term is derived from the low Latin term for a shield bearer. A squire was the knight’s attendant and man at arms. The squire was required to carry the knight’s shield. Frequently, the squire had additional duties of caring for the horses, cleaning and oiling the armor, and maintaining the tack. This sounds like a job and title I do not want. It is menial and subservient, requires no intellect, and allows for no discretion or creativity.

An esquire was still a fairly clear concept in the early 15th century. It was someone who had trained to become a knight but had not yet become one; or someone who could, by reasons of descent and wealth, become a knight but had not. This tells me that an esquire was a “wannabe” knight. He had either failed in his attempt to accomplish it, was still trying to accomplish it, had decided not to accomplish it, or was too lazy to accomplish it. It connotes that knighthood, the real title of honor, was out of reach.

In the 17th century, “esquire” lost any connection whatso-

ever with knighthood. An esquire was a gentleman. It was essentially someone who lived like a gentleman from his landed income, engaged in certain typical pursuits, and was reputed to be a gentleman by his neighbors. Lineage, breeding, lifestyle, and income all counted to various degrees, no one factor being exclusively considered. No particular education was required.

In 1856, “esquire” was defined for American lawyers in the following manner:

A title applied by courtesy to officers of almost every description, to members of the bar, and others. No one [in the United States of America] is entitled to it by law, and, therefore, it confers, no distinction in law.

[The Bouvier Law Dictionary (6th Ed.) 1856.]

It interests me that some women feel compelled to put “Esq.” after their name as if to prove that the historically male term is unisex. Why would we want to use it? It confers no distinction. It is more confusing than any other descriptive term of our profession. Better descriptive terms include, J.D., L.L.M., attorney at law, lawyer, counselor and counselor at law.

The citizens of the United States seem to be fascinated by the Royal Family’s titillating exploits. Perhaps it is that same fascination which compels so many lawyers to cling desperately to “Esq.” as a remnant of feudal rank. When I see a letter from a lawyer using “Esq.” after their name, I wonder why they use it. I picture them cleaning up after the boss’s horse and smile. ■

Susan McCollum is a member of Hollister & Brace, where her practice focuses on estate planning, probate, and trust administration.



Susan H. McCollum

Have you renewed your membership in the Santa Barbara County Bar Association? If not, this will be your last issue of *Santa Barbara Lawyer!*

See page 6 for the 2015 SBCBA Renewal Application.

In Memoriam – Christian Blasbichler

March 22, 1969 – December 27, 2014

BY KRISTIN CALLAHAN FOR HAGER & DOWLING

On December 27, the Hager & Dowling family lost a leader and guiding light. Christian Blasbichler, a 6 foot, 5 inch athlete who biked to work, surfed every chance he had, and lived a healthy lifestyle, died suddenly. He had just finished a morning run while visiting his father in Florida. He sat down on a sun deck looking over the Gulf Coast with his two dogs and passed away.

Gregarious yet private, strong yet sensitive and softhearted, Christian set an example for all of us. Always ready to have fun and always willing to help, he did countless personal favors for his friends and colleagues. He never sought acclaim or recognition, and earned everything he ever had.

A veteran of the Gulf War, Christian served in the United States Navy before attending college at the University of Texas. He worked at the Federal Reserve, and achieved his MBA before attending Willamette University College of Law in Salem, Oregon. We were fortunate that he eventually chose our firm to pursue his competitive instincts in the practice of law.

Christian's activist approach to life carried him throughout his legal career to his last role as managing attorney at our firm. His people skills and willingness to cooperate with everyone earned him the respect of all who knew him. He treated opponents and clients with the same respect he gave all of us, and never sought an unfair advantage.

As a man, Christian was both the life of the party and a loner who felt at one with the ocean when he was on his board. He was everybody's friend, but never shied from debate. He was a prankster who entertained, and he could laugh at himself. All of us who knew him can see him laughing still, hopping on his bike, standing at his desk (he hated to sit), advocating for clients or sharing a drink. He will live in our memories and shine his light on us forever ■

“Fearless, intelligent, humble” – Kristin

“Intense on the outside, soft
on the inside.” – Blanca



“Charismatic”
– Jinny

“A man for all seasons.” – John

“Christian was incredibly sharp and could get me laughing like no other.”

– Brett

“Whenever I saw him, he would always make me smile.”

– Ellen



“Sensitive heart...
Philosophical and wise”

– Lindsey

“He had no care for material items; he was happy with the shirt on his back and the boards in his car.”

– Kristin

“Insightful, energetic, and trustworthy... I can’t begin to summarize what I learned from him.”

