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SEPTEMBER 2014 • \$4

A Publication of the San Fernando Valley Bar Association

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No Small Matter: Domestic Violence and Child Custody

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Transition Time

DURING MY SPEECH AT THE Bar's Installation Dinner last year, I drew an analogy between the start of my presidency and the start of an Ironman distance triathlon. I talked about the nervous energy all triathletes feel as they endured the last few moments before the start of their 2.4 mile swim and how I felt the same nervous energy becoming President of the SFVBA.

As I read last month's edition of *Valley Lawyer*, I realized that another familiar analogy was appropriate. Most people understand that each triathlon consists of three disciplines: swimming, cycling and running. But what most people don't know is that there is actually a fourth discipline: the transition. More particularly, the time between each discipline during which you transition to the next discipline. This discipline requires planning, precision and coordination.

You must quickly get out of your wetsuit and onto the bike, then off the bike and into your run. How you set up your bike, helmet, cycling shoes, sunglasses, visor and running shoes and the order in which you put them on and take them off is practiced, practiced and practiced. The goal: to make it out of the first transition (swimming to cycling) in under 1 minute, 30 seconds and out of the second transition (cycling to running) in about 45 seconds.

This is a period of change for the Bar. Through this publication, I learned so much about the trustee and officer candidates, their interests, passions, families and motivation for being a part of our bar association. As I read their stories, I realized that my presidency is in transition at this time.

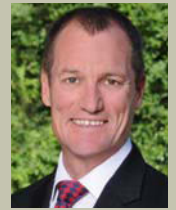
As President this past year, I helped plan Bar events and meetings and attended numerous events on behalf of the SFVBA, including a reception for the State Bar's new President. Together with Past President



Richard Lewis, I met with the South African Consul-General and presented him with a proclamation recognizing the efforts of Nelson Mandela. I also attended the open house event for one of our sponsors, reached out to other members of the community and obtained additional sponsorships for the SFVBA.

I am now working with the incoming President, Caryn Sanders, as she prepares to transition into her presidency. Caryn is an extremely capable attorney, thorough and insightful. She will use her amazing abilities to guide the bar association

ADAM D.H. GRANT
SFVBA President



agrant@alpertbarr.com

through the upcoming year. Having been a Past President of the Santa Clarita Valley Bar Association, she will be able to use what she learned from that tenure to our benefit.

Each of the new trustees will be transitioning to a new president and into their roles as stewards of the SFVBA. Each has backgrounds which will help the Board of Trustees in all that it faces during the next year. I look forward to working with and learning from them.

On a more personal note, this year also brought a transition in the Grant family. If you attended last year's Installation Dinner, you shared the event with my wife and three daughters. My youngest daughter, Julia, turned thirteen this past year. In observance of a Jewish tradition, Julia had her bat mitzvah and transitioned into being an adult in the eyes of the Jewish religion.

While I still think of her as my youngest daughter, I observed a transition in her which made me smile, but also made me sad. I saw a young woman emerge, ready to speak her thoughts, in a kind and respectful manner. I saw a young child slip away into my memory as a father. Julia still allows me to be the adoring daddy. Even at thirteen (much like our 21-year-old), she still refers to me as "Daddy." This is both a term of endearment and a reminder that they still hold onto some of their childhood.

I feel the same way as I transition from my presidency. I am happy for what I have accomplished with and for the bar association but am sad that I am moving onto another role. I thank all the SFVBA staff and trustees for this past year. 🏠

SUN	MON	TUE	WED	THU	FRI	SAT
LATINO HERITAGE MONTH (SEPTEMBER 15 – OCTOBER 15)						
	Valley Lawyer Member Bulletin 1 Deadline to submit announcements to editor@sfvba.org for October issue. 	2	Employment Law Section 3 What Civil Employment Attorneys Must Know about Workers' Comp 12:00 NOON SFVBA OFFICE Speakers George and Adam Savin discuss implications of Uninsured Employers' Fund cases. Focus will be on exceptions to the Exclusive Remedy Rule. (1 MCLE Hour)	4	5	6
7	Tarzana Networking Meeting 8 5:00 PM SFVBA OFFICE 	Probate & Estate Planning Section 9 Legal Ethics and Social Media: How Does This Impact You and Your Clients? 12:00 NOON MONTEREY AT ENCINO RESTAURANT Pepperdine School of Law Professor Gregory Ogden discusses the positive and negative aspects of social media. (1 MCLE Hour–Legal Ethics)	Elder Law Section 10 06:00 P.M. SFVBA OFFICES (1 MCLE Hour) SFVBA ELECTION DAY	11	12	13
		Board of Trustees 6:00 PM MAGGIANOS RESTAURANT WOODLAND HILLS	Workers' Compensation Section 17 Apportionment Update 12:00 NOON MONTEREY AT ENCINO RESTAURANT Retired Workers' Comp Judge Ray Correio will focus on provocative themes and topics in this constantly evolving and challenging area of workers' compensation law and practice.		Cyber Fraud Sponsored by City National Bank 12:00 NOON SFVBA OFFICE FREE TO SFVBA MEMBERS See page 33	
14	15	Taxation Law Section 16 An S Corporation Update 12:00 NOON SFVBA OFFICE Attorney William S. Stanley will outline the latest developments. (1 MCLE Hour)	INSTALLATION CELEBRATION LINTZ AWARD DINNER See page 12	18	19	20
21	22	Editorial Committee 23 12:00 NOON SFVBA OFFICE	24	25	26	27
28	Family Law Section 29 Motions 5:30 PM SPORTSMEN'S LODGE Family Law Advocacy Training Series kicks off with a two-part interactive seminar. Distinguished panel includes Hon. Robert Schnider, Ret., and attorneys William Ryden and Peter Walzer. (1.5 MCLE Hours)	Does Your Bar Membership Expire Today?  Renew online at www.sfvba.org or call (818) 227-0490				

SUN	MON	TUE	WED	THU	FRI	SAT
LATINO HERITAGE MONTH			Valley Lawyer Member Bulletin 1 Deadline to submit announcements to editor@sfvba.org for November issue.	Membership & Marketing Committee 2 6:00 PM SFVBA OFFICE	3	4
5	6	7	Business Law Section Immigration: What Every Lawyer Should Know 8 12:00 NOON SFVBA OFFICE Jeff Ehrenpreis provides an overview of essential immigration issues. As business becomes more global, more U.S. companies are hiring foreign employees and many foreign nationals are establishing businesses in the United States. Every attorney should have a basic understanding of work permits and options regarding permanent resident status. (1 MCLE Hour)		9	10
THE NEW BAR YEAR HAS BEGUN! MAKE SURE YOUR MEMBERSHIP HASN'T LAPSED! <hr/> Renew online at www.sfvba.org or call (818) 227-0490					11	
12	Tarzana Networking Meeting 13 5:00 PM SFVBA OFFICE 	Board of Trustees 14 6:00 PM SFVBA OFFICE		Bankruptcy Law Section Ninth Circuit Court of Appeals Decisions 16 12:00 NOON SFVBA OFFICE Bankruptcy Judge Alan Ahart will review the most relevant decisions. (1 MCLE Hour)	17	18
19	20	Taxation Law Section Updates on the Internal Revenue Service's OVDP 21 12:00 NOON SFVBA OFFICE Attorney Lavonne D. Lawson updates the group on international tax matters and the Offshore Voluntary Disclosure Program. (1 MCLE Hour)	22	23	24	25
26	27	Editorial Committee 28 12:00 NOON SFVBA OFFICE	29	30	31	



The San Fernando Valley Bar Association is a State Bar of California MCLE approved provider. Visit www.sfvba.org for seminar pricing and to register online, or contact Linda Temkin at (818) 227-0490, ext. 105 or events@sfvba.org. Pricing discounted for active SFVBA members and early registration.



