



# BarNotes

A Publication of the  
San Fernando Valley Bar Association

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BY LISA MILLER, EDITOR

## AND THE NOMINEES ARE . . . BAR NOMINATES NEW BOARD, OFFICERS FOR 2006-2007

San Fernando Valley Bar Association stalwarts rose to the challenge yet again, submitting their names to fill Board and Officer positions for the coming Bar year. As always, these hardy volunteers have committed to hard work, inspiring leadership, and a deep sense of satisfaction.

The Nominating Committee on June 1 announced its new slate for the Bar Board of Trustees. Robert Flagg was nominated for Treasurer, which is traditionally the first rung of the officer ladder that leads to the Presidency of the organization. Flagg pledges to uphold and defend the Bar's charter and exert fiscal responsibility and restraint on behalf of all dues-paying members.

Flagg has worked effectively in Bar leadership positions. He has been a member of the Board of Trustees since 2001 and currently co-chairs the SFVBA Litigation Section and the Bar's Programs Committee. He is a former Chair of the San Fernando Valley Bench-Bar Committee.

Flagg, of Los Angeles' Early, Maslach & Rudnicki, in-house counsel for Farmers Insurance, earned his law degree from Humphrey's College School of Law, located in Stockton. He was admitted to practice in California in 1981.

Previous Treasurer Tamila Jensen has been slotted unopposed for the position of Secretary.

"I'm looking forward to a busy and productive year helping lead the San Fernando Valley Bar," Jensen said.

Patricia McCabe moves from President-Elect to the position of President. She has served in numerous leadership capacities over the last few years and says she is looking forward to running the organization.

"We push so many worthy projects forward each year," McCabe said. "I find it so rewarding to be at the helm of an organization that makes such a big difference in the Valley community."

McCabe says she is eager to work with the new President-Elect, also running unopposed, Sue Bendavid-Arbiv. Bendavid-Arbiv is a well-known employment specialist based in Encino. Bendavid-Arbiv will automatically assume the Presidency in 2007-2008.

The Committee nominated ten candidates to fill six open seats on the Board: Chancela Al-Mansour, Jonathan Arnold, Ronald Gold, Wendy Hartmann, Jonathan Hayes, Jack Hull, Steven G. Mehta, Everett Meiners, Robert Schaap and Jan Frankel Schau.

Immediate Past President Alice Salvo, who chaired the meeting, had heaps of praise for the new slate. "This is the most dynamic and forward-thinking group of members I've seen on a single slate," she said. "These members bring a wealth of diversity and wisdom to the process. I can't wait to see the new year unfold."

Bar by-laws allow additional nominations for trustee or any office, except President or President-Elect. These additional nominations can be submitted by filing with the Bar Secretary a written nomination, signed by at least twenty active members in good standing with the Bar. Petitions must be received by July 25.

The Bar will mail ballots to all attorney members in mid-August. The results of the election will be announced September 9. The new Board of Trustees will be sworn in at the Installation Gala on September 30, 2006 at the Woodland Hills Country Club. ♣

**SAVE THE DATE!**  
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Saturday, September 30, 2006



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## A Beacon of Liberty July 4th Celebrations Implicate the Past and Look to the Future

RICHARD A. LEWIS, SFVBA PRESIDENT



On July 4th, we will observe the birth of our nation and honor the ideals enshrined in our Declaration of Independence: That all men (and women) are created equal, and that they are endowed by their Creator with the inalienable rights of Life, Liberty and the pursuit of Happiness. On that day in 1776, the Second Continental Congress unanimously adopted the Declaration of Independence. Generally, on July 4, we fly our flags, shoot firecrackers, and take part in grand and glorious parades to commemorate this great occasion.

For those of us in the twilight of our lives and whose memories are still clear, we may sing the songs of George M. Cohan, born on July 3, 1878 in Providence, Rhode Island. This gifted composer wrote "You're a Grand Old Flag," and "Yankee Doodle Boy." His life is immortalized by James Cagney in the theatrical movie "I'm a Yankee Doodle Dandy." But I hope that we reflect more deeply on the significance of the actions of John Hancock, John and Samuel Adams, Benjamin Franklin, Thomas Jefferson, and the others who pledged to each other their lives, their fortunes and their sacred honor.

Not only did our forebears, in the words of the Declaration, "dissolve the political bands" that connected them with England and assumed "among the powers of earth, the separate and equal station to which the Laws of Nature and of Nature's God entitled them." On that fateful day in 1776, they created a government founded on the radical notion of the sovereignty of the people and the dignity of the individual.

As then Governor Calvin Coolidge stated in a Fourth of July address, "[W]e revere that day because it marks the beginning of independence, the beginning of a constitution that was finally to give universal freedom and equality to all American citizens - - the beginnings of a government that was to recognize beyond all others the power and worth and dignity of man (and woman)."