– Christine



Dan Henderson Retires, Honored by Colleagues

BY JOHN RICHARDS

On November 18, 2014, members of the Plaintiff's Bar and the Court attended a celebration of the retirement of iconic local defense attorney Daniel E. Henderson, III from the practice of law. The members of the Plaintiff's Bar presented Dan with a clock inscribed as follows:

"Congratulations on your retirement after an illustrious legal career. You are truly an outstanding trial attorney so we are also thankful for your retirement since you will not be on the other side of our cases. THANK YOU. THANK YOU. THANK YOU. Your legal colleagues."

The Honorable Colleen K. Sterne delivered the following remarks to commemorate Dan's retirement:

"I am honored by the request to make a few remarks on the occasion of Daniel E. Henderson III's retirement. He has been a good friend and colleague to me, and to many others. So it gives me great pleasure to be able to honor him as he turns his formidable energy and talent from the law to the far more pleasurable endeavors awaiting him in retirement.

When the request for my comments arrived, I was asked to 'regale you with some good Dan stories from the past' in the spirit of a *roast* if you will. Oh my. As you can imagine, because I was yoked to the dogsled with Dan for a dozen years, I know where a few of his bones are buried. And of course, Dan knows where a few of mine are buried, and believe me I have no desire for him to dig them up and gnaw on them in public. But there are so many stories that *may* be fit for public consumption. What to choose...

The bad faith case where the plaintiff pretended to be blind, and the fire that led to the claim in question mysteriously left no trace of metal objects behind, despite reimbursement requests for everything from a refrigerator to scuba tanks?

The years-long neighbor dispute case where folks nearly came to violence over the placement of a macramé owl?

The case of the creative farmer who kept stealing his own farm equipment, who was revealed in all of his larcenous glory by a small square of Polaroid film?

The cautionary tale of the Flying Cow? And so many more.

It is impossible choose; so in the interest of time I will leave you curious, and perhaps enlighten you concerning the details another time; but it is a fact that peculiar cases seemed to find their way to Dan, and this is no surprise. Dan's lively curiosity, his dogged persistence, his legal acumen and high standards have always made him an excellent choice for the client facing a difficult and unusual set of circumstances. As a principal beneficiary of his tutelage, I will leave roasting to others, and instead, *baste* Dan with affectionate homage.

I still remember how impressed (and, I must confess, a bit scared) I was when I met Dan for the first time. I was thirty years old, young but not a fragile naïf, but he made me feel like a puppy, for he was a big dog indeed. When I went into his office, he was sitting behind an enormous desk, and he scrutinized me critically over his professorial half glasses. He asked a lot of questions, and then proceeded to enumerate his performance requirements, which were daunting, and mostly involved being always available, flawlessly accurate in legal work and superhumanly productive. Finding out I had passed muster and would be allowed to take on the thankless task of junior associate, I felt like wagging my tail. As plaintiff counsel here can doubtless attest, Dan is capable of a rather legendary ferocity that can deliver blows that you may not see coming, but that will be administered with the utmost civility and politeness. He can slay a weaseling witness with a glance. But what I quickly learned was that within his own pack, Dan was a whole lot more bark than bite, and a person of great generosity and kindness when the chips were down. He has a great sense of humor, and I was fortunate that for some reason we find the same things funny, which saved my bacon more than once.

To say I learned most of what I know about the law and being a lawyer from Dan is a gross understatement. He is an insightful legal scholar, an able, thorough and accurate technician, and a truly (and to me delightfully) wily strategist. He views his moral and ethical obligations with old school seriousness. He shared his knowledge in all of these areas through direct instruction and example, and I am glad to have been a recipient of this largesse. But he also taught me many life lessons, and among those are three that are career shaping:

First: you must fully engage and participate and give 110% to succeed. You can't rest on your laurels, or expect the future to come to you. You have to tolerate a certain amount of risk, and you have to learn to lead effectively. Dan was a demanding colleague, who set high standards for himself and had high expectation of others. Dan allowed those he mentored, including me, to prove themselves in

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sink or swim situations, which may seem harsh to some, but was in fact a huge gift. From him I learned how to get out there and mix it up with other packs, and even the meanest strays in

the junkyard. With a smile.

Second: If you are unwilling to embrace change, take risks, and find a way to take charge of your own fate, you may succeed as a follower, but

you will never be the leader of the pack. You have to find your own path. Dan was supportive of my efforts as I transitioned my practice to ADR, and the separation of our collegial efforts was a comfortable and hopeful one. He counseled me, as he did others, to make changes that would result in growth, and I give his encouragement significant credit for my ultimate appointment to the bench.

