

Contra Costa Lawyer Online

The screenshot shows the homepage of the Contra Costa Lawyer Online website. At the top, there is a banner with the title "CONTRA COSTA LAWYER" over a landscape image. Below the banner is a navigation menu with links: "Current Issue", "Features", "Spotlight", "Pro Bono", "Self-Study MCLE", "About", and "MarketPlace". A secondary menu includes "Home", "President's Message", "News & Updates", "Bar Soap", "Lifestyle", "LPE", "Ethics Corner", "Coffee Talk", and "Magazine Archive".

The main content area features a large image of a man in a suit moving a large white chess knight piece on a chessboard. Below the image is a quote: "Decision: I never, during my years in the bench, did I observe the congressional problem, the top three commissioners and all second time that being a national settlement. A court's role is to be the same."

Below the main image are several smaller images and logos, including "en in the" and "JURY EDIC".

The page is divided into two columns:

- Spotlight:** This section features three articles, each with a small portrait photo and a title:
 - Pro Decisions on the Law: Emily Leib** - "I initially became interested in pursuing a career in public service..."
 - Reflections and "The Decision" on the Legal Field: Margaret** - "Six years ago, I suddenly became a single mother of four - with children..."
 - Pro Decisions on the Law: Chelsea** - "I am..."
- News & Updates:** This section includes:
 - A logo for "AMERICAN NSQF" and a headline: "Robert G. McGrath American Inst. of Court 20th Anniversary". The text below reads: "On November 2, 2017, the Robert G. McGrath American Inst. of Court held..."
 - A section titled "2018 Article Assignments" with a small image of a document.
 - A section titled "PROBOS - Bar Fund Benefit" with the text: "Members of the Contra Costa County Bar..."

The Contra Costa Lawyer is the official publication of the Contra Costa County Bar Association (CCCBA), published 12 times a year - in six print and 12 online issues.

Contents

Reflections on Mediation	4
Reflections on the Contra Costa Lawyer	6
Reflections on Retiring	8
Changes to Legal Education and the California Bar Examination since...	10
Women's Section Scholarship	13
Civil Jury Verdict Musings	15
Pre-flections on the Law: Emily Lahl	17
Pre-flections on the Law: Kate Mignani	18
Pre-flections on the Law: Chelsea Davis	20
Reflections & "Pre-flections"	22
Thank You	23
Civil Jury Verdicts - Musings	25
Bar Soap	27
Robert G. McGrath American Inn of Court 20th Anniversary	30

Reflections on Mediation

Friday, December 01, 2017



Having served on the Contra Costa Bench for over 21 years, I was accustomed to the role of judge. After two decades in the courtroom with the continuous flow of disputes and a daily calendar of issues to be decided, I became adept at the routine of listening, evaluating and deciding. My role and focus was to learn the facts, apply the law, and hopefully do justice. The judicial function is structured and constrained by rules of evidence and set procedures, formalized, recorded and subject to review. The idea is to receive information, to be sure, but also to control the flow, to keep arguments within set boundaries, and consider and hear only

what is appropriate and germane. The role of the judge is unquestionably tough, making decisions that are in every case so impactful to the parties. Being a judge was a humbling and challenging role, which I was very honored and fortunate to perform.

Currently, and for the last 21 years, I have been a mediator with Judicial Arbitration and Mediation Services (JAMS); quite a different function, still equally honorable and challenging. The mediation process is open ended and subject to fewer procedural constraints. Here there is no mandate to decide, indeed no power to decide, occasionally not even an expectation that the cause will arrive at a resolution. Basically it is a chance to talk and a chance to be heard. This may sound trite and simple, but therein contains the magic. As a mediator, unlike a judge, the role is not to control what is said, or to determine what is proper to hear. The role of mediator is to encourage open expression, to set the conditions for a full venting of the legal, factual and emotional basis for the dispute. A mediator is first a listener. Until a person is fully heard, there is little incentive to compromise or for the parties to consider mitigation, forgiveness or contributing responsibility. As a mediator I am sincere, concerned and fully committed to exploring every avenue that may lead to a resolution. Often this requires cultural, ethnic, and gender sensitivity. As a neutral, I remain open-minded and tolerant of all as bias or pre-conceived stereotypes would be an impediment to developing necessary trust with the parties. My early career as a Deputy Public Defender has, I believe, been relevant and important in my success. Whether it is business litigation, real estate, employment, catastrophic personal injury, or wills and trust, the human element invariably features prominently in the controversy. All law suits are after all, about people.