As I read Coolidge's words, I am reminded of a passage in Aristotle's Politics, "If liberty and equality, as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost." The

*continued on page 8*

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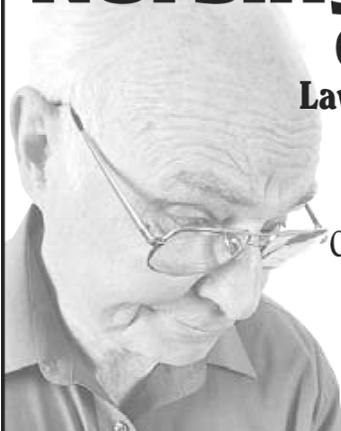
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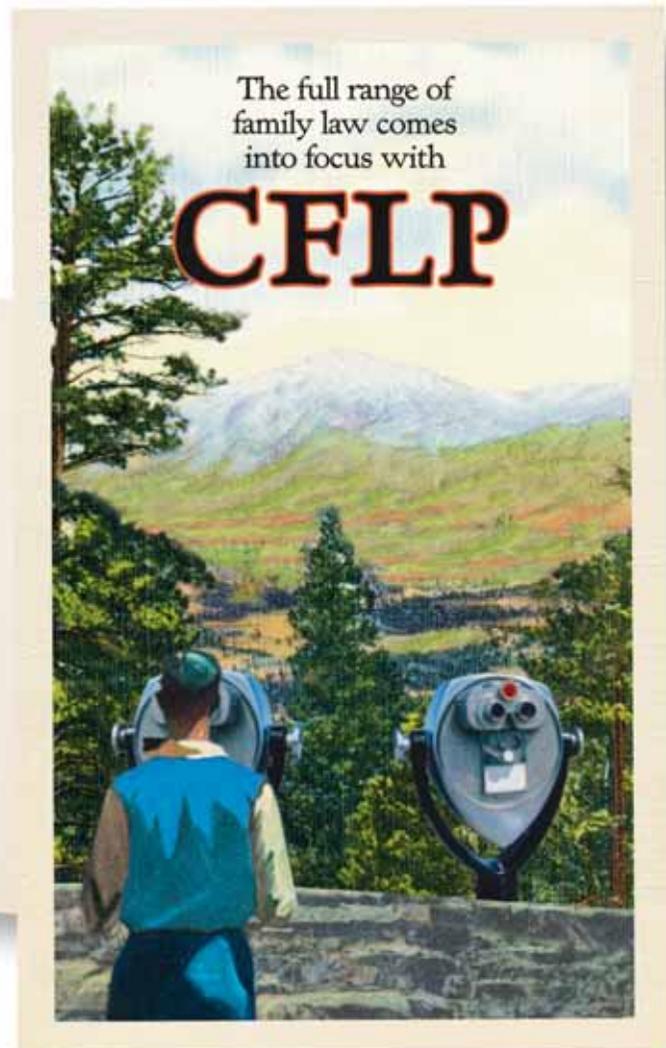
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## Keep It Up! LRIS Makes Long-Term Commitment to Helping Member Lawyers

MICHELE C. MORLEY, ASSOCIATE EXECUTIVE DIRECTOR FOR PUBLIC SERVICE



Do you have a friend from grade school, high school, or college that is still a best friend? One great aspect of these long-time relationships is shared history. Because of your shared experiences and broad knowledge of each other, very often, you do not have to repeat or explain yourself. Your long-time friend knows and trusts you.

Many attorneys who are members of the San Fernando Valley Bar Association Lawyer Referral & Information Service share this long-time relationship with the LRIS. But whether you've been a member since 1972 or only since yesterday, we immediately begin creating a long-time relationship. The personal interviews I conduct with new members help to establish the beginnings of this long-time relationship. The new LRIS attorneys and our staff are soon sharing experiences with referral clients and their unique cases or personalities.

Because of this shared history, if I receive a complaint, I know from experience how an attorney usually practices and treats clients. I will know if I have ever received another complaint about this attorney or if the attorney is receiving glowing reviews in the client surveys. Because we have a history of working together, I know nuances of your areas of practice. I know your support staff and how they conduct themselves. I know your flexibility in accepting cases. I know something about whether you accept credit cards or payment schedules. In an effort to learn even more about you, panel members will soon be receiving a form to update areas of practice.

Recently one of our long-time criminal and family law attorneys and I were visiting. I learned that he was not on panels with which he could have been listed, based on his type of practice and qualifications, I immediately put him on the additional panels.

I also frequently change the panel memberships based upon an attorney changing practice focus. We want to know as much as possible about the types of cases you will consider so we can give you the best opportunity to be referred.

I asked an attorney about his renewing and if he would like to give me a quote to use in this article. His response:

### **Why Do I Renew my LRIS Membership?**

*I sit in my office and wait and wait  
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*I do not want my practice to get borely  
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Attorney and Poet Arvand Naderi

Your membership renewal will be sent shortly. I am looking forward to continuing our partnership and writing more history! 🐾

## IN MEMORIAM

Four long-time and active members of the San Fernando Valley Bar Association passed away over recent months.