Third: He provides a great example this evening, poised on the brink of retirement. Dan and I were an effective team because of our shared inclination to workaholicism, and pride in imperviousness to pain. But there comes a time when it is fit and right to step back, and enjoy the fruits of a long and illustrious career, at a point when one still has the wherewithal to get into some mischief.

Of course, retirement will require a costume change from the lawyer uniform of suit and tie. As a token of my affection and esteem, I present to Dan three items from Big Dog Sportswear to add to his retirement collection of leisure wear, each of which bears a reminder of one of his three major life lessons to us all: (1) if you can't run with the big dogs, stay on the porch; (2) unless you are the lead dog, the scenery never changes; and finally (3) you deserve relaxation on your dog day afternoon. Thank you, Dan." ■

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Friends and colleagues gather to celebrate Dan Henderson's legal career.

Renee J. Nordstrand Receives Santa Barbara Women Lawyers' Attorney of the Year Award

BY EMILY ALLEN

On December 8, 2014, Santa Barbara Women Lawyers awarded Renee J. Nordstrand the prestigious Deborah M. Talmage Attorney of the Year Award. Helene Schneider, Major of the City of Santa Barbara, Janet Wolf, Second District Supervisor of the County of Santa Barbara, as well as representatives from the office of Senator Hannah-Beth Jackson, Congresswoman Lois Capps, and Assembly Member Das Williams presented Ms. Nordstrand with certificates of recognition of her achievements. This award annually honors an outstanding legal professional who is dedicated to the advancement and success of women, mentors her colleagues and other women, personifies professional excellence and commitment to the highest level of ethics, has shown a commitment to the community, and has achieved professional excellence. Renee Nordstrand is in private practice at the Law Office of Renee Nordstrand, where her trial practice emphasizes personal injury and criminal defense. ■



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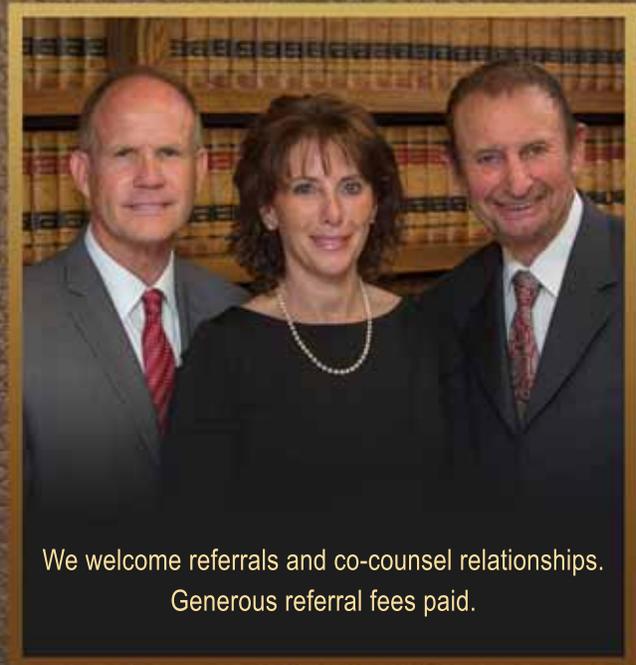
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Get to Know...



Joyce Dudley

Each month we will be asking a different lawyer to answer part of the "Proust Questionnaire," a list of thirty-five questions made famous by the canonical French author, Marcel Proust. This month's participant is Santa Barbara County District Attorney Joyce Dudley

1. What is your idea of perfect happiness?

Outdoor time with my family.

2. What is your greatest fear?

That something will happen to one of my children or grandchild.

3. Which living person do you most admire?

Anyone who is being kind.

4. What is your greatest extravagance?

Massages.

5. What is your current state of mind?

Very happy.

6. Which words or phrases do you most overuse?

Gorgeous.

7. What or who is the greatest love of your life?

My family.

8. When and where were you happiest?

Surrounded by quaking Aspen in Colorado.

9. Which talent would you most like to have?

To be able to paint.

10. What do you consider your greatest achievement?

My adult children followed by my career.

11. Where would you most like to live?

Santa Barbara.

12. What is your most treasured possession?

My energy.

13. What is your most marked characteristic?

Caring.

14. What do you most value in your friends?

Honesty and intelligence.

15. Who are your favorite writers?

William Goldman.

16. Who is your hero of fiction?

Wonder Woman.

17. Who are your heroes in real life?

Those who work in public health & safety.

18. Which historical figure do you most identify with?

Golda Meir.

