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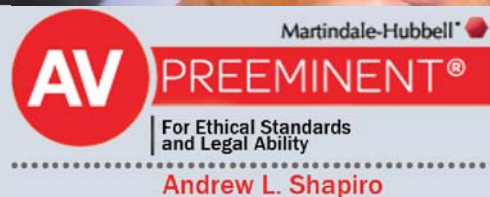
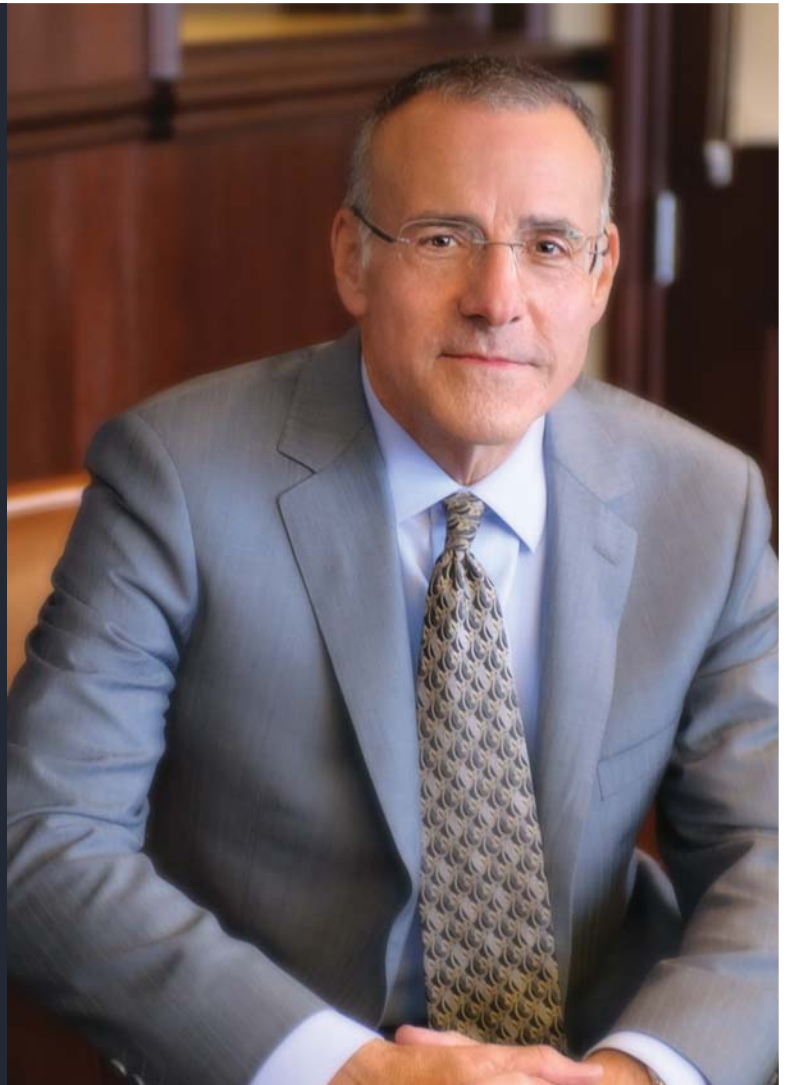
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# Judicial Independence in the Dock

**A**S LAWYERS, WE ALL BELIEVE in judicial independence. Wait, do we?

We have recently been barraged with news reports about 20-year-old Stanford student jock Brock Turner, who received a light sentence for what appears indisputably to be the rape of an unconscious woman in which he was caught in the act. There does not appear to be any extenuating circumstances other than Turner's youth and the fact that he had no prior record.

Despite the fact that the maximum sentence is 14 years and prosecutors had asked for a sentence of six years, which is standard for such offenses, Turner received a sentence of six months in jail from Judge Aaron Persky of the Santa Clara County Superior Court, of which he will probably serve only three, plus three years' probation. This was in line with the probation officer's recommendation of a year or less in county jail.

Additionally, Turner will be required to register as a sex offender. Prosecutors have the right to appeal the sentence, but reversal on the grounds of abuse of discretion is rare, and the prosecutor here has already said that he will not appeal.

As a result of this sentence, a Stanford professor, among others, has called for Judge Persky to be recalled, and a huge backlash against the judge is in process. To date, at least 191,000 thousand people have signed a Change.org petition calling for his recall. He has been threatened by legislators with a complaint to the Commission on Judicial Performance. And among other things, jurors have refused to serve in

**CAROL L. NEWMAN**  
SFVBA President



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his courtroom, which is an astonishing grassroots response.

The firestorm has been fueled by the release of two letters which had been provided to the judge: a very articulate and emotional twelve-page letter from the victim describing her ordeal, and a letter from Turner's father, which appeared to excuse his son's conduct as "twenty minutes of action."

According to an article in the *Washington Post*, the majority of convicted rapists in the United States go to prison, with the average sentence being eleven years, per the Bureau of Justice Statistics. The U.S. Sentencing Commission recommends a sentence of eight to twenty years. It can be argued here that Turner was not convicted of rape, which is technically true as rape charges were dropped and he was convicted of three felony counts of sexual assault, but the acts which he was accused of committing fall within the dictionary definition of rape.

So what is our responsibility as bar leaders? Do we support Judge Persky's independence and his right to sentence as he sees fit in his discretion? On June 10, 2016, the Santa Clara County Bar Association (SCCBA) issued a statement regarding the Turner case in which the SCCBA stated, among other things:

The SCCBA recognizes and supports the public's right to comment on issues of public interest, including the proper adjudication of sexual assault cases and the fair and equal treatment of all who come before the courts. The SCCBA does not itself comment on rulings in

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individual cases to which it is not a party or amicus, and it therefore will not state a position on the Turner sentence.


However, the SCCBA also recognizes the importance of judicial independence, a principle that has not featured prominently in the national discussion to date. . . . Judges have a duty to apply the law to the facts and evidence before them, regardless of public opinion or political pressure. In that role, judges provide an important check against other political forces. If judges had to fear direct, personal repercussions as a result of their decisions in individual cases, the rule of law would suffer. . . .

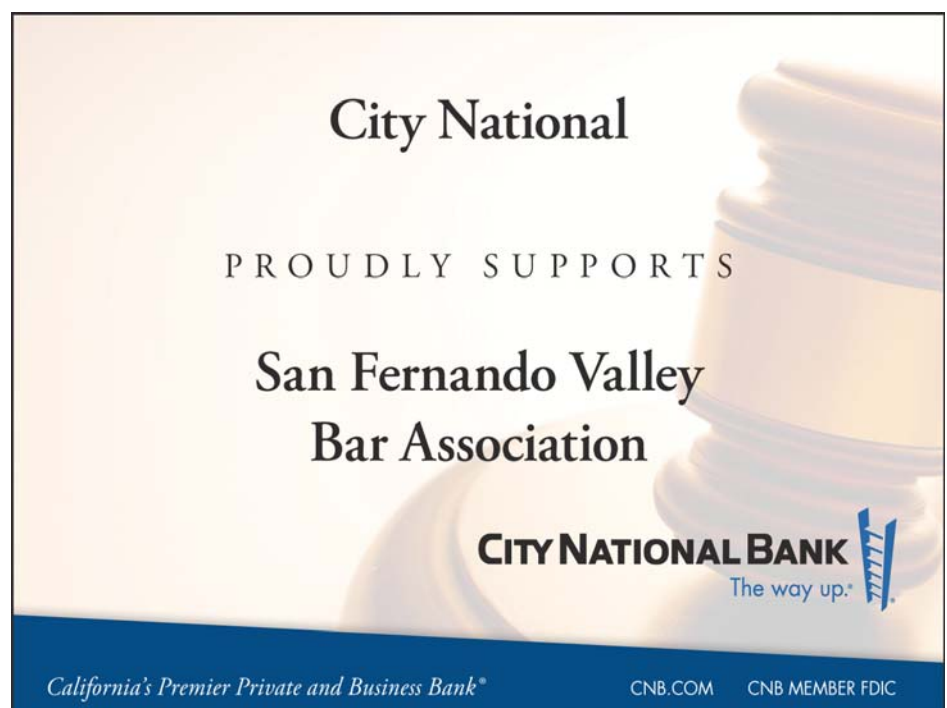
In view of these principles, the SCCBA opposes the present attempts to remove Judge Persky from the bench based on his sentence in the Brock Turner case. The SCCBA has seen no credible assertions that in issuing the sentence, Judge Persky violated the law or his ethical obligations or acted in bad faith. Nor is the SCCBA aware of any other complaints or allegations of

impropriety against Judge Persky during his 13 years on the bench. Seeking to punish a judge under these circumstances presents the very threat to judicial independence that the SCCBA has resolved to condemn.

At press time, we are not aware of any other bar associations other than the SCCBA having taken a position, which is interesting in itself.

As the SCCBA statement says, the public certainly has a right to comment on matters of public interest, and in fact we encourage the public not to be complacent. By the same token, recalls are rarely successful, and this year Judge Persky is running for reelection unopposed. As a result, unless he resigns, Judge Persky most likely will continue in office, for now, no matter what. Further, he had the discretion to do what he did, as the prosecutor concedes.


