



BarNotes

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San Fernando Valley Bar Association

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VAST Volunteers Resolve 360 Backlogged Cases

BY LEE W. McLAREN, LOS ANGELES SUPERIOR COURT

The court calendars in the Los Angeles Superior Court's Northwest District are more manageable following October's Valley Associated Settlement Team (VAST) project. In two weeks, VAST settled 360 out of 800 targeted civil cases, a success rate of almost 50 percent.

"I don't think anyone in their wildest dreams expected such a high percentage of resolution," said Judge Richard Wolfe of Van Nuys Court, who organized and coordinated the project.

Wolfe credited everyone involved – from his fellow judges to the litigators, the mediators, and the court staff – with reducing the crowded court calendars, a sentiment echoed by Northwest District Supervising Judge Sandy R. Kriegler.

"It was very much a team effort and a community-based project," Kriegler said. "I don't mean to sound sappy, but it was very heartwarming," he added.

Wolfe spent nearly a year planning the 10-day event with the help of Kriegler, and other judges and the San Fernando Valley Bar Association (SFVBA) that recruited, trained, and scheduled the mediators. More than 250 SFVBA members served as settlement attorneys from October 20 to October 31 and resolved backlogged cases.

The Los Angeles Superior Court closed three of the 12 general jurisdiction civil courtrooms in Van Nuys and redistributed about 100 cases each to the remaining courtrooms, according to Kriegler.

The Superior Court judges identified appropriate cases and cleared their calendar as much as possible of law and motion matters. The Van Nuys East Courthouse dedicated 11 courtrooms and other facilities to hear the VAST cases that covered the full range of civil litigation. Three areas posed a special challenge: medical malpractice cases, construction defects cases, and employment cases, all of which are hard to settle, Kriegler said.

"We segregated those three areas and brought in experienced specialty mediators for three days," said Kriegler. "They are time-consuming cases that require additional pre-trial settlement and take longer if they go to trial," he said.

SFVBA President Jim Felton said the project exceeded all expectations. "We didn't think that almost 400 cases would settle," he said. "Mediation allows people to get what they want from court outside of the courtroom - an opportunity to be heard," he said.

Mediation costs less than a trial and takes less time, Wolfe said, but the process cannot be rushed.

"You allow the exchange to play out and play off itself," said Wolfe. "The process itself should generate its own settlement," he noted. "To settle 360 cases in 10 days tells me there is a calling for this," Wolfe said.

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Litigation Section Co-Chair Robert Flagg, Bench-Bar Committee Co-Chair James Curry, Van Nuys Supervising Judge Sandy Kriegler, SFVBA Executive Director Liz Post, Judge Richard Wolfe, and SFVBA President James Felton were at the forefront of VAST.

Calendar of Events
Page 23

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President's Message

James R. Felton

A VAST SUCCESS AND A MORAL FAILURE

The days of October saw many remarkable things. At that the same time that some 300 lawyers in our community gave up their time to settle an astounding 360 cases off the dockets in the Van Nuys Courthouse, we saw the image of one of our lawyers attempting (incredibly successfully) to dodge bullets from a man who felt so aggrieved by our legal system that he felt compelled to resort to violence. It is certainly ironic that while hundreds of litigants in some 360 cases settled the disputes inside the courthouse, outside the courthouse, one man attempted to settle his score against a man he never met nor talked to.

After the tragic events of October 31, 2003, we also saw the bravery of David Katz, a lawyer and temporary judge who gave us his best impression of Dick Butkus (for those of you under 35 - he played for the Chicago Bears when they were good) wrapping up the assailant. We then saw the community rally together, supporting Gerry Curry, and vowing to figure out how this could have happened at a place where justice is meted out, not thrown to the side.

As President of this Bar Association, I am proud of many things. I am proud of the men and women who gave up their billable hours to help other people settle their cases - another irony that the members of the lay public may never understand; that is, lawyers helping people settle cases. Certainly, there is a perception that lawyers survive by getting people to sue one another, not settle with one another.

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Report From The Foundation



BY DAVID GURNICK, PRESIDENT, VALLEY COMMUNITY LEGAL FOUNDATION OF THE SFVBA

A lot is happening at your Foundation.

Recently, Foundation officers met with the trustees of the Bar Association to discuss at length how to work closer together. The leaders of the Foundation are grateful for the encouragement from President Jim Felton and the entire board of the Bar Association, and excited at the prospect of working closer to do more for the Valley community.

Planning is well underway for our Annual Law Day Dinner set for April 30, 2004. Anne Adams heads this important community event, which is the Foundation's major fund raising activity and a focal point of our year as

it is when we honor heroes in law enforcement and recognize other award recipients. Please email Anne Adams at AnneAdamsT@aol.com with your suggestions, sponsorship recommendations and award nominees.

The Foundation adopted a children's waiting room project at the Van Nuys Courthouse to help children while their parents are in court, and to help the parents too. Alan Friedenthal is leading this Foundation project.