19. What is it that you most dislike?

Injustice.

20. What is your motto?

Be kind.

If there is someone you would like to nominate for the Proust Questionnaire please email us at sblawyermagazine@gmail.com.

New Criminal Laws for California

BY ROBERT SANGER

Here we are again with a collection of over 900 new laws that were enacted last year. Most of them took effect on January 1, 2015. Some were effective immediately upon signing by the Governor as urgency legislation or as the result of a ballot initiative. Others are phased in with effective dates later in the year.

This month's *Criminal Justice* column will look at a few of the new laws (or sets of laws) affecting criminal practice in detail and then give mention to a few others. Unfortunately, as practitioners, there is no shortcut to reading the statutes themselves.

The Big News

Proposition 47 has had the biggest effect on the criminal law landscape this year. It was effective when the election results were certified.¹ Essentially, Proposition 47 reduces many crimes from the status of felonies or alternate felony misdemeanors (wobblers) to straight misdemeanors. These include drug offenses and property crimes such as thefts, forgeries, bad checks and the like if the value was less than \$950 as well as drug possession offenses. There are exceptions.

Most of these offenses are ultimately resolved as misdemeanors anyway, but are often filed as felonies. Felonies require preliminary hearings and, of course, have much more serious consequences. The cases are often filed as felonies in order to encourage a defendant to participate in a diversion or other drug program such as "Prop 36" or drug court. However, all the trappings of felonies in the meantime have other consequences such as increased bail or pre-trial incarceration, court expense, expense of counsel (either appointed or retained), and court congestion.

The practical effect of Proposition 47 is that bail bonds are not required as often, felony arraignments are down and, quite frankly, there is less busy work for district attorneys and defense lawyers – at least as to cases pending at the time of the election. This has caused bonds agents to

be concerned about their bottom line and lawyers who have cultivated (so to speak) a "drug" practice to consider moving to family law or some other pursuits.

There are also mechanisms to reduce existing cases to misdemeanors where the defendant was convicted of a covered felony and meets the other criteria.² There are unresolved questions about some issues, such as whether a plea bargained felony, where other charges were dismissed, can be automatically reduced. Oddly, there is no provision in Proposition 47 regarding people on probation or people adjudicated in juvenile court, but they should be entitled to relief. All of these things will be resolved in the appellate courts.



Robert Sanger

Proposition 47 has had the biggest effect on the criminal law landscape this year.

After this flurry of litigation subsides, there should be substantial savings for the criminal justice system. The jail has actually had no floor sleepers, for instance, for an extended period of time. This has not been the case for the years that we have been litigating the jail overcrowding case in Santa Barbara. This is attributable, at least in part, to the fact that they are not housing people who would otherwise

be pre-trial drug defendants were it not for Proposition 47.

Aftermath of the Isla Vista Tragedy and Firearms

Although it is not a statute imposing criminal sanctions, a new law (SB 505) was enacted that requires law enforcement agencies to encourage their officers to run gun ownership records when conducting welfare checks. "Check the welfare" calls are common occurrences for patrol officers. They may be instigated by a concerned relative, a neighbor or a passer by. Often they are unfounded but sometimes they find a person in need or even, for instance, an elderly person who may be in medical crisis or have even passed away.

They also can be problematic. Calls are sometimes initiated by people who have their own agenda and intend to harass the subject of the call. Such calls can also be a way for a family member to pass the "problem" on to the police

Criminal Justice

without really explaining the seriousness of that person's conduct.

Senator Hannah Beth Jackson introduced the legislation which requires law enforcement to create policies to encourage a peace officer, prior to conducting the welfare check and whenever possible and reasonable, as specified, to conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System to determine whether the person is the registered owner of a firearm.

In addition, effective January 1, 2016, AB 1014 (amending various Penal Code Sections) will authorize a court to issue a temporary emergency gun violence restraining order if a law enforcement officer asserts and a judicial officer finds that there is reasonable cause to believe that the subject of the petition poses an immediate and present danger of causing personal injury to himself, herself, or another by having a firearm.

Of course, there is still the issue of what, if anything, police officers can do if they find that a person has registered, or unregistered, firearms if they cannot make the required showing or cannot place the subject under a 72-hour hold. Aside from issues about "gun rights" or privacy, there is just a practical limitation on the intrusion of law enforcement into a person's affairs where there is no probable cause.

AB 1609 also added Penal Code Section 27585 that creates new felonies and misdemeanors if a person brings a firearm into the state that was purchased elsewhere. Now, it is required that firearms purchased or obtained outside the state be delivered to a California dealer for delivery to the resident.