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FROM THE EDITOR

Time to Refocus on Writing

IRMA MEJIA
Publications & Social
Media Manager



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WITH SUMMER WINDING DOWN, OUR FOCUS IS REDIRECTED away from the beach and back to our desks. As you return to work, you'll likely renew the intellectual pursuits you recently cast aside for beach reading (although some may not be quite ready to put aside the beach reading). As in past years, I hope you'll channel those pursuits into articles for *Valley Lawyer*.

There are many ways for you to contribute to this publication, including new regular columns covering book reviews, legal technology and career advice. Whether you have an opinion on a recent court ruling, an in-depth analysis of a new law, or even just an announcement about a new office, your contribution is important. It's you, the lawyers of the Valley, who have come together to create a unique and informative publication. I encourage you to continue to submit your articles and feedback.

Thanks, in advance, for making *Valley Lawyer* so great! 

BULLETIN BOARD

The Bulletin Board is a free forum for members to share trial victories, firm updates, professional and personal accomplishments.



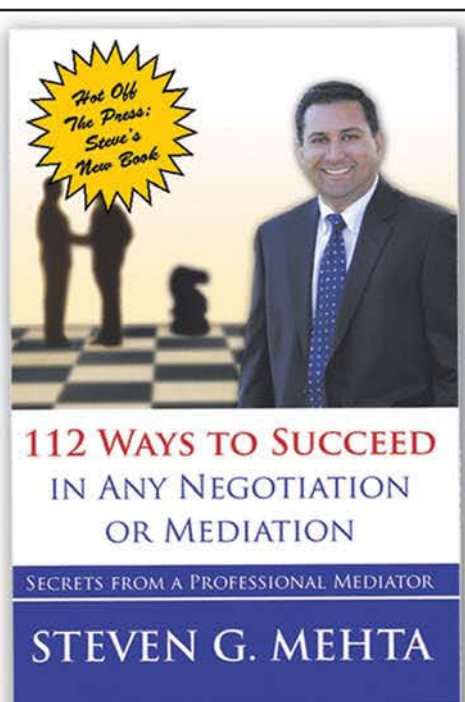
Diane M. Goodman obtained a master's degree in Depth Psychology from Pacifica Graduate Institute. She recently published an article on the use of personality types in mediation in the online journal *Personality Type in Depth*. She can be reached at diane@goodmanmediation.com.

Bruce Abramson is pleased to announce the opening of his new firm, Law Offices of Bruce D. Abramson, in Calabasas. He can be reached at lawyerbda@msn.com.



Barry Kurtz, chair of the Franchise and Distribution Practice Group at LewittHackman in Encino, has been appointed to the State Bar's Franchise and Distribution Law Advisory Commission. He can be reached at bkurtz@lewitthackman.com.

Email your announcement to editor@sfvba.org. Announcements are due on the first of every month for inclusion in the upcoming issue. Late submissions will be printed in the subsequent issue. Limit one announcement per firm per month.



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THIS SUMMER, THE ATTORNEY REFERRAL Service (ARS) of the San Fernando Valley Bar Association launched sfvbaReferral.com, a new lead capture website with complete search engine optimization (SEO) to broaden the reach of the ARS and better provide the public with referrals to qualified attorneys.

ARS Committee Co-Chairs Barry P. Goldberg and Anne L. Thompson; committee members Jonathan W. Birdt, David B. Bobrosky, John P. Rosenberg, Caryn Brottman Sanders, Sharley Allen and Terri L. Asanovich; and SFVBA Executive Director Liz Post all contributed to the launch of the new website.

Preparation leading up to the launch occurred over the course of countless evening meetings during the spring and summer. Fueled by pizza and soft drinks and further motivated by cookies generously donated by Rosenberg, the team worked meticulously to negotiate

the best deal with an experienced web designer. The web designer was contracted to develop the ARS website and ongoing SEO to capitalize on the ARS's strengths.

The Committee initially struggled with the idea of creating a separate URL for the ARS, whose online presence had long been linked to the SFVBA's website. The Bar's website was originally designed with the dual purpose of serving SFVBA members and the public at large. It accomplished both goals adequately, but the ARS needed to establish a bigger online presence.

Accomplishing a greater presence would have required significant changes to the Bar's homepage. These changes would undoubtedly have affected the way Bar members interacted with the site. Ease of use and web optimization concerns were the determining factors in the decision to move forward with a separate website for the ARS. While using the Bar's URL would help with optimization, the SFVBA website only generated approximately fifty to eighty leads a month—not enough to meet the goals of the ARS Committee and panel members.

"As a large percentage of people now seek attorneys online, a new website is essential to providing the community with the resources they need and to attract more cases for our panel members," explains Committee member and incoming SFVBA President Caryn Brottman Sanders.

In designing sfvbaReferral.com, the ARS opted for a Google-friendly, WordPress, and mobile-ready website with full search engine optimization to establish high rankings. This will allow online users to quickly find the ARS and request a

referral to an attorney. It is designed with a fresh new look, robust calls to action, and a user-friendly design that is simple to navigate. It is also updated with the latest information about ARS services. The new ARS site maintains a connection to the Bar's website with prominent links to navigate seamlessly back and forth. The Bar's website, sfvba.org, will undergo a facelift beginning in the fall.



"This site is technically our first website since previously we were only a page on the Bar's website," explains Committee member Jonathan Birdt. "Now we have our own dedicated page and can focus our marketing efforts on desired demographics."

Potential clients can request a referral, see upcoming events, request a speaker, find information and blog posts about various areas of law, read client testimonials, and learn about ARS programs all under one roof.

Additionally, the Spanish translation of the entire website by ARS Consultants Lucia Senda and Martha Benitez is yet another tool to increase the referral numbers for panel members.

"The public will have a more easily accessible resource to find a reputable attorney to assist them, or easily pass the site along as a resource for family and friends that may be in need of an attorney," explains Sanders.

Currently, the State Bar of California maintains that entirely automated referrals are prohibited for referral services. Therefore, the website will not feature "self-referrals." ARS

staff will continue to make contact with potential client's, taking into consideration the type and complexity of the legal problem, financial circumstances, spoken language and geography.

A major feature of the website will be the new ARS blog, written by ARS members. Blogging will help optimize the website for increased search engine results to maximize exposure, while informing the public and generating more leads. All panelists are now required to write two original, unpublished informational blog posts on a topic within their area of practice to be featured on the ARS website and promoted on Twitter and Facebook.

To fully optimize the website, ARS panel members must immediately submit their blog posts. This is just one way to assist the ARS in matching clients with the right attorneys. "Our new site now gives us the opportunity to reach the largest audience and capitalize upon the most recent advancements in SEO," explains Birdt.

The website is equipped with sophisticated software providing analytic tracking metrics such as phone calls, email submissions, traffic reports, monthly benchmarking reports and monthly key performance indicator (KPI)

reports to track ranking and progress on search engines. "The new site will help us reach our goal of first page rankings, allowing our reputation and standing to take over," says Birdt. "This will help convert a client's view to a click and a click to a referral."

"The new site will also benefit SFVBA members by providing them with a better and more user-friendly place to refer clients they cannot help," explains

Sanders. "It was designed and will be maintained to attract the maximum attention from those seeking an attorney online."

Birdt agrees, "With greater outreach we create a synergistic effect of reaching more clients, thus benefitting the client, attorney and bar association." 🏛️



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Divorced Parents and School Choice

Ellen Friedman Tinero



FOR MOST PARENTS IN COHESIVE families, selecting which school their children will attend is fairly easy.

The local school, the private school that they believe is best, home-schooling or even boarding school can be chosen without much discussion. But for parents who are separated or divorced, school selection can become a contested issue leading to litigation or a child custody evaluation wherein a third party determines where the children will attend school.