Regardless of the effect on Judge Persky, this controversy is having an impact that will undoubtedly result in more attention being given to sexual assault and the proper punishment for its perpetrators, which in and of itself is a good thing for the future. 



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## Stories Worth Hearing

**MICHAEL D. WHITE**  
SFVBA Editor



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**M**Y DAD, A POOR KID RAISED IN PRE-DEPRESSION Fall River, Massachusetts, could fondly recall seven decades later gathering with his young friends in Ruggles Park on Saturday mornings to listen for hours to old, old men with sad, far-away eyes and fluttering hands recounting their life-defining experiences on the killing fields of Antietam, Fredericksburg, Gettysburg, Chancellorsville, the Wilderness, and a hundred other hellish Civil War engagements.

The experience had a marked effect on him; he returned from the Army at the end of World War II with a stutter and his own memories—yarns to weave, as it were—some of which he shared, others he didn't care to. But he never forgot those old men and the stories they told.

He was a sensitive, largely self-educated man who loved to listen, a talent, and unfortunately, dying art, that he honed to perfection over the 42 years he spent as a bartender. "Everybody, absolutely everybody, has a story," he once told me. "You can learn a lot just by listening to people; why they are the way they are and how what they do molds them." And he heard them all.

This month, we have the opportunity to listen for a bit to attorneys Marc Sallus and Barry Goldberg, whose dedication to the law weaves in interesting fashion with their life-long involvement in the world of music.

In addition to their extensive activities in support of the Bar, the pair have brought decades of practice and commitment to the Los Angeles Lawyers' Philharmonic

Orchestra and its revival group, the Big Band of Barristers—two of the most highly regarded 'legal' music groups in the country.

The story of how they both came to love music and how it has helped shaped their lives and their work is a fascinating look into how art, however expressed, can serve not only as a highly personal communicator of self, but a golden thread that binds us all to one another.

In that vein, this month we also have the opportunity to take in some of the best art work created by members of the Association.

Photo images—from the streets of Amsterdam to the night sky of Yosemite—and poetry led the voting with every entry displaying a keen eye and a story to tell.

Congratulations to the winners and we hope that their work provokes you to, perhaps one day, step out and share a story of your own.

One more thing, and it's important. Please set aside some time to look over the enclosed Election Pamphlet and when you receive your online ballot in the coming weeks, exercise your right to vote for those dedicated candidates you feel are best qualified to serve on the SFVBA's Board of Trustees.

Each and every one of the candidates has brought the sum total of their experience and talent to the table and your selections will help greatly in setting the course for the Association through the next year and beyond. Choose well.

Regards. 



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SUN	MON	TUE	WED	THU	FRI	SAT
	<div>1</div>  <p><b>5:30 PM</b> <b>CHABLIS RESTAURANT</b> <b>TARZANA</b></p> <p>Valley Lawyer Member Bulletin</p> <p>Deadline to submit announcements to <a href="mailto:editor@sfvba.org">editor@sfvba.org</a> for September issue.</p>	2	3	<div>4</div> <p><b>Why Clients Stall</b> <b>12:00 NOON</b> <b>15821 VENTURA BLVD., SUITE 490</b> <b>ENCINO</b></p> <p>Sponsored by</p>  <p><b>Rose, Snyder &amp; Jacobs LLP</b> ACCOUNTANTS &amp; ADVISORS</p> <p>Join us at the offices of our Silver Sponsor and learn about quadrant planning from this prominent accounting firm. Limited Seating. (1 MCLE Hour)</p> <p><b>Membership &amp; Marketing Committee</b> <b>6:00 PM</b> <b>SFVBA OFFICE</b></p>	5	6
7	8	<div>9</div> <p><b>Board of Trustees</b> <b>6:00 PM</b> <b>SFVBA OFFICE</b></p>	<div>10</div> <p><b>Webinar</b> How to Avoid Legal Malpractice <b>12:00 NOON</b></p> <p>See page 43</p>	<div>11</div> <p><b>Fee Arbitration Refresher Course</b> <b>2:00 PM</b> <b>SFVBA OFFICE</b></p> <p>SFVBA fee arbitrators are encouraged to attend this refresher course. Myer Sankary will be on hand to answer your questions and update you on the new State Bar advisories. (2.5 MCLE Hours)</p>	12	<div>13</div> <p><b>Joint Bar Mixer</b> <b>2:00 PM</b> <b>7825 6TH STREET</b> <b>DOWNEY</b></p> <p>See page 39</p>
14	15	16	17	18	19	20
21	22	<div>23</div> <p><b>Editorial Committee</b> <b>12:00 NOON</b> <b>SFVBA OFFICE</b></p>	24	<div>25</div> <p><b>Multicultural Bar Alliance of Southern California</b> <b>Annual Summer Networking Reception</b> <b>6:00 PM</b> <b>TAIX FRENCH RESTAURANT</b> <b>1911 W. SUNSET BOULEVARD</b> <b>LOS ANGELES</b></p> <p>This event offers an opportunity for members of local and diverse bar associations to network and forge new relationships. The program features an exclusive conversation with California Supreme Court Associate Justice Mariano-Florentino Cuellar. Admission is free for SFVBA members.</p> 	26	27
28	29	30	31			



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<b>LATINO HERITAGE MONTH (SEPTEMBER 15 – OCTOBER 15)</b>						<b>1</b>
<b>4</b>	<b>5</b> 	<b>6</b> <b>Valley Lawyer Member Bulletin</b> Deadline to submit announcements to editor@sfvba.org for October issue.	<b>7</b> <b>Marketing Yourself 101</b> Sponsored by <b>FindLaw.</b> <b>12:00 NOON SFVBA OFFICE</b>	<b>8</b>	<b>9</b> <b>SFVBA ELECTION DAY</b> 	<b>10</b>
<b>11</b>	<b>12</b>  <b>5:30 PM CHABLIS RESTAURANT TARZANA</b>  VBN is dedicated to offering organized, high quality networking for SFVBA members.	<b>13</b> <b>Probate &amp; Estate Planning Section</b> Attorney-Client Privilege <b>12:00 NOON MONTEREY AT ENCINO RESTAURANT</b>  Nicholas Van Brunt will discuss the attorney-client relationship and the ethical obligations. (1 MCLE Hour—Legal Ethics)  <b>Board of Trustees</b> <b>6:00 PM SFVBA OFFICE</b>	<b>14</b> Another great marketing seminar in the series presented by FindLaw. Free to Current Members!!	<b>15</b> <b>Intellectual Property, Entertainment &amp; Internet Law Section</b> <b>12:00 NOON SFVBA OFFICE</b>  John F. Stephens and Kevin Gilliland present. (1 MCLE Hour)	<b>16</b> Update on Social Security Sponsored by <b>AXA Advisors, LLC</b> <b>12:00 NOON SFVBA OFFICE</b>  Joanne M. Crowley, MBA, RICP® and Michelle A. Curry, CFP®, ChFC, CLU acquaint attorneys with rules and strategies for claiming Social Security benefits. An emphasis will be placed on coordinating the various types of benefits (retirement, spousal, and survivor) in order to maximize benefits over a client's lifetime. (1 MCLE Hour)	<b>17</b>
<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b> <b>INSTALLATION GALA</b> <i>Party Under the Stars</i> <b>THURSDAY SEPTEMBER 22, 2016</b> Skirball Cultural Center See page 15		
<b>25</b>	<b>26</b> <b>Family Law Section</b> It's All a Show: Presentation of Evidence Using Technology, Plus Special Farewell Presentation to Commissioner Patricia Ito <b>5:30 PM MONTEREY AT ENCINO RESTAURANT</b>  Judge Christine Byrd, Eve Lopez, CFLS, and Jeff Sturman, CFLS discuss when and how to use electronically assisted technology in the courtroom, as well as its benefits and potential pitfalls. Using technology, the panel will demonstrate opening and closing arguments and present evidence. Approved for Family Law Legal Specialization. (1.5 MCLE Hours)	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b> <b>Bankruptcy Law Section</b> Tentative Opinions of the Woodland Hills Judges <b>12:00 NOON SFVBA OFFICES</b>  Our panel will discuss the latest, most relevant and significant cases. (1.25 Hours MCLE)  <b>Does Your Bar Membership Expire Today?</b>  <b>Renew online at <a href="http://www.sfvba.org">www.sfvba.org</a></b>	



Patented Apr. 8, 1890.

Fig. 1.



Fig. 2.

