



BarNotes

VOLUME 8 • ISSUE 7 • OCTOBER 2001

A Publication of the San Fernando Valley Bar Association

COMMEMORATIVE EDITION



*Celebrating
75 years*



San Fernando Valley Bar Association 1926-2001

On July 19, 1926, a letter signed by Alonzo D. Hitchcock, H.A. Decker, C. Newell Carnes, Clifford Thompson, and Robert L. Hanley was sent to some twenty attorneys either practicing or residing in the San Fernando Valley, asking their willingness to organize a Valley Bar Association to be affiliated with the Los Angeles Bar Association.

Some twenty-five attorneys pledged their support, and the formation of the new organization was decided. A Founders meeting was held on October 26, 1926, at the Encino Country Club, a Constitution and By-Laws were adopted, and the Bar's first officers and trustees were elected.

See Cover Story, continued on page 6



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Bar Notes is published 11 times a year. Articles, announcements, and advertisements are due by the first day of the month prior to the publication date. The articles in Bar Notes are written for general interest and are not meant to be relied upon as a substitute for independent research and independent verification of accuracy.

Layout & Design
Pre-press & Printing,

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LYLE F. GREENBERG
SFVBA PRESIDENT

Reminiscing and Looking Forward

I am excited about starting my year as President of the San Fernando Valley Bar Association and I thank all of you for your confidence in me.

We have three goals for the upcoming year. We will develop better communication and more interaction among all of our bar members.

We will emphasize leadership development and demonstrate to our members that stepping forward and accepting responsibility is the first step toward filling leadership positions. Finally, we will take steps to promote the SFVBA and its members to get more involved in county, state and national bar activities.

Seventy-five years of Presidents have preceded me with many more to follow. But who will lead and how will they be prepared? More important than the training of our future Presidents, we must ask ourselves whether we are doing all we can to motivate new people to step forward, accept the challenges presented to the SFVBA, our profession and our community, and assist our members so that they are prepared to lead? With that in mind, in early September 2001, we had our first Leadership Training Meeting. These meetings will continue throughout 2001-2002 and in subsequent years. Everything that we do in society is dependent upon leadership. Our families, our offices, our towns, country and the organizations that we belong to, are all dependent upon people willing to step forward and take responsibility. In turn, leadership is dependent upon participation. When you participate, you show that you care about our past and the people who dedicated themselves to get to this point, as well as to your future.

Throughout this past year, we have celebrated our 75th Anniversary, the accomplishments of our organization, the personal and professional relationships that were established, and also reminisced about members of our bar who helped shape the San Fernando Valley and permanently impacted it as the place where we live, work, and raise our children. It has been said that we arrived at this point because we had the benefit of being lifted on the shoulders of those who preceded us. Because of that, I want to thank my mentors in our bar, Past Presidents David Gurnick, David Hagen, and Robert Weissman; these people influenced me to seek this position and continue to support our bar.

I could have titled this message "Leadership: Past, Present and Future - An Open Door," or, "Do You Have the Will To Make a Difference?," or, "A Call to Action," all of which are consistent with this theme, but I chose the title "Reminiscing and Looking Forward" because it reflected my desire to honor our past volunteer leaders, and to challenge our membership to step forward and address the issues of our future.

The SFVBA is involved in numerous activities all of which revolve around the law and our community. We staff and support numerous programs, more than space permits me to list here, all of which require dedicated volunteer leaders. We need our members to step forward to lead these highly successful and worthwhile activities.

In the March/April 1996 edition of *Lawyers World* (the predecessor publication to *Bar Notes*), our then President, Robert Weissman, wrote an educational and poignant message as part of the 1995-1996 theme "one person can make a difference." The message suggested that we can learn

See President, continued on page 11

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Cover Story, continued from page 1

Around the time of the Bar's founding, 51,000 people lived in the San Fernando Valley and the area was mostly orchards and farmland. The same week the Bar



San Fernando Valley Orchard

was organized, a man was arrested for operating a still at Sherman Way and Whitsett.

The Municipal Court Act also went into effect for Los Angeles in 1926. The first months of the bar association were devoted to getting a branch Municipal Court for the Valley. Successful in their efforts, a Branch Court opened on a part-time basis in an old store building on Sylvan Street in Van Nuys on March 3, 1927.

The Bar's next order of business was to obtain a City Hall in Van Nuys to house a proper courtroom. Folklore has it that the

Councilman at the time, Charlie Randall, promised the Lankershim Chamber of Commerce \$90,000 for a new roadway through the Cahuenga

Pass. But lo and behold, \$90,000 turned up to build the Van Nuys City Hall and no money was available for the road. The City Hall was erected in 1932 and Municipal Court Judge Oda Faulconer, the SFVBA's first Vice President,

presided over the dedication of the courtroom.

