

Contra Costa Lawyer Online



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Ray Donovan Review

Monday, August 01, 2016



We love Ray Donovan the same way we loved Tony Soprano. He gets the job done and at the end of the day, as bloody and philandering and as it may be, he returns home to be the rock of his family. Only instead of working for the mob, Ray Donovan works for attorneys.

Ray (played by Liev Schreiber) does the dirty work beyond the sensibilities of two nebbish partners, Ezra Goodman (played by Elliott Gould) and Lee Drexler (played by Peter Jacobson) dispatch him as “fixer” while staying behind at their lavish office or by the pool. While Ray makes his living by excising a price for his fixing, the money is

nothing close to that made off of his deeds by the partners while shrouding themselves in ignorance.

It is a less-than-flattering portrayal of lawyers. So why did we wait with baited breath for Showtime’s June 26 th premier of “Ray Donovan’s” Season 4? Ray’s dedication to client problem solving and the swiftness with which he generally accomplishes the task would give him an off-the-charts rating in client-deliverables. Strip away nasty tidbits like concealing evidence, beating people and starting fires and Ray Donovan could be a high-achieving attorney solving problems for his clients on the job and for his family off the clock.

Ray is the breadwinner of the extended Donovan family. His wife, Abby Donovan (played by Paula Malcomson) has stayed closer to their South Boston roots and is conflicted about up-scaling in upper-middle class, suburban Los Angeles. She and Ray argue over the role of Ray’s convict father Mickey Donovan (played by Jon Voight) in the upbringing of their two children, Bridget and Conor (Kerris Dorsey and Devon Bagby). Meanwhile, Ray serves as the protective older brother of Bunchy, Terry and Daryll (played by Pooch Hall, Dash Mihok and Eddie Marsan).

When stripped of the particulars, the outline of Ray’s regular day on the job reads like a rotation between prototype clients: He toggles between the coveted regular, the hard-to-turn-away pro bono, and the ever-more-difficult client who promises a big payday but delivers only misery. The attorneys of the show seem to have no actual abilities and serve instead as ultra-villains contrasted against whom Ray seems a seeker of justice.

Ray elicits the same empathy the late James Gandolfini evoked as Tony Soprano in “The Sopranos” as he shared in therapy sessions his struggles with work-life balance. Like Tony, Ray rides the line between protector and perpetrator and struggles with the consequences of crossing the line. His misdeeds make his own life increasingly complex and Season 4 opens with the mysterious hint that “no secret stays buried forever.” With so many secrets accrued, it is hard to tell which one will come out but Season 4 is sure to continue the exploration of how and whether a person who solves problems for a living is

equipped to solve his own.

Inga M. Miller is a transactional real estate and business attorney based in Orinda. Her firm, Miller Property Law, assists individuals and partnerships to envision and structure practical deals. She serves on the CCBA's Editorial Board. Contact Inga Miller at (925) 402-2192 or inga@millerpropertylaw.com or visit www.millerpropertylaw.com.

NFL Police Reports

Monday, August 01, 2016



The San Francisco 49ers' off-field reputation may be improving after a number of high profile encounters between 49ers and law enforcement in recent years. And although the Oakland Raiders recently took on the responsibility of one of those 49ers—five-time arrestee and pro bowler Aldon Smith—all is so far so good this preseason for the silver and black in the police report column.

According to data compiled by *USA Today*, none of the 12 criminal arrests of NFL players since the end of the 2015 season involved 49ers or Raiders, although the latest involved a recent 49er—linebacker Dan Skuta. Skuta was arrested for alleged battery on June 19, accused of “pushing a woman's face with an open hand after she refused to give him her phone number in Orlando.” (*USA Today*.) After two seasons with the 49ers, Skuta signed with Jacksonville last year as a free agent.

The highest profile arrest of an NFL player this off-season was of quarterback and Heisman Trophy winner Johnny Manziel, who was indicted on January 30 on a domestic violence charge. The Cleveland Browns released him shortly thereafter, and he is still without a team.

The NFL franchise with the most off-field concerns as of late may be the Rams, who have returned to Los Angeles after 20 years in St. Louis. Rams players have been arrested twice this off-season. Linebacker Tre Mason was arrested in March, accused of reckless driving, possession of marijuana, and resisting arrest. Safety T.J. McDonald was arrested for an alleged, non-alcohol DUI under suspicion of hitting a parked car.

The individual player trending for the wrong reasons this off-season, other than Manziel, may be Baltimore Ravens linebacker Terrell Suggs, who has a long history of legal troubles. He was arrested in March for allegedly leaving the scene of an accident and driving with a suspended license. Police reports involving Suggs date back to his rookie year in 2003, when he was charged but ultimately acquitted of felony aggravated assault, stemming from an alleged fight with weapons outside a Phoenix basketball tournament. Then, in 2009, according to CBS News, the mother of Suggs' children filed a civil complaint against him for alleged assault with a soap dispenser and a bottle of bleach. New domestic violence allegations surfaced in 2012. (*Huffington Post*.)

Heading into the 2016 season, four players on the 49ers' 90-man preseason roster have a history of criminal arrests/charges, which is above the arrest rate for NFL players generally. The most recent data available, from 2013, indicates a league-wide arrest rate of approximately 3.75 percent. (*Huffington Post*.) Two current 49ers have multiple arrests/charges, including a pending charge. Linebacker Ahmad Brooks was indicted last August for sexual battery stemming from a 2014 incident at the San Jose home of former 49er Ray McDonald. McDonald, a defensive end, was arrested three times as a 49er, became a Chicago Bear in 2015, and was promptly cut by the team after he was arrested

again for alleged domestic violence. Brooks' other incident was in 2008, in which he was accused of punching a woman.

