

# VALLEY LAWYER

JANUARY 2016 • \$4

A Publication of the San Fernando Valley Bar Association

**Judge Huey Cotton  
Named SFVBA  
Judge of the Year**

**New Technology and the  
Ancient Tort of Trespass**

**Earn MCLE Credit**

Official Sponsors of the San Fernando Valley Bar Association

## KRYCLER ERVIN TAUBMAN & KAMINSKY

FULL SERVICE ACCOUNTING FIRM

CONTACT MICHAEL J. KRYCLER, CPA, FCA | SCOTT R. ERVIN, CPA

*When you need more than just numbers...  
you can count on us...*

- LITIGATION SUPPORT
- EXPERT WITNESS
- FORENSIC ACCOUNTANTS
- FAMILY LAW MATTERS
- BUSINESS VALUATIONS
- LOSS OF EARNINGS
- DAMAGES

MEMBERS OF  
American Institute of Certified Public Accountants  
California Society of Certified Public Accountants

15303 Ventura Boulevard, Suite 1040  
Sherman Oaks, California 91403

info@ketkcpa.com

t: 818.995.1040

f: 818.995.4124

www.ketkcpa.com





# ANDREW L. SHAPIRO

*now available as a private*

## MEDIATOR & ARBITRATOR

Andrew L. Shapiro is utilizing his extensive negotiation and trial experience to expand a growing mediation practice. Over the years he has personally handled over 1,500 pro bono cases as a Court Settlement Officer, Arbitrator or Mediator for Los Angeles and Ventura County Superior Courts.

### PRACTICE AREAS:

- Wrongful Death
- Spinal Cord Injuries
- Premises Liability
- Traumatic Brain Injuries
- Products Liability
- Dangerous Conditions of Public Property
- Bicycle, Auto, Motorcycle & Truck Accidents
- Serious Dog Attacks
- Medical Malpractice

### MEMBERSHIPS:

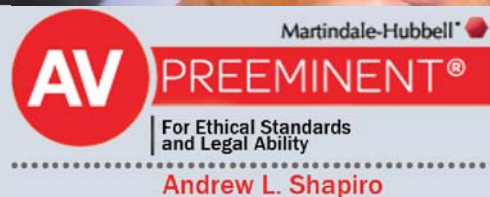
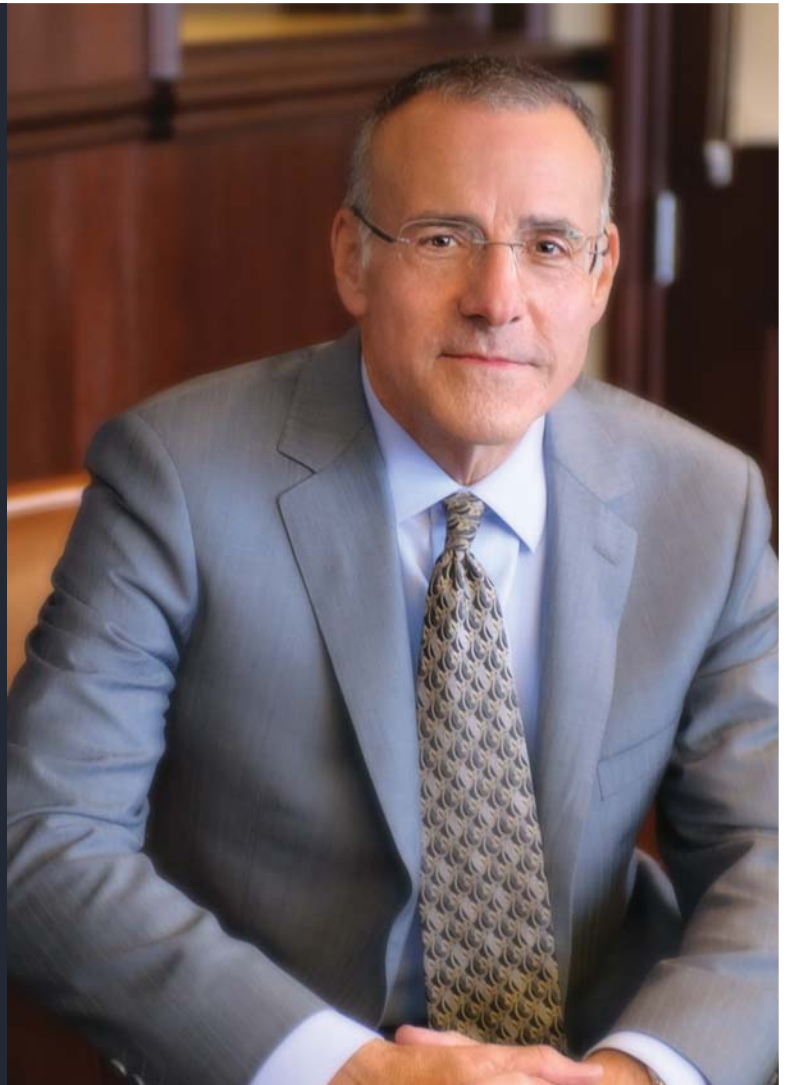
- American Board of Trial Advocates (ABOTA)
- Consumer Attorneys Association of Los Angeles (CAALA)
- Consumer Attorneys of California (CAOC)
- Los Angeles County Bar Association
- San Fernando Valley Bar Association



LEWITT, HACKMAN, SHAPIRO, MARSHALL & HARLAN  
A LAW CORPORATION

818.907.3266  
AShapiro@LewittHackman.com

16633 Ventura Boulevard, Eleventh Floor  
Encino, California 91436



Andrew L. Shapiro

*"Andy is an excellent lawyer with a firm understanding of not just the law, but the personal injury business. More importantly he is a wonderful person, who has the right temperament to be a fantastic mediator. Trial lawyers on both sides of the fence will benefit from Andy's mediation skills. It will only be a short time until the personal injury community will recognize his talents and he will join the ranks of elite mediators."*

**– Matthew B.F. Biren, Biren Law Group**

*"I have known Andy Shapiro for over 30 years. I had cases against him when I was practicing and have mediated and arbitrated cases with him in my more recent capacity as a Neutral Hearing Officer. Based on my experience with him, Andy has the skills and more importantly, the temperament, to be extremely effective in this endeavor. His many years of experience will serve him well, and I enthusiastically endorse and support his entry into the field."*

**– Darrell Forgey, Judicate West**

## Sometimes numbers are the only prints left behind.

Arxis Financial is a proven forensic accounting and litigation specialist. We will examine the financial data and help you determine the "bottom line." Arxis provides financial and valuation analysis needed to resolve a variety of legal disputes from family court to civil, criminal, and probate courts. In many cases our experts can help you reach a settlement. If trial or arbitration is required we give you the support you need to win.

Chris Hamilton, CPA, CFE, CVA

805.306.7890

[www.arxisfinancial.com](http://www.arxisfinancial.com)

[chamilton@arxisgroup.com](mailto:chamilton@arxisgroup.com)



FORENSIC ACCOUNTING

BUSINESS VALUATION

FRAUD ANALYSIS



The Matloff Company has been a top insurance broker to Southern California attorneys, their firms and families for over 32 years.

RATED A+ A.M.  
BEST INSURERS.

### Life Insurance

Term, Universal Life, Survivorship, Estate Planning, Key-Person

### Disability Insurance

Insure your most important asset—"Your ability to earn income"  
Insures you in your own occupation  
Benefits keep up with inflation

### Long Term Care Insurance

Several quality carriers for individuals and firms

### Health Insurance

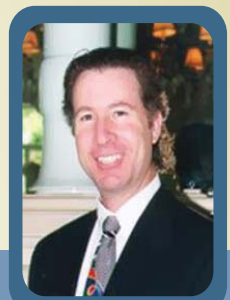
All major insurance companies for individuals & firms

**MC** The Matloff Company

An Insurance and Financial Services Company

Phone: (800) 468-4467

E-mail: [elliott@matloffcompany.com](mailto:elliott@matloffcompany.com)



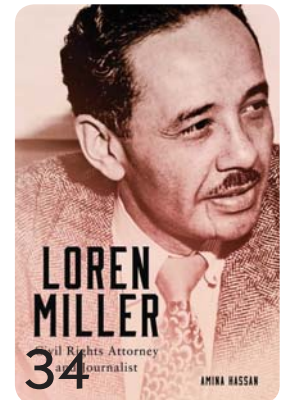
Elliot Matloff

[www.matloffcompany.com](http://www.matloffcompany.com)





Winner of the  
2014-2015  
LA Press Club  
Award



On the cover: Judge Huey Cotton  
Photo by Chris Jurgenson

## FEATURES

**12** Preparing For Your Greatest Trial: Surviving and Protecting Your Workplace When Disaster Hits | BY JUDGE MARY THORNTON HOUSE

**16** New Technology and the Ancient Tort of Trespass: Can Fracking Be Undone by One of the Legal System's Oldest Torts? | BY D. SHAWN BURKLEY  
MCLE TEST NO. 87 ON PAGE 25.

**26** Road to Success: Judge Huey Cotton Named SFVBA Judge of the Year | BY ELIZABETH POST

## COLUMNS

**34** Book Review  
Journalist, Lawyer and Judge:  
*A Tale of a Legal Legend* | BY LAUREN FAHLBECK

## DEPARTMENTS

- 7** President's Message
- 9** Executive Director's Desk
- 10** Event Calendars
- 37** Santa Clarita Valley Bar Association
- 39** Photo Gallery
- 41** Valley Community Legal Foundation
- 44** Classifieds

## HOEFFLIN • BURROWS

*A Law Corporation*

*Personalized representation to attain client goals*

HOEFFLIN • BURROWS delivers results by putting client interests first and using a team-based approach to creatively, intelligently, and effectively resolve legal matters. Specializing in disputes and litigation including:

- Real Estate
- Partnerships/LLC's
- Business and Corporate
- Trust/Estate Disputes
- Executive Employment
- Alternate Dispute Resolution
- Entertainment Disputes

*Refer with confidence*



Steven A. Meadville, of Counsel • Richard M. Hoefflin • Jason M. Burrows

2659 Townsgate Road, Suite 232 • Westlake Village, CA 91361  
805.497.8605 • www.hoefflinlaw.com

## VALLEY LAWYER

### SAN FERNANDO VALLEY BAR ASSOCIATION

5567 Reseda Boulevard, Suite 200  
Tarzana, CA 91356  
Phone (818) 227-0490  
Fax (818) 227-0499  
www.sfvba.org

### BOARD OF TRUSTEES

President ..... Carol L. Newman  
President-Elect..... Kira S. Masteller  
Secretary..... Alan E. Kassan  
Treasurer ..... Anie N. Akbarian  
Past President..... Caryn Brottman Sanders  
Executive Director..... Elizabeth Post

### TRUSTEES

Jonathan Birdt	Nicole Kamm
Vito A. Costanzo	Yi Sun Kim
William A. Daniels	Kathy G. Neumann
Michelle E. Diaz	Samuel R.W. Price
Barry P. Goldberg	Marlene Seltzer
Peta-Gay Gordon	John F. Stephens
Alexander J. Harwin	Toni Vargas
Sean E. Judge	

### STAFF

Director of Public Services..... Rosie Soto Cohen  
Referral Consultant..... Fanny Arellano  
Director of Education & Events..... Linda Temkin  
Member Services Coordinator..... Melissa Garcia

### SECTION CHAIRS

Bankruptcy Law ..... Steven R. Fox  
Business Law & Real Property ..... Steven J. Shapero  
..... Neil M. Sunkin  
Criminal Law..... David S. Kestenbaum  
..... Angela Berry-Jacoby  
Employment Law ..... Kimberly Westmoreland  
Family Law ..... Sandra Etue  
..... Kenneth Nahigian  
..... Amir Aharonov  
Intellectual Property,  
Entertainment & Internet Law ..... John F. Stephens  
..... Thomas M. Morrow  
Litigation..... Christopher P. Warne  
New Lawyers ..... Christopher Blaylock  
..... Hannah Sweiss  
Probate & Estate Planning..... John E. Rogers  
Small Firm & Sole Practitioner..... Arsalan Hayatdavoodi  
Taxation Law..... Ronald Hughes  
..... Hratch J. Karakachian  
Workers' Compensation..... Jeffrey S. Swartz

### GRAPHIC DESIGNER

Marina Senderov

Valley Lawyer is published monthly. Articles, announcements, and advertisements are due by the first day of the month prior to the publication date. The articles in Valley Lawyer are written for general interest and are not meant to be relied upon as a substitute for independent research and independent verification of accuracy.

Printing Southwest Offset Printing

© 2016 San Fernando Valley Bar Association

### SOUTHERN CALIFORNIA'S PREEMINENT PROFESSIONAL LIABILITY DEFENSE FIRM

## NEMECEK • COLE

Attorneys At Law



FRANK W. NEMECEK\*

JONATHAN B. COLE\*

MICHAEL MCCARTHY\*

\* Certified Specialist, Legal Malpractice Law, The State Bar of California Board of Legal Specialization

15260 VENTURA BOULEVARD, SUITE 920  
SHERMAN OAKS, CA 91403  
TEL: 818.788.9500 / TOLL FREE: 877.314.1177

WWW.NEMECEK-COLE.COM



## PRESIDENT'S MESSAGE

### The New Normal

**I AM WRITING THIS MESSAGE** on the Friday of Thanksgiving weekend. It's been two weeks since the attacks on Paris, which were the deadliest in France since World War II and the deadliest in the European Union since the Madrid attacks in 2004. Today, as I was planning to write this message on something probably vanilla and noncontroversial (although admittedly that's not my normal style), I turned on CNN and was immediately drawn into watching hours of coverage regarding the murders at Planned Parenthood in Colorado Springs, Colorado.

At the exact time I am writing this, no one yet knows this particular attacker's motivation, but it is certainly possible that this was not simply a random crime, given the vitriolic campaign that many politicians have been waging against Planned Parenthood. So this President's Message is not vanilla and it will be controversial, but it deals with the New Normal.

The New Normal is that we will have no choice going forward but to expect murderous attacks against innocent persons from time-to-time, both here and abroad, which are at least partly politically motivated and which wrongfully invoke religious motives. Why am I writing about this? The people who are committing these attacks purport to believe that they do not have to abide, as the rest of us do, by the rule of law. They purport to believe that there is a higher authority which will vindicate, and

[www.sfvba.org](http://www.sfvba.org)

**CAROL L. NEWMAN**  
SFVBA President



[carol@anlawllp.com](mailto:carol@anlawllp.com)

indeed warrants, their actions—not the actions of courts or legislatures, but divine authority which (they say) supersedes the mundane judicial and legislative branches of government.

In the United States, one of the most polarizing issues testing the rule of law has been abortion and family planning. Prior to the U.S. Supreme Court's ruling in *Roe v. Wade*, abortions had been legal in a patchwork of states, but not the rest of the United States. In *Roe v. Wade*, the U.S. Supreme Court legalized choice in all states.

I have to say that when that decision came down, I was in law school and that decision was a shock, a welcome shock from my standpoint as a pro-choice feminist, but still a big surprise that the Supreme Court would be that ground-breaking. Granted, that was a time of great social change, but still, the decision was trailblazing even at that point in time when many trails were being blazed.

It has been 42 years since *Roe v. Wade* was decided, and despite the fact that it remains good law, the country is still split as to whether choice should be legal. The Supreme Court's decision in *Roe v. Wade* will continue to be compared to its equally ground-breaking decision this year in *Obergefell v. Hodges*, in which the Supreme Court legalized same sex marriage across the country.

In leading up to the *Obergefell* ruling, Justice Ruth Bader Ginsburg questioned whether *Roe v. Wade*

## BOUTIQUE CRIMINAL DEFENSE FIRM

EG

EISNER GORIN LLP

STATE AND FEDERAL CRIMINAL DEFENSE

### FIRM PARTNERS INCLUDE:

Former Senior Deputy District Attorney  
UCLA and Pepperdine Law Professor  
Bar-Certified Criminal Law Specialist



**Super-Lawyers Top 2.5%  
A.V. – Preeminent Rating  
Avvo 10/10 Superb**

### RECENT VICTORIES:

- \$3 Million Fraud Case - Dismissed, Government Misconduct (Downtown, LA)
- Murder - Not Guilty by Reason of Insanity, Jury (Van Nuys)
- Medical Fraud Case - Dismissed, Preliminary Hearing (Ventura)
- Domestic Violence - Not Guilty, Jury Finding of Factual Innocence (San Fernando)
- \$50 Million Mortgage Fraud - Dismissed, Trial Court (Downtown, LA)
- DUI Case, Client Probation - Dismissed Search and Seizure (Long Beach)
- Numerous Sex Offense Accusations: Dismissed before Court (LA County)
- Several Multi-Kilo Drug Cases: Dismissed due to Violation of Rights (LA County)

**877.781.1570**

Eisner Gorin LLP  
14401 Sylvan Street, Suite 112  
Van Nuys, CA 91401

**24/7 Immediate Intervention**

# ERISA LAWYERS

**LONG TERM DISABILITY,  
LONG TERM CARE, HEALTH,  
EATING DISORDER, AND LIFE  
INSURANCE CLAIMS**

**WE HANDLE BOTH  
ERISA & BAD FAITH  
MATTERS**

- California Federal and State Courts
- More than 20 years experience
- Settlements, trials and appeals

**Referral fees as allowed  
by State Bar of California**

**Handling matters  
throughout California**

**818.886.2525**



[www.kantorlaw.net](http://www.kantorlaw.net)


**Dedicated to helping people  
receive the insurance  
benefits to which they  
are entitled**

untimely terminated a democratic process which could have resulted in a greater consensus in support of abortion rights. Regardless, nearly half a century later, choice remains a very polarizing issue, and abortion providers have a long history of having been targeted by violence.