364 Days Does Not a Year Make

Any misdemeanor in which a person is sentenced to 365 days in jail is con-



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sidered an "aggravated felony" for federal immigration purposes. Criminal practitioners know this and attempt to avoid such a sentence for anyone who is not a citizen of the United States. Nevertheless, there have been many cases where the prosecutor insisted on the full year and an uninformed defendant accepted such a sentence.

To avoid this unfair categorization of a California misdemeanor as an aggravated felony, SB 1310 adds Penal Code Section 18.5 to say that any law establishing a penalty of one year in the county jail shall be punishable by imprisonment for a period not to exceed 364 days.

Prison and Jail Reform

There were several new laws affecting prison rehabilitation, split sentences in the county jails, custody alternatives, sentence reductions and custody credits. We cannot go into the details here but practitioners will need to learn the details in the ever more complicated area of sentencing. For the broader discussion, suffice it to say that there has been a concern in the legislature to try to reduce unnecessary prison and jail population and to deal with the causes of recidivism. There is still much to be done, but the 2014 legislative year has gotten off to a good start.

And the Rest

A sampling of the remaining new laws includes those relating to government and public safety computers (AB 1649), revenge pornography (SB 1255), nitrous oxide (AB1735), DUI (AB 2690), human trafficking (AB 2747), drivers licenses for undocumented immigrants (AB 60), lying to transit personnel (SB 1236), using electronic devices while on a jury (AB 2683), and truancy (SB 1296). There are also various procedural changes in trial and appellate practice. As usual, criminal practitioners need to hit the books. ■

Robert Sanger is a Certified Criminal Law Specialist and has been practicing as a criminal defense lawyer in Santa Barbara for over 40 years. He is a partner in the firm of Sanger Swysen & Dunkle. Mr. Sanger is Past President of California Attorneys for Criminal Justice (CACJ), the statewide criminal defense lawyers' organization. He is a Director of Death Penalty Focus. Mr. Sanger is a Member of the ABA Criminal Justice Sentencing Committee and the NACDL Death Penalty Committee. He is a Member of the American Association for the Advancement of Science (AAAS). Mr. Sanger is also a member of the Jurisprudence Section of the American Academy of Forensic Sciences (AAFS).

ENDNOTES

- 1 Although there were initially some issues regarding the date that the election results were certified, the effective date is November 4, 2014, for most practical purposes.
- 2 For instance, reductions are not available to people who have a prior conviction for the offenses listed in Penal Code §667(e)(2)(C) (iv) or an offense requiring registration under Penal Code §290(c).

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2015 Brings New Rule Amendments and Form Revisions

BY BARBARA LISS

New and revised Judicial Council forms went into effect January 1, 2015. The Judicial Council has listed the new and revised forms for 2015, which are now available for download, and has also posted summaries of new rule amendments. Rule amendments include changes to mandatory and optional forms, domestic partnerships, service and filing of briefs, extending the time to appeal, and much more. The list of new rules and the Judicial Council's summaries can be found online at:

http://www.courts.ca.gov/documents/2015-01-01_Rules_doc.pdf

http://www.courts.ca.gov/documents/2015-01-01_rules_from_Dec_mtg.pdf

The Judicial Council also approved 2015 Legislative Priorities, which include new investment in the court system, more judgeships, and legislation to expand access to interpreters. See more at <http://www.courts.ca.gov/28192.htm#sthash.cItCZ0aU.dpuf>

The new year has also brought changes at various state courts. Alameda County Superior Court temporarily extended their customer service hours in the Civil Department back in October. The pilot program was so successful, the court made the decision to make the extended service hours permanent. Effective January 5, 2015, the Civil Department as well as the Criminal, Juvenile, Family Law and Appeals clerk's offices will remain open until 4:30 p.m. The court will not, however, be increasing its staff. It will operate with 25% fewer employees in 2015 than it did five years ago.

The court also temporarily suspended fees for Motions in Limine effective January 5. The Judicial Council will be discussing the collection of this filing fee in the upcoming months. Alameda County Superior Court will be participating in these discussions designed to determine whether or not it will reinstate filing fees for Motions in Limine.