The Foundation has progressed on a program to establish a larger endowment for our activities and charitable giving. Marcia Kraft and Alan Friedenthal are working closely with me on this program.

The Foundation has welcomed two new members to our Board of Trustees. Hon. Kathleen Stoltz is a respected judge serving in Van Nuys. She joins another respected Valley judge on our board, Hon. Michelle Rosenblatt. We also welcomed Deborah Duclon, who is involved in community activities and is an officer of an entertainment products company.

Past Bar Association Presidents Mark Blackman and Fred Gaines will help the Foundation's ongoing recruiting effort, identifying and providing selected community members the opportunity to serve on our Board of Directors. Please feel welcome to share your suggestions for Director candidates with Fred at fgaines@gaineslaw.com or Mark at mblackman@alpertbarr.com.

I cannot give enough thanks for the efforts we are getting from our new Treasurer, David L. Nadel, CPA. Financial reporting and accounting for our organization are advancing to a new quality level under David's supervision as Treasurer. This positions our Foundation to receive and manage larger contributions so we can give back more to the community.

A recent editorial in the *Daily News* noted that L.A.'s leaders need to bring our energy and money to help the Valley. Judges, lawyers, accountants and other professionals, by the nature of our work and service, are all leaders and our help is needed. Please join me in bringing your energy, and yes a little more money too, to help the Valley Legal Community. Email me at dgurnick@lewitthackman.com. Happy Holidays! 🐾

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Membership Has It's Priveleges!

Letters

Dear Jim and Liz:

The two weeks of "VAST" are now over, and our reaction can be summarized in one word: Wow! Approximately 820 cases were placed into the program. With the assistance of the San Fernando Valley Bar Association, 360 cases were resolved. These results can only be described as spectacular.

On behalf of all the bench officers in the Northwest Judicial District, please accept our deepest appreciation for the contributions of the members of the San Fernando Valley Bar Association. There is no way the court could run a program of this magnitude without the Bar's assistance and support. We will be forever grateful for the assistance provided for VAST.

One of the most memorable moments of VAST took place in Department H, after a settlement was placed on record. The plaintiff, who was representing himself, asked to address the court. He indicated that he had asked not to be in VAST, thinking his case could not possible settle. The plaintiff credited the tireless work of the attorney-mediator as the reason a settlement was reached. There undoubtedly were other cases that settled due only to the skill and persistence of the members of the San Fernando Valley Bar Association.

This program serves as an example of what can be accomplished when the Los Angeles Superior Court and the San Fernando Valley Bar Association join together toward a common goal. The Court congratulates the Bar while expressing our gratitude for a job well done.

Very truly yours,

Sandy R. Kriegler
Supervising Judge, Northwest District
Superior Court, Los Angeles County

Dear Liz,

I just wanted to thank you for including me (through Amy Newman at ARC) in the VAST Program over the last two weeks. The experience has been invaluable and I think the program is a huge success! Thanks once again.

All the best
Mark Fleischer

Mediation, Arbitration and Referees in Trust, Probate, and Conservatorship Disputes

BY GERALD F. GERSTENFELD

Mediators are often asked to mediate disputes concerning trust, probate or conservatorship matters where emotions and family relationships are often integrally involved. Those emotions and family relationships are often as important (and sometimes more important) than the facts of the dispute. A mediation of those disputes by a trained mediator skilled in dealing with each party's emotional position affords a unique opportunity for everyone to cope with those emotions and family relationships in a manner that will not only resolve the disputes, but also preserve or prevent the destruction of the family relationship. Until the emotions surrounding the dispute and the family relationship issues are recognized and discussed, the party's are often unable to settle their disputes.

MEDIATION/ARBITRATION MODEL

Mediation of issues with the arbitration of unresolved issues is a methodology that the mediator and counsel might consider. Where appropriate, the mediation agreement can be easily adopted to a mediation and arbitration format. The process first employs the usual mediation efforts; joint meetings, separate caucuses with each side, shuttle diplomacy and meetings between all parties often result in an agreement concerning most, if not all, of the outstanding issues. (Seldom is there only one issue and, if the parties initially believe there is only one issue, more often than not many issues are developed during the opening inquiries in the mediation process.) Sometimes there are still one or more unresolved issues that the parties cannot agree upon.

After there has been a full development of all of the feelings, facts and proposals with respect to the issues submitted to mediation, the mediator has learned virtually all of the facts and each party's views with respect to those issues. In the mediation with arbitration model, after documenting by an agreement or a stipulation those things which have been agreed upon and the specific issues to be decided by arbitration, the parties reassemble with the mediator, who then switches from the mediator role to the arbitrator role.

The mediation and arbitration agreement provides that the mediator, in his or her arbitrator role, may consider all of the information developed during the mediation session unless any party makes a motion to exclude any particular fact that has been exposed. The arbitrator has jurisdiction to determine whether that motion will or will not be granted. The arbitrator also has jurisdiction to allow any of the parties to submit additional evidence concerning any of the unresolved issues. After hearing and considering all of the information and evidence which has been presented, the arbitrator then decides all unresolved issues and prepares an award which ultimately can be converted to a judgment.