Legal v. Physical Custody

Most lawyers know the terms “legal custody” and “physical custody.” However, many attorneys who do not practice in the area of family law or who have not gone through a dissolution themselves are not familiar with the specific distinctions between legal and physical custody. In family law, the terminology in a stipulation or judgment can ultimately limit or increase a parent’s rights in making decisions for his or her children, including whether one parent can select a school without the other parent’s consent.

Legal custody pertains to the decision-making power of parents while physical custody is the term used for determining where the children actually reside. A parent may have sole physical custody but share joint legal custody. Additionally, cases with parents who have joint physical custody may limit legal custody to just one parent. There are many situations where children are ordered to live in both parents’ separate homes but only one parent is given the exclusive right to make decisions for the children. However, in California, parents typically share joint legal custody. There is a presumption that both parents share the right to make joint legal decisions.

When custody orders are agreed upon or ordered by the court, there

is a determination of legal custody. Family Code Section 3083 specifically states that “[i]n making an order of joint legal custody, the court shall specify the circumstances under which the consent of both parents is required to be obtained in order to exercise legal control of the child and the consequences of the failure to obtain mutual consent. In all other circumstances, either parent acting alone may exercise legal control of the child.” The code continues to state that “[a]n order of joint legal custody shall not be construed to permit an action that is inconsistent with the physical custody order unless the action is expressly authorized by the court.”

Within the designation of joint legal custody, an enforceable stipulation or



Ellen Friedman Tinero is Managing Partner at Tinero, Aharonov and Associates in Encino. She has been practicing family law for 25 years and is a certified family law mediator. She can be reached at tineroaharonov@gmail.com.

judgment should specify exactly what issues require mutual agreement of the parties. While every situation is unique, some of the most common elements to be considered are enrollment or termination of attendance in any public or private school; participation in any regular extra-curricular activities; medical, dental or orthodontic treatment, other than routine checkups; issuance of a driver's license; and issuance of a passport.

Family Code Section 3003 defines joint legal custody as a situation in which "both parents shall share the right and the responsibility to make the decisions relating to the health, education and welfare of a child." However, acrimonious couples often cannot agree upon certain issues. If the parties' stipulation or judgment specifically provides that both parents must mutually consent to where the children attend school, this issue could require third-party intervention to be resolved.

If these terms are included in a custody stipulation or judgment, then neither parent may unilaterally make a decision on these matters without the other party's consent. As an example, if one party attempts to unilaterally enroll children in a particular school without the other party's agreement, the non-consenting party can bring forth an action to stop the other parent and preclude the children from attending the school that was selected solely by one party.

Motives When Selecting A School

When the parties share joint legal custody with respect to the issue of school selection and they are unable to agree on a school, one of the most important factors the court will consider is the parties' motive for selecting or refusing to agree to a specific school. The most common motive is a parent's desire to establish a basis for them to seek additional and/or primary custody. This often occurs when a parent chooses to relocate the children to a new neighborhood.

Another motive is to try and change schools so that the children are closer to one parent's residence in order to have more control, or to select a school with which one parent has an affiliation so that they can see the children during school in addition to their regular custodial time.

Resolving the Issue

When a parent chooses to move to a different school district, determines that

private school is better for the children, or requests a permit to place the children in a different school and/or district, the specific terms of the stipulation or divorce judgment should provide the answer as to whether said parent may make that change.

If a parent has sole legal custody, he or she may change the school without the other parent's consent. However, if the court order specifically states that the parents are to share joint legal custody,

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unless the parties can agree, they will be at a stalemate as to where to send the child to school.

Naturally, the best way to resolve a difference of opinion is to work together in order to mutually agree on a final decision. The most cost efficient manner to work through the issue of which school the child should attend is through mediation. From the author's experience, one of the most effective methods to resolve this issue is for the parties to agree to use the services of a private mediator who is also a family law attorney. The mediator does not represent either party and serves in a neutral role to assist the parents in understanding each other's position while offering options on how to resolve their disagreement. Both parties must be flexible and able to listen to each other's point of view.

If the parties are unable to agree or resolve this issue through mediation, they will be forced to file a Request for Order for the court to determine what school the child should attend. In Los Angeles County, pursuant to the local rules, the parties will be ordered to attend Conciliation Court for the purpose of assisting the parties to resolve a controversy prior to going before a judge.

If the parties attend Conciliation Court and still cannot resolve the issue as to where the child is going to attend school, the court has the power to make that decision. The parties could also agree or be ordered to undergo a child custody evaluation or solution-focused evaluation in which a third party, often a court appointed mental health professional, will determine which school is in the best interest of the children.

Demonstrating Which School Is Best

In California, all custody issues are based upon what is in the children's best interest. A party who presents evidence as to why a particular school is best for the children has a far greater likelihood that the mediator, judge or child custody evaluator will ultimately agree with that


party's school selection. Therefore, it is recommended that parents provide detailed information about the school's location, neighborhood safety, and proximity to the primary residence of the child; school rankings; access to extracurricular activities; and daycare schedule.

If the parties share joint physical custody, the ease of getting the child to the school is a primary factor. Distance, accessibility and travel time during the morning rush hour should be considered. Ranking of the school is also an important determining factor. School rankings can be compared on sites such as greatschools.org.

Access to extra-curricular activities and the school's schedule for daycare both before and after school are important factors to consider, as is the children's ability to establish friendships with classmates and opportunities to interact outside of school. The ability of the children to maintain existing friendships despite the change in school must also be considered.

Additionally, parents can support their arguments by visiting the school on a regular school day to observe classrooms and asking other parents at the school about their children's experiences both academically and socially. A good tactic is to look for at least two options for school choice.

If a parent is able to demonstrate to the other party, judge or child custody evaluator that their school selection fulfills all of these requirements, it is more likely that their school choice will prevail.

While it is difficult enough for a child to be part of a divorce, the additional stress and unknown certainty of where they will attend school becomes an even greater concern as children prepare to go back to school in the fall. The hope is that parents can reach a mutual agreement regarding school enrollment. However, if they are unable to reach such an agreement, they have to demonstrate that their reasoning and their motives are always in the best interest of their children. 

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No Small Matter: Domestic Violence, Child Custody and Family Code Section 3044

**By Marshall W. Waller
and Sandra I. Salinas**

Allegations of domestic violence have significant implications for child custody proceedings. Family Code Section 3044 mandates a presumption regarding a child's best interests that directly affects the custody rights of the perpetrator of domestic violence. That presumption is rebuttable based upon specific factors. Attorneys can best serve their client's needs by carefully reviewing and understanding the requirements of Section 3044.





By reading this article and answering the accompanying test questions, you can earn one MCLE credit. To apply for the credit, please follow the instructions on the test answer form on page 27.

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IMAGINE YOU REPRESENT A PARTY TO A HOSTILE custody battle and one of the parents decides to use the domestic violence laws to their favor in hopes of gaining custody. Since your client reports that none of the allegations actually happened and it's just going to be a "he said/she said" argument, you might consider this is a minor distraction from the substantive issues in the case.

You might even think that your preparation need only be to show up, have your client tell his or her story, and the worst that could happen is that your client might be tagged with a domestic violence restraining order. But your client doesn't really care because he or she doesn't want to have anything further to do with his or her spouse and is generally a good and loving parent. So what's the big deal? Actually, it's not just a big deal; it's a huge deal with significant consequences.

California Family Code Section 3044 mandates imposition of a presumption against persons perpetrating acts of domestic violence. It states that "[u]pon a finding by the court that a party seeking custody of a child has perpetrated domestic violence against the other party seeking custody of the child ... within the previous five years, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interests of the child, pursuant to Section 3011. This presumption may only be rebutted by a preponderance of the evidence."

