

CONTRA COSTA LAWYER

Volume 25, Number 6 | **November 2012**

OUR COURTS

perspectives on the state of our courts
by the executive and judicial leadership of
the Contra Costa County Superior Court





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CONTRA COSTA LAWYER

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A special 'Thank you' to Commissioner Lowell Richards for making his judicial portraits of Judges Craddick, Fannin, Goode, Haight, Kennedy, Sugiyama, and Weil available for publication in this Bench/ Bar edition of the Contra Costa Lawyer!

This Bench-Bar edition contains reflections on 2012 and the challenging year facing our Judicial Leadership. Presiding Judge Diana Becton has been a very strong leader, wisely guiding the Court through one of the most difficult financial struggles ever experienced by our branch. Judge Barry Goode has taken a very active role, as has the Court's Executive Committee, in forming policy and carrying out the critically needed reductions in operations.

Supervising Judges Judy Craddick (Civil), John Kennedy (Criminal), Jill Fannin (Family), Lois Haight (Juvenile), John Sugiyama (Probate), Theresa Canepa (Pittsburg), Ed Weil (Richmond), and William Kolin (Walnut Creek-Concord) have each provided their perspectives on the operations of their respective divisions.

Assistant Presiding Judge Barry Goode will assume his two-year term as the Presiding Judge for calendar years 2013 and 2014 on January 1, 2013. In addition, Judge Steve Austin will assume his two-year term as the Assistant Presiding Judge on January 1, 2013.

As you will see in this issue, Judge Goode has made his judicial assignments for 2013 which reflect a reduction of five judicial departments, from 46 to 41 departments. These reductions are the direct result of the devastating budget crisis and resulting \$7.1 million in permanent cuts imposed on our court.

The Court opened its new Children's Waiting Room for court litigants at the Arnason Justice Center in Pittsburg in 2011. Since the Family Law calendars are returning to Martinez in 2013, we are assessing whether we can bring the Children's Waiting Room to Martinez to better serve litigants. This program is funded solely with dedicated civil filing fees.

The Court's top level Information Technology Director has been hired and we are developing our Information Technology Plan to assist the Court to implement technology



KIRI TORRE
Court Executive Officer

technology projects using these depleting one-time funds.

You will find an article in this issue which updates you on the status of implementation of the Criminal Justice Realignment Act of 2011 in our county.

2012 was the fourth full year of significant economic challenges facing the California Judicial Branch and our court in particular. These challenges have left our Court with well over 30 percent loss of staff since fiscal year 2008-09. We were able to weather the budget storm in 2011, due to the Court's strategic budget approach to painstakingly build our one-time reserve to serve as a safety net for the anticipated budget reductions to follow. However, this fiscal year's devastating budget cuts, including the sweeping of a significant portion of our one-time reserves, have left our court in a dire situation as is described in these articles.

Since my arrival to the Court in the fall of 2008, I have been inspired by the very dedicated and hard working managers and staff who provide the critically needed support to the Court. The commitment of our employees to continue to provide exemplary service to our judicial officers, attorneys, jurors and litigants each day is very much appreciated.

The Court truly appreciates its many strong partnerships with the Contra Costa County Bar Association and members of the local bar which have significantly helped the Court weather the budget storm. ♦

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YOUR MEMBERSHIP HELPED US ACCOMPLISH SO MUCH THIS YEAR



- In collaboration with our 21 sections, we offered more than 100 MCLE events. This year's events included a Law Practice Management Series, Family Law Training Series, our annual Mexico MCLE trip, as well as numerous networking mixers and other social events. In addition, we offered self-study opportunities to earn legal education credits and worked with our partner organizations to offer member discounts to outside MCLE events. Our annual MCLE Spectacular on November 16 once again features top-notch speakers and presenters, including New York Times Bestselling Author James North Patterson.
- We focused on providing you with tools to grow your practice in these difficult economic times. Our ground-breaking workshop on Unbundling Your Practice opened new opportunities, while our Law Practice Management Series explored important skill sets, from business etiquette to setting up a mobile law office. We also launched a new job board with low member-only pricing - take a look at jobs.cccba.org
- Our Lawyer Referral & Information Service (LRIS) generated more than \$2 million in attorney fees last year. This year, our LRIS is on track to exceed this mark for our LRIS panel attorneys.
- With your help, we offered unmatched support to our community with hundreds of free legal clinics and workshops. In addition, we raised much-needed funds for the Food Bank of Contra Costa & Solano through our annual Food from the Bar competition. With the help of our generous donors, we also awarded educational scholarships to former criminal offenders through the Richard E. Arnason Court Scholarship Program. Most recently, we supported local High School Law Academies with our annual Bar Fund Gala, raising more than \$40,000 for these important educational programs.

We are proud of what we have been able to do and we could not have done it without you.

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ARE WE THERE YET?

THE 2012 COURT YEAR IN REVIEW

All of a sudden, we are closing in on the end of 2012, and it has been a whirlwind of a year. On December 31, 2012, my two-year term as Presiding Judge will come to an end, and the term of the new Presiding Judge, Hon. Barry P. Goode, begins. I know and have worked side-by-side with Judge Goode, and I am confident that he will be an outstanding Presiding Judge during his term of office.

In January, Judge Richard Arnason (ret.) was honored with an official send-off after 49 years of faithful service to this court. There was an outpouring of affection and respect from the bench, court staff, longtime friends and the legal community as Judge Arnason was given a final salute. Known affectionately as "The Dean", Judge Arnason was one of California's longest serving judges. He will be

sorely missed. Judge Harlan Grossman retired after 21 years of devoted service, and Judge Peter Berger hung up his robe after 18 years of dedicated service to the court.

In the ever-changing landscape of the court, there have been some bright spots this year. First, some good news:

In February, the Governor appointed former Public Defender Terri Mockler to our bench. Judge Mockler is currently assigned to the Walnut Creek Court, and in January she will be assigned to the Richmond Court. In May, we welcomed our newest bench officer, the Honorable Judy Johnson, former Executive Director of the State Bar. Judge Johnson is currently assigned to the Richmond Court, and will relocate to the Pittsburg Court in January.



HON. DIANA BECTON
Presiding Judge

And now for the challenges. Over the course of the past three fiscal years, the court had to absorb nearly \$7.5 million in permanent budget cuts - a combination of statewide cuts to the judicial branch and unfunded cost increases. The court's fear that more cuts were on the horizon was confirmed with the publication of the Governor's revised budget in May, and with the news that the state would soon sweep the court reserves (our savings account).

Over the [...] past three fiscal years, the court had to absorb nearly \$7.5 million in permanent budget cuts - a combination of statewide cuts to the judicial branch and unfunded cost increases. [In addition,] the court had to reduce the FY 12-13 budget by a staggering additional \$7.1 million, and over \$8 million was "swept" from the court's reserves.

The result? The court had to reduce the FY 12-13 budget by a staggering additional \$7.1 million, and over \$8 million was "swept" from the court's reserves. The reserves which the court managed to painstakingly accumulate over a number of years, allowed the court to continue to provide access to justice during lean times.

Considering the magnitude of the current cuts, it was immediately clear that the court could no longer maintain its current public service levels. In August 2012, the court held a series of meetings to inform our court staff, justice partners, elected officials, and the public of the proposal to implement very drastic budget reductions. The meetings culminated with a public hearing on August 21, 2012. Thereafter, following consideration of public comment, the court adopted a modified budget reduction plan. In summary, the court made the difficult decision to close a branch court, close additional courtrooms in the remaining facilities, including most of the courtrooms in which commissioners preside, to add the commissioners' workload to the judges existing workload, to consolidate

court calendars, and to reduce services to the public as follows:

Effective November 1, 2012

The existing Family Law courtroom at the Arnason Justice Center in Pittsburg will be shut down, and the cases will be reassigned from a commissioner to the existing Family Law departments in Martinez. East County residents will have to travel to Martinez to have their Family Law matters considered.

Among other things, it will take longer to get a divorce or a decision on child custody.