Early correspondence indicates that the SFVBA was largely a social club from its founding until the early 40's. Lawyers were as hard hit as anyone else during the depression and the few meetings that were held were mainly comprised of poker games, or on one occasion, listening to the speeches at the

Republican National Convention. The meetings usually coincided with the last filing date for candidates running for Municipal Court.



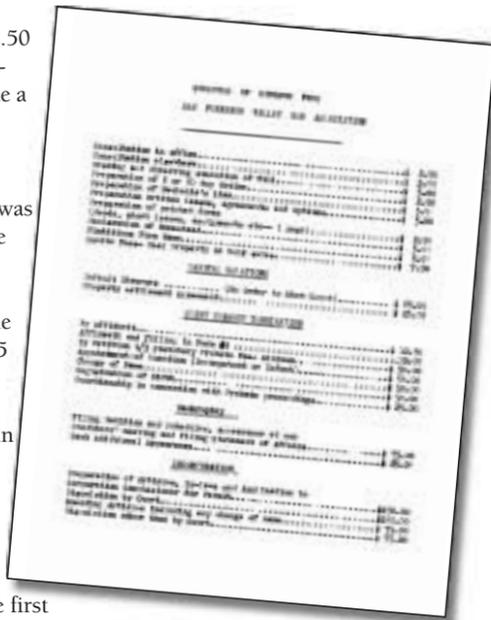
Van Nuys Blvd. and Sylvan St. (1934)

A Minimum Fee Schedule released by the Bar in 1938 recommended that members charge \$2.50 for an office consultation, \$5 to execute a will, and \$65 for a default divorce. Records from 1944 revealed that \$110 was collected during the course of the year, and that the Association was able to purchase one \$25 and one \$100 U.S. savings bond. Postcards sent out in 1945 announcing the meetings cost a penny a piece.

Following the War, the SFVBA started to grow. The first crop of post-war law students passed the bar exam. The San Fernando Valley was beginning its population explosion and law business, particularly in post-war divorces, was booming. Water use in homes exceeded that of farming for the first time.

Access to Justice

The Bar built on its early efforts to ensure that justice was accessible to Valley residents. In 1947, with the help of Assemblyman Julian Beck, a bill was enacted to create the San Fernando Branch of the Superior Court. The legislation specified that at least one session of the superior court shall be held...in each township containing a population of not less than 11,286, nor more than 12,000... and where the city hall of said city is not less than 21 miles nor more than 23 miles distant from the site of the county courthouse. Ironically, only one municipality in all of California met the criteria.



Minimum Fee Schedule (1938)



Julian Beck and his Assembly Bill



Legal Services

Early on, the SFVBA committed itself to public service. In 1941, a committee was appointed to give free legal advice to draftees. The Legal Aid & Lawyer Reference Service of the San Fernando Valley Bar Association was formed in 1948. Like the current LRIS, clients were screened over the telephone. Cases were classified as a legal aid case based on the client's inability to pay and the worthiness of the case.

Initially Legal Aid was sustained with membership and attorney fees generated from the Lawyers Reference Service. Eventually the program was adopted by the Lawyers Wives of the San Fernando Valley, who donated thousands of hours over the years to staff the office and hosted an annual Belles and Barristers Ball to raise funds for the program.

The Legal Aid program was phased out after the introduction of Neighborhood Legal Services in the late 60's, but the Bar continued its work toward meeting the needs of the

community. In 1979 Bar Leaders established the Valley Community Legal Foundation to provide scholarships and grants and set up the Family Law Center in 1985 to provide one-on-one representation to the indigent and battered women. In 2000, the SFVBA partnered with the Superior Court and Neighborhood Legal Services to open Self-Help Centers at the Van Nuys Court and Monroe High School.

Hi-Jinks

In 1951, the SFVBA kicked-off Hi-Jinks, an annual farce held at Hollywood's Masquers Club, which showcased the musical and comedic talents of its members and judiciary. The Hi-Jinks spoofed hit Broadway shows and movies, such as *Around the World in Eighty Days*, *Fiddler on the Bench*, and *The Mench of La Muncha*.

The Hi-Jinks was founded to promote friendship and fellowship among the members of the SFVBA. A 1958 entry form for an ABA Award of Merit cited that "among those at the bar in days past there appeared a closer kinship than exists today. This type of program seeks to regain or restore some of this feeling."