The *Obergefell* ruling may have inadvertently exacerbated the dialogue about choice. In any event, those who feel threatened by advances in human rights may continue to strike back. These strikes are correctly defined as terrorism, whether domestic or international. In Paris, the issue was whether a particular form of extremism will conquer the values of freedom and liberty. Clearly ISIS believes that its tactics will do so, and in some parts of the world, ISIS may, unfortunately, prevail. But in this country the actions of domestic terrorists cannot be condoned, no matter what their rationales may be, no matter what version of religion they may claim

to hold, and no matter whether their tactics are successful or not.

As officers of the court, we must insist that the rule of law prevail. If you do not agree with a Supreme Court ruling, then do your utmost to lobby against it and try to change it. It can be done, although it may not happen quickly. Successful and sustained advocacy is what ultimately caused the Supreme Court in *Brown v. Board of Education* (prohibiting state-sponsored segregation) to overrule its own decision nearly 60 years earlier in *Plessy v. Ferguson* (allowing such segregation), and what caused a later incarnation of the Supreme Court in 2003 in *Lawrence v. Texas* (invalidating sodomy statutes) to overrule its own decision nearly 30 years earlier in *Bowers v. Hardwick* (condoning sodomy statutes).


Violence should not prevail over the rule of law no matter what the circumstances are claimed to be. As lawyers we need to be leaders in asserting the rule of law. 

## City National

PROUDLY SUPPORTS

### San Fernando Valley Bar Association

**CITY NATIONAL BANK**

The way up.™ 

*California's Premier Private and Business Bank®*

CNB.COM

CNB MEMBER FDIC



## Auld Lang Syne

**ELIZABETH POST**  
Executive Director



[epost@sfvba.org](mailto:epost@sfvba.org)

**W**ELCOME TO 2016! A NEW YEAR INEVITABLY brings promises of self-improvement and change. A few years ago Time published the top ten New Year's resolutions made (and most often forgotten):

1. Lose weight and get fit
2. Quit smoking
3. Learn something new
4. Eat healthier and diet
5. Get out of debt and save money
6. Spend more time with family
7. Travel to new places
8. Be less stressed
9. Volunteer
10. Drink less

I will admit to making a few of the above resolutions over the years with varying degrees of achievement. The San Fernando Valley Bar Association can help members

successfully keep your New Year's resolutions this year. Want to learn something new? Read *Valley Lawyer's* MCLE articles or attend one of our many monthly section seminars. Eager to volunteer? Sign up as a family law mediator, probate settlement officer, or join a committee. Ready to save money? SFVBA membership includes a free subscription to Fastcase.

And no need to pigeonhole your resolutions to the above list. Committed to reading or writing more in 2016? Read a new book and write a review for *Valley Lawyer*, or refer to the Editorial Calendar below to make plans to write an article about your area of practice. Intend to network more to generate additional referrals? Now there is no need to go outside the Bar—the SFVBA will soon announce the launch of the Valley Bar Network. Have goals to grow your practice this year? Place advertisements in our award-winning *Valley Lawyer*.

No matter how many resolutions we keep or break this year, I wish all members health, wealth, more time with family, and less stress in 2016. Happy New Year! 🍷

## Valley Lawyer 2016 Editorial Calendar

2016 Issue	Cover Profile	Practice Area Focus	Editorial Deadline
January	SFVBA Judge of the Year	Courts	December 3, 2015
February	Lawyer Spouses	Family Law	December 15, 2015
March	Top Trial Lawyer	Personal Injury/Trial Techniques	January 15, 2016
April	Civil Air Patrol California Wing Legal Officer	Aviation Law/Drone Laws	February 15, 2016
May	Law Day	Bankruptcy	March 15, 2016
June	Valley's Adult Entertainment Industry Legal Counsel	First Amendment	April 15, 2016
July	Board of Trustees Election	Labor and Employment Law	May 15, 2016
August	Arts Contest	Intellectual Property	June 15, 2016
September	Meet New SFVBA President	Probate	July 15, 2016
October	SFVBA President's Circle	Business Law/Real Property	August 15, 2016
November	Lawyer Legislators	Election Law	September 15, 2016
December	Cover Auction	Practice Area Intros for New Lawyers	October 15, 2016

Articles are not limited to content focus. *Valley Lawyer* seeks articles covering all areas of law, plus articles focusing on the courts and judiciary, lifestyle, law practice management, social media and legal marketing, as well as humorous commentary about the practice of law. Submit articles and ideas to [editor@sfvba.org](mailto:editor@sfvba.org). Word count for feature article is 1,500-3,000 words; word count for MCLE article is 3,000-4,000 words, including 20 true and false questions for MCLE test. Word count for column (i.e., Book Review, Duly Noted, Finding an Expert) is 1,000-1,500 words.

SUN	MON	TUE	WED	THU	FRI	SAT
				Happy New Year <b>1</b>		<b>2</b>
<b>3</b>	<b>4</b> <i>Valley Lawyer</i> Member Bulletin Deadline to submit announcements to <a href="mailto:editor@sfvba.org">editor@sfvba.org</a> for February issue.	<b>5</b> <b>12</b> Probate & Estate Planning Section Divorce and Death—Crossover Issues in Estate Planning and Family Law 12:00 NOON MONTEREY AT ENCINO RESTAURANT Peter Walzer, CFLS and Eric Tokuyama of Holland & Knight will discuss the intersection of estate planning and family law in a seminar that will be relevant to probate and estate planning attorneys as well as family law practitioners. (1 MCLE Hour) Board of Trustees 6:00 PM SFVBA OFFICE	<b>6</b>	<b>7</b> Membership & Marketing Committee 6:00 PM SFVBA OFFICE	<b>8</b>	<b>9</b>
<b>10</b>	<b>11</b>		<b>13</b>	<b>14</b> <b>21</b> Taxation Law Section The Long Arms of the City of Los Angeles Business Tax 12:00 NOON SFVBA OFFICE Jerry McNally will provide an update of the Los Angeles business tax and how businesses can become subject to it even when based outside of the city limits. (1 MCLE Hour)	<b>15-16</b>  <b>SFVBA 19th Annual MCLE Marathon</b> See page 33	
<b>17</b>	<b>18</b>  MARTIN LUTHER KING JR. DAY	<b>19</b> New Lawyers Section Networking Mixer Sponsored by  The Tenant's Advantage 6:00 PM LAKESIDE CAFE ENCINO	<b>20</b> Workers' Compensation Section Rosenfeld on Rolda 12:00 NOON MONTEREY AT ENCINO RESTAURANT WCAB Judge Sandra Rosenfeld will discuss the Rolda case. (1 MCLE Hour)	<b>22</b> Criminal Law Section Immigration Consequences: Your Duty to Know and Advise Sponsored by   6:00 PM SFVBA OFFICE See ad on page 36	<b>23</b>	
<b>24</b>	<b>25</b> Family Law Section New Laws 5:30 PM MONTEREY AT ENCINO RESTAURANT Start the New Year right and get the latest updates. Approved for Family Law Legal Specialization. (1.5 MCLE Hours)	<b>26</b> Editorial Committee 12:00 NOON SFVBA OFFICE	<b>27</b>	<b>28</b> Diversity Mixer 6:00 PM THE VILLA WOODLAND HILLS See ad on page 43	<b>29</b> Bankruptcy Law Section Abandonments in Bankruptcy 12:00 NOON SFVBA OFFICE Jeffrey Shinbrot and court law clerk Chris Wong will discuss select and scary issues. (1.25 MCLE Hours)	<b>30</b>
<b>31</b>						



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



SUN	MON	TUE	WED	THU	FRI	SAT
BLACK HISTORY MONTH						
	<div>Valley Lawyer Member Bulletin</div> <div>Deadline to submit announcements to editor@sfvba.org for March issue.</div>			<div>Membership &amp; Marketing Committee</div> <div>6:00 PM</div> <div>SFVBA OFFICE</div>		
		<div>Probate &amp; Estate Planning Section</div> <div>Updates on Critical Cases</div> <div>12:00 NOON</div> <div>MONTEREY AT ENCINO RESTAURANT</div> <div>Marc Sallus and Marshall Oldman will give the latest litigation updates on the cases every probate and estate planning attorney should know. (1 MCLE Hour)</div> <div>Board of Trustees</div> <div>6:00 PM</div> <div>SFVBA OFFICE</div>				

# PREPARING FOR YOUR GREATEST TRIAL:

## *Surviving & Protecting Your Workplace When Disaster Hits*

By Judge Mary Thornton House



**P**REPARING TO SURVIVE A disaster is much like the practice of law. You work hard in law school by studying and you pass a test. You seek guidance from those more experienced in the field in which you decide to specialize. You organize teams for litigation to fill important roles. Every time you sign on a client, you think through the litigation plan and what to prepare for if that plan takes an unexpected turn. If a loss occurs, you've prepared your client (and your billable hours) for recovery.

It's like that proverbial shark that dies if it doesn't keep moving; when we stop thinking about the path of litigation, we likely will suffer negative consequences. So, let's get thinking about coping with natural and criminal disasters and come up with a game plan for your workplace.

Please answer yes or no to the below questions in the privacy of your

office or, if brave enough, sit down with your colleagues and answer them in a group format:

- ❶ Have you thought about what you'll face in terms of probable disasters while at work?  
☐ Yes ☐ No
- ❷ Do you know your building's evacuation routes and to what shelter to report to in your immediate workplace location?  
☐ Yes ☐ No
- ❸ Do you know who and how you'll reconnect with to assure continuity of your business, if at all possible?  
☐ Yes ☐ No
- ❹ Have you signed up for emergency alerts and know how your building

and local government officials will communicate with you?

☐ Yes ☐ No

- ❺ Do you have a disaster preparedness kit at work, in your car, and do you know how to make best use of it?

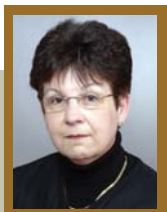
☐ Yes ☐ No

- ❻ If caught at work and unable to go home, does your business have enough shelter-in-place supplies for at least three days for your staff and yourself?

☐ Yes ☐ No

- ❼ If you have employees with special needs, are you prepared to meet those needs?

☐ Yes ☐ No



**Judge Mary Thornton House** is Supervising Judge of the Northeast and North Central Districts and also is Supervising Judge of Hub Operations. As a former lawyer for the LA City Attorney's Office, she served as general counsel to the LAPD and LAFD and as an occasional advisor to the city's Emergency Operations Center. Her background in emergency preparedness enabled staff and judges to keep the Pasadena courthouse operational recently when the courthouse suffered an early morning fire.



8 Do you know if members of your workforce have special skills, like CPR training, using a fire extinguisher, or first aid skills, in the event such skills are needed?

☐ Yes ☐ No

9 Have you sat down with your work employees and colleagues and discussed any of these topics or brought in local resources to highlight these issues and provide training?

☐ Yes ☐ No

10 Have you thought about how you could help your local business community during a disaster?

☐ Yes ☐ No

**First, think about and know about what you'll face.** Until events of last week occurring in San Bernardino County, much too near to us, the big topic in this area was earthquake preparedness. Terrorism wasn't high on the list, but sadly, may now occupy that fear zone in our minds well above the Big One that has been long overdue. It's unlikely that the San Fernando Valley will have to worry about a hurricane, but once you eliminate that possibility, most every scenario that spells out disaster could happen right here: earthquakes, floods, fires, winds, criminal conduct, workplace violence, lone or multiple shooter entry, and so on. Yes, this is a most depressing list, but when one talks about disasters preparedness and recovery, the topic doesn't lend itself to comedic relief, just disaster relief.

Just like in trial, when a witness testifies one way and then another, you need to know what tactic to deploy. So, whether it's an earthquake or a shooting scenario, you can plan ahead and plan enough to have flexible options dependent upon the challenges of the event.

**Second, learn your building and area's evacuation routes,**

**potential hiding places, and shelter locations.** Theatres and concert venues are required by law to announce at the beginning of each performance that the audience should take a look around and determine the exit closest to them in the event of an emergency. We've been drilled by the drop, cover, and hold mantra for earthquakes.

For shooting events, the Houston Police Department put out a video some years ago entitled *Run. Hide. Fight.*® *Surviving an Active Shooter Event*. It can easily be retrieved off of YouTube and lasts about five minutes. You should download and show it to all of your colleagues and employees, particularly in light of recent events.

For example, in the "Run" scenario, office personnel are advised to run away from the danger, if it is safe to do so. Practicing exit routes to do this is the obvious task. In the "Hide" scenario, people are told that if they can't run, to hide as quickly as possible, lock doors, turn off cell phones, and remain quiet to avoid detection. Urge your employees to think ahead about where they would hide.

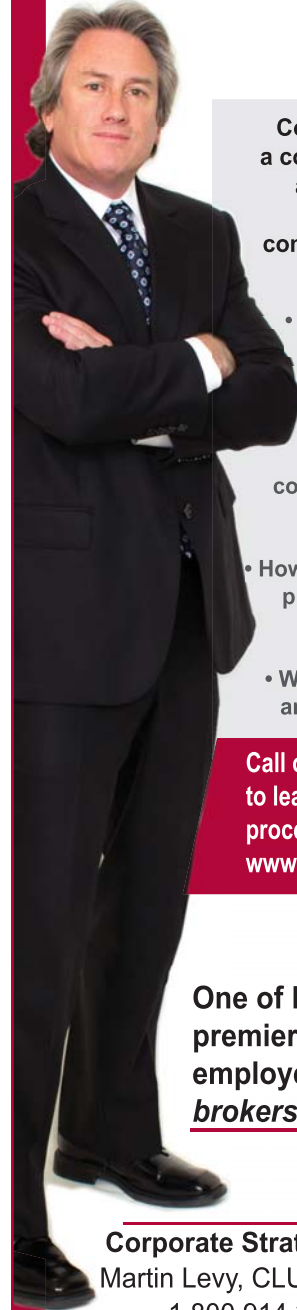
In the "Fight" scenario, if it comes to that, then it is advised to look for weapons such as fire extinguisher, chairs, and books that can delay or deter a shooter. Your floor marshal might be the person to task with scoping out hiding places and possible weapons. Oh, you don't have a floor marshal? Well, appoint one primary and one back-up, just in case. That person, in the event of an emergency, can take command of the situation, advise personnel where to go (or to stay) and can organize the fight tactics, if it should come to that.

**Third, know how you'll advise your working group and how you can reconnect with people that matter.**

Sign up for emergency alerts and know how officials will communicate with you during a disaster. Yes, it's a

## HEALTH CARE REFORM HAS CHANGED THE WAY YOU BUY AND DELIVER BENEFITS

### IS YOUR PRESENT BROKER BRINGING YOU THE BEST POSSIBLE SOLUTION?



Contact us for  
a comprehensive  
analysis of  
NEW ACA  
compliant plans:

- How to exploit the ACA for your benefit
- Why plan design and communication are vital
- How the exchanges play into your programs
- Wrapping plans around Kaiser

Call or Email us  
to learn about our  
process, or visit  
[www.CorpStrat.com](http://www.CorpStrat.com)

One of Los Angeles  
premier and **largest**  
employee **benefit**  
**brokers**

**Corporate Strategies Inc**  
Martin Levy, CLU, Principal  
1 800 914 3564  
[www.Corpstrat.com](http://www.Corpstrat.com)  
Ca. Lic 0C24367



bit startling to have one's phone start with that annoying sound signifying an amber alert or flood alert. Better to be annoyed than uninformed. Further, there are a range of easy and inexpensive to easy and expensive phone apps that can send out alerts directed by you or associated with local officials.

You should at least advise your employees to set up a group text on their smart phones, so that you and each other can communicate. It's always been advised to have an out-of-state phone number to call in the event cell coverage or local phone lines are damaged. Engage a "sister" law firm out of state to be your phone-in information number for your workers so that you can advise them of the status of workplace conditions.

**Fourth, have an emergency preparedness kit, emergency supplies, and know how to use them effectively and efficiently.**

There's absolutely no excuse for a business not to have emergency supplies for its employees. These supplies are called shelter-in-place and should include enough water and food for three days for each employee. First aid supplies should also be included and inspected yearly for expiration of the shelf life of the contents. Shovels, gloves, flashlights, and hardhats aren't a bad idea, either. These can be put in conveniently placed barrels in closets or stairwells.

Finally, encourage (or supply) individual survival backpacks to each of your employees. These are readily purchased at major hardware stores, mega-stores, and online. If not inclined to provide them, at least provide them with a suggested list for them to put together their own. Such lists are readily obtainable through an internet search.

Bottom line, make sure each worker has walking shoes, a whistle, a flashlight, hat, light jacket, and water bottle. These minimal supplies aid in leaving a location and protecting them by proper footwear, sun/night protection, and the ability to tote water. The whistle can be used to seek assistance.

**Fifth, keep in mind people who may need special attention.**

Do you have colleagues and employees in wheelchairs or use canes to ambulate? If so, it is critical to think ahead about how their special needs can be met. For example, there are slides that can be attached to stairway railings to permit non-ambulatory persons to essentially sled down stairways to safety. Ask if your building has such apparatuses and if not, consider purchasing them. Further, ask if your building has defibrillators for heart patients. If not, then consider purchasing one for your office. There are fully automatic, step-by-step models that require little or no training.

**Sixth, learn emergency skills that can come in handy and/or identify persons in your workforce who have them.**


How hard is it to operate a fire extinguisher? Well, if you've never done it, precious time is wasted reading the instructions and getting the hang of how they work. How many of your employees have CPR training? Ask them and identify them on an emergency roster. Train them on the office defibrillator you now plan to purchase. Are there any former nurses or paramedics in your employ? These skills can be invaluable in an emergency and you should have them confer with that floor marshal you'll appoint on how to strategize in an emergency situation.