Effective December 3, 2012

The Child Support courtroom in Martinez will be closed on December 3rd, 4th, 5th and 7th and from December 17th through 31st (open December 6th and December 10th through 14th). Effective January 2, 2013 the Child Support calendar

The court made the difficult decision to close a branch court, close additional courtrooms in the remaining facilities, including most of the courtrooms in which commissioners preside, to add the commissioners' workload to the judges existing workload, to consolidate court calendars, and to reduce services to the public.

will resume, however it will be closed on Mondays each week. This change will reduce this calendar to the level of service provided by the federal grant which funds this program. This will result in delays in obtaining child support orders.

Effective December 3, 2012

The Juvenile Law courtroom in

Pittsburg will be shut down and the cases will be reassigned to a judge in Martinez. In addition, the Juvenile Law courtroom in Richmond will be shut down. East County and West County residents will have to travel to Martinez to have their Juvenile Law matters heard.

Effective January 2, 2013

One Civil Fast Track department will close and the Civil Discovery/Ex Parte courtroom in Martinez will be shut down. Cases now heard in the Civil Fast Track department, and matters now heard by the Civil Discovery commissioner will be heard by the remaining Martinez Civil Fast Track departments. This will result in increased calendar congestion and will cause delays in hearings, trials, court decisions, and orders.

Effective January 2, 2013

The Concord Courthouse will close its doors to the public. Traffic cases will be transferred to the Walnut Creek Court. The remaining case types (Small Claims, Unlawful Detainer, Domestic Violence, and Civil Harassment) will be transferred to Martinez. Residents who use the Concord Courthouse will have to travel to new court locations as described above.

Effective January 2, 2013

The use of the Walnut Creek Courthouse will change significantly. Only traffic cases from Concord and Walnut Creek will be heard in Walnut Creek. All Criminal, Small Claims, Unlawful Detainer, Domestic Violence, and Civil Harassment cases from the Walnut Creek Court



Are We There Yet , cont. from page 9

will be transferred to Martinez. Residents who use the Walnut Creek Courthouse (except for Traffic hearings) will have to travel to Martinez to have their matters heard.

Effective January 2, 2013

Two commissioners will hear Traffic cases in Pittsburg, Richmond, and Walnut Creek.

Effective January 2, 2013

Court reporting services will be eliminated in general in Civil, Family Law, and Probate courtrooms. Details will be provided in the Notice of Availability posted to the court's website at cc-courts.org.

Effective January 2, 2013

Specialty courts such as Juvenile Night Court, Juvenile and Adult Drug Court, Domestic Violence Court, Homeless Court, Behavioral Mental Health Court, and Elder Court, may be consolidated or eliminated to allow the judges to focus on mandated calendars.

Effective November 12, 2012

Clerk's offices will only be open to the public from 8:00 am to 1:00 pm (reduced from 8:00 am – 3:00 pm.) Exceptions will be made for temporary restraining orders and other urgent matters that address the safety of individuals. The reduced hours will provide staff with critically needed time to process the increasing backlog of unprocessed court papers.

Effective November 12, 2012

Self Help services will be only be available from 8:00 am to 1:00 pm (reduced from 8:00 am to 3:00 pm) in the Spinetta Family Law Courthouse in Martinez, and the number of workshops for self-represented litigants will be reduced.

Effective January 2, 2013

The number of Traffic Night Court calendars now held in four branch

court locations will be reduced, possibly to a single calendar. The schedule for this calendar will be announced as additional information becomes available.

Effective January 2, 2013

The number of Small Claims Night Court calendars now held in four branch court locations will be reduced to a single calendar, one night per month, and only in Martinez. The schedule for this calendar will be announced as information becomes available.

Currently, the California State Department of Finance projects that the economic picture in California is likely to remain uncertain through the end of Fiscal Year 2014-15, and there are a wide range of statewide, national, and international variables that can influence this projection. We cannot predict the impact of this uncertainty upon our court. However, we do know that as budget cuts continue to force the Contra Costa Superior Court to reduce staff and services, there is a real and present danger that access to justice is slowly eroding.

Regardless of these dire times, the Court remains dedicated to maintaining basic services and mitigating the impact of the cuts on the public. As I have previously stated, "We look forward to restoring these services as soon as the State allots sufficient money to the judicial branch that we may do so. The full and fair administration of justice requires no less". ♦

Photos: 2012 Memories, from the top:

- ♦ Honoring Judge Arnason (ret.) after 49 years in office;
- ♦ Judge Grossman, celebrating his retirement, with Judges Austin and Kennedy;
- ♦ CCCBA President Audrey Gee presenting retiring Judge Berger with a token of appreciation;
- ♦ Judge Mockler, at her induction on June 22, 2012
- ♦ Judge Johnson, the newest bench officer of the Contra Costa Superior Court, at the Law Academy Gala on September 27, 2012



Consider it Resolved!



Hon. **Alfred Chiantelli** (Ret.) \$500/hr Hon. **Mark Eaton** (Ret.) \$450/hr Hon. **Richard Flier** (Ret.) \$400/hr Hon. **Richard Hodge** (Ret.) \$500/hr Hon. **David Lee** (Ret.) \$400/hr Hon. **Bonnie Sabraw** (Ret.) \$475/hr



Hon. **Douglas Swager** (Ret.) \$425/hr Hon. **James Trembath** (Ret.) \$425/hr **Stephen Blich**, Esq. \$450/hr **Eric Ivory**, Esq. \$400/hr **Michael McCabe**, Esq. \$350/hr



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LOOKING FORWARD:

A FEW WORDS FROM THE INCOMING PRESIDING JUDGE

This will be a challenging year. As we discussed during the public meetings held in August, the latest budget cuts require us to make some very significant changes in how we organize the court.

As a result, we are “re-engineering” our operations to find savings, promote efficiencies and maximize the use of our increasingly scarce resources. “Because we have always done it that way” has become an inadequate answer. We are drilling down and asking, “Why have we done it that way? Can we improve on that?”

We are cutting more than seven million dollars from our budget. (That is in addition to the seven and a half million dollars we cut over the last three years.) So, we have had to make some very painful decisions.

We have to close a civil department and change one family department to essentially a settlement judge position.



HON. BARRY GOODE
Assistant Presiding Judge

“Because we have always done it that way” has become an inadequate answer. We are drilling down and asking, “Why have we done it that way? Can we improve on that?”

We also must do what we can to consolidate case types. So, with great regret, we are moving juvenile cases out of Pittsburg and Richmond, and family cases out of Pittsburg. We are consolidating our criminal cases in three locations rather than four.

Perhaps our greatest loss is this: we must close the courtrooms of all but three of our commissioners. These are bench officers who have served our county long and well. We respect their work and deeply wish there could have been a different way of absorbing seven million dollars in budget cuts.

Three commissioners remain. Two will hear traffic cases and one will hear the child support calendar. The two traffic commissioners will “ride circuit,” allowing us to hear traffic cases in Pittsburg, Walnut Creek and Richmond. The

child support commissioner will hear cases only four days a week instead of five.

The other case types formerly heard by commissioners (small claims, unlawful detainers, civil harassment and some domestic violence) will be heard by judges. Cases that had been heard in Walnut Creek and Concord will be heard in Martinez.

Given all of that, including the consolidation of our criminal cases in only three locations, we must reconfigure how our criminal calendars are run. So, we are planning to try felony cases in Richmond and Pittsburg as well as Martinez. It also means that we are planning to try misdemeanors in Martinez as well as in Richmond and Pittsburg. To enable us to do that, we will have equally experienced judges in the criminal division in Martinez, Pittsburg and Richmond.

We have no illusions about how difficult it will be to implement all of these changes. Our Supervising Judges and many of our staff are all working very hard to work through the many details that must be planned to effectuate all this. We expect the first quarter of 2013 will be a (rocky) time of "field engineering" as we tweak and re-tweak the system to make all this work. We take comfort in knowing that the Bar has shown a great willingness to do what it can to help. We trust you will understand if we take a few months to get to the point at which we are hitting on all cylinders.

Our goal, of course, is to do everything we can to continue to provide access to justice to the maximum extent possible. And we all look forward to the day when we can provide full service in all our court locations. ♦

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HON. JUDY CRADDICK
Supervising Judge

CIVIL LAW

Just when we thought things couldn't get worse, THEY DID!!! 2012-2013 has been and will be a year of tremendous change resulting from our loss of millions of dollars from our operating budget, which, in turn, adversely impacts every aspect of every service we provide to the community.

Civil Commissioner, Judith Sanders, after more than 20 years of dedicated service, will no longer be with us. All of her work will be divided among the Civil Judges.

