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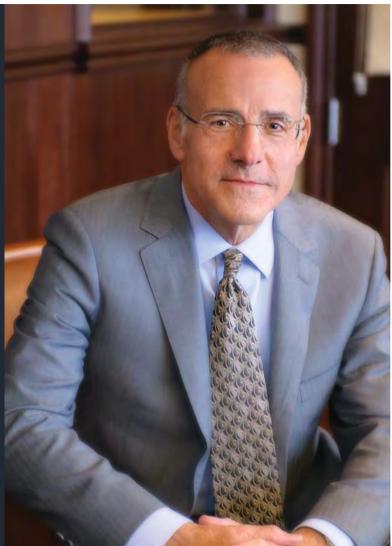
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Andrew L. Shapiro

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

- Matthew B.F. Biren, Biren Law Group

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

- Darrell Forgey, Judicate West

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

- David L. Fleck, Esq.



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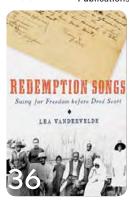
Winner of the 2014-2015 LA Press Club Award



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Attorneys who wish to remove their name from lists the State Bar provides to qualified outside entities may do so by logging on to Member Login on the home page of the State Bar's website. After registering with My State Bar Profile at www.calbar.ca.gov, go to "Change my address, phone numbers, and opt-out preference," and change your Opt-out preferences. Members may also e-mail their opt-out request to memrec@calbar.ca.gov, or by calling the Member Services Center, 1-888-800-3400. Members who choose to opt out will not receive mailings about State Bar-sponsored member benefits such as attorney insurance program offerings, MCLE provider programs and a variety of professional discount.

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Valley Lawyer 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 Valley Lawyer are written for general interest and are not meant to be relied upon as a substitute for independent research and independent verification of accuracy.

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Claiming Our Power as a Bar Association

Y FIRST PRESIDENT'S
Message! I'm very pleased and proud to be the San
Fernando Valley Bar Association's first openly LGBT President and I want to thank all of the past Presidents, including Alan Sedley and Seymour Amster, who encouraged me to climb the ladder in this organization. Our theme this year will be "Claim Our Power!" We are seeking to enhance the SFVBA's brand in the Valley, in Los Angeles, in California, in the nation, and in the legal profession as a whole.

As the official Bar of the San Fernando Valley, we have a unique opportunity that few, if any, regional bars have. We represent an area that is home to about 1.8 million people. If the San Fernando Valley was its own city, it would be the nation's fifth largest city, right below Los Angeles. As the lawyers representing those 1.8 million people, we have the potential to be hugely powerful, not just in the Valley, but in California, and nationwide. Do I sound like a politician? That's because I am a politician. And that's not a bad thing for the SFVBA.

I sincerely hope that all of you reading this message will consider either becoming active in the SFVBA or, if you are already active in a section or committee, taking a leadership role by running for the Board of Trustees next year. It's not too early to think about the future. You are the SFVBA's future, and we must all determine what that future will be.

CAROL L. NEWMAN SFVBA President



carol@anlawllp.com

If you're thinking that you don't want one more thing to do that's going to take you away from work or family, I didn't either, initially. I was a passive member of the SFVBA for years until I met a Bar trustee at the holiday party about eight years ago. I asked him what he did, and he said he was the head of the SFVBA Membership & Marketing Committee. I thought that sounded interesting, so I told him I would start attending the meetings, which I did. Is the rest history? Not exactly, but you don't have to commit to hours and hours of work with the SFVBA in order to become active. It's what you make

As you may know, the entry-level officer position for the SFVBA Board is treasurer. That's an intensive introduction into the importance of money to our Bar, or to any bar. Without money in the bank, we could not function. We would not have a staff. We would not have Valley Lawyer, or events, or sections or committees. We need to have money to make money.

Until I actually was required to delve into the numbers in detail as the treasurer, I did not really appreciate what it takes for the SFVBA, or any bar, to continue to function. Every year, we must study these numbers closely. As I write this article, we are in the midst of our annual budgeting process. Every year, we must determine how much money we need to flourish, where it is going to come from, and what we need to do to make that happen.

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- \$50 Million Mortgage Fraud Dismissed, Trial Court (Downtown, LA)
- DUI Case, Client Probation Dismissed Search and Seizure (Long Beach)
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- Several Multi-Kilo Drug Cases: Dismissed due to Violation of Rights (LA County)

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When I attended the American Bar Association's Bar Leadership Institute in 2014, I learned that this is a critical time for all bar associations to move to the next level so that they can continue to survive. The only thing is, we don't necessarily all know or agree what that next level is. I would have thought that such a dilemma might only apply to voluntary bars like ours, but even mandatory bars have been feeling the pinch of reduced funding, increased oversight, and greater challenges.

In this era of easily-available MCLE, internet-based resources, and seemingly less and less time to spend on the things that really matter, what should the role of a voluntary bar be? Why should we join a voluntary bar? What is the SFVBA going to do for us that we can't get elsewhere? These are all crucial questions that we must begin to answer immediately, as our continued existence should never be taken for granted. I assure you that your Board of Trustees is focusing on these questions.

The SFVBA successfully weathered the Great Recession, and we have been very successful in keeping our expenses as low as possible. Therefore, we can't simply assure our future by cutting expenses to the bone—that has already been done. The great challenge will be in increasing and

diversifying our revenue. We plan to do that by attracting more members and increasing sponsorships.

We are making a big push this year for more sponsors and have a new Sponsorship Committee, which will not only serve the needs of current sponsors (whom we greatly appreciate) but will search for additional potential sponsors. We have a number of levels of sponsorships, starting very inexpensively. If you know anyone who might be a good sponsor, please let us know. The Sponsorship Committee meetings have been taking place on the second Tuesday of the month around 5:00 p.m. Please let us know if you would like to attend and we will add you to email list.

In the last few years we created a new revenue source through Versatape, which sells recordings of our section meetings for MCLE credit. (If you are a speaker at a section meeting, be aware that your presentation may go viral!) We will also be looking into the possibility of offering webinars in connection with at least some of our section meetings. All of the other larger bars are doing this already.

If you have any ideas that might benefit the SFVBA, or any thoughts on services that we should be providing, please feel free to contact me at (818) 225-0056 or my email above. I hope to hear from you, as all input is welcome.



EXECUTIVE DIRECTOR'S DESK

Fall Is in the Air

FVBA MEMBERS WHO I HAVE had the privilege of speaking to for more than a few minutes know that I'm an East Coast native; more precisely, I was born and raised in the majestic Hudson Valley in Upstate New York. Although I have called Los Angeles and the San Fernando Valley Bar Association my home for more than two decades, members can quickly detect my New York accent.

I certainly miss a lot about my birthplace: my family and lifelong friends, my amazing Mets, and this time of the year, the changing of seasons. On the East Coast, people travel from the Carolinas to New England to experience the fall foliage. Here, my office calendar indicates autumn, while the thermostat is stuck on summer.

Maybe the thermostat won't budge before the calendar turns a few more pages, but that doesn't mean time is staying still. Quite the opposite; there is plenty of change at the SFVBA. President Carol Newman recently took the helm of our new Board of Trustees. In September, the Bar said goodbye to a key member of our professional staff, Irma Mejia, and welcomed new colleagues, Melissa Garcia and Fanny Arellano.

Irma was the innovative Editor of Valley Lawyer who enhanced the content and stature of this magazine. During her tenure, Valley Lawyer earned coveted awards from the LA Press Club and National Association of Bar Executives. Irma also administered the demanding Mandatory Fee Arbitration Program. We extend best wishes to Irma in her new communications position with a local online legal technology company.

ELIZABETH POST
Executive Director



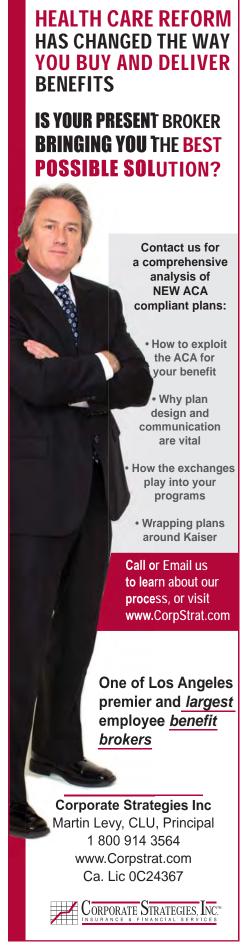
epost@sfvba.org

New Member Services Coordinator Melissa Garcia was born and raised in the San Fernando Valley and recently graduated from UC Irvine with a BA in Political Science. She is a self-proclaimed political junkie and highly motivated by the opportunity to perform public services. "As the SFVBA's Member Services Coordinator, I look forward to supporting our 2,000+current members and welcoming new members to the Bar." says Garcia.

Garcia will oversee the MFA
Program. "As the MFA Administrator, I'm
really excited about the opportunity to
work closely with the public to resolve
fee disputes in a fair, reliable manner,"
she says. "I'm an idealist who stands
by the idea of justice, and my hope is to
execute the MFA program with absolute
objectiveness and understanding of
our rules."

ARS Consultant Fanny Arellano was born in Mexico D.F. and grew up in Los Angeles with her parents and four siblings. She has worked in customer service for six years and her goal is to complete her degree in business management. Fanny will help connect individuals seeking legal help with ARS panel members who are qualified to assist them. She will administer the Case Manager database to ensure accurate case reporting and client satisfaction. "I look forward to promoting ARS through outreach at community events," says Arellano. "I welcome providing appropriate referrals to the public who count on the SFVBA for legal help."

Colorful changes are everywhere at the San Fernando Valley Bar Association.



SUN	MON	TUE	WED	THU	FRI SAT
L	ATINO HERITA	AGE MONTH		Membership & Marketing Committee 6:00 PM SFVBA OFFICE	2: 3
0	Valley Lawyer Member Bulletin Deadline to submit announcements to editor@sfvba.org for November issue.	6	7	Litigation Section Cross-Cultural Mediation 6:00 PM SFVBA OFFICE Mark Ameli will discuss how	910
11	Tarzana Networking Meeting 5:00 PM SFVBA OFFICE VALLEY COMMUNITY LEGAL FOUNDATION COLUMBUS DAY GOLF TOURNAMENT See page 22	Probate & Estate Planning Section Surety Bonds and the Court: Problems and Solutions 12:00 NOON MONTEREY AT ENCINO RESTAURANT Will Mingram of Bond Services of California will discuss key issues relating to surety bonds. (1 Hour MCLE) Board of Trustees 6:00 PM SFVBA OFFICE	Business Law & Real Property Section and Criminal Law Section Business Transactions Involving Marijuana Laws 12:00 NOON SFVBA OFFICE Michele Brooke will discuss the intricacies of the marijuana laws. (1 Hour MCLE)	different cultures view and negotiate legal disputes. (1 Hour Elimination of Bias)	Bankruptcy Law Section Supreme Court Decisions 12:00 NOON SFVBA OFFICE Jonathan Hayes will discuss the 2015 U.S, Supreme Court cases relevant to bankruptcy. (1.5 MCLE Hours)
18	19	Taxation Law Section IRS Summons 12:00 NOON SFVBA OFFICE Chad Nardiello will discuss what to do when your client receives an IRS summons. (1 MCLE Hour)	Workers' Compensation Section Do You Hear What I Hear? 12:00 NOON MONTEREY AT ENCINO RESTAURANT Andrew Berman, M.D. discusses the anatomy of the inner ear and industrial traumas. (1 Hour MCLE)	22	23 24
	Family Law Section Bankruptcy and Family Law 5:30 PM MONTEREY AT ENCINO RESTAURANT Approved for Legal Specialization. (1.5 MCLE Hours)	Editorial Committee 12:00 NOON SFVBA OFFICE	28	29	30 31 Halloween



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



SUN MON	TUE	WED	THU	FRI SAT
Valley Lawyer Member Bulletin Deadline to submit announcements to editor@sfvba.org for December issue.	AN HERITAGE M	Employment Law Section 12:00 NOON SFVBA OFFICE	Membership & Marketing Committee 6:00 PM SFVBA OFFICE	6
Tarzana Networking Meeting 5:00 PM SFVBA OFFICE TENERWORK	Probate & Estate Planning Section New Laws 12:00 NOON MONTEREY AT ENCINO RESTAURANT Jim Birnberg will give an important annual update. (1 Hour MCLE) Board of Trustees 6:00 PM SFVBA OFFICE	VETERANS DAY	12	Valley 14 Community Legal Foundation 5:30 PM BRAEMAR COUNTRY CLUB
15	Taxation Law Section New Rules Affecting Taxation of Real Estate 12:00 NOON SFVBA OFFICE Sharyn Fisk leads the discussion. (1 MCLE Hour)	Workers' Compensation Section A Judge's Perspective 12:00 NOON MONTEREY AT ENCINO RESTAURANT Workers' Comp Judge Shiloh Rasmusson will discuss the ins and outs of the courtroom. (1 Hour MCLE)	19	20 21
Family Law Section Hot Tips 12:00 NOON MONTEREY AT ENCINO RESTAURANT Don't miss out on hot tips from Gary Weyman and the Family Law Bench. Approved for Legal Specialization. (1.5 MCLE Hours)	Editorial Committee 12:00 NOON SFVBA OFFICE	25	26 THANKSGIVING	27 28
29 30			0 0 0 0 0	0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0

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S CO-CHAIRPERSONS FOR THE PAST FOUR years of the SFVBA Attorney Referral Service (ARS) Committee, we have been humbled by the many brilliant lawyers who have both dedicated their talents and time to make the Valley a better place for those seeking legal services. The ARS is positioned to provide the maximum benefit to those we serve and to provide meaningful referrals to our highly qualified members. This includes, on occasion, a seven figure case.