Mono County Superior Court announced that effective January 16, 2015, the Mammoth Lakes courthouse would implement furlough days as well as reduced operating hours. The new hours are Monday, Wednesday and Friday from 8:30 a.m. - 12:30 p.m. and Tuesday and Thursday from 12:00 p.m. - 4:00 p.m. The furlough days are as follows:

January 9th, 16th, & 30th
February 13th & 20th
March 12th & 13th
April 3rd & 24th
May 12th & 22nd
June 5th & 26th



Barbara Liss

In Sacramento, the Court of Appeal, Third Appellate District, has announced its intention to destroy certain records in accordance with the California Rules of Court, Rule 10.1028(d). The records to be destroyed include civil case numbers C028002 to C031997. If anyone knows of a reason why a particular case, among the above numbered cases, should be retained, they must notify the court, in writing, setting forth in detail the reason(s) for retention.

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See more at: <http://www.courts.ca.gov/28302.htm#sthash.L8fTUap8.dpuf>

Finally, the new local forms and rules in Santa Barbara County are available online at <http://www.sbcourts.org/ff/local-rules-proposed.shtm> ■

Barbara Liss is a Probate Paralegal to Christopher C. Jones and is the 2015 Bar Liaison from the Santa Barbara Paralegal Association.

Superior Court Receives State Justice Institute Grant

BY DARREL E. PARKER

The Santa Barbara Superior Court recently received a grant through the State Justice Institute (“SJI”) to hire a case and calendar management consultant. In July of 2014, the Court applied to SJI, indicating that the introduction of a new case management system was an opportunity to review the work of the Court. The application cited three goals of the endeavor: (1) produce meaningful caseload statistics so the Court could better measure the pace of litigation; (2) review the organization of the court’s calendars to ensure it is organized as efficiently and effectively as possible; and (3) review workflow in the clerk’s office to ensure that resources are consistent and aligned as effectively as possible.

The consultant hired by the Court is John Greacen. Mr. Greacen is a graduate of Princeton University and has a J.D. from the University Of Arizona College Of Law. He is a nationally recognized leader in court administration, court automation and electronic filing, court performance measurement, customer service enhancement, and innovation. He received the Award of Merit from the National Association for Court management in 1999 for lifetime contributions to court innovation and administration. Mr. Greacen has served in executive roles in both the federal and state court systems, in both trial and appellate courts, and has led a variety of successful court re-engineering efforts. He has held major leadership positions in national court administration organizations and bar associations. Mr. Greacen has published on a variety of legal and court administration topics and regularly speaks and teaches on these issues.

The SJI was established by federal law in 1984 to award grants to improve the quality of justice in state courts, facilitate better coordination between state and federal courts, and foster innovative, efficient solutions to common issues faced by all courts. The grant requires a local match of funds, most of which can be in the form of staff time contributed to the grant’s objectives.

Mr. Greacen will visit the court on five occasions in 2015. His work is scheduled to conclude in May. He began his

work in Santa Barbara on January 5th, when he met with the Public Defender, Rai Montes de Oca, and thereafter with Gordon Auchincloss of the District Attorney’s Office. His work included observations of court calendars in session. He began in the arraignment court and then observed the preliminary hearing court. He then met with the Court’s Family Law Facilitator, Debora Mullin, and the representatives of the South County Conflict Defense Team, including Doug Hayes and Bill Duvall. He concluded his second day in Santa Barbara by observing the juvenile court in operation and speaking with Jason Dominguez, Executive Director of Legal Aid. He began Wednesday by observing the specialty courts in operation. Later that day, he met with Sheriff Brown and members of his staff, as well as Maureen Grattan regarding family law matters, and then with the Assistant Director of the Department of Child Support Services.

On Thursday and Friday, Mr. Greacen traveled to North County, where he observed Judge Timothy Staffel’s courtroom and also met with Assistant Presiding Judge Patricia Kelly and Judge James Rigali. The North County Judges’ Meeting included Mr. Greacen as a way of introducing him to the remainder of the bench there. He also spent time in Lompoc with Judge James Voysey and at the Solvang Courthouse. Friday included meetings with Chief Deputy District Attorney Mag Nicola and Assistant Public Defenders Robert Ikola and Geo Giavanni. He visited Judge Beebe’s small claims calendar and ended the day meeting with Northern Santa Barbara County Bar Association President Cynthia Valenzuela and North County Conflict Defense Team representatives Michael Scott and David Bixby.

Court staff are arranging for Mr. Greacen’s next visit which will delve into the operation of the various calendars with greater depth. Mr. Greacen’s schedule will include discussions with more of the Superior Court Bench in addition to members of the legal community in Santa Barbara County.

This is the first time the court has engaged the services of an outside consultant to review the work of the court to assist the organization in determining how to best use limited resources. Where inconsistencies in practices and procedures can be eliminated, all participants in the justice system should benefit. Armed with effective caseload and calendar information, the Court should be positioned to more effectively monitor the pace of litigation in Santa Barbara County. ■

If you have questions or comments regarding this project or would like to be considered for a meeting on future visits by Mr. Greacen please contact Court Executive Officer, Darrel E. Parker at dparker@sbcourts.org or by telephone at 805-614-6594.