The three other current 49ers with an arrest history are fullback Bruce Miller, wide receiver Jerome Simpson, and guard/center Daniel Kilgore. Miller was arrested last year for domestic violence, to which he pleaded no contest. Simpson joined the 49ers last season, although he was suspended for six games related to his 2014 citation for possession of marijuana and driving with an open container. (ESPN.) The 2014 citation was Simpson's third incident, all of which allegedly involved alcohol or drugs. Kilgore was accused of public intoxication in 2014.

The Raiders have only three players on its preseason roster with histories of arrests/charges, and only one excluding perennial kicker Sebastian Janikowski and the still-suspended Smith. Janikowski has three alcohol/drug-related arrests, but the most recent is nearly 13 years old. Smith was suspended for a year following his last arrest/charge as a 49er, and he must apply to the NFL for reinstatement, which he will be allowed to do as early as September. (ESPN.) Smith's run-ins with the law involve alleged DUIs, an assault, and even an alleged false bomb threat at an airport. He pleaded no contest to a gun-related charge in 2013. The only other Raider with a prior arrest is cornerback Sean Smith, who pleaded guilty after a 2014 DUI arrest.

Although the 49ers experienced an uptick in arrests/charges from 2010 to 2015, San Francisco is not the most criminally troubled NFL franchise since 2000, and neither is Oakland. Both teams are roughly in the middle of the pack in this category. There have been 23 arrests/charges against 49ers in the past 16 years, only 21 involving Raiders.

By this metric, Bay Area NFL teams are less than half as troubled as the league-leaders in this area. The Minnesota Vikings have experienced 48 arrests/charges since 2000, and the Denver Broncos trail the Vikings only slightly with 47 such incidents.

The leader on the positive end of this spectrum appears to be the New York Giants, who have managed to average less than one arrest per season, for a total of 14. The Houston Texans did not exist in 2000, but they, too, have averaged less than one arrest per season, for a total of 13 in the team's history, which began in 2002. The Philadelphia Eagles have only 15 arrests/charges in the past 16 years.

There does not seem to be a strong correlation between criminal arrests/charges and winning or losing in the NFL. The troubled Broncos have had 10 winning seasons and a Super Bowl victory since 2000. The Indianapolis Colts won 13 out of 16 seasons, including a Lombardi Trophy, but have experienced 33 arrests/charges during that period. And clean living does not always translate to victory on the field. The Buffalo Bills have done well off the field with only 18 arrests/charges but not so well on Sundays, with only two winning seasons out of 16. On the other hand, the aforementioned Giants have won two Super Bowls, and the winningest team this century, the New England Patriots, has a respectable off-field track record of only 20 arrests/charges, although it was a Patriot, Aaron Hernandez, who was infamously convicted of first-degree murder.

In spite of the headlines that NFL players generate when they face criminal charges, and the league's resulting reputation, NFL players have a lower arrest rate than their counterparts in the general population. According to a study published in the *Journal of Criminal Justice*, the arrest rate for NFL players in 2013 was approximately 3.75 percent, compared to about 4.95 percent for men aged 20 to 39 generally. (*Huffington Post*.)

Compared to the NBA, however, the NFL's arrest rate appears to be significantly higher. According to the *LA Times*, the arrest rate for NBA players in 2013 was no more than 1.5 percent.

Speaking of the NBA, and with the 49ers apparently cleaning up their act, Bay Area police reports in the world of sports may shift to another team—and another sport. According to ESPN, Draymond Green was arrested July 10 on assault charges. So begins the off-season for Green and the Golden State Warriors.

Except as otherwise noted, this article is based upon data compiled and reports by USA Today. Marcus Brown is a real estate and commercial attorney in Walnut Creek, handling both transactions and litigation. His favorite 49ers moments are Montana to Taylor to beat the Bengals in Super Bowl XXIII and Smith to Davis to defeat the Saints in the 2012 NFC Divisional Playoffs.

Broderick Roadhouse, Restaurant Review

Monday, August 01, 2016



Broderick Roadhouse is located in the heart of downtown Walnut Creek on Locust Street in the space formerly occupied by Hubcaps Diner. The space was transformed from a diner to a roadhouse complete with full bar, wood beams, rustic pendant lights, and bits of Walnut Creek history. Born from a food truck, Broderick opened its first restaurant in West Sacramento in 2012. Broderick Roadhouse describes itself as a burger joint that loves vegans and vegetarians. All the food is made from scratch. They are open seven days a week and offer a special brunch menu on Saturday and Sunday.

We visited Broderick on a Wednesday evening in late June. We arrived at 6 pm and got the last booth for the four people in our party. Shortly after we arrived the crowds began to form and the wait continued until we left around 7:30 pm. The open ceiling caused it to be quite loud but it seemed appropriate given the roadhouse theme. Our waitress was very friendly and efficient and was able to answer all of our questions about the menu. The manager also stopped by to say hello and made sure everyone was happy.

We started with a round of drinks. They have a selection of 12 craft beers on tap (\$7) as well as several signature cocktails (\$9) and wine. Since it was very hot, we opted for the cold beer and tried the Anderson Valley Summer Solstice, Mosaic Mama's Little Yella Pils, Anchor Steam California Lager and the Lagunitas Little Sumpin Sumpin. The beers were nice and cold and paired well with our shared appetizer of bacon mac and cheese made with a combination of bleu, gruyere and cheddar cheese, applewood smoked bacon served crispy over a bed of arugula in a mini cast iron pan. The arugula was fresh and it was like having a salad with the mac and cheese.