**Seventh, find out how to help your legal community during a disaster.**

In the event of an emergency, stepping up to help those around you is the right thing to do and should be uppermost in your thinking, particularly if a law firm down the road loses its building to an earthquake. Or a shooting in a building interrupts your business by hours and days for officials to process a crime scene. Plan ahead by making a mutual assistance agreement with a "brother" law firm to aid in the event of such an occurrence.

Indeed, upon learning about the fire at the Pasadena courthouse in July, SFVBA was the only bar association that immediately offered assistance. It was much appreciated and demonstrated the graciousness and professionalism of the SFVBA.

**Parting Thoughts**

Think about this: you don't hesitate to take care of your loved ones and family in the event of an emergency. For most, we spend more time with our office colleagues than we do with our families. In short, plan and prepare for these events and make such preparation a priority for yourself and your work family. 

**WORKERS' COMPENSATION** STATE CERTIFIED SPECIALIST



**WILLIAM J. KROPACH**  
*Over 35 Years Experience*

- ✓ All Workers' Compensation Injuries
- ✓ Referral Fee Paid Per State Bar Rules
- ✓ Chairman, Workers' Comp Section of SFVBA (1987 to 2009)
- ✓ Director, Valley Community Legal Foundation of SFVBA (1980-2000)
- ✓ Former Trustee of SFVBA

For Workers' Compensation Referral, call **818.609.7005**  
[www.williamkropach.com](http://www.williamkropach.com) • email: [william@kropachlaw.com](mailto:william@kropachlaw.com)

*Volunteer of the Year 2003*



SAN FERNANDO VALLEY BAR ASSOCIATION

# ANNUAL JUDGES' NIGHT DINNER



**THURSDAY,  
FEBRUARY 25, 2016**  
WARNER CENTER MARRIOTT  
21850 OXNARD STREET  
WOODLAND HILLS

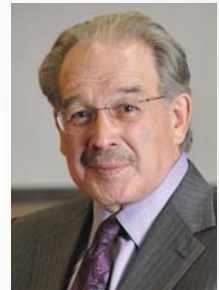
5:00 PM COCKTAIL RECEPTION  
6:30 PM DINNER AND PROGRAM

## HONORING



**Judge Huey Cotton**  
LOS ANGELES SUPERIOR COURT

*2016 SFVBA Judge  
of the Year*



**Neal S. Dudovitz**  
NEIGHBORHOOD LEGAL  
SERVICES OF LA

*Stanley Mosk Legacy  
of Justice Award*

Please return with payment by February 18, 2016 to SFVBA, 5567 Reseda Boulevard, Suite 200,  
Tarzana, CA 91356 or fax reservation to (818) 227-0499.

Call (818) 227-0490, ext. 105 for sponsorship and program ad opportunities.

Name(s) \_\_\_\_\_

\_\_\_\_\_

Firm Name \_\_\_\_\_

Phone \_\_\_\_\_

We accept checks, VISA, MasterCard, American Express and Discover.

Credit Card # \_\_\_\_\_ Exp. Date \_\_\_\_\_

Authorized Signature \_\_\_\_\_

## PLEASE RESERVE

SFVBA Members

\_\_\_\_\_ \$105 Ticket(s)

\_\_\_\_\_ \$1050 Table(s) of Ten\*

President's Circle

\_\_\_\_\_ \$1000 Table(s) of Ten\*

Non-members

\_\_\_\_\_ \$115 Ticket(s)

\_\_\_\_\_ \$1150 Table(s) of Ten\*

\* Please reserve two seats for  
judicial officers.

# NEW TECHNOLOGY & THE ANCIENT TORT OF TRESPASS:

Can Fracking Be Undone  
by One of the Legal System's  
Oldest Torts?

By D. Shawn Burkley







By reading this article and answering the accompanying test questions, you can earn one MCLE credit in Legal Ethics. To apply for the credit, please follow the instructions on the test answer form on page 25.

---

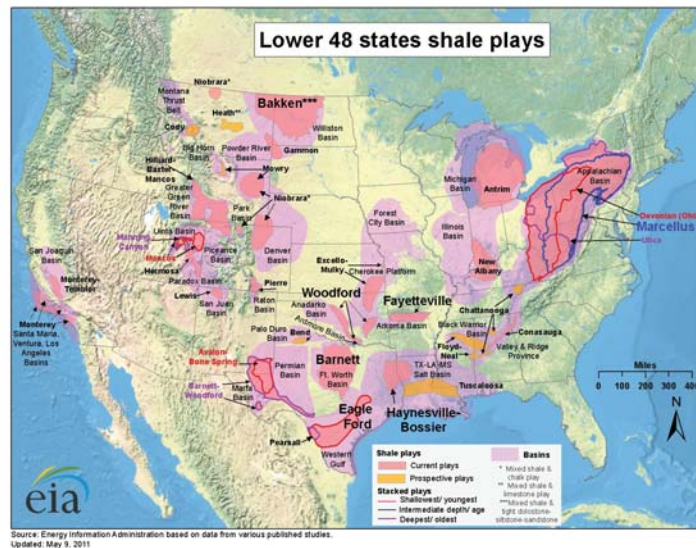
Hydraulic fracturing is a method of extracting oil and gas from previously hard-to-reach subsurface geological formations. Although the “new” technology has been utilized since the 1940s, resistance to fracking among environmentalists and community organizers has reached a fever pitch this decade. Citizens are looking to courts to enjoin drillers and seek compensation for their damages. This article explores the application of the ancient tort of trespass in the modern context of hydraulic fracturing.

---



**E**NERGY INDEPENDENCE HAS BEEN A LONGTIME goal for the United States.<sup>1</sup> Arguably, reliance on foreign fossil fuels has been a source of economic downturns<sup>2</sup> and even led to war.<sup>3</sup> So, a convergence of extraction technologies and new discoveries of domestic natural gas in the early 2000s generated a great deal of excitement for the possibility of the United States becoming energy independent and eventually a net energy exporter.<sup>4</sup>

The “new” technology, hydraulic fracturing or colloquially “fracking,” had actually been employed since the 1940s<sup>5</sup>. But the method’s efficiency improved over the years.<sup>6</sup> Vast gas reserves suddenly brought into play spread widely over the lower forty eight states promised new revenues<sup>7</sup> and job creation.<sup>8</sup>



As the promise became reality, some excitement subsided as harmful by-products accompanied the windfall. Water sources were polluted. Home values were decimated in areas near fracking sites. Health concerns arose along with questions as to how noxious the chemicals used in the process might be. And recent studies seem to confirm these worries.

Resistance to fracking among environmentalists and community organizers has risen to a fever pitch. Some municipalities and even entire states<sup>9</sup> have outright banned the process. Community and nationwide groups have sprung up, opposed to letting the practice continue. With a good portion of existing environmental legislation reflecting interests of oil companies, citizens have begun looking to courts to enjoin drillers and seek compensation

for their damages. While settlements have become common, few lawsuits have succeeded against fracking company defendants. This article explores an old theory of liability, examining its application in the modern context of hydraulic fracturing.

## The Process and the Problem

Hydraulic fracturing or “fracking” is a method of extracting oil and gas from previously hard-to-reach subsurface geological formations.<sup>10</sup> The process separates and opens fractures in underground rock formations by pumping in a mix of water, lubricants and “proppants”<sup>11</sup> at extremely high pressure, to create fissures which allow recovery of trapped gas and oil.<sup>12</sup> Many companies have declared the cocktail of chemicals used in the process to be proprietary. This has made it difficult to predict or determine fracking’s precise environmental impact.

Some sources claim these so called fracking fluids include over 70 different chemicals<sup>13</sup> and most agree the fluid composition conforms to a standardized list of categories.<sup>14</sup> That is, the injected water contains: “adilute acids,<sup>15</sup> biocides,<sup>16</sup> breakers,<sup>17</sup> corrosion inhibitors,<sup>18</sup> crosslinkers,<sup>19</sup> friction reducers,<sup>20</sup> gels,<sup>21</sup> potassium chloride,<sup>22</sup> oxygen scavengers,<sup>23</sup> pH adjusting agents,<sup>24</sup> scale inhibitors<sup>25</sup> and surfactants.”<sup>26</sup>

Estimates of the ratio of chemicals to water vary from .05% to 2% chemicals to 99.5% to 98% water.<sup>27</sup> Some estimates suggest as much as 10% of the fluid is chemicals and additives.<sup>28</sup> If estimates are correct that the average hydro-fracturing well requires 3 to 8 million gallons of water over its lifetime,<sup>29</sup> then a conservative calculation puts the amount of chemicals used (discounting the water) at roughly 37,500 gallons per well.<sup>30</sup> More than 70% of that quantity, or 26,250 gallons of those chemicals, can remain in the surrounding permeable subsurface area after recovery of available oil and gas.<sup>31</sup>

Often the same subsurface area contains water used in wells for drinking or what are legally classified as “percolating waters.” Percolating waters were once described as waters which “ooze, seep, or filter through the soil beneath the surface, without a defined channel, or in a course that is unknown and not discoverable from surface indications without excavation for that purpose”<sup>32</sup>

Two concurrent problems can arise. One is the introduction of chemicals (including known and suspected



**D. Shawn Burkley** is a graduate of St. John’s University School of Law and a proud director of the Valley Community Legal Foundation. He has written extensively on constitutional and international law issues. He can be reached at [shawn@burkleyhouse.com](mailto:shawn@burkleyhouse.com).



## Coverage You Can Trust

Did you know we are a full service insurance agency, offering everything from professional liability to personal insurance? We are here as your one-stop shop, and our knowledgeable team will deliver the personalized customer service you deserve.

We offer competitively priced, quality products from stable, highly-rated companies.

### For your Legal Practice

- Professional Liability Insurance
- Health Insurance (Group and Individual)
- General Liability, Business Property Insurance
- Workers' Compensation Coverage
- Employment Practices Liability Insurance

### For You, Your Family, and Staff

- Personal Auto, Homeowners, and Personal Umbrella Liability Insurance
- 401(k) Benefits
- Employee Benefits
- Long-Term Care Insurance
- Disability Insurance
- Term Life Insurance

Let us be your One-Stop Shop for Insurance. Call us today for a second opinion consultation at **800.371.9024**.

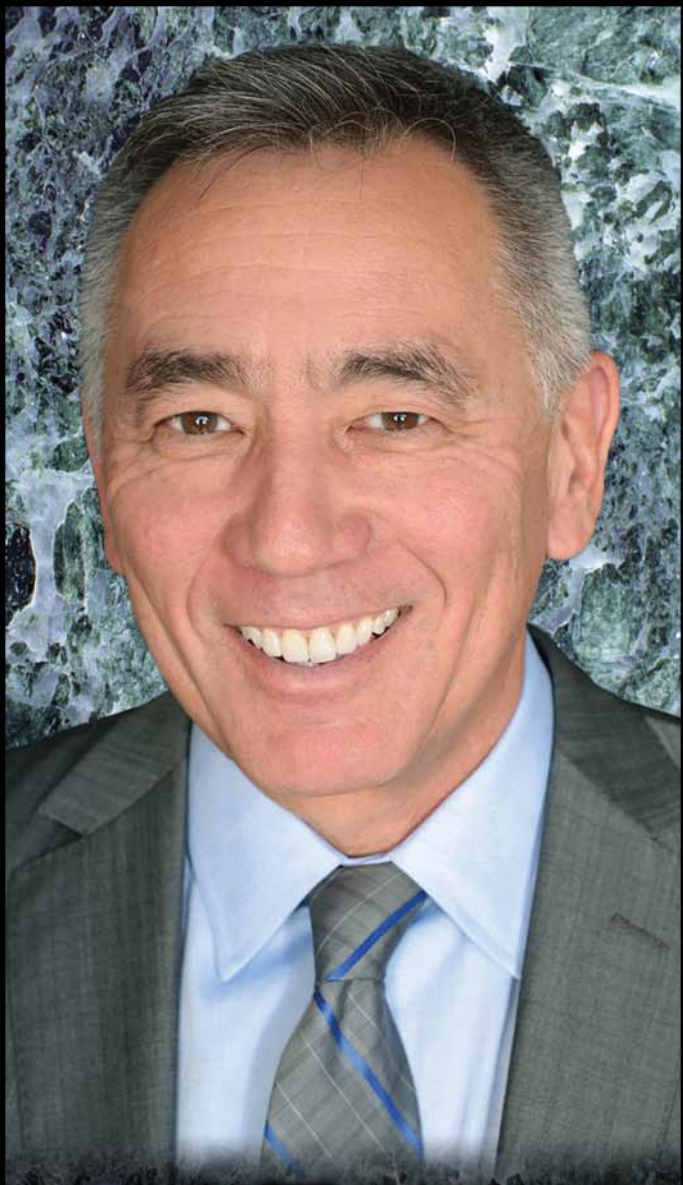


# NARVER

We are a supporter of the  
San Fernando Valley Bar Association







**Hon.**  
**JOSEPH S.**  
**BIDERMAN**  
 Judge of the  
 Superior Court (Ret.)

**ADR**  
 SERVICES, INC. 310.201.0010

carcinogens);<sup>33</sup> another is forcing natural gas into previously potable water. To be sure, once iconic images of homeowners lighting fires at the ends of their garden hoses or faucets have been dismissed by some state agencies and courts as having sources unrelated to fracking<sup>34</sup> or proven to be hoaxes.<sup>35</sup> Still, comingling potable water and fracking fluid creates serious health concerns.<sup>36</sup>

When faced with having a source of possible illness nearby and the financial implication for home valuations (including environmental stigma<sup>37</sup>), residents in many communities have sought both legislative and judicial remedies. On the legislative side, some communities have voted to ban fracking.<sup>38</sup> The quest for judicial relief has relied on a variety of theories to limit the practice.<sup>39</sup> Some have involved modern damages theories, such as creating a medical monitoring fund,<sup>40</sup> but invariably, most fracking suits include a claim for the ancient tort of trespass.

#### **Trespass: Possession, Entry and Damages**

Trespass, at the most basic level, is “a direct infringement of another’s right of possession.”<sup>41</sup> To succeed on a claim, a plaintiff need only show: possession of the property at the time the trespass was committed; unauthorized entry by the defendant; and resulting damage.<sup>42</sup> Put another way, trespass is a physical act or force against an individual’s property, occurring without the owner’s consent, that interferes with a possessory interest in that property.<sup>43</sup>

Whether a plaintiff must show actual harm incident to damages is less clear and may depend on the type of possessory interest at stake and the defendant’s intent.<sup>44</sup> Trespass does not require that a defendant actually traverse the land, only that the person be the source of a trespassing instrumentality.<sup>45</sup> The social utility of the trespasser’s actions do not usually excuse him or her from liability.<sup>46</sup> Subsurface trespass has been a cognizable claim since at least the 1920s.<sup>47</sup> So it would seem relatively simple to claim trespass when a potential plaintiff finds fracking fluids in his or her subsurface property.

#### **Possession**

To establish trespass, a claimant landowner must have a possessory interest in land or property that is violated.<sup>48</sup> For many years the common law provided a simple rule for landowners: *Cuius est solum eius est usque ad coelum et ad inferos*, which, liberally translated, means that whoever owns a parcel of land owns the sky above it and the ground below.<sup>49</sup> Developments in modern times made the expansive definitions impracticable. Landowner rights were reduced, with regard to the sky, to “as much of the space above the ground as the landowner can occupy or use in connection with the land.”<sup>50</sup>

Minerals under a landowner’s property were once considered to be “constituent elements of the land itself.”<sup>51</sup> Usually minerals are thought of as described in the Merriam

Webster Dictionary: “a substance (such as quartz, coal, petroleum, salt, etc.) that is naturally formed under the ground.”<sup>52</sup> Black’s Law Dictionary broadens the definition to include not only subsurface materials but “any inorganic material that has a definite chemical composition and specific physical properties that give it value.”<sup>53</sup> Since the term “mineral” is especially broad in its legal sense, it is no surprise that courts have found gas and oil to qualify as underground minerals, and, unless precluded by statute, underground water to qualify as well.<sup>54</sup>

Another linguistically challenging legal principle relevant to possession was introduced in the late 19<sup>th</sup> century when courts began to consider oil, water and gas—due to their transitory nature—as *Feræ Naturæ*, or analogous to wild animals.<sup>55</sup> As such, these mineral belonged to the owner only “so long as they are on or in [the owner’s land], and are subject to his control.”<sup>56</sup> From this reasoning grew the rule of “capture” which states that minerals, originally found under one landowner’s parcel, that are recovered through drilling activities of an adjacent landowner, become the adjacent landowner’s property because the “fugacious”<sup>57</sup> mineral has “migrated” to the subsurface of the adjacent landowner’s parcel.<sup>58</sup> However, due to water’s indispensability in sustaining life, courts have not always applied the rule of capture to water as readily as to oil and gas.<sup>59</sup> Similarly, where migration is forced by the adjacent parcel holder’s activities (e.g., through injection of liquid), some courts refused to apply the rule of capture but found an actionable trespass.<sup>60</sup>

One notable view regarding possession was introduced by the Texas Supreme Court in *Coastal Oil & Gas Corp. v. Garza Energy Trust*. This decision highlights the role of the possessory interest in a trespass inquiry. The plaintiff claiming trespass in *Garza* was a lessor with “only a royalty interest and the possibility of reverter”<sup>61</sup> This was fatal to his trespass claim because his interest was reversionary rather than actual. The distinction is significant because many homes in the United States are sold without a conveyance of mineral rights.<sup>62</sup> These rights are often retained by developers and later conveyed via lease agreements.

A natural inference from this phenomenon is that a trespass claim may not be available to a surface owner who somehow, either via lease or sale, separated ownership of the land from ownership of the minerals below, irrespective of the harm that may occur. So, under *Garza*’s logic, a lessor or someone who does currently own mineral rights to their land, cannot make a claim for subsurface trespass irrespective of the harm.