Well-known, respected and popular family law attorney, **Paula Gavin**, CFLS, passed away April 22, 2006, after having fought a tenacious battle over several years against cancer.

According to colleague Hugh Lipton, who shared an office with Paula for thirty years, "Paula's expert abilities, along with her acerbic but admired wit, is now lost forever, but will never be forgotten."

**Fred Safko** passed away suddenly on April 10, 2006. Fred became a member of the San Fernando Valley Bar Association in 1978 and immediately joined the LRIS Family Law panel. Long-time friend and San Fernando Valley College of Law classmate Jeff Slater reminisced, "Fred took great pride in the law practice he had built up over the years, but his greatest pride and joy was his family."

"Fred loved watching his 13-year-old son Sean grow into a young man and was a hands-on dad in every way possible."

**Charles "Chuck" Alpert** passed away on December 27, 2005, after a short and courageous battle with cancer. Chuck practiced law in the San Fernando Valley for twenty-nine years and hosted a weekly radio program called "Chuck Alpert and the Law" for over 15 years on KIEV radio. According to his obituary, Chuck was one of the original "consumer advocates" who always greeted his clients with a sympathetic ear. His charm and sense of humor often made his legal advice more like a healthy dose of fatherly advice.

**Jerry Freeman** died at age 64 on April 30, 2006 after a short battle with kidney cancer. He was a veteran attorney who amassed extensive experience in all facets of family law.

Jerry applied his experience and legal expertise on behalf of the court system, serving as a Judge Pro Tem, Mediator and Arbitrator for the Los Angeles Superior Court. He also donated his time to the Free Clinic of Simi Valley. For his service, Jerry received numerous awards of merit and appreciation from the State Bar of California and the Court. He will be remembered for this good name and his good nature.

SFVBA members should consider a donation to the **Valley Community Legal Foundation of the SFVBA** in memory of your colleagues.

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# Coach's Corner

## But How Much Will It Cost Me?

### Budgeting an Engagement Requires Collaboration with the Client



BY EDWARD POLL

Effective preparation of an engagement agreement is crucial to avoiding future disagreements with a client over payment. A clear and specific budget is central to a good engagement agreement. Budgets are synonymous with planning, and any lawyer's business clients should welcome, and pay for, a budget before starting a new matter.

Budgeting begins by getting as much information as possible from the client about goals and expectations. Information should cover parties, claims, anticipated strategies and desired outcomes.

"Winning" may not be one of them. A client may wish to delay the final outcome for political or financial reasons, believing that a continued threat of litigation may bring a negotiated resolution. Understanding the client's objectives is the foundation of a budget.

The key here is not just preparing the budget, but involving the client in the preparation. The client should also formally approve the final budget. Without client buy-in, the process is meaningless. And this client assent minimizes difficulty in securing payment at the end of a matter.

Budgeting counsel's representation does not mandate a fixed fee. A budget can only be an estimate of what's going to happen. The budget document should be periodically reviewed, with the client again approving any necessary changes. Clients should also receive ongoing information of how much they have already invested in the litigation, negotiation or transaction.

The budgeting process, including all subsequent communication, must be a collaborative effort. If the client and the lawyer behave as mistrustful adversaries,

the representation will likely be unsuccessful and counsel can expect difficulty in collecting the fee. Collaboration means communication. Because lawyer and client each have unique information at any given time, both must advance the process together. Honesty, openness and candor right from the start will make the entire representation easier and more successful.

An assistant general counsel for a major multinational corporation gives this excellent example of how the process should work:

"By creating a budget, my company saved close to a half-million dollars in one litigation, not by negotiating a reduction in the hourly rates of outside counsel, but simply by deciding during the budgeting process to eliminate things the law firm might otherwise have done," she said.

For example, the law firm suggested taking 30 depositions. But the general counsel reviewed the proposed individuals and decided that only 19 could provide useful information. The law firm expressed a concern over being accused of negligence or malpractice if one of the canceled depositions proved to be a key information source.

"We are in the business of taking reasonable risks," she said. "If we agree on what should be and what need not be done and something goes wrong later, that's our responsibility, not yours."

The agreement meant lower costs and a successful engagement, a win-win situation by anyone's definition. 🐘

*Ed Poll is a coach, consultant, author and speaker. He can be reached at [edpoll@lawbiz.com](mailto:edpoll@lawbiz.com) or (800) 837-5880.*

Business Law, Real Property & Bankruptcy Section

**Topic:** How to Form a Corporation

**Speaker:** Bill Staley, Esq.

**Date:** July 26

**Time:** 12:00 noon

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## *President's Message, continued from page 3*

conundrum we as a nation have faced, and continue to face, in living up to this ancient truth, is determining what is meant by the expression "all persons alike."

On July 28, 1868, this nation ratified the Fourteenth Amendment, granting former slaves the right of citizenship. As a nation, we decided that those slaves and their children born in this county should be considered part of "all persons alike," and share in the government to the utmost.