Note that the statute does not read that the court may impose the presumption or that it should impose the presumption. What it states is that once domestic violence is found, "there is a presumption." And once there is this presumption, then it must and will apply.

Clearly there is a generally shared concern for the safety and well-being of children, something that the legislature recognized when it enacted this statutory presumption. This is a major exception to California's policy that there will be no preference given for any particular custody or timeshare arrangement between the parents.

The presumption under Family Code Section 3044 operates to establish that an award of custody to a person who has been found to have perpetrated an act of domestic violence against the other parent is actually detrimental to the child's best interest. And since Family Code Section 3011 instructs the court to make a custody order that is in the child's best interest, it becomes necessary for the court to reconcile these two statutes.



Marshall W. Waller and **Sandra I. Salinas** are both Certified Family Law Specialists and attorneys with Feinberg & Waller, APC, a firm dedicated exclusively to family law with offices in Calabasas and Beverly Hills. Waller can be reached at mwall@feinbergwaller.com. Salinas can be reached at ssalinas@feinbergwaller.com.

Rebutting the Presumption

The presumption under Family Code Section 3044 is a rebuttable presumption. In making the determination of whether or not the presumption has been rebutted, Section 3044(b) instructs the court to consider all of the factors presented in that statute, perhaps most comprehensively the first such factor which focuses on a determination of the best interest of the minor child in the context of the application of the presumption.

That factor clearly instructs the court to determine whether the perpetrator of domestic violence has shown that it is in the child's best interest for the perpetrator to be awarded custody, either sole or joint, physical or legal. Section 3044(b)(1) further instructs that "[i]n determining the best interest of the child, the preference for frequent and continuing contact with both parents... or with the noncustodial parent... may not be used to rebut the presumption, in whole or in part."

Other factors the court must consider include the perpetrator's successful completion of a batterer's treatment program¹; successful completion of court-ordered drug or alcohol abuse counselling; successful completion of court-ordered parenting classes; compliance with the terms and conditions of probation or parole, if applicable; compliance with the terms of any restraining orders issued against the perpetrator; and any subsequent acts of domestic violence committed by the perpetrator.²

Understandably, the judicial officer may struggle with the mandatory application of the Family Code Section 3044 presumption. However, pursuant to *S.M. v. E.P.*,³ once the court has entered a domestic violence protective order, it no longer has the authority to nullify or ignore the presumption created by Section 3044. Those two concepts are inescapably linked together.

S.M. v. E.P. and the Automatic Trigger

The facts in the *S.M. v. E.P.* case are related mostly to jurisdictional issues that are irrelevant here. The short version of that dispute resulted in the issues of paternity and custody being deferred to the Iowa court. That said, the mother (E.P.) had also filed a request for restraining orders in California arising out of a heated, non-violent altercation between the parents in the middle of the night immediately before she returned to Iowa with the child. As a result of the fight, the father (S.M.) was arrested.

It was clear that although the trial judge felt that his behavior warranted a restraining order, the trial judge wasn't

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convinced that the father really fell into the general category of “perpetrator of domestic violence.” A review of the appellate opinion indicates that it appeared to the trial judge that the father was more “guilty with an explanation” (to use an old traffic court reference) than just plain “guilty.”

The trial judge stated, “I’m going to issue a six-month order. Please understand I do not take in the facts of this case unless something else happens to change my mind *I don’t view this as the kind of restraining order which would tell me pursuant to the Family Code that your client is inappropriate for custody or visitation....* but we can’t have these histrionics. This whole thing needs to calm down.”⁴

The father’s attorney then sought clarification from the trial judge when he asked “Just so we’re clear, the court’s order is that the Family Code section presumption against custody for one with the restraining order does not apply to this case?” To which the trial judge responded “... I’m not making that order. I’m articulating to you my thoughts ... and I caution that with assuming there is no other incident or outbursts or pattern of behavior that would suggest to me that I’m wrong. I’m thinking this evolved in a very unfortunate way *But if there are more incidents of this sort of behavior, I may call the presumption into play.*”⁵

The appellate court then undertook a basic review of Family Code Sections 6200, et seq., the Domestic Violence Prevention Act, and, after a thorough discussion of the law in that area, concluded that the trial court failed to make the findings necessary to make a credible finding of domestic violence by the father.

The appellate court further reviewed the exchange between the trial court and the lawyers and determined that the trial judge misunderstood the law in this area and actually thought it was issuing a restraining order for which the Section 3044 presumption would not apply, but might at some future date if the father’s behavior that gave rise to those proceedings was to continue.

The appellate court stated that “[t]he trial court’s attempt to limit the legal effect of the restraining order further illustrates that the issuance of the order was an abuse of discretion. Specifically, the court’s comments concerning the scope of the restraining order demonstrate that the court misunderstood the extent of the court’s discretion in issuing the restraining order, and further suggest that the court did not believe that the facts of this case supported issuing a restraining order under section 6300.”⁶

The appellate court further explained that “[t]he trial court’s remarks suggest that the court intended that it, or any court that would be making custody determinations in this case in the future, would not take into consideration the fact that the court had issued a restraining order against S.M. The trial court appears to have been under the misimpression that a court can ‘call ... into play’ the presumption contained in section

The reader should note that this language is mandatory: the court shall inform the parties of the existence of Section 3044, and it shall give the parties a copy of the code prior to any custody mediation. This is an opportunity for someone accused of domestic violence in a case that will involve a determination of custody to possibly avoid the imposition of the presumption in situations where the court fails to do those things.


Even though it is the responsibility of the court to provide notice of Section 3044 to the parties, that requirement only becomes operative in situations in which the parties have been ordered into custody mediation, and in those situations the notice must be given before the mediation starts.¹² This becomes an interesting problem because in many cases where custody is disputed, a party seeking custody, especially one who has been the victim of alleged domestic violence, often files a Request for Order (RFO) for custody at the same time (or very shortly thereafter) they file a request for domestic violence restraining order.

It is the practice of the courts of Los Angeles, Ventura and Orange counties (and probably a lot more throughout the state) to immediately schedule a custody mediation session upon the filing of an RFO for custody, which must occur before the parties even see the judge on this issue. So how exactly is the judge able to advise the parties about Section 3044 before the mediation? One might think it best to simply have the mediator provide that notice, which is exactly how the statute was originally worded when it was making its way through the legislature. Upon revision in the Senate, however, that language was revised to require the court to give this notice.¹³

There is a simple solution to this problem: the family courts through their presiding judges could provide a standard notice of Section 3044(f) to everyone who files a petition or an RFO involving children (parentage, custody, dissolution, legal separation, etc.). As of this writing that practice has yet to be adopted in our local jurisdictions.

A suggested better practice in the opinion of these authors is to ensure when preparing a request for custody, or

where an application for domestic violence restraining orders has been filed, to attach a notice (a copy of Family Code Section 3044) to that application and the temporary order page of the judicial council form when they are filed. In this way, when the court signs the RFO or temporary orders in a domestic violence action, the inclusion of this warning in those papers will become a notice provided by the court when the court signs the application, which of course is then served on the other party.

The next time your client tells you that he or she cut up their spouse's clothes or keyed their car, or performed some other act that was "just property damage," be prepared to explain to your client exactly what this might mean in terms of custody, and be prepared to rebut the presumption to show what is in the best interests of the children. Absolutely ensure that you are prepared to rebut the Section 3044 presumption in the context of the custody proceedings lest you be caught unaware and you have to explain to your client how it is that all of a sudden they no longer are eligible to receive custody of their children. 

¹ Family Code Section 3044(b)(2) specifies that the program must meet "the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code." This is a significant code section. The reader is encouraged to read it carefully and be prepared to discuss its terms and requirements with the court when consideration is being given to ordering a perpetrator of domestic violence to attend such a program.