In the spirit of trying as many menu items as possible, we each ordered a different burger or sandwich with a side of hand-cut french fries that you could upgrade with one of six options. Overall, there were some hits and misses from this inaugural dinner--I ordered the El Charro burger with pickled jalapenos, fried onion crisps and spicy steak sauce. For spicy food lovers like me, this was heaven! I had the garlic fries which were tossed in garlic aioli, garlic and herbs. They were very good, but the aioli made them kind of heavy. Another hit was the boar burger with cheddar cheese, bacon, fried egg, fried onion crisps, house apple butter and gorgonzola mushroom fries. The fries, again, were kind of heavy with the sauce. The buttermilk fried chicken sandwich came with bacon and Sriracha bleu cheese sauce on an artisan bun with the naked fries. The only "miss" was the Ocean City sandwich with Maryland blue crab cake and creole aioli on an artisan bun. This diner has been searching for the perfect crab cake, and unfortunately, this was not it. Everyone agreed that the naked fries were the way to go as they were the best french fries we had had in years!

We had a bunch of meat eaters in our group but there are many options for the vegans and vegetarians including salads, vegan mac and cheese, a no egg salad sandwich, and

an optional veggie patty on the burger or sandwich.

The burgers are huge and none of us saved room for dessert (this is why I cannot quit my day job and become a professional restaurant critic!) We all agreed we would return to try other items on the menu, including dessert and one (or more!) of the five “boozy shakes” made from frozen custard and various liquor. Our waitress recommended the strawberry shortcake boozy shake with pinnacle cake vodka, strawberries and whipped cream.

Next time you are hungry and feel like a burger and fries, I recommend stopping by the Broderick Roadhouse.

Ethics and Better Call Saul

Monday, August 01, 2016



Last year I wrote an article lauding the first season of AMC's series "Better Call Saul," a spinoff 'dramedy' series tracking the origin of "Breaking Bad's" unscrupulous, but compassionate, drug lawyer Saul Goodman. The series begins in the early 2000's, when Saul Goodman was then Jimmy McGill, a former grifter who attempts to carve out a law-abiding life as an attorney in Albuquerque, New Mexico.

One of Jimmy's primary motivations to leave his life of petty crime and succeed as a lawyer is his relationship with his brother Chuck McGill, a pillar of the local legal community and founding partner of a prestigious firm. Jimmy's struggle for legitimacy is ultimately Sisyphean: the more he tries to impress his older brother, the more his baser, corruptible nature surfaces. Jimmy's attempted transformation is further thwarted by Chuck's general skepticism of Jimmy's merits as a lawyer and of his ability to truly change. Chuck's treatment of Jimmy is not always fair, tinged with elitism and big brother competitiveness, providing viewers with sympathy for Jimmy's character and invoking the adage that people will act the way they are expected to act.

Saul Goodman's character in "Breaking Bad" is essentially a five-season treatise of what not to do as a lawyer. Don't be the legal arm for a multinational methamphetamine cartel. Breaking Bad ethics exam over.

Yet "Better Call Saul" is a more nuanced examination of the do's-and-don'ts of the practice of law, with Jimmy constantly toeing the line of ethical behavior. Here are a couple examples of Jimmy's more egregious conduct in Season 2, viewed through the lens of the Rules of Professional Conduct.

Disclaimer: the actions occur nearly 14 years ago in New Mexico, but current California Rules are applied.

Scenario 1:

Jimmy fortuitously uncovers a massive scam of elderly residents by an assisted living community called Sandpiper Crossing. As a result of originating this potentially lucrative class action, Jimmy is hired by a 'silk-stocking' law firm in Santa Fe. The primary obstacle in the case is to sign up the hundreds of affected clients, with the direct mail solicitations not gaining any traction, possibly due to Sandpiper stealing its residents' mail.

In the episode "Amarillo," Jimmy waits outside a bus full of Sandpiper residents heading out for lunch. Jimmy boards the bus, bribes the driver, and addresses his captive audience. He analogizes the scam to being overcharged for biscuits, and likens himself to a benevolent nephew who can right the wrong. Within weeks, Jimmy garners 200 signed retainers, while the firm's direct mailers only reap a single signature.

The Ethics:

Rule 1-400 prohibits in-person solicitations of prospective clients unless the lawyer has a family or prior professional relationship with the client. Here, Jimmy clearly breaches the Rule by making in-person contact with potential clients with whom he is not related and has no prior relationship.

The Rule further proscribes false or deceptive solicitations, and prohibits communications that are intrusive, coercive, or vexatious. Jimmy's conduct may also violate this Rule since he doesn't explain the subject of the litigation accurately, and boarding a bus to sign up elderly residents who just want to eat lunch would likely be deemed intrusive, coercive, or vexatious.

Scenario 2:

Jimmy is entangled with a white-collar businessman who moonlights by selling pharmaceutical drugs to a cartel. The police stumble upon a hidden compartment in the man's house that they suspect was used to stash contraband.

In the episode "Cobbler," Jimmy convinces police that the compartment was used to hide bizarre fetish videos depicting his client sitting on pies and crying. Jimmy advances the cover-up by creating such a pie-sitting video with his client. The police buy the explanation, likely because it is simply too embarrassing to be fiction.