It takes relatively little time to conduct the arbitration after the completion of the mediation process and the agreement on those issues that have been agreed upon. The arbitrator will spend some amount of time reviewing his or her notes, legal research (which may be done after any briefs requested by the arbitrator) and rendering the arbitrator's decision. Even though the arbitrator decided the issues which could not be agreed upon during the mediation, the parties still have a feeling of their having controlled the mediation process and that the mediation and arbitration process resulted in an expenditure of time and money which is considerably less than what would have been expended had the unresolved issues gone to trial. Often the mediator/arbitrator is able to spend more time and attention to details and to creative resolutions with the parties and in deciding the matter than could be spent by a judge if the matter was litigated.

Often counsel feels that mediation or mediation/arbitration can be accomplished only after the completion of discovery. In certain cases, that is true. However, as an example, where there is an informal or formal trust accounting or an accounting filed in a probate or a conservatorship and someone has filed objections to that accounting, it often is not necessary to

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Notice To Attorneys

ADOPTION HEARINGS

Effective Nov. 1, 2003, all adoption petitions filed in the North Central District will be heard on Fridays at 8:30 a.m. in Dept. North Central "C", second floor, Burbank Courthouse, 300 E. Olive St., Burbank. All adoption hearings previously set in another department will remain in that department.

NORTH DISTRICT FAMILY LAW EX-PARTE RESTRAINING ORDERS

Effective October 20, 2003, Family Law ex-parte restraining orders in the North District of the Los Angeles Superior Court will be heard at the Michael D. Antonovich Antelope Valley Courthouse at 8:30 a.m., Monday through Friday, in Departments A12 and A13. The current Family Law Department A14 will become Department A12 effective October 20, 2003.

U.S. DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA REVISED LOCAL RULES

The Court has adopted the following revised Local Rules, effective December 1, 2003:

- Chapter I - Local Civil Rules;
- Chapter III - Local Criminal Rules.

Effective December 1, 2003, Chapter V - Local Rules Governing Duties of Magistrate Judges, will be deleted. The Local Rules governing Magistrate Judges then will appear in Local Civil Rules 72 and 73, and in various portions of the Local Criminal Rules.

The new Local Civil Rules and Local Criminal Rules shall govern in all proceedings in civil cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

You may obtain a copy of the new Local Civil Rules and Local Criminal Rules by contacting a legal publisher or visiting the Court's website at www.cacd.uscourts.gov.

COURT REVISED FORM AO-133

The Court has revised form AO-133 (Bill of Costs) for use in this District. The revised form number is CV-59 and should be used in place of AO-133, effective December 1, 2003.

You may obtain a copy of CV-59 by visiting the Court's website at www.cacd.uscourts.gov. ☝



THE PRACTICE

a series of essays on practice of law and life

On Evaluating Your Year



BY DAVID R. HAGEN

We're now heading full strength into the holiday season. The rest of the year will be very busy with shopping, holiday concerts and family events. Some of us will also try to take a little bit of time off to relax and refresh.

I think it is important not to get too caught up in running around and to spend some time pausing and reflecting about this past year. Every year I try to set aside some "quiet time" in December for this purpose. For me, it is hard to do this until just before New Year's, but I do spend some mental time during the holidays preparing for my year-end reflection and planning. Hopefully, most of us already have a rough outline of our life plan, both professional and personal, for the upcoming year. However, some year-end reflection will allow us an opportunity to temper and perhaps deepen this plan a bit.

Did you have a good year? How do you even define "a good year"? Part of a year-end reflection involves asking yourself questions. However, it is most important to make sure that you ask yourself the right kinds of questions. Throughout his works, well-known motivator Anthony Robbins makes a point of teaching his readers to ask themselves the right questions. It is easy to simply evaluate the past year in terms of number of clients, total billing or gross revenue. However, I would suggest that there are more important questions a person might ask. Perhaps you might consider some of the following questions as part of your year-end reflection.

Did you enjoy the year? Accomplishments in the past year are

certainly important. However, I would suggest that a more important question is whether you enjoyed the year. Certainly, an accomplishment can be part of one's satisfaction. However, there are many more elements to having a successful and enjoyable year than just simply accomplishments. As you look back, was the year balanced? Did you have some fun? What are your fond memories of 2003?

Did you better yourself, professionally or personally, in some way? Hopefully, we all make an effort to better ourselves, even just a little bit, each year. I remember years ago when Pat Riley, the then-coach of the LA Lakers, challenged each of his players before the season to increase their personal statistics just one percent. When a one-percent, across the board increase in performance was calculated, the team became awesome, at least on paper. Small increases among a group of people, or over a period of time, can produce dynamic results. Likewise, small increases over a number of years can make a difference as well.