² Family Code Section 3044(b).

³ *S.M. v. E.P.* (2010) 184 Cal.App.4th 1249.

⁴ *S.M. v. E.P.*, *supra*, at 1262 (emphasis in the original).

⁵ *Ibid.*

⁶ *S.M. v. E.P.*, *supra*, at 1267.

⁷ *Ibid.*

⁸ *S.M. v. E.P.*, *supra*, at 1267.

⁹ See also *F.T. v. L.J.* (App. 4 Dist. 2011) 194 Cal.App.4th 1, 27, 123 Cal.Rptr.3d 120, 140 (appellate court held that while the domestic violence presumption changes the "burden of persuasion" to the perpetrator of domestic violence as to what is in the best interests of the children, it does not limit the evidence of the children's best interests.); *Keith R. v. Superior Court* (2009) 174 Cal.App.4th 1047, 96 Cal.Rptr.3d 298 (explaining that the presumption is rebuttable, not conclusive and that the best interests of the child "must remain at the forefront of the family court's considerations on custody in determining whether the section 3044 presumption has been rebutted").

¹⁰ Family Code Section 3044(c).

¹¹ Family Code section 3044(f).

¹² See *Sabbah v. Sabbah*, (2007) 151 Ca. App. 4th 818, at 822.

¹³ *Sabbah v. Sabbah*, *supra* (discussing the legislative history of subsection (f) of Family Code Section 3044).



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Test No. 71

This self-study activity has been approved for Minimum Continuing Legal Education (MCLE) credit by the San Fernando Valley Bar Association (SFVBA) in the amount of 1 hour. SFVBA certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.

1. The Section 3044 presumption only applies in situations where the domestic violence is limited to acts of physical violence against a person.
☐ True ☐ False
2. Invocation of the Section 3044 presumption is subject to the court's discretion.
☐ True ☐ False
3. Application of the Section 3044 presumption is limited to matters brought under Section 6300, et seq. of the Family Code.
☐ True ☐ False
4. If a parent seeking custody has been found to have committed an act of domestic violence within the past seven years the court is required to recognize the Section 3044 presumption.
☐ True ☐ False
5. The court is mandated to provide notice of the existence of the Family Code Section 3044 presumption before any custody mediation commences as a prerequisite to invocation of the presumption.
☐ True ☐ False
6. When confronted by police officers trying to investigate allegations of domestic violence, it is often a good idea to mouth off to them and disregard their instructions.
☐ True ☐ False
7. Once the presumption in Section 3044 has been found by the court to be operative, it can be rebutted by a showing that an award of custody to the perpetrator of domestic violence would be in the best interest of the child.
☐ True ☐ False
8. The issuance of a restraining order is a prerequisite to the invocation of the Section 3044 presumption.
☐ True ☐ False
9. California's public policy of frequent and continuing contact with both parents under Family Code Section 3020 can be used to rebut the presumption once domestic violence has been found by the court.
☐ True ☐ False
10. The court must act in the best interest of the child, whether an act of domestic violence occurred or not.
☐ True ☐ False
11. Once the court issues a domestic violence restraining order against a person seeking custody of a child, the Section 3044 presumption is triggered.
☐ True ☐ False
12. Generally speaking, in California there is no statutory preference to be given as to a custody or timeshare arrangement between parents.
☐ True ☐ False
13. The Section 3044 presumption operates to find it is less preferable to the child's best interests to award custody to a parent who has perpetrated an act of domestic violence.
☐ True ☐ False
14. The Section 3044 presumption is a conclusive presumption.
☐ True ☐ False
15. Arguing that it is in the best interests of a child to have frequent and continuing contact with both parents is sufficient to rebut the Section 3044 presumption.
☐ True ☐ False
16. Consideration of an "offending" parent's successful completion of a drug and alcohol abuse counseling program is inapplicable in the rebuttal of the Section 3044 presumption.
☐ True ☐ False
17. Once the Section 3044 presumption has been rebutted, there is no statutory bar against an award of joint or sole custody to a parent who was the subject of the order.
☐ True ☐ False
18. Acts of domestic violence against only property will not operate to invoke the Section 3044 presumption.
☐ True ☐ False
19. The Section 3011 instruction to the court to make a custody order that is in the child's best interests is compatible with application of the Section 3044 presumption.
☐ True ☐ False
20. When considering the rebuttal of the Section 3044 presumption, it is only necessary to satisfy one of the factors listed in Section 3044(b).
☐ True ☐ False

MCLE Answer Sheet No. 71

INSTRUCTIONS:

1. Accurately complete this form.
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4. Mail this form and the \$15 testing fee for SFVBA members (or \$25 for non-SFVBA members) to:

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Meet the New SFVBA President: Caryn Brottman Sanders

By Irma Mejia



Irma Mejia is Editor of *Valley Lawyer* and serves as Publications and Social Media Manager at the San Fernando Valley Bar Association. She also administers the Bar's Mandatory Fee Arbitration Program. She can be reached at editor@sfvba.org.

A photograph of a person's hand resting on a wooden picnic table in a park setting. The hand is wearing a silver watch and a ring. The background shows a grassy field, trees, and a white fence under a clear blue sky.

On September 17, the SFVBA welcomes its 85th President, Caryn Brottman Sanders. Sanders brings to the office nearly a decade of bar association leadership experience, a healthy working relationship with the Valley judiciary, and a leadership style based on mutual respect and assistance.



ON SEPTEMBER 17, THE SAN FERNANDO VALLEY BAR

Association will install its 88th President, Caryn Brottman Sanders, at Braemar Country Club in Tarzana. A leader in the Valley's legal community for nearly a decade, Sanders brings to the office a tremendous amount of experience and a reputation for hands-on leadership. During her eight years as a Trustee of the Bar, Sanders has served on the Bench-Bar Committee and the Attorney Referral Service Committee.

Originally from Chicago, Sanders moved to Southern California after receiving a scholarship to Southwestern Law School's SCALE program, an accelerated JD program. Upon becoming a licensed attorney in California, Sanders charged forward to become a strong civil litigator, with a background in insurance defense, transactional law, and employment law.

After law school, Sanders remained in California and now calls the Santa Clarita Valley home. There she enjoys her time with a husband and teenaged daughter. Together they enjoy quality time during family trips to national parks and local area attractions.

Prior to becoming heavily involved in the SFVBA, Sanders was active in the Santa Clarita Valley Bar Association (SCVBA), eventually serving as that organization's President. "Caryn's previous experience of being the president of a local bar association is valuable to the SFVBA," explains Liz Post, SFVBA Executive Director. "She is comfortable being the voice for SFVBA members."

Bar staff are looking forward to Sanders' presidency with the expectation that she will continue her work as a hands-on, boots-on-the-ground leader. "Through the many years I've known her, she has always been the one to step up to the plate and done whatever was necessary, whether it was chairing a committee or volunteering at a law post," explains Linda Temkin, Director of Education & Events. "If there's a legitimate need, Caryn does everything in her power to fill it. She is a hands-on person and someone you can always count on to get the job done. She's been my go-to person for years."

Post agrees. "As a Bar leader, Caryn sees a problem and faces it head on," she says. "She lets the Bar's professional staff do our jobs, but at the same time, she's not averse to getting down in the trenches and getting her hands dirty to help out. It makes my staff feel like it's a real team effort."

Sanders' reputation beyond the Bar will also be an asset. "Throughout her tenure on our Board, she has been both a member and chair of our Bench-Bar Committee. Through that work, she has established relationships and mutual respect with the Valley's judicial leaders, which will serve our members well."