### Entry

Because fracking takes place underground, proving actual entry of fluids or gas belonging to a particular defendant into subsurface property of the plaintiff has been problematic. The presence of fracking fluid may establish an entry but it



## EXPERT WITNESS **Jack G. Cohen**

*30 Years Experience in  
the Automobile Business*

### INCLUDING

Motorcycles | Boats | Jet Skis  
Motor Homes | Travel Trailers

- Consulting with dealers, consumers, insurance companies and auctions
- Industry standards
- New and used auto transactions
- Dealer fraud
- Vehicle sales and leasing
- Dealership practices
- Auto warranty issues
- Lender-dealer relationships
- Credit mathematics

OFFICE: 747.222.1550 | CELL: 818.445.5500  
[jack@coheninv.com](mailto:jack@coheninv.com)



**CISLO & THOMAS LLP®**  
Patent, Copyright and Trademark  
Litigation Attorneys at Law



We Have Successfully Settled or Litigated  
Over 98% of Our Cases

### Office Locations:

West Los Angeles/Santa Monica  
Westlake Village  
Santa Barbara

[www.cisloandthomas.com](http://www.cisloandthomas.com) | 1 (866) CISLO LAW



does not establish who entered. A tempting approach to establish entry where fracking fluid is found in a plaintiff's groundwater is to apply the doctrine of *res ipsa loquitur* to show that a negligent entry occurred.<sup>63</sup> The doctrine has applied in contamination cases. But proving that one defendant had exclusive control over the instrumentality of the harm can prove difficult where there are multiple drilling operations.<sup>64</sup> Also, assertions that a plaintiff's groundwater was contaminated only after arrival of neighboring fracking operations without more substantive proof of entry have been seen as relying on the fallacy *post hoc ergo propter hoc*<sup>65</sup> (the fallacy that because one occurrence follows another, the later occurrence must have been *caused* by the earlier one).

There have been advances in isolating fracking fluids in percolating waters, including recent work using "tracers" (essentially testing water for boron and lithium isotopes related to fracking fluid). But even this new technology cannot trace back water to a given drill site.<sup>66</sup> On the other hand, where a contaminant has only one potential source, entry is treated generally as being stipulated and courts move on to consider more contentious issues such as whether consent was given or the legitimacy of the ownership claim.<sup>67</sup>

### Damages

The scope of damages claimed in fracking litigation ranges from the traditional to more modern forms.<sup>68</sup> This is no surprise, given the growing evidence linking the fracking process to environmental damage and health risks.<sup>69</sup> Traditionally, the common law viewed damages in a trespass as "injury to the possession" (i.e., the right to absolute control over the thing).<sup>70</sup> Some jurisdictions require proof of actual harm from contamination of the property before damages or injunctive relief can be awarded.<sup>71</sup> But if a plaintiff can prove that the trespass was intentional, damages should be available even without provable harm.<sup>72</sup>

The usual measure of damages for permanent injury to land is the difference between fair market value of the land before and after the injury.<sup>73</sup> But where there are other damages, this is not the only available relief.<sup>74</sup> Depending on the jurisdiction, a plaintiff may be able to recover "the benefits obtained" by the trespasser, including any profits from the activity.<sup>75</sup> If a defendant succeeds in proving there was no threat to human health (e.g., because chemicals were below tolerable levels), a plaintiff may still recover cleanup costs.<sup>76</sup> Costs related to physical illness damages should be recoverable since "[t]he goal of tort damages is to compensate the injured landowner for any and all losses that result from the conduct for which the defendant is liable, including the loss of the use of the property, if any, and any separate injuries in the nature of discomfort, annoyance or physical illness."<sup>77</sup>

Where a plaintiff may be required to show actual harm, some courts have issued *Lone Pine* orders compelling plaintiffs to show the precise amount of the injurious chemical to which the plaintiff was exposed and the precise illness or disease alleged to have resulted from exposure to that chemical and evidence of causation.<sup>78</sup>

Orders often specify that causation must be shown by expert testimony and failure to present that testimony can result in summary judgment for the defendant or dismissal with prejudice.<sup>79</sup> A showing at this level of specificity can be difficult where the injurious chemical is claimed to be proprietary.<sup>80</sup> But the practice of issuing *Lone Pine* orders has been overturned at the appellate level. This happened in a case where the order was issued without allowing plaintiffs to obtain sufficient information to make a prima facie showing that harm occurred and that the harm was related to the fracking activity.<sup>81</sup>

Nonetheless, civil awards are beginning to appear for illnesses and property damage related to fracking. In April 2014, a family in Decatur, Texas received \$3 million after experiencing nosebleeds, nausea and other symptoms. While the claim in *Parr et al. v. Aruba Petroleum Inc. et al.*,<sup>82</sup> sounded in nuisance, it was still seen as a major victory for plaintiffs claiming damages from fracking operations.

So far, such victories are far and few between and some courts have engaged in tortured logic to conclude that no harm occurred in a fracking case. For instance, in *Garza*, the defendant used subsurface injection of fluids in an area where geological formations are so tight that "natural gas cannot be commercially produced without hydraulic fracturing." This would seem to imply a bounded space. The defendants' fracking operations led to drainage from the plaintiff's subsurface property that would not have naturally occurred with traditional drilling techniques. The Texas Supreme Court felt it best to apply the rule of capture and dismiss the claim.


Under the Texas Supreme Court's logic, there would be no harm if a party chased wild animals off another party's land with the intention of keeping them. This seems like an odd proposition in a state where cattle rustling cases still are regularly decided against the accused.<sup>83</sup> A more well-grounded and intellectually truthful rationale probably lies in the concurrence which speaks to a public policy decision to encourage production of natural gas.<sup>84</sup>

In any event it seems certain that questions over damages, whether just to the possessory interest or if manifested in direct physical symptoms, will continue to be points of contention in fracking litigation.

Fracking may have once provided hope for the United States to become energy independent with respect to fossil fuels and that hope may yet exist. Still, the



human costs of the process must also be considered and it seems that every new study indicates that health concerns of people living close to fracking operations are well founded. If tort law serves several functions, it most surely serves the function of “express[ing] our shared beliefs as to fundamental rules that govern the conduct of others in our society”<sup>85</sup> and “to vindicate social policy.”<sup>86</sup>

Our society was constitutionally created with the idea of protecting property.<sup>87</sup> So why would we forgo the right of a property owner to be free from trespassers just for the possibility of cheaper oil or more local energy when our collective health may be much more precious? 

<sup>1</sup> John Ydstie, *Is U.S. Energy Independence Finally Within Reach?*, NPR, (March 7, 2012 12:01am) available at: <http://www.npr.org/2012/03/07/148036966/is-u-s-energy-independence-finally-within-reach>.

<sup>2</sup> Adam Richards, *Conflict in the Middle East: OPEC's 1970s Oil Embargo & Its Impact*, STUDY.COM, available at: <http://study.com/academy/lesson/conflict-in-the-middle-east-opecs-1970s-oil-embargo-its-impact.html>.

<sup>3</sup> Nafeez Ahmed, *Iraq invasion was about oil*, THE GUARDIAN, (March 20, 2014) available at: <http://www.theguardian.com/environment/earth-insight/2014/mar/20/iraq-war-oil-resources-energy-peak-scarcity-economy>.

<sup>4</sup> John Ydstie, *Is U.S. Energy Independence Finally Within Reach?*, NPR, (March 7, 2012 12:01am) available at: <http://www.npr.org/2012/03/07/148036966/is-u-s-energy-independence-finally-within-reach>; Nicholas Sakelaris, *Exxon: North America will be a net exporter, oil will last 150 years*, DALLAS BUSINESS JOURNAL, (December 9, 2014) available at: <http://www.bizjournals.com/dallas/news/2014/12/09/exxon-north-america-will-be-a-net-exporter-oil.html?page=all>.

<sup>5</sup> Craig Miner, *Discovery! Cycles of Change in the Kansas Oil & Gas Industry 1860-1987, 218 (1987)* (“Hydraulic fracturing techniques were being employed in Kansas oil fields as early as 1948.”)

<sup>6</sup> Susan Brantley and Anna Meyendorff, *The Facts on Fracking*, THE NEW YORK TIMES, (March 13, 2013) available at: <http://www.nytimes.com/2013/03/14/opinion/global/the-facts-on-fracking.html?pagewanted=all>.

<sup>7</sup> Cassarah Brown, *State Revenues and the Natural Gas Boom: an Assessment of State Oil and Gas Production Taxes*, NATIONAL CONFERENCE OF STATE LEGISLATURES, (June 2013) available at: <http://www.ncsl.org/research/energy/state-revenues-and-the-natural-gas-boom.aspx>.

<sup>8</sup> *Study: Fracking boosted the economy during the recession* WASHINGTON EXAMINER (April 27, 2015) available at: <http://www.washingtont Examiner.com/study-fracking-boosted-the-economy-during-recession/article/2563656>.

<sup>9</sup> Thomas Kaplan, *Citing Health Risks, Cuomo Bans Fracking in New York State*, NEW YORK TIMES (December 17, 2014) available at: <http://www.nytimes.com/2014/12/18/nyregion/cuomo-to-ban-fracking-in-new-york-state-citing-health-risks.html>.

<sup>10</sup> Joseph A. Dammal, *Notes from Underground: Hydraulic Fracturing in the Marcellus Shale*, 12 Minn. J.L. Sci. & Tech. 773, 774-75 (2011).

<sup>11</sup> “Proppants” or Proppant Agents are granular substances, including sand grains, aluminum pellets, or other material, that are carried in suspension by the fracturing fluid and serve to keep the cracks open when fracturing fluid is withdrawn after a fracture treatment. (Source: OilGasGlossary.com, [http://www.oilgasglossary.com/propping\\_agent.html](http://www.oilgasglossary.com/propping_agent.html)).

<sup>12</sup> *Id.*

<sup>13</sup> See e.g., <http://fracfocus.org/chemical-use/what-chemicals-are-used>.

<sup>14</sup> Source: <http://geology.com/energy/hydraulic-fracturing-fluids>.

<sup>15</sup> E.g., hydrochloric acid or muriatic acid for helping dissolve minerals and initiate cracks in the rock.

<sup>16</sup> E.g., glutaraldehyde for eliminating bacteria in the water that produce byproducts in the water that cause corrosion.

<sup>17</sup> E.g., ammonium persulfate, allowing for a delayed break down of the gel polymer chains.

<sup>18</sup> E.g., N n-dimethyl formamide to prevent pipe corrosion.

<sup>19</sup> E.g., borate salts, to maintain fluid viscosity as temperature increase.

<sup>20</sup> E.g., polyacrylamide and mineral oils to minimize friction between the fluid and the pipe.

<sup>21</sup> E.g., guar gum or hydroxyethyl cellulose to “thickens the water in order to suspend the sand.”

<sup>22</sup> To create a brine carrier fluid.

<sup>23</sup> E.g., ammonium bisulfate, which removes oxygen from the water to prevent corrosion

<sup>24</sup> E.g., sodium or potassium carbonate, which “[m]aintains the effectiveness of other components, such as crosslinkers.”

<sup>25</sup> E.g., ethylene glycol to prevent scale deposits in the pipe.

<sup>26</sup> E.g., isopropyl alcohol to increase viscosity in the fracturing fluid.

<sup>27</sup> Source: <http://geology.com/energy/hydraulic-fracturing-fluids>.

<sup>28</sup> Source: <http://www.westword.com/2013-06-13/news/whats-in-fracking-fluid/full>.

<sup>29</sup> Ground Water Protection Council; ALL Consulting, DOE Office of Fossil Energy and National Energy Technology Laboratory. pp. 56-66 (April 2009).

<sup>30</sup> 3 million gallons of fluid x (the average of .05% and 2% chemicals).

<sup>31</sup> Penny, Glenn S.; Conway, Michael W.; Lee, Wellington, *Journal of Petroleum Technology* (Society of Petroleum Engineers) 37 (6): 1071-1081 Control and Modeling of

OVER 60 YEARS OF EXPERIENCE

# IMMIGRATION LAW

Green Cards, Work Permits, U.S. Citizenship

**Law Offices of  
Tasoff & Tasoff**

**(818) 788-8900**

**www.tasoff.com**

*Founded 1949*

 **TURNER'S APPRAISALS**

 **IRS Qualified and  
California State  
Certified Residential  
Real Estate Appraiser**

**Mike Turner (818) 384-6869**

**www.TurnersAppraisals.com**

**Appraisals For**

- Bankruptcy
- Date of Death
- Divorce
- Estate & Portfolio
- Mediation
- Prenup Agreement
- Probate
- Retrospective

*Fluid Leakoff During Hydraulic Fracturing* (June 1985) ("During the process, fracturing fluid leakoff loss of fracturing fluid from the fracture channel into the surrounding permeable rock occurs. If not controlled, it can exceed 70% of the injected volume.")

<sup>32</sup> *Clinchfield Coal Corp. v. Compton*, 148 Va. 437 (1927)(adding that "[t]he fact that they may, in their underground course, at places come together so as to form veins or rivulets does not destroy their character as percolating waters.")

<sup>33</sup> David Manthos and David Darling, *Cancer-Causing Chemicals Unsed in 34% of Reported Fracking Operations*, SKYTRUTH, (January 22, 2013) available at: <http://blog.skytruth.org/2013/01/carcinogens-fracking.html>. (Known carcinogens used in one sample included naphthalene, benzyl chloride and formaldehyde.)

<sup>34</sup> Press release from Colorado Department of Natural Resources: State Oil and Gas Conservation Commission on the documentary "Gasland" (available at: <http://energyindepth.org/wp-content/uploads/2013/05/GASLANDDOC.pdf>).

<sup>35</sup> See e.g., Order of 43rd Judicial District of Texas *In the Matter of Steven and Shyla Lipsky v. Durant et al. v. Alisa Rich* dated February 16, 2012 (available at: <http://www.barnettshalenews.com/documents/2012/legal/Court%20Order%20Denial%20of%20Lipsky%20Motion%20to%20Dismiss%20Range%20Counterclaim%202-16-2012.pdf>).

<sup>36</sup> See e.g., National Institute of Environmental Health Services report: "Birth Outcomes and Maternal Residential Proximity to Natural Gas Development in Rural Colorado" (January 28, 2014)(finding a correlation between congenital heart defects in newborns and the mother's living proximity to fracking wells)(available at: <http://ehp.niehs.nih.gov/wp-content/uploads/2012/1/ehp.1306722.pdf>); National Institute of Environmental Health Services Report: "Proximity to Natural Gas Wells and Reported Health Status: Results of a Household Survey in Washington County, Pennsylvania" (September 10, 2014)(finding higher incidences of skin conditions and upper respiratory conditions in people living less than 1 km from a fracking well compared to people living more than 2km from a well)(available at: <http://ehp.niehs.nih.gov/wp-content/uploads/advpub/2014/9/ehp.1307732.pdf>).

<sup>37</sup> See e.g., *Chance v. BP Chemicals, Inc.*, 77 Ohio St. 3d 17, 27 (Ohio 1996).

<sup>38</sup> Peggy Heinkel-Wolfe, *Denton Fracking Ban Passed in Landslide*, DALLAS NEWS, (November 5, 2015) available at: <http://www.dallasnews.com/news/politics/local-politics/20141105-denton-fracking-ban-passed-in-landslide1.ece;Fracking Ban Passes in 2 of 3 California Counties>, WASHINGTON TIMES, (November 5, 2014) available at: (<http://www.washingtontimes.com/news/2014/nov/5/fracking-ban-passes-in-2-of-3-california-counties/>).

<sup>39</sup> 4 Toxic Torts Litigation Guide §44:14 (noting trespass, negligence, negligence per se, and medical monitoring as a few of the theories of liability asserted in recent cases).

<sup>40</sup> See e.g., *Berish v. Sw. Energy Prod. Co.*, 763 F. Supp. 2d 702 (M.D. Pa. 2011).

<sup>41</sup> *Padilla v. Lawrence*, 101 N.M. 556, 563 (N.M. 1984).

<sup>42</sup> 4 Modern Tort Law: Liability and Litigation §38:1 (2d ed.).

<sup>43</sup> *Ford v. Baltimore City Sheriff's Office*, 149 Md. App. 107, 129, 814 A.2d 127, 139, 2002 WL 31875122 (2002).

<sup>44</sup> *Compare, Tibert v. Slominski*, 692 N.W.2d 133, 137 (N.D. 2005)("A person who commits a trespass is liable as a trespasser to the other irrespective of whether harm is thereby caused to any of his legally protected interests."); *Coastal Oil & Gas Corp. v. Garza Energy Trust*, 268 S.W.3d 1, 10 (Tex. 2008)("...a landlord ... must show more than the trespass—namely, actual permanent harm to the property of such sort as to affect the value of his interest.")

<sup>45</sup> *Herrin v. Sutherland*, 74 Mont. 587 (Mont. 1925)(firing a shotgun over the land of another while not situated on the plaintiff's land is a trespass).

<sup>46</sup> See e.g., *Longenecker v. Zimmerman*, 175 Kan. 719, 721 (Kan 1954)("Since from every unauthorized entry into the close of another, the law infers some damage, nominal damages are recoverable therefor even though no substantial damages result and none are proved.")

<sup>47</sup> See e.g., *Edwards v. Sims*, 232 Ky. 791, 24 S.W.2d 619, 621 (Ky. 1929); Also, *Gliptis v. Fifteen Oil Co.*, 204 La. 896, 904 (La. 1943).

<sup>48</sup> 75 Am. Jur. 2d Trespass §20 (The elements of trespass to real property are possession of the property by the plaintiff when the alleged trespass was committed, an unauthorized entry by the defendant, and damage to the plaintiff from the trespass.)

<sup>49</sup> AD COELUM ET AD INFEROS, Black's Law Dictionary (9th ed. 2009).

<sup>50</sup> *United States v. Causby*, 328 U.S. 256, 264 (1946).