Did you make a difference in someone else's life? I would suggest that

part of the depth and richness in a person's life, many times, depends upon what differences they make in someone else's life. This can take the shape of pro bono work, volunteering, or simply an act of kindness or reaching out to a friend or stranger.

Did you make progress in your overall life plan? Hopefully, we all have a general idea of where we want our life to progress. It is important to look at the last year in the context of where you believe your entire life is going. This should actually be an analysis that occurs on a weekly or monthly basis. At the very least, it should be looked at once a year. Making small advances on a stated goal was one of the fundamental principles in Steven Covey's phenomenal bestseller, "The 7 Habits of Highly Effective People."

Did you spend enough time "sharpening the saw"? Covey goes on to say in his book that one of the seven habits of highly effective people is that they schedule time to refresh themselves or "sharpen the saw." As lawyers, we have a tendency to run flat out as hard as we can go all year long. However, it is obvious that if someone takes time to refresh themselves and sharpen their

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What did you learn? Whenever I am working with a young attorney, I always make a point to ask them, "What did you learn?" I try to make it a point to ask myself this question after any court hearing, speaking engagement or other event. From a professional point of view, we should always evaluate any court hearing and take a moment to determine what we learned. The same is true with events in our lives. Experiences without the benefit of evaluation and learning is really a wasted opportunity. Also, when we learn from our past experiences, I find that it tends to make the current experiences deeper.

What would you have done differently? The past is the past and there is nothing that can be done about it. However, it serves some purpose to evaluate the past year to determine what, if anything, one might have done differently. This can affect how we proceed into the next year.

The holidays are a great time. I am looking forward to a meaningful and enjoyable holiday season. However, I plan to spend some time reflecting and evaluating on the past year. I hope that all of you make some time to do the same. I wish you all a joyous holiday season and look forward to working with many of you in the upcoming successful New Year. 🌟

Dave Hagen is a principal at Merritt & Hagen. The firm's practice focuses on representing individuals and small businesses in bankruptcy. He speaks to attorneys often on the areas of bankruptcy, the marketing of legal services, and the practice of law. He welcomes your comments to this series of essays.

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Gerald Curry is a member of LRIS. I actually first knew him through his extensive and valuable community activities. LRIS staff is so grateful that he will continue to guide us by his example of seeing “stressful situations with ...clarity and calm;” and “to face the situations creatively and with confidence.”

The apropos quotes above are from a book that I happened across while recently attending an LRIS Conference. An ABA staff member, Steven Keeva, wrote the book entitled, “Transforming Practices, Finding Joy and Satisfaction in the Legal Life.” I discovered the book in one of Denver’s delightful bookstores.

Recent events and the season’s natural reminder of contemplation, compassion, and spirituality (defined as the inner part of each of us where we are sensitive to the “deepest, most nuanced levels of meaning in our lives”) create an additional relevancy of this book for all attorneys. The book asks us to look at how we “live hurriedly, under the weight of constant deadlines and pressures.” The author asks us to consider options to what the practice of law has become for many of us. There is no need to quote from the book descriptions of what the practice of law is like. It is enough to say that of 105 professions, lawyers top the list in the incidence of depression.

The author describes attorneys across the country that are adopting new approaches to practicing law from the balanced practice, the contemplative practice, the mindful practice, the time-out practice, the healing practice, the listening practice, and the service practice.

The author highlights family law specialist Ron Supancic’s listening practice. Ron is an SFVBA member who has practiced for over twenty years in Woodland Hills. The book relates the story of one of his clients who was finding his second marriage crumbling. The couple had been to three psychotherapists, all of whom all felt the marriage could not be saved. Ron put him in a rage manage-

ment program and other appropriate counseling programs. The result was a changed man and a saved marriage.

Where someone else might have seen only a client, Supancic heard a man with singular problems and unique potential. Where another person would have seen a brutal custody battle ahead, Supancic heard someone capable of taking responsibility for his part in a dying relationship, someone with the ability to act to make things better. And where someone else might have seen little more than the chance to earn a fee, Supancic heard an opportunity for personal satisfaction that goes way beyond anything money can buy....Lawyers like Supancic know the pleasure that comes from crafting creative solutions, the kind designed to work for a particular client at a particular moment in his or her life.

Through their examples, two more SFVBA members have reminded us to awaken to the deeper levels of our inner lives. With grace we can use this awareness to achieve more balanced and larger lives that are not given over to “things that just too small.” 🐘

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AMENDMENTS TO FRBP EFFECTIVE DECEMBER 1

Amendments to the Federal Rules of Bankruptcy Procedure (F.R.B.P.) will become effective December 1, 2003. These changes will not be retroactive.