That feeling of mutual respect is felt throughout the Bar office. "She is very nice and genuinely interested in the staff, their well-being and success," explains Lucia Senda, ARS Referral Consultant. "She makes it a point to say hello and visit with staff members nearly every time she's in the Bar office."

"Caryn is extremely fair-minded and hard-working. It is wonderful to see her assume the Presidency, it is so richly deserved," says Temkin. "The Bar, the staff and the entire Valley community will benefit from her leadership."

Sanders recently discussed her plans for the upcoming year, personal anecdotes and thoughts on the state of the bar association with *Valley Lawyer*. Her candid responses are testament to her approachable and fair manner of leadership.



Q: As President, is there a particular Bar program or issue you are most interested in improving?



A: I think most of what the Bar does, it does well, including serving its members, the legal community and the community at large. That said, there is always room for growth and improvement. I will continue working with the Attorney Referral Service on its new website, a review of its rules, and on improving reporting and accountability, with the goal of improving service to the community and our attorney panel members. I also plan to work with the committees and sections to help improve their relationship with the Board and to involve new people in the process, all with the goals of keeping the sections relevant and encouraging attendance.



Q: What initially motivated you to become involved in the Bar's leadership?



A: I first became involved with the Bar's Board of Trustees by virtue of my position as President of the Santa Clarita Valley Bar Association. I was excited to be a part of a larger organization and as I became more and more involved with various committees, I decided that I wanted to lead the organization to continue to expand the programs that help the members and the community.



Q: Do you see any differences between the legal community in the Santa Clarita Valley and the one in the San Fernando Valley?



A: The SCVBA and the SFVBA have a good working relationship. I would like to see that relationship continue. The SCVBA is a very collegial group. I think the members actually look forward to attending the mixers and meetings to interact with each other. The SFVBA is similar, with a small group that regularly attends the association-wide events, but also with a lot of camaraderie along section lines, as opposed to the entire organization.

Q: Were you always a leader?

A: As a child, I was not much of a leader and was petrified of public speaking. My father was a pharmacist who opened his own group of stores when I was about eight. I remember going to work with him and standing on a stool to ring the cash register before I was ten. I credit him for my work ethic. My mom was a stay-at-home parent when we were young, but was always involved in organizations, even serving as President of the PTA once. My maternal grandmother was also very involved in various leadership roles in different organizations.

It was with my family's encouragement in my junior year of high school that I became the president of my youth group. That leadership role changed everything. I overcame my fear of public speaking and grew as a leader. My family have always been my biggest cheerleaders.

Q: What motivated you to become a lawyer?

A: Actually, I dreamed of becoming a doctor from as long as I could remember. In high school I worked in hospitals and was on a pre-med track. After two years of college, I decided that medicine was not the path for me and I transferred schools and changed my major to business. I obtained a bachelor's degree with a double major in management and marketing and then obtained my master's degree in business administration with a focus on human resource management.

I became a personnel director for a retail liquor and gourmet food chain in Chicago and later a human resource specialist for an engineering firm. At that time the legal climate in human resources was changing dramatically with issues surrounding



equal employment, immigration, discrimination, and harassment coming to the forefront. I spent the majority of my time working on new and changing legal issues and decided to return to school to become an attorney.

Q: What advice would you give to a new attorney or law student?

A: My advice to both new attorneys and law students is to find a mentor that can be trusted, leaned on, and learned from. Never stop learning and try to enjoy the journey.

Q: Can you describe your first court appearance?

A: One of my first court appearances was before a judge that sanctioned attorneys often. My opposing counsel happened to say the wrong thing and became the subject of his reprimand. I will embarrassingly admit that all I could think about was being thankful that it was him and not me.

Q: What kind of law do you practice?

A: My practice has changed and evolved over the years. Early on, I did a lot of business litigation, employment law and entertainment law. I then began to also do professional negligence, construction litigation and business and employment transactional work. I also spent five years doing primarily insurance defense, including complex wrongful death and personal injury defense.

I practice primarily in state court, but have practiced in federal court as well. I am currently doing primarily business transaction and litigation work, and medical malpractice plaintiff's work.

Given my business background, business law and employment law, both transactional and litigation were sort of a natural fit. My prior pre-med and hospital background also provides a good basis for medical negligence

and personal injury cases because I have a fundamental understanding of the medical language, the human body and deciphering medical records.

Q: When you are not busy working, what do you do for fun?

A: If its football season, I'm watching the Chicago Bears! I enjoy spending time with my family, traveling, going to Disneyland, spending time outside, reading, and especially hanging out with my amazing daughter.

Q: How do you balance work with your family obligations?

A: My daughter has always been wise beyond her years and very flexible and adaptable to different situations. I joined the Board of the SCVBA when she was three, so bar association business has pretty much always been a part of her life. She was about six years old when she attended my installation as President of the SCVBA and about seven when she attended her first SFVBA Board meeting.

I try to spend as much time with her as I can. If I am not in court, I take her to school. I try to attend all major school functions and other important events. I also try to be home for dinner most nights. In order to accomplish all of this family time, I started completing the work of my day after she went to sleep. It is not unusual to find me reviewing documents or hunched over my laptop at 10 o'clock at night.

Q: Do you think it's difficult to be a mother while maintaining a successful career as an attorney?

A: It is difficult, but manageable if you have your own personal goals and personal priorities. I never sought to be a partner in a big firm and never put in the crazy hours that would make that possible. While I may have traded the prestige and salary for my time with my family, I have still become a successful attorney and don't regret the decision one bit.

Q: With all of your work and family obligations, how do you manage stress?

A: What stress? I say this as I pull my hair out—just kidding. But seriously, I find that spending time with my daughter truly combats some of the stress of my career. I also began walking several times a week which has done wonders for my mental state of health. I walk outside and find that if I am not melting from the heat, I can really clear my head.

My truly guilty pleasure is reading. My favorite books are the Calder series books by Janet Dailey.

Q: Not many people will admit to enjoying romance novels. What do you have to say to anyone who may think those books are not so great or should not be taken seriously by adults?

A: They are probably categorized as romance novels but Janet Dailey is an amazing writer who sets her novels in amazing places and is so descriptive that you feel like you are there. I also read Steve Martini and John Grisham books, but I often feel that I've had enough law for the day and want to escape elsewhere.

If I am truly being brave in admitting things, in the last year, I have read 8 to 10 books that are classified as "young adult." I started reading them because my daughter wanted to read them and I wanted to make sure they were not too adult, and also to be able to have intelligent discussions with her about them. So if I am admitting to enjoying "romance" novels, I will also admit that the Divergent series, Hunger Games series, *If I Stay*, and *The Fault in Our Stars* are really great books.

Q: Thanks to the annual cookie sale, the Bar's Board and staff are aware that you and your daughter are heavily involved with the Girl Scouts. What role do you think organizations like the Girl Scouts play in closing the gender gap in professions like the law?

A: The Girl Scouts, especially in the older grades, teaches leadership skills and empowerment skills. Through my past role as a troop leader, I was able to help girls learn to plan meetings, learn to budget, learn how to see through the media portrayal of various issues regarding women, expose them to different professions, and to think independently. The skills the girls can learn in organizations like the Girl Scouts can help them for the rest of their lives and I was happy to be a part of it.

Q: This month you'll be installed as the first female president the SFVBA has seen since 2009. And you'll be the ninth female president in the Bar's 88-year history. How do you feel about your role as a history-maker?


A: Wow, I wasn't aware that I was going to be only the ninth female president in 88 years, especially because in my eight years on the Board we have had the benefit of three wonderful women to serve as President (Sue Bendavid, Tamila Jensen, Patricia McCabe). I am honored to follow in the footsteps of these wonderful role models and since the incoming President-Elect (Carol Newman) and Secretary (Kira Masteller) are both women, I look forward to seeing the leadership gap continue to decrease.