We still find it incredible that the ARS remains largely unknown or misunderstood by our members at-large. When we speak to members, we receive many questions. Isn't that just a free legal service? How does it work? Where does the money go? These are all legitimate questions and concerns and this article should help you answer them and reach the conclusion that the existence of the ARS is a win-win for lawyers and the community.

For those of you who have not really considered the ARS, here are the basics. The ARS is a panel of San Fernando Valley lawyers that must meet basic qualifications in their respective areas of law. It is not automatic that an applicant will be accepted onto a respective panel. The ARS committee considers applicants' backgrounds and experience before allowing attorneys' participation. ARS panel members must meet ethical guidelines and carry the requisite malpractice insurance. Depending on the particular area of law, applicants must have real world trial experience or a significant number of verifiable cases demonstrating expertise in that area. When a referral is made to an ARS panel member, the prospective client does not get a novice!

The ARS annual membership fee is negligible and the "payback" to the bar association is only 15%, far less than most private referral arrangements. There is no good argument against receiving such referrals. In addition, panel members have benefitted from some absolutely blockbuster referrals. A recent case was settled for seven figures and an important and valuable class action is working its way towards a resolution. While not all referrals from ARS are blockbusters, the majority mirror the types of cases and referrals a lawyer or law firm receives over time.

The money received by the ARS sustains the program and provides funds for low-cost or free legal services and charities for those in need. It truly is a public service that you can feel great about joining!

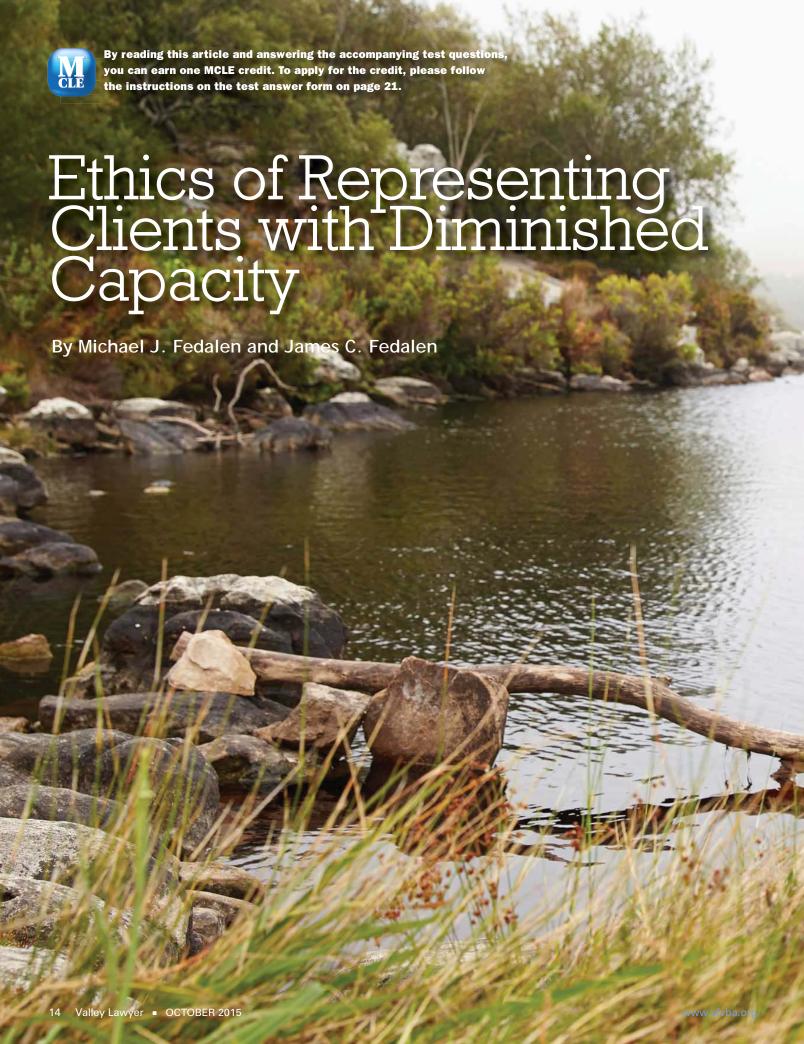
In addition to pre-qualifying panel members, the ARS Committee oversees the marketing to the public to make them aware of this extremely valuable service. The ARS posts phone numbers at local courthouses and participates in other local outreach programs. In the past, the ARS could simply sponsor a community event or purchase a booth at a farmer's market. Because the public needed access and had little in the way of options, the ARS was a natural fit and answer to these concerns. Times, however, have changed and the ARS is coming around to meet 21st century marketing needs.

Admittedly, the ARS was slow to adapt to the new marketing reality that many people find lawyers online and that law firms guard referrals as a valuable source of revenue and reciprocal cooperation. But the ARS is a valuable spoke in the wheel of this changing model.

Recently, the ARS Committee rolled out its new, fully optimized website which can compete with the largest and best funded law firms. The website is informative and easy to use. It cuts across many disciplines and provides the public with an extremely viable online option from a trusted and verified source. The hook is that ARS lawyers are vetted, qualified and insured! Other law firms online are really just advertising in comparison.

Hands down, the best source of referrals to the ARS is other lawyers and law firms. Invariably, a member of the public will call your law office and inquire about an area of law you do not handle. Of course, you may refer the matter to a colleague who may pay you a referral fee or provide reciprocal referrals. We are not asking anyone to change this process, though we always appreciate those first line referrals. We are asking for all San Fernando Valley lawyers and law firms to commit to referring all other inquiries and cases directly to the ARS. Every law firm receptionist should have the ARS phone number handy and be able to direct a call in an instant.

So where does the ARS fit into your marketing plan? All lawyers should consider the ARS as a valuable tool in the arsenal of their plan to get new clients. Experienced solo practitioners and established law firms should be throwing their hats into the mix. And young lawyers should be contacting the ARS to find out what requirements are necessary to qualify, and then, as soon as possible, try to join the ARS as a panel member. This is a great way to expand your new practice and gain access to clients. The ARS is a viable low-cost addition and there is simply no reason for a Valley lawyer not to join the ARS panel.





Representing clients with diminished and moral issues for attorneys. Clients whose capacity is diminished are inherently more susceptible to exploitation and abuse and have some of the greatest need for effective and ethical representation by the legal community. But the same cognitive impairments that result in diminished capacity, such as poor memory and limited ability to make rational decisions, can also act as major obstacles to providing a person who exhibits these traits with effective legal assistance.

What is the ethical legal practitioner to do when they are representing an elderly client with diminished capacity and a strong financial abuse case who suddenly is willing to settle for a fraction of what their case is worth because they need the money to invest in a project they were told would generate huge profits quickly? What if the project appears to the attorney to be another scam? What about when the person proposing the project is affiliated with the defendant in the pending case? Following the client's instructions to accept such a settlement under those circumstances, the safest course, and the one apparently least likely to conflict with the California Rules of Professional Conduct, may not actually be doing that client any good if the end result is just more exploitation.

Changes to the Rules of Professional Conduct have been proposed that would improve the ability of attorneys to seek assistance for clients with diminished capacity and nobody else willing or able to provide such assistance. However, these changes alone would not eliminate the problem.

Capacity is "measured on a sliding scale, with marital capacity requiring the least amount of capacity, followed by testamentary capacity, and on the high end of the scale is the mental capacity required to enter contracts." There further exists a "rebuttable presumption affecting the burden of proof that all persons have the capacity to make decisions and to be responsible for their acts or decisions." An attorney who harbors doubts about their client's capacity may generally comply with their duties to that client by complying with a client's direction, even when the attorney believes the directions are not in the client's best interests.

Ideally, every person with diminished capacity would have a supportive and loving network to assist them and, if necessary, to act on their behalf and in their best interests. But for far too many people, no such network exists. Not every client or potential client with diminished capacity has a competent individual available and willing to help care for them when they are unable to care for themselves.

Having a third party working with the client in a formal legal capacity as a conservator, trustee, or power of attorney—or even somebody informally authorized by the client to provide assistance—can alleviate many of the ethical obstacles for an attorney in representing the client's best interests. But when there is no competent and generally benevolent third party to assist the client who has diminished capacity, legal practitioners would be advised to tread carefully.

When a person is "substantially unable to manage his or her own financial resources or resist fraud or undue influence," a conservatorship of the estate can be the measure of last resort to protect that individual from further financial harm. But the reality is that there is not always an appropriate conservator available and private fiduciaries cost money that may not be available. A requirement in conservatorship proceedings is to serve the proposed conservatee with a citation and petition for conservatorship, and this person will often express some opposition towards the idea of having their legal rights curtailed.

When there are allegations of wrongdoing by some third party, such as financial elder abuse, that underlie the alleged need for a conservatorship, the suspected individual may also object to the proceedings in an effort to protect themselves from becoming subject to liability.

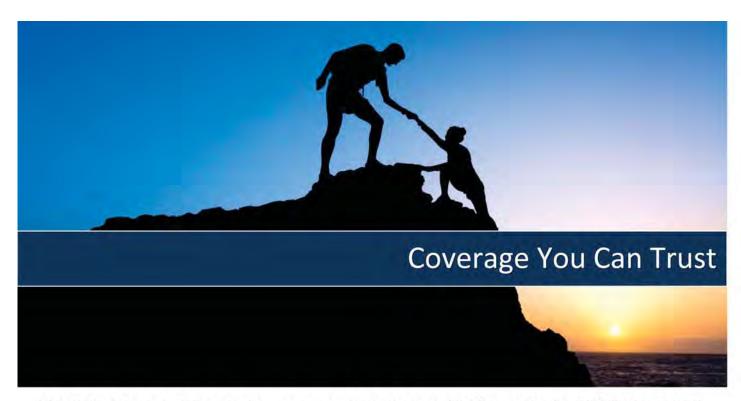
When there is a need for a conservatorship, but no appropriate person willing to accept responsibility to institute conservatorship proceedings, government agencies, including Adult Protective Services (APS) and the Public Guardian, are supposed to be available to fill the need. More often than not, these agencies are inadequately funded and incapable of providing the sort of assistance that many clients with diminished capacity could likely benefit from.

Even when it would be possible to get APS to recommend, and the Public Guardian to pursue, instituting conservatorship proceedings, the current Rules of Professional Conduct prohibit an attorney from alerting these agencies to the need except possibly in a very general way. Rule 3-100(A) states in part that a "member shall not reveal information protected from disclosure by Business and Professions Code section 6068, subdivision (e) (1) without the informed consent of the client "6

In addition to the problem of obtaining informed consent from a client with severely diminished capacity, section 6068(e)(1) imposes a duty on attorneys to "maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client." An exception to this duty is that an attorney "may, but is not required to, reveal confidential information relating to the representation



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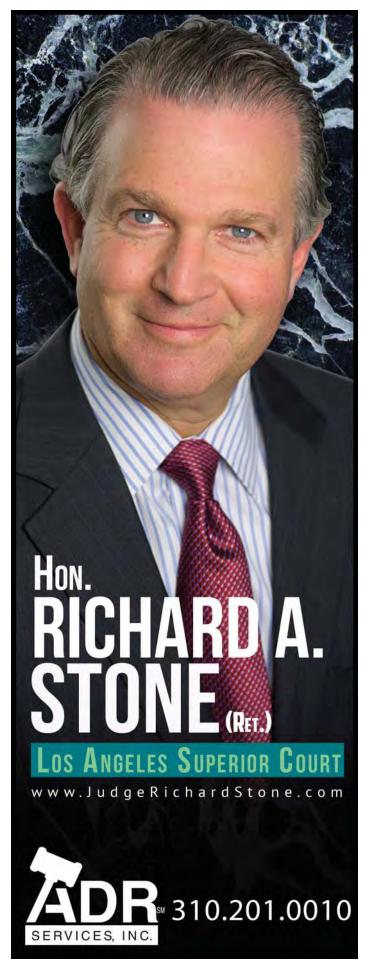
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of a client to the extent the attorney reasonably believes the disclosure is necessary to prevent a criminal act" reasonably likely to cause death or substantial bodily harm.⁸

As self-neglect and susceptibility to undue influence are not criminal acts, an attorney may not reveal a client's secrets even if doing so would prevent the client from acting in a manner contrary to their own self-interest.