The Ethics:

Jimmy is actually not in violation of any Rules by not revealing his client's true criminal activities. Rule 3-100 only allows a lawyer to breach his client's confidentiality when the illegal activity would likely result in death or substantial bodily injury, which is not implicated here. Disclosure in such dire situations is also not mandatory: refusal to breach confidentiality is not, in itself, a violation.

However, Jimmy is likely in violation of the duty of candor under California Business and Professions Code Section 6106, which prohibits the commission of any act involving moral turpitude, dishonesty or corruption. He also may be criminally liable for his conduct in concealing his client's criminal activities through fraud and deception.

Conclusion:

Much like Walter White in "Breaking Bad," Jimmy is a complicated man who does bad things, often with good intentions. While Jimmy begins as an earnest lawyer trying to make it on the 'straight and narrow,' Season 2 clearly portends Jimmy's increasing tendency toward corruption. Lawyers and law students: enjoy, but do not imitate!

A Local Attorney's Reflections on Last Month's Tragedies

Monday, August 01, 2016



***This essay on the intersection of Legal Ethics and Race evolved from a private Facebook post that I had written on July 8, 2016 after a night of tears due to the deaths of Alton Sterling, Philando Castile and four Latino males killed in traffic stops and, of course, after watching the news coverage of the five Dallas police officers who were killed during a #BlackLivesMatter protest. It is very personal as I not only write about my thoughts on race, OUR justice system and legal ethics, but I also share facts about my life that shape me and directly impact my worldview as an attorney.*

I spent much of Friday July 8th very upset about the state of affairs in OUR great country. I felt helpless and overwhelmed with anger, fear and mostly sadness. As I sat in my office, I thought about my role as an ethics attorney and my personal goal to positively impact race relations in OUR country.

A little background on myself, and how I came to be an attorney. I am a first generation everything, meaning my father is a Mexican immigrant, I am the first female in my family to attend a four-year college and the first lawyer in the family. My father legally emigrated from Mexico when he was just 8 years old; he is a former gang member, a Vietnam Vet, a retired firefighter, my family's first college graduate and now a small business owner. My mother, Mexican-American, put all of us through college, my dad, my brothers and myself, setting aside her own dreams of higher education. I went to law school in 2004. At the time, I was a learning disabled single mother to a 3 year old little girl freshly diagnosed with epilepsy (now healthy and in remission). I share all of this very private information about myself to give you context with regard to my essay, because my life experience and identity have shaped me as an attorney.

I am in a unique position, being a woman of color with far more education than most women, who look like me or with my background. I recognized the privilege that came with education and ran to this opportunity to become a lawyer and a member of OUR justice system. I know that my access to the justice system is far different from many others who look like me and different from my elders, who made my position possible. So, I never take my position for granted. When I took my oath to follow the laws of California and the Constitution of OUR United States, I secretly added an additional promise to use my privilege for good and not evil.

I sat in my office at the end of a week of shocking violence and I looked at my client work and wondered if I was doing enough to help change the status of OUR race relations in OUR country, in my community.

I went to law school believing that I was going to fight for justice and pick a cause that would positively impact lives of the disadvantaged and change them for the better. I thought that I would work for a nonprofit or for some other social justice matter to make a

difference. But instead, I fell in love with legal ethics, where I advise lawyers and law students about their legal matters. In many ways, I am in an ivory tower offering my thoughts on what is the ethical thing to do in order to advance my client's position. I have friends and clients who are "in the trenches" and I know that I don't want to do what they do. So I take phone calls and share what I think is ethical.

Yet as an ethicist, I wonder am I doing enough to cause change?

I don't know the answer to this question. I don't know the answer to how to stop this madness, the hatred, the fear and all the -isms that are leading to the violence that we have seen recently. What I can say is that I have worked with attorneys from all walks of life and their voice, life experience, and worldview directly impact justice and how justice is served. Justice is a slow process and painful as hell to change, but without a diverse group of lawyers from all walks of life, justice cannot be properly served.

So reflecting on my practice, I think about my law student applicants trying to get their license to practice law. These clients have reformed their lives for a shot at furthering justice. My clients are recovering addicts, former homeless, reformed prostitutes, ex-convicts, and the list goes on. I love when I get to tell them that they get to become a lawyer, partly because their success is my success, but mostly, because their life experience becomes a part of the diaspora of OUR legal community. They will carry their personal history into OUR justice system and, God willing, their personal history will help shape justice for someone else in need.

My essay is not a self-congratulatory piece; rather, it is a call to my fellow attorney friends. I implore you to please put time and effort into supporting someone, anyone who wants to join OUR club but may not have the superficial credentials to be a lawyer. I didn't fit the mold--a learning disabled single mother of color to toddler with epilepsy. I had many people tell me that I couldn't join the club, but I am forever in debt to ones who dared me to dream and invited me to the table.

My only solution to what we are seeing right now is to help bring more people who are disenfranchised into OUR profession. To mentor OUR youth and encourage them to dream, and tell them that they have a place at the table, if they wish. It is not enough to teach OUR children of color how to behave with police officers. Rather we need to teach OUR children that they can be police officers too, that they can be judges and their voice matters and is essential to OUR justice and without their voice in OUR justice system, we will not have real justice.

London Inns of Court Adventure in England

Monday, August 01, 2016

Many years ago, when Scott was a 21, he studied in London for eight months and had an opportunity to visit several of the Inns of Court. We recently traveled through London on our way to visit our daughter, who finished her high school on a year exchange in Warsaw. We took the opportunity to have lunch at the Honourable Society of the Middle Temple and to visit the ABA's monument to the signing of the Magna Carta at Runnymede.