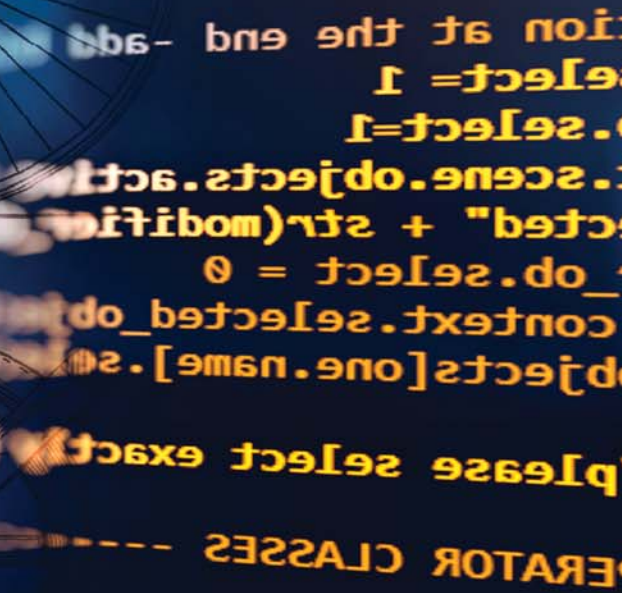
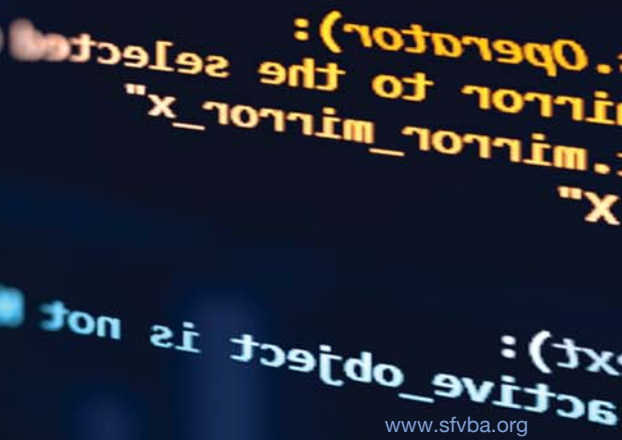


Fig. 4.



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# An Evolutionary Process: *The Ins and Outs of Patent Law*

By Robin Springer

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A patent is a “proprietary right granted by the federal government pursuant to laws passed by Congress, which conveys to its owner exclusive rights to a claimed invention.” A simple description surely, but one that’s fraught with twists, turns and pitfalls that make the process of obtaining and defending a patent, particularly one involving an abstract idea, a challenging proposition.

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**P**ATENT LAW HAS EVOLVED SINCE ENACTMENT of the Patent Act of 1790 (the Act). And, while Article I of the U.S. Constitution gives Congress the power to enact laws relating to patents,<sup>1</sup> which it did in passing the American Inventors Protection Act of 1999 and America Invents Act in 2011, recent Supreme Court decisions regarding patent law affect everything from fee shifting to interpreting the types of inventions that will survive scrutiny under the Act.

On April 29, 2014, the littler guy chalked up a big win when the United States Supreme Court, in unanimous decisions, decided companion cases regarding fee shifting in patent suits—*Octane Fitness, LLC v Icon Health & Fitness, Inc.*<sup>2</sup> and *Highmark Inc., v Allcare Health Management System, Inc.*<sup>3</sup> The questions at issue were: (1) in what circumstances a prevailing party in a patent suit can obtain an award of attorney fees and (2) what type of review, on appeal, is required of the Federal Circuit.

Prior to these decisions, it was almost impossible to obtain attorney fees in patent cases, even in outrageous cases. The two decisions significantly lower the bar for parties to obtain such fees. The statute in question is Section 285 of the Patent Act. It reads in its entirety: “The court in exceptional cases may award reasonable attorney fees to the prevailing party.”

Fourteen words. So, what was the fight about? First, the definition of the word ‘exceptional.’ In *Brooks Furniture Mfg., Inc. v Dutailier Int’l, Inc.*,<sup>4</sup> the Federal Circuit defined exceptional in a very stringent manner: A case was exceptional only when a party engaged in material inappropriate conduct or, when the litigation was (1) brought in subjective bad faith, and (2) objectively baseless.<sup>5</sup> Further, *Brooks* held the improper conduct had to be established by clear and convincing evidence.<sup>6</sup>

*Octane* and *Highmark* changed that. The Supreme Court stated that the Federal Circuit, which oversees all patent appeals, had made it too difficult to get attorney fees in egregious patent cases. The Court held that the word exceptional shall be defined by its ordinary meaning, including uncommon, rare, not ordinary. Something less than bad faith can be ‘exceptional.’<sup>7</sup> District courts now may determine whether a case is exceptional by looking at the totality of the circumstances.<sup>8</sup>

Of the two-prong test, the Court held that both factors need not be present; meeting one satisfies the test.<sup>9</sup> And

the Court lowered the standard of proof required for a showing of misconduct.<sup>10</sup> Second, the Court changed the standard of review on appeal, to abuse of discretion, thus giving trial judges more power to award fees and appellate courts less authority to overturn such awards.<sup>11</sup>

Daniel Nazer, staff attorney at the Electronic Frontier Foundation, thinks the cases are a very good development for defendants in patent suits, “It’s a real change,” he says, “a real signal to lower court and district court judges that they can award fees.”

In 2015, 5,819 patent lawsuits were filed, a 15 percent rise from 2014, but fewer than the 6,092 filed in 2013. Non-practicing entities (NPEs), or patent trolls, were the top 10 filers of patent lawsuits in 2013, according to Lex Machina.<sup>12</sup>

But NPEs aren’t the only abusers. Large operating companies sometimes also use patent infringement claims, seemingly as part of their acquisition strategies. Will the Court’s decisions deter these abuses?

They might, Nazer says. “It certainly makes the business model riskier,” but not so risky as to eliminate the problem.

When it comes to the big guys, because they typically have adequate capital allocated to litigation expenses, “they can consider these costs part of their operating expenses,” says Westlake Village patent attorney Pejman Yedidsion.

Nazer believes the rulings should reduce the volume of cases brought by the worst kind of patent trolls, but cautions, “Judges are generally reluctant to award attorney fees where statutes allow for fee shifting because it adds another layer to the litigation.” It’s like a new case; players can then question, for example, whether the amount of the award was justified.

In spite of courts’ hesitance to award fees, just 15 days after the rulings, the Federal Circuit said in *Site Update Solutions, LLC v. Accor N. Am., Inc., et al.* (Newegg) that the high court’s new standard for fee shifting warranted remanding the case for a determination of fees.<sup>13</sup> And, on May 30, 2014, a defendant in another case was awarded fees.<sup>14</sup>

The precedent is a good start, but many, including Yedidsion, believe legislative reform is also necessary. “Having Congress enact legislation may be a better path for change than two companies appealing their cases all the way to the Supreme Court,” he said.

The broader discretion the Supreme Court gave the Federal Circuit may deter patent holders from bringing frivolous claims. But, although Newegg was remanded for



**Robin Springer** is an attorney in Woodland Hills and president of Computer Talk, Inc., a consulting firm specializing in the design and implementation of speech recognition and other hands-free technology services. She can be reached at [contactus@comptalk.com](mailto:contactus@comptalk.com).





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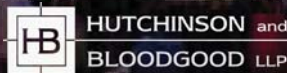
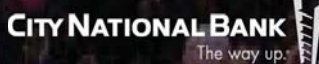


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determination of attorneys' fees, in February 2016, the Federal Circuit, in a non-precedential opinion, held that the District Court did not abuse its discretion in denying attorney fees, thus again precluding Newegg from collecting.<sup>15</sup>

However, in another win for those who believe patents are too easy to get, the United States Supreme Court, in a unanimous decision, invalidated four more software patents, thereby overruling every patent case that came before it during the 2013-2014 term.

The case, *Alice Corporation Pty. Ltd. v CLS Bank International et al.*,<sup>16</sup> concerned software that was used on a computer to escrow funds between buyers and sellers, minimizing settlement risk. The Court was tasked with clarifying when an analytical method (i.e., escrowing) performed on a computer is eligible for a patent. The Court made this determination using Section 101 of the Patent Act.

Some pundits wondered why the Court focused its inquiry on a Section 101 analysis, and why it ultimately issued a judge-made rule, when it could have easily invalidated the patents under Section 103 of the Patent Act. That section precludes from patent protection any invention that is obvious.<sup>17</sup> Thus, if prior art exists, an invention is obvious and the patent cannot stand.

Section 101, on the other hand, requires that an invention be new and useful,<sup>18</sup> precluding from patent

protection any invention that is abstract, although the word 'abstract' comes from judicial interpretation; it does not appear in the code. Section 101 is a gatekeeper statute; if an invention does not pass 101 muster, there is no 103 analysis.

One reason the Court used Section 101 is because the issue on appeal was not whether the claims in the application were obvious in light of prior art. Rather, it was whether the claims were valid and eligible for patent protection; a 101 question.

Section 101, a very short statute, "needs a level of interpretation," says Nazer, explaining why the Court issued a judge-made rule. The Section 101 analysis is important because, he says, "if abstract ideas are patentable, then 103 is not enough."

### Is Software Patentable Post-Alice?

Interestingly, although software patents were at issue in *Alice*, the Court did not use the word 'software' a single time in its 17-page decision.