This is why it is important to get people involved in the Bar early in their career. If people are engaged and committed early on, there is a better chance that they will stay involved either when their careers get more involved or they start a family. I think this helps in closing the gender gap and promoting diversity. But this also means that we need to figure out how to best attract younger people of diverse backgrounds and keep them engaged, which may require some changes in the way things are being done.

Q: Why should all attorneys be involved with their local bar association?

A: Bar associations are important for many reasons. Yes, they serve as a source for MCLE credit but I think they also provide camaraderie and mentorship within our profession, which is far more important. Even if you work in a large firm, the legal business is a very solitary profession. If you are in court, mediations or depositions, you are usually alone. If you are drafting

motions, discovery or contracts, you also are usually alone.

I think bar associations play an important role in providing the support to us as members, even if it is just to chat with people who "get it," or to network, or even to ask the "stupid" question you don't want to ask your colleagues at work. Bar associations formally and informally provide education and the opportunity to make professional and social connections, and that is very important. 

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Introducing the 2014–2015 Executive Committee



CAROL L. NEWMAN PRESIDENT-ELECT

Favorite Movie: I don't have a single favorite. Some of my favorites are *The Best Years of Our Lives*, *The Bad and the Beautiful*, and *Tootsie*.

Favorite TV attorney: Perry Mason! I would watch him with my grandparents on Saturday nights when the show was first run. I wanted to be Perry Mason.

Favorite book: *The Forsyte Saga* by John Galsworthy

Favorite downtime activity: I read British mysteries and watch classic movies. I love TCM.

Childhood career goal: Journalist. I nearly did it, too!

Favorite ice cream flavor: Dark Chocolate

Cone or a cup? Cone

Newman is a partner at Alleguez & Newman, LLP in Woodland Hills where her practice focuses on real estate and business litigation, civil appeals, and palimony cases. Early in her career, she served as an antitrust prosecutor before joining the private sector and eventually hanging her own shingle, which she maintained for 18 years before joining her current firm. In addition to 37 years of experience practicing law, Newman maintains a strong dedication to various civic issues, having served on the boards of California Women Lawyers and the Los Angeles chapter of Commercial Real Estate Women. She also served as the first president of the Los Angeles Board of Taxicab Commissioners. Her commitments extend to various SFVBA efforts, including serving as the Bar's representative to the Multicultural Bar Alliance and enhancing the Bar's outreach efforts through the Membership & Marketing Committee.



KIRA S. MASTELLER SECRETARY

Favorite movie: *The Notebook*

Favorite TV attorney: Mike Brady on *The Brady Bunch* when he represented Carol Brady in small claims court and proved the plaintiff did not have a neck injury by throwing his briefcase on the floor causing the plaintiff to turn his head right away. They won the case!

Favorite book: There are so many. *Acts of Faith* by Philip Caputo is one of them.

Favorite downtime activity: I have several but my most favorite thing to do is hang out with family.

Childhood career goal: I wanted to be a teacher until I had a class titled Constitutional Problems in tenth grade. We had two mock trials in that class that forever changed my course of study.

Favorite ice cream flavor: Vanilla and chocolate swirl

Cone or a cup? A cup, so I can have more ice cream!

Masteller is a trusts and estate planning attorney and shareholder at Lewitt Hackman, ALC in Encino. She has 20 years of experience working in trust administration and estate planning, both as a paralegal and an attorney. She handles all types of estate planning matters, including federal estate and gift tax planning, business succession planning, powers of attorney, post-death trust administration, and probate. She is a strong advocate for the continued advancement of women in the workplace, having founded Women In Network (WIN), a local networking group for professional women. Her dedication to community service is also evident by her volunteer work at a local women's shelter. Additionally, she has been recognized as a SuperLawyer and in 2010 was appointed by Governor Arnold Schwarzenegger to serve as a member of the Board of the California Prison Industry Authority.



DAVID KESTENBAUM TREASURER

Favorite movie: *Pulp Fiction*

Favorite TV attorney: Perry Mason. He was an excellent defense attorney, very logical and thorough. And he was my inspiration to become a criminal defense attorney.

Favorite book: *Fear and Loathing in Las Vegas* by Hunter S. Thompson! ("Never leave home without your lawyer!")

Favorite downtime activity: I am a season ticket holder for the Dodgers. Going to baseball games gives me three hours where I don't think about legal problems.

Childhood career goal: First, a Boston Red Sox. Then, the drummer for Eric Clapton. But always, a criminal defense attorney!

Favorite ice cream flavor: I am a chocoholic, so chocolate is my poison!

Cone or a cup? A cup with a cone on it!

Kestenbaum has practiced criminal law for 35 years, several of which he spent serving as a prosecutor. He recently established his own criminal defense firm, Kestenbaum Law Group in Van Nuys. He is rated AV Preeminent by Martindale-Hubbell and has been named a Preeminent Criminal Defense Attorney by LexisNexis and a SuperLawyer. Since 2011, he has served as Chair of the SFVBA's Criminal Law Section. His commitment to enhancing the practice is evident by the excellent educational programming the section has sponsored under his leadership, with many programs designed to train new attorneys. He has also been involved in community organizations, having served as a past president of the local San Fernando Valley chapter of B'nai B'rith International. He also serves on the Board of Governors of the California Attorneys for Criminal Justice.

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PHOTO GALLERY

ICE CREAM SOCIAL THURSDAY, AUGUST 14, 2014

ON AUGUST 14, THE SFVBA WELCOMED MEMBERS TO AN ICE Cream Social at its office in Tarzana. Members were invited to enjoy delicious custom sundaes from Dandy Don's Homemade Ice Cream, courtesy of Narver Insurance. Debra Mondragon, Narver's Vice President, was on hand to provide information about the company's offerings to the sixty SFVBA members in attendance. For members, it was a welcomed break from the summer heat.



PHOTO GALLERY

President's Circle Luncheon



PRESIDENT'S CIRCLE

IN JULY, MEMBERS OF THE SFVBA'S PRESIDENT'S CIRCLE ENJOYED AN INTIMATE LUNCHEON WITH EDITORS FROM *The Los Angeles Daily Journal*. Editor David Houston and Legal Editor Ben Armistead discussed the newspaper's submission process for attorney articles and various issues affecting today's legal practice, including the rising number of underemployed law school graduates. In attendance were Zane Averbach of Goldfarb Sturman & Averbach; Adam Grant of Alpert Barr & Grant; Marshal Oldman of Oldman Cooley Sallus Birnberg & Coleman; Brent Cheney of Parker Milliken Clark O'Hara & Samuelian; Alan Kassin of Kantor & Kantor; Neal Dudovitz of Neighborhood Legal Services of Los Angeles County; Keith Zimmit of Lewitt Hackman Shapiro Marshall & Harlan; and James Felton of Greenberg & Bass.