Once everyone has had their say, my role as mediator often moves from the posture of passive listener to active participant. Here I alternatively become a member of first one team and then another. We are joining forces to get something done. This requires a keen sense of the weak points, the barriers, the critical risks, pot holes and speed bumps that stand in the path to resolution. Being creative, focused, persistent and patient is critical during this process. My job is to keep the ideas flowing, to juggle the considerations and equities, with no one dropping the ball. The goal is to build on the progress that has been achieved, to avoid unraveling and back pedaling while

maintaining forward motion toward consensus and agreement. Of course anyone can walk out, but everyone knows I will be the last person to do so.

At this stage, the objective is to move all parties from the narrow focus of “I” and “me” to the broader focus of “us” and “we,” from locked struggle to the release and comfort of resolution. The parties themselves are indispensable in suggesting the elements that lead to the path forward. This proprietary aspect, this “buy in” for the parties, is essential for the compromise that contributes to acceptance of the resolution. The fact that the parties articulate their own just, compromised decision is arguably one of the most positive features of the mediation process as opposed to a judicial verdict. To own the solution is everything. Seldom, if ever, during my years on the bench, did I observe the congratulatory gestures, the high fives, handshakes and occasional hugs that follow a mediated settlement. A successful mediation is in this sense, perfect justice.

Once a tentative resolution is agreed upon, the tough job of drafting language that encompasses what has been agreed upon is required. Here the mediator and the parties step back, as the lawyers draft the language in their professional role. The mediator’s function at this point is somewhat more judicial, in the sense of confirming the neutral articulation of what has been agreed. Until the ink is dry, there is no resolution.

My work as a mediator is continuously exciting and challenging, involving both problem-solving and peace-making skills. It is an active job, both mentally and physically. There is tremendous satisfaction in bringing people together. Sometimes, on a given day, as recorded by my iPhone Health App, I walk miles between floors, back and forth, up and down, keeping the parties at bay, as they are venting, joking, crying, complaining, and strategizing, until such time that they are ready to emerge and often congratulate each other on their contribution and their mutual success upon reaching an agreement. As a former trial judge, and now in this challenging role of JAMS mediator, I am truly honored to do this important work.

Since 1997, Judge Ellen James has served throughout the United States as a JAMS mediator, arbitrator, Judge Pro-Tem and special master in multi-party complex litigation in a multitude of areas of civil law. Prior to that, Judge James served as a Judge (and Presiding Judge) for the Contra Costa Superior Court and has also served on the First District Court of Appeal, the Superior Court Appellate Division and the Mount Diablo Judicial District Municipal Court.

Reflections on the Contra Costa Lawyer

Friday, December 01, 2017



When the editorial board decided to change the focus of our December issue to address reflections on the changes in the practice of law, little did I know that I would end up writing about the Contra Costa Lawyer magazine. I thought the focus was unique and interesting and would hopefully be as popular as our summer sports issue was.

As I write this, I have been on the editorial board for something like 15 years. I lose track of the length of my tenure what with all the grey hair creeping in even though my bar picture still shows me young and sprightly. Lisa Reep invited me onto the editorial board not long after I took on the

role of President for the Solo and Small Firm Section. She thought I knew things about technology because I made a number of changes to the section to bring it into the 21st century.

Because of that literacy, I was asked to join the board to write about technology and the practice of law. When I joined, other than the cover, our magazine consisted of 12 black and white print editions. Faxing was still popular and I was one of the few who scanned all their paper into the computer for a paper-less office. The CCCBA's website was rudimentary at best, the sections communicated with their members through fax blasts and none of them had email listservs. The editorial board was still every bit as committed to putting out the best product possible and our current efforts build on the foundation created by all of the prior editorial boards and editors. However, none of us had experience making an electronic publication and the possibilities and challenges that such versions bring.