On July 20, 1848, at the Seneca Fall Convention, which launched the woman's right movement in the United States, Lucretia Mott, Elizabeth Cady Stanton and the other participants issued their Declaration of Sentiments and Grievances. This document called for the extension of basic civil rights to women, including the right to vote and own property. In essence, Mott and Stanton called for women to be included in the idea of "all persons alike."

Now, we seem to be faced with the same issue again as we debate what we as a nation should do about the millions of persons living and working in our county, as well as their offspring, who most often are born here and qualify for citizenship under the Fourteenth Amendment. Are they part of the "all persons alike?" Should they be allowed to participate in government to the utmost through the right of citizenship?

To "share alike in the government to the utmost" requires that we insure that those who are affected by government have the opportunity to participate in our electoral process. And they must have the vital information necessary to make informed decisions about the multitude of issues that confront them. For that reason, I look forward to the Bi-Annual Public Interest Forums.

The San Fernando Valley Bar Association has established and sponsors the events in partnership with California State University Northridge. These discussions insure that those in our community have the opportunity to "share alike in the government to the utmost."

Our first Forum, scheduled for September 2006, addresses "Privacy Rights in the Internet Age." This topic is of immediate concern in view of the controversy over the surveillance programs of the National Security Agency and the increasing incidents of identity theft. Later Forums will cover other issues that affect our members as well as the larger community. I hope that through these Forums, the Association will fulfill its goal, stated in our latest Strategic Plan, to become a beacon to our community. ✎

*Richard Lewis can be contacted at (818) 704-0585  
or [rlewis@RichardLewis.com](mailto:rlewis@RichardLewis.com).*

# Probate Notes

## Judge Michael Levanas Updates Section Members at Monthly Meeting



BY AARON D. AFTERGOOD

On May 9, 2006 the Probate & Estate Planning Section of the San Fernando Valley Bar Association welcomed Los Angeles Superior Court Judge Michael Levanas, who presides over Department 9, to offer an update from the Central District probate department. Judge Levanas is a bit new to the probate bench; his position was recently added to Departments 5 and 11 as the newest probate courtroom in the county.

Prior to his probate assignment, Judge Levanas served as a court commissioner, was a family law practitioner, and worked in the Office of the Public Defender.

Judge Levanas offered attendees a behind-the-scenes glimpse of the administration of the probate department downtown. One of the reasons for adding a new probate courtroom, he said, was to keep more of the probate trials in front of the probate judges. The Court will continue to calendar these trials for afternoons, Monday through Wednesday, and all day Thursday and Friday.

***The SFVBA Probate & Estate Planning Section meets the second Tuesday of each month at noon at the Encino Glen Restaurant. All are welcome and invited to attend.***

The Judge expressed his fondness for CourtCall procedures. However, Judge Levanas said he first hears matters on which parties have appeared in person.

Judge Levanas, who attended the University of California at San Diego and Rutgers Law School in New Jersey, emphasized his belief in learning from the attorneys who appear in his courtroom. He encouraged lawyers who practice before him not to shy away from requesting that he read or reread statutes, opinions, or other relevant documents.

He expressed his desire to continue meeting and getting to know members of the bar. He said he welcomes attorneys to stop by his chambers.

Judge Levanas opened the floor for questions and comments regarding administration of his courtroom and the probate department overall. Attendees raised topics ranging from ex parte filing procedures through a proposed volunteer mediation program. 🏠

*Aaron D. Aftergood is an associate with Encino's Oldman, Cooley, Sallus, Gold, Birnberg & Coleman. He can be contacted at (818) 986-8080 and aftergood@ocslaw.com.*

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# Report From the Foundation

A Year of Generosity, a Year of Helping

Generous Donations Keep Many Projects Moving Forward

ANNE ADAMS, VCLF PRESIDENT



It has been my pleasure to serve as President for the Foundation for the last two years. Thank you to everyone who has contributed to the Foundation's success. By contributing to the Foundation, you're making a difference in our community. We have provided approximately \$100,000 to the community through grants and scholarships over the last two years due to the support of the San Fernando Valley Bar Association members and the support of our Board.

This year the Foundation provided \$48,000 in law-related grants and scholarships to assist members of the local community, in addition to our work with the Children's Waiting Room. We gave seven grants to programs that assist families, especially children and domestic violence victims this year. We hope you will be generous in your donation to the Foundation when you pay your Bar dues. These donations allow us to continue our work in the community.

The Foundation screens grant applicants to ensure that they have programs that are worthy, law-related projects that assist residents in the San Fernando Valley. When you contribute to the Foundation, you are helping people in the Valley.

We are continuing to fund the Court Advocacy Program at Haven Hills, a project we began in 2002. This program covers the cost of legal advocates who go to the court with domestic violence victims to help obtain restraining orders. Many victims are afraid to go to court without the assistance of an advocate, who helps create a sense of security throughout the legal process and often helps with language difficulties.