The principle changes involve privacy issues and related forms. Some of the changes are:

- The debtor must submit the new Official Form B21, Statement of Social Security Numbers(s), which contains the full nine-digit Social Security number (SSN), at the time of filing the petition. This statement will not be part of the case file or available to the public. Instructions for submitting this form for eFiled petitions will be made available on the Court's web site under "Electronic Services."
- The bankruptcy petition must contain only the last four digits of a debtor's SSN. Similarly, only the last four digits of the debtor's SSN should appear on any document filed with the Court.
- Other "personal identifiers" (i.e., financial account numbers, dates of birth, and names of minor children) must also be redacted from all documents filed with the Court. It is the responsibility of the filer, not the Clerk's Office, to redact all personal identifiers.
- The debtor's full SSN will appear on the original §341(a) meeting of creditors notice sent to all parties listed on the master mailing list. Only the last four digits of the SSN will appear on the Court's copy.
- To comply with the new requirements, many of the Court's forms have changed. The amended/new forms are available free of charge and may be found on the Court's website at www.cacb.uscourts.gov, Procedures/Rules/Forms>Court Forms>Privacy Policy Forms – Effective December 1, 2003. They may also be purchased from the onsite copy service in each division.

Please consult the text of the F.R.B.P. amendments and committee notes for actual provisions and their interpretation. The "strike-out" version can be found at www.uscourts.gov/rules/congress0303/BK-Redline.pdf; the "clean" version can be found at www.uscourts.gov/rules/congress0303/BK-Letters.pdf

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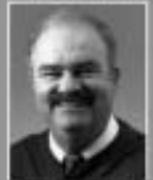
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Vast Volunteers ... continued from page 1

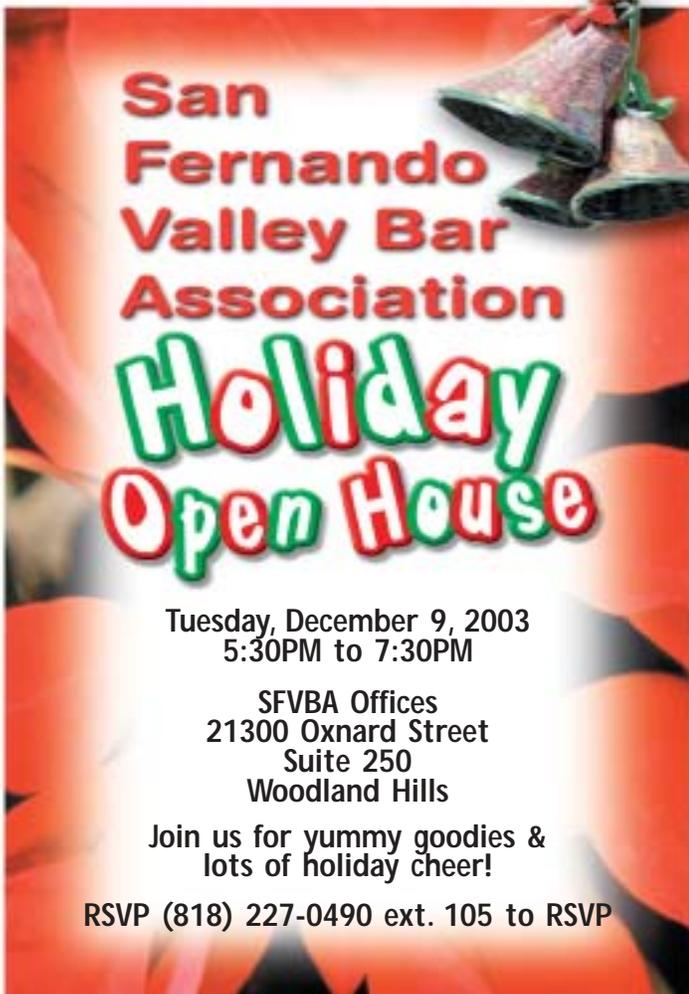
Everyone agreed the process is exhausting. The effort requires months of planning, it requires a great deal of energy by all involved, and it takes time to work, according to Felton.

Because of the requirements and energy needed, Kriegler noted, "We will let the Bar catch its collective breath, and then meet to discuss our next move."

Wolfe said he could envision convening settlement teams every other year. Their influence, however, may linger throughout the year, according to Wolfe.

"You know the seeds you sow at the [mediation] conference may very well come to fruition a week, two weeks and even months down the line," said Wolfe. "I hope the spirit of the program can be tapped on a daily basis," he said.

Judge Bert Glennon originally coordinated and implemented VAST after the Northridge earthquake and the three strikes law flooded the court system in the mid 1990s. SFVBA Executive Director Liz Post said VAST's earlier success provided a great framework for this year's. The resolution rate was about the same, though the mediators saw almost 2,000 cases from both the North Valley and Northwest Districts. Post said the SFVBA is already discussing a VAST program for next spring with Judge Alice C. Hill, the North Valley Judicial District's supervising judge. ♣



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President's Message ...continued from page 3

You will be reading this column only a few weeks before the season ending holidays. During this time, we are usually immersed in buying presents, making vacation plans, and watching football - okay, I am just speaking about myself. This year, I am going to try a little harder to put off some of these rather irrelevant things (yes, folks, in the scheme of things, football is really irrelevant), and focus on what I can do to make somebody else's life just a little better.