The American Inns of Court is designed to improve the skills, professionalism and ethics of the bench and bar. An American Inn of Court is a combination of judges, lawyers, and in Contra Costa County, law professors and law students. The Robert G. McGrath AIOC meets at the Lafayette Park Hotel eight times a year for dinner and to hold MCLA programs, and to enjoy discussions on matters of ethics, skills, and professionalism. American Inns of Court are based on the mentoring system used by the Inns of Court in England.

In the 13th century, the English Inns of Court originated as hostels and schools for student lawyers. Middle Temple is the western part of "The Temple", the headquarters of the Knights Templar until they were dissolved in 1312. The Inns stopped being responsible for legal education in 1852, although they continue to provide training in advocacy and ethics for students, pupil barristers and newly qualified barristers. Most of the Temple Inn is occupied by barristers' offices, known as chambers. One of the Middle Temple's main functions now is to provide education and support for new members to the profession. This is done through advocacy training, subsidized accommodation and by providing events where junior members may meet senior colleagues for help and advice.



Middle Temple Hall is at the heart of the Inn, and the Inn's student members are required to attend a minimum of 12 qualifying sessions there. Qualifying sessions, formerly known as "dinner," combine collegiate and educational elements and will usually combine a dinner or reception with lectures, debates, or musical performances.

We were able to have lunch at the Middle Temple through our association with the American Inns of Court. At the lunch, we

were intrigued by a neighboring table of 20 well-dressed young people. They looked too young to be barristers, and we were perplexed by their attendance at the Inn. We learned

from their Head Master that it was a visiting class of high school seniors from Memphis, Tennessee. Their Headmaster had been a California attorney and law professor at Pepperdine before changing careers and taking the job as Headmaster of their high school. We recall that when we were in high school, neither of us had senior trips . . . Times have changed.

Middle Temple is located on the north Bank of the Thames and is in close proximity to King's College and the location where the Strand (City of Westminster) becomes Fleet Street at the City of London border. Within a five minute walk is Ye Old Cheshire Cheese (a pub in continual use since 1538 and rebuilt after the Great Fire of 1666) and Dr. Samuel Johnson's House. Dr. Johnson compiled the Dictionary of the English Language in 1755 which remained the most comprehensive and influential dictionary for over 100 years. Be sure to visit the Bronze statue of Hodge in the courtyard leading the house. (You can find it in Wiki.)



Our travels also took us to Runnymede meadow, the location at which, on June 15, 1215, King John sealed Magna Carta. Magna Carta had an impact on common and constitutional law as well as political representation also affecting the development of parliament. Runnymede's association with the ideals of democracy, limitation of power, equality and freedom under law attracted the ABA to create a memorial in 1957. The crowds (non-existent) were surely smaller this year, rather than 2015, when the 800 th anniversary of the sealing of Magna Carta was celebrated.

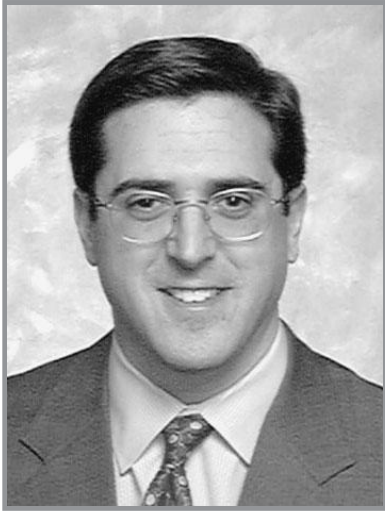
We hope that you consider joining the wait-list for membership of the Robert G. McGrath American Inn of Court or have the opportunity to enjoy a tour of

“Legal London” by foot. As stated by Dr. Johnson: “ *When a man is tired of London, he is tired of life.*”

Scott Reep is Senior Partner at Gizzi & Reep and a Past President of the Robert G. McGrath American Inn of Court; Lisa Reep is the Executive Director of the RGMAIOC and Past Executive Director of the CCCBA.

Summer Reading

Monday, August 01, 2016



Welcome to the August edition of the Contra Costa Lawyer. With the onset of summer, we traditionally see our readership drop with it bottoming out in August as our members rush to get that last summer vacation in with their kids or grandkids. Those of us with older kids know to avoid all the vacation spots during summer. We decided that our August issue this year would be lighter and less law focused. We aimed to have articles that you could read on vacation and with your legal brains turned off. This doesn't mean that the articles are less interesting or helpful to you, just that they are not as practice focused as the majority of our articles throughout the year. Hopefully, one or two are even fun reads as you sit by the pool. For those of you working all month, our condolences.

Our August issue contrasts strongly with next month where we will be addressing the upcoming election and political issues head on. Like much of the country, we are all glued to the news as the parties rush towards their national conventions.

For those of you that want to write for the Contra Costa Lawyer, please email us. We are always looking for authors.

The Editorial Board hopes that this issue finds everyone enjoying his or her summer.

President's Message

Monday, August 01, 2016



Well, here we are at the end of summer. It always seems to go so fast, doesn't it?

Summer tends to make people look up from their desks and think about the other parts of their lives. Summer vacations with the family (or not) are something we look forward to all year. Long, warm summer nights mean that when our day is over, there is still fun to be had and daylight to be enjoyed. Summer can give us the time and space to try something new, whether it is hiking up Mt. Diablo, river rafting on the Sacramento River, traveling abroad or simply giving ourselves the freedom to flex our creative muscles.