Our wannabee actors, singers, and dancers rehearsed for months and were assisted by professional writers, musicians, and costumers. Among the many Valley luminaries who showcased their talents were James Corman, Joan Dempsey Klein, William Rea, Jack Swink, Richard Rogan, David Fleming, and Julian Beck. The curtains closed after the seventeenth and final show, *Diddler on the Bench*, in 1976 on the occasion of the Bar's 50th Anniversary. Through the years, the Bar



Scenes from San Fernando Valley Bar Association Hi-Jinks (1955, top; 1961, bottom)

office has moved from Van Nuys to Panorama City to Encino to its present location, Woodland Hills. It has grown into one of the largest and most active local bar associations in the country with 2,000 members. The Bar offers Valley lawyers camaraderie and programs and services to develop their skills and practices. The Lawyer Referral & Information Service assists thousands of Valley residents each year in finding legal representation. Many Bar projects - Senior Citizen Law Program, Ask-A-Lawyer, *Blanket the Homeless*, Judge Pro Tems and volunteer Family Law Mediators - continue to meet the needs of the courts, the profession, and the public.

In the words of founder, Judge Newell Carnes on the occasion of the 25th Anniversary of the San Fernando Valley Bar Association, "...It has been pleasure to pause a while and look back over the years, and to recount what our early efforts have, in a measure, produced. No matter what descriptive words we use, our profession has been and is one of the greatest avenues for

brotherhood and friendship, cooperation and healthy rivalry. By any standard, you are all to be congratulated upon your fine service to this Association, to your respective communities, and to one another.



Newell Carnes, SFVBA founder

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President, continued from page 5

from geese; as geese work together we too can "stand for something and stand for each other." Over the course of our Association's 75-year history, our Bar has developed a great tradition of leadership and service to our community. All of us chose a life in the law, at least in part, because we believed we could make (and we wanted to make) a difference in our communities and in our profession. So here is your opportunity.

The SFVBA prides itself on its tradition of welcoming attorneys to join its ranks, and all are encouraged to participate in our sections, committees, and activities. Because of this tradition our bar continues to enjoy steady growth. As we reflect upon our Bar's rich history, we take pride in its accomplishments, and its unrelenting dedication and commitment to our profession and to community service. We have much to celebrate in the upcoming year and I am honored to serve as President during this Diamond Anniversary celebration, affording us the opportunity to recognize and appreciate the dedication and vision of those leaders who preceded us, as well as work together to blaze the trail for our Association's future.

We continue to encourage and call on all members of the Association and all lawyers in the San Fernando Valley, and beyond, to join, participate and work with us, through our association, in accomplishing the worthwhile goals that we strive to achieve.

A past president of the ABA provided guidance when he proclaimed that our challenge as lawyers and as leaders in our community is to demonstrate that we have the will to make a difference. While our Bar has been doing just that for the past 75 years, we cannot rest on our past accomplishments, and must continue to dedicate ourselves to making a difference.

It would be a fitting tribute to our past leaders to strive to better our organization and our community. We owe it to our future leaders and to each of our members to make leadership accessible and educate our membership about the avenues available to them to develop or enhance leadership skills.

On behalf of the San Fernando Valley Bar Association, I would like to thank the lawyers of our organization for their past, present and future volunteer efforts, without which our Association could not provide services to our profession, the Courts, and to the public, and invite our future leaders to actively participate - consider this your engraved invitation to join us in these efforts.

Like the geese working together, let us each commit to further the success of this great Bar Association by standing for something, and for each other. 🦢

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Case Law from the San Fernando Valley A Record of Growth

BY DAVID GURNICK



About the Author:

David Gurnick is managing partner of the Woodland Hills office of Arter & Hadden.

The annals of the law are countless reported cases. Published opinions in cases from the Valley are more than a series of decisions. Viewed together, they chart our area's growth. They provide a window to the region's past, its development, even to its geology. Court decisions that started in the Valley affirm the area's contributions to the law.

In honor of the SFVBAs 75th anniversary this article discusses growth of the Valley based on a sampling of civil cases that name or mention the San Fernando Valley. A brief look at published opinions that began here will help us understand the area's judicial past, and address legal issues that are sure to arise in the future. The history includes the earliest reported case referring to the "San Fernando Valley." It features decisions on water rights, land use, business, taxes and in recent years, a number of Supreme Court opinions by a Justice from our Association.

The Early Cases

The earliest cases from the Valley involved land grants. The courts accorded the area no identity as a Valley, but referred to the area by reference to the San Fernando Mission. Like many of the early decisions, *Hughes v. Cawthorn* (1888) 35 F.248, and *Ellinwood v. Stancliff* (1890) 42 F.316 refer to the San Fernando Mission, but do not give the surrounding area any more specific identification.

In 1873 the U.S. confirmed an earlier Mexican land grant to the Porter Land and Water Co., namesake of today's Porter Ranch. Later, the "San Fernando Protective Association" was formed to have title to lands of the "San Fernando Valley" declared void and open to settlement by the public. One witness said it directly: "The association was for the purpose of land jumping."