I hope that this year, like I have over the last five years, I will be able to participate with the Bar Association giving blankets to those members of our society who make their homes at the Los Angeles Family Housing shelter.

Their priorities are not about vacation or presents; their priorities are about where they will live. We will give you notice of the date of this event, and I hope that you can join us.

Help me find some other worthy organizations that we can help together. Let's show our community that we can make a difference, and that we need them, as much or more than they need us. Let's celebrate the holiday season knowing that we have given our all to those that need us the most. Have a terrific holiday season and a wonderful new year. ✨

President James Felton can be contacted at (818) 382-6200 and jfelton@greenbass.com.

The SFVBA Board of Trustees adopted the following resolution on November 4, 2003:

Whereas, Gerald Curry has been an active member of the San Fernando Valley Bar Association and the SFVBA Probate & Estate Planning Section since 1987; and

Whereas, Gerald Curry has volunteered for the SFVBA Senior Citizen Program and Probate Court Mediation Program and is a dedicated panel member of the Lawyer Referral & Information Service; and

Whereas, Gerald Curry is a respected member of the legal profession and an outstanding citizen of the San Fernando Valley community; and

Whereas, Gerald Curry was attacked at the Van Nuys courthouse plaza on October 31, 2003 in a senseless act of violence; therefore it is

Resolved, that the San Fernando Valley Bar Association wishes Gerald Curry a speedy and full recovery; and further

Resolved, that the San Fernando Valley Bar Association calls upon all of our members and all Bench Officers to extend every courtesy and accommodation to Gerald Curry during his recovery; and further

Resolved, that the San Fernando Valley Bar Association condemns violence and appeals to all members of the community to resolve their disputes through the legal process and other appropriate peaceful means.

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David R. Hagen, Past SFVBA President

Mediation, Arbitration...continued from page 17

engage in discovery as to each of the items with respect to which the objection is filed. Considerable details are presented in an accounting. The objector usually has some knowledge about the items with respect to which the objection is filed. At the mediation, each party is going to present facts substantiating the accounting or the objection. Although it is important that the attorney for each side and each attorney's client prepare for the mediation or the mediation and arbitration so that the facts can be presented at that time, extensive formal discovery as to what the other side intends to assert may not be necessary.

ARBITRATION

A variation on all of the above is an initial arbitration of all of the issues. Where the parties have concluded that the arbitration is a more efficient way to proceed, all of the processes described above would equally apply in the arbitration model. The arbitration agreement will list all of the issues to be decided. During the arbitration, each side is given the same opportunity to present their beliefs, conclusions and information as would be presented in a mediation. Also during the arbitration, the arbitrator has the opportunity to determine if the parties can agree to any of the issues that have been identified before the arbitration has begun, and sometimes stipulations can be made during the arbitration process as to certain issues.

In the course of the arbitration, the parties can come to agreements and stipulate as to underlying facts as to many, if not most of the issues to be decided. Therefore, the mediation model might well be used very effectively in circumstances where a pure arbitration is employed. To the extent that there remains issues not agreed upon or stipulated to, the arbitrator makes a decision as to those issues and the arbitrator prepares an award which, as noted above, ultimately can be converted to a judgment.

REFEREE MODEL

Another dispute resolution tool is the parties' stipulation to a Code of Civil Procedure section 644(b) reference by the court to a person to act as referee of all disputed matters pending with respect to a trust, a probate or a conservatorship proceeding. In that instance, the parties are not completely freeing themselves from the judicial process. What the attorneys for each side desire is to present the evidence to the referee in circumstances where the necessary time and attention can be devoted by the attorneys, the parties and the referee (which time may not be available to the court) so that the referee can make a report and recommendation to the judge. Even in this model, the referee can employ the mediation techniques to assist the parties to stipulate to many of the issues or facts, all of which would enable the referee to make a recommendation as to the unresolved issues and facts for consideration by the judge. That recommendation would also include a delineation of all of the stipulations of the parties.

Often the judge will give great deference to the recommendation of the referee because the judge is aware of all of the time and effort which have been spent by the parties, their counsel and the referee in examining all of the multitude of facts and open issues which had to be considered. However, the advantage of the reference is that each party will have "another shot" at attempting to convince the judge to come to a conclusion different than the referee's recommendation as to any given issue. The judge, in turn, will have the advantage of being familiar with the stipulated agreement the parties have made and the view of the referee in deciding the unagreed upon issues.

Mediation is the common thread through all of the different alternative dispute resolution models discussed above. Where mediation is not the process started with, the parties some-

times are not aware that in fact, they are mediating the disputes because the arbitrator or referee is guiding the parties towards that end. Flexibility in approaches can be employed in all of the models discussed and creativity as to solutions is the watchword to help the parties reach their own conclusions as to how to resolve the open issues. Early employment of one or all of the models discussed can result in a significant saving of attorney's fees and other costs.

The models described above can be used in connection with any kind of a dispute; their efficacy is not restricted to only trust, probate and conservatorship proceedings.