While the Court invalidated Alice's software patents, it did not exclude software as a class worthy of patent protection. In following an older decision, the Court simply reiterated that the invention must be patent-worthy in itself regardless of the language (software or otherwise) in which it is conveyed.<sup>19</sup>

This is crucial to the software industry. Aside from software being one of the most important economic drivers in the United States, virtually every industry relies on it. The U.S. software market contributed more than \$276 billion to the nation's economy in 2009, according to an amicus brief filed by IBM in *Alice*.<sup>20</sup> IBM alone invests \$3 billion annually in software R&D.<sup>21</sup> Uncertainty as to whether software as a category is patent-eligible would put software innovation at risk.

### Does Alice Fix Things?

Ultimately, the patents in *Alice* were invalidated because they claimed an abstract idea in violation of Section 101 of the Patent Act.<sup>22</sup> Regardless, *Alice* represents a big change in the law. Previously, the Federal Circuit treated programmed generic computers as new machines, making them patentable. The Court had previously undermined this interpretation, doing so again in *Alice*.<sup>23</sup>

"Just because an invention uses a general purpose computer, doesn't make it patent-eligible," says Yedidsion.

The Court noted that escrow has existed as far back as the 19th century. Thus, using a third-party intermediary to address settlement risk is an abstract idea and there is no inventive concept in having that process performed on a generic computer.

The Court articulated a framework to determine whether an invention was invalid due to abstractness under Section 101.<sup>24</sup>



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1) Determine if the claim at issue is directed toward an 'abstract' idea; and

2) Examine the elements of the claim to determine whether it contains an 'inventive concept' sufficient to *transform* the abstract idea into a patent-eligible application. (emphasis added)

But what is too abstract? And what is sufficient to be transformative? In spite of everything the Court said about what makes a bad patent, it gave little guidance as to what constitutes a good one. We do know a few things, though.

#### Abstract Versus Transformative

"All types of things are not patentable. If you read an article and write down what you think of it from your mind, that's not patentable," explains Nazer.

The core meaning of an abstract idea is "whether the idea being patented already existed out in nature... or if it is something new, or facilitated with something new...that a human being has created," adds Yedidsion.

Mathematical formulas are abstract; they solve equations. But software does not have to be a mathematical formula. It can control an airplane, use a sensor, process speech. There may be more than one patent for seemingly identical inventions because there may be more than one patentable method to accomplish the result.

"Think of transformative as facilitating change," says Los Angeles patent attorney Omid E. Khalifeh. If you take a human's speech and make it into words, that's probably abstract. If you transform what that person is saying into something else, such as a robot moving its arm, for instance, that might be transformative.

The effects of *Alice* have cascaded to the lower courts. But bad patents still stifle innovation and currently there is no real downside, other than financial, to rein in inventors from submitting applications for those bad patents. It begs the question: Should there be stiffer penalties for those who submit applications for inventions that are not patent-eligible?

Walt Tetschner, long-time speech-recognition software industry analyst, believes there should. The biggest issue surrounding bad patents, he says, is that although inventions must be novel and unique to be patent-eligible, this criterion is routinely ignored by inventors. "People are patenting stuff that's been around for years."

Tetschner advocates for criminal penalties similar to lying under oath for inventors who submit patent applications when the inventor is aware of prior art. Patent attorneys and inventors are already obligated to disclose to the United States Patent and Trademark Office any pertinent prior art of which they are aware.<sup>25</sup> Failure to do so is called inequitable conduct.<sup>26</sup> But criminal penalties do not attach to conducting oneself inequitably. The worst that would happen, if the

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patent is challenged in court and if it is found that relevant information was withheld, the court could invalidate the patent and, possibly, the attorney could be subject to discipline.

Yedidson, for one, is not in favor of criminal penalties attaching to patent applications. "It's really difficult to prove later if an inventor had prior knowledge." And there is no requirement that an applicant search for prior art; that's the patent examiner's job. The patent process is an ex parte system, with no oversight, so there may be more incentive to submit questionable claims than to not.

### Take-Aways

Patents require artful drafting. "Everything you say in a patent application, even the position of a punctuation mark, can influence the scope and enforceability of the patent," says Los Angeles patent attorney Lance M. Pritikin.

To be patentable, software cannot be just a manipulation of something a human can do. It has to advance the technology. It has to make the computer do something it is not otherwise possible to do. And, whether an invention is patentable is not a balancing test of abstract versus transformative. Both prongs are necessary, so patent attorneys should focus on both when drafting patent applications. 

- <sup>1</sup> U.S. Const. Art. I, §8.
- <sup>2</sup> 134 S.Ct. 1749 (2014).
- <sup>3</sup> 134 S.Ct. 1744 (2014).
- <sup>4</sup> 393 F.3d 1378 (Fed. Cir. 2005).
- <sup>5</sup> *Id.* 1381.
- <sup>6</sup> *Id.* 1382.
- <sup>7</sup> Octane, 134 S.Ct. at 1757.
- <sup>8</sup> *Id.* 1754.
- <sup>9</sup> *Id.* 1757.
- <sup>10</sup> *Id.* 1758.
- <sup>11</sup> Highmark, 134 S.Ct. at 1747.
- <sup>12</sup> Owen Byrd & Brian Howard, 2013 Patent Litigation Year In Review at i (Lex Machina, 2013); Brian Howard & Jason Maples, 2015 Patent Litigation Year In Review at i (Lex Machina, 2016).
- <sup>13</sup> *Site Update Solutions, LLC, v. Accor North America, Inc., et al.*, No 2013-1458, (Fed. Cir. 2014) Order vacating denial of an exceptional case and award of attorneys' fees, and remanding for further proceedings (May 14, 2014).
- <sup>14</sup> *Lumen View Tech., LLC v. Findthebest.Com, Inc.*, 24 F.Supp.3d 329, 337 (S.D.N.Y., 2014).
- <sup>15</sup> *Site Update Solutions, LLC v. Accor North America, Inc., et al.*, No 2015-1448, 5-6 (Fed. Cir. 2016).
- <sup>16</sup> 134 S.Ct. 2347 (2014).
- <sup>17</sup> 35 U.S.C. §103.
- <sup>18</sup> 35 U.S.C. §101.
- <sup>19</sup> Alice, 134 S.Ct. at 2350.
- <sup>20</sup> Brief of Amicus Curiae International Business Machines Corporation In Support of Neither Party, *Alice Corp. Pty Ltd., v. CLS Bank International et al.*, 134 S.Ct. 2347 (2014), No. 13-298, 8-9.
- <sup>21</sup> *Id.* 10.
- <sup>22</sup> 35 U.S.C. §101.
- <sup>23</sup> Alice, 134 S.Ct. at 2358.
- <sup>24</sup> *Id.* 2355.
- <sup>25</sup> 37 C.F.R. §1.56.
- <sup>26</sup> *Id.*



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1. Patent attorneys and inventors are obligated to disclose to the U.S. Patent Office any pertinent prior art of which they are aware.  
☐ True ☐ False
2. The United States Supreme Court articulated a new rule in *Octane* that the word 'exceptional' shall be defined by its ordinary meaning.  
☐ True ☐ False
3. The two-prong test discussed in *Octane* is satisfied when one prong is met.  
☐ True ☐ False
4. Software is not patentable.  
☐ True ☐ False
5. Section 101 of the Patent Act requires inventions be transformative.  
☐ True ☐ False
6. To be patentable, an invention must not be too abstract.  
☐ True ☐ False
7. The position of a punctuation mark can influence the scope and enforceability of a patent.  
☐ True ☐ False
8. Section 103 of the Patent Act denies patent protection to inventions that are obvious.  
☐ True ☐ False
9. Prior to *Octane* and *Highmark*, it was nearly impossible to recover attorney fees in patent cases.  
☐ True ☐ False
10. Attorneys are subject to criminal penalties if they do not disclose prior art when submitting patent applications.  
☐ True ☐ False
11. The patent process is an ex parte system.  
☐ True ☐ False
12. Congress has the power to enact laws relating to patents.  
☐ True ☐ False
13. *Highmark* gives trial judges more power to award attorney fees in patent cases.  
☐ True ☐ False
14. Non-practicing entities are the only entities that abuse patent laws.  
☐ True ☐ False
15. In 2015, more patent lawsuits were filed than in any other year.  
☐ True ☐ False
16. Some companies consider costs of patent lawsuits as part of their acquisition strategies.  
☐ True ☐ False
17. Just weeks after the *Octane* and *Highmark* decisions, patent cases were already being remanded for determination of attorneys' fees.  
☐ True ☐ False
18. In *Alice*, the court held that programmed generic computers are treated as new machines, making them patentable.  
☐ True ☐ False
19. Transformative can be thought of as facilitating change.  
☐ True ☐ False
20. Whether an invention is patentable is a balancing test of abstract versus transformative.  
☐ True ☐ False

## MCLE Answer Sheet No. 94

### 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:

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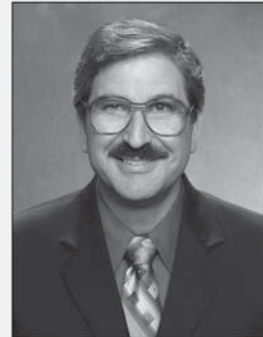


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## ELECTION PAMPHLET

BOARD OF TRUSTEES ELECTION  
**SEPTEMBER 9, 2016**

Dear SFVBA Member:

Attorney members of the San Fernando Valley Bar Association have the unique opportunity to elect their Bar Leaders by voting in our annual Board of Trustees election. By allowing members to choose from a ballot of candidates rather than a predetermined slate, our Board of Trustees is more representative of our membership.