In action precursing today's Patriot movement, 15 members of the association crossed the line in 1851 to settle on the Porter land. A complaint was made and their leader, James Lacey was arrested. After acquittal of any crime he sued claiming there had been no cause for his arrest. The 1894 report of Lacey's failed malicious prosecution claim, *Lacey v. Porter*, 103 Cal.597, is the first judicial

opinion to identify the Valley by the full name we know today.

Water Fights in the Desert

At the SFVBAs 75th anniversary our state has a power crisis. Some say a water crisis is next. But court reports prove that water fights here are not new. Rather, water has been a persistent source of disputes, and judicial opinions, concerning the Valley. Court records describe complaints in 1810 that priests of the San Fernando Mission diverted water to the injury of the pueblo of Los Angeles. *Vernon Irrig. Dist. v. L.A.* (1895) 106 Cal.237. The Mission agreed to stop when needed to avoid harming the pueblo. *L.A. v. San Fernando* (1975) 14 Cal.3d 199.

The Valley's chronic water fights result from geology. Published opinions note that the Valley, and the rest of L.A., are deserts. From 1880 to 1890 the L.A.'s population grew six-fold, from 12,000 to 75,000. The only source of water for its residents and for city purposes was the L.A. River; and the principal

source of the river above the city was the Valley. *L.A. v. Pomeroy* (1899) 124 Cal.597. This gave rise to water fights between a growing, thirsty City population, and Valley farmers needing to water crops.

The River runs west to east along the Valley's southern edge, to the northeast corner of Griffith Park. There it turns south, paralleling the Golden State Freeway. In the late 1800s a company with land along the river tried to stop L.A. from diverting the water. The State Supreme Court found that under earlier Spanish and Mexican law, pueblos had preferred rights to water flowing into their lands. The court ruled in the *Vernon Irrigation* case, that the City inherited these rights, as successor to the pueblo of Los Angeles, which was founded under Spanish rule in 1786.

Victory in hand, the City sought to condemn 315 acres of land in the Cahuenga mountains to dam, filter and store L.A. River

See Case Law, continued on page 16

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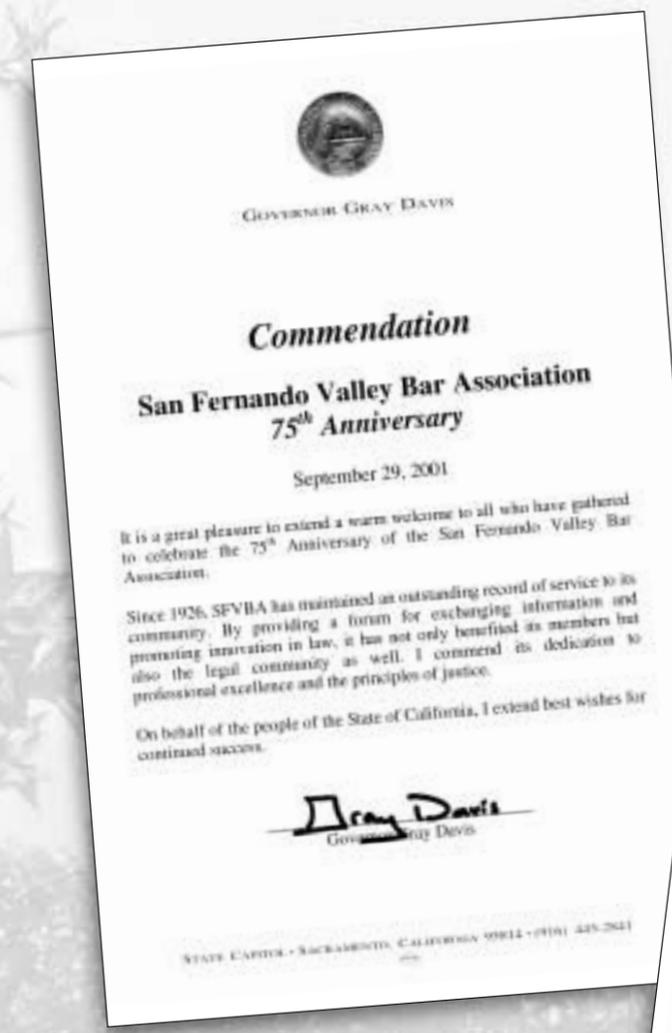
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water. A trial judge ruled that the City had the right to take from the river all the water it needed. In the Pomeroy case, the Supreme Court said the City could take the Cahuenga land by eminent domain, but allowed a retrial on whether \$25,000 was sufficient compensation.

The City went on to confirm ownership of all the river water starting at its source, from surface to bedrock L.A. v. L.A. Farm & Milling Co. (1908) 152 Cal.645, and to stop Valley land owners from pumping wells, which would slow the River's underground flow. L.A. v. Hunter (1909) 156 Cal.603. Meanwhile, the U.S. Supreme Court upheld the City's claim to the entire river, finding that ownership was for state courts to decide. L.A. Farm & Milling Co. v. L.A. (1917) 217 U.S. 217.