To that end, I wanted to introduce a new feature that we are offering to our members on a trial basis. We know that many of you have a strong creative side that you express outside of the law. How would you like to have a place to publish your work? That is the idea behind Creative Corner, a place for our members to publish and display their creative work.

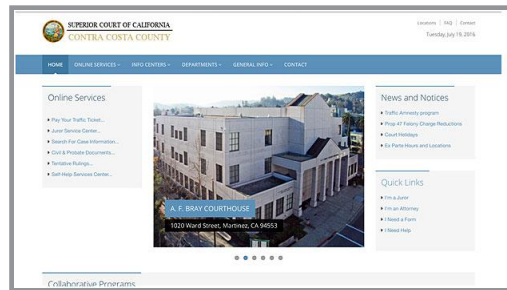
Do you write fiction (legal or otherwise)? Are you an artist or photographer? How do you express your creative side? We would love to know -- and share it with the rest of our members!

We are kicking off this new feature with a couple of "fan favorites"- Justice Marchiano's Tales from the Bray Building and More Tales from the Bray Building. Creative Corner can be found at the CCCBA website, Attorney Home, and click on Contra Costa Lawyer at the top, below the search box (or here). I hope you enjoy Creative Corner and I look forward to seeing all the creative ideas that come from our members! And, please, let us know how you like it!

Happy summer!

Accessing the Law from your Home or Office

Monday, August 01, 2016



If you've been to www.cc-courts.org since mid-July, you've seen a brand new Contra Costa Superior Court website. In addition, the court's Virtual Self-Help Law Center (VSHLC) site (www.cc-courthelp.org), has been revamped. The interplay between the two sites has been upgraded and, for the first time, both are readily accessible from your mobile devices.



Our new website has an intuitive design; two or three clicks will get you to your destination. In addition, areas of content can be reached through at least three pathways, increasing the likelihood that you'll be able to find what you're looking for. The dedicated "For Attorneys" section remains, but is now easier to use.

The website also benefits from a redistribution of content. The website is tailored to fit the needs of Contra Costa Court users, with features such as online completion and submission of Domestic Violence Restraining Order paperwork and basic information (court hours, directions, phone numbers, Local Rules, local forms, lists of local resources, etc.). Many pages of general substantive legal content have been transferred to the VSHLC. Links have been added from the website to the VSHLC, so users can still access the substantive legal content; it just takes an extra click.



For more than 10 years, the VSHLC site has offered legal information and step-by-step instructions for 11 case types: divorce, child custody, child support, spousal support, parentage, guardianship, eviction, adoption (including termination of parental rights),

domestic violence, small claims, and traffic.

Finding information on the VSHLC however, was often a challenge. The new design addresses this with graphic buttons that enable a user to get directly to the area of law they need. Every page in the VSHLC has been written to be at an eighth grade reading level or below and content has been rewritten so answers are succinct. In an effort to increase access to the site, the entire site is available in Spanish. Additionally, Google search has been added to the website as another means of locating information.

A lot of work has gone into the new look and feel of the websites. Next time you are waiting in an interminable line or just have a few minutes to spare, we invite you to pull out your mobile device or tablet and get acquainted with both of these sites. We hope you'll enjoy the experience!

Heather L. Pettit has 20 years of experience working in technology. She has worked in such industries as gaming, software development, retail, service, and hospitality. Her technology expertise spans all areas of IT, including project management, software development, product management, quality assurance, infrastructure, service desk, and education. She has worked for the California Judicial Branch for the last eight years. Before working as the chief information officer for Contra Costa Superior Court, she was the chief technology officer for the Sacramento Superior Court. Highlights of her career within the branch include the California statewide RFP for case management. This effort led to the creation of three master service agreements for case management systems. She received CITOC's Innovations Award for 2013 for Sacramento's Public Access Program. She is a chair of the California Court Information Technology Managers Forum, Education Chair for Court Information Technology Officers Consortium (CITOC) and faculty for ICM's Managing Technology and Resources and Strategic Planning and Visioning courses.

All Sections Summer Mixer [photos]

Monday, August 01, 2016

The All Sections Summer Mixer, coordinated by the Barristers section, took place on a breezy June evening in downtown Concord in Salvio Pacheco Square. It was a beautiful evening with a good turn out by CCCBA members and guests. The spread, provided by E.J. Phair Brewing Company and Ale House, was a hit and many tried deep fried pickles for the first time! The event sponsor, Combs Reporting, Inc., provided complimentary beer and wine glasses to all the guests.





The 20/10/5 Rule: The Key to Managing Your Firm and Your Life

Monday, August 01, 2016



Many small firm and solo attorneys who seek outside marketing assistance are frustrated by their income, stressed out, and/or overworked. There are usually three specific issues that stand in the way of their success. Once the three issues are solved, their income, happiness, and stress levels all improve. In this article, I'll describe the three challenges and discuss solutions to solve each issue.

Here are the top three reasons why those who work with small firms and solos see problems:

1. Many solo and small firm attorneys are stuck on the "Revenue Rollercoaster." It begins when you have a full load of matters you don't have time to market. As those matters are completed, you have time to market but it takes awhile to bring on new clients. So your revenue drops. Then your marketing (finally) gets traction and you're full with clients again (and once again, you have no time to market). As the cycle repeats itself, revenue goes up and down. This is called the Revenue Rollercoaster, and it's one ride that's hard to get off.
2. Unknown to them, most lawyers simply do not spend enough time marketing.
3. Many lawyers do not have a guideline that tells them when to hire people, and whom to hire.