Many battered women do not seek restraining orders because they cannot pay for babysitting and transportation costs so they can go to court. The Domestic Abuse Center received funds to assist domestic violence victims with transportation and babysitting costs so they can go to the domestic violence clinics and court hearings to obtain restraining orders.

We are providing funding to the Alliance for Children's Rights for their Emancipated Foster Youth Project. This program will assist youth who are leaving the foster care system. This grant will help fund presentations to foster care youth prior to emancipation to help them access medical care benefits and other services as they transition into adulthood.

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We are also assisting children through the K.E.N. Project, which helps families with children who have disabilities. The project provides training to parents to help them understand the laws regarding access to services for children with disabilities so they can obtain services for their own children.

Our grant to the San Fernando Valley Drug Court Program will help fund services to members of the community in the drug court program. This program provides an alternative to traditional methods of handling members of the community who are arrested and sent to court for drug-related activities. The goal of the program is to help participants become drug-free, enabling them to make significant changes in their lives so they become productive citizens.

The students at Los Angeles Valley College will use their grant funds to continue to hold question-and-answer sessions with local attorneys on campus a few times a year. The topics are consumer-related, such as immigration law, criminal law, family law, bankruptcy, and landlord-tenant law.

One of our new projects, the Family Law Facilitator's Office at the San Fernando Court, is receiving funds to provide family law workshops for community members that are representing themselves in court.

Thank you again for all of your support for these many worthy projects. ✎

Anne Adams can be contacted at (818) 715-0015 or [AnneAdamsLaw@sbcglobal.net](mailto:AnneAdamsLaw@sbcglobal.net).

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## Why the Heck am I paying \$20 to the Foundation?

BY CHRISTINE C. LYDEN, SFVBA PAST PRESIDENT  
AND VCLF DIRECTOR

This was the question I asked myself every year when I received my annual SFVBA dues notice. Being a sole practitioner and cautious of every penny I spent, I routinely eliminated the \$20 from my dues payment. I would do so without ever questioning what the Foundation did and how they spent the money.

Now, through my involvement with both the Bar and the Valley Community Legal Foundation, I have a pang of guilt about so cavalierly crossing out the \$20 donation. Clearly, there are many reasons why members of the San Fernando Bar Association should make a yearly \$20 donation to the Foundation.

**First**, the VCLF supports very worthwhile projects in the San Fernando Valley and is looking to outreach to other organizations. As Anne reported in her column, the VCLF awarded \$48,000 in grants and scholarships this year to organizations such as the Alliance for Children's Rights, Haven Hills, KEN, and the Domestic Abuse Center, among others.

**Second**, the work of the Foundation enhances the image of the SFVBA and our members. We are committed to assisting families and children gain access to justice. In doing so, we hope to shed light on the work of dedicated volunteer attorneys and staff members of the programs we support.

**Third**, the VCLF has no paid staff. VCLF is completely managed by volunteers. Your donation will go directly to support our grants and scholarships. None of your donation is used for staff, rent or overhead.

**Fourth**, our support from Bar members is dwindling. Last year we received approximately 25% fewer donations from Bar members than we had in the past. Furthermore, less than half of Bar members make donations to the Foundation.

**Lastly**, if every member of the SFVBA made a \$20 donation to the Foundation we would be able to double the number of grants and scholarships. Every donation we receive counts!

You will be receiving your dues notices in the mail this month. Please consider making a donation to the Foundation. All we ask is \$20 a year, less than \$2 a month to support our community-based projects. Please do your part and support the Valley Community Legal Foundation of the SFVBA! ✎



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# The Long and the Short Story

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I hope everyone is having a great summer!

Several months ago, I wrote an article complaining of an insulting lawyer "joke" told in my presence. Notwithstanding that, at the end of the same article, I mentioned I had a good lawyer-story, which I would share at a later time.

Many people have asked me about that story. It's a tale I recount whenever I hear someone tell an insulting lawyer joke. Here goes:

A kid walks into a large, prestigious downtown bank. He's dressed in jeans, t-shirt and tennis shoes. His hair is long, almost to his shoulders. He approaches the man at the loan desk.

"I'd like to make a loan," the kid says.

The very proper-looking man behind the desk peers disapprovingly over the top of his eye-glasses.

"Do you realize where you are?" the banker asks.

"Yes," the young man replies.

"Then you must know that we require references and substantial collateral before we would transact any business with anyone," the loan officer says.

"I have the references and I have the collateral," the kid says. "I have to make this loan."

"How much do you want to borrow?" the man behind the desk asks.

"I need a \$100 for thirty days," the kid replies.

"Well, this is all the more reason for not making this loan," the loan officer says. "Our minimum fee is \$25, and that alone would add up to a 25 percent financing fee over just thirty days, which would not be a good decision on your part. Can't you borrow this money from your parents, or perhaps you can go to a finance company?"

"No. I don't want to go anywhere else," the kid answers. "Here's my driver's license that shows I am who I

say I am, and here's the registration and pink slip to my new Ferrari, parked at the curb. I have to make this loan."