This year, for the first time, the election will be conducted online; ballots will be emailed to attorney members the second week of August. Election Day is Friday, September 9. I encourage members to take a few minutes to review the following Election Pamphlet and read each candidate's statement. The nominees have contributed to the programs and success of our organization, and represent a cross-section of our Sections, areas of practice and our community.

Thank you for your support and membership this year. I appreciate you giving me the opportunity to serve you.

*Carol L. Newman*

CAROL L. NEWMAN  
President  
San Fernando Valley Bar Association





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**KIRA S. MASTELLER**  
**PRESIDENT**

**W**ith over 2,000 members and a 90 year history of service to the Valley, I am truly honored to serve as the next President of the San Fernando Valley Bar Association.

The size and diversity of our membership and long list of accomplishments may seem daunting to any incoming officer, but I assure you I look forward to the challenges.

I have served as the SFVBA's Treasurer, Secretary and President Elect and am ready for the responsibility of leading and inspiring our Board this coming year. Beyond the Valley Bar I have worked on various committees, founded a women's networking group, worked as a governor-appointed board member for the California Prison Industry Authority, and provided pro bono legal services for a battered women's shelter. Aside from devoting my energies at the macro level, I really enjoy working one-on-one with my clients, my business contacts and others.

In short, I'm confident these experiences will serve SFVBA members on several levels. To that end, my goals are to nurture our younger attorney members in developing the necessary skills to better serve their clients and the community, to help all of our members build better business relationships, and to further develop community outreach programs throughout this truly wonderful region of Southern California.

I look forward to working for you and leave my door open for your ideas and feedback.

---

**ALAN E. KASSAN**  
**CANDIDATE FOR PRESIDENT-ELECT**

**I** am honored to have been nominated for the position of President Elect of the San Fernando Valley Bar Association Board of Trustees.

I have faithfully served as a Trustee on the Board since 2012, and have been an active participant at Board meetings and Board events. I have also served as Chairperson of the Association's Membership Committee over the last few years. That Committee meets monthly and is always working to attract new members, and to find new ways to enhance Association membership for existing members. This year we implemented the Valley Bar Network (VBN) Program to offer an exciting, dynamic professional networking platform as a benefit to SFVBA membership. I have also worked with the New Lawyers Section and the Technology Committee to further improve the value of membership and resources available to members.

I hope to continue my service on the Board, and my work on the Membership Committee and other committees, and ask that you support me.

I have been practicing law in the San Fernando Valley for the last 30 years. My law practice is very specialized but also service oriented. I represent employees and other insureds to help them recover benefits for life insurance, long term care insurance, long term disability insurance, and health insurance claims when they are wrongfully denied. Most of these claims are governed by the federal law of ERISA.

With your vote and support I hope to continue serving our community as a member of the Board of Trustees, and to help advance the stature of our Association.

I invite and encourage all members to become more involved in our Association, and if you have questions or ideas, email them to me ([akassan@kantorlaw.net](mailto:akassan@kantorlaw.net)), or anyone else on the Board!

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## YI SUN KIM

### CANDIDATE FOR SECRETARY



I am excited to further serve the SFVBA and honored to be nominated to do so in the position of Secretary for the next term.

Since I became a Trustee in 2013, I have been inspired by the leaders and members of the SFVBA and their commitment to make this group more inclusive, provide greater benefits to its members, modernize how it functions to make its services more easily accessible, enhance the visibility and reputation of the lawyers in the Valley, and continue to get involved with and give back to the community at large. And these are the same goals which motivate me to be an officer and increase my contribution into those endeavors.

I have worked with various sections and committees, including the New Lawyers Section, Membership & Marketing Committee, Programs Committee, and Inclusion & Diversity Committee, and I know what plans they already have in the works that will substantially enhance the SFVBA and its purpose. I consider it a great opportunity for me to help in developing those plans and seeing them come to fruition. And I want all members to be aware of the great educational, marketing, social, and community service opportunities that are and will be available through the SFVBA.

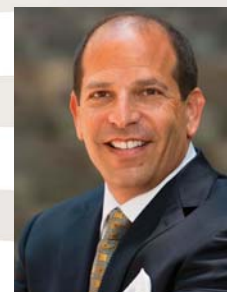
I would appreciate your support so I can take my role to the next level. Please vote for me as Secretary for the SFVBA.

---

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## BARRY P. GOLDBERG

### CANDIDATE FOR TREASURER



I have been humbled and honored to serve as an elected Trustee for the San Fernando Valley Bar Association and the Co-Chair of the Attorney Referral Service Committee.

I am now ready to further increase my commitment to the Bar Association and I am asking for your support to elect me as the Treasurer of this fine organization.

As the co-chair of the ARS Committee, I have a unique view of the Association's finances as the revenues from the ARS are essential to fund the Bar's operations and charitable projects. I am inspired by the President elect, Kira S. Masteller, and her vision to improve the Association. Like Kira, I recognize that continued revenue through sponsorships, membership, the ARS and Bar programs go hand in hand with the ability to deliver excellent membership benefits and benefits to our community. My goal as Treasurer will be to implement Kira's vision and provide my experience and expertise to accomplish her goals.

The unique strength that I will bring to the Executive Board is that I am conversant in most legal technology, social media and online presence. For our Bar Association to remain relevant, we must embrace advancements in technology and effectively implement that technology to more efficiently serve our members. In turn, our Bar Association has an excellent chance of attracting and serving the younger legal community—which is the future of our organization. Under the incoming Board of Trustees and the new Board leadership, look for many technological advancements, including voting online.

Thank you in advance for your vote and continued support.



---

**MATTHEW A. BREDDAN**  
**CANDIDATE FOR TRUSTEE**

I am honored to be nominated and for the opportunity to serve the SFVBA Board of Trustees. In my first 18 years of practicing law, I focused primarily on family law and established an office in the San Fernando Valley. In 2013, I became a shareholder of The Reape-Rickett Law Firm to focus entirely on family law matters. Our offices in Calabasas, Santa Clarita, and Westlake Village have allowed us to better serve our clients and establish strong community ties. In addition to my practice, I have served as a Judge Pro Tem for eight years and several years as a volunteer mediator.

As an active Bar member, I understand the importance of services we offer to our members and to the public. Although I have consistently attended Bar events, I believe we can improve upon our member connection services. To strengthen relationships between our members, I propose the SFVBA hold more events to increase member interactions as well as institute an open forum for suggestions from members so the SFVBA has a more efficient way to receive feedback and adopt changes suggested by our members.

I appreciate your vote of confidence and look forward to the opportunity to serve you, and all SFVBA members.

---

**NATALYA BYZOVA**  
**CANDIDATE FOR TRUSTEE**

It is my great pleasure and honor to be running for a position of Trustee of the San Fernando Bar Association. I have been a practicing attorney in California for about five years now, but my journey to become one started a long time ago. A charismatic teacher in school inspired and encouraged me to pursue my passion in law. I felt that the law is the most effective vehicle for change in our society.

I attended the oldest university in Siberia, Tomsk State University in Russia, pursuing a degree in Jurisprudence. When the circumstances of my life led me to relocate to the United States, I did not want to give up on my legal career. After a couple of years, I took the LSAT and applied to law school. I knew that it wouldn't be an easy and fast career path, but I was determined. While working full-time, I attended Loyola Law School and externed in the chambers of the Honorable Rex Heeseman at the Los Angeles Superior Court.

Soon after law school, I completed a fellowship with LA Care legal department where I was exposed to a wide array of legal issues that an organization can face. Then I started with a small private firm where I learned numerous practical skills in just a few years. I later started my own practice dedicated to real estate law which allowed me to utilize my entrepreneurial spirit and be more in control of my life and my career.

Now I feel that the time has come to give back to the local community of lawyers who were so supportive and instrumental to my success. I would like to put my energies to assisting the SFVBA in its day-to-day work and determining a long-term plan. I will strive to improve the SFVBA's online presence, helping it to be a more nimble organization, and to involve judges and other established members of the profession in educating Association's members.

If you vote for me, I will take your trust to heart and work hard to achieve these goals!

## MICHELLE E. DIAZ CANDIDATE FOR TRUSTEE



It has been a genuine pleasure to serve for the past two years as a member of our Board of Trustees and I am very excited about the opportunity to continue serving as a Trustee. I have had the pleasure of meeting many of our members that I'd not known before, and strengthening ties with many colleagues whom I've known for many years. It surprises me to say that I've been a licensed attorney for more than 18 years now—time flies when you enjoy what you do in life!