While an attorney would probably remain in compliance with their ethical obligations by making a recommendation to APS or to the Public Guardian that a conservatorship may be appropriate if specific client confidences were not revealed, this recommendation would be unlikely to result in much benefit to the client as a result of the lack of specific factual details.

The duty of confidentiality would also make it difficult for an attorney to seek a conservatorship for their client. In California, standing to petition for a conservatorship is limited to (1) the proposed conservatee; (2) his or her spouse or domestic partner; (3) his or her relatives; (4) any interested state or local entity or agency or their agents; or (5) "any other interested person or friend of the proposed conservatee." A creditor of the proposed conservatee will not have standing unless they fall into one or more of the first four categories. 10

An attorney falling into the fifth category would likely lack standing as a creditor, but even if they were not a creditor, they would have difficulty filing a conservatorship petition because they could not reveal client secrets. 11 Even if such standing existed, the likelihood that such action would interfere with the representation of a client who disagrees with the need for a conservatorship would make such action impractical in most instances.

Another more practical problem with either of these potential responses to the problem of representing a client with diminished capacity is that APS and the Public Guardian in Los Angeles County are woefully underfunded and unable to handle the immense volume of individuals who could use their help. As a result, it is unlikely that a generalized report of self-neglect or potential financial abuse would lead to substantive assistance absent a demonstrable risk of immediate bodily harm or death.

At the same time that an attorney representing a client with diminished capacity struggles to address the needs of a client who continues to engage in actions contrary to their self-interests, the attorney's ability to represent that client in whatever matter for which they were initially engaged is also made more complicated by the client's limited cognitive abilities. Diminished capacity can also make it difficult for a client to attend meetings, depositions, or hearings; provide reliable information or testimony; or maintain a consistent will or desire to proceed with their case; making it difficult for their lawyer to help them.

While there are legitimate concerns with easing the ethical strictures against revealing private information of a client, including the potential chilling effect that such action may have on the relationship between attorney and client, failing to do so will continue to expose attorneys to the greater moral dilemma of having to either turn down representation of clients with diminished capacity or to stand by observing a client engage in ever more destructive behavior. Without some change, attorneys can find themselves obligated to help a client in regards to certain harm suffered by that client, while being unable to help the client with potentially more serious issues uncovered during the course of that representation.

California might benefit from adopting the approach taken by the American Bar Association (ABA). Under rule 1.14 of the ABA Model Rules of Professional Conduct, 12 "[w]hen the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action . . . and, in appropriate cases, seek[] the appointment of a . . . conservator "13 When taking such action, "the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests." "14

In 2010, there was a proposal in California to amend the Rules of Professional Conduct to mirror the ABA Model Rules, but the proposal has not been enacted. Proposed rule 1.14 would have mirrored ABA Model Rule 1.14, though it would not have authorized an attorney to petition for a conservatorship. Enacting this proposal would have alleviated the ethical restriction on revealing a client's confidential information when necessary to prevent the client from suffering further harm, but would have been insufficient in many cases to truly address the client's needs.

Even when the proposed rule would allow disclosure by an attorney, that attorney is still obligated to "as far as reasonably possible, maintain a normal lawyer-client relationship" with that person.¹⁷ But what a normal relationship entails largely depends on the extent that the client's capacity is diminished.

The comments to the proposed rule state that, even when a client lacks the capacity to make legal decisions, the attorney is still obligated to provide the client with information that allows them to "understand, deliberate upon, and reach conclusions" about the related matters. ¹⁸ The comments do not address who would be directing the attorney when their client lacks capacity to make legal decisions, other than in specific circumstances such as Probate Volunteer Panel (PVP) representation of an individual for whom a conservatorship has been proposed. ¹⁹ Absent such circumstances, there may not be a practical way to represent a client's interests if they lack capacity to make legal decisions.

When there is a family member available to assist the client with diminished capacity, the proposed rule would allow





consultation with that family member without endangering attorney-client privilege and even receiving some instruction regarding the representation of the client from the family member.²⁰

Other proposed rules of professional conduct relating to the representation of clients with diminished capacity, which further mirror the ABA Model Rules, include provisions that create a sliding-scale duty to inform such clients, with the information the attorney is required to provide being related to the cognitive ability of the client to comprehend.²¹ It is unclear what level of capacity a client would have to possess in order to consent to representation by an attorney with an actual or potential conflict of interest.²²

Representing clients with diminished capacity is inherently more complicated than representing clients with full control of their faculties for the same reasons that those clients tend to have a greater need for legal representation. The current ethics rules of the State Bar of California are not adequate to meet the needs of these clients without running afoul of the rules. Updating the requirements by adopting the Proposed Rules, based on the Model Rules, would encourage more attorneys to represent clients with diminished capacity by allowing a greater ability to seek effective assistance for the client. When there is no such person readily available, there needs to be a reasonable possibility of obtaining the assistance of an appropriate



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agency, such as APS. Until these changes occur, there will continue to be a significant number of clients and potential clients who have serious legal needs, but are unable to obtain representation as a result of their diminished capacity.

Attorneys may be able to discharge their ethical duties by refusing to represent clients with diminished capacity, but there is a higher moral duty that seems to require the legal community to find effective ways of helping the most vulnerable members of society. Updating the California Rules of Professional Conduct and finding ways to increase the effectiveness of assistance provided to those with diminished capacity would go a long way towards enabling attorneys to do what we are supposed to do—help our clients.

¹ In re Marriage of Greenway, 217 Cal.App.4th 628, 639, 158 Cal.Rptr.3d 364 (2013).
² Cal. Prob. Code §810(a) (West, Westlaw through ch. 291 of 2015 Reg. Sess.) (emphasis added).

⁶ Cal. State Bar Rules of Prof'l Conduct ("Cal. Rules") R. 3-100(A) (current as of Jan. 1, 2015), *available* at www.calbar.ca.gov (follow "Ethics" hyperlink; then follow "California Rules of Professional Conduct" hyperlink) or http://rules.calbar.ca.gov/Rules/RulesofProfessionalConduct.aspx.

 7 Cal. Bus. & Prof. Code 6068(e)(1) (West, Westlaw through ch. 291 of 2015 Reg. Sess.).

⁸ Id. §6068(d)(2); accord Cal. Rules R. 3-100(B) (stating same exception).
⁹ Prob. Code §1820(a).

¹⁰ Prob. Code §1820(c); see also Prob. Code §48(a)(a) (stating a creditor can be an "interested person").

¹¹ Cf. Suleman v. Superior Court, 180 Cal.App.4th 1287, 1299, 103 Cal.Rptr.3d 651 (2010). Probate Code section 1510(a) states in part that "[a] relative or other person on behalf of the minor . . . may file a petition for the appointment of a guardian of the minor." (Emphasis added.) The Suleman court held a petitioner who files as an "other person on behalf of the minor" will have standing under section 1510 to request a guardian for the minor's estate (not a minor's person), if the petitioner "pleads ultimate facts demonstrating financial misconduct or alleges other information sufficient to warrant court intervention in the management of the minor's money or other property." An attorney who wants to petition for a guardian for their minor client's estate might lack standing because their duty of confidentiality might prevent them from pleading sufficient facts to meet their burden under Suleman.

12 The ABA Model Rules of Professional Conduct serve as the model for the ethics rules of every state (and the District of Columbia and the Virgin Islands) except California. ABA Ctr. for Prof¹l Responsibility, Model Rules of Professional Conduct, www.abanet.org (follow "Resources for Lawyers" hyperlink; then follow "Model Rules of Professional Conduct" hyperlink) or http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct.html (last visited Sep. 18, 2015).

¹³ ABA Model Rules of Prof'l Conduct ("ABA Rules") R. 1.14(b) (2015), available at www.abanet.org (follow "Resources for Lawyers" hyperlink; then follow "Model Rules of Professional Conduct" hyperlink; then follow "Model Rules Table of Contents" hyperlink) or http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_cond uct/model_rules_of_professional_conduct_table_of_contents.html.

¹⁴ Id. R. 1.14(c). Rule 1.6(a) states, "[a] lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b) [of Rule 1.6]."

¹⁵ Cal. State Bar Proposed Rules of Prof'l Conduct ("Cal. Proposed Rules") in passim (parenthetically noting below title at top that the proposed rules were adopted July 24, 2010 and September 22, 2010, but have not been approved by the Supreme Court), available at www.calbar.ca.gov (follow "Ethics" hyperlink; then follow "California Rules of Professional Conduct" hyperlink; then follow "Proposed Rules of Professional Conduct" hyperlink) or http://rules.calbar.ca.gov/Portals/10/documents/2015_CaliforniaRulesofProfessionalConduct.pdf.

¹⁶ Compare Cal. Proposed Rules R. 1.14 with ABA Rules R. 1.14.

³ *Id.* §1801(b).

⁴ See id. §§1801(b), 1821(a)(3), (a)(5).

⁵ Id. §1824.

¹⁷ Cal. Proposed Rules R. 1.14(a).

¹⁸ Id. R. 1.14 cmt. [1].

¹⁹ See id. R. 1.14 cmt. [9] (noting, inter alia, Rule 1.14 does not apply to conservatees).

²⁰ Id. R. 1.14 cmt. [5].

²¹ See id. R. 1.4 [cmt. 8].

²² See id. R. 1.7 [cmt. 17A].

Test No. 84

This self-study activity has been approved for Minimum Continuing Legal Education (MCLE) credit by the San Fernando Valley Bar Association (SFVBA) in the amount of 1 hour. SFVBA certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California

g	overning minimum continuing legal educati	on.	
1. 2.	In California, a higher level of capacity is necessary to execute a testamentary instrument than to enter into marriage. □ True □ False After reaching the age of 65, people	11.	When there is nobody appropriate to act as the conservator of a client with diminished capacity, the Public Guardian can petition for, and act as, a conservator.
۷.	in California are presumed to lack contractual capacity. □ True □ False	12.	☐ True ☐ False Adult Protective Services and the Public Guardian are well equipped to handle the number of referrals they receive to
3.	A conservatorship is legally considered to be the preferred method of assisting or protecting those with diminished	conservatorship is legally considered people with dimini be the preferred method of assisting True Fa	people with diminished capacity. ☐ True ☐ False
	capacity. ☐ True ☐ False	13.	Susceptibility to undue influence allows an attorney in California to reveal limited amounts of confidential client
4.	The California State Bar Rules of Professional Conduct allow, but do not require, attorneys to disclose		information. ☐ True ☐ False
	confidential information of a client with diminished capacity in order to prevent the loss of their entire estate.	14.	Clients with diminished capacity have a high need for legal services. ☐ True ☐ False
5.	☐ True ☐ False Attorneys do not have standing to petition for a conservatorship of one of their clients. ☐ True ☐ False	15.	In California, attorneys of clients with diminished capacity can substitute their own judgment for that of their client in certain circumstances. ☐ True ☐ False
6.	When a client with diminished capacity has a legal claim, that person's diminished capacity allows the claim to be proven to a lesser standard of	16.	A conservatorship of the estate can be instituted over anybody who has significantly impaired memory. □ True □ False
	proof as a result. ☐ True ☐ False	17.	The Proposed Rules of Professional Conduct in California would increase
7.	The ABA Model Rules of Professional Conduct require attorneys to reveal their client's confidential information, if that client has diminished capacity,		the ability of attorneys to consult with relatives of a client with diminished capacity regarding their representation. ☐ True ☐ False
	to prevent financial harm to their client. ☐ True ☐ False	18.	An attorney facing a potential conflict of interest with a client with diminished
8.	Attorneys representing clients with diminished capacity are not required to communicate with their client, except regarding settlement offers.		capacity may obtain consent from a relative of the client to continue with the representation. ☐ True ☐ False
	☐ True ☐ False	19.	A proposed conservatee must be personally served with a citation
9.	The majority of financial elder abuse happens at the hands of predatory businesses. □ True □ False		for conservatorship prior to a conservatorship being imposed. □ True □ False
10.	California attorneys must disclose their client's confidential information when	20.	California attorneys can face conflicts between their ethical duties under the Rules of Professional Conduct and

MCLE Answer Sheet No. 84

INSTRUCTIONS:

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

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their moral duties to help clients with

diminished capacity.