<sup>51</sup> *United States v. Shoshone Tribe of Indians of Wind River Reservation in Wyoming*, 304 U.S. 111, 116 (1938). But see, Owen L. Anderson, *Subsurface "Trespass": A Man's Subsurface Is Not His Castle*, 49 Washburn L.J. 247 (2010)(arguing that "[t]he law of trespass need no more be the same two miles below the surface than two miles above" and therefore subsurface trespass should not be actionable when "the trespasser's ...intrusion accomplishes an important societal need, including private commercial needs, and so long as the subsurface owner suffers no actual and substantial damages,...").

<sup>52</sup> "Mineral." Merriam-Webster.com. Merriam-Webster, n.d. Web. 6 Nov. 2014. <<http://www.merriam-webster.com/dictionary/mineral>>.

<sup>53</sup> MINERAL, Black's Law Dictionary (9th ed. 2009).

<sup>54</sup> See, *Rosette Inc. v. United States*, 277 F.3d 1222, 1228 (10th Cir. 2002)("[The Supreme Court] concluded that water could in fact be a mineral in the broadest sense of the word."); See also, *Andrus v. Charlestone Stone Products Co.*, 436 U.S. 604 (1978)(holding Congress did not intend water to be considered a locatable and valuable mineral for the purposes of a federal mining statute) But see, *Butler v. Charles Powers Estate ex rel. Warren*, 620 Pa. 1, 22, 65 A.3d 885, 898, 2013 WL 1749828 (2013)("[T]he rule in Pennsylvania is that natural gas and oil simply are not minerals because they are not of a metallic nature, as the common person would understand minerals.")

<sup>55</sup> *Westmoreland & Cambria Nat. Gas Co. v. De Witt*, 130 Pa. 235, 249-50 (1889).

<sup>56</sup> *Id.*

<sup>57</sup> Definition: Apt to flee away or flit; volatile; Source: "fugacious, adj." OED Online. Oxford University Press, September 2014. Web. 1 November 2014.

<sup>58</sup> *Elliff v. Texon Drilling Co.*, 146 Tex. 575, 581 (1948)( Capture rule simply is that the owner of a tract of land acquires title to the oil \*\*562 or gas which he produces

from wells on his land, though part of the oil or gas may have migrated from adjoining lands.)

<sup>59</sup> See e.g., *Canada v. City of Shawnee*, 1936 OK 803 (Okla. 1936)("If the theory is that of ownership by capture, such as is usually applied in exploration for oil, it still is not at all necessary that we blindly follow such theory to such extremes [in a water context] as will lead to gross injustice.")

<sup>60</sup> *Young v. Ethyl Corp.*, 521 F.2d 771 (8th Cir. 1975).

<sup>61</sup> *Coastal Oil & Gas Corp. v. Garza Energy Trust*, 268 S.W.3d 1, 9 (Tex. 2008).

<sup>62</sup> Michelle Conlin and Brian Grow, *SpecialReport: U.S.builders hoard mineral rights under homes*, REUTERS, (October 9, 2013) available at: <http://www.reuters.com/article/2013/10/09/us-usa-fracking-rights-specialreport-idUSBRE9980AZ20131009>.

<sup>63</sup> *Bahrle v. Exxon Corp.*, 652 A.2d 178, 192 (N.J. App. Div. 1995) *aff'd*, 145 N.J. 144 (1996)("Res ipsa loquitur permits an inference of negligence from plaintiff's proofs where (1) the occurrence itself ordinarily bespeaks negligence; (2) the instrumentality causing the injury was within the defendant's exclusive control; and (3) there is no indication in the circumstances that the injury was the result of plaintiff's own voluntary act or negligence.")

<sup>64</sup> *Ivory v. Int'l Bus. Machines Corp.*, 964 N.Y.S.2d 59 (Sup. Ct. 2012) *aff'd*, 116 A.D.3d 121, (App. Div. 2014) *leave to appeal denied*, 23 N.Y.3d 903 (2014)("The court finds that the element of exclusive control, be it of the chemicals or property, need not require plaintiffs to "eliminate every alternative explanation for the event[...]" Rather, plaintiffs are only required to "[d]emonstrate that the likelihood of causes other than [defendant's] negligence is so reduced that the greater probability lies at [defendant's] door, rendering it more likely than not that the injury was caused by defendant's negligence."); *Tucker v. Sw. Energy Co.*, 2012 WL 528253, at \*2 (E.D. Ark. Feb. 17, 2012) ("Missing are particular facts about particular [fracking] operations by particular fracking companies using particular substances that allegedly caused the Berrys' air problems and the Tuckers' water problems. General statements about the many dangerous substances used in fracking, and conclusory statements about the migration of those substances, will not suffice.")

<sup>65</sup> *Tucker v. Sw. Energy Co.*, 2012 WL 528253, at \*2 (E.D. Ark. Feb. 17, 2012)("As they stand, the complaints ... are mostly a matter of "after this, therefore because of this"—bad things happened after the fracking, and therefore because of the fracking. But this fallacy is not sound as a matter of logic or law.")

<sup>66</sup> Duke University, *New tracers can identify frack fluids in the environment*, SCIENCE DAILY, (October 20, 2014) Available at: <http://www.sciencedaily.com/releases/2014/10/141020090320.htm>.

<sup>67</sup> See e.g., *FPL Farming Ltd. v. Envtl. Processing Sys., L.C.*, 383 S.W.3d 274, 282 (Tex. App. 2012), *review granted* (Nov. 22, 2013).

<sup>68</sup> 4 Toxic Torts Litigation Guide §44:5 ("Contamination of underground water from spills could result in personal injuries to human beings who ingest it, devaluation and damage of property, death to wildlife and destruction of ecosystems.")

<sup>69</sup> See, Sebastian Daggart, *Frack and ruin: the rise of hydraulic fracturing*, THE TELEGRAPH, (May 6, 2011) available at: <http://www.telegraph.co.uk/finance/personalfinance/offshorefinance/8488166/Frack-and-ruin-the-rise-of-hydraulic-fracturing.html>; See also, Jamie Smith Hopkins, *High Levels of Dangerous Chemicals Found in Air Near Oil and Gas Sites*, NATIONAL GEOGRAPHIC, (October 30, 2014) available at: <http://news.nationalgeographic.com/news/energy/2014/10/141030-dangerous-chemicals-in-air-near-oil-and-gassites-study/>.

<sup>70</sup> *Slye v. Guerdum*, 29 App. D.C. 550, 552, 1907 WL 19759 (D.C. Cir. 1907)("It is, of course, axiomatic that at common law the gist of the action of trespass *quare clausum fregit* is injury to the possession.")

<sup>71</sup> See e.g., *Coastal Oil & Gas Corp. v. Garza Energy Trust*, 268 S.W.3d 1 (Tex. 2008).

<sup>72</sup> Restatement (Second) of Torts §158 (1965)("One is subject to liability to another for trespass, irrespective of whether he thereby causes harm to any legally protected interest of the other, if he intentionally ... enters land in the possession of the other, or causes a thing or a third person to do so."(emphasis added)).

<sup>73</sup> See e.g., *Williams v. Amoco Prod. Co.*, 241 Kan. 102, 110 (1987).

<sup>74</sup> *Ettus v. Orkin Exterminating Co.*, 233 Kan. 555, 561-62 (1983) (citing *Foster v. Humburg*, 180 Kan. 64 (1956)("One who commits a tortious act is liable for the injury and loss that are the natural and probable result of his wrongful act.")).

<sup>75</sup> *Starrh & Starrh Cotton Growers v. Aera Energy LLC*, 153 Cal. App. 4th 583, 604 (2007)(*"Watson [Land Co. v. Shell Oil Co. 130 Cal.App.4th 69(2005)] observed that the history of the "statute demonstrates that the Legislature intended to eliminate financial incentives for trespass by eradicating the benefit associated with the wrongful use of another's land."*)

<sup>76</sup> See *Abrams v. Ciba Specialty Chemicals Corp.*, 663 F. Supp. 2d 1243, 1256 (S.D. Ala. 2009)(holding that defendant was still liable for cleanup costs where DDT levels sprayed on plaintiffs' land were below levels that threatened human health.)

<sup>77</sup> *Hendricks v. Allied Waste Transp., Inc.*, 2012 COA 88, 282 P.3d 520, 524, 2012 WL 1881004 (Colo. App. 2012).

<sup>78</sup> 4 Toxic Torts Litigation Guide §44:19.

<sup>79</sup> *Id.*

<sup>80</sup> John Craven, *Fracking Secrets: The Limitations of Trade Secret Protection in Hydraulic Fracturing*, 16 Vand. J. Ent. & Tech. L. 395, 402 (2014)("However, the secrecy exercised to protect [drilling companies'] proprietary mixtures has fed increased speculation and suspicion about what the fluids contain.")(internal citations omitted).

<sup>81</sup> See e.g., *Strudley v. Antero Res. Corp.*, 2013 WL 3427901 (Colo. App. July 3, 2013) cert. granted, 2014 WL 1357327 (Colo. App. 7, 2014).

<sup>82</sup> No. cc-11-01650, *verdict returned* (Tex. District Court, Dallas County Apr. 22, 2014).

<sup>83</sup> See e.g., *Flores v. State*, 2013 WL 2257439, at \*1 (Tex. App. May 9, 2013).

<sup>84</sup> *Coastal Oil & Gas Corp. v. Garza Energy Trust*, 268 S.W.3d , 461 (Tex. 2008)(J. Willett, concurring)("The Legislature has made it the policy of this state to encourage secondary recovery of minerals,...").

<sup>85</sup> *Estate of Desir ex rel. Estiverne v. Vertus*, 214 N.J. 303, 327 (N.J. 2013).

<sup>86</sup> *Steigman v. Outrigger Enterprises, Inc.*, 126 Haw. 133, 141 (Haw. 2011).

<sup>87</sup> U.S. Const. Amend V.



# Test No. 87

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 in Legal Ethics. 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 issuance of *Lone Pine* orders in fracking cases has been consistently upheld at the appellate level.  
☐ True ☐ False
2. The type of possessory interest a claimant has to the subject property can be determinative to an underground trespass claim.  
☐ True ☐ False
3. Oil, gas and water are consistently treated equally in the context of the rule of capture.  
☐ True ☐ False
4. "Injury to the possession" is not always sufficient to prove damages in a trespass claim.  
☐ True ☐ False
5. Tracer technology allows for the tracing of fracking fluids to specific well sites.  
☐ True ☐ False
6. In some states, hydraulic fracturing has been banned entirely.  
☐ True ☐ False
7. Clean up costs is not an available form of damages where defendant has shown that the presence of fracking chemicals represents no threat to human life.  
☐ True ☐ False
8. The composition of fracking fluids are not considered proprietary because public policy dictates that the component chemicals should be disclosed.  
☐ True ☐ False
9. Expert testimony is often required to show causation in claims for damages tied to fracking activities.  
☐ True ☐ False
10. The intent of a trespasser is irrelevant to the question of liability in a trespass case.  
☐ True ☐ False
11. Showing defendant's exclusive control over the instrumentality renders the application *res ipsa loquitur* especially difficult in underground trespass cases.  
☐ True ☐ False
12. The purchase of a home almost always includes the acquisition of mineral rights to the property.  
☐ True ☐ False
13. Damages in trespass can include the benefits obtained by the trespasser.  
☐ True ☐ False
14. The rule of capture is systematically controlling in fracking cases.  
☐ True ☐ False
15. Waters which "ooze, seep, or filter through the soil beneath the surface, without a defined channel, or in a course that is unknown and not discoverable from surface indications without excavation for that purpose" are considered fugacious waters.  
☐ True ☐ False
16. *Lone Pine* orders require plaintiffs to show general estimates of the chemicals exposure and some reasonably relatable illness or harm.  
☐ True ☐ False
17. A showing of actual harm is never required in a claim for trespass.  
☐ True ☐ False
18. Where a fracking related claim does not sound in trespass, it may sound in nuisance.  
☐ True ☐ False
19. After the recovery of oil and gas using the fracking method, the majority of fracking fluid is extracted as well to be reused in other operations.  
☐ True ☐ False
20. Due to their transitory nature, minerals are often analogized to *Feræ Naturæ*.  
☐ True ☐ False

## MCLE Answer Sheet No. 87

### INSTRUCTIONS:

1. Accurately complete this form.
2. Study the MCLE article in this issue.
3. Answer the test questions by marking the appropriate boxes below.
4. Mail this form and the \$20 testing fee for SFVBA members (or \$30 for non-SFVBA members) to:

San Fernando Valley Bar Association  
5567 Reseda Boulevard, Suite 200  
Tarzana, CA 91356

### METHOD OF PAYMENT:

- ☐ Check or money order payable to "SFVBA"  
☐ Please charge my credit card for \$\_\_\_\_\_.

Credit Card Number \_\_\_\_\_

Exp. Date \_\_\_\_\_

### Authorized Signature

5. Make a copy of this completed form for your records.
6. Correct answers and a CLE certificate will be mailed to you within 2 weeks. If you have any questions, please contact our office at (818) 227-0490, ext. 105.

Name \_\_\_\_\_  
Law Firm/Organization \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_  
State/Zip \_\_\_\_\_  
Email \_\_\_\_\_  
Phone \_\_\_\_\_  
State Bar No. \_\_\_\_\_

### ANSWERS:

Mark your answers by checking the appropriate box. Each question only has one answer.

1.	<input type="checkbox"/> True	<input type="checkbox"/> False
2.	<input type="checkbox"/> True	<input type="checkbox"/> False
3.	<input type="checkbox"/> True	<input type="checkbox"/> False
4.	<input type="checkbox"/> True	<input type="checkbox"/> False
5.	<input type="checkbox"/> True	<input type="checkbox"/> False
6.	<input type="checkbox"/> True	<input type="checkbox"/> False
7.	<input type="checkbox"/> True	<input type="checkbox"/> False
8.	<input type="checkbox"/> True	<input type="checkbox"/> False
9.	<input type="checkbox"/> True	<input type="checkbox"/> False
10.	<input type="checkbox"/> True	<input type="checkbox"/> False
11.	<input type="checkbox"/> True	<input type="checkbox"/> False
12.	<input type="checkbox"/> True	<input type="checkbox"/> False
13.	<input type="checkbox"/> True	<input type="checkbox"/> False
14.	<input type="checkbox"/> True	<input type="checkbox"/> False
15.	<input type="checkbox"/> True	<input type="checkbox"/> False
16.	<input type="checkbox"/> True	<input type="checkbox"/> False
17.	<input type="checkbox"/> True	<input type="checkbox"/> False
18.	<input type="checkbox"/> True	<input type="checkbox"/> False
19.	<input type="checkbox"/> True	<input type="checkbox"/> False
20.	<input type="checkbox"/> True	<input type="checkbox"/> False





The San Fernando Valley Bar Association Board of Trustees named Los Angeles Superior Court Judge Huey P. Cotton as the organization's 2016 Judge of the Year. Judge Cotton will be honored on February 25 at the SFVBA Annual Judges' Night for his leadership and judicial demeanor on the Bench, and his support of the Bar Association and its unwavering commitment to diversity in the legal profession.

*Photo by Chris Jurgenson*



# ROAD TO SUCCESS:

## Judge Huey Cotton Named SFVBA Judge of the Year

By Elizabeth Post





**A**NATIVE ANGELENO, JUDGE HUEY COTTON moved east for his higher education, graduating cum laude from Amherst College in Massachusetts in 1978 and Temple University School of Law in Philadelphia in 1981. He practiced law in the public sector for six years, as a staff attorney with the U.S. Civil Rights Commission in Washington D.C. and a senior trial attorney with the Defenders Association of Philadelphia.

In 1988, Judge Cotton joined the Philadelphia office of the international firm Cozen O'Connor as a property litigation attorney. He returned to Los Angeles in 1995 and served as Managing Attorney for the firm's Los Angeles office until his appointment to the Los Angeles Superior Court by Governor Arnold Schwarzenegger in 2009.

Judge Cotton is Supervising Judge of the Northwest District, overseeing 34 bench officers while presiding over an unlimited civil court. He serves on the court's Personnel and Budget Committee, Facilities Committee, Operations Steering Committee, Judicial Education Committee, and Diversity Committee.

Like all Valley bench officers, Judge Cotton is an honorary (non-voting) member of the SFVBA. But his involvement is more than symbolic. "Judge Cotton's support of the Bar is invaluable, including his input at Bench-Bar meetings, his participation in the CSUN Meet the Judges Night, and his assistance in the Inclusion & Diversity Committee," Immediate Past President Caryn Brottman Sanders states. "He has been a tremendous asset to the courts, community, and lawyers of the Valley."

Judge Cotton has participated on the SFVBA's Inclusion & Diversity Committee since 2014. "We have been very pleased with Judge Cotton's 'adopting' our Diversity Committee and advancing our mission by inviting other Van Nuys judges to our meetings at the courthouse, which has been a real privilege and honor for us," says SFVBA President Carol L. Newman. "Judge Cotton's involvement with the Committee and selection as SFVBA Judge of the Year elevates our Bar's commitment to diversity in the profession, which makes the SFVBA unique among regional bars in its steadfast pledge to this goal."

According to SFVBA Director of Public Services Rosie Soto Cohen, Judge Cotton's leadership style is hands-on and engaging. In November 2015, he organized a court tour for students from the Pierce College Law Club, a project supported by the Diversity Committee. "The college students could not stop buzzing about their experience," Soto Cohen recalls.

"They visited courtrooms and a judge's chamber, holding cell, and jury room. Students were greeted by the bench officers, public defender, prosecutor, and courtroom staff. Each spoke about how they came to be in their position, the qualifications required, their job responsibilities, and what they get out of doing their job."

SFVBA Judge of the Year Huey Cotton shares his thoughts about his road to becoming a judge, the state of the diversity pipeline in the legal profession and the nation, and his seemingly incompatible sports allegiances.