The loan officer, now fearing some sort of a discrimination lawsuit, feels forced to complete the transaction, despite the bizarre circumstances. Later, while talking to the president of the bank, the loan officer is severely criticized.

"How could you have done such a thing?" the bank president, who is of the founding family of the bank, and an extremely influential social and political figure in the community, angrily asks his employee. "I want the title to that vehicle checked out, and I want you to put a guard on it around the clock. When that kid comes back, if he does come back, I don't care where I am, I want to meet with this person who caused you to do such a reckless thing."

Thirty days later, the kid walks back into the bank, only this time he has on a three piece business suit, with a Phi Beta Kappa key hanging on the vest. He puts down his \$125, and some additional fees, and is immediately told that the president of the bank wants to meet him for lunch, but needs to helicopter in from New Jersey. The young man takes the elevator to the skyscraper's top floor executive boardroom. There, he sees at least \$500 of fancy food on the conference table and at least \$300 worth of wine. As he sits across the table from this renowned president of the bank, he finds himself lectured by the man.

"Why did you do such a bizarre and provocative thing?" the bank president demands. "You had everyone around

*continued on page 20*

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## Who Are You?

And More Importantly, Why Are You Claiming To Be Me?

Identity Theft Prevention is the Key to Protection

BY MICHAEL HACKMAN AND MOLLY BABCOCK-MARCUS



The client comes home from work, open the day's mail and find a credit card statement showing thousands of dollars in charges for items the client never purchased from places the client has never been. Someone out there knows the client's name, address, perhaps Social Security number, credit card information, and/or bank account numbers. Someone is posing as the client and running up outrageous bills, possibly committing crimes, and the client is going to be left with the financial, emotional and legal aftermath.

For an estimated 10 million Americans whose identities were pirated in 2004, it's very real. Victims of identity theft are likely to face long hours (and sometimes years) closing tarnished accounts and opening new ones, repairing credit records, and other-wise cleaning up the damage. They also may find themselves being denied loans, jobs and other opportunities because an identity thief ruined their credit and reputation.

Today assuming another's identity is astonishingly easy - so easy that the FBI and Interpol state that identity theft is the fastest growing crime throughout the world.

### What is Identity Theft?

This broad term includes numerous privacy crimes, including theft of a Social Security number, the cloning of a credit card, debit card, or cell phone, or opening a new account. A Federal Trade Commission official gave a comprehensive definition, calling identity theft "stealing another person's name, address, Social Security number, or other identifying information in order to commit a crime."

One type of identity theft involves actually taking over an existing account. As a practical matter, account takeovers are less of a threat to a victim's finances than other types of identity theft because the harm is usually discovered when the victim receives the first monthly statement from the bank or credit card company and (if they review their statement carefully) the damage is limited to less than two months, and liability to no more than fifty dollars on a credit card.

More frightening to the consumer is the kind of identity theft that frequently cannot be detected until after the victim's credit has been severely damaged. It is known as "true name" fraud. The thief uses the victim's name to open a new bank account, obtain a new credit card or take out a loan for a big-ticket item. The thief re-routes the statements to a new but reasonable address to avoid tipping off the lenders and the accountholder. Victims of true name fraud are for a time oblivious to the theft because the monthly statements are going to another address.

According to Javelin Strategy & Research's *2005 Identity Fraud Survey Report*, address changes are among the top three fraud devices used by identity thieves, and account for almost 10 percent of successful fraud attempts. Victims usually discover the theft when they are turned down for a loan, or begin to receive calls from unknown creditors demanding payment for items they didn't purchase, or in some cases, are actually sued. FTC statistics (*National*

*continued on page 16*

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# Judicial Profile: Judge Michael R. Hoff

## From Beat to Bench Prominent Jurist Moves from Police Officer to Attorney to Judge



BY M. JONATHAN HAYES

Judge Michael R. Hoff has been the Supervising Judge of the Northwest District since early 2005. The Northwest District includes the civil courts at the Van Nuys Courthouse West and the criminal courts at Van Nuys Courthouse East, where Hoff was the Supervising Judge for two, two-year terms.

Judge Hoff oversees the activities of some 38 judges and commissioners. Judge Leslie Dunn provides support by overseeing the criminal division.

"I really rely on Judge Dunn to take care of the criminal matters," Hoff, who spent twenty years as a police officer, nearly twenty more years on the bench, and several years as a practicing attorney in between, says.

Judge Hoff's typical day includes meeting with the prospective jurors each morning. He recently moved the check-in time for prospective jurors from 8:30 a.m. to 9:30 am to make reporting easier for the public.

"Most of the courts do not need jurors until later anyway, and with traffic getting worse, I thought it was more convenient for jurors to come in a little later in the morning," he said. "If a court really needs a panel at 8:30 a.m., we just change the voicemail message the day before, so it's no problem."

Besides the administrative work, Judge Hoff conducts a regular calendar of small claims appeals, labor board appeals and probate matters.