Effective January 1, 2013, there will be a reduction in the number of judges in the Civil Division to a total of 4. Judge Barry Goode will become

in the process of being formulated to cover the numerous changes being made. As soon as we are able, we will ask that this information be published to keep you informed.

Another significant change is the upcoming loss of part of our court family - court reporters. Beginning January 2, 2013, parties desiring a transcript will be required to arrange for private reporting services for all short and long cause matters, excluding those heard in the Complex Litigation department.

We are grateful to our staff for the tremendous effort they are making to not become totally overwhelmed by the workload. We are also appreciative of the understanding of attorneys and litigants to whom we will continue to strive to give the best service possible under the circumstances.

The bright spot is the generosity and willingness of members of our Bar who volunteer hours of their time serving on our ADR mediation, arbitration, neutral case evaluation and settlement mentor programs. Our attorneys are again stepping up to the plate and suggesting additional ways in which they may help. Your CCCBA continues to implement educational and other programs which tremendously benefit the entire community and Court. ♦

Effective November 2, 2012, our stalwart and much appreciated Civil Commissioner, Judith Sanders, after more than 20 years of dedicated service, will no longer be with us. All of her work will be divided among the Civil Judges.

It has been necessary to further reduce staff, further reduce hours which the Clerk's Office is open, further decrease services to attorneys, litigants and the public in general, despite the most parsimonious, prudent management of the Court by the Presiding and Assistant Presiding Judges and the Executive Committee (including accumulating a reserve fund for emergencies which was "swept" by the state). All this causes a trickle down effect, and there necessarily will be interminable delays in getting matters heard in law and motion, discovery and trials.

Effective November 2, 2012, our stalwart and much appreciated

the Presiding Judge of the Court. Judge Judith Craddick will move to Complex Litigation and will continue to be the Civil Supervising Judge. Judges Laurel Brady, Steven Austin and David Flinn will remain in Civil to complete the roster. The caseload of 5 judges will be divided among those 4 remaining (as well as Commissioner Sanders' work mentioned above). In addition, the 4 remaining Civil judges will divide the Small Claims and Unlawful Detainer cases transferred from Walnut Creek and Concord.

We are in the process of developing calendars to accommodate these new duties as well as our "regular" ones. New Court Rules are also

CRIMINAL LAW



HON. JOHN KENNEDY
Supervising Judge

We thought last year's budget cuts were brutal. Hold onto your hats for 2013!

The major challenge we faced in the last year was the arrival with little advance notice of the Governor's realignment legislation. As most of you know, the realignment legislation (also known as "AB 109") made three fundamental changes to the criminal justice system: Sentences for many lower-level felonies are now served in County Jail rather than in State Prison; custody credits for most crimes committed after October 1, 2011 are calculated at 50% (meaning day-for-day credit), and most of the people released from state prison are now being monitored by our Probation Department on post-release community supervision rather than parole. The Courts have been given the added responsibility of presiding over hearings on revocations of post-release community supervision.

Our County fared well in light of the massive changes brought about by realignment. Due primarily to the cooperation of our Criminal Justice Partners, we were prepared to implement the changes and survived the transition smoothly. Our District Attorney's Office, Public Defender's Office, Alternate Defender's Office, conflicts counsel and private bar have worked to negotiate dis-

positions that take full advantage of the sentencing options under realignment. We have also worked carefully with our Sheriff's Office and Probation Office to implement those sentences seamlessly. For example, the legislation created the option of a "split sentence," in which a defendant serves a portion of his or her total sentence in county jail and the remainder on mandatory supervision, which is very similar to probation. Our County stands out as having a far higher percentage of split sentences than most, if not all, other Counties.

Our Criminal Trial Departments have adapted to realignment and managed the heavy volume of cases with dwindling resources. We are fortunate to have seasoned trial judges and an extraordinary support staff. Our felony trial de-

These excellent and experienced trial judges have applied their considerable talents to try or otherwise resolve the felony cases before them within the speedy trial constraints.

We owe a huge debt of gratitude to our support staff. Despite having suffered substantial reductions in their ranks, our staff members have worked tirelessly with us to bring these cases to trial.

During 2011, the District Attorney filed 3,305 felony cases and 8,999 misdemeanors. We tried 100 jury trials, including 11 homicides and 12 sexual assault cases.

Our Criminal Calendar Departments have handled the crushing workload of all of the pretrial matters between indictment or information and trial. Judge Clare Maier, with her boundless energy and en-

Our County fared well in light of the massive changes brought about by realignment. Due primarily to the cooperation of our Criminal Justice Partners, we were prepared to implement the changes and survived the transition smoothly.

partments in Martinez include Judges Barbara Zúñiga, Mary Ann O'Malley, Thomas Maddock, Leslie Landau, Susanne Fenstermacher, Brian Haynes, and Lewis Davis.

thusiasm, has conducted all of our felony pretrial hearings, plus a multitude of other pre- and post-trial matters. She has applied her years of experience and innate sense of ►

Criminal Law , cont. from page 15

compassion to negotiating fair dispositions of the vast majority of our felony cases.

Judge Maier commends the exemplary work of the Deputy District Attorneys, Deputy Public Defenders, and Attorneys from the Alternate Defender's Office, conflicts panel, and the private bar for keeping the cases flowing smoothly despite their own staggering caseloads and personnel cuts.

Judge John Laettner has handled our collaborative courts, including our domestic violence, Prop. 36, and FADS (Felony Alternative Drug Sentencing) courts. He also presides over many of our Preliminary Hearings and adjudicates the bulk of the pretrial motions in our felony cases.

Judge Nancy Davis Stark has overseen our Mount Diablo Court, which conducts arraignments, pretrial conferences, PC 1538.5 suppression motions, arraignments, and innumerable bench warrant returns. With her trademark efficiency, Judge Stark has added to this heavy mix the probation revocation and post-release community supervision revocation calendars.

Judge Joni Hiramoto has managed the Behavioral Health Court ("BHC") she created, in addition to presiding over juvenile cases in Richmond.

Judge Joyce Cram has presided over our dedicated Elder Court, including criminal cases alleging crimes against elder victims.

As you know, we have been forced by budget cuts to close our

Walnut Creek Courthouse to all but traffic cases beginning in January 2013. As a result, we will have to absorb all of the criminal cases from the busy Walnut Creek Branch Court into our criminal courts.

We are meeting daily with Judges, staff, and our Criminal Justice Partners to plan for this major transition. Our goal remains to handle all of the criminal cases fairly and promptly despite our severe budget reductions.

The changes we will see in 2013 undoubtedly will present many challenges. We intend to work collaboratively with our Judges, staff, and Criminal Justice Partners to complete this transition efficiently and effectively. ♦

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HON. JILL FANNIN
Supervising Judge

FAMILY LAW

This has been a year of tragedy and transition for the Family Law Division.

On June 19th, we suffered the passing of our dear friend and colleague, Commissioner Jeffrey Huffaker. Jeff was a consummate judge and gentleman; equally loved by the bench and bar. His passing leaves a hole in the Court that cannot be filled and we continue to mourn him. I would like to thank Judges Cheryl Mills, Judy Craddick and Joyce Cram, as well as visiting Judges Lacy, Tiernan and Petrie, who graciously stepped in to help with the giant Pittsburg calendar during Jeff's illness and after his passing.

We began the year attempting to reduce Commissioner Huffaker's crushing workload by limiting filings in Pittsburg to only East County families with children. While this was beginning to take effect, it is all for naught. Given the dire budget constraints, we will officially shutter the doors of the Pittsburg family law courtroom effective November 1st until better economic times allow us to once again improve service to East County residents. Until then, East County cases will be absorbed by the Martinez family law judges.

We are also about to suffer the departure of another treasured colleague. Our esteemed and long-

serving Commissioner Josanna Berkow is retiring on November 30, 2012. She is doing this in the face of budget cuts which will reduce the AB 1058 Child Support calendar from five days a week to only four days effective January 1, 2013. It is hard to imagine how we will manage without her passion and expertise. The Tuesday through Friday

rounded out the division. All of our bench officers proved themselves to be dedicated, hard-working professionals, committed to serving Contra Costa families in difficult circumstances.