## **Q** ■ How do you feel about being named SFVBA Judge of the Year?

**A** ■ I am humbled and honored to receive this Judge of the Year recognition. The San Fernando Valley Bar Association is one of the hardest working bar associations in the state. It cares about the citizens of the Valley. Its members practice with a level of collegiality and civility that makes me proud to be associated with them. Adding my name to your distinguished list of past honorees gives me a little more street credibility when I speak to young people and encourage them to join the profession.





**Q** - When did you realize you wanted to be a lawyer?  
**A** - Did you have other career ambitions?

**A** - In 1977, I wanted to become a college professor and teach about the changing role of religion in American life. I became friends with one of my mentors, Dr. Vincent Harding, the historian and Mennonite minister who wrote Dr. Martin Luther King, Jr.'s Anti-Vietnam War speech. He was a great storyteller. Many of his stories were about lawyers who worked for those arrested during the Civil Rights Movement, lawyers like Fred Gray (Alabama), Arthur Kinoy (New Jersey), and Constance Baker Motley (New York).

[www.sfvba.org](http://www.sfvba.org)

One day, Dr. Harding challenged me to consider becoming a lawyer rather than a teacher. I accepted his challenge and enrolled at Temple University School of Law in Philadelphia.

**Q** - When did you know you wanted to become a judge? What aspired you?

**A** - I love listening to people, especially judges. In the 1980s, I listened to and befriended judges such as A. Leon Higginbotham, Theodore McKee (both of the U.S. Court of Appeals, 3rd Circuit), and many others. They inspired me to commit my energy to changing one life at a time, one case at a time. But the notion of joining their ranks as judge was too remote for me. I moved back home to California in 1995 to continue in private practice at Cozen O'Connor.

Then, in 2008, my uncle Oreal Cotton, former Chief Investigator for Los Angeles County District Attorney Steve Cooley, called and suggested I submit an application to become a judge here in California. I was anxious to do something of consequence with my career; I decided to go for it. Fortunate for me, then Governor Arnold Schwarzenegger chose to appoint me.

**Q** - Before becoming a judge, you practiced law in both the public and private sectors. How did your different experiences prepare you for where you are sitting today?

**A** - I started as a lawyer working in the public sector, earning about \$25,000 a year. I was thrilled. When I worked as a public defender, I tried about 100 cases to verdict, both judge and jury trials. I became comfortable in a courtroom and learned to appreciate the art of advocacy.

My private sector legal work centered upon business disputes in which I represented major corporations in litigation in state and federal courts around the country. I learned that business clients, like individuals, come to court expecting a fair chance to be heard. Today, I draw upon those experiences when presiding over business disputes.

**Q** - How have you grown as a judge since you were appointed to the Bench in 2009?

**A** - I have matured as a judge. I am more patient, especially with self-represented litigants. I am more receptive to novel legal theories. Also, I am no longer afraid of technology in the courtroom. Paul Keisel, current President of the Los Angeles County Bar Association, tried a case before me and helped demystify the use of cutting edge technology in the courtroom.

**Q** - Did you have presumptions about being a judge that turned out to be wrong?

**A:** For some reason I had this notion that judges would be boring people. I was so very wrong about them. Judges have diverse backgrounds and interests. From playing a musical instrument, riding horses, or knitting, to recommending great vacation destinations, they share their experiences freely.

I also presumed that lawyers would be more civil toward each other in court. Lawyers are rightfully held in high regard in the community, and by judges. But, for some reason, a small group of them lose their way when it comes to being civil toward other lawyers. That surprised me. That is why I keep multiple copies of the ABOTA magazine *Civility Matters* in my chambers and distribute them to lawyers in need of a refresher course on professionalism.

**Q:** Do you have a mentor on the Bench?

**A:** I have a number of mentors on the Bench. Presiding Judge Carolyn B. Kuhl and Assistant Presiding Judge Daniel J. Buckley, and every presiding judge of our court are my mentors. These women and men of courage and conviction are some of the most selfless and committed servants for justice I've ever met. They are on the frontline protecting the positive traditions and dignity of the court, while simultaneously prompting the court to change for the better.

In addition, my homeboys, retired Judges John Meigs and Bob Bowers, are my go-to guys. Just look at their careers—they have been courageous, principled and professional in all that they did and do. Finally, retired Judge Leslie Dunn, one of your former honorees, has been and is a mentor. The grace and class she exhibited every day on the bench serves as a textbook lesson for me on how to be a judge.

**Q:** As the Supervising Judge of the Northwest District, what are the day-to-day challenges you face?

**A:** The day-to-day challenges are many and varied. Our courthouses suffer from deferred maintenance. We are underfunded and lag behind private industry in technology, but we will close that gap within the next few years. We are challenged to change our thinking about how and when to use new technology to make it easier to serve the public.

Also day-to-day, our challenge is to find and share with co-workers those positive and uplifting examples of what makes the court a great place to work. For example, an interpreter suggested that we could save money by encouraging everyone to turn off the lights in rooms that are not in use. As we implement that suggestion, we will encourage others to suggest ways to eliminate some of the challenges we face.

**Q:** What words of wisdom do you have for new lawyers appearing before you in Department A?

**A:** I offer the following information to new lawyers appearing before me: 1) Respect the personal and cultural dignity of the people involved in the litigation process, especially your own client. 2) Assume that I've read your papers—don't repeat yourself during oral argument. 3) Make your oral arguments with conviction. We may have genuine differences about what the law says or means, but you stand a better chance of convincing me to reconsider my tentative rulings if you argue your position with conviction. 4) Respect the court staff, even if I am not present in the courtroom. 5) When it comes to requesting a continuance, remember that once upon a time I was in your shoes.



Do not jeopardize your credibility with the court by offering less than genuine reasons for a continuance. Present your scheduling conflict with candor, so that we can work together to resolve conflicts, without the gamesmanship.

**Q:** What advice would you give a Valley lawyer who aspires to be a judge?

**A:** There are three groups of Valley lawyers: those who live and work in the Valley, those who live in the Valley but practice law in other parts of the city, and those who live elsewhere but practice in the Valley. To all of these Valley lawyers I would offer the following advice on how to become a judge: 1) bring your intelligence and experience home to the Valley community by becoming active in the SFVBA—positive peer review is critical to judicial selection; 2) obtain letters of support from civic and/or religious leaders in the Valley community; and 3) add value to charitable and/or community organizations in the Valley.

These are the things that help build a lawyer's brand. These are the activities that should help separate you from the other fine candidates for judgeships.



**Q** ■ A decade after the State Bar created the Diversity Pipeline Task Force, do you feel the Bench and Bar are doing enough to diversify the legal profession?

**A** ■ I think the SFVBA is doing a wonderful job of promoting diversity. I am especially impressed by its influence on small firms (fewer than 10 lawyers). Your member firms in that sector have been encouraged to hire attorneys and staff from diverse backgrounds, and they are responding to that encouragement. I also see greater cooperation between ethnically different firms that are not yet internally diverse. I call these relationships “mini-mixers.” They promote diversity in a healthy way as well. More is needed on all fronts, for sure.

**Q** ■ What advice would you give current high school students who want to become lawyers or a judge?

**A** ■ I tell students what the late poet Maya Angelou used to say, “Nobody, but nobody can make it in this world alone.” If they want to climb out of poverty and avoid hard labor, and consider becoming a lawyer, then there is a community of people ready to help them, myself included. I tell them that it worked for me. I also demystify the court for them by describing the great people who work there, from the mailroom clerk to the judges, and how we work together.

I want to eliminate any sense of isolation or aloneness they might harbor. That feeling alone can distract a good student from pursuing a legal career. Then I advise them

to focus on positive role models, and share my telephone number with them.

**Q** ■ As a member of the SFVBA Inclusion & Diversity Committee, how can the Valley’s Bench and Bar collaborate to advance change?

**A** ■ The Valley’s Bench and Bar can collaborate to advance change by energizing the programs that are already in place—the Law Post, the Superior Court-CSUN Externship course, and the Teen Court program. We should work harder to promote the S.H.A.D.E.S. program, Stopping Hate and Delinquency by Empowering Students. Former Presiding Judge David Wesley helped initiate this program in partnership with the Museum of Tolerance, the courts, the Probation Department, LAUSD, and various bar associations to help stop bullying and hate crimes and other acts of intolerance at the high school level.

When students (and parents) of diverse backgrounds participate in the program and see lawyers and judges and former victims of intolerance working together for change, they find role models who encourage them to be decent people with positive career goals. My work in this program changed lives for the better.

**Q** ■ What other areas can the Valley Bench and Bar team up to improve access to justice or enhance the legal profession?





**A:** I defer to our court leaders, Judges Kuhl and Buckley, for direction on the larger issues of Bench-Bar collaboration to improve access to justice or enhancing the legal profession. The Bar's active support of our past and present leadership during the devastating funding cuts and resulting crisis has been invaluable. Our joint effort on that front must continue.

On a much more localized level, the SFVBA should sponsor brown bag meet and greet events at the various courthouses in the Valley so that its members can become more familiar with individual judges and their courtroom practices and preferences.

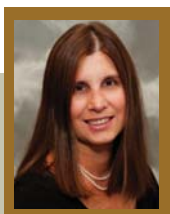
**Q:** **It's hard not to notice the photo of you and President Obama in your chambers. Without delving into the political arena, what were your feelings in 2008 about the nation electing our first African-American president?**

**A:** When Barack Hussein Obama became the 44<sup>th</sup> President of the United States of America, I shed tears of pride and joy, tears of relief from burdens being lifted, and tears of hope for a better tomorrow. I know these statements are all clichés, but they accurately describe my feelings at the time of his first election. Then, when our nation re-elected President Obama I knew the change in the American heart and mind was real (not an indulgence of tokenism).

WE can now look earnestly at our daughters and sons and ask: Why not a woman? Diversity is no longer off limits at 1600 Pennsylvania Avenue, NW, Washington, DC. The Obama-Biden vote changed people for the better. That makes me feel hopeful.

**Q:** **Do you feel President Obama's election raised the career aspirations for millions of high school and college students of color, similar to what the legal profession is trying to achieve with its diversity pipeline?**

**A:** Absolutely. Change does not happen in a vacuum. We will need lawyers and judges, and others, to help students of color (indeed, help any marginalized student) to connect the dots between the changed hearts and minds of our fellow citizens who made possible the Obama election and the changed hearts and minds of the citizens who might embrace these students on their career and life journey.



**Elizabeth Post** is Executive Director of the San Fernando Valley Bar Association, a position she has held since 1994, and Publisher of *Valley Lawyer*. She can be reached at [epost@sfvba.org](mailto:epost@sfvba.org).

Whether you agree or disagree with President Obama, we cannot allow the larger message of his presidency to be retired to the Ripley's Believe It Or Not Museum. The work continues.

**Q:** **You were working near the World Trade Center on September 11, 2001 and saw the first airplane strike the south tower. How did that moment change you?**


**A:** On 9/11, I was in New York City, just two short blocks away from the World Trade Center towers when terrorists attacked us, killing thousands of innocent people. Less than an hour earlier, I was at the subway station below those towers, and walked pass the fire station, joking with the firemen, all of whom died later that day.

When I saw the death and carnage caused by hate, I decided to change in two fundamental ways. First, I resolved that I would never act from an impulse of anger or a need for revenge. I never want to feel whatever those terrorists felt. I will fight to defend that which is good and just, but never be inspired to act based upon some dark sense of hatred.

Second, I stopped taking for granted the need to uphold, embrace and defend the independence of our justice system. I saw with my own eyes how indiscriminate vengeful acts replaced civil dispute resolution in courts of law. That is why I can't wait to get to work every day.

**Q:** **What are your interests and hobbies outside the courtroom?**

**A:** I am a professional couch potato. I'm a very private person, believe it or not. I am passionate about USC football and UCLA basketball. I love my Los Angeles Lakers. (I "like" the Clippers and Warriors.) And, ever since the Rams left Los Angeles, I have been a die-hard Philadelphia Eagles fan.

Sports, jazz and old movies aside, I spend a lot of my spare time mentoring young people. There is nothing more rewarding than sharing the joy of a student who aces a test when others had given up on him or her. Even better, I'm energized when CSUN or Pierce College or other student mentees announce their acceptance into law school or graduate school. 

# SFVBA 19<sup>th</sup> Annual MCLE Marathon

January 15 and 16, 2016

Braemar Country Club • 4001 Reseda Blvd., Tarzana

Supported by

LAW OFFICES OF  
**ALICE A. SALVO**  
FAMILY LAW PRACTITIONER

**NEMECEK & COLE**  
Attorneys At Law

**NARVER**  
INSURANCE

**EG EISNER GORIN LLP**  
STATE AND FEDERAL CRIMINAL DEFENSE

**LH LEWITT HACKMAN**  
LEWITT HACKMAN, SHAPIRO, MARSHALL & HARRIS  
A LAW CORPORATION

## Friday January 15

San Fernando Valley Bar Association Members Earn Up  
to 12.5 Hours of MCLE for Only \$199!

9:30 a.m.

**Caring for Clients during Firm  
Perpetuation, Partner Disruption and  
Disability**

Christen Berman and Debra Mondragon  
Narver Insurance

1 Hour MCLE (Legal Ethics)

10:30 a.m.

**Transportation Law**

Gregg Garfinkel and Alan Haroutounian  
Nemecek & Cole

1 Hour MCLE

11:30 a.m.

**Attorney-Client Trust Accounts**

Sayar Pouyanrad, VP, Sr. Trust Advisor,  
City National Wealth Management and  
Wes Bryant, VP, Law Firm Banking  
Relationship Manager

1 Hour MCLE (Legal Ethics)

12:30 p.m.

**Lunch**

1:30 p.m.

**Employment Law Update**

Hannah Sweiss and Tal Yeyni  
Lewitt Hackman et al.

1 Hour MCLE

2:30 p.m.

**Understanding and Mitigating Bias:  
A Scientific Cognitive Perspective  
for Lawyers**

Myer Sankary

1 Hour MCLE

(Recognition and Elimination of Bias)

3:30 p.m.

**Prevention of Substance Abuse**

Greg Dorst, The Other Bar

1 Hour (Competency Issues)

## Saturday January 16

9:30 a.m.

**Nuts and Bolts of Estate Planning**

Alice A. Salvo

Law Offices of Alice A. Salvo

10:30 a.m.

**Avoiding Bar Discipline**

Prof. Robert Barrett

2 Hours MCLE (Legal Ethics)

12:30 noon

**Lunch**

1:30 p.m.

**Online Negativity: How to Fight Back**

David Gurnick, Lewitt Hackman et al.

1.5 Hours MCLE

3:00 p.m.

**Ends do Not Justify Means:**

**Fourth Amendment Violations in  
Police Investigations**

Alan Eisner

Certified Criminal Law Specialist

Eisner Gorin LLP

1 Hour MCLE

4:00 p.m.

**Civil Lawyer's Guide to Addressing  
Criminal Law Issues During Litigation**

Dmitry Gorin

Certified Criminal Law Specialist

Eisner Gorin LLP

1 Hour MCLE

## MCLE KEY DRIVE

Only \$149 for MCLE Marathon Registrants!  
Contains 13 Popular *Valley Lawyer* MCLE Articles

Earn the Maximum 12.5 Hours  
of Self-Study Credits

(Including All Specialty Credits)



## Registration Form and Membership Application

(Pre-Registration deadline is January 9, 2016.)

Name \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State, Zip Code \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

E-Mail \_\_\_\_\_

State Bar No. \_\_\_\_\_

Bar Admission Date \_\_\_\_\_

## MCLE MARATHON REGISTRATION FEES

	Member	Non-member
<input type="checkbox"/> 2-Day Seminar	\$199	\$459
or		
<input type="checkbox"/> Friday, January 15	\$129	\$249
or		
<input type="checkbox"/> Saturday, January 16	\$129	\$249
or		
<input type="checkbox"/> Per MCLE Hour	\$40	\$65
<input checked="" type="checkbox"/> Class Attending		
<input type="checkbox"/> Late Registration Fee	\$40	\$60
<input type="checkbox"/> MCLE Self-Study Key Drive (with Marathon Registration)	\$149	\$149
<input type="checkbox"/> MCLE Self-Study Key Drive Only	\$199	\$279

Membership Dues: \$ \_\_\_\_\_

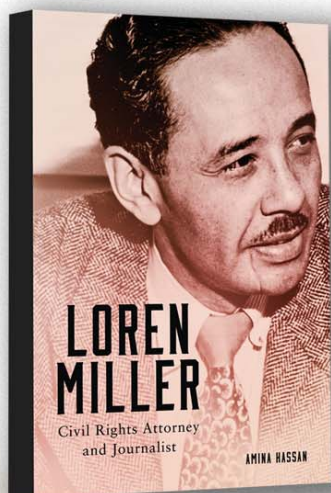
Total Enclosed/To be Charged: \$ \_\_\_\_\_

If paying by credit card:

Credit Card # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Expiration Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Signature \_\_\_\_\_



# Journalist, Lawyer and Judge: A Tale of a Legal Legend

By Lauren Fahlbeck

**L**OREN MILLER: CIVIL RIGHTS ATTORNEY AND *Journalist* is the tenth volume in the “Race and Culture in the American West” series published by the University of Oklahoma Press. *Loren Miller* marks the first book in the series to be dedicated to the life and accomplishments of just one person.

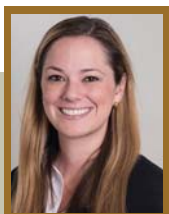
Angelenos may be most familiar with Loren Miller from his eponymous landmarks throughout the city. Both the Loren Miller Elementary School in South Central Los Angeles and Loren Miller Recreation Center honor this impressive journalist, author, lawyer, businessman, activist, and judge.