☐ True ☐ False

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

☐ False

□False

☐ True

☐ True

· <u>=-</u>		
3.	☐ True	☐ False
4.	☐ True	☐ False
5.	☐ True	☐ False
6.	☐ True	☐ False
7.	☐ True	☐ False
8.	☐ True	☐ False
9.	☐ True	☐ False
10.	☐ True	☐ False
11.	☐ True	☐ False
12.	☐ True	☐ False
13.	☐ True	☐ False
14.	☐ True	☐ False
15.	☐ True	☐ False
16.	☐ True	☐ False
17.	☐ True	☐ False
18.	☐True	☐ False
19.	☐True	☐ False
20.	☐True	☐ False

harm.

necessary to prevent a criminal act

☐ True ☐ False

likely to result in death or great bodily

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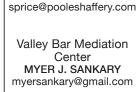
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The SFVBA offers our conference facilities to members for depositions, hearings and meetings. The conference room

comfortably seats 20 people and a small breakout room is available. Amenities include Wi-Fi, beverage service and free parking.



Costco Wholesale

Costco Wholesale provides a wide selection of quality brand-name merchandise at locations nationwide. SFVBA members receive

Costco Cash Cards upon signing up for Costco Executive, Business and Gold Star memberships.



Fastcase

SFVBA members can enjoy free and unlimited use of Fastcase, the online comprehensive law library. Access Fastcase by

logging into the SFVBA website to enjoy unlimited usage, unlimited printing and unlimited customer service at no cost.



LACBA Affiliate Membership

The SFVBA is an affiliate member of the Los Angeles County Bar Association. SFVBA members receive a

discount on LACBA dues.



Listservs

Section-sponsored listservs facilitate discussion between members and provide members with quick and easy access to

their colleagues. Access to the listservs is free and automatic with section membership.



Mailing Lists

Members may purchase the SFVBA mailing list at a discounted price to circulate relevant, Bar-approved

communications to colleagues. The mailing list can be limited according to area of practice, number of years in practice and zip code. Mailing lists are available for one-time use only and cannot be duplicated. Emails and phone numbers are never sold.



The Matloff Company

The Matloff Company offers health, life, disability and long-term care insurance for individuals and firms. As one of the

most successful local insurance agencies, The Matloff Company provides quality service to meet the client's needs and budget. SFVBA members enjoy access to quality plans to meet the needs of the firm or individual.



MCLE

The SFVBA is a State Bar-licensed provider of Minimum Continuing Legal Education. The SFVBA provides members

with many convenient and affordable options for earning MCLE credits, including an annual MCLE Marathon, monthly live educational seminars, and educational articles. SFVBA members enjoy discounted pricing for all MCLE programs.



Southland Credit Union

Southland Credit Union offers a full spectrum of personal and business banking services. SFVBA members are welcome to

join Southland Credit Union and enjoy the benefits of credit union membership, including lower interest rates on loans, higher dividend savings accounts and a personalized customer service experience.



Valley Lawyer Magazine

Award winning Valley Lawyer is the official publication of the San Fernando Valley Bar Association. Published

monthly and circulated to more than 2,300 lawyers and legal professionals, *Valley Lawyer* is designed to inform, engage and promote SFVBA members and the legal community-at-large. SFVBA members receive discounts on classified ads.



Versatape

Can't attend an important SFVBA seminar? Most SFVBA seminars are available on audio CD or MP3 through Versatape.

Committees

SFVBA members interested in shaping the positions and activities of the SFVBA and willing to commit the time and effort to contribute to the growth of the association are encouraged to submit their name for appointment by the president to a committee or program.

ATTORNEY REFERRAL SERVICE COMMITTEE

The ARS Committee oversees and develops policy and procedures for the operation of the Attorney Referral Service of the San Fernando Valley Bar Association, Modest Means Program, Senior Citizen Law Program, Limited Scope Representation Panel and Speaker Service.

Co-chair **Barry P. Goldberg** bpg@barrypgoldberg.com

Co-chair **Anne L. Thompson** athompson@lawyersmutual.com

BENCH-BAR COMMITTEE

The Bench-Bar Committee meets regularly with leaders of the local courts to advance the smooth administration of justice and to ensure open communication between the Bench and the Bar.

Co-chair **James Felton** jfelton@greenbass.com

Co-chair Caryn Brottman Sanders carynsanders@sbcglobal.net

BLANKET THE HOMELESS COMMITTEE

Since 1995, members have donated more than \$150,000 to purchase about 40,000 blankets for homeless and battered women shelters in the San Fernando Valley. During the holiday season, volunteers distribute the blankets and provide legal clinics for the shelters' residents.

Co-chair **Mark Blackman** mblackman@alpertbarr.com

Co-chair **Christine Lyden** clyden@lydenlawcorp.com

CONFERENCE OF DELEGATES RESOLUTIONS COMMITTEE

SFVBA members can participate in the legislative process by joining the Resolutions Committee. The Committee drafts legislation and takes positions on resolutions to be debated by the Conference of California Bar Associations.

Chair **Tamila C. Jensen** tamila@earthlink.net

EDITORIAL COMMITTEE

Valley Lawyer is the SFVBA's monthly magazine offering articles on the latest developments in law, practice management and Bar news and events. The Editorial Committee solicits and reviews articles and shapes the editorial direction and design of the publication.

Chair **David Gurnick** dgurnick@lewitthackman.com

INCLUSION & DIVERSITY COMMITTEE

The Inclusion & Diversity Committee offers education and mentoring programs that encourage students of diverse backgrounds to consider a career in law.

Chair **Joanna M. Sanchez** joanna@gantmanlaw.com

MANDATORY FEE ARBITRATION COMMITTEE

The Mandatory Fee Arbitration Committee provides oversight of client/attorney fee disputes and the attorneys and lay arbitrators who hear matters.

Chair Myer J. Sankary myersankary@gmail.com

MEMBERSHIP & MARKETING COMMITTEE

The Membership & Marketing Committee's goal is to enhance SFVBA membership by providing services and programs that improve the quality of our members' practices.

Chair Alan E. Kassan akassan@kantorlaw.net

PROGRAMS COMMITTEE

The SFVBA provides opportunities for members to get together for social activities. The Program Committee plans our Annual Judges' Night, Installation Gala and other special events throughout the year.

Chair Yi Sun Kim ykim@greenbass.com

SPONSORSHIP COMMITTEE

The Sponsorship Committee works with existing affinity sponsors to enhance their experience, and identifies new sponsors to provide their services to SFVBA members.

Chair Kathy G. Neumann kathy@kathyneumannlaw.com

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Sections

SFVBA members can network and be kept abreast of developments in their practice area by participating in the SFVBA's twelve active Sections. The Sections sponsor monthly educational programs and social events.

BANKRUPTCY LAW SECTION

The Bankruptcy Law Section meets in the SFVBA Conference Center, usually the fourth Friday of the month for a lunch meeting.

Chair Steven R. Fox srfox@foxlaw.com

BUSINESS LAW & REAL PROPERTY SECTION

The Business Law & Real Property Section meets in the SFVBA Conference Center, usually the second Wednesday of each month for a lunch meeting.

Co-chair **Neil M. Sunkin** nms@sunkinlaw.com

Co-chair **Stephen J. Shapero** sshapero@shaperohurst.com

CRIMINAL LAW SECTION

The Criminal Law Section meets in the SFVBA Conference Center for a dinner meeting.

Co-chair **David S. Kestenbaum** david@kestenbaumlawgroup.com

Co-chair **Angela Berry-Jacoby** angela@guardingyourrights.com

EMPLOYMENT LAW SECTION

The Employment Law Section meets in the SFVBA Conference Center, usually the first Wednesday of the month for a lunch meeting (although day can vary dependent upon speaker availability).

Chair Kimberly Westmoreland kimberlylake817@gmail.com

FAMILY LAW SECTION

The Family Law Section meets on the fourth Monday of the month for a dinner meeting at Monterey at Encino Restaurant.

Co-chair **Sandra Etue** sandra@schulmanlawoffices.com

Co-chair **Kenneth Nahigian** knahigian@hotmail.com

Vice-chair **Amir Aharonov** tineroaharonov@gmail.com

INTELLECTUAL PROPERTY, ENTERTAINMENT & INTERNET LAW SECTION

The Intellectual Property, Entertainment & Internet Law Section meets bimonthly in the SFVBA Conference Center for a lunch meeting.

Co-chair **Thomas M. Morrow** tmorrow@yettercoleman.com

Co-chair **John F. Stephens** mnielsen@cislo.com

LITIGATION SECTION

The Litigation Section meets each month on a Thursday for a dinner meeting in the SFVBA Conference Center.

Chair Christopher P. Warne cw@warnelaw.com

NEW LAWYERS SECTION

The New Lawyers Section hosts networking mixers and MCLE seminars for its young lawyers.

Co-chair **Hannah Sweiss** hsweiss@lewitthackman.com

Co-chair **Christopher Blaylock** ChrisWBlaylock@gmail.com

PROBATE & ESTATE PLANNING SECTION

The Probate & Estate Planning Section meets the second Tuesday of the month for a lunch meeting at the Monterey at Encino Restaurant. First Foundation Bank is their official sponsor.

Chair John E. Rogers jer@nielsenlegal.com

SMALL FIRM & SOLE PRACTITIONER SECTION

The Small Firm & Sole Practitioner Section meets at the SFVBA Conference Center for a lunch meeting each month.

Chair **Arsalan Hayatdavoodi** ahayatdavoodilaw@gmail.com

TAXATION LAW SECTION

The Taxation Law Section meets the third Tuesday of the month at the SFVBA Conference Center for a lunch meeting.

Co-chair Ronald Hughes ronhugheslaw@aol.com

Co-chair **Hratch J. Karakachian** hkarakachian@yahoo.com

WORKERS' COMPENSATION

The Workers' Compensation Section meets the third Wednesday of the month for a lunch meeting at the Monterey at Encino Restaurant.

Chair **Jeffrey S. Swartz** jswartz@lmwslaw.com

My name is Ashley Melikian and I have been with LexisNexis® for several years. I am a Circle of Excellence winner and have worked with many law firms, state and local government agencies.

In this past year, I have been partnering with Brian Beck (former rep) in the Valley and now I'm handling the territory myself and will be your LexisNexis point of contact from this point forward.

I look forward to meeting you, working with you and learning how I can become a great asset to you and your practice.





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Programs

FAMILY LAW MEDIATION PROGRAM

Family law attorneys serve as volunteer mediators in the Van Nuys and San Fernando courthouses. Mediators must be proficient with the Dissomaster software in order to compute spousal and child support.

San Fernando Van Nuys

Sandra Etue Barry Harlan

sandra@schulmanlawoffices.com bharlan@lewitthackman.com

HORACE MANN PROJECT

The SFVBA Horace Mann Project offers law-related education programs for students who are 18 years of age and under. Horace Mann's purpose is to reach out to schoolchildren of diverse backgrounds to provide first-hand experiences that help young people discover and peruse their interest in the law.

Co-Chair Seymour I. Amster Co-Chair Anie N. Akbarian

attvamster@aol.com anieakbarian@yahoo.com

LIMITED SCOPE REPRESENTATION PROGRAM

The Attorney Referral Service offers pro se litigants an option for limited representation in family law matters. Limited Scope Representation (sometimes called unbundling) provides clients who may not otherwise be able to engage an attorney with the opportunity to retain adequate legal assistance on limited tasks. Attorneys participating in the program must be members of the Attorney Referral Service.

Director of Public Services

Rosie Soto Cohen

(818) 227-0490, ext. 104

rosie@sfvba.org

MANDATORY FEE ARBITRATION PROGRAM

The Mandatory Fee Arbitration Program is a forum for the resolution of attorney-client fee disputes. The MFA Program efficiently resolves disputes over attorney fees and costs while reducing the burden on the courts that would normally handle these matters.

Program Administrator Melissa Garcia

(818) 227-0490, ext. 107 melissa@sfvba.org

MODEST MEANS PROGRAM

The Attorney Referral Service provides access to the legal system for people with limited incomes. Attorneys participating in the Modest Means Program agree to charge reduced hourly rates. Clients must qualify for the program. Participation in the Modest Means Program requires membership in the Attorney Referral Service.

Director of Public Services

Rosie Soto Cohen (818) 227-0490, ext. 104

PRO BONO PROBATE SETTLEMENT PROGRAM

The Pro Bono Probate Settlement Program provides parties with pending matters before the Los Angeles Superior Court's Probate Department an opportunity to resolve their cases. Two experienced probate lawyers volunteer their services as settlement officers each Tuesday and Thursday morning in the Stanley Mosk Courthouse. Settlement officers must have at least five years of probate experience.