Around 2009-10, the editorial board started discussing on-line versions of the magazine. I helped create our very first 'on-line' issue which, if memory serves, was an extended PDF version of the magazine that we emailed out to bar members. It was rudimentary, not easy to use but was 'electronic.' It allowed us to play with the technology at the time and to pilot ideas for electronic versions. It was after this issue that we then started to seriously plan moving to six electronic versions and six print versions each year, which is what we moved to as of 2011. This also led the bar to hiring its first full-time communications coordinator. One of the major requirements for the role was the ability to create on-line publications.

Our current web-based electronic versions are light years ahead of where we started (as are our full-color print editions). The editorial board meetings are still every bit as fun, although I do miss Andy Ross bringing bagels and cream cheese to the meetings. The creative process hasn't changed but now we track page views, visits and other analytics that let us know how popular our on-line articles and issue themes are. This data really aids in improving the magazine as we can see what our readers like and don't like and when a concept issue strikes a chord with our readers.

The editorial board hopes that for our long-time readers you have enjoyed watching the publication grow and change and the for newer readers, we look for your input to help mold our future growth.

David Pearson has owned and operated his solo practice since 1996. His practice focuses on representation of businesses and their owners in both the transactional and litigation areas with a heavy emphasis on mergers and acquisitions. He is on the board of directors of the CCCBA Solo and Small Firm Section. He has been a member of the Editorial Board for the Contra Costa Lawyer magazine for 15 years and one of the magazine's co-editors for the past two. He is a past board member of the Fresno County Bar Association's Business Law Section.

Reflections on Retiring

Friday, December 01, 2017

As baby boomers, many of us are starting to plan our retirement. Or at least the dream is there, and it isn't entirely dependent on that scratcher you just picked up at the 7-11. It's not as easy as just deciding to retire, though, is it? I mean, we are attorneys. We have fiduciary duties to our clients. We can't just send out a letter on Monday letting everyone know we are closing shop on Friday, and good luck to you! To that end, here are some thoughts from a recent retiree, Mark Frisbie, at the age of 66:

For me, the decision to retire, including the target retirement date, was made more than 18 months in advance. Because I was a sole practitioner, reducing my load of ongoing cases was an early step, since I had no partners or successors in mind to continue my practice. As early as two years before the target date, I began declining new contested matters, non-terminating trust administrations, conservatorships and guardianships, since I might not be able to finish them before closing my office. I also began taking Mondays off.

About 15 months before my target closing date, I sent a letter to all of my current clients and most of my former ones giving advance notice of my plan to close my office. In that letter, I suggested they review their estate plans and/or finish any pending work within the next year, if possible, and not wait until the last minute. I also mentioned the name of a younger, experienced attorney with whom I shared office space, to whom I could introduce them at our next meeting for continuing representation or referral.

About six months before my target closing date, I searched for and reviewed advisory materials for solo practitioners about office closing procedures. I had saved some of these materials from earlier CLE courses on the subject; others I found on the state bar website. About five months before closing, I mailed another reminder letter to those clients with pending unfinished matters. I made a list of all pending matters in which I was attorney of record in a court proceeding. For those matters that I did not expect to finish by the target closing date, I considered what other attorneys I would recommend to the clients for substitution into the case. I then called the clients to explain the need for substitution, the process for doing so, their right to choose their own attorney, information about my recommended attorney, and I offered to introduce them.

One factor was especially important in choosing referral attorneys: relative youth, with at least five years of experience. I did not want my clients to face the prospect of changing attorneys again within the next 20 years, so I wanted to match them with an experienced attorney that much younger than me. Most of the time that turned out to be Tracy Regli, and from those connections I received an unexpected offer from Acuna Regli to acquire my practice. That made it a whole lot easier to transition to retirement.

Even though I have made the decision to retire, I know there will be things I will miss. Most importantly, I will miss having the opportunity to be of help both to people wise enough to plan for their own future and to friends in the midst of a dispute requiring interaction with the legal system for resolution. Next to the monetary compensation that I needed for self-support, client appreciation was probably the biggest "payoff" for me (if and when it came), followed by the opportunity to try to do some good for my clients and do my small part in contributing to the society from which I receive so many good things.