In *Loren Miller: Civil Rights Attorney and Journalist*, author Amina Hassan, Ph.D., meticulously recounts Miller’s life. Her tireless research and impressive detective skills are evident on every page, and her references to the catalog at the Huntington Library will make you eager to visit for yourself. Through an investigation that surely would

have made the intellectual Miller proud, Hassan presents Miller’s life story, as well as the overall legal and political landscape in the United States (and specifically southern California) during the Civil Rights Movement.

Miller’s story is quintessentially American. Born into poverty in Nebraska in 1903, he later moved to Los Angeles with big dreams and a dwindling bank account. In one generation, Miller rose from the bottom to the top of the social ladder. He came by his grit honestly; Miller’s granduncle Bird Gee, whom he never met, challenged his ejection from a Kansas hotel restaurant in 1875 all the way up to the Supreme Court. Gee sought justice under the Civil Rights Act of 1875, but the Court’s decision on his petition deemed the Act unconstitutional.

According to Hassan, “[f]orty years later, Bird Gee’s determination, tenacity, and unmet demand for basic rights compelled Miller to set aside his own aspirations of becoming a creative writer and to choose instead to practice law for the greater good.”



**Lauren Fahlbeck** is an attorney working at NBCUniversal as the Manager of The Rights Group. She can be reached at [lauren.fahlbeck@nbcuni.com](mailto:lauren.fahlbeck@nbcuni.com).



Though the book cover and press materials focus heavily on Miller's legal triumphs, only a small percentage of the book is devoted to excerpts and arguments from his legal writing. Instead, the majority of Miller's courtroom strategy is recalled in correspondences between Miller and other legal heavyweights, including Thurgood Marshall.

Described by Hassan as "[a]n artist cloaked in lawyer's garb," Miller was often portrayed in these correspondences as a reserved but passionate political activist. He first rose to prominence in legal circles as a result of his work on the Sugar Hill racial covenant cases, which Miller summarized by saying he had "succeeded in pulling a rabbit out of the hat by inducing a local judge to hold race restriction covenants unenforceable on the grounds that such enforcement would be violative of the 14<sup>th</sup> Amendment." His restrictive covenant cases helped pave the way to the highest court in the land for Miller.

Miller was an integral contributor on two landmark Supreme Court cases: *Shelley v. Kraemer* and *Brown v. Board of Education*. In *Shelley*, which was comprised of four companion cases, Miller and his co-counsel Thurgood Marshall argued for Orsel and Minnie McGhee of Detroit. Miller wrote the *McGhee* brief with input from two other attorneys, and appeared in front of the Court alongside Marshall. In 1948, the Court famously ruled in Miller's favor and held that racial covenants on real estate were unenforceable.

When Thurgood Marshall began his preparations for *Brown v. Board of Education*, he again turned to the man he called "the best civil rights lawyer on the West Coast." Marshall tapped Miller to write the bulk of the appellate briefs in the famous case and their partnership again helped shape history when the Court ruled in 1954 that state laws requiring separate public schools for African American and Caucasian children were unconstitutional.

As a municipal judge in Los Angeles, Miller " ... passed out even handed justice regardless of race, color or creed ...," according to a former political reporter, Chester G. Hanson. During his time on the bench, Miller finished his book that was decades in the making, *The Petitioners: The Story of the Supreme Court of the United States and the Negro*.

Miller's own family made history after Miller's son, Loren Miller, Jr., was appointed to the Los Angeles Superior Court in 1975 and Miller Jr.'s daughter, Robin Miller Sloan, was appointed to the Los Angeles Superior Court in 2003. We learn in the book that Sloan's appointment made her the "first linear third-generation judge in the history of the California court system."

Though Miller's legal career is a prominent part of his story, the bulk of *Loren Miller* focuses on his time as

a journalist and would-be actor, his political activism, and ties to communism, and his cherished friendship with esteemed poet Langston Hughes. Referred to as a "some-timey lawyer" by the *Atlanta Daily World*, Miller's first love was journalism.

Miller spent most of his life working as a reporter and later bought the longest running African American newspaper in the West, the *California Eagle*. In 1932, he traveled with a large group (including Hughes) to Russia to produce a film about African American life in the United States. According to Hassan, the film was undoubtedly a Communist propaganda film and in the end was scrapped. The FBI monitored Miller's activities up until the year he died, and requested a copy of his death certificate before closing out his file.

Hassan's curiosity and research bring Miller's tale to life. Though sometimes repetitive and overly detailed, this collection of written memories is an impressive research piece that offers a comprehensive view of a passionate life.

*Loren Miller: Civil Rights Attorney and Journalist* is a motivating reminder of the impact one ambitious lawyer can have on history. Thanks to Hassan's efforts, a quote that Miller himself cited thankfully rings true: "Yesterday now is a part of forever." 🏠

DELIVERING  
VALUE



Jenny Chen, Partner

Specializes in serving law firms and other professional services

- \* Attestation/Accounting
- \* Tax Planning and Compliance (Multi-State, International)
- \* Audits of Employee Benefit Plans
- \* Tax Credits and Incentives
- \* Controllershship
- \* Business Valuation
- \* Estate and Trust Planning
- \* IT Systems Review and Consulting



HUTCHINSON AND BLOODGOOD LLP  
Certified Public Accountants and Consultants  
550 N. Brand Blvd., 14th Floor Glendale, CA 91203  
t 818.637.5000 www.hbllp.com

Sponsored by



**JHIS**  
Joey Hernandez  
Insurance Solutions

Free to Current  
Members!

## Immigration Consequences: *Your Duty to Know and Advise*



**Tuesday, January 21**

6:00 PM

SFVBA OFFICE

Deputy Public Defender Graciela Martinez, an authority on immigration issues, will discuss the latest on AB 1343 in regard to defense attorneys' obligations. (1 MCLE Hour)

**RSVP to [events@sfvba.org](mailto:events@sfvba.org) or  
(818) 227-0490, ext. 105**

## EMPLOYMENT LAW REFERRALS

### Professionals Serving Professionals

Our referral program can be your profit center! **Stephen Danz & Associates** is recognized as one of the most experienced and successful employment law firms representing whistle blowers and victims of wrongful termination, retaliation, discrimination and sex harassment. Our clients are executive, technical, administrative and hourly employees. We pay generous referral fees in accordance with State Bar rules. We also provide regular updates on your referred case.

- Regular bi-monthly report on status of referred cases
- Highest possible referral fees pursuant to state bar rules
- Reciprocal referrals where appropriate
- Referral fees paid religiously at case closure with a complete distribution report to you
- Regular email updates on new significant developments in employment law



“Recently a friend of mine contacted me because I was the only lawyer she knew. Her sister was being pushed out of her job because of her age. With complete confidence, I referred her to Stephen Danz, who immediately met with her and gave her an honest assessment of her legal options. Steve informed me when he met with her and sent me an unexpected, but much appreciated, surprise- a referral fee. I hadn't realized it beforehand, but referral fees are a standard part of his practice. My friend's sister was extremely satisfied with Steve, which of course made me look good too. It's important for me to know attorneys like Steve, who I know will do a great job for the people I refer to him.”

**- David L. Fleck, Esq.**



**877.789.9707**  
[www.employmentattorneyca.com](http://www.employmentattorneyca.com)

2655 First St., Simi Valley, CA 93065

Los Angeles   Orange County   Pasadena   San Bernardino   San Diego   Fresno   San Francisco   Santa Rosa   Sacramento



## Maturation of a Teenage Bar Association

**T**HESE ARE EXCITING TIMES for the Santa Clarita Valley Bar Association, which is beginning its twelfth year. Thus far, we have enjoyed our youthful bliss, but our days of youth and innocence are quickly giving way to our teenage years—our awkward, gawky, tumultuous teenage years. Unquestionably, this age presents difficulties and challenges. But it is also a time to evolve, a time to grow, a time of great opportunity for our organization to come into its own and to make a lasting mark on our community. This is the task ahead for this year's Board of Trustees: to guide the SCVBA into the next chapter of its existence and to help shape it into the organization that we all hope it can be.

The ultimate goal of the Bar Association is to benefit its members, to ensure that the services and offerings the group provides foster the continued professional development of our members as both lawyers and business people. We do this through our various offerings, including participatory CLE presentations, and various networking events and activities. Both of these offerings will be expanding this year.

The Bar Association will also be bringing back our networking breakfasts, which have historically allowed those members who do not work in the Santa Clarita Valley, and therefore cannot make lunch or evening events, the chance to network with other Bar Association members. The Board will also be incorporating new social activities to allow members to interact in less formal settings, including trips to a local winery, an

outing to catch a Dodger game, and an evening of theater at one of our local playhouses.

For our bar association to thrive, and outlast its awkward teens, it must also continue to grow and evolve. One of our tasks this year is to reach out to all of the local attorneys, introduce them to the SCVBA, and welcome them to join us. It is our goal to have a 20% increase in membership by this time next year.

The SCVBA also aims to be a symbol of the legal profession in our community and to educate our citizens about the law, the legal profession, and the judicial system. Over the last several years, our board has placed a special focus on giving back to the community, and working to better the Santa Clarita Valley. Leading this effort has been Jeff Armendariz, who chairs the Community Outreach Committee. Jeff has coordinated annual blood drives, food drives, and toy drives, and has played a pivotal role in the local "Teen Court," a diversion-based program for local youths who have committed low-level criminal offenses.


**SAMUEL R.W. PRICE**  
SCVBA President



[sprice@pooleshaffery.com](mailto:sprice@pooleshaffery.com)

Jeff also created the annual SCVBA high school speech contest, where local students address topical legal issues in competition for scholarship funds from the Bar Association. We hope to continue the expansion of our community outreach by organizing a day of service, where the members of our bar association can come together to assist local charities and give back—even just a little bit—for the many gifts that we enjoy.

Our first event in 2016 will be a networking mixer on Thursday, January 21, beginning at 6:00 p.m. at Salt Creek Grille (24415 Town Center Drive, Valencia). This event is free for all attorneys, whether or not they are SCVBA members. For those attendees who are not yet members, we will be offering a reduced rate membership if they join at the night of the event.

On behalf of the SCVBA Board of Trustees, we look forward to seeing you there—and to the beginning of an exciting year for the Santa Clarita Valley Bar Association. 



**DARRYL H. GRAVER, ESQ.**  
**EXPERIENCED**  
**ARBITRATOR/MEDIATOR**  
*"Have Gavel Will Travel"™*  
OVER 3,000 SUCCESSFUL CONCLUSIONS  
TO SCHEDULE, CALL JUDICATE WEST 800.488.8805  
**818.884.8474**  
*fax* **818.884.8388**





San Fernando Valley Bar Association

# Referring the Best Attorneys Since 1948



Attorney Referral Service



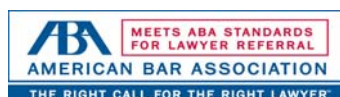
@ReferralsSFVBA



The **Attorney Referral Service** of the **SFVBA** is a valuable service, one that operates for the direct purpose of referring potential clients to qualified attorneys. It also pays dividends to the attorneys involved. Many of the cases referred by the ARS earn significant fees for panel attorneys.

**(818) 227-0490**

**[www.sfvbaReferral.com](http://www.sfvbaReferral.com)**





## VCLF ANNUAL GALA

Two hundred supporters of the Valley Community Legal Foundation of the SFVBA gathered on November 14 at Braemar Country Club for the VCLF's Annual Gala. All in attendance had fun and raised funds for scholarships and law related charitable initiatives. The event honored Los Angeles Sheriff **Jim McDonnell**, attorney and radio personality **Bill Handel**, and businessman and civic leader **Bert Boeckmann**.

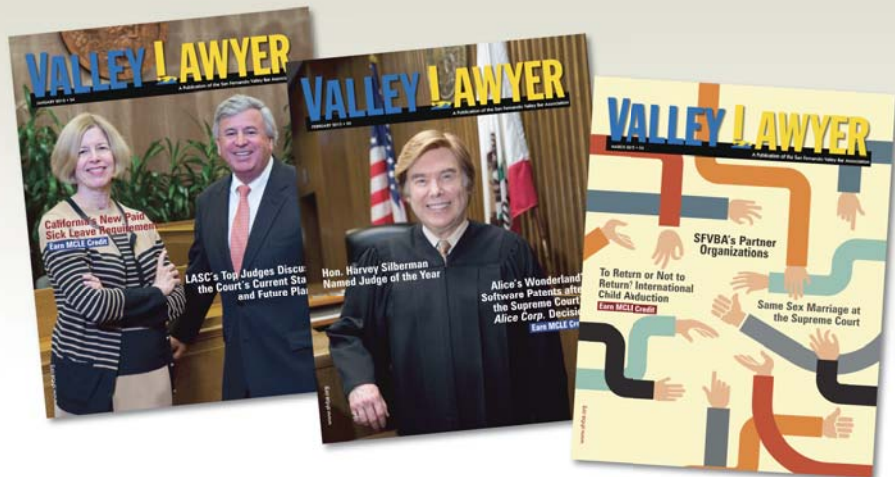
*Photos by Michael Kaplan*





# INTERESTED IN ADVERTISING IN Valley Lawyer?

*Grow your practice. Promote your service.  
Market your firm.*



VISIT [www.sfvba.org](http://www.sfvba.org) FOR  
THE 2015 MEDIA KIT



CONTACT (818) 227-0490, EXT. 101  
TO PLACE YOUR AD.



## 112 WAYS TO SUCCEED IN ANY NEGOTIATION OR MEDIATION

SECRETS FROM A PROFESSIONAL MEDIATOR

STEVEN G. MEHTA

Steven G. Mehta is one of California's premier, award-winning attorney mediators, specializing in intensely-difficult and emotionally-charged cases.

Steve's book, **112 Ways to Succeed in Any Negotiation or Mediation**, will turbo-charge your negotiation skills regardless of your experience.

To schedule your mediation  
or order a copy of  
Steve's new book, call  
**661.284.1818**  
or check with your local bookseller,  
preferred online retailer,  
or online at:  
[www.112ways.com](http://www.112ways.com) or  
[www.stevemehta.com](http://www.stevemehta.com)

Locations in Los Angeles & Valencia  
**Mediations throughout California**

## VCLF Finds Fun in Fundraising

**LAURENCE N. KALDOR**  
VCLF President



phenix7@msn.com

**M**INDFUL THAT FUN AND fundraising don't have to be mutually exclusive, the Valley Community Legal Foundation (VCLF) held its annual Gala event on Saturday, November 14 at Braemar Country Club. The VCLF, which acts as the charitable arm of the San Fernando Valley Bar Association, adopted the theme "Raising the Bar" this year so as to highlight the value and importance of community service in realizing its own mission of assisting law related charitable initiatives in the local area.

As part of the festivities, both silent and live auctions were held to raise funds for VCLF projects. Former Los Angeles City Councilman Dennis Zine and San Fernando Valley businessman Mark Sterling were brilliantly entertaining as our estimable MCs for the event. Zine particularly shined (as he always does) as our auctioneer.

I pledge to build upon the work of past presidents in creating even more visibility for the Foundation. It is an exciting time to be working with the VCLF. The next eighteen months promises to be a transformative period of growth and prosperity for the charitable needs of the San Fernando Valley Community.

Highlighting the work of the VCLF, and its many projects, has become a top priority. Most practicing lawyers know that the Van Nuys and San Fernando courthouses have waiting rooms for children but fewer know that the VCLF was instrumental in their creation. The VCLF similarly has a long history of helping children with scholarship programs, including the

Wendy Sue Friedenthal Memorial Scholarship Fund, which assists students in the community who may have legal ambitions but not necessarily the means.

Especially noteworthy is the Blanket the Homeless program dedicated to making others aware that homelessness need not be permanent. Through the simple act of providing blankets to those in need, this program literally saves lives by giving to various shelters throughout the San Fernando Valley. On the days the blankets are distributed, legal clinics are also held to address the needs of individuals who have little or limited access to the justice system.

One of the most touching messages of the Gala was delivered by Jennifer Espalin. Formerly homeless and chemical dependent, Espalin has struggled each day but now meets her challenges head on. And, with the skills she learned from The Drug Court, a project the VCLF supports through grants, she will be seeking her qualification to become a certified drug counselor.

More, but perhaps less vocal, evidence of the VCLF's impact on the community was the participation of almost a dozen members of Teen Court in the event, a program close to past president Seymour Amster. Giving these young adults exposure to the beneficial efforts of lawyers and those in the legal community will surely emphasize values that the VCLF wants to engender in young people.

To demonstrate that, in serving the community, one can play many roles, the VCLF chose its honorees

from three different sectors: law enforcement, media, and business. Los Angeles Sheriff Jim McDonnell was selected for the Heroes in Law Enforcement and Firefighters' Award. A graduate of the Los Angeles Police Academy, Sheriff McDonnell served as second in Command to Chief William Bratton after holding every rank in the LAPD except Chief. Sheriff McDonnell has been a strong advocate for community-based policing, including co-authoring a foundational plan that created many changes in how the LAPD interacts with local neighborhoods.

A graduate of Whittier Law School, KFI talk radio's William Wolf "Bill" Handel was honored with the Armand Arabian Law and Media Award. Handel hosts one of the leading local morning radio shows, providing news commentary on a variety of subjects of interest to Angelenos. His longest running show is the syndicated *Handel on the Law*, which is heard on over 150 stations around the country. The descendant of Polish Jews who lived first in Brazil before immigrating to the United States, Handel has been both active and vocal in his attempts to alleviate racism and anti-Semitism in the community.