Executive Director

Liz Post

(818) 227-0490, ext. 101 epost@sfvba.org

SENIOR CITIZEN LEGAL SERVICES PROGRAM

The Attorney Referral Service sponsors a legal services program at local senior centers. The Senior Citizen Legal Services Program provides quality legal advice to seniors at all levels of income.

ARS Consultant

Lucia Senda

(818) 227-0490, ext. 106 lucia@sfvba.org



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WHY FIGHT TRAFFIC TO GET OVER THE HILL FOR A FEE DISPUTE?

Resolve your matter easily through the San Fernando Valley Bar Association's Mandatory Fee Arbitration Program.

The Mandatory Fee Arbitration Program offers a neutral, efficient and cost-effective forum for resolving attorney-client fee disputes. Through the Mandatory Fee Arbitration Program, your disputes can be resolved quickly and confidentially by local arbitrators.

THE MANDATORY FEE ARBITRATION OFFERS

- Qualified attorney and lay arbitrators
- Confidential hearings
- A quick and less expensive alternative to court



San Fernando Valley Bar Association

Visit www.sfvba.org for more information or contact Program Administrator Melissa Garcia at (818) 227-0490, ext. 107 or melissa@sfvba.org.



Notice of Client's* **Right To Fee Arbitration**

Client's Name:		Attorne	y's Name:	
Client's Address:		Attorney's Address:		
Client's City, State & Zip:	Attorney's City, State & Zip:			
You have an outstanding balance for fees and/or c charged to you in the matter of	osts for profe	essional servic	es in the amount of \$	
I have filed a lawsuit against you in the:		Court: _ Address: _	Case No.:	
I have filed an arbitration proceeding against	you with the:	Agency:Address:	Case No.:	
☐ No lawsuit or arbitration proceeding has yet been f	iled but may be	e filed if we do	not resolve this claim.	
			Professions Code to request arbitration of these fees or costs ssociation program created solely to resolve fee disputes	
You will LOSE YOUR RIGHT TO ARBITRATION	ON UNDER	THIS PROGI	RAM if:	
	A FORM PR		ON WITH THE BAR ASSOCIATION WITHIN 30 DAYS THE LOCAL BAR ASSOCIATION OR STATE BAR OF	
RESPONSE TO ANY ARBITRATION PROC	CEEDING TH	HAT I HAVE	COMPLAINT I HAVE FILED IN COURT; OR (2) FILE A INITIATED FOR COLLECTION OF FEES, AND/OR EST FOR ARBITRATION UNDER THIS PROGRAM; OR	
3. YOU FILE AN ACTION OR PLEADING IN WHICH SEEKS DAMAGES FOR ANY ALL			SEEKS A COURT DECISION ON THIS DISPUTE OR DR PROFESSIONAL MISCONDUCT.	
			latory fee arbitration. If I have already filed a lawsuit or filed an application for arbitration under this program.	
I have determined that:				
• There is a local program which may have	e jurisdiction to	hear this matt	er. The arbitration program listed below is available to you:	
Name of Program: S	an Fernando	Valley Bar As	ssn - Mandatory Fee Arbitration	
Address: 5	567 Reseda I	Blvd., Suite 2	00	
City, State & Zip: T	arzana, CA 9	1367		
Telephone No.: (8	318)227-0490)		
You may wish to check the State Bar's w	vebsite at www	.calbar.ca.gov	to see if there are other programs available to you.	
There is no approved local program which	ch has jurisdict	ion to hear this	matter.	
your case, (3) where there is a local program and you wish non	-binding arbitrat before the local l	ion of this disput bar named above	gram, (2) where there is a local program but it declines for any reason to hear the and the local program refuses to allow non-binding arbitration of your. If you need assistance, please contact Mandatory Fee Arbitration, State Bar of	
Date:	Atto	orney:		

(Mandatory State Bar Approved Form Rev. March 2013)

^{*}The request for arbitration may also be made by a person who is not the client but who may be liable for or entitled to a refund of attorney's fees or costs.

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February 10, 2013

To whom it may concern,

My name is Alison Triessl. I am a criminal defense attorney specializing in murder, third strike and drug cases. Without a doubt, Jack Trimarco's polygraphs have been an invaluable asset to my practice.

I recently represented USTA Tennis official Lois Goodman who was accused of murdering her husband. She did not commit the crime and Jack Trimarco's polygraph was instrumental in negotiations with the District Attorney which resulted in a dismissal of all of the charges.

Whenever I consider whether to have a client take a polygraph, there is only one name in the conversation – Jack Trimarco. His level of credibility, professionalism, and experience is unparalleled in the field and garners the respect of prosecutors and defense attorneys alike.

I have worked with Mr. Trimarco for over twelve years and simply put, I adore him. Not only is he the best in the field, he is an absolute pleasure to work with. He is a hardworking, dedicated professional with unquestioned qualifications and integrity.

Warm regards,

Aliana Trianal

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

Raising the Bar in the San Fernando Valley



and Publisher of Valley Lawyer. She can be reached at epost@sfvba.org.

INCE 1926, THE SAN FERNANDO VALLEY BAR Association (SFVBA) has played a significant role in the development of the practice of law in the Valley and the greater Los Angeles area. Established when the area was still a farming community with just a fraction of its current day population, the small group of lawyers who gathered for the association's first meeting could not have imagined how much the Valley, the profession, and the SFVBA would have grown in nearly a hundred years.

Today, the SFVBA is one of the premier local bar associations in California and the nation. It provides professional development services and networking opportunities to more than 2,000 members and is a trusted resource for law related public services and information to area residents.

Bringing the Courts to the Valley

The major driving force behind the establishment of the association was the need for a courthouse in the San Fernando Valley. Twenty-seven lawyers signed on as charter members at the SFVBA's first meeting on October 26, 1926. Robert L. Hanley was named the Bar's first president. The association's first major project was a collection of data regarding the need for a municipal court in the San Fernando Valley. At the time, justice courts in Burbank and San Fernando handled only minor matters. All other cases had to be taken to the Hall of Justice downtown, a distance of about 29 miles from the western edge of the Valley. The trip could take almost an hour and a half by the Pacific Electric red car or considerably longer by automobile.

Two months after forming the association, members presented a petition to the judges of the Los Angeles Municipal Court outlining the difficulties faced by lawyers in the Valley. Their complaints were centered on the distance from the Hall of Justice, the costs in time and money to travel there, and the growing volume of cases. Implicit in their arguments was the principle that "justice delayed is justice denied." Their work proved to be a success and in March 1927, a branch of the municipal court was established in Van Nuys.

Over the years, the SFVBA remained the area's most ardent advocate for expanded court services and modernized facilities. Its work resulted in the expansion of the municipal court in Van Nuys to hold full-time sessions, with a full-time judge assigned in 1949. Throughout the decades, the Bar opposed proposed cuts to court hours, staff and funding.

It is difficult to believe that the court services currently offered were not always available and that, in fact, the establishment of the first courthouse required a tremendous amount of study and lobbying. Thanks to the efforts of an organized group of lawyers who recognized the Valley's

growing potential and need, access to justice was possible in their own neighborhoods. We now count on courthouses in San Fernando, Sylmar, Burbank, Glendale, Van Nuys, Chatsworth and Santa Clarita.

Raising the Standards

Central to the SFVBA's mission is the professional development of its members and the promotion of "the highest standards of professionalism, competence and ethical conduct." Early in its history, the SFVBA dealt with a particularly persistent problem facing the profession: the unauthorized practice of law. Though requirements for admission to practice law in the 1930s were minimal compared to today's standards, it did not keep unscrupulous individuals from hanging out shingles without a license.

In 1933, the SFVBA joined other Los Angeles area bar associations in an effort to stamp out the unlicensed practice of law. It opposed proposed action by the California Assembly to repeal the act that had established the California State Bar and cooperated with the State Bar throughout the decade to raise professional standards for licensing.

Today, Valley attorneys are able to keep up with the latest developments in case law and best practices through the SFVBA's continuing legal education seminars. Each month, the Bar offers numerous educational seminars through its 12 practice sections. Guest speakers often include Superior Court judges and certified experts in various areas of law. Members can easily complete their MCLE requirements through these monthly programs or through the Bar's annual MCLE Marathon, a special twoday program offering seminars on legal ethics, elimination of bias and the prevention of substance abuse. For added convenience, the SFVBA also makes most of its programs available online through its recording partner, Versatape.

The SFVBA also promotes professional growth through its regular networking events. Early in its history, the Bar combined the two goals of education and networking through its monthly dinner meetings. Over the years, as the association and the number of lawyers in the Valley grew, the need emerged for dedicated networking mixers. Today, the Bar offers these events to its members free of charge.

The SFVBA also hosts formal social events twice a year: an Annual Judges' Night Dinner in February and an Installation Dinner in September. All of these events provide members with an opportunity to expand their network for referrals, exchange tips and ides, and create camaraderie among attorneys.

A Growing Need for Legal Services

Since its establishment, the SFVBA has focused much of its attention to the improvement of access to legal services for Valley residents. In 1948, it established a legal aid and lawyer referral service to connect community members with qualified attorneys.

By the 1960s, the area's need for legal aid was growing. Up until then, it had largely been supported by donations and fundraising. As the SFVBA was looking to expand its legal aid services, it was approached by the newly established Neighborhood Legal Services (NLS) about collaborating to provide legal services to the poorest areas of the Valley. The board voted to work with NLS, marking the start of a very close relationship that continues today. By the 1970s, the SFVBA disbanded its legal aid program in favor of offering its support to NLS to better meet the legal needs of the poor. In 2000, along with NLS, it helped establish the Self-Help Center at the Van Nuys courthouse.

Though the SFVBA's legal aid was disbanded, its referral service continued to grow and is now known as the Attorney Referral Service (ARS) of the San Fernando Valley Bar Association. It is one of the longest-running referral services certified by the State Bar of California. Operated and overseen by the SFVBA and its Board of Trustees, it maintains its own staff, advisory committee and budget.

The ARS is dedicated to three fundamentals: the education of its members and the public concerning the law, the legal profession, and the judicial system; the growth of the legal profession; and the promotion of meaningful access to legal representation and the justice system for all persons regardless of their economic or social conditions.

The ARS is a trusted resource for individuals, families and businesses in the Valley who are seeking to hire qualified and vetted attorneys. The public can count on the ARS to refer the right attorneys for their particular legal issues. Attorneys who participate in the ARS are able to rely on the marketing efforts and reputation of the Bar's referral service to grow their practice.

As a service to the community, the ARS also operates the Senior Citizens Legal Services Program through local senior centers to meet the needs of the Valley's aging population. Since June 1977, volunteer attorneys from the ARS have partnered with local senior citizen centers to provide low-cost consultations and legal services at reduced rates. For nearly forty years, the Senior Citizen Legal Services Program has empowered thousands of seniors, age 60 and over, to utilize and protect their legal and consumer rights.

The ARS also provides a Modest Means Program for low-income clients and a Limited Scope Representation Program for certain family law cases. These programs meet the needs of litigants in certain areas of law who cannot afford regular attorney rates but who don't qualify for free legal aid. True to the SFVBA's mission, the ARS makes available programs like these to ensure access to justice for all Valley residents.

An Avenue for Service

From the very beginning, the SFVBA has been dedicated to the overall positive development of the Valley community. It has supported the rule of law and the ideals of equality and justice for all. Through its charitable foundation, it supports law students and law related community programs. Through its Inclusion & Diversity Committee, it promotes the legal profession as a viable career path for communities that have been historically underrepresented in the legal field. The SFVBA remains an organization devoted to public service and provides its members with many opportunities to give back.

Formed in 1979, the Valley Community Legal Foundation (VCLF) is the charitable arm of the SFVBA. For more than 35 years, VCLF has worked tirelessly to promote respect for the law and its institutions. It has supported the legal education of hundreds of local aspiring attorneys and awarded grants to many deserving



1927 Branch of Los Angeles Municipal Court opens in Van Nuys



1948 SFVBA establishes Legal Aid and Lawyer Referral Service



1926
27 lawyers become charter members of San Fernando Valley Bar Association



Los Angeles
Super Court
opens branch in
San Fernando



Lawyer Referral Service partners with senior citizen centers to provide low cost consultations

organizations, including Haven Hills, West Valley Boys & Girls Club, and the Northridge Hospital's Center for Assault Treatment Services.

VCLF was instrumental in establishing the Children's Waiting Rooms in the Van Nuvs and San Fernando courthouses. The Children's Waiting Rooms offer children safe care and protection from the often bitter litigation in which their parents are engaged.

The Foundation is now also in charge of operating Blanket the Homeless, one of the SFVBA's oldest and most popular charitable events. Every year, SFVBA members donate funds to purchase new wool blankets that are distributed to local homeless and family crisis centers. The ARS also operates a free legal clinic during the blanket distribution at an area homeless shelter. Members are always eager to volunteer at this event.