As I look back on my years of practice, there are some things I didn't do that I wish I had. For example, I wish I had published scholarly articles, become a recognized expert in my field, done a lot more to teach and/or mentor younger attorneys, and made a fortune without feeling like I was burdening my clients and getting paid more than I was really worth. I just didn't work hard enough, I guess (tongue in cheek).

For the next several months, though, my plan is to just enjoy a respite from having responsibility for other people's legal needs. Although I will not be practicing law, I will be seeking other ways to make a contribution to my community. I do not believe that simply enjoying myself will be a sufficiently satisfying purpose for living. So I might do tutoring of underprivileged kids, volunteer as a Court Appointed Special Advocate, or make presentations on end-of-life planning through Advance Health Care Directives and Physician's Orders on Life Sustaining Treatment and ethical wills. Perhaps I will even look into grand jury service. I believe the pursuit of justice is noble endeavor, and I feel fortunate to live in a society where the practice of law is largely consistent with that objective. There are certainly plenty of other societies where corruption or scarce resources make justice more difficult to achieve.

I also feel fortunate to have practiced in Contra Costa County. We have capable and dedicated judicial and court officers, local bar leadership, and staff. For me, bar association activities have been an important avenue for establishing and maintaining good relationships with colleagues. Having a practice that requires court appearances has also enhanced collegiality with the other attorneys I have met there. I have enjoyed my time practicing in Contra Costa County and a large part of that is the people with whom I was privileged to work.

If I had to leave you with parting words of wisdom they would be this: Mediate, don't litigate your disputes, if at all possible.

Mark W. Frisbie graduated from Cornell Law School in 1978 and after 15+ years wandering in the wilderness of government regulatory agency, collection and bankruptcy practice as an associate, became a sole proprietor specializing in estate planning, conservatorship, and probate and trust administration. He is a long-time resident of Concord, where he plans to continue practicing retirement since closing his office in May 2017.

Changes to Legal Education and the California Bar Examination since...

Friday, December 01, 2017



Over the past 35+ years education provided in law schools in California, as well as throughout the United States, has changed in many significant ways. Some of the change has been as a result of demands from the legal profession, while other changes have been the result of the modifications to the subject matter and format of the California Bar Examination.

Demands of the Profession

Law schools in the 1980s provided very little practical skill training. There were some basic skills classes that many law students took, such as trial practice, moot court and appellate advocacy. Entering lawyers really had little idea how to actually practice law, and certainly little, if any, knowledge about how to set up their own law practice. Very few new lawyers hung out their own shingle. Jobs were obtained at small to mid-sized firms, or in the public service arena as district attorneys, public defenders or county counsel. In most of those jobs significant mentoring was provided by others in the firm or office from experienced attorneys, legal secretaries and office managers. There were many opportunities to ask questions, seek guidance or receive mentoring. Experienced attorneys throughout the local legal community were often very generous with their time to help a new attorney entering the profession.

Today's law students require much greater practical-skills training while in law school, and much more is expected of them by their prospective employers. Additionally, as the job market became difficult, more and more entering attorneys started opening their own offices. Consequently, law schools began to offer many more classes designed to teach law students how to actually become, and act like, lawyers. The types of classes that began to be offered either were totally practical skills-based classes, or incorporated skills training into the curriculum. For instance, classes like "How to Open Your Own Law Office," and "Advanced Trial Practice" (where law students learned how to deal with expert witnesses in depositions and at trial) became, and still are, very popular with law students.

Law-school-run clinics also became much more attractive to students for a variety of reasons. Not only do clinical opportunities provide great benefits to the underserved in our communities who are facing issues like unlawful evictions or elder abuse, but students in the law clinics are able to actually represent these underserved individuals by providing legal counseling, or even making court appearances, as Certified Law Students under the supervision of licensed attorneys under the State Bar's Practical Training of Law Students Program. Becoming a certified law student not only provides great insight into the practice of law, but also enhances new lawyers in their job search following admission to practice by demonstrating that they have acquired important practical skills

training.