We were able to address the Bar's concern about inordinate wait times to get a custody counseling appointment by filling three lim-

On June 19th, we suffered the passing of our dear friend and colleague, Commissioner Jeffrey Huffaker. Jeff was a consummate judge and gentleman; equally loved by the bench and bar. His passing leaves a hole in the Court that cannot be filled and we continue to mourn him.

Commissioner job will be filled by an as-yet-unnamed replacement. The department will be dark in December except for December 6th and December 10th through 14th, when Barbara Suskind has kindly volunteered to sit pro tempore.

This year, Judge Ben Burch saw his assignment change from hearing long, long trials to hearing both short cause and long cause matters three days a week. The remaining time he hears probate matters, in addition to regularly volunteering to help out with criminal matters.

We welcomed Judge Trevor White to family law, who, along with Judges Joyce Cram and Steve Treat,

ited term custody counselor positions. As a result, the wait decreased from a high of fifteen weeks to the current low of only three and a half to four weeks. While the wait time may increase again at some point in the future, for now we anticipate that our limited term custody counselors will remain on board through at least June of 2013, thanks to the use of our reserve funds.

On January 2, 2013, we will welcome Judges Christopher Bowen, Barbara Hinton and Ed Weil as hearing officers in the Family Law Building and Judge White will move into Judge Burch's family law/probate assignment. We will try something new with Judge Bruce Mills acting

Family Law , cont. from page 17

in part as a family law settlement judge and in part as an overflow criminal department.

There are many other changes coming. One of the most devastating is the upcoming loss of part of our court family - court reporters. Until further notice, beginning January 2, 2013, parties desiring a transcript will be required to arrange for private reporting services for all short and long cause matters, excluding those heard in the AB 1058 department.

In addition, effective November 12, 2012, the Clerk's office will shorten its closing time from 3:00 p.m. to 1:00 p.m., with exceptions for temporary restraining orders and other emergency matters which may be

filed up to 3:00 p.m. Self-help services will follow the reduced 1:00 p.m. schedule and workshops for self-represented litigants will be cut back.

Given reduced staffing levels, we will eliminate Domestic Violence Restraining Order (DVRO) filings at the Richmond Courthouse beginning on a date to be determined. The Family Law Division will most likely take on the DVRO's and Civil Harassment hearings that had previously been heard in Concord and Walnut Creek. We anticipate that interpreters in DVRO cases will continue, using one-time Court Reserves this fiscal year, until an ongoing funding source can be identified.

The staff of the family law division has been working tirelessly to implement this dramatic transformation. Needless to say, many

of these changes are a work-in-progress and details will have to be ironed out in the future. We ask for the Bar's patience as we implement these changes.

The long tradition of positive Bench-Bar relations continues unabated. On behalf of the family law bench, I want to express our gratitude for the Bar's impressive volunteer services for the Court and its ongoing willingness to collaborate. We'll need it next year. ♦

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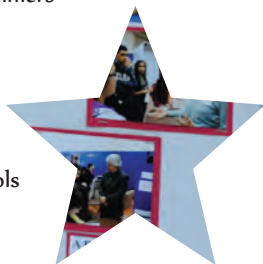
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★
10

Alicia Rickli, Deer Valley High School Law
Academy student, Inga Miller, and
Jodiann Beeson, Deer Valley High School
Law Academy Lead Teacher, showcasing
student work





HON. JOHN H. SUGIYAMA
Supervising Judge

PROBATE

Rather than assess 2012, this report will be directed toward 2013. The court system has weathered substantial budget cuts over the past several years. As all are now well aware, the reductions in the budget for next year will be even more severe in relative and total terms than in the past. Nevertheless, principally through the efforts of Presiding Judge Diana Becton, incoming Presiding Judge Barry Goode, and Court Executive Officer Kiri Torre, the Probate Division will start the year with its operational structure largely intact.

Two significant changes, however, merit announcement at the outset. Judge Ben Burch will leave the Probate Division and return to the Criminal Division. His enormous capacity for work and his willing-

ness to absorb new fields of professional endeavor will be sorely missed. Elder Court, under the guiding hand of Judge Joyce Cram, will be restructured. Judge Cram's creativity and experience in the probate field will be irreplaceable.

Other changes will be relatively minor. Of note, the ex parte hours have been changed from 1:30 to 3:00 p.m. to 9:30 to 11:00 a.m. each day. The change coincides with the reduction in the hours for the Clerk's Office. Also, parties wishing to have matters reported will need to provide their own court reporters. Electronic recording of proceedings will not be available.

As a final change, Judge Trevor White will join the Probate Division, and will be available principally to handle long cause probate,

guardianship, conservatorship, and mental health (LPS) trials. As members of the criminal and family law bars have learned, the probate bar will find Judge White to be an exceptionally capable jurist.

The strength of the Probate Division will continue to center in the capable hands of Courtroom Clerk Shannon Perry and Court Examiners Linda Suppanich and Erica Gillies. Janet Li, as a newly hired limited term research attorney, will also benefit the division. During the coming year, all will work to provide the judicial support that the distinguished Contra Costa Probate Bar has so well earned and richly deserves. ♦



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JUVENILE



HON. LOIS HAIGHT
Supervising Judge

There are some significant changes this year in our Juvenile Division. The budget issues that are plaguing California are certainly being felt in our courts.

For 2013 the juvenile courts will consolidate and all move to the Martinez courthouse with of course the exception that the juvenile hall court will remain at juvenile hall for detained youth.

This is a very difficult move for the juvenile bench which has been so pleased about the wonderful new courtroom in Pittsburg and the court in Richmond. However the budget issues are driving consolidation and we will try to make the best of this hopefully temporary situation. We are exploring with our justice partners setting different hours and days to accommodate the difficult access for those families and lawyers living in East and West County.

We also have a big change in juvenile court judges. Commissioner Steve Houghton is retiring. He has been a great gift to our court with his excellent judgment, devotion to our youth and their families and his delightful upbeat humor. He is a huge loss to our bench. However we may wish him well in retirement, I am hoping we can call upon him as a retired annuitant for us as needed.

We have three excellent experienced judges coming into juvenile, Judges Rebecca Hardie, Joyce Cram and George Spanos. They will be replacing Commissioner Houghton and Judges Hinton and Hiramoto, who are moving to new assignments. It has been wonderful having these two judges and commissioner working in the juvenile arena and I know they will be hugely missed by our attorneys and their clients.

Judge Baskin has been on leave to sit on the 1st District Appellate Bench until January 2013 and Judge Thomas Maddock has been volunteering and taking his calendar. Because he previously sat as a Juvenile Judge, his experience has been valuable.

Therefore beginning January 2013, the Juvenile bench will consist of Judges Haight, Baskin, Cram, Hardie and Spanos.

It has not been determined as yet which calendars will go where, who will sit where (other than Haight and Baskin). For the next months we want to work closely with our attorneys and Social Service representatives and other justice partners to organize and accommodate the many changes.

We have lost our juvenile drug court but are working with probation to use many of the same re-

sources to help the youth stay drug free.

Although Judge Hiramoto will no longer be on the juvenile bench, she will still direct the volunteer curfew program in Richmond.

The Student Attendance Review Board (SARB) courts will continue as mandated by statute but may be reduced at times.

As you can see this has been a busy year. We have all had to accept change that is difficult but our main goals of caring for the youth and families in our county remains constant. Our wonderful Court Appointed Special Advocates (CASAs) have been so appreciated in these times when the social workers have been reduced. These incredible volunteers take the time to connect with very needy children and we could not do our dependency court half as well without them.

We thank all of those this year that have served in our court. Our public defenders, district attorneys, probation officers, dependency attorneys, county counsel, CASAs, social workers, therapists, doctors all are here because they care deeply about our youth and we are so fortunate to have such dedicated and talented people serving our juvenile court. ♦



HON. THERESA CANEPA
Supervising Judge

PITTSBURG COURT

The Arnason Justice Center

The Arnason Justice Center's (AJC's) current bench officers include Judge George Spanos, Judge Rebecca Hardie, Judge Cheryl Mills and Commissioners Steve Houghton, and Lowell Richards, as we hear all of the East County Felony PXs, Misdemeanor Jury Trials, Family law matters, Domestic Violence cases, Small Claims cases and appeals, Traffic cases, Unlawful Detainer matters, and both Juvenile Dependency and Delinquency cases.

in both misdemeanor and felony cases in the Pittsburgh branch has increased substantially, particularly in the area of felony filings. However, all filings are increasing. (The following numbers reflect actual cases on calendar).