Verdicts and Decisions

Lopez v. Boone St. Market, Inc.

SANTA BARBARA SUPERIOR COURT, COOK DIVISION

CASE NUMBER:	1458343
TYPE OF CASE:	Personal injury (trip and fall)
TYPE OF PROCEEDING:	Jury trial
JUDGE:	Hon. Jed Beebe
LENGTH OF TRIAL:	10 court days
LENGTH OF DELIBERATIONS:	~5 hours
DATE OF VERDICT OR DECISION:	December 2, 2014
PLAINTIFFS:	Moises Lopez and Gorgonia Lopez
PLAINTIFFS' COUNSEL:	Greg Coates & Tana Coates of Coates & Coates LLP
DEFENDANT:	Boone St. Market, Inc.
DEFENDANT'S COUNSEL:	David K. Dorenfeld and Michael W. Brown of Snyder Dorenfeld, LLP

FACTS AND CONTENTIONS: Plaintiff tripped and fell in a mini-market, resulting in a fractured right hip. Plaintiff alleged the fall led to surgery, which led to rehabilitation, which led to immobility, which led to an ulcer on his left big toe, which eventually resulted in an amputation of his left leg.

It was undisputed that Plaintiff was making a very good recovery after the fall, until the ulcer, vascular surgery, and amputation.

Defendant alleged, illustrated both through medical records from treating physicians and testimony from both treating physicians and experts, that the subject ulcer was *ischemic* in nature, caused by lack of blood flow and long-standing vascular disease. Ischemic ulcers are not caused by immobility and therefore the subject ulcer had nothing to do with the fall in the mini-market.

SUMMARY OF CLAIMED DAMAGES: The parties stipulated that the Plaintiff fell in an aisle of the liquor store and that the fall resulted in a broken hip. They also stipulated to medical specials of \$29,577.22 for care related to the hip and that *if* the amputation were related, the total medical specials were approximately \$107,000. Plaintiff also sought (but the Defendants did not stipulate to) approximately \$264,000 for care provided by family members and approximately \$500,000 for future medical care, based on a life-care plan and a life expectancy of four years. Plaintiff asked the jury for a total verdict between \$2,800,000 and \$5,600,000.

RESULT: The jury found negligence and awarded Plaintiff a total of \$76,577.22 (\$29,577.22 for past medical specials for the broken hip, \$7,000 for future medical specials, \$20,000 for past pain and suffering, and \$20,000 for future pain and suffering). The jury awarded zero for past and future economic loss and zero for Plaintiff's wife's loss of consortium claim.

Reese v. Mingramm

SANTA BARBARA SUPERIOR COURT, ANACAPA DIVISION

CASE NUMBER: 1417193
 TYPE OF CASE: Auto v. Auto
 TYPE OF PROCEEDING: Jury Trial
 JUDGE: Hon. Thomas P. Anderle
 LENGTH OF TRIAL: 3.5 days
 LENGTH OF DELIBERATIONS: 6 hours
 DATE OF VERDICT OR DECISION: September 30, 2014
 PLAINTIFF: Vicky Reese
 PLAINTIFF'S COUNSEL: Bradford D. Brown of the Law Offices of Bradford D. Brown, APC
 DEFENDANT: Sergio Mingramm
 DEFENDANT'S COUNSEL: Charles Wessler, Allstate House Counsel

OVERVIEW OF CASE: On August 30, 2011, Plaintiff and Defendant were in a T-Bone collision in an intersection in Santa Barbara. Plaintiff asserted she sustained a neck injury and urinary frequency. Defendant denied liability until the day of trial, when he admitted liability. Defendant claimed Plaintiff sustained only soft tissue injuries (muscle spasms) and no urinary frequency.

FACTS AND CONTENTIONS: On August 30, 2011 Plaintiff, a 45-year-old female, was traveling southbound on Anacapa Street at 25 mph, and Defendant was traveling eastbound on East Carrillo Street at 25 mph. Plaintiff entered the intersection on a green light. Defendant claimed he also had a green light. However, an independent witness claimed Defendant ran the light. The front of Plaintiff's vehicle impacted the left side of Defendant's vehicle. Defendant admitted liability at the time of trial.