My past legal experience has included many practice areas, such as catastrophic personal injury, employment law, and insurance coverage litigation. Through my work in these areas, I've met and maintained many wonderful professional relationships and made some really great friends in our legal community. Currently my focus is on family law practice.

In addition to belonging to the Family Law Section of the SFVBA, I am a member of the Attorney Referral Service, and serve on the ARS Committee. I also participate in the SFVBA Diversity Committee when possible—I especially enjoy attending their youth outreach activities. I volunteer regularly at the Chatsworth and Van Nuys courts as a “daily settlement officer” for the family law departments, and I serve as a volunteer arbitrator for the SFVBA's Mandatory Fee Arbitration program.

I am a big fan of our Bar Association and the services provided to our membership by our professional staff. I also believe that our membership's contributions to the San Fernando Valley community are a big part of what make our Bar Association such a great asset. It would be an honor to be elected to serve for another term as one of your Trustees.

THANK YOU FOR YOUR VOTE!

Michelle E. Diaz, Esq.  
michelle@michellediazlaw.com

## HEATHER GLICK-ATALLA CANDIDATE FOR TRUSTEE



Make the SFVBA great again! If elected to the Board of Trustees I will focus on increasing membership and reach out to members to become more involved in SFVBA activities of interest. As a new mom of a 17-month-old son, I will connect SFVBA working parents and coordinate social events that bring us together. I will also coordinate networking mixers between sections, such as the tax and probate sections, and the litigation and business law sections, where members may network and generate client leads.

The focus of my law practice is nonprofit law and estate planning. I advise all types of tax-exempt organizations regarding multiple legal matters. I have volunteered with Concern Foundation for over 20 years. I am a native of the San Fernando Valley and an active member of the SFVBA's Probate & Estate Planning Section.

My knowledge of nonprofit law and my experience working both as a volunteer for nonprofits as well as counseling boards enables me to make positive contributions to the SFVBA Board. Thank you for considering me for the Board of Trustees.



## DAVID G. JONES CANDIDATE FOR TRUSTEE



I am excited to be nominated and have the opportunity to serve on the SFVBA Board of Trustees. I believe in the importance of our Bar Association as a means for connecting the Bar of the San Fernando Valley.

I have been practicing in various areas of civil litigation for nearly twenty years, sixteen of which have been in the San Fernando Valley, in Woodland Hills. The primary emphasis for my practice has been employment law, advice and litigation.

My firm, Santiago & Jones, specializes in employment law, transactional estate work, complex probate and estate litigation disputes, and general civil litigation matters.

I am an active member of the SFVBA Attorney Referral Service for employment matters, and serve as a member of the Bar's Attorney Referral Service Committee. My involvement with the Bar referrals has been very rewarding, and is a highlight of my Bar activities. Clearly, the guidance that our Bar Association provides to Valley residents in need is one of SFVBA's lasting accomplishments.

I have strong relationships with various past presidents and officers of the SFVBA and consult with them regarding their thoughts on improving the Bar Association.

My primary focus is to increase membership and energize member participation through social functions offered by our Bar Association. I believe that the ability to network with fellow Bar members with various areas of legal expertise can prove invaluable for both new members and established attorneys in the community. Given the relationships created at such events, our Bar should strive to create member friendly events which attract new members and encourage existing members' relationships.

So with this, I ask that you cast your vote for me. I will work tirelessly to bring energy and creativity to the SFVBA, in an effort to improve our Bar Association and honor your trust.

Thank you for your support and vote.

## JOANNA M. SANCHEZ CANDIDATE FOR TRUSTEE



Over the past few years I have become more involved with the San Fernando Valley Bar Association (SFVBA), including becoming a member of the Board of Trustees earlier this year.

I have decided to take the next step and run for a full term on the Board of Trustees. I appreciate the opportunity to have a second term and hope you will vote for me.

I am a native Angeleno. I attended high school in Pasadena, then it was on to UCI for undergrad and Southwestern Law School. Although I grew up in a different valley (the San Gabriel Valley), I have been practicing family law in the San Fernando Valley for almost nine years. Initially reluctant to embrace the San Fernando Valley, the camaraderie among my colleagues and SFVBA members have made all the difference. The great sushi restaurants have been a plus as well.

Coming from a family with Italian and Honduran roots, I am passionate about diversity, especially within the legal profession. As the Co-Chair of the Inclusion & Diversity Committee, I launched a Law Club at Pierce Community College, have built on the SFVBA's relationship with L.A. Mission College, and planned a successful networking mixer for diverse attorneys and legal professionals in the San Fernando Valley. I also act as one of the SFVBA's representatives to the Multicultural Bar Alliance and attend many events of other bar associations in order to promote the reach and membership of the SFVBA.

Service to the community has always been important to me and in many ways led to my pursuit of a legal career. As a member of the Family Law Section Executive Committee, I am able to serve as a daily settlement officer and assist in the Settle-O-Rama programs. I also provide pro bono legal services in English and Spanish at the Harriet Buhai Center for Family Law, and am on the bilingual Family Law panel with the ARS.

I look forward to your support and further serving the SFVBA.

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**ALLAN D. SARVER**  
CANDIDATE FOR TRUSTEE



I am truly honored and humbled at having been given the opportunity to serve as a member of the SFVBA Board of Trustees. If elected, I will work to expand the voice of our legal community which should have input on bar association issues of importance. By increasing participation in SFVBA events and programs, whether educational, social or political, the benefits of membership will be furthered.

The SFVBA has a substantial presence in our community. The Attorney Referral Service program and other outreach efforts exemplify the role our bar association plays. Emphasizing and seeking expansion of community outreach will contribute to solidifying the bond between the SFVBA and the community as a whole.

Thank you again for this important opportunity.

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**HANNAH SWEISS**  
CANDIDATE FOR TRUSTEE



As a former member of the Executive Committee and current Chair of the SFVBA's New Lawyers Section, I hope to further extend my service to all SFVBA members by joining the Board of Trustees. I have personally enjoyed my experience participating in the SFVBA and I think that the growth opportunities for this bar association are tremendous.

If elected, I would like to expand the SFVBA's presence throughout Los Angeles; encourage further diversity in our membership; and develop programs that give members the foundation, network and resources to expand their professional presence.

Thank you for your consideration.







# Practice, Practice, Practice

## *A Unique Blend of Music and the Law*

By Michael D. White

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Two Valley attorneys, Marc Sallus and Barry Goldberg, have melded a lifelong love of music with their highly successful careers in the law. Active in two of the most successful 'legal' music groups in the country, they share some thoughts on their two passions and how each has impacted the other.

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**C**HECK OUT A DICTIONARY AND YOU'LL SEE music simply defined as "a contrived or natural sound that is pleasant to the ear."

Some two thousand-plus years ago, the Greek philosopher Plato took that unadorned, rather rudimentary, definition to a much higher level when he drew a parallel between the law and music. That contrived or natural sound, he wrote, "is a moral law. It gives soul to the universe, wings to the mind, flight to the imagination, and charm and gaiety to life and to everything."

Everything, it would seem, including the law itself.

"I've always found it interesting that there seems to be a large number of musicians that are lawyers," says Woodland Hills' personal injury attorney and trombonist Barry Goldberg, who plays with both the Los Angeles Lawyers Philharmonic Orchestra and its swing and jazz revival group, the Big Band of Barristers.

The L.A. Lawyers Philharmonic made its debut in January 2009 and describes itself as "an orchestra where prosecutors, defense attorneys, civil trial lawyers, entertainment lawyers, corporation lawyers, real estate lawyers, personal injury lawyers, probate lawyers, judges and law students meet in harmony."

Several major cities around the country boast "legal" music groups, but Los Angeles is widely considered to be home to one of the best. In 2012, the L.A. Big Band participated in and won the national competition at the Art Institute in Chicago.



**Big Band of Barristers Barry Goldberg (center row, second from left) and Marc Sallus (center row, third from left)**

The Philharmonic recently presented a concert at the Walt Disney Concert Hall in downtown Los Angeles, with future local concerts planned for the Wallis Annenberg Center for the Performing Arts and several other venues. The Big Band has taken its repertoire of Count Basie, Tommy Dorsey, Duke Ellington, and Benny Goodman swing and jazz to such locales as the Shrine Auditorium, the Los Angeles Biltmore, the Beverly Wilshire, and, a few

years ago, the Marriott in Woodland Hills for the SFVBA's Installation Gala.

The entire experience, says SFVBA treasurer-elect Goldberg, has actually made him a happier, if not better lawyer. Unlike what often transpires in the courtroom, making music with other attorneys "is cooperative, by its very nature. When you play in a musical group, you have to take direction and you have to be part of a section or a team. You have to work together. It's non-adversarial."

Goldberg recalls his introduction to music being an irresistible urge to march around the house to the song "76 Trombones" at the age of five or six. Responding accordingly, his father marched him down to the local music store where



**Barry Goldberg on the slide trombone at Taft High School in Woodland Hills, 1975**

he was told that his arms were too short to play the trombone and that it might be better if he concentrated on the trumpet or the flute.