The SFVBA is also proud of its longstanding dedication to diversity in the legal profession. In fact, women played an important role early in its history with celebrated attorney (and later judge) Oda Faulconer serving as the SFVBA's first vice-president in 1926. It wasn't until 1987 that the SFVBA elected Barbara Jean Penny as its first female president, who was succeeded by Terri G. Lynch in 1988. The Bar also met another milestone in 2005 when it installed its first African American president, Richard A. Lewis. In 2016, the Bar celebrates another great accomplishment with the installation of its first openly LGBT president, Carol L. Newman. The SFVBA is also an active member of the Multicultural Bar Alliance of Southern California.

The SFVBA recognizes that efforts to diversify the profession are most effective when they begin early in school. The Bar sponsored law posts in local high schools to expose students to the law, the courts and the legal profession. Its Inclusion & Diversity Committee is now in charge of law posts at community colleges.

Looking Forward

During its 89-year history, the SFVBA has been an advocate for Valley attorneys and residents. Its efforts have resulted in expanded court services and legal resources to meet the increasing needs in the area. But it recognizes that its work isn't over.

In looking towards the future and changing needs of its members, it plans to modernize its educational offerings and referral service to meet today's challenges. MCLE seminars will soon be offered through the convenience of webinars and member benefits will be upgraded through new Bar sponsorships. The ARS recently launched a new website and search engine optimization campaign to better target potential clients online. It is also continuing to improve its marketing campaign to attract even better cases from members of the public who aren't yet aware of this valuable resource.

The SFVBA is also improving the programs it makes available to the public. In addition to providing a highlyregarded Mandatory Fee Arbitration Program for the resolution of attorney-client fee disputes, the Bar has recently sponsored the launch of the Valley Bar Mediation Center (VBMC). VBMC grew out of the need for affordable mediation services to fill the void left by the dismantling of the Los Angeles Superior Court's ADR program. The VBMC is currently expanding by adding more mediators to its panel, offering mediation services to more litigants, and providing training to future mediators. Through these programs, the SFVBA continues to improve the public's access to justice while keeping disputes from being added to the court system's overburdened docket.

As it enters its tenth decade, the SFVBA moves forward with confidence that it will successfully meet the new challenges of the profession. In its current work and future projects, Valley lawyers will carry on the legacy of public service and advocacy for increased access to justice for local residents and continued professional growth for local attorneys. 4

1979 SFVBA forms Valley Community Legal Foundation, the



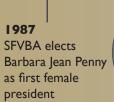
1994 Northridge Earthquake strikes the San Fernando Valley



2013 **Attorney** Referral Service donates \$100,000 to **VCLF**



charitable arm of the SFVBA





2000 SFVBA partners with Neighborhood Legal Services to open Self-Help Legal Access Center in Van Nuys courthouse



2014 SFVBA sponsors Valley Bar Mediation Center

VCLF

50 Years of Changing Lives and Transforming Communities

NLSLA Celebrates its Legacy and Looks to the Future

By Neal S. Dudovitz and Yvonne Mariajimenez

N 1965, A GROUP OF YOUNG ATTORNEYS, MOTIVATED by a belief that the law could be a powerful tool for social and economic justice, gathered in Pacoima in a dilapidated office in the northeastern part of the San Fernando Valley. They didn't know it at the time, but they were forming what would one day become one of the largest, most influential public interest law firms in the state—a place that would transform the lives of countless people living in poverty across Los Angeles County and beyond.

But in those early years, the attorneys had more modest goals. They wanted to widen access to justice to the poorest sections of the county, areas where residents were struggling with substandard housing and a lack of access to health care, education, and employment.

"We were part of something new," said Joel Aaronson, who joined the group right out of law school in 1967 and later became its second Executive Director. "We were going to make substantive changes in the way institutions interacted with poor people, and we were going to do it through what we knew best, the legal system."

1965 was also the first year of the nation's War on Poverty, a set of initiatives that came on the heels of landmark civil rights legislation and were intended to create pathways out of poverty and alleviate its impact on individuals, families and communities. The War on Poverty generated Medicare and Medicaid, expanded social security benefits, cemented the food stamps program, and established the Job Corps and Head Start Program.

It also created the Office of Economic Opportunity (OEO), which launched an initiative to establish legal aid programs across the country. The San Fernando Valley Bar Association (SFVBA), recognizing an opportunity to bring critical legal help to low-income people in the Valley, partnered with local community groups to realize that vision. San Fernando Valley Neighborhood Legal Services, today known as Neighborhood Legal Services of Los Angeles County (NLSLA), was a direct outgrowth of that effort.

"This was a new concept: that the federal government was going to provide legal services for those who least could afford it and who had the least amount of representation," Aaronson said. "And with that we were going to change the dynamic."

NLSLA was a small organization at the time, with only six or seven attorneys, but it was already becoming part of the fabric of the San Fernando Valley. So when the 1971 Sylmar earthquake hit, the organization rushed to find ways to help those who were impacted.

"We demanded that we get extra money to help people," Aaronson said. "And not from the office funding legal services, but as part of federal disaster relief."



Neal S. Dudovitz is Executive Director of Neighborhood Legal Services of Los Angeles County. For nearly 40 years, he has been dedicated to providing meaningful access to justice to our nation's poor. He can be reached at ndudovitz@nlsla.org. As Deputy Director of NLSLA, **Yvonne Mariajimenez** assists in overseeing its day-to-day operations, administration, fundraising and program policy. She can be reached at ymariajimenez@nlsla.org.

It was likely the first time legal aid was seen as a critical part of disaster relief. Humberto Lopez, who was a paralegal with NLSLA at the time, remembers it well.

"We got a lot of complaints from people whose homes had been damaged," he said. "Contractors were taking advantage of homeowners who got federal funds to repair homes."

The organization received funding to hire an attorney and a community outreach worker to respond to these and other earthquake-related legal issues. It was an experience that would position NLSLA to respond swiftly to the Northridge quake some 23 years later.

Aviva Bobb, who joined NLSLA the year of the Sylmar quake and succeeded Aaronson as Executive Director several years later, said the response to the earthquake was just one example of how in those early days attorneys at the organization developed expertise as needed. "We did everything," said Bobb, who went on to become a Los Angeles Superior Court judge and retired from the bench in 2009. "We were a good, hard-charging group trying to help people and do good things."

Lopez stayed with NLSLA for more than 40 years and retired in 2012. He recalled fondly those early days when a group of scrappy idealists rolled up their sleeves to do whatever needed doing. "The secretaries, the lawyers and the field reps would get together on a Saturday to paint the office," he said. "There were no frills. We used to get donated couches and we used to cover them with bed sheets. It was very grassroots."

But as the organization grew, extending its impact to impoverished communities throughout Los Angeles County, its image began to mature as well. "At some point legal services people stopped wearing jeans and started to dress more professionally," said Los Angeles Superior Court Judge Bruce Iwasaki, who joined the organization fresh out of law school in 1976. "The change was: 'We're not just a storefront; we are a law firm representing lowincome people.' And that was a kind of maturation that was happening all over the country."

Just two years before Iwasaki joined the group, President Nixon, responding to congressional and bar pressure to establish legal services as a permanent part of the national fabric, signed legislation creating the Legal Services Corporation, an independent corporation that would receive funds from Congress to distribute to local legal aid organizations. The LSC, as it came to be known, cemented the role legal aid would play in addressing the core causes of poverty, supporting the development of opportunities for people to move themselves out of poverty, and protecting and enforcing the legal rights of poor people.

"It was a pivotal time for San Fernando Valley Neighborhood Legal Services, as it was called then," lwasaki said. "In the past there was this sense of helping anybody

who walked through the door. But now we wanted to identify the needs in the community and figure out how to best address them."

Widening the Impact

The organization began to focus on the core roots of poverty, using its skills and resources strategically to produce transformative change.

"One of the things NLSLA has always been good at is having people on the staff that have strong ties with community groups, elected officials and others who understand what's going on in the community," Iwasaki said. "If you talk to elected officials, they know Neighborhood Legal Services. If you talk to community groups, whether its civil rights organizations or housing advocates or health policy advocates, they'll say 'NLSLA, we know them well. We work with them.' Why is that important? Because it's all about the community. It's about knowing what the community needs."

Those connections to the community began to shape NLSLA's advocacy model, combining direct legal services to help individuals and families with policy advocacy and highimpact litigation to transform entire neighborhoods.

In 1979, the organization sued the City of Los Angeles in an effort to change the way police officers respond to domestic violence calls. In Thomas et al. v. City of Los Angeles¹, the lead plaintiff, Lula Mae Thomas, had called the police each of the 15 times her husband assaulted her between 1972 and 1979, but she was largely ignored. Instead of protecting women from their attackers, police officers routinely ignored their calls, discouraged them from pressing charges by saving it was a family matter, and encouraged them to reconcile with their abuser.

"It's almost impossible to believe today, but the prevailing attitude was that assaults on women—and often children-were nothing more than family disputes," said NLSLA Deputy Director Yvonne Mariajiminez, who had joined the organization as a paralegal the year before. "Police officers, in a department that at the time had very few women, felt it was not their job. They believed it was merely a family spat. They would never arrest anybody or do anything to help the women."

The *Thomas* case forced the Los Angeles Police Department to implement new policies and accept its responsibility to protect the victims of domestic violence. It also mandated extensive training for officers that the department has since embraced and institutionalized "It was a landmark case for women across Los Angeles County," Mariajimenez said. "It changed the policy and practices of the LAPD, and the culture of the community's response to violence against women."

The case was the result of the passions of two remarkable women who were lifelong advocates for survivors of domestic violence: NLSLA head family law attorney Dawn

Tilman and pro bono attorney Laura Weinroth. Tillman had spent years helping women obtain restraining orders against abusive spouses. Weinroth, a sole practitioner, also ran a counseling center for domestic violence survivors.

"They spent hundreds of hours listening to 911 calls from women in serious crisis that were mostly ignored by the LAPD," Mariajimenez said. "They have both passed, but their legacy lives on in the lives of thousands of women."

The 1980s proved to be a tumultuous decade for legal aid. Shortly after the *Thomas* lawsuit was filed, President Ronald Reagan took office. Long a critic of federally-funded legal aid, President Reagan immediately began to slash its funding, forcing the country's legal services groups to try to meet an ever-growing need with drastically reduced resources.

In response, NLSLA focused on developing innovative programs that allowed the organization to leverage its resources. In 1985, the organization again joined forces with the SFVBA to open the Valley Family Law Center. The Center, relying on Valley pro bono attorneys, provided legal services on family law issues, including divorce, child custody, and domestic violence.

often leaving people homeless. "They wouldn't even give them a simple hearing," said NLSLA Director of Litigation David Pallack. "Their rights, and the facts, did not matter."

Blackwell v. Lund² stopped the Housing Authorities from terminating, denying or delaying Section 8 rent subsidy benefits without good cause, notice and a hearing. "They completely changed their practices," Pallack said. "Eventually, as a result of this and other lawsuits, the U.S. Department of Housing and Urban Development enacted federal regulations requiring notice and a hearing any time a tenant was to be terminated from the Section 8 program. And it's made a world of difference."

The Big Quake

The early 1990s initially brought a period of relative calm for legal aid programs. During the first years of the Clinton administration, funding for legal aid spiked—albeit temporarily—and NLSLA extended its reach, taking over two adjoining spaces in Pacoima to accommodate the growth. In January of 1994, the organization was getting ready to celebrate the renovation of the Pacoima office that connected all three spaces. But the event would never take place.





Even as it grew its direct services, NLSLA kept its eye on systemic change, bringing cases that had far-reaching impact throughout Los Angeles. That was especially true in the area of housing, which was a major focus for NLSLA at the time.

One example is the organization's challenge of the Los Angeles City and County Housing Authorities' practice of unilaterally terminating families' housing subsidies without even the semblance of due process, forcing families to move out of safe housing, disrupting children's education, and In the early morning hours of January 17, 1994, a major earthquake struck the San Fernando Valley, killing 57 people, injuring thousands of others, and causing more than \$20 billion in property damages. NLSLA Executive Director Neal Dudovitz had joined the organization just six months earlier.

"I came out to the Pacoima office within a few hours of the Northridge Earthquake and it felt like a war zone," he said. "I was immediately confronted by neighbors who were outside on the streets, afraid to go inside their homes. They were desperate because they had no access to food and water, so we dug through the rubble of what had been our office to find those big water cooler bottles and put them out for our neighbors."

Dudovitz was struck by the devastation. "I knew right away that it was not going to be business as usual," he said. "Our clients couldn't function as they had before and neither could we. We had to be entirely focused on our clients' survival and on helping them rebuild their lives. We also recognized that together, we had an incredible opportunity to rebuild our community and make it better."