It became apparent that more water was needed. In 1907 work started on the L.A. Aqueduct to bring in water from the Owens River in Inyo County. That water started to flow into the Valley in 1913. In 1915 L.A. annexed the Valley, and distributed Owens River water for irrigation. The city expected this water to partly return to the ground and recycle as part of the L.A. River. Water distribution continued to expand such that in 1917 Beverly Hills tried to stop L.A. from building a pipeline under Beverly Hills streets. The Supreme Court ruled again for Los Angeles. Bev. Hills v. L.A. (1917) 175 Cal. 311. Later, L.A.'s rights to the River also prevailed over the cities of Glendale and Burbank. L.A. v. Glendale (1943) 23 Cal.2d 268.

These water rights decisions impacted not only L.A., but also water rights decisions statewide and beyond. Arizona's Supreme Court relied on the Valley water rights cases in what it called one of its most important cases ever. Maricopa Water Dist. v. Beardsley (1931) 39 Ariz. 65.

Despite a century of litigation, the water fights are not over. In the 1970s L.A. sued Burbank, Glendale, San Fernando and others, again over rights to L.A. River water. Again the Supreme Court decided competing claims in favor of L.A. but, for the first time, expressed doubts about the accuracy of the "pueblo rights" relied on earlier. L.A. v. San Fernando (1975) 14 Cal.3d 199. While the older cases continue to be cited by courts in water rights and eminent domain disputes, see, for example, San Diego Water v. Mireiter (1993) 18 C.A.4th 1808, with new doubts about "pueblo rights" and potential for new fights over water, there are sure to be more developments, and the Valley is certain to be involved.

The St. Francis Dam and Other Disasters

In 1928 the St. Francis Dam near Saugus, only two years old, broke. A rushing water wall 78 feet high created massive floods and killed more than 450 people. An inquest found the disaster was caused by formations under the dam, and despite suspicions concerning Chief Engineer William Mullholland, no criminal charges were brought.

The next year, 1929, a law was enacted for the inspection of dams. The disaster influenced the courts to uphold the law as an exercise of police power to protect people and property living below a dam. The disaster was cited as proof of the need for the police power to extend to this activity. Brent Bros v. Campbell (1929) 101 C.A. 456.

Other Valley disasters also resulted in development of the law. The 1972 Sylmar and 1994 Northridge Earthquakes led to numerous published opinions, many concerning insurance law. These include a recent ruling, involving a Woodland Hills based insurer, upholding legislation that extended the statute of limitations for earthquake claims. 20th Cent. Ins. v. Superior Ct. (2001) 90 C.A.4th 1247. The same earthquake also generated an important question about statute of limitation effects when policyholders make timely claims but adjusters do not identify all the damage. The question was certified to the California Supreme Court where it is pending. Vu v. Prudential Ins. (1999) 172 F3d 725.

Hard Rock

Southern California has two kinds of hard rock. One is music. The other is sand and gravel. Both varieties flourish in the Valley. One was the subject of a series of cases from the 1920s through the 1960s in which courts dealt with deeds and zoning that restricted mining of hard rock in the Valley.

In 1914 land in Hansen Heights, namesake of today's Hansen Dam, was sold for homes. The deeds limited use of the land to homes or farming. In 1924 land sold by Homer Hansen was leased and a rock crushing plant was built. The original seller and Hansen sued to get the land back due to violation of the deed restrictions. The trial court and court of appeal granted this relief in L.A Land & Water Co. v. Kane (1929) 96 C.A. 418, rejecting the defense that the deeds restrained trade or conflicted with the nature of the land sold.

Later, the City zoned the area as residential, and prohibited mining rock, sand or gravel. In 1946 the City Council granted J.D. Gregg a variance to let him mine the area. Residents complained but the trial and appellate courts allowed the mining activity, upholding the City's rights both to decide the area's zoning, and to grant variances. Wheeler v. Gregg (1949) 90 C.A. 348. The court was influenced by Gregg's use of modern mining techniques and operating restrictions that would avoid a nuisance.

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By the 1960s the Hansen Dam area was known widely as a haven for people with respiratory ailments. In 1962 the Supreme Court upheld a zoning restriction that stopped a company from mining there, even though their land had no value other than for mining rock, sand and gravel. Consol. Rock Prod. Co. v. L.A. (1962) 57 Cal.2d 515.

Taxing Land Matters

While some fought over uses of property, Valley land sales and development gave rise to another battle: whether profits from land sales were ordinary income, or capital gains, which were taxed at a lower rate. Results varied.