In the course of solving these challenges, there is a simple framework that can address all three issues (the Revenue Rollercoaster, insufficient marketing time, when and whom to hire). As this framework is implemented, it is surprising how quickly one can identify and fix critical issues in law firms. Once the issues are addressed, the firm's revenue, growth, and owner happiness all go up. It's called the "20/10/5 Rule".

The 20/10/5 Rule

The 20/10/5 Rule is a way of balancing your time on a weekly basis. The "20" refers to 20 hours per week: the maximum amount of time you should spend on billable work.

The "10" refers to 10 hours per week: the amount of time you should be spending weekly on marketing activities.

And the "5" refers to 5 hours per week: the amount of time you should be spending on law firm admin tasks each week.

Taken together they add up to 35 hours, which makes for a nice work week!

Note: *litigation-focused practices should use these numbers on a monthly basis, rather than a weekly basis. So the rule changes to 80/40/20.*

In addition to giving you a formula for balancing your time, the 20/10/5 Rule is a helpful diagnostic tool as well:

- If you're spending more than 20 hours per week on billable work, congratulations! It's time to staff up! You can hire an associate, paralegal, or legal secretary. The key is that you must be able to bill out their time. They can be part-time contractors, full time employees, etc.
- The second part of the 20/10/5 Rule is the 10 hours spent on marketing each week. It may seem like a lot, but it's not as difficult to achieve as you may think. First, it includes travel time. Second, it encompasses a wide range of activities such as bar association meetings, networking events, and social events where networking takes place (community galas, clubs, etc.). You'll find that the 10 hours is usually achieved with 2-4 events per week. If you're under 10 hours, increase your marketing efforts. If you're spending more than 10 hours of marketing a week, but not getting the quantity or quality of clients, there's something wrong with your marketing.
- Lastly, if you're spending more than 5 hours per week on law firm admin, you're wasting precious time though it may not be obvious to you. Consider outsourcing some tasks and/or getting more admin help. When it works well, technology can reduce your admin time. Unfortunately, oftentimes technology and software can be a huge time drain. In these situations, hiring high quality professional expertise to get things working efficiently is usually a good investment.

In conclusion, let's review the 20/10/5 Rule: 20 hours billable time, 10 hours marketing, 5 hours admin time. Use the 20/10/5 Rule as a diagnostic to see what needs to be changed. If you don't know how many hours you're spending on billing, marketing, or law firm admin use your billing program and set up 'clients' for marketing and admin and track your time in those areas just like you do for real clients. That way, you can check to see how well you're tracking to the 20/10/5 Rule, and what needs to be changed.

About the Author

Alay Yajnik is dedicated to making a difference in the lives of attorneys by helping them build their Perfect Practice™ in terms of size, income, and personal time off. Alay is certified by FocalPoint International as a Business Coach, and received the 2015 Kaizen Award from that organization. Contact Alay at alay@yajnikgroup.com or @AlayYajnik.

Celebrity Apprentice Replaces Trump with the Governorator

Monday, August 01, 2016

It looks like fans of NBC's The Apprentice will have to wait until January 2017 for Arnold Schwarzenegger to ride in on his white horse and "take the reigns" of the popular reality series. The "'NEW' Celebrity Apprentice" will mark Season 15 for the franchise and season 8 for the celebrity version.

Given Donald Trump's political bid, producers found an apt replacement, someone like him who had built a strong personal brand, someone with a passion for real estate investments and someone with the laurels of political success.

Quoted by the Hollywood Reporter in September of 2015, Paul Telegdy, President of NBC for alternative and late night programming, said "Arnold Schwarzenegger is the epitome of a global brand in entertainment and business, and his accomplishments in the political arena speak for themselves."

"It was Arnold's personal passion for the format that Mark Burnett and Donald Trump built over the last decade, as well as his fresh take on how to take it to new heights for today's audiences, that made him the man to hire," Telegdy added.

Advisors for the new slate of celebrity contestants include super model and business woman Tyra Banks, actor, model and business woman Jessica Alba, Warren Buffett, and former Microsoft CEO and Los Angeles Clippers owner Steve Ballmer. Like Trump, Schwarzenegger will also have family members advising him. His nephew, entertainment attorney Patrick Knapp Schwarzenegger will be on the team of advisors. A partner at the Beverly Hills entertainment law firm Bloom, Hergott, Diemer, Rosenthal, Laviolette, Feldman, Schenkman & Goodman, Schwarzenegger represents some of the top actors, writers, directors and producers in Hollywood.

He is the son of Schwarzenegger's only sibling, Meinhard Schwarzenegger, who died in a car accident in 1971 when Patrick was 3 years old. Knapp Schwarzenegger was born in Germany and raised in Austria and Portugal. When he was 19, Knapp Schwarzenegger immigrated to the United States with the help of his uncle. In 1991 Knapp Schwarzenegger graduated from the University of California, Los Angeles with degrees in economics and political science, and in 1995 he earned a Juris Doctor from the University of Southern California Law School. [i]

Contestants this season

- Laila Ali, retired boxing world champion and daughter of Muhammad Ali
- Brooke Burke-Charvet, actress, TV host and CEO of ModernMom.com
- Eric Dickerson, pro football hall of fame running back
- Boy George, Grammy-winning singer
- Matt Iseman, America Ninja Warrior host