For example, in May 2012 we had 2,214 cases pending; in June 2012, we had 2,619 cases pending; and in July 2012, we had 2,432 cases pending. Our clerk's office, headed by Court Administrator Cyndi Mlack, continues to work at capacity and

endar on Monday, Thursdays, and Fridays.

- ♦ Master Calendar assigns out misdemeanor trials on Mondays and Thursdays.
- ♦ Unlawful Detainer cases are heard Mondays, Wednesday, and Fridays at 2:30 p.m.
- ♦ Domestic Violence Restraining Orders are heard Thursdays at 1:30 p.m.
- ♦ Master Calendar hears and assigns out Criminal Law and Motion on Mondays at 1:30 p.m. and Thursdays at 1:30 p.m.
- ♦ Traffic matters are heard Monday-Friday at 8:30 a.m. except for the second and fourth Mondays of each month when they are heard from 5:30 p.m. - 7:00 p.m.
- ♦ Small claims cases are heard Mondays, Tuesdays, Wednesdays, and Fridays at 1:15 p.m.
- ♦ Small claims appeals are heard on Tuesdays at 1:30 p.m.
- ♦ Juvenile Dependency matters are heard Mondays and Thursdays at 8:30 a.m., and Juvenile Delinquency cases are heard Tuesdays, Wednesdays, and Fridays at 8:30 a.m.

Our clerk's office, headed by Court Administrator Cyndi Mlack, continues to work at capacity and with remarkable efficiency. Clearly, our dedicated clerks deserve kudos for processing the ever-increasing volume of work facing this branch.

Sadly, this past year we lost a valuable member of the Pittsburgh bench, Family Law Commissioner Jeffrey Huffaker. His wonderful demeanor and strong work ethic have been sorely missed, and our branch is not the same without him.

In terms of assignments, we converted our matrix to a Master Calendar system, so that all trials, preliminary hearings, and motions are handled in Master Calendar as well as assigned to available departments. Additionally, the workload

with remarkable efficiency. Clearly, our dedicated clerks deserve kudos for processing the ever-increasing volume of work facing this branch.

Our matrix of assignments, which will be subject to change next year, due to upcoming budgetary issues, is currently the following:

- ♦ Master Calendar hears and assigns out Felony preliminary hearings on Tuesdays and Wednesdays, while "special unit" or lengthy hearings are held in Master Cal-

FAMILY LAW FACILITATOR WORKSHOPS

The AJC's Family Law Facilitator

workshops are held on Thursdays @ 1:00 p.m. in the Law Library (October 18, 2012 will be the last workshop in Pittsburg). The workshops assist people who do not have attorneys to handle their divorce, child custody and visitation, and child and spousal support, and paternity cases specifically the FLF can help either party to:

- ♦ Prepare the filings to obtain or modify child and/or spousal support orders;
- ♦ Prepare the filings to obtain or modify child custody and visitation orders;
- ♦ Respond to divorce, custody, support or paternity actions;
- ♦ Run computer-generated child and spousal support calculations;
- ♦ Prepare Orders After Hearings and Wage Assignments;
- ♦ File motions to establish paternity.


There are no appointments for these services, but the Facilitator's objective is to meet with everyone as quickly as possible. Persons wishing to use these services are requested to bring all court papers and proof of current income where necessary (e.g., tax returns, W-2s, 1099s, and three recent pay stubs).

BAY AREA LEGAL AID - Free Legal Clinics

Legal assistance is available for eviction cases and for domestic violence restraining orders.

The Domestic Violence Restraining Order Clinic provides assistance on Tuesdays, from 9:00 a.m. -1:00 p.m. at the AJCs Self Help Legal Center.

The Housing Law Clinic is designed for low-income persons needing assistance in eviction cases. The clinic operates on Wednesdays, from 9:00 a.m. -1:00 p.m. and Fridays, from 1:00 p.m. to 4:00 p.m. at the AJCs Self Help Legal Center.♦



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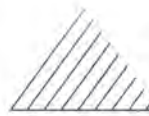
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HON. ED WEIL
Supervising Judge

RICHMOND COURT

The George Carroll Courthouse

This year, the George Carroll Courthouse in Richmond saw long-time Richmond Judge Peter Berger retire after 18 years of service to the court. His expertise and wry demeanor are missed, although he has returned periodically to hear matters in Richmond and other courts in Contra Costa County as part of the state's Assigned Judges Program. We have welcomed the Court's two newest judges, Judge Terri Mockler and Judge Judy Johnson. Judge Mockler sat in Richmond for several months after her appointment before moving to Walnut Creek. A long-time public defender in this county, she was well-known to many of us and made a smooth transition to her new role. In June, we welcomed Judge Judy Johnson, a former prosecutor, as well as former Chief Counsel and Executive Director of the State Bar. Judge Johnson was raised in Richmond, and has enjoyed serving in the community with which she is so familiar. In addition, Judges Patricia (Penny) Scanlon and Christopher Bowen are assigned to Richmond, and Judge Joni Hiramoto has continued to hear juvenile matters.

The Court's workload continues to consist of criminal trials in misdemeanor cases, preliminary hearings in felonies, and various pre-trial

proceedings in both felonies and misdemeanors. Jury trials start every Monday and Wednesday, and most commonly concern domestic violence charges, with driving under the influence charges a close second. Preliminary hearings in felony cases range from theft cases to the most serious cases involving criminal street gangs, sexual assaults, and murders.

We continue to operate the Early Disposition Program, which fosters early and efficient resolution of "lower level" felony cases, such as theft offenses, drug possession offenses, and certain property crimes, which are pre-selected by the district attorney for an early disposition. The public defender then, in the seven days before counsel and plea, meets with the defendant to see if the case can be resolved before preliminary hearing dates are set. The majority of cases in this program are resolved early in the process, helping to relieve court congestion.

The Court also hears unlawful detainer cases, domestic violence restraining orders, small claims cases, civil harassment restraining orders, and traffic court. As has been the case for some time, a substantial percentage of the unlawful detainers are post-foreclosure evictions of the homeowner, not traditional

landlord-tenant matters. We continue to receive assistance in civil matters from volunteer Temporary Judges, who graciously offer their time and skill when needed. In the past year, that has included Jocelyn Jones Torru, Lorraine Walsh, Barbara Suskind, Robert Kosloff, William Petzel, Robert Kane, Craig Judson, Karine Bohbot, and Gina Boer. Retired Commissioner Steve Easton has also served on occasion. Thanks!

Because of the Court's new budget, 2013 will bring substantial change to the Richmond Court. (See Judge Kennedy's article for more detail.) Under new Supervising Judge Leslie Landau, the Richmond court will conduct felony trials. In addition, judges, rather than a commissioner, will hear the civil matters, i.e., small claims, domestic violence cases, and unlawful detainers. Traffic cases will continue to be heard in Richmond, but juvenile matters currently heard in Richmond will be heard in Martinez. In addition to Judge Leslie Landau, Richmond's judges in 2013 will be Judge Penny Scanlon, Judge Joni Hiramoto, Judge Lewis Davis, and Judge Terri Mockler. ♦

WALNUT CREEK COURT



HON. WILLIAM KOLIN
Supervising Judge

As most of you are aware, effective January 1, 2013, the Walnut Creek courthouse will be closed, except for traffic matters. All Walnut Creek/Mt. Diablo criminal and civil cases will be transferred to the main courthouse in Martinez. The closure of the Walnut Creek courthouse will end a piece of local history in our County. Consequently, I asked Judge Minney and Judge Eaton to reflect on the history and time they spent as Judges assigned to Walnut Creek.