Alex Massabni sold 20 acres fronting the South side of Ventura Blvd. at Wilbur. Louis Greenspan sold acreage at Riverside Drive and Woodman, and Robert Symonds sold parcels at Laurel Canyon and Chandler, Laurel Canyon and Victory, Tampa and Vanowen, and elsewhere across the Valley. All three were ordered to treat their profits as ordinary income. Massabni (1999) 18 TCM 325; Greenspan (1952) 11 TCM 402; Symonds (1951) 10 TCM 712. The Cohn family sold 66 homes in "beautiful Glenwood" near Burbank. The Tax Court let them treat the profits as capital gains. Cohn (1953) 27 T.C. 90.

Traffic, Streets and Accidents

Another series of disputes arose in the 1930s and 1940s from widening the Cahuenga pass to let traffic flow between the Valley and Hollywood to the rest of the City. Cahuenga had been a narrow dusty road used by farmers to bring produce to the City. In 1914 it was improved with oil and gravel. Later, the Hollywood Bowl and Pilgrimage Playhouse added to the traffic. By 1932 traffic along the street reached 32,000 cars per day, making it then (as now) one of the most heavily traveled streets in the City.

In 1929 the City Council adopted a plan called "Five Fingers" to have five traffic lanes converge like the fingers of a hand, and to widen Cahuenga Avenue. To pay for the project, property owners in the area were assessed. Their challenge to the assessment was rejected. Gray v. L.A. (1930) 209 Cal.502. After the street was widened and traffic grew further, the court of appeal upheld a zoning restriction and City Council decision refusing to allow a super-service gas station on Cahuenga. Otis v. L.A. (1942) 52 C.A.2d 605.

The Valley's growth is apparent from traffic accident cases. A 1937 accident occurred at Nordhoff and Van Nuys Blvd. The driver on Nordhoff was at fault for running a stop sign. An ordinance of the City Council made Van Nuys Blvd. a "through highway." Finley v. Steiner (1940) 40 C.A.2d 331. A 1941 accident at Haskell, which was unpaved, and Lassen resulted because weeds on one side

and trees on the other side of Haskell blocked a driver's view. Driving down Haskell at 15 miles per hour, a DeSoto crashed with a Willys going east on Lassen. Zehnder v. Spaulding (1942) 53 C.A.2d 268. In 1957 a driver turning from Sepulveda onto Chatsworth Street hit a water valve that had been installed 40 years earlier, but was obscured by weeds. Beyer v. L.A. (1964) 229 C.A.2d 378.

In a case precursing today's televised chases, a pick-up going one way, hit a car going the other on Van Owen. The pick-up kept going. The car driver got out, and into another car to chase the pick-up; then forced the pick-up to pull over. The car driver got out, and put his foot on the pick-up's running board while trying to write the license plate. Suddenly, the pick-up driver stepped on the gas. The other man jumped into the back of the truck. The pick-up increased its speed, rounded a corner and hit a pole. The man in the back of the pick-up spent two months at Birmingham Veteran's Hospital. The pick-up driver, found to be drunk, was held liable. His defense, that the victim was a "guest" in the back of the truck, therefore ineligible to recover under a statute in effect at the time, was rejected. Leatherbury v. Favel (1951) 106 C.A.2d 112.

San Fernando Valley Chamber of Commerce

Today many Valley communities have local Chambers of Commerce, and a group of them has formed the United Chambers of Commerce. In the 1950s a series of published decisions involved the so called "San Fernando Valley Chamber of Commerce." Was there a litigious Valley-wide Chamber of Commerce? There was not.

The so-called "San Fernando Valley Chamber of Commerce" was a private land development company, operated by an individual attorney, who was later suspended from practice. In one case, the corporation made a loan, in exchange for a trust deed, and succeeded in having the deed reformed to identify more valuable property that had been promised as security. SFV Ch. of Commerce v. Thomas (1954) 123 C.A.2d 348. Earlier, the corporation helped sell some properties and was sued by the buyer. After winning the suit, the corporation's lawyer sued his client for attorneys fees, but lost. The court ruled he was not entitled to a fee because he was not licensed to practice during part of the time the case was pending. Hardy v. SFV Ch. of Commerce (1950) 99 C.A.2d 572.

A Range of Other Cases

In 1933 the Federal Communications Commission decided several renewals and

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transfers of licenses for Southern California radio stations. In a court challenge, the federal Court of Appeals noted that radio station KELW operated daily from 4 to 6 a.m. in Spanish which was found to be desirable to a large population in the Valley, and also broadcast a Jewish program each week. The FCC found the public interest was served by renewing the station license, and also allowed

the station to be sold to the Evening Herald Publishing Co., controlled by the Hearst interests. Don Lee Broadcasting v. FCC 76 F.2d 998.