A beneficent fixture of the San Fernando Valley business community for decades, Herbert F. Boeckmann II was chosen for the Pearl F. Vogel President's Award. Boeckmann is perhaps currently best known as the Chairman and CEO of Galpin Motors, but has also served several Los Angeles mayors on blue-ribbon commissions, been active with his



# THANK YOU TO AUCTION DONORS

Anne C. Adams, Esq.  
AMC  
Aquarium of the Pacific  
Art's Delicatessen & Restaurant  
Susan Beris  
Debra Brand, Esq.  
Paula Brand  
Brent's Delicatessen & Restaurant  
Cerritos Center for the Performing Arts  
Costco  
Disneyland Resort  
Elegant Gardens Nursery Inc.  
Flappers Comedy Club and Restaurant  
Fleming's  
Fox  
Gelb Group—Winnetka Bowl  
Glendale Centre Theatre—Tim Dietlein,  
Owner  
Green Thumb Nursery, Canoga Park  
Halper Fine Art  
Hampton Inn  
Marc S. Harvey  
Heritage Square Museum  
Hollywood Wax Museum  
In-N-Out Burger  
Law Offices of Alice A. Salvo  
Los Angeles City Fire Department  
Los Angeles Clippers  
Los Angeles Museum of the Holocaust  
Los Angeles Police Department  
Magic Mountain  
Matador Bowling  
Museum of Tolerance  
Newman Grace, Marketing & Brand  
Communications  
Pacific Park on the Santa Monica Pier  
Patricia McCabe, Esq.  
Pepperdine University  
Pilates Studio City  
Ripley's Believe It or Not!  
Santa Anita Park  
Santa Monica History Museum  
Sherman Oaks Castle Park  
Eleanor Southers, Professional Legal  
Coaching  
Sweet Dreams Salon, Inc.  
The Comedy & Magic Club  
The Gallery Restaurant  
The Huntington Library, Art Collections,  
and Botanical Gardens  
The Jump Around, Canoga Park  
The Pasadena Playhouse  
The Will Geer Theatrical-Botanicum  
Valley Inn Restaurant & Bar  
Warner Bros. Consumer Products, Inc.  
Western Bagel

wife in promoting the arts in the San Fernando Valley, and has been a generous donor to his alma mater USC. Considered in the business community as a true "Horatio Alger story," he is a recipient of the 1995 Horatio Alger Award given by the association of the same name.


Key to the VCLF's work is the generosity of its sponsors. Among those who truly stepped up this year were: Gold Sponsor Nadel CPAs; Silver Sponsors Lewitt Hackman, Krofina Investigative Services, Inc., and Synergy Professional Insurance Brokers; Bronze Sponsors BMA USA, Kraft Miles & Miller, Law Offices of Etan Lorant, Lyden Law Corporation, Fazio Cleaners, Law Offices of Alice A. Salvo, Law Offices of Tamila C. Jensen, and Leavitt Group; and Gavel Sponsors Jodi Berman Levine and Dr. Joel Levine, Stan and Lisa Agay Getz, Laurence N. Kaldor, Anne C. Adams and Patricia L. McCabe, Lee Rosenblum, Robert Philibosian, Michael G. Kaplan CPA CVA MAFF, and Mark Shipow. Emphasizing the importance of these contributions, director and professional fundraiser Lee Rosenblum says, "The VCLF does important work on behalf of marginal and at-risk communities. Our work is vital to the legal community and all those who benefit from it."

Impressively, several directors of the VCLF took on the dual role of fundraiser and donor. Most notably, David Nadel, who serves as the board's treasurer, bought a gold level sponsorship and in doing so made an even greater contribution than he already does with his time and skills. Past president Etan Z. Lorant, Judge Susan Speer, Capt. Bill Speer and Jeffrey Vallens generously acted as the wine sponsors for the event, offsetting a significant cost and allowing more of the money raised from tickets to be used for the VCLF's mission.

To make the event a success, the directors of the VCLF find themselves playing many roles and none as important as those who serve on the

Gala Committee. Special recognition should go to Anne Adams, Lisa Agay Getz, Seymour Amster, Hon. Mitchell Block, Debbie Brand, Stan Getz, Laurence Kaldor, Hon. Virginia Keeny, Etan Lorant, Patricia McCabe, Lee Rosenblum, Terri Peckinpaugh, Hon. Susan Speer, Bill Speer, and Hon. Dennis P. Zine, Ret. for their selfless efforts. Also very worthy of mention is VCLF Director Jodi Berman, who in her role as head of the planning committee took on the daunting task of liaising regularly with the venue to make sure that everything was just right.

The silent and live auctions were central to fundraising efforts. Director Patricia McCabe and Advisory Board member Anne Adams deserve special credit for bringing sponsors in and ensuring that the winners and their prizes found each other. Commenting on the variety of offerings, Adams remarked that, "Our supporters had the opportunity to bid on a variety of live auction items. Donations from the community included lunch and a ride along with LAPD Valley Bureau Deputy Chief Bob Green, a LAPD driving range pursuit tour, and dinner with a tour for six people at a local LAFD station. We also had many silent auction items, including Disneyland park hopper passes, restaurant gift certificates, a variety of gift baskets, and a bicycle. We appreciate the generosity from the community members that provided our auction items."

As a new year commences, the VCLF is looking forward to a new program of even more charitable initiatives and events. An important part of achieving these goals is including the membership of the entire San Fernando Valley Bar Association. So, please consider making a tax deductible donation to the VCLF's general fund at <http://www.thevclf.org/donate-to-vclf-general-fund/> or participating in this year's events. You just might discover that fundraising is a lot more fun than you think. 

**Sponsored by:**

**RICHARD A. LEWIS, ESQ.**  
ATTORNEY AT LAW

Krycier, Ervin, Taubman & Kaminsky  
An Accounting Corporation



**Northwestern Mutual**

Edgar Vega, MBA, CLU®  
(818) 610-7036  
edgarvega.nm.com



Law Offices of  
Tamila Jensen

**Sedgwick** LLP

**EG**

**EISNER GORIN** LLP

STATE AND FEDERAL CRIMINAL DEFENSE

The Inclusion and Diversity Committee  
of the San Fernando Valley Bar Association  
cordially invites you to our

## **DIVERSITY MIXER**

**JANUARY 28, 2016 6:00 PM - 9:00 PM**

### **THE VILLA**

**22160 VENTURA BLVD.  
WOODLAND HILLS, CA 91364**

*Meet, Mingle & Mix with Distinguished Judges,  
Attorneys and other Legal Professionals*

**RSVP REQUIRED ON EVENTBRITE:  
[HTTPS://SFVBADIVERSITY.EVENTBRITE.COM](https://sfvbadiversity.eventbrite.com)**

**Participating Bar Associations:** Iranian American Lawyers Association, Hispanic National Bar Association, Santa Clarita Valley Bar Association, Italian American Lawyers Association, Japanese American Bar Association, Eastern European Bar Association, State Bar of California - International Law Section, Southern California Chinese Lawyers Association, & Latina Lawyers Bar Association

# **When Bankruptcy May Be the Best Solution...**

Choose an experienced & knowledgeable attorney who provides personal & timely attention and recommends bankruptcy only when it is the best solution.

**Law Offices of Steven R. Fox**  
Bankruptcy & Related Matters

Debtor and Creditor Representation  
Chapter 11 Reorganization  
Bankruptcy Litigation  
Developing and Rebuilding Companies



17835 Ventura Blvd., Suite 306  
Encino, CA 91316 ■ (818) 774-3545  
[SRFox@FoxLaw.com](mailto:SRFox@FoxLaw.com)



## CLASSIFIEDS

### ATTORNEY-TO-ATTORNEY REFERRALS

#### STATE BAR CERTIFIED WORKERS COMP SPECIALIST

Over 30 years experience-quality practice. 20% Referral fee paid to attorneys per State Bar rules. Goodchild & Duffy, PLC. (818) 380-1600.

### SPACE AVAILABLE

#### SHERMAN OAKS GALLERIA

High-end offices in immediately available for sublease (windows, interiors and sec. bays). Top floor of the Comerica Bank Bldg., best location in SF Valley. Adjacent to both 405 and 101 fwy on/off ramps. Would be leasing from AV rated law firm, Levinson Arshonsky & Kurtz, LLP. Offices offer reception, library, conference rooms + kitchen & amenities. Please contact Lissa at (818) 382-3434.

#### VAN NUYS

Office for rent near the Van Nuys Courthouse. Conference room, receptionist and tenant parking included. To view, please call (818) 988-9840.

#### WOODLAND HILLS

Window offices in Warner Center Towers, spectacular views, available immediately, secretarial bays available, flexible terms. To view this suite, please call (818) 883-5510.

### SUPPORT SERVICES

#### GRAPHIC ARTIST

Creating affordable, high-quality designs that will promote your business with simplicity and style. Offering a wide range of styles & personal attention, making sure your project is always delivered on time. Call Marina at (818) 606-0204.

### PROFESSIONAL MONITORED VISITATIONS AND PARENTING COACHING

Family Visitation Services • 20 years experience "offering a family friendly approach to" high conflict custody situations • Member of SVN • Hourly or extended visitations, will travel • visitsbyllene@yahoo.com • (818) 968-8586/(800) 526-5179.

### CLASSIFIED ADVERTISING PER ISSUE

#### Member

25 words or less	\$45
Each additional word	\$1.80
Add logo	\$30

#### Non-Member

25 words or less	\$90
Each additional word	\$3.60
Add logo	\$55

Contact [epost@sfvba.org](mailto:epost@sfvba.org) or  
(818) 227-0490, ext. 101  
to place your ad.

### HAS YOUR CLIENT BEEN BURNED BY A STOCKBROKER?

#### SECURITIES LAW

#### Claims Against Stockbrokers

Stock Market Losses Caused by:  
Excessive Trading in Account  
Unsuitable Investments  
Misrepresentation Variable Annuities

#### LAW OFFICES OF JONATHAN W. EVANS & ASSOCIATES

39 YEARS IN PRACTICE  
ARBITRATOR FOR SUPERIOR AND  
MUNICIPAL COURT

NO RECOVERY – NO FEE  
FREE INITIAL CONSULTATION

Call today for an appointment  
(818) 760-9880 • (800) 699-1881  
(213) 626-1881  
[www.stocklaw.com](http://www.stocklaw.com)

12711 Ventura Blvd., Suite 440  
Studio City, CA 91604

# SFVBA MCLE

## Seminars on Audio

### COULDN'T ATTEND AN IMPORTANT SFVBA SEMINAR?

Most SFVBA  
seminars since 2013  
available on  
audio CD or MP3.

Stay current and  
earn MCLE credit.



## Versatape

### Who is Versatape?

Versatape has been  
recording and marketing  
audio copies of bar association  
educational seminars to  
California attorneys since 1983.

[www.versatape.com](http://www.versatape.com)  
(800) 468-2737



### PRESIDENT'S CIRCLE

- SFVBA membership for every firm attorney and paralegal
- Prominent listing in *Valley Lawyer* and firm logo on President's Circle page of SFVBA website
- Recognition and 5% discount on tables at Bar-wide events, including Judges' Night
- Invitations to President's Circle exclusive events with bench officers, community leaders and large firms

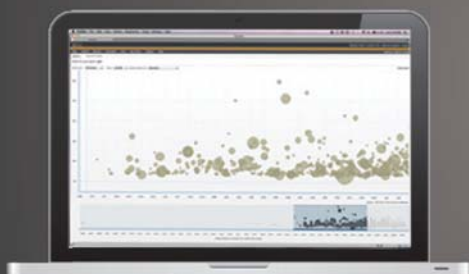
**WE RECOGNIZE THE FOLLOWING PRESIDENT'S CIRCLE MEMBERS FOR THEIR DEMONSTRATED COMMITMENT AND LEADERSHIP IN SUPPORTING THE LEGAL PROFESSION AND ITS WORK IN THE COMMUNITY.**

*Alpert Barr & Grant APLC*  
*Christie Parker & Hale LLP*  
*Law Offices of Goldfarb Sturman & Averbach*  
*Kantor & Kantor LLP*  
*Law Offices of Marcia L. Kraft*  
*Pearson Simon & Warshaw LLP*  
*Greenberg & Bass LLP*  
*Oldman Cooley Sallus Birnberg & Coleman LLP*  
*Stone | Dean LLP*  
*Lewitt Hackman Shapiro Marshall & Harlan ALC*  
*Neighborhood Legal Services of Los Angeles County*  
*Nemecek & Cole*  
*Parker Milliken Clark O'Hara & Samuelian APC*  
*University of West Los Angeles School of Law*

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



Turn to smarter tools for legal research.



fastcase®

Smarter by association.

Log in at [www.sfvba.org](http://www.sfvba.org)

h results to  
est results

active map of  
see the most  
ong lists of  
orted well),  
orting the  
sort the  
ong the  
t the  
om.

LTN  
#1

2010 Customer  
Satisfaction  
Survey

Available on the iPhone  
App Store



### Free to members of the San Fernando Valley Bar Association.

Members of the San Fernando Valley Bar Association now have access to Fastcase for free. Unlimited search using Fastcase's smarter legal research tools, unlimited printing, and unlimited reference support, all free to active members of the San Fernando Valley Bar Association. Log in at [www.sfvba.org](http://www.sfvba.org) and click the Fastcase logo. And don't forget that Fastcase's free apps for iPhone, Android and iPad connect to your bar account automatically by Mobile Sync. All free as a benefit of membership in the San Fernando Valley Bar Association.



**Personal**  
COURT REPORTERS, INC.

# Grand Opening Santa Ana

**Visit all 8 of our locations**

Van Nuys	Downtown LA	Ventura	Ontario <small>New!!!</small>
Santa Barbara	West LA	San Bernardino	Santa Ana

[www.personalcourtreporters.com](http://www.personalcourtreporters.com)

**Video  
Conferencing**

**Mediation  
Rooms**

**Court  
Reporting**

**Trial  
War  
Rooms**

**8 Great  
Locations**

**Jury Trial  
Focus Groups**

**The road to  
success starts  
with us.**

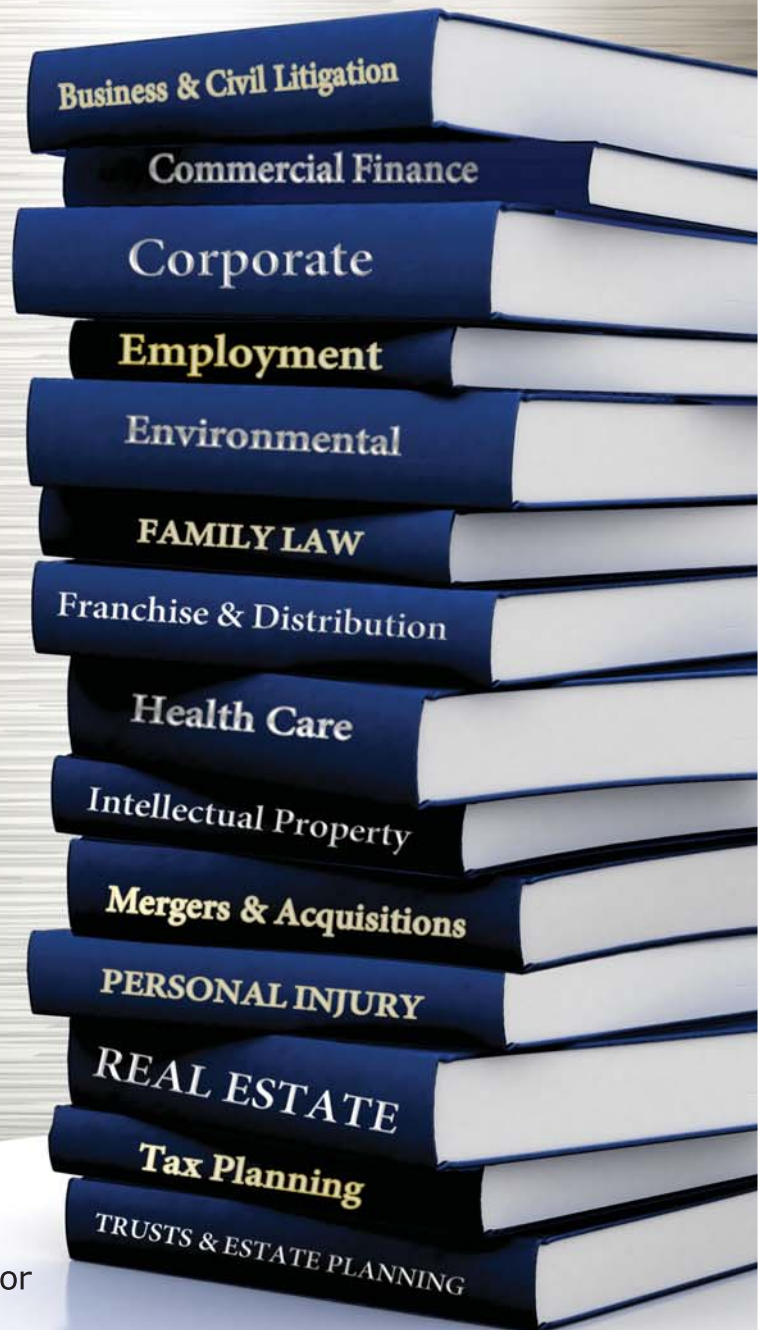
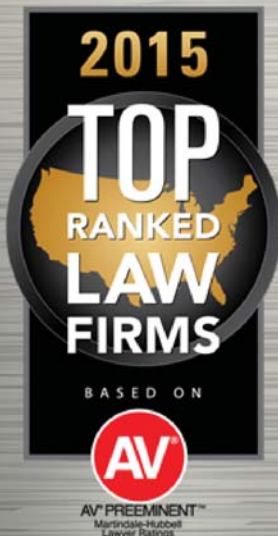
**800-43-DEPOS**





LEWITT HACKMAN

LEWITT, HACKMAN, SHAPIRO, MARSHALL & HARLAN  
A LAW CORPORATION



16633 Ventura Boulevard, Eleventh Floor  
Encino, California 91436

[www.lewithackman.com](http://www.lewithackman.com)  
818.990.2120