Judge Minney

Prior to 1966 there were Justice Courts in Danville and Walnut Creek. Dick Calhoun sat in Danville in the old Veteran's building there. Betsy Rahn sat in in an old office room next to a body shop in Walnut Creek where the noise regularly filled the court - she subsequently moved to the old veteran's building nearby. Walnut Creek soon reached a population of over 40,000 which under law mandated a Municipal Court there. Someone filed a lawsuit to compel the same for Danville, and the Board of Supervisors decided it would be cheaper to consolidate the Danville court into the Walnut Creek district, so both Betsy and Dick became Municipal Court judges sitting in the Veterans building in Walnut Creek - Betsy upstairs

in the meeting room/auditorium, and Dick downstairs in a court put together in a room next to the bar, which on Mondays smelled strongly of booze. In 1973 Dick was appointed by Governor Reagan to the Superior Court, and Joe Longacre was appointed to succeed him. Betsy lobbied the Board of Supervisors for a proper court building, and the county decided to have it built for them and leased it from the owner/builder. (The county later bought it). At Betsy's request the building had three courtrooms for future expansion needs, and the legislature created a third judgeship for the court in 1974. John Minney was appointed by Governor Reagan to that position January 3, 1975, the Governor's last few days in office. Betsy retired and Mike Phelan won the election to succeed her. Mike was elevated to Superior Court by Governor Deukmejian in 1987 and Barbara Zuniga was appointed to succeed him. Minney was elevated to Superior Court later that year and Merle Eaton was appointed to succeed him.

Judge Eaton

When I was first appointed Betsy Rahn would occasionally sit pro tem when I went on vacation or was off for training. We used to chuckle over the fact that before I left I had to find her a pillow for my chair in the courtroom and a gavel. In my

nearly nineteen years on the bench I can never recall using a gavel, but we always got one for Betsy.

Probably the most significant event that occurred during my time in Walnut Creek occurred on August 28, 1995 while I was Presiding Judge of the Walnut Creek Court. I was awakened from a sound sleep at approximately 5am by the phone ringing. When I groggily answered, Chuck Wyrick's voice on the other end said, "Judge you need to get down here now. The courthouse is on fire!". When I arrived at the courthouse we had to wait in the parking lot and surrounding area for quite some time while the firefighters went about completing their work. It was a dismally depressing experience when we were finally allowed access into the building to see what we had come to know as a second home reduced to scorched and smoldering framework of what it had once been. I can remember walking into my courtroom and being able to see the clouds and sky through the ceiling that was open to the outdoors. Then walking into my chambers and seeing the ashes and the twisted and charred remains of my bright and cheery Mickey Mouse collection was just heart wrenching. However, what I was most proud of was the fact that we only lost one day of service to the public; the day of

Walnut Creek Court , cont. from page 27

the fire itself. The very next day we were up and running in the various rooms and offices in 2020 Broadway next door. In all of my working career I have never been more proud of a staff. We remained nearly fully operational, including jury trials for the months that it took to rebuild the courthouse. For our in-custody matters one of the judges would drive to Martinez and we would borrow one of the Superior Courtrooms to handle those matters.

While there were a lot of funny incidents that occurred over the years, off the top of my head I can't think of any that would be suitable for public printing. I loved the staff

there and hold many fond memories. It was a wonderful place to work despite some of the personalities. I always had the feeling that at that level I could be much more personal and more effectively serve the local community and do more good with regard to the people that appeared before me.

Judge Kolin

After Judge Eaton retired from the bench in 2005, I was assigned to be Supervising Judge of the Walnut Creek-Danville court. In 2007, Judge Mary Ann O'Malley, the Presiding Judge at the time, asked that we consolidate the Mt. Diablo district cases into the Walnut Creek-Danville district caseload. Since that time, Walnut Creek has handled the calendars for both judicial districts.

(As an aside, I also received a phone call similar to the one received by Judge Eaton. On September 14, 1995, while acting as Presiding Judge of the Mt. Diablo court, the court administrator called me at home to inform me that our court was burning down. Unlike Walnut Creek however, the Concord courthouse burned down to the ground).

I am also very proud of the all the staff that work in Walnut Creek. They are hard working, dedicated people and I have enjoyed working with them. I know I speak for the judges and the entire staff when I say that we will all miss working in the Walnut Creek-Danville courthouse. ♦



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LIVING WITH THE REALIGNMENT ACT OF 2011

KIRI TORRE, Court Executive Officer

In an effort to reduce state prison overcrowding, and to save money, California's legislature adopted the Public Safety Realignment Act (Assembly Bill 109.) Effective on October 1, 2011 this Act transferred responsibility for housing and supervising non-violent, non-serious, non-sex offender (Non/Non/Non) inmates and parolees from state prisons to California's 58 counties. AB 109 becomes effective in two phases. In the first phase (October 2011 – June 2013), counties must provide housing, monitoring, and supervision of Non/Non/Non inmates and parolees locally. The second phase, which does not begin until July 1, 2013, transfers the responsibility for conducting parole revocation hearings for all parolees from the State Parole Board to county Superior Courts.

Under the first phase of the Act, judges gained new sentencing options. In addition to being able to sentence Non/Non/Non offenders to felony sentences of more than one year to be served entirely in local jails, judges can also issue "split"

sentences that include both jail time and mandatory supervision. According to preliminary estimates, the Contra Costa Superior Court already has handled cases for approximately 325-350 of the estimated first-year population of 400 Non/Non/Non offenders.

Reducing recidivism is a long-standing goal within the criminal justice community. Numerous studies show that those who leave prison or jail are far less likely to reoffend when their housing, employment, and physical and mental health care needs are met. To protect public safety and support each individual's successful reentry into the community, a significant percentage of Realignment funds are dedicated to assessing inmate needs before they are released, and then providing access to evidence-based programs and services in a coordinated fashion to support each person's successful reentry into the community.

To implement the various goals and objectives of the Realignment Act, counties were required to estab-

lish Community Correction Partnership (CCP) committees. By statute, the Executive Committee of the CCP includes: the Chief Probation Officer as chair, a Chief of Police, the Sheriff, the District Attorney, the Public Defender, the Director of either Social Services, Mental Health, or Alcohol and Substance Abuse programs, and the Presiding Judge of the Superior Court or his or her designee.

Beginning in fiscal year 2012-13, the CCP has a new and very welcome challenge. After recalculating the funding formulas to acknowledge the actual impact of the Act on each county, Contra Costa County had its first annual allocation increased from \$4.5 million to approximately \$19.1 million for each of the next two program years. This substantial increase in funds puts Contra Costa in the enviable position of being able to step back and rethink how we can best meet the sentencing and reentry-related needs of the Non/Non/Non offenders that call our county home—and the CCP is doing just that by developing and adopting an operational

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*What Percent of the U.S. Population Do Lawyers Comprise?," Wisegeek, www.wisegeek.com, viewed 10/24/11.

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Realignment ,
cont. from page 29

plan, and identifying our preferred mix of programs and services that will help our parolees reenter community life successfully.

Under the Realignment Act, courts must contribute to reductions in recidivism through more effective sentencing practices. To help the Court meet its obligations, we hired a Realignment Analyst, and have made changes to our case management system to accommodate the new sentencing options and track our new caseload. The Court has also begun planning for creation of a Reentry Court.

Reentry Courts are special problem solving or collaborative justice courts that provide a seamless transition for offenders leaving jails and prisons and reentering the community. These courts establish a program of graduated sanctions and rewards that can be used to influence parolee conduct without automatically resorting to incarceration. Participants generally appear before the court on a regular basis for review, and agree to follow a personalized program plan. Most programs require between six months and one year of participation. Research shows that those who are most likely to respond well to reentry court services include medium and high-risk offenders with a relatively short criminal history.

All in all, the first year of implementing the Realignment Act has been busy and successful, and the county has a great start in developing and integrating the programs and services into an effective network that we will need to help our AB 109 reentry population to succeed. The Court has every confidence that the CCP, together with input from individuals and organizations throughout the county, will continue to be leaders in the state in reducing recidivism. ♦

Goodbyes: An Interview with Commissioner Josanna Berkow

by Dana Santos

What have you enjoyed most about your time on the Family Law Bench?

The most enjoyable thing about this difficult work has been the camaraderie at all levels that help us serve the public. Our family law bench is very collegial and supportive of one another – we talk a lot. The court staff are wonderful in family law. From the folks helping litigants at the windows, to those preparing the calendars in the back, to the courtroom staff, to the clerks who make the whole thing work, to the bailiffs who keep everyone safe, these are all the folks that have the most challenging jobs in the court. They deal with large numbers of cases and with largely self-represented litigants (66% and growing) on issues fraught with emotion – children and money. We couldn't do it without them.