The Valley was the focal point of an interesting trademark case in the late 1950s. The famous Pump Room Restaurant opened in Chicago in 1938. A restaurant using the same name opened in 1945 on Ventura Boulevard. The Chicago restaurant waited until 1959 to

complain. A federal court let the Valley restaurant continue operating, and granted them a 4 mile protected radius. Hotel Sherman v. Harlow (1960) 186 F. Supp. 618. Today that location is the Marrakesh restaurant in Studio City. The Chicago restaurant still operates under the original name.

In the 1950s Cold War era, Church property was tax exempt, but one requirement for the exemption was to sign a loyalty oath. People's Church of the San Fernando Valley refused to sign. The California Supreme Court upheld the oath requirement and denied the tax exemption. People's Church of SFV v. L.A. County (1957) 48 Cal.2d 899. The Valley Church joined in seeking relief in the U.S. Supreme Court which found the loyalty oath to be an unconstitutional restriction of free speech. The Supreme Court allowed the Church its exemption without the oath. First Unitarian Church v. L.A. (1958) 357 US 545.

Recent Valley Cases

The U.S. Supreme Court was asked to rule on judicial immunity after a 1989 incident at the Van Nuys courthouse. An attorney who was absent when his case was called sued after the judge ordered bailiffs to bring him to the courtroom. The Supreme court agreed there was no need to consider the merits of the Judge's action, because trial judges are immune for actions taken in their official judicial capacity. Mirales v. Waco (1991) 502 U.S. 9.

The Valley legal community was in important litigation under the federal Equal Access to Justice Act, which reached the U.S. Supreme Court in Dubose v. Pierce (1988) 487 U.S. 1229. The case concerned financial aid to low income housing owners. Federal law required the government to provide assistance, but the Dept. of Housing and Urban Development refused. Federal law also allows plaintiffs to receive attorneys fees when they must sue for government actions that are not justified. The Supreme Court found HUD's refusal to pay housing subsidies was unjustified. San Fernando Valley Neighborhood Legal Services, as a party that helped recover these subsidies, was found to be entitled to recover attorneys fees as well. 857 F.2d 889 (1988).

In 1987 a Tarzana theater was the plaintiff in a significant antitrust case. Movies of Tarzana v. Pacific Theaters (1987) 828 F.2d 1395. Movies of Tarzana operated a six screen theater on Ventura Blvd. in Tarzana. In the case, the federal court of appeals upheld the system in which distributors grant exclusive rights to particular theater chains to show first run movies.

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MESSAGE FROM LRIS COORDINATOR

MICHELLE C. MORLEY

The Legal Aid Association of the San Fernando Valley Bar Association had its beginning in 1948. The purpose of the program was to provide legal assistance to those persons of the Valley unable to pay for needed legal services. This program evolved into the present Lawyer Referral & Information Service. In 1966 when the first offices of Neighborhood Legal Services opened in the Valley, the Legal Aid Association worked closely with NLS in referring various types of cases between the organizations. This tradition of cooperation to provide legal assistance to all economic levels continues to the present day.

In 2001, two members of the San Fernando Valley Bar Association have been nominated for the prestigious San Fernando Award. This award recognizes those who have contributed to the Valley's communities and charities. One nominee is Robert Scott who is a past recipient of the SFVBA Stanley Lintz Award. The other is William Powers who is also a member of the LRIS. Recently I spoke with Bill about his philosophy and history of public service. Reluctantly he gave me a copy of his "record of achievements" that he was required to submit to the San Fernando Award committee. This is a 14-page list and it is hard to imagine that anyone can find the time to give so much and still have a successful law practice. However, Mr. Powers made it clear that he feels that what he is doing is not unique and that he knows many attorneys who contribute daily their time and expertise to their communities and to those who come to them.

If you ask Bill what is his least favorite word, he would probably reply "whatever." He despairs that this word that is heard so often reflects the hopelessness that too many young people feel. However, if you give to your community, neighborhood, and others you will become full of satisfaction and expectation. At age seven, his oldest son became seriously ill. Because a caring nurse at UCLA Pediatric Hospital bent some rules, his son was admitted and cured. His giving of time and lawyerly expertise to those in need came from the memory that his family had been the beneficiaries of someone's kindness.

However, his family prepared and mentored him for public service. His two grandfathers and his father were attorneys who quietly but continually gave to others. Bill's sons have both taken up the causes of public service. You have a clear sense that Bill is most proud of the fact that he was able to continue the family tradition of public service and to pass on this satisfying joy to his sons and to his first grandchild that is about to be born.

With SFVBA and LRIS members like Bill Powers and Bob Scott teaching, we can be hopeful that our legal profession will nurture a legacy of service. (By the way, ask Bill to tell you the story about his beloved grandmother's early example of helping others.)



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SFVBA MEMBERSHIP HAS ITS PRIVILEGES!