The organization mobilized a disaster response that would later become the model for legal aid groups across the country. Within 48 hours of the quake, Dudovitz was on a military helicopter with the head of FEMA and several cabinet members surveying the damage and discussing the response. The group stopped at the first disaster center, set up in Van Nuys, to talk to people who were there to get food, medical services, and shelter.

"The most obvious thing that stood out was lack of language capacity," Dudovitz said. "They had virtually nobody who spoke Spanish. We were walking with HUD Secretary Henry Cisneros and he started interpreting for people."

Katrina struck the Gulf Coast, NLSLA was called upon to help.

"When Katrina hit, we worked all weekend updating our flyers and training materials, checking to see if there had been any changes in the law, getting the phone numbers for the disaster centers," said Kate Meiss, a supervising attorney with NLSLA. "And on Monday we flew to Lafayette."

There were no hotel rooms, so Meiss and the other NLSLA advocates slept at the house of the Louisiana Bar's vice president. The next day they met with the bar association, lawyer referral services, legal aid organizations and Tulane Law School. "Now we have this whole group of lawyers in the south that are experts in disaster response," Meiss said. "And when a disaster strikes, they're the ones who go and talk to other people and train other people."

Innovative Solutions for Emerging Needs

Even as NLSLA expanded its reach, the need for its services was growing. Each month, thousands of Angelenos needed help escaping abusive relationships, gaining custody of their children, and fighting to hold onto





Within 24 hours FEMA brought interpreters to Los Angeles to staff disaster centers. NLSLA sent teams of advocates to disaster recovery centers to address individual and family needs, and worked with federal and local officials to address systemic issues. The experience catapulted NLSLA into the policy advocacy arena and made the organization a significant player in myriad advocacy efforts at the local, state, and national levels. It also allowed NLSLA to build considerable expertise in disaster legal services, so when more than a decade later Hurricane

their homes. The organization found it could only provide direct representation to a tiny fraction of the low-income people who needed it.

So in the first year of the new millennium, under the leadership of Los Angeles County Supervisor Zev Yaroslavsky, NLSLA opened a pilot self-help legal access center in the Van Nuys courthouse—the first of its kind in the country. "Suddenly we were able to help so many more people," said NLSLA Director of Programs Caron Smith, who helped design the self-help program.

That model center in Van Nuys is now one of ten NLSLA self-help centers—the largest network of self-help legal access centers in the United States—which have assisted more than a million people stand up and have their voices heard in the county courts.

"Through no fault of their own, purely for financial reasons, too many members of our community have found themselves locked out of our civil justice system when they most need help with family law matters, health and housing problems, and consumer, small-business or employment disputes," retired Supervisor Yaroslavsky said. "For these residents, Neighborhood Legal Services and the Self-Help Legal Access Centers they operate are the key to the courthouse door."

The driving force behind the centers has always been empowerment. "We teach people that they can advocate for themselves, that they're capable of telling the judge what their needs are for their families, or why their eviction was wrongful, or how the landlord has been a bad actor," said NLSLA's Ana Maria Garcia, who now oversees access to justice initiatives for the organization. "People feel relief. Their anxiety is calmed. They feel they have somewhere to go."

The 2000s also brought a razor-sharp focus on healthcare for NLSLA and on expanding access to meaningful care in communities with high poverty rates. During this time, NLSLA and its partners successfully halted the planned downsizing of an already overburdened county general hospital and the proposed closure of Rancho Los Amigos National Rehabilitation Center, a rehabilitative hospital for people with disabilities.

In his Ninth U.S. Circuit Court of Appeals decision on the *Harris v. Board of Supervisors of Los Angeles County*³, Judge Harry Pregerson wrote that the county was simply "not equipped to absorb indigent and uninsured patients...who would be displaced by the threatened closure of Rancho and the reduction of beds at LAC-USC."

The County's proposal, he said, "would delay treatment, cause avoidable death, disease, and suffering, increase risk of infections, spread of communicable diseases, and medical complications, and ultimately lead to unnecessarily lengthy and expensive hospitalizations."

The issue had personal significance for former NLSLA health care attorney Barbara Siegel, who was the lead attorney in the hospital case. Before she became an attorney and joined NLSLA, Siegel was a physical therapist working with people with cancer and chronic physical disabilities. "I knew it was these people who would have been impacted," she said.

Siegel's commitment to ensuring health access for people with disabilities predates her time as a physical therapist. "I had an aunt who was very near and dear to me who had polio, and she challenged me to pay attention to people who had disabilities that were going to affect them for

the rest of their lives," Siegel said. "Always in my mind were all of the stories that my parents and my grandmother told me about how difficult it was for her to get care."

In an effort to significantly expand healthcare access, the organization launched the Health Consumer Center with support from The California Endowment. The Center allowed NLSLA to build valuable knowledge of health delivery systems, addressing individual issues while identifying and correcting policies to improve the process for everyone. This expertise put the organization at the forefront of health advocacy efforts in the state, and made it an integral part of the national efforts that ultimately resulted in the Affordable Care Act.

While pursuing change at the policy level, NLSLA remained focused on improving individual and community health. In 2008, NLSLA partnered with St. John's Well Child & Family Center to open the first Medical-Legal Community Partnership in South Los Angeles, where poverty, substandard housing, unemployment, and an alarming lack of access to care have led to astoundingly high rates of cancer, heart disease, and diabetes. NLSLA attorneys, with offices inside the clinic, work with St. John's clinic staff to address health disparities.

"We see a lot of families who live in slum housing and have health conditions as a result, and it's incredibly frustrating that we can't go to the landlord and say fix this unit. But a lawyer can," said Jim Mangia, CEO at St. John's. "I have conversations every week in the hallway with doctors who say 'I have this patient, I referred them to NLSLA, and they took care of this and it was great."

Medical providers are empowered to search for the causes of certain ailments, rather than just treating the symptoms. "These are not issues you're trained to work on in medical school—you're very focused on the biological," said Dennis Hsieh, a physician and attorney who helped design NLSLA's first MLCP. "The medical-legal part allows medical providers to think about these issues in a more meaningful way. It really empowers health care providers to better care for their patients."

Growing, but Staying True to the Mission

Today, NLSLA runs three Medical Legal Community
Partnerships, including one at The Wellness Center, housed
in the previously deserted Landmark General Hospital in
Boyle Heights that's now home to one of the most innovative
preventive health centers in the nation. At The Wellness
Center, NLSLA works with on-site health and wellness partner
agencies—as well as doctors, nurses and social workers
at the adjacent LAC+USC Medical campus—to eliminate
barriers to care and benefits and address those issues that
directly impact individual, family and community health.

"Improving health has become a goal for us in everything we do," Mariajimenez said. "And that's true not just in our

direct health advocacy. We look at access to education, environmental justice, and anything that improves family stability and well-being as a step towards healthier lives and a path out of poverty."

At the top of that list is access to safe, affordable housing. Los Angeles was recently named the least affordable county in the nation when it comes to housing. Rents have shot up even as incomes have stagnated, and the American dream of owning a home has become, for so many Angelenos, a pipe dream.

In response to the crisis, NLSLA leads a collaboration of four Los Angeles programs that provide legal representation to people facing eviction in some of the county's poorest neighborhoods. The unprecedented program, developed through the leadership of former Assemblyman and current L.A. City Attorney Mike Feuer, is the largest of seven pilot projects approved by the state Judicial Council to ensure representation for the poor when critical civil rights are at stake.

As part of the Shriver Housing Project, NLSLA and its partners launched the Eviction Legal Assistance Center at Stanley Mosk Courthouse, where more than 25 percent of the county's 70,000 eviction cases are filed each year, and where poor families have no legal representation while facing landlords represented by attorneys. "The idea is to level the playing field," Dudovitz said.

As part of the effort to preserve access to safe and affordable housing, NLSLA and its partners sued the cities of Lancaster and Palmdale for discriminating against black and Latino families participating in the Section 8 program.

For years, families participating in the program in the Antelope Valley watched with fear as their community turned against them, as their city leaders instituted policies that

stripped them of their rights, as the very program designed by the federal government to help them was used to push them out of their homes and neighborhood.

NLSLA and its partners secured unprecedented protections for Section 8 participants, preventing individual municipalities from targeting black and Latino families using the federal housing subsidies and effectively ending years of discrimination for black and Latino Section 8 participants living in the Antelope Valley area. "The Antelope Valley lawsuit was truly a team effort, and pro bono attorneys were a critical part of that team," Dudovitz said. "As in all of our work, we count on the generosity and support of the private bar to significantly widen our impact."

The lawsuit led to a civil rights investigation by the U.S. Department of Justice that resulted in additional protections for Antelope Valley residents as well as \$2.6 million in damages for African American families in the Section 8 program who experienced discrimination. Community Action League et al v. City of Lancaster et al.4 has special significance for Jose De Sosa, NLSLA's longest- serving board member. As a community activist in the mid-60s, De Sosa worked with Valley attorneys to establish the organization, and officially joined its board a few years later.

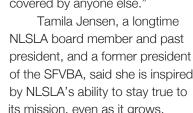
De Sosa, who for decades served as president of the San Fernando Valley chapter of the NAACP, said the problems in the Antelope Valley are an example of the kind of discrimination still impacting black and Latino families in areas throughout Los Angeles County. "There's still a lot of work to be done," he said. "Until we see character instead of color, we need legal services to ensure minorities are not being discriminated against."

De Sosa said he is especially proud of the geographical reach NLSLA has achieved. "We've expanded into areas like

> Glendale and Burbank, El Monte and Pasadena. And as far as Lancaster and Palmdale." he said. "These are areas that are not covered by anyone else."

NLSLA board member and past president, and a former president of the SFVBA, said she is inspired by NLSLA's ability to stay true to its mission, even as it grows.

"It's grown in size, complexity and sophistication," Jensen said. "But always keeping up with the needs of the community."





¹ Lula Mae Thomas v. City of Los Angeles (L.A. Superior Court Case No. CA-000572). ² Blackwell v. Lund, No. No. 8-00573 TJH (Bx) (C.D.Cal. Apr. 6, 1989).

³ Harris v. Board of Supervisors of Los Angeles County 366 F.3d 754 (9th Cir. 2004). ⁴ Community Action League et al v. City of Lancaster et al., No. 2:2011cv04817 ODW (VBK) (C.D.Cal. June 7, 2011).

Do Your Blog Posts Qualify as Legal Advice?



By Deborah S. Sweeney

AW FIRM MARKETING IS NOT PARTICULARLY straightforward. Attorneys were forbidden from formally advertising their services for seventy years until *Bates v. State Bar of Arizona*¹ was decided in 1977. And even after that reformed the rules of professional advertising, the contents of any ads were still heavily regulated. The internet and the advent of search engines radically challenged those regulations.

Professional standards lay out the responsibilities and obligations of an attorney that gives legal advice to someone, but what about if the attorney is writing a blog post? Since there is technically no specific person that post is intended for, could it still be construed as legal advice?

Blogging is fast becoming one of the most used marketing tools for law firms—82% of Am Law 200 firms blog as part of their business development strategy.² In fact, any firm with an online presence should blog. Websites that actively blog have more indexed pages, and better search engine placement, than those that do not.

According to a 2012 survey commissioned by LexisNexis, 76% of the respondents who looked to hire an attorney that year used online resources in their search.³ The question then is not whether an attorney or firm should blog, but rather how do they utilize such a powerful tool without putting themselves in danger?

Keep Posts Professional and Informative

The American Bar Association, in Formal Opinion 10-457, weighed on this very problem and commented that there were no hard lines delineating legal information from legal advice. That said, a long history of attorneys giving public lectures and writing books exists, and those acts were not legal advice. Specificity, it seems then, is key.

Education is different from advice because it is broad. It is very difficult to point and reasonably claim that one followed a specific course of action because they were told to do so by an attorney who simply wrote or lectured on the law. Any blog posts, then, need to contain information that is widely applicable and educational.

A post detailing what someone who slips at work and hurts their back should do after the accident and the recovery



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they'll receive can be taken by a reader as advice specific to their situation. It is harder for a reader to do that with a post exploring a recent ruling on unpaid internships because there are plenty of people who were at some point unpaid interns and the purpose of that post is to educate.

Allow Comments on Posts but Don't Respond

An attorney or firm with a blog normally has the option to allow comments on individual posts and it is a good idea to enable that feature. Blogs, by their nature, should always be non-commercial because they have to offer something to readers. A site full of ads offers nothing and could actually hurt a firm's search engine optimization (SEO). Non-commercial blogs are also less affected by professional standards of conduct.