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**Contact SFVBA Executive Director Liz Post at (818) 227-0490, ext. 101
or epost@sfvba.org to sign up your firm today!**

Dear Phil

Representing Family Members

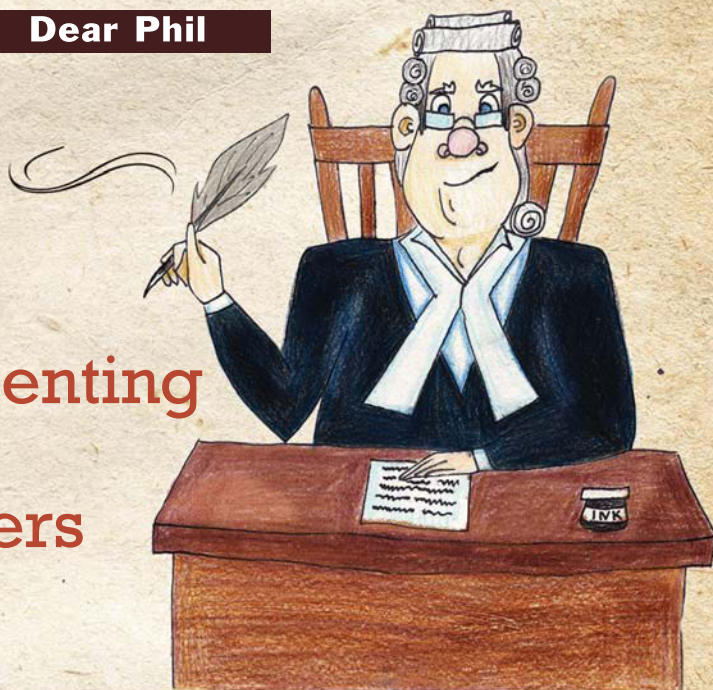


Illustration by Gabriella Sendorov

A close relative wants my legal advice and some documents prepared. I think my relative is better served by having another lawyer give that advice in a formal attorney-client relationship, but my relative may be offended if I decline to help. What is a good way to say no without giving offense?

Sincerely,

Indentured Lawyer for the Family

DEAR INDENTURED LAWYER for the Family:

I feel your pain. And so do all licensed and soon-to-be licensed attorneys around the world. Somehow, free legal advice has become human catnip! And to boot, family members rarely even take your advice, no matter how insightful.

But there are ways to de-claw the situation with a touch as soft as a kitten's paw.

When you refuse to take your relative's matter, place the blame on a third party. This could be your employer ("My managing partner would fire me

for advising on a matter related to a non-client."), your malpractice insurer ("My coverage would be cancelled if I represented someone outside of my law firm client roster."), or the State Bar ("The State Bar ethics rules are very strict on this point—I could be disbarred for participating in a matter without sufficient expertise.")

Stick to your guns, no matter what. If you compromise your employment, your insurance, or your Bar license, you will have nothing to show for it, except regret.

Good luck!

Phil

Dear Phil is a new advice column appearing regularly in *Valley Lawyer Magazine*. Members are invited to submit questions seeking advice on ethics, career advancement, workplace relations, law firm management and more. Answers are drafted by Valley Lawyer's Editorial Committee. Submit questions to editor@sfvba.org.

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Mockensturm LLP
Pasadena
Business Law

Artin Gharibian
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Jared Irmis
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Aghavni V. Kasparian
Kasparian Law Firm, P.C.
Glendale
Civil Litigation

Julie J. Kim
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Aaron Leetch
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Brian Michaels
Law Office of Brian Michaels, APLC
BRIMLAW@aol.com
Criminal

Poleta Minasian
Glendale
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Natalia Minassian
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Corporate Law

Jordan Oslin
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The Burbank Firm, L.C.
Burbank
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Bankruptcy

Nicole Silverstein
Pines Laurent, LLP
Encino
Family Law

Scott Smith
Sacramento
Associate Member

Gagik Stepanyan
Van Nuys
Civil

Fall is in the Air

IT IS HARD TO BELIEVE BUT summer is almost over and the kids are back in school. A short time ago, I was at the mall with my daughter where she saw the perfect backpack. Despite the sale price and the fact that it might have been a good deal, I simply could not bring myself to buy school supplies in the middle of July. It seems that summer has gone much too quickly this year, with barely seven and a half weeks of vacation before heading back to school. I sometimes wonder if there was more fun to be had and where we could have squeezed it in.

This past July I was able to have a little fun of my own and attended an event called Thriller Fest in New York City. Put on by an organization formed by authors of thriller novels, the event celebrates the genre, and sub-genres and honors authors within. I had the opportunity to see Scott Turow interviewed by Douglas Preston about his experience writing, both in the legal genre and in general. My husband, Rob, and I were also lucky enough to meet Mr. Turow at an evening event, and share with him not only that we ourselves are attorneys, but that we still read and enjoy his books.

One panel focused specifically on legal thrillers and featured Steve Martini, John Lescroat, Al Giannini, and several other writers in the genre. The authors shared some interesting anecdotes about correspondence they have received from readers about how closely they stick to the law when writing and about the perceived mistakes they have made. The event made me not only want to come home

and read many more books but also had me looking forward to our annual Dinner with the Author, which is just around the corner.

While there is not a chill in the air just yet, we can be sure that it is on the way. And with our minds now turning to cooler pursuits, we are once again looking forward to the Santa Clarita Valley Bar Association's fall events.

At our annual Dinner with the Author on September 18, 2014, we welcome Rebecca Forster to speak to the general public and members alike. Ms. Forster is a USA Today and Amazon bestselling author of 29 books. Although not an attorney herself, she is married to a Los Angeles Superior Court judge, has been a guest speaker at various legal symposiums, and has taught at the acclaimed UCLA Writers' Program. Her work focuses on legal and political thrillers. Her Witness Series, featuring attorney Josie Bates, has been on the Amazon bestseller lists for over two years in both the United States and the U.K. We look forward to welcoming Ms. Forster to our event.

AMY M. COHEN
SCVBA President



amy@cohenlawplc.com

Tickets for the event, held at The Tournament Players Club (TPC) Valencia, are \$55 if purchased before September 2 and \$65 after that date. The event begins at 6:00 p.m. and includes dinner. For tickets and more information, please contact Emily at info@scvbar.org. Everyone is welcome!

As with our events in the past, table sponsorships are available which include tickets to the event, recognition at the event and in the program and copies of the speaker's books. Business card-sized advertisement space is also available in our program. If you or your firm are interested in sponsorship of this event, please contact Emily at the email above.

On October 16, 2014, SCVBA will once again feature Brian Koegele of Poole & Shaffery who will give his annual CLE seminar on recent updates in employment law. This event is always well attended and provides a wealth of information both for attorneys who have employees and those who have clients with employees. The lunchtime seminar



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will include one hour of continuing education credit and will be held at TPC Valencia. For information or to purchase tickets, please contact info@scvbar.org.

Finally, on November 20, 2014, we will be holding our Annual Installation Dinner at TPC Valencia. This year's event will also feature a celebration of the Santa Clarita Valley Bar Association's Tenth Anniversary, with special

recognition of our past presidents. We will once again be collecting new and unwrapped toys to be donated to local charities for the holidays. Table sponsorships and program ads will be available. Please view our website, scvbar.org, for information.

We hope to see many of you at these upcoming events and hope that you have had a wonderful summer. 

THIRD ANNUAL DINNER WITH THE AUTHOR

THURSDAY, SEPTEMBER 18, 2014 AT 6:00 P.M.

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*The Santa Clarita Valley Bar Association invites
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REBECCA FORSTER

Writing her first novel on a dare, Ms. Forster is now a USA Today and Amazon bestselling author of 29 books which include *Before Her Eyes*, *Beyond Malice*, *Keeping Counsel* and *The Mentor*. Ms. Forster also authors the *Witness Series*, featuring attorney Josie Bates, has been on the Amazon bestseller lists for over two years in both the U.S. and U.K. Although not herself an attorney, Ms. Forster enjoys her "bird's eye view" of the legal system through her husband, a county Judge, and she will speak about her own writing experiences as well as what makes attorneys so interesting to outside observers.



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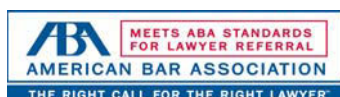
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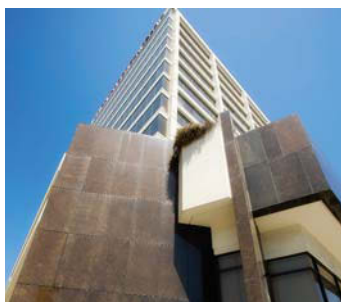
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