Plaintiff sustained injuries to her neck and abdomen. Plaintiff was transferred from the scene via ambulance and taken to Santa Barbara Cottage Hospital where she was admitted overnight for observation for abdominal trauma. A CT Scan of the abdomen was positive for a possible mesentery tear around the small bowel. There was no injury to the bladder. Plaintiff experienced the onset of urinary frequency on the date of the accident. This problem has bothered Plaintiff since the accident, interrupting her daily living and sleep, but she failed to treat it until two and a half years after the accident. Plaintiff developed neck pain over the evening and while still in the hospital, so CT Scans of the brain and neck were performed the following day (which were negative for signs of trauma). Plaintiff was discharged the day following the accident. Plaintiff received chiropractic care for months following the accident, interspersed with massage therapy since the date of the accident.

Defendant claimed Plaintiff had pre-existing neck pain from degenerative disc disease, and that her injuries from the automobile accident were muscle spasms and should have resolved within three months of the accident. Furthermore, Defendant claimed that Plaintiff's urinary frequency was caused by uterine fibroids and not the accident.

SUMMARY OF CLAIMED DAMAGES: Plaintiff sought past medical specials in the amount of \$30,000 and future medical specials of \$55,000 to \$65,000.

RESULT: The jury awarded Plaintiff a total of \$538,000 (past medical specials of \$30,000 (12-0), future medical specials of \$38,000 (12-0), past general damages of \$90,000 (11-1), and future general damages of \$380,000 (9-3)). Plaintiff's counsel notes that this was the largest personal injury verdict in Santa Barbara County in 2014. Plaintiff also recovered costs, including expert expenses, and has a pending motion for attorney's fees.

SAVE THE DATE!

2015 High School Mock Trial Competition Call for Scorers

Disclosure: This activity may endanger your misanthrope card. These are our county's kids working hard on something besides Twitter. Come. Score. Be dazzled.

Donna Lewis, Past President, SBCBA

Volunteer scorers are needed to help make this an effective competition and a rewarding experience for our local high school students. Interested attorneys, paralegals and legal professionals are invited to apply now to serve as scorers. The participating schools this year are Cabrillo, Carpinteria, Dos Pueblos, Laguna Blanca, Pioneer Valley, San Marcos, Santa Barbara, Santa Maria and Santa Ynez Valley Union.

The competition is always impressive. It is sponsored by The Constitutional Rights Foundation, the Santa Barbara County Education Office and the Santa Barbara County Superior Court.

When: Preliminary Rounds: Saturday, February 21st
Semi-Finals and Finals: Saturday, February 28th
Both days feature a morning and afternoon session.

Where: 1100 Anacapa Street (courthouse) in Santa Barbara

There will be a free one hour MCLE training tentatively scheduled for noon on February 18th and 5 p.m. on February 19th. Training is required to score. Scorers are expected to review the material before the training session.

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

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Speaker:

Herb Fox, Esq. (CALS)

Herb Fox has 27 years of appellate law experience as a former Research Attorney at the Court of Appeal and as a Certified Appellate Law Specialist. Herb has been attorney-of-record in over 200 appeals, and frequently consults with trial attorneys about creating and preserving their appellate records. He handles appeals throughout California, and is the Treasurer of the Los Angeles County Bar Association's Appellate Courts Section.

Date and Time

Wednesday, February 25th, 12 to 1:00 pm

Location

Santa Barbara College of Law, Room 1, 20 East Victoria Street, Santa Barbara

Reservations

Reserve via email to Mark Coffin,
Chair of Litigation Section, by Friday, February 13th, at
mtc@markcoffinlaw.com

Cost and Payment

\$35 members, \$40 non-members (includes lunch)

Mail checks by Friday, February 13th, payable to:

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Reicker, Pfau, Pyle & McRoy is proud to announce that Robert B. Forouzandeh has become a partner in the firm as of January 2015. Robert will continue his practice in the areas of business, real estate and employment litigation and counseling clients on effective litigation prevention strategies. He also serves as



outside general counsel for small and medium-sized businesses including the largest restaurant and nightclub group in Santa Barbara, the largest parking and valet provider in Santa Barbara and other locally owned companies.

Robert received his B.A. in Political Science from the University of California at San Diego in 2003, and received his J.D. from University of California, Hastings College of Law in 2006. Robert is also a licensed California real estate broker. Robert, admitted to the California Bar in 2006, joined the firm as an associate attorney in November 2009.

Born and raised in Santa Barbara, Robert is an active member of the Santa Barbara community. He is a member of the Board of Directors of the Santa Barbara County Bar Association, the former President of the Santa Barbara Barristers and a member of the Executive Committee of the Santa Barbara chapter of ProVisors. ■

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