In *Hunter v. Virginia State Bar*, the Virginia Supreme Court pointed to the inability for users to leave comments and interact with the blog as a major indicator that the firm's blog was commercial and subject to rules on advertising.⁵ Community is integral to proving the non-commercial nature of a blog. But simply to avoid treading on dangerous ground, attorneys associated with the firm should not respond to comments or expand on the information in the post because replies are to specific people and thus may be misconstrued as advice. Simply let the blog's community flourish and delete comments when necessary.

Separate the Firm's Blog from Its Website

Attorneys and firms interested in operating a blog should do so separately from the main website and ensure there are no calls to contact the firm or author at the end of any posts. That is not to say that the blog should have nothing to do with the marketing page; it is okay to include a link to the firm's main website somewhere in the blog. But giving it its own domain is important because the firm's primary website is a marketing tool; its whole purpose for existing is to communicate with the public, explain the scope of the firm's legal services, and invite prospective clients to contact the firm. It is subject to all of the rules that normally regulate attorney advertising.

If a blog is attached to a firm's website, the State Bar of California has tentatively opined that it "will be subject to the rules regulating attorney advertising to the same extent as the website of which it is a part."

Having a separate non-commercial blog manages reader expectations as to the purpose for the blog's posts. Someone who is inexperienced in hiring an attorney may believe that general information clearly attached to a firm's website is advice. It is easier to avoid accusations of misdirection with a separate blog.

The onus is on the firm and attorneys to show they comply with the rules of professional conduct. Blogging is a powerful, highly recommended tool for SEO and inbound marketing but any lawyer or firm that uses it must do so cautiously.

The American Bar Association and State Bar of California have issued opinions on blogging, websites, and their relation to client outreach, so there are guidelines to help avoid the trappings of giving legal advice in blog posts. A quick disclaimer at the bottom of a page may not be enough. Law bloggers need to ensure all posts are informative and nonspecific and that their blog is both interactive and separate from the main website.

- ¹ Bates v. State Bar of Ariz., 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977). ² LexBlog, Am Law 200 Blog Benchmark Report 3 (2015), available at http://www2. lexblog.com/amlaw2015 (after registering for delivery by email).
- ³ LexisNexis Martindale-Hubbel, *How Today's Consumers Really Search for an Attorney* 1 (2012), *available* at http://www.lexisnexis.com/community/portal/lfmc/resourcepage. aspx?PostId=236206 (after creating an account) or http://cdn.lawyerist.com/lawyerist/wp-content/uploads/2012/11/How_Todays_Consumers_Really_Search_for_an_ Attorney_102312.pdf (no registration required).
- ⁴ ABA Comm. on Ethics and Prof'l Responsibility 2, Formal Op. 10-457 (Lawyer Websites) (Aug. 5, 2010), available at http://www.abanet.org/cpr/pdfs/10-457.pdf.
 ⁵ Hunter v. Va. State Bar, 285 Va. 485, 498, 744 S.E.2d 611 (2013).
- ⁶ Cal. State Bar Comm. on Prof'l Responsibility and Conduct 1 Digest ¶ 2, Proposed Formal Op. Interim No. 12-0006 (2014), available at www.calbar.ca.gov (follow "Public Comment" hyperlink; then follow "Proposed Formal Opinion Interim No. 12-0006 (Attorney Blogging)" hyperlink; then follow "Proposed Formal Opinion Interim No. 12-0006" hyperlink) or http://www.calbar.ca.gov/portals/0/documents/publiccomment/2014/2014_12-0006Blogging.pdf. (Although these links were last visited on September 18, 2015, public comment on this proposed opinion closed on March 23, 2015, so these links are subject to change or termination at any time.)
- ⁷ ABA Comm. on Ethics and Prof'l Responsibility, *supra* note 4, at 6 ("Limitations, conditions, or disclaimers of lawyer obligations will be effective only if reasonably understandable, properly placed, and not misleading.").

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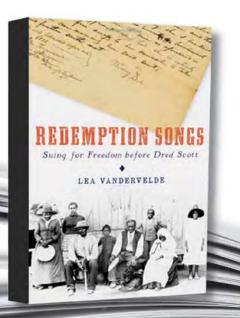
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Valley Lawyer



Examining Slave Freedom Suits in the Antebellum American Frontier

By Anthony S. Khoury

OST AMERICANS LEARN IN HIGH SCHOOL history class about the infamous United States Supreme Court decision *Dred Scott v. Sandford* (1857) 60 U.S. 393. The Supreme Court held in *Dred Scott* that slaves of African heritage or descent were not and could not be American citizens because they were properly considered property. Around the same time as the *Dred Scott* decision, the issue of abolishing slavery became quite controversial and divisive, and ultimately was one of the main catalysts for the Civil War.

In Redemption Songs: Suing for Freedom before Dred Scott (Oxford University Press, October 2014), author Lea VanderVelde, with the aid of many dusty court records from the St. Louis Circuit courthouse, recounts in impressive detail a dozen stories about freedom suits litigated in St. Louis during the antebellum period and prior to the Dred Scott decision. At the time, St. Louis truly was the "Gateway to the West" and at the heart of the American frontier but that didn't necessarily make St. Louis a bastion of progressive thought.

By way of the Missouri Compromise of 1820, Missouri entered the Union as a slave state. Nevertheless, St. Louis was a major hub and marketplace for the West and home to a substantial free black community, making it an ideal location for freedom suits. Also, unlike in many other states, slaves who were successful in litigating freedom suits were not required to leave Missouri.

In VanderVelde's review of approximately 300 freedom suits in St. Louis during this period, she found four distinct categories of suits. One group of petitioners based their claims for freedom on having at least a partial Native American heritage. By law, Native Americans could not be enslaved; thus, any Native American heritage could serve as a basis for seeking freedom.

Another group of petitioners based their claim for freedom on mistaken status as a slave. At the time, it was common for African Americans to be presumed slaves, making it easy for free men and women to be mistaken for slaves. A third group of freedom petitioners alleged that their master had made an agreement to allow them to purchase



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their freedom, but ultimately reneged. The final, most significant, group based their claim for freedom on their residence in free territory or derivatively that their mother had resided in free territory.

This fourth group of freedom cases came to be known as "free soil" cases and represented the largest percentage of the 300 cases litigated in St. Louis. The most famous, or infamous, free soil case, of course, was *Dred Scott*. Essentially, these cases often involved slaves being transported by their master to a free territory. Slave owners were allowed to temporarily take their slaves with them when traveling through free territories to other slave states, but when slave owners settled or took up residence with their slaves in a free territory, this often presented slaves with the opportunity to escape and sue for freedom back in St. Louis.

In these cases, the slave owners never intended to make their slaves free, and the slaves in question had to have been brought to a free territory with the master's consent. Running away and traveling to a free territory, alone, could not serve as the basis for a freedom suit. As detailed by VanderVelde, the case of Winny and her children established this legal rule of freedom by residence in 1824.

Throughout Redemption Songs, VanderVelde does a remarkable job of bringing these long-forgotten freedom suits to life. While she freely admits that piecing together some of the details about what happened to many of the litigants after their cases were resolved and appeals were exhausted was difficult, she is able to provide amazing insight into the courage necessary for these slaves to sue for freedom. For example, she tells the story of Peter McNelly, the first slave to sue for freedom as well as for the freedom of his wife, Queen, all the way back in 1794.

After the McNellys' master found out about their freedom suit, he actually hired men to kidnap the McNellys in an attempt to thwart their suit. The McNellys were kidnapped, beaten, and tortured, but Peter McNelly was able to escape (without his wife) and continue to prosecute their suit until the judge who heard the McNellys' case granted their request for freedom and declared both of them to be free. Unfortunately, VanderVelde could not find any definitive evidence as to whether or not Queen McNelly was ever released by her kidnappers or reunited with her husband despite the judge having also granted a habeas corpus writ for her release.

In response to the granted freedom suit, the McNellys' former master engaged in a smear campaign against the judge, which ultimately led to the judge's resignation. With the judge out of the way, the McNellys' former master

pursued Peter McNelly again and was able to engage him as an indentured servant, most likely against McNelly's will.

The story of Peter McNelly's struggle and redemption—as with the other stories told by VanderVelde—not only reflects the dehumanizing nature of slavery, but also the stark contrast of the depravity of slave owners and their supporters vis-à-vis the relatively progressive posture of the attorneys who represented the freedom petitioners and the judges who granted the petitions.

Probably the most surprising procedural aspect of these freedom suits is that slaves were either jailed or auctioned off by the sheriff so that they could work while their freedom suits were pending. Petitions also were required to set forth allegations of beating(s) and/or imprisonment. Slaves could not simply sue for freedom because they wanted to be free as a matter of principle.

In all, VanderVelde displays an impressive knack for research and story-telling, as she had to piece together each of these dozen freedom suit stories from records that were mostly forgotten in the bowels of the St. Louis Circuit courthouse. Even for a reader with substantial knowledge of African-American history and/or the antebellum period, *Redemption Songs* is an eye-opening and sobering account of the courageous slaves who, while often unable to read or write, availed themselves of the legal system to gain their freedom.



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AMY M. COHEN

S WE ENTER THE LAST phase of our 2015 year with the Santa Clarita Valley Bar Association, I am satisfied to look back on all we have been able to do this year, and still know we have some exciting events on the horizon. We have been so pleased with the networking mixers and continuing education seminars we provided our members this year, and we look forward to finishing our year just as strong as we started.

A highlight of this year has been the Newhall School District High School Speech Contest which was held at West Ranch High School in April. Jeff Armendariz, a member at-large on our Board, has spearheaded this event for us since its inception. Through his efforts, we have been able to present a very special event for high school seniors in the Santa Clarita Valley.

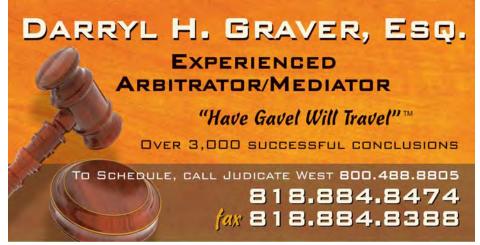
This year, we asked high school seniors to prepare a speech discussing the issue of how the United States has met its responsibility to our servicemen and women. Specifically, we asked students to speak on whether or not we had upheld President Abraham Lincoln's call to support the welfare of veterans in his Second Inaugural Address in which he stated "let us care for him who has borne the battle."

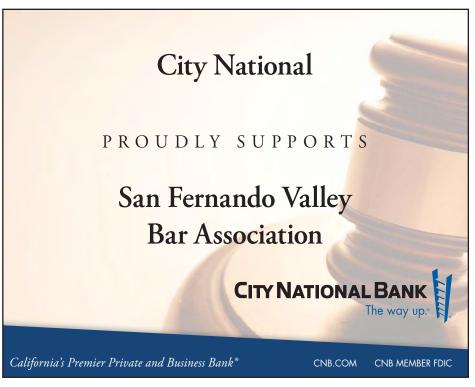
As always, we were blown away by the content of the students' speeches as well as their astoundingly polished and professional delivery. Some of those high school seniors could teach

us attorneys a thing or two about presenting an oral argument. We were honored to have the event judged by Los Angeles Superior Court judges. And we were thrilled to be able to offer \$1,000, \$750, and \$500 scholarships to the first, second and third place winners,

respectively. Our scholarships are made possible by the sponsorships of our generous members.

We have also been able to offer our members interesting and much needed continuing education opportunities throughout the year. Our CLEs are typically held at





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The Tournament Players Club (TPC) in Valencia and we try to alternate offering events over lunch and dinner so that a diverse group of members are able to attend. This year we were pleased to offer CLEs on topics ranging from ethics to mediation to the ins and outs of DUIs. We were also able to present a View from the Bench seminar by Judge Monica Bachner. Each year we try to include one of those hard to get, but so necessary, CLEs on topics such as substance abuse and ethics.

We hold networking mixers in January, May, and August. Our networking mixers are free for members of the SCVBA and provide a fun atmosphere to catch up with old friends and also network and mingle with new faces.

On October 15, we will welcome back Brian Koegle of Poole & Shaffery to present his annual employment law update over lunch at TPC. Our members enjoy coming back each year to hear Brian scare us with the new laws that have come down on various topics from meal and rest periods to hiring and firing practices. I expect I am not the only one to run back to the office and review my employee policy manual after listening to this must-attend seminar.

We will hold our annual Installation Dinner on November 19 at 6:00 p.m. at TPC. At last year's Installation, we celebrated the SCVBA's tenth anniversary and we were fortunate to have every past president in attendance. It was our best attended Installation Dinner and we hope to continue that momentum this year. Samuel Price of Poole & Shaffery will be installed as our president for the 2015-2016 year. Sam has been an SCVBA board member for several years and has served many terms as our treasurer.

We look forward to continuing to bring networking opportunities and continuing education events to our members, as well as carrying on the work we do for our local schools with our annual high school speech competition and scholarship contest.









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