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San Fernando Valley Bar Association

The SFVBA too has begun to have a more direct impact on development of the law. The SFVBA filed an amicus brief on behalf of the State Bar in *Warden v. State Bar* (1999) 21 Cal.4th 628. The SFVBA joined in and urged views that were accepted by the Supreme Court in upholding the State Bar's continuing education requirement for lawyers.

A 1977 Supreme Court decision involved the State Bar's effort to discipline lawyers for referring to themselves as a "Legal Clinic" and contacting the media to promote their law practice. One of the "clinics" was in Van Nuys, and the attorneys' advertising compared their fees to the SFVBA's 1970-1971 minimum fee schedule. (The legal clinic advertised prices much lower than the Association's fee schedule.) The Supreme Court endorsed competition, and ruled that the lawyers could not be disciplined because the First Amendment protected their activity. *Jacoby v. State Bar* (1977) 19 Cal.3d 359.

In the recent case of *U.S. v. Bajakajian* (1998) 524 U.S. 321, the U.S. Supreme Court ruled that a forfeiture of over \$350,000 by an individual who failed to disclose he was carrying over \$10,000 out of the country, violated the excessive fines clause of the Constitution. The case was argued and won by SFVBA member James Blatt.

Justice Armand Arabian

Perhaps the Valley's greatest recent contribution to the law is Justice Armand Arabian. Now a private judge and mediator, our own Justice Arabian served as a Justice of the California Supreme Court from 1990 to 1996. Before then he was a Justice of the State Court of Appeal, and a trial judge in Van Nuys. Justice Arabian authored 104 majority opinions on the Supreme Court and 86 majority opinions on the Court of Appeal.

While serving in Van Nuys, then Judge Arabian made a courageous decision in a brutal rape case, refusing a jury instruction that had been

unquestioned law since the 17th century. The instruction told all juries that rape was a charge easily made and hard to defend. As the Supreme Court noted, Judge Arabian was of the opinion that this once unimpeachable rule of law could not appropriately be applied to this case, because it was so demeaning to the victim. Judge Arabian's courage on the trial bench led the Supreme Court to change the 300 year practice of telling juries to distrust any woman's claim of rape. *People v. Rincon-Pineda* (1975) 14 Cal.3d 864. Since then many other jurisdictions have also abolished the instruction.

Conclusion

Today, the San Fernando Valley's 250 square miles include a population of 1 1/2 million, and an economy that would be the sixth largest city in the nation. The Valley now has six courthouses, including a federal bankruptcy court and the soon to open Chatsworth court. Together with the San Fernando Valley Bar Association and San Fernando Valley College of Law, founded in 1962, the Valley is an active center of law, that will continue to add to the growth and development of the law in this State, and beyond. 📌

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Topic: Elder Abuse Litigation
Speaker: Bonnie Marie Bursk, Esq.
Time: 12:00 noon
Place: Radisson Hotel, Sherman Oaks
Cost: \$25 members prepaid; \$30 at the door
\$30 non-members prepaid; \$35 at the door
MCLE: 1 hour

Board of Trustees and Executive Committee Meetings

Time: 4:30 p.m.
Place: SFVBA Conference Center, Woodland Hills

OCTOBER 17 - WEDNESDAY

Workers' Compensation Section

Topic: *Voc Rehab Feasibility: New Rules*
Speakers: James L. Hardesty and Joanne Ruschinskis
Time: 12:00 Noon
Place: SFVBA Conference Center, Woodland Hills
Cost: \$5 members prepaid; \$10 at the door
\$10 non-members prepaid; \$15 at the door
MCLE: 1 hour

OCTOBER 18 - THURSDAY

Litigation Section

Topic: *So You Won – How Do You Get the Money? Collecting Money Judgments*
Speaker: Fred Charness, Esq.
Time: 6:00 p.m.
Place: SFVBA Conference Center, Woodland Hills
Cost: \$25 members prepaid; \$30 at the door
\$30 non-members prepaid; \$35 at the door
MCLE: 1 hour

OCTOBER 22 - MONDAY

Family Law Section

Topic: Tax Issues in Regard to Family Law
Speakers: Mike Krycler, C.P.A. and Don Miod, C.P.A.
Time: 5:30 p.m.
Place: Encino Glen Restaurant, Encino
Cost: \$35 members prepaid; \$40 at the door
\$40 non-members prepaid; \$45 at the door
MCLE: 1 hour

OCTOBER 23 - TUESDAY

Executive Committee Meeting

Time: 7:30 a.m.
Place: Coco's Restaurant, Woodland Hills

OCTOBER 25 - THURSDAY

Intellectual Property & Internet Law Section

Topic: Halloween Mixer
Great networking opportunity! All SFVBA members are welcome. Ghostly Goodies and Witches Brew, Free Appetizers....
Time: 6 p.m. – 8 p.m.
Place: BJ's Brewery, Woodland Hills
Cost: Free!



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