"The judges do lots and lots of trials here," he says. "Three arraignment courts run five days a week."

Judge Hoff has a unique viewpoint as to the overall state of affairs of the Van Nuys courts.

"We could use a few more judges, both in the civil and criminal courts, especially in the criminal area," he says. "The number of cases and the severity of the crimes have increased in the past few years."

And Hoff has some ideas about what is the hardest part of being a judge.

"Isolation is the biggest downside," he said. "You have to make some pretty tough decisions by yourself. In a law firm you have associates to brainstorm with, friends to discuss things with over a beer."

To illustrate, he said he has presided over a number of capital crime cases, sometimes resulting in the death penalty and sometimes not.

"Capital cases take their toll on you," he said. "You really want to make sure everything is done appropriately and correctly.

A person's life, in fact many lives, depend on you doing your job. Everything you say and do will be reviewed by a court of appeals."

*"We need to focus on mediation. If every case went to trial, we would not be able to handle the load. In mediation, both sides win."*



In his new role handling the probate calendar, Judge Hoff was recently asked to issue a Do Not Resuscitate order.

"It was really profound to me," he said. "I knew that if I approved the request, death was likely in a short period of time; no appellate procedure, no review. I really thought about it, listened and ruled. That is my job."

He noted that the attorney who made the request called chambers a few days later and let the court know that the conservatee had died.

"I really appreciated the courtesy of the call," Hoff said.

Judge Hoff, who earned his degree from LaSalle Correspondence Law School, while rising to Captain III with the Los Angeles Police Department, has considerable praise for attorneys in general.

"One of my last cases in the criminal department was a homicide trial. The proceeding was a thing of beauty: two very competent counsel, two or three objections in the whole trial, everything

*continued on page 20*

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*Who are you, continued from page 14*

and *State Trends in Fraud & Identity Theft, January-December 2004*) show the average time between the beginning of criminal activity and discovery is about fifteen months, which is enough time for a criminal to destroy the victim's credit and turn their life upside down.

In a third type of fraud, known as "identity cloning," the imposter uses the victim's information to establish a new life. He or she actually lives and works as the victim. Felons, undocumented immigrants, and people who do not want to be tracked favor this type of scheme. If the thief is arrested and provides a victim's personal information to law enforcement, the victim may have a criminal record or outstanding warrant without realizing it. According to

one survey, clearing up the damage caused by identity cloning takes, on average, seven years, and often a victim never regains financial health.

#### **Role of the Internet**

The opportunities provided by the Internet have transformed many legitimate business activities, augmenting the speed and range with which transactions are conducted, while also lowering many of the costs. Consumers are banking, shopping, accessing their offices remotely, and engaging every type of online activity. They've grown accustomed to the digitalization that facilitates everyday transactions. Yet, along with its obvious economic benefits, the Internet has created

enormous opportunities for economic offenders. As more information and transactions are undertaken in digital format, more sources of information are available for thieves to exploit. It has never been easier or more profitable for thieves to access and use personal information. Operating from the privacy of their home or office through the anonymity of the Internet, cyber-criminals enjoy minimal risk of detection. They have found an open range where they can exploit the carelessness, or weakness, or bad luck of others with virtually no one to stop them.

The Internet provides still another benefit for criminals. It allows them to steal personal information from databases anywhere in the world. As more companies outsource personal information, the opportunities for identity theft are greatly increased. When data is outsourced, it places personal information in the hands of third parties, often in countries where data protection laws are far less stringent than in the United States. Companies engaging in offshore outsourcing are willing to accept a certain amount of risk from identity theft with an offshore provider because of the cost benefit. "For these organizations, it amounts to a trade-off between due diligence and potential savings, but the growing trend in offshore outsourcing compounds the problem of identity theft," says Samir Kapuria, director of strategic solutions for Symantec.

#### **Going for the Money**

The U.S. Department of State (*International Information Programs, August, 2001*) has reported that organized crime is increasingly exploiting the opportunities afforded by the Internet. According to the report, the Internet and the growth of electronic commerce offer enormous prospects for illicit profits and new targets for infiltration by organized crime families. "The synergy between organized crime and the Internet is not only very natural but also one that is likely to flourish and develop even further in the future," says Phil Williams professor of International Security Studies, University of Pittsburgh. Criminals who steal and use other people's identities tend to be highly organized and work in teams. For them, it's a business, not an avocation. "Today's identity thief is not the lone gunman of the past," says Chris Painter head of the Computer Crimes Section of the Department of Justice, "Organized crime goes where the money is, and the cyber world is beckoning to them." Analyst Matt Ziemniak, with the National Cyber Forensics and Training Alliance referred to them as, the

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Web Mob, "They are a type of crime family set up like the old mafia. They know each other only online, except those at the very top."