It is suggested that nothing impresses a client more than the attorney's concern with the client's cost of resolving the client's dispute and the attorney facilitating the resolution of the dispute with a minimum of attorney's fees. A satisfied client will often refer more matters to the attorney who successfully employed any of these models to save money and reach a conclusion without the expense of full-blown discovery and a trial. All of us want satisfied clients as a source of referrals. The processes here referred to can result in such satisfied clients and referrals. 🐘

Gerald Gerstenfeld has practiced law for fifty years. He specializes in estate planning, trusts, probate and conservatorships, and is a trained mediator. Mr. Gerstenfeld may be contacted at JerryFG@aol.com or (818) 990-6190.

The SFVBA invites members to submit articles for Bar Notes. Articles should be educational in nature, and can be tailored for the new practitioner or experienced lawyer. The typical article is 800 to 1,200 words in length, and contains no footnotes. Articles can be submitted electronically to epost@sfvba.org. For additional guidelines, contact Liz Post at (818) 227-0490 ext. 101.

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SFVBA Probate Section Provides Settlement Officers in Dept. H

Since August, the SFVBA Probate & Estate Planning Section has implemented a new and innovative program in Department H of the Van Nuys court to assist Judge Richard Kolostian manage the increased caseload resulting from the merger of San Fernando Court probate cases with Van Nuys.

Over forty lawyers of the Probate Section have volunteered their services as settlement officers to help litigants settle disputes which are set for hearing or narrow the issues for determination by the court. Teams of two experienced probate lawyers appear for three hours each Friday morning in Department H and are assigned cases that are scheduled to be heard before Judge

Kolostian. No other probate department in Los Angeles County offers this program, which is made possible by the volunteer efforts of probate attorneys of the SFVBA.

"The program is working very well," says Judge Kolostian. Lawyers, litigants and court staff have all expressed satisfaction with the volunteer services provided by the most experienced attorneys in the Probate Section. Judge Kolostian stated that he would like more attorneys to participate in the program so that the time and effort can be shared by more volunteers.

SFVBA President-Elect Alice Salvo and Trustee Myer Sankary are spearheading the program and have developed general guidelines and forms for those who wish to participate. To qualify as a probate settlement officer, the attorney must have at least five years of

probate experience and must be willing to commit to volunteer at least one Friday morning every six months.

Volunteer attorneys who have participated in the program have expressed their satisfaction as well, and are happy to help the probate court reduce its caseload. This benefits all members of the probate bar who are able to get their cases processed more timely with the volunteer settlement officers. Unlike the successful VAST program, which was for a limited period of time, the probate settlement officer program will be a continuing effort staffed by volunteer members of the SFVBA Probate Section.

For those who are qualified and wish to participate in the program, visit the SFVBA's website at <http://www.sfvba.org/memberresources/volunteer.htm> to download an application. 📎

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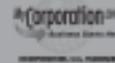
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Two-Day Seminar to help attorneys meet the requirements of minimum
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January 9 & 10, 2004

San Fernando Valley Campus of University of West Los Angeles School of Law
21300 Oxnard Street Woodland Hills, CA

Co-sponsored by:



JANUARY 9, 2004

9:00 a.m. - 9:55 a.m.
Elimination of Bias
Cynthia Elkins, Esq.
1 Hour MCLE (Elimination of Bias)

10:00 a.m. - 10:55 a.m.
Legal and Ethical Dilemmas
Gordon Reid Wallace, Esq.
ARC
1 Hour MCLE (Ethics)

11:00 a.m. - 11:55 a.m.
Update on Intellectual Property
Deborah Sweeney, Esq.
Michelman & Robinson, LLP
1 Hour MCLE

LUNCH ON OWN

1:00 p.m. - 1:55 p.m.
Polygraph 2004
Jack Trimarco
Jack Trimarco & Associates,
Polygraph/Investigations, Inc.
1 Hour MCLE

2:00 p.m. - 2:55 p.m.
Disability Issues in Employment
Lynne S. Bassis, Esq.
ARC
1 Hour MCLE

3:00 p.m. - 3:55 p.m.
Bar Discipline Avoidance
Professor Robert Barrett
1 Hour MCLE (Ethics)

4:00 p.m. - 4:55 p.m.
**Keeping Your Client's and the Law Practice's
Accounts Straight**
Scott Ervin, CPA
Krycler, Ervin, Taubman & Walheim
1 Hour MCLE (Ethics)

5:00 p.m. - 5:55 p.m.
Malpractice: Avoiding the Danger Zones
John Cross
Lawyers' Mutual Insurance Company
1 Hour MCLE

JANUARY 10, 2004

9:00 a.m. - 9:55 a.m.
Ethical Considerations
Darryl Graver, Esq.
1 Hour MCLE (Ethics)

10:00 a.m. - 11:55 a.m.
**Electronic Discovery and Computer
Forensics**
K.J. Kuchta, CPP, CFE
Forensics Consulting Solutions, LLC
2 Hours MCLE