We also could not do what we do without the Family Section of the Bar. Over the years, I have done a lot of work both at the policy level, serving on the Administrative Office of the Courts (AOC) Advisory Committee on Family and Juvenile Law, and in statewide judicial education, serving on the AOC committee that developed a statewide judicial curriculum and regularly teaching with family law judges all over the state. In this work, I have seen how unique we are in Contra Costa County with our long history of strong partnership between bench and bar.

When I first arrived, my department was doing all the domestic violence, child support and most of the attorney short-cause calendars as well as long cause custody trials. Some may remember those calendars that averaged 50-60 cases a day – people were hanging from the chandeliers. With the help of the Bar, particularly Iris Mitgang and Martha Anthony, we developed a Mediator-in-Court program for my short-cause calendars that had a settlement rate over 85%. We started a Family Law Social Worker program that used social-work in-

lation of the parties, the social worker monitored compliance with substance abuse treatment and testing, domestic violence counseling, and other issues so critical to children's safety. Unfortunately, the grant ran out, and we have not been able to reproduce this program.

Working with attorneys, mental health, real estate and accounting professionals, we developed other sliding-scale and pro-bono programs designed to provide very specific information to inform court orders like focused evaluations, substance abuse assessments,



Retiring Commissioner Josanna Berkow (right) with Contra Costa Lawyer editor Dana Santos

terms to appear with families much as Court Appointed Special Advocates (CASAs) do in Juvenile court, ensuring that whichever judge was handling the most recent iteration of problems had information about previous cases and orders. By stipu-

“drive-by” real estate valuations, and cash-flow analyses for support. The bench-bar partnership developed an exemplary minor's counsel training program thanks to the early efforts of Barbara Suskind and Dan Harkins. We also developed the



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Commissioner Berkow ,
cont. from page 31

double pro-per calendar where attorneys still volunteer in each family law department to assist pro-per litigants with stipulated judgments. This work led to the pro-per clinics for starting and finishing divorce that I hope will be able to continue in some form.

Another rewarding endeavor was ACAD, the court's Advisory Committee Against Domestic Violence that I had the honor of chairing for several years before the organization was moved to the Board of Supervisors. In partnership with district attorneys, public defenders, private counsel, educators, therapists, law enforcement agencies from across the county, and advocacy groups, we held several annual training conferences bringing all stakeholders together to learn from one another. We developed a uniform domestic violence incident report subsequently adopted by all Contra Costa Police Chiefs.

Before the establishment of the Family Law Facilitator program, I was able to work with several local law schools -- Hastings, Golden Gate, JFKU, and Boalt -- to develop a family law internship program. These interns greatly assisted the bench with research as well as preparation of orders after hearing. So many of these interns went on to become excellent family law attorneys practicing in our county. Now we have an in-house program through the Facilitator's Office that does such wonderful work assisting pro-per litigants.

Finally, I loved working with the bar, particularly Paul Bonnar and Christine Callahan, to establish Art-in-the-Courthouse (A in C), a consortium of attorneys, judges, artists and curators. Together we have established galleries with works of art loaned by local artists for display in all of Contra Costa court facilities. There are over a hundred pieces of fine art available for sale from the



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exhibiting artists. Several major works have been sold. And one of these days A in C will purchase a sculpture for installation outside the Family Law Center.

This job has been so fulfilling because of all the people who have worked together with concerted effort to improve access to the courts, make the experience more manageable for litigants and assist the court in obtaining the information so critical to fair and just decisions.

What have you found most challenging during your tenure?

The most challenging part of this job has been the necessity of making decisions so critical to families with limited information. This was particularly so for the majority of self-represented cases. All the programs mentioned above were developed to address this deficit.

Another major challenge was handling high-conflict cases with one or both parties filing multiple motions one after another seeking the same or very similar relief to those issues recently litigated. These cases represent less than 5% of the total family law caseload but take a hugely disproportionate percentage of court time. This becomes increasingly problematic as our resources diminish. I have an idea that perhaps one day will come to fruition. I call it slow-track case management. The basic idea is to identify the small number of litigants who so over-tax the system and to set those motions for hearing on a slow track calendar with exceptions, of course, for true emergencies. The current system calendars all cases in the same way, in the order in which they were filed; there is no disincentive to deter frequent filers who can overwhelm our taxed system.

In the custody area the most challenging issues were the Moveaway cases that broke your heart, the special needs children with feuding

parents and limited resources and the cases where one parent gives up the fight and walks away from the children entirely. I've taught all of these classes at AOC judicial education programs to try to alert judges to the problems and some approaches towards resolution.

A collegial bench is a godsend in dealing with these challenges; one can always talk to one's colleagues and get a sympathetic ear and some constructive advice. I miss my good friend Jeff Huffaker, one of the best family law judges I have known. He is greatly missed by all.

It's important for all of us to remember that we did not create these problems; we are doing our best to try to resolve them. A good source for insight and consolation is the work of Dr. Mavis Hetherington, who reminds us that:

"The current narrow focus in the media and some of the clinical literature on the hazards of divorce and remarriage, and problems in children whose parents have gone through marital transitions, is a disservice to the majority of those individuals who, often with heroic effort, are leading constructive lives. It isn't a matter of whether the glass is half empty or half full. In the long run, after a divorce, the glass is three-quarters full of reasonably happy and competent adults and children, who have been resilient in coping with the challenges of divorce." For Better or Worse – Divorce Reconsidered, E. Mavis Hetherington and John Kelly, W.W. Norton & Co. (2002).

What have you learned while on the bench that has helped you in your personal life?

Patience, patience and patience, time management, and the art of compromise. My work on the bench has helped me see the importance of putting family and friends first.

The bench has also provided me the opportunity for continual learning through teaching opportunities.

What do you plan to do moving forward?

I could tell you, but if I did, it would probably kill me rather than you. Judicial canons of ethics are very clear that some of these plans can only be discussed following my actual retirement.

What I can tell you is that inter alia, I will continue teaching at JFKU College of Law, editing my Family Law Forms book for the Rutter Group and sailing our sweet new sailboat Haru (Japanese for Spring) named by one of my two wonderful daughters-in-law to commemorate Japan's recovery from its recent tsunami/nuclear tragedies.

What do you believe is the most important tool for increasing access to justice, given the current budgetary constraints?

I have been giving this a lot of thought lately as I watch our resources diminish. Our wonderful family law staff will have to do much more with much less. Everyone will be waiting longer and longer to get into court and have their divorce issues resolved.

With the exception of California Conciliation Courts that pioneered the idea of mandatory custody mediation to precede adversarial hearings, all other divorce issues have been handled in an adversarial system. In recent years, new innovative approaches like Collaborative Law, arbitration, and various types of mediation have been growing in our field. We will need to continue and enhance these trends and find better ways of making ADR more affordable and available to middle and lower income families.

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Commissioner Berkow ,
cont. from page 33

What would you tell new lawyers coming into family law?

What I've always told my interns and my law students: Work hard, work smart, be kind, be understanding, listen carefully and always be prepared.

Treat court staff well and realize that your matter is one among many others that they are dealing with at any given point in time.

I would also recommend finding a small group of friends and colleagues to meet over a nice meal to discuss the law – recent cases, legislation, and what has been happening in court.

It is also very important to take care of the other side of your brain. Do whatever works for you: coach your kids' team, play an instrument, do some art and stay healthy by walking, running, playing a little baseball, doing some pilates or yoga, and eating healthy food. This is your Jewish mother talking.

What would you have been if you hadn't gone to law school?

Perhaps I would have pursued my undergraduate work in theater, done some more singing and opened Books & Bagels. It is difficult to imagine living a life before, during or after my tenure on the bench that does not involve law. We are a nation of laws, it is our greatest strength and we all need to do what we can to preserve it. ♦

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(Martinez)

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- ♦ Judge Edward G. Weil
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- ♦ Commissioner TBD (DCSS Calendar)

Criminal Calendars

(Martinez)

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- ♦ Judge John Laettner (Calendar)
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(Martinez)

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WALNUT CREEK

- ♦ 2 Traffic Commissioners (TBD) to ride circuit among Walnut Creek/Pittsburg/Richmond

BAR SOAP

by Matt Guichard

People on the move: The Law Offices of Cindy Frazier Biltsborough announced that **Caroline D. Ham, Esq.**, has joined the firm as an associate attorney. **Audra Ibarra** has accepted an invitation to join California Appellate Law Group (CALG) as "Of Counsel". CALG is a team of talented and experienced appellate attorneys who focus on civil and white-collar cases in the Ninth Circuit and throughout California. With the wide acceptance of shirts of many colors in business attire now a days, I am wondering just what "White collar cases" means. Any thoughts?