Changes to the California Bar Examination. Given the importance, and frankly difficulty, in passing the California Bar Examination as quickly as possible, law school education has had to adapt and alter its curriculum to not only prepare students for the entry of practice, but to prepare their students for success on the bar examination. These changes in curriculum have also often been necessitated by the changes in the subjects covered on the bar examination, the different types of questions offered on the bar examination, and the relative weighting of the different components of the bar examination.

In 1980 the California Bar Examination was transitioning from a 2 ½-day bar examination to a 3-day bar examination. In 1980 the Committee of Bar Examiners experimented with a variety of different types of questions on the California Bar Examination. All of the applicants had the same questions on 2 ½ days of the examination, but the other half day was comprised of different types of assessment tools. The basic examination that everyone took was the same 200 multiple choice (“MBE”) questions that still exist, and there were nine one-hour essay questions. The experimental half-day session included numerous different assessments and what we now know as the performance test. Of all the experimental types of questions, the ones that performed the best, and which were determined by the test experts to be the most valid and reliable, were the performance tests. In the performance tests, the applicants were provided with a file and a library, as they are today, and asked to perform a lawyering task using only the factual and legal materials provided.

Introduction of the performance test component to the California Bar Examination had a significant impact on the law school curriculum. Prior to the performance test, the bar examination was weighted 35% MBE and 65% for the essays. Once the performance test was introduced the weighting changed to 35% MBE, 39% essay and 26% performance test. Consequently, law schools began to offer instruction on how to answer a performance test question.

At the time, law schools were not able to offer bar examination preparation classes for credit, so to get around this restriction law schools began offering classes entitled “Advanced Legal Writing,” or something similar, to provide instruction to their students about how to tackle a performance test type question. Ultimately, the accreditation rules were modified to permit these types of courses, recognizing not only how important they were to success on the bar examination, but that the performance tests tested practical skills important for entering lawyers, and the advanced legal writing types of courses were actually teaching the students how to perform skills that newly-admitted lawyers would be expected to perform. The stated purpose of all bar examinations throughout the United States is to assess whether a particular applicant possesses the minimum competence to become a first-year lawyer in the particular state, and it was determined that the performance test was an excellent assessment tool for making those determinations.

Beginning with the July 2017 California Bar Examination, another significant change occurred which has, and will continue to have, a significant impact on legal education and how law students prepare for the bar examination. The former three-day bar examination has now been shortened to two days, and to achieve that shorter period, the Committee of Bar Examiners had to make major changes to the format of the examination, as well as the weighting of the relative components of the exam. Instead of having the 200-question MBE, six essays and two three-hour performance tests, the current examination will have

the 200-question MBE, five one-hour essays, and just one 90-minute performance test, and will be weighted 50% MBE, 37% essay and 13% performance test. To many, including the author of this article, this was a very poor decision by the Committee of Bar Examiners. The two 180-minute performance tests on the examination led to greater instruction in law schools about the importance of writing, practical skills analysis, and problem solving. Lessening the importance of the performance test and increasing the relative weighting of the 200-question MBE multiple choice to 50% of the overall score of the California Bar Examination sends a direct message to the law schools, and California bar examination applicants, that knowledge of black letter law is more important than practical skills training, writing and problem solving. Consequently, a number of law schools in California have already modified their curriculum in response to the new bar examination format, and reduced or eliminated what used to be the advanced legal writing courses where law students were taught how to prepare the documents, and perform the tasks, previously tested and assessed by the performance tests.

Presently, the California Supreme Court, which is responsible for the admission of lawyers in California, has asked The State Bar of California and the Committee of Bar Examiners to study the California Bar Examination and make recommendations concerning the minimum passing score on the examination (the “cut score”) as well as the content and format of the examination. The cut score was studied, hearings held, recommendations were made, and ultimately the Supreme Court decided that for the time being the minimum passing score of 1440 out of 2000 be retained. California has the second highest bar exam cut score in the nation, second only to Delaware. Some states have recently lowered their respective cut score due to significant declines in the overall passing rates on bar examination throughout the country. The California ABA law schools, the Cal Bar Accredited law schools, Committees of the California legislature, and the State Bar Board of Trustees recommended that the Supreme Court consider lowering the score to a score more in line with other states, and make it retroactive to the July 2017 bar examination, but the Supreme Court recently declined to reduce California’s cut score, and indicated it would consider any such modification at a later time.