- Carrie Keagan, actress, writer and former host of VH1's Big Morning Buzz Live with Carrie Keagan
- Carson Kressley, Emmy-winning reality TV fixture and celebrity stylist
- Lisa Leslie, four-time Olympic gold medalist and WNBA champion
- Jon Lovitz, comedian and former Saturday Night Live star
- Vince Neil, lead vocalist of Mötley Crüe
- Nicole "Snooki" Polizzi, former star of Jersey Shore
- Kyle Richards, actress and star of Bravo's The Real Housewives of Beverly Hills
- Chael Sonnen, former UFC fighter and mixed martial artist
- Porsha Williams, singer and star of The Real Housewives of Atlanta
- Ricky Williams, Heisman Trophy winner for the University of Texas and ESPN sports analyst
- Carnie Wilson, singer and member of Wilson Phillips

Rather than Trump Tower in New York, the new board room will be in Los Angeles' Silicon Beach, the site of tech start-ups in everything from app development to software and film production and editing. It is also very near Venice Beach, Schwarzenegger's old stomping ground where he worked out to gain five Mr. Universe titles and seven Mr. Olympia titles before becoming an actor.

This season's lineup of "business-savvy celebrities" will compete in challenging tasks, more focused than ever on technology and innovation. As they test their ability to work together as a team, they will also be raising money and awareness for their favorite causes.

Like past seasons, each episode will conclude with a compelling boardroom showdown, as Schwarzenegger evaluates the performances of all of the players before deciding which team wins the challenge and who will be sent home," according to NBC promotional material.

Over the course of the series, "The Celebrity Apprentice" has raised more than \$15 million for charity. This season's winner will gain the coveted title of the Celebrity Apprentice and a \$250,000 check to give to their designated charity.

I wonder what Schwarzenegger's closing line will be. Rather than "you're fired," will he say "you're terminated," "hasta la vista, baby," or "you won't be back"? Tune in on January 2 and we will all find out.

"The Celebrity Apprentice" is produced and internationally distributed by Metro-Goldwyn-Mayer (MGM). Mark Burnett, Arnold Schwarzenegger, Page Feldman and Eric Van Wagenen are executive producers.

[i] Los Angeles Times, April 3, 1990, NEW YORK OVERNIGHT: Schwarzenegger 'Like a

Father' to His Nephew April 03, 1990|TOM POSTNER and PHIL ROURA

Carole Lucido is Communications Coordinator for the Contra Costa County Bar Association. She is also a freelance writer for the East Bay Times.

Coffee Talk: Summer Binge Watching - What are your favorites?

Monday, August 01, 2016

Hands down - "Game of Thrones" is worthy of bingeing. There are parallels between the show and everyday life. There are copious plots, twists and turns which captivates the audience. There are characters you absolutely love, and those you love to hate and wish the worst demise simply because of their barbaric nature. The fanatics, the dreamers, the outcasts and the believers all make the show what it is. Give it a watch and you'll end up bingeing.

O'Neil Dennis

"Person of Interest" and all CSI shows. Binge watching would be easier and faster if someone invented an app that would auto delete commercials when I watch recorded shows.

Wayne Smith

I heartily recommend a mini-binge watch of "OJ: Made in America." This largely primary source documentary by the Emmy award winning director/ producer Ezra Edelman, clocks in at only 7.5 hours over 5 episodes. It is the complete story of OJ told within the concurrent social and political landscape surrounding his life. You are privy to current and past interviews as well as deposition testimony from many of the primary characters as well as those lesser known to us, but well within the inner circle. It is riveting. It revisits and redefines it all. Have a look at the reviews.

"Because at the end of what seems like a search for the real truth about O.J. Simpson, what's revealed just as powerfully is a collection of indelible, unshakeable, and haunting truths about America, and about ourselves." ESPN
<http://espn.go.com/30for30/ojsimpsonmadeinamerica/>

Anne Wolf

Rachael Maddow on MSNBC, 9 pm weekdays.

-JOEL ZEBRACK, Attorney / Mediator

"Six Feet Under," a drama about the Fisher family and their funeral home, reflects on death, relationships, and the beauty and absurdity of life. Each episode begins with a death, and the dead are frequently characters; the effect is psychological rather than magical realism. Get a little darker with the French drama, "Les Revenants." Dead people begin to return to their mid-sized town, and nobody knows why, least of all "the returned." The show exudes existential angst in a manner only the French can produce. For a detective show, watch "The Fall" starring Gillian Anderson as Detective Superintendent Stella Gibson as she hunts a serial killer in Belfast. A well-paced psychological thriller, Detective Superintendent Gibson radiates sex appeal akin to Don Draper on Madmen. Change tack with "Master of None" starring Azi Ansari - refreshingly intelligent while evoking plenty of laughs. For super extra fun, check out "High Maintenance," coming soon to HBO, currently available online as webisodes. Follow "the guy" around NYC as

he delivers marijuana to various characters on his bicycle. You will laugh.

Cheers,

Adrienne Haddad, HADDAD LAW

Uncorked! Fundraiser for the Food Bank

Monday, August 01, 2016

Enjoy the fine wines of G V Cellars, gourmet bites from local caterer, MagPies, delicious cupcakes from Just A Simple Cupcake, and live entertainment from the popular cover band, Running With Scissorz.

Sunday, August 7, 2016, 1:00-4:00 pm

G V Cellars
1635 Mason Road, Fairfield

\$40 per person

Purchase tickets online at www.foodbankccs.org/uncorked.

Contra Costa County Bar Association supports the Food Bank of Contra Costa and Solano Counties. Thank you to the following firms that supported the food drive this year.

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