● **John T. Schreiber** has announced the relocation of his law office to 1255 Treat Blvd., Ste 300, in Walnut Creek. The focus of John's law practice is civil appeals.

● Seems every time I look in the paper I see a report that another member of our legal community has passed away. **Retired Sheriff Warren Rupf**, a giant of a man passed away after a brief illness. **Tom Titmus**, a very fine lawyer and a gentleman passed away recently. **Robert "Bob" Hole** also passed away. Not many outside of the law enforcement community knew of Bob, but he

was a major force. I recall taking the search warrants class he regularly gave back when I was a Deputy DA. He set up our County protocol for officer involved fatal incidents. It is the template we still use today. **Joseph M. Starita**, a very interesting man, and a very familiar face around the Martinez Courthouse, passed away recently.

● I was very happy to see that some folks are reporting civil jury verdicts to me (Other than me). **Bob Slattery** reported a verdict he obtained in Contra Costa County. *Barbara Slarve, et al vs. Christopher Coufal, M.D. et al*, Case No. CIVMSC 09-02127 was tried before the Honorable Barry Goode. Plaintiffs were represented by Michael Verna and Jay Renneisen. Defendants, an orthopedist and his medical group were represented by Robert Slattery, James E. Allen and Blair K. Walsh. The case involved claims of medical negligence and wrongful death. Plaintiffs alleged negligent treatment following the repair of a fractured leg of the 38 year old decedent, resulting in the failure to detect a deep vein thrombosis and resulting pulmonary embolism, causing death. Plaintiff spouse and three children claimed over \$7 million in economic damages. Plaintiffs demanded \$1 million pre-trial. Defendants made no offer. The jury ruled in favor of Defendants.

● I attended a BBQ for **District Attorney Mark Peterson**. It was a very well attended event. Our legal community was well represented. The Sheriff was there. Recall he is also a licensed attorney in the State of California. At that event I ran into an old colleague from my days at Ropers Majeski. **Phil Andersen** now heads the Northern California staff counsel office for State Farm Insurance Compa-

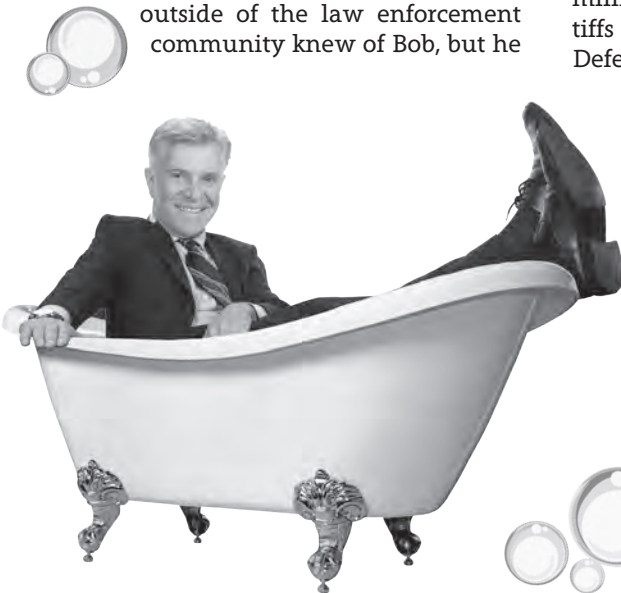
ny. He is a very fine lawyer. Funny how life works; he introduced me to his wife, also a licensed attorney in California. She just happens to be my County Supervisor Candace Andersen. Funny how life works. Did I say that already?

● For those of you who haven't paid attention the local Bar Association has new digs in Concord. The office is now across the street from the Concord BART station.

● The new Super Lawyers in our community have been named for 2012. There are too many to mention in this column, but we are very well represented. It is nice to know so many members of our local Bar Association have been designated as Super Lawyers. I will however mention **Peter Mankin**, as he was the only one to respond to my request to be notified if any of our locals were named this year. Congratulations Peter!

Speaking of "Funny how life works", I saw another old colleague from my DA days while shopping recently. I had not seen him in years, and I was glad to hear he is still doing well. He is retired and I will not mention his name. But we did try a murder case against each other once. He on the defense and I was the prosecutor. In the funny vain, the body was found on one side of a street in a county area. Across the street was in city limits. On the city side was a pool of blood and a path from a residence in the city. It appeared the body had been dumped on the city side of the street, where it remained for some period of time. Inexplicably someone moved the body across the street to the county side. The county detectives were the investigators.

Keep those cards and letters coming, and please write to me about those civil verdicts/ settlements of any kind - You can reach me at mguichard@gtplawyers.com ♦



LAWS OF THE HUNGER GAMES

You must excuse me if I am unable to provide the most unbiased analysis of the September 13, 2012 Inns Of Court meeting. When it is your own group that puts on the hour-long MCLE presentation, it can be difficult to provide the truth, the whole truth, and nothing but the truth. For you, however, dear reader, I will try my absolute hardest to provide the clearest picture of the Laws Of Hunger Games presented by Judge Cram's pupillage group (starring Commissioner Don Green, Nancy Allard, Amy Foscalina, Michael Markowitz, Wally Hesseltine, Daniel Cabral, Ken Strongman, Silky Sahnna, and yours truly). When I say that historians shall mark the presentation as a paean to creative legal education, you can trust that this is exactly how it was! Although when I say that all future lawyers, judges, and law students will have to reenact this glorious performance, I must admit it's only wishful thinking.

The presentation started out with the Hunger Games themselves. If you haven't seen the movies, read the books, or spoken with anybody too young to remember VHS tapes were a thing, the stories revolve around a post-apocalyptic America where a dominant Capital City forces one person from each surrounding district to fight to the death for amusement. Judge Cram, playing the role of Effie Trinket, helped select two people from each pupillage group to answer questions. She ran the Games, asking questions for all groups to answer. If they got an answer wrong, they died! Judge Cram

was assisted by Nancy Allard. Amy Foscalina, playing the role of Katniss Everdeen, and myself as Peeta Mellark were also a team in the Hunger Games. We were assisted by Ken Strongman, playing the role of Haymitch Abernathy.

The questions were examples of applying modern American law to the seemingly lawless Hunger Games world. For example, as the tributes in the Hunger Games are under the age of 18, what might need to be set up for them to receive the winning prize money? A Guardianship! Our best laid plans of allowing sponsors from each pupillage group to assist their teammates in the Hunger Games fell



apart when all but one team lost after the second round. Insomuch as Amy and I had helped write the questions, had discussed the answers prior to the meeting, and had a piece of paper with all of the answers written on them, we managed to answer all of them correctly. How unanticipated!

However, could there be two winners? In what Leonard Maltin called "the world's finest acting", I pledged my undying love for Amy's Katniss and agreed to eat poisoned berries so

that she would win. At the last moment, Commissioner Green, playing the Game-Maker, was inspired by the NFL Replacement Refs and randomly changed the rules without explanation. He allowed two winners! But that was not all! After winning the Hunger Games, Amy and I sued the government for false imprisonment, assault, and battery. We provided closing arguments as to why the government forced us to stay in one district, how we fear immediate attack, and experienced that bodily harm. Silky Sahnna, representing the government, argued as to why

the assembled crowd of "jurors" should not rule in our favor. Sadly, the jurors did just that, finding in favor of the government. Then, we put on a second trial. Wally Hesseltine, playing a prosecutor for the government, presented a closing argument trying Amy and yours truly for treason for forcing two winners of the Hunger Games. Michael Markowitz, playing President Snow, defended us from the charges.

What a nice President! The jurors again voted, finding us NOT guilty of treason. Score!

All in all, it was a very fun evening that provided both information about the modern American law, while also spoiling all the plot twists to the Hunger Games! The next meeting is November 8 at the Lafayette Park Hotel. To learn more about the Inns Of Court and get involved, contact President Scott Reep at (707) 784-0900 or Scott@Solanolawgroup.com ♦



by Matthew Talbot

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