The studies on the content and format of the California Bar Examination are ongoing, and could result in lessening the number of subjects tested on the bar examination. Currently there are 13 subjects tested, and possible reductions would include the topics of remedies, wills and succession, trusts and community property. Should any reduction of the subjects tested on the examination be made, then certainly most, if not all, California law schools will assess their respective curriculum and modify the courses required for graduation accordingly.

*Since 2010 **Dean E. Barbieri** has been the Dean of the John F. Kennedy University College of Law. He took and passed the experimental 1980 California Bar Examination, graded each California Bar Examination from 1982 through 2000 (approximately 40,000-50,000 essay and performance test answers), from 2001- 2010 served as Director for Examinations for The State Bar of California where his responsibilities included the development, grading and administration of the California Bar Examination.*

Women's Section Scholarship

Friday, December 01, 2017



I recently attended the Women's Section Annual Dinner where they award **The Honorable Patricia Herron and Honorable Ellen James Scholarships**. I was impressed not only by the quality and character of the scholarship recipients, but by how far the Women's Section has come over the past 26 years that I have been a member.

In 1978, there were 55 women attorneys in Contra Costa County out of a total of approximately 600. With women representing only 9% of the total attorneys in Contra Costa County, the Women's Section was founded with the goal to further the advancement of women in the legal profession and the judiciary. Towards that end, in 1994, the Women's Section established a scholarship for deserving law students

who have demonstrated academic success, ties to Contra Costa County and an interest in advancing women's issues. To fund this scholarship, the Women's Section began hosting an annual wine tasting and silent auction. The first few years we were lucky to raise enough money to fund one \$500 scholarship but soon we were able to offer two for a total of \$1,000. Things began to really take off in 1996 when Judge Patricia Herron graciously offered to match our \$1,000 scholarship fund. In 1998, Judge Ellen James also offered to donate \$1,000 each year towards the scholarship fund. With these generous donations and our ongoing fundraising efforts, the Women's Section was able to award three scholarships (\$4,000, \$3,000 and \$1,000) for a total of \$8,000.



Fast forward 20 years later to 2017 and approximately 45% of the 1500 attorneys in the Contra Costa County Bar Association are women and two of the past scholarship recipients, Marta Vanegas and Mika Domingo, have not only gone on to practice law in Contra Costa County but they, too, have served as President of the Women's Section. The Women's Section continues to award the Honorable Patricia Herron and Honorable Ellen James Scholarships to qualified law students who have shown leadership potential, achieved academic success, and helped to advance women's issues.

We have asked the 2017 recipients, Kate Mignani, Chelsea Davis and Emily Lahl, and to share their thoughts and "pre-flections" on what how they hope to advance women's issues in the future. (Please use the links above to read their impressions.)

On behalf of the Women's Section, I would like to thank everyone who has donated to and supported The Honorable Patricia Herron and Honorable Ellen James Scholarships over the years and look forward to your continued support.

Suzanne N. Boucher, Esq. is a certified Family Law Specialist handling complex family law matters in Contra Costa and Alameda Counties. She was President of the Women's Section in 1997.

Civil Jury Verdict Musings

Friday, December 01, 2017



Just to be clear, I did not come up with the idea of a Civil Jury Verdicts Column. In fact the column was a big hit long before I arrived on the scene. The person who was writing the column was leaving the area and I was asked if I could take over the column. I leapt at the opportunity. Recall, I spent 10 years in the publishing business prior to becoming a lawyer, and I thought I could hone my literary talents (such as they are). At any rate the proposal at the time was we would do both a civil jury verdict column and a criminal jury verdict column. I chose the civil column as I had transitioned from the DA's office into the civil arena and another lawyer was designated as the

criminal column author. I knew you would ask: "So whatever happened with the criminal jury column?" Good question. It simply never got off the ground. I do believe all that started somewhere in the 1990s if memory serves.

Prior to taking on the assignment, I met with my predecessor at the courthouse in Martinez to discuss the column and how to prepare for the writing. He advised he got a monthly report from the court administrator's office