"Nothing came of that," he says. "Then out of the blue when I was about 12 years old, my dad bought me a trombone and I took to it right away. I was in several music groups in junior high, took lessons and that was my instrument. It was great because there wasn't that much competition. All the great players were playing the saxophone and trumpet, so I got to play lead throughout high school."

From Taft High School in Woodland Hills, Goldberg entered UCLA where he was the only freshman in the UCLA jazz band "with a bunch of guys who are basically professional level players now." Life in the form of raising a family and law school led to a "retirement" from music that spanned about three decades before he found the time to pick up the original trombone that his dad had bought him and start playing again.

Learning, to his surprise, that there are groups for every level of musician in Southern California, Goldberg wound up playing with a group of "retired, silver-haired people" called the Seniors of Note, and then with several other bands while taking lessons from an instructor who encouraged him to get involved with other musically-inclined attorneys.



Katella High School's Marc Sallus (top row, far left)

"I sent out a couple of emails and said I'd like to play with you guys and one responded saying that they'd just started up a big band group and wanted to know if I played any big band music," says Goldberg. An enthusiastic affirmative eventually led to current spots as lead trombonist with the Big Band and principle trombonist with the Lawyers' Philharmonic.

Joining Goldberg in the trombone section of both groups is trust and estate litigator Marc Sallus, a partner at SFVBA President's Circle member, Oldman, Sallus, Gold, Birnberg & Coleman in Encino.

Raised in Orange County in a family "that has a lot of musicians, who only do other jobs so they can make a living," his earliest memories are of "watching people perform and listening to music all the time," with the piano, singing, and brass instruments playing a major role in his life from the age of six.

It's difficult for Sallus, who plays piano, trumpet, and baritone horn, as well as the trombone, to select an all-time favorite instrument. He preferred the trumpet when he played in the award-winning band at Katella High School in the early '70s, and, he recalls, "I could play it very, very well, but now I really enjoy playing the trombone. Things change with age."

Claremont Men's College, where Sallus was an undergraduate, lacked a Music Department and Sallus lacked the time to play as much as he would have liked to. "I played in a musical group and they paid me money, which was nice. And I created a pep band for the football team. There were about five or ten of us and we handed out about a hundred kazoos so we could make noise."

Be it with either a kazoos or a trombone, with music, you learn practice, balance, performance, and control, which is critical "both as a lawyer and musician because you have to have a modicum of control over what you are going to do."

If you don't, says Sallus, "the performance or the job you're going to do as a lawyer is not going to be as precise as it needs to be; the same with music where the notes work for a reason...you're supposed to follow them. Even in jazz, the chords are written for a reason. Just like the law."

Sallus, like fellow trombonist Goldberg, is surprised at how many attorneys have a musical alter-ego. "I was amazed...some have music degrees, graduate music degrees. We have a great flute player; she's from Colombia and can also sing fantastic opera."

The attorneys involved with the Philharmonic and the Big Band "are top lawyers and judges," says Goldberg. "In the Big Band the piano player is the presiding justice of the Court of Appeals and our lead saxophone player is one of the most well-known entertainment lawyers in the world."

With the music and the law so delicately interwoven, there's a question that begs to be answered: How does one affect the other?

Both men play different versions of the trombone: While Sallus feels more comfortable with the valve trombone, Goldberg favors the classic slide type, so it's understandable if they have slightly different takes on the question.

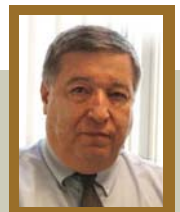
"I'm a better lawyer because I'm a musician," says Sallus.

Playing music, he says, "takes me away from other problems or issues and helps me be more creative. I go into court and worry about some legal problem and then go to the Big Band or orchestra and I'm transported to and transformed in an entirely different world where I'm not thinking about that problem. With the music, I'm doing something more creative"—a process, he says that allows him recalibrate and "reexamine problems and a different insight."

"I'm a lawyer who plays music," says Goldberg, who keeps a mouthpiece on his desk as a paperweight. "Think of it this way—while other people are doing whatever hobby they do after work, I get to play the greatest music ever written on earth. It's great." 🎷

“  
Playing music takes me  
away from other problems  
or issues and helps me be  
more creative.”—Marc Sallus


**Michael D. White** is editor of *Valley Lawyer* magazine. He is the author of four published books and has worked in business journalism for more than 35 years. Before joining the staff of the SFVBA, he worked as Web Content Editor for the Los Angeles County Metropolitan Transportation Authority. He can be reached at michael@sfvba.org.





# ART THE BAR

## Winners of the Valley Lawyer Art Contest



The first photograph was exposed almost two hundred years ago; the first poem was composed more than four thousand years ago. Since those seminal events, both art forms have evolved in terms of expression and technology, but the motives for creating them remain the same—to capture a moment of feeling and experience for posterity. Both came out on top in the voting on the slate of entries in this year's SFVBA Art Contest. On the following pages, we acknowledge the winners of the competition and present their works for your enjoyment.

# 1<sup>ST</sup> PLACE

## Double Galaxy

Steven J. Prager

"Double Galaxy was taken at Bass Lake, California, near Yosemite. You can see the Orion Spur of the Milky Way galaxy and you can see the Andromeda Galaxy near the center of the photo slightly left of center."



### ARTIST'S INSPIRATION

"My inspiration has been the natural world, whether it's landscape, wildlife, or underwater. I bought my first camera in 2003 and started bringing cameras on my adventures. An adventurer first and photographer second, I took photographs of my adventures to preserve the memories for myself and occasionally share them with friends and family. I began publishing my photography on social media as a running photo blog of my adventures. As the years went by my camera equipment improved along with my interest and appreciation of photography. The positive feedback and support from social media has encouraged my evolution from a casual photo blogger to a fine art photographer."

**STEVEN PRAGER** is the CEO and Chief Counsel of Pacific Litigators, APC, a law firm with offices in Los Angeles and San Diego that engages in personal injury and family law matters. A Los Angeles native, he attended Thomas Jefferson School of Law in San Diego and is an avid outdoor enthusiast, master diver, photo blogger, and world traveler who has visited and photographed adventures in over 15 countries. He can be reached at [sjp440@gmail.com](mailto:sjp440@gmail.com).





## 2<sup>ND</sup> PLACE

### Bike Ride in Amsterdam

Steven Baer

“Over the years, I have honed my craft and developed a gift to recognize and capture images that can take others to the places I have been. I delight in the fact that my passion ‘moves’ people.”



#### ARTIST'S INSPIRATION

“My passion with the medium of photography began when, as a child, I contemplated the profundity of time travel. Within photos, I was seeing people, places and events from the past that had been captured in time. I still stare at photos and imagine myself in that world. The photos (and my imagination) take me ‘there.’ It is time travel!”



**STEVEN BAER** is a California licensed professional fiduciary responsible for the oversight and management of personal, medical and financial affairs for individuals under conservatorship. He also takes cases similar to conservatorships, but through the request of families for aid, and without the supervision of the courts. He can be reached at [steven@sbfiduciary.com](mailto:steven@sbfiduciary.com).



### 3<sup>RD</sup> PLACE (TIE)

## Lady and Her Dog

Richard L. Bisetti

"I was just driving by, and saw the lady and the dog and thought it was really interesting, so I took a picture. Only later when I zoomed in on the photo did I see the placard which refers to the 'Tree Musketeers,' which is a real organization."



### ARTIST'S INSPIRATION

"I am always just looking, not intentionally for a picture, I just like to be aware of what is going on around me. People, scenery—there are so many interesting things out there. In the age of smart phones, there is the ability to instantly just get a picture of what I find intriguing. This picture I took when I was driving down a street near LAX. I parked my car, took a few shots, and that was it."

**RICHARD L. BISETTI** is an attorney at Magaña, Cathcart & McCarthy in Los Angeles. His practice is primarily litigation involving products liability, third party work related injuries, medical malpractice and other injury causing events. Bisetti can be reached at [rlb@mcmc-law.com](mailto:rlb@mcmc-law.com).



### 3<sup>RD</sup> PLACE (TIE)

## Footsteps: A Poem

Brian J. Goldenfeld

*Wrapped in lacy white,  
the ancient hills sleep,  
and the bare primeval branches  
bend under the heavy weight of soft powder.  
The small brook,  
bejeweled with transparent icicles,  
is dead,  
for the vibrant, effervescent flow of water  
is suspended in the ice.  
But I shatter the pure, harsh beauty  
of this lifeless, frosty world,  
and the lonely white landscape  
angrily glares at me  
as I walk  
into the singing cold.  
I listen to the silence,  
The wind whiningly wails in despair.  
The worn, wise faces of the tree trunks  
stare at me in reproach,  
accusing me of trespassing.  
I feel the warm mist of my breath,  
the pounding of my heart,  
Slowly, hesitantly, I stumble on  
through the raw, piercing air,  
Time is frozen in the bitter void.  
I stop to join in the stillness,  
marveling at the chaste, chilled expanse –  
A cherished shelter.  
At last I have found peace with nature.  
Then I pause to glance behind me.  
In a moment  
the dream melts.  
Pebbly black asphalt of the pavement peeks  
from the muddy thaw of slush  
and dirty grime speckles  
the once pure white blanket  
where my intruding steps  
are imprinted on the snow.*

### ARTIST'S INSPIRATION

"Writing makes you dig deeper; if you want to make a valid point in your piece, you need to find a good point in your memories, make connections with everyday things and things you have learnt along the way. It provokes new ideas and unexpected discoveries. When I am writing I usually have one topic in mind but then another one pops out, and another. It sets your mind free. I think writing is an exercise for the brain and it should be done every day to keep that muscle growing, improving and healthy. Writing is the key to eternity. This might sound stupid but I truly believe that writing must be one of the art forms that lasts forever. Your experience, knowledge, thoughts, emotions and ideas get stuck in words you laid down for everyone else to be read so you become eternal. As you are reading this you hear my voice in your head reading these words for you, don't you?"

BRIAN J. GOLDENFELD is the legal assistant to Hugh A. Lipton, CFLS, at Lipton & Margolin, a family law firm in Studio City, which focuses primarily on dissolution, paternity, custody, visitation, and complex dispute issues. A Los Angeles native, he is a freelance journalist, contributing weekly to several local and national publications. He can be reached at [legaleagle0326@gmail.com](mailto:legaleagle0326@gmail.com).





## HONORABLE MENTION



**Shadow on Stone**  
Howard Breuer



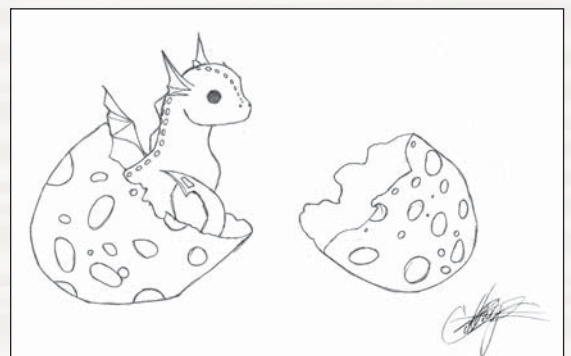
**HOWARD BREUER** is Co-Founder of Cavalry PR. He represents lawyers, law firms, tech companies and legal-tech startups. Breuer is a PR expert and journalist who provides media training and consults attorneys on high-profile trials. Breuer can be reached at [howard@cavalrypr.com](mailto:howard@cavalrypr.com).

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## SFVBA STAFF WORKS



**Still Waiting**  
Michael D. White  
SFVBA Editor



**Dragon**  
Catherine Carballo-Merino  
SFVBA ARS Consultant





San Fernando Valley Bar Association

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## PHOTO GALLERY

SFVBA staff participated in the Valley Cultural Center July 4<sup>th</sup> Extravaganza. Members of the public signed up to receive a consultation with an ARS panel member or receive information on the Bar's public service programs such as the Senior Citizen Legal Program, Mandatory Fee Arbitration, and more. Legal professionals also stopped by the booth to inquire about SFVBA membership.



The SFVBA will staff a booth at the Valley Cultural Center Concerts in the Park on Sunday, July 31 from 6PM to 8PM.

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## Miguel: Out of the Shadows and Proud

LAURENCE N.  
KALDOR  
President



phenix7@msn.com

**W**HEN ROBERTA BLOOM met Miguel in foster care, he was somewhat unique: he had actually chosen to be there. Miguel had come out as gay and quickly found his home life too toxic because of his newly declared orientation. As Roberta explained, "His family was okay with him being gay, but not that gay."

A Court Appointed Special Advocate (CASA) was assigned while

Miguel," Roberta shares, "I thought, 'How am I supposed to help him?' I'm an old, straight white woman. I knew that I needed to help him meet more people who had been through what he was going through."

Roberta reached out to the Los Angeles Gay and Lesbian Center in Hollywood who matched Miguel with a mentor who could be both a friend and a role model. His attorney



Miguel's case was still being adjudicated and although Miguel could not bring himself to testify against his mother, he refused to return home. "When I met

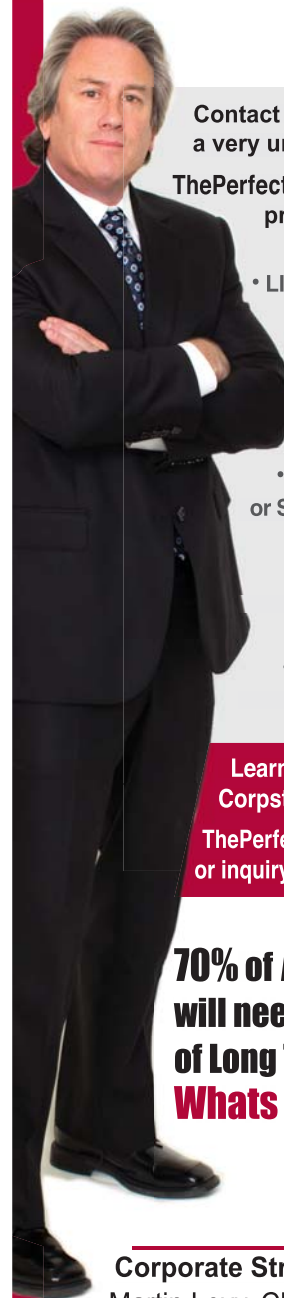
started the process of enrolling Miguel in Recognize, Intervene, Support, Empower (RISE), a project of the Los Angeles Gay & Lesbian Center that

### About the VCLF of the SFVBA

The Valley Community Legal Foundation is the charitable arm of the San Fernando Valley Bar Association. The Foundation's mission is to support the legal needs of the youth, victims of domestic violence, and veterans of the San Fernando Valley. The Foundation also provides educational grants to qualified youths pursuing legal careers. The Foundation relies on donations to fund its work. To donate to the Valley Community Legal Foundation of the SFVBA or to learn more, visit [www.thevclf.org](http://www.thevclf.org) and help us make a difference in our community.

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## THE VCLF AT WORK

The mission of CASA of Los Angeles is to improve the lives of children in the dependency system by pairing them with trained volunteer advocates. CASA seeks to reduce and reverse the effects of child abuse and neglect. Nowhere in the nation is the problem greater than in Los Angeles County, where 30,000 children who have been abused or neglected are under the jurisdiction of the Dependency Court.

"There are far too many Miguel's in the San Fernando Valley that need our love and support," expresses Laurence N. Kaldor, president of the VCLF. "We are grateful for the continuous support that, you, the *Valley Lawyer* readership has provided—making a concrete and real difference for those less fortunate in the Valley. Your ongoing support allows us to help the next Miguel find happiness and peace in this world."

connects gay and lesbian youth in the foster care system with appropriate services.


Over the next two and half years Miguel bounced around between group homes and temporary placements. His grades suffered but he was beginning to build a support network outside the "traditional" foster care system.

As Miguel's support system grew, he began to find stability and success in other areas as well. He transitioned into independent living, got a job at McDonald's and did the necessary schoolwork in order to graduate. Miguel even reconnected with family in Utah, with whom he felt safe, spending part of his summers away from Los Angeles.

For Miguel, having a CASA was key. "Roberta helped me so much. I was living in a group home, and she helped to introduce me to so many people who wanted to help me."

In April 2016, Miguel did something he never thought he would do—he went to his prom. Roberta worked with Glamor Gowns and Suit Up to get Miguel outfitted for his big night. Miguel was able to spend one night being a teenager, without all the stress and responsibilities of foster care life. And then Miguel achieved something even bigger—he was accepted into college.

Miguel's story continues to be truly inspirational. He is graduating high school with his peers, going to college in Utah near his family, and he knows that his CASA team will provide support throughout. For Miguel, Roberta's role was simple: "She helped me to become comfortable with being myself."

*CASA is supported by the generous contributions of individuals, companies, and organizations. The VCLF is proud to support CASA and amazing people like Miguel and Roberta Bloom.* 



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- \$50 Million Mortgage Fraud - Dismissed, Trial Court (Downtown, LA)
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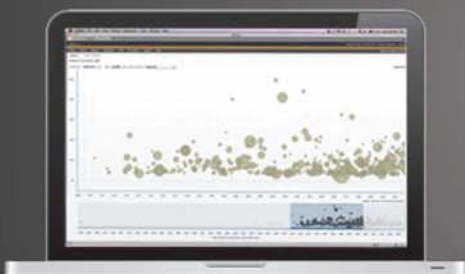
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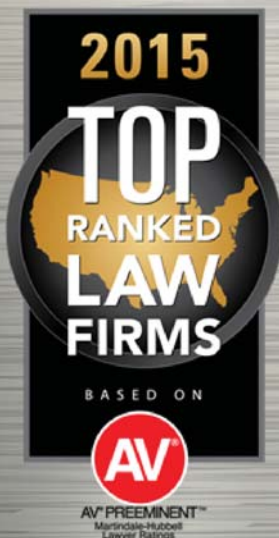
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