For felons on the run or for terrorists wanting to move freely in the country, obtaining someone's identity is the 'gold standard.' They'll pay top dollar for it. To make matters worse, when personal information is downloaded on the Internet, it's easy to trade and sell in digital alleys and chat rooms all over the world. "When criminals can compile enough information about individual citizens to ring up thousands of dollars against their credit or bank cards, there is absolutely nothing to stop them from selling that information to terrorists, or foreign intelligence services," says Jim Hedger (*Identity theft On the Rise-Scarier Than Click Fraud, Insider Reports, August, 2005*).

### Challenges for Attorneys

Conflicting procedural laws covering multiple jurisdictions are a significant challenge for attorneys working on identity theft cases. Even though California-style laws aimed at curbing identity theft have been enacted in several states, these laws are sufficiently different to make compliance across jurisdictions difficult at best, if not impossible. Traditionally, the question of jurisdiction has been settled by following geographic boundaries, but identity theft is a borderless crime, and geography is no longer a measure of jurisdiction.

A typical identity theft may involve a California victim, a thief residing in Washington, who commits fraudulent acts in Arizona and Oregon with credit cards issued through companies headquartered in Florida and Texas. For example, California identity theft statutes such as *Cal. Pen. Code § 530.8*; *Cal. Fin. Code. §§ 4022, 22470* and *Cal. Civ. Code § 1748.95*, that grant an identity theft victim the right to request and receive fraudulent account information from financial institutions and credit card issuers, are routinely ignored by businesses headquarter in states where the production of these documents requires a subpoena, even though the company has a nationwide presence.

Attorneys dealing with out-of-state businesses on identity theft issues are likely to find themselves researching jurisdictional questions while engaged full-time in writing letters and negotiating with lenders to prevent legal action. Some of the lenders/credit card issuers respond to letters within a couple of weeks. Others, mostly the larger banks and credit card issuers, do not respond at all. Dealing with these organizations is extremely difficult. Their phones are usually answered electronically and calls are transferred to company voicemail. Rarely are messages returned.

While the credit bureaus will usually remove fraudulent information on proof of identity theft, if the next data feed from the lender/credit card issuer contains the same erroneous information, the credit bureaus will report the inaccurate information again the following month. Attorneys are forced to follow up, sometimes for months, with the lenders/credit card issuers to ensure that they remove the inaccurate information they have provided to credit agencies and the credit bureaus.

Attorneys assisting identity theft clients should seek innovative solutions to confront the procedural and jurisdictional obstacles they are certain to encounter. To successfully deal with identity theft cases, attorneys must navigate layers of bureaucracy. The skill sets of the attorneys are a key determinant in getting identity theft issues resolved. ↵

*Michael Hackman is a founding partner in the firm of Lewitt, Hackman, Shapiro, Marshall & Harlan in Encino, where his practice includes tax law, trusts and estate planning. He is a Certified Tax Law Specialist. Molly Babcock-Marcus is a litigation paralegal with the firm. The authors can be contacted at (818) 990-2120.*

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*Judicial Profile: Michael R. Hoff, continued from page 15*

organized," he said. "It was a horrible subject, but the way it was presented is something I will remember fondly. Good, well-prepared attorneys are wonderful. It makes the process more delightful, makes the job easier."

Judge Hoff has also been working hard to maximize the alternative dispute opportunities available to litigants, including serving as a Mandatory Settlement Conference Judge.

"We need to focus on mediation," he said. "If every case went to trial, we would not be able to handle the load. In mediation, both sides win."

In the meantime, dilapidated trailers remain in back of the building, the state taking over the county buildings, security concerns, organizing the bench-bar meetings and dozens of other details of running the courts require Judge Hoff's attention.

Judge Hoff says he often looks to the future of the court and the profession.

"I hope the future brings continued good health and new opportunities for the further adventures of my very interesting life," he says. 📌

*M. Jonathan Hayes is in solo practice in Los Angeles, focusing on bankruptcy. He has been an adjunct professor at the San Fernando Valley College of Law for 15 years.*

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*Santa Clarita Valley Bar Association, continued from page 13*

here very concerned. You're obviously a young man of some means and education. What do you do for a living?"

"I'm a lawyer," the kid says.

"Well, that's all the more reason to be concerned," the bank president replies. "I'm tempted to have my friends from the bench and bar censure you for your bizarre behavior, which could bring disrepute on your profession. Why did you do this crazy thing?"

"I had a client who had to go to England at the last minute, and wanted me to go with him," the young man stated. "Where else in New York City could I so safely park my car, for thirty days, for just \$25? By the way, thanks for the lunch. It's nice to meet you."

We should all continue to have a great summer. I know we all deserve it! 📌

*Bill Lively can be contacted at (661) 287-3600 and [wrlively@sbcglobal.net](mailto:wrlively@sbcglobal.net).*



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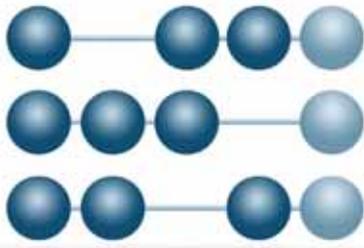
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