LUNCH ON OWN

1:00 p.m. - 1:55 p.m.
Referees: Uses and Abuses
Honorable Arnold Gold, Ret.
ARC
1 Hour MCLE

2:00 p.m. - 2:55 p.m.
**Identification and Treatment of Substance
Abuse**
Patricia Tierney, Esq.
The Other Bar
1 Hour MCLE (Prevention of Substance Abuse)

3:00 p.m. - 3:55 p.m.
Appellate Advocacy
Honorable Armand Arabian, Ret.
California Supreme Court
1 Hour MCLE

4:00 p.m. - 4:55 p.m.
**Crossover Issues Between Probate and
Family Law**
Bary Harlan, Esq.
Lewitt, Hackman, Shapiro, Marshall & Harlan,
ALC
1 Hour MCLE

No cancellations after January 2.
Reservations at the door not guaranteed.

Mail registration form and payment to:
SFVBA, 21300 Oxnard Street, Suite 250,
Woodland Hills, CA 91367.

REGISTRATION FORM

Name _____
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Bar Admission Date _____

| | Member | Non-member |
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| <input type="checkbox"/> 2-Day Seminar | \$109 | \$329 |
| OR | | |
| <input type="checkbox"/> Friday, January 9 | \$65 | \$169 |
| <input type="checkbox"/> Saturday, January 10 | \$65 | \$169 |
| <input type="checkbox"/> Individual Class | \$25 | \$50 |
| <input checked="" type="checkbox"/> Class Attending | | |
| <input type="checkbox"/> Late Registration Fee | \$35 | \$50 |
| (Pre-Registration Deadline is January 3) | | |
| <input type="checkbox"/> SFVBA Membership Dues (Join today!) | | |

(Includes written materials and refreshments)

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December Events

calendar and MCLE event listings

Probate & Estate Planning Section

Topic: The Ten Worst Estate Planning Problems that Lead to Litigation

Speaker: Andrew Wallet, Esq., Hinojosa & Wallet
 Date: December 2
 Time: 12:00 Noon
 Place: Encino Glen Restaurant, Encino
 Cost: \$30 members prepaid; \$35 at the door
 \$35 non-members prepaid; \$40 at the door
 MCLE: 1 Hour

ADR Section

Topic: Settling Disputes Involving Psychiatric/Emotional Injuries: Detection, Verification, and Evaluation

Speaker: Dr. James E. Rosenberg, Clinical and Forensic Psychiatrist, Neuropsychiatry, and Psychopharmacology
 Date: December 4
 Time: 6:00 p.m. Dinner and Program
 Place: SFVBA Conference Room
 Cost: \$30 members prepaid; \$35 at the door
 \$35 non-members prepaid; \$40 at the door
 MCLE: 1 Hour

Family Law Section

Topics: Unbundled Services Training Elimination of Bias Relevant to Family Law Practice

Speakers: Sue Talia, nationally known expert and author on limited scope representation
 Sue Bendavid-Arbiv, Esq., Lewitt Hackman et al.
 Date: December 6, 2003
 Time: 9:00 a.m. – 1:00 p.m.
 Place: San Fernando Valley Campus of the UWLA Law School
 21300 Oxnard Street, Woodland Hills
 Cost: \$65 members prepaid; \$80 at the door
 \$85 non-members prepaid; \$100 at the door
 Includes Substantial Handout, Continental Breakfast, Lunch and Coffee Break
 MCLE: 4 Hours (2 Hours Legal Ethics, 1 Hour Elimination of Bias)

Self-Help Center Attorney Training

Topic: Landlord/Tenant Training

Speaker: Robby Stovitz, Esq., Neighborhood Legal Services
 Date: December 8
 Time: 12:00 Noon
 Place: SFVBA Conference Room
 Cost: Free to Self-Help Center Volunteers!
 MCLE: 2 Hours

Business Law Section

Topic: Fraud Claims: Getting a Second Bite A Look at the U.S. Supreme Court's Decision in Archer v. Warner

Speakers: Michael Conway and Andrew Goodman, Greenberg & Bass
 Date: December 11
 Time: 12:00 p.m. Lunch and Program
 Place: SFVBA Conference Room, Woodland Hills
 Cost: \$25 members prepaid; \$30 at the door
 \$35 non-members prepaid; \$40 at the door
 MCLE: 1 Hour

Taxation Law Section and Probate and Estate Planning Section

Topic: The Effective Use of Charitable Trusts and Foundations in Estate Planning

Speaker: Wayne Johnson, Valensi, Rose & Magaram
 Date: December 10
 Time: 6:00 p.m. Dinner and Program
 Place: SFVBA Conference Room, Woodland Hills
 Cost: \$30 members prepaid; \$35 at the door
 \$35 non-members prepaid; \$40 at the door
 MCLE: 1 Hour

SIGN ME UP!

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Food and beverages served at every MCLE event!
 * Please note that no credit will be given unless notice of cancellation is provided 48 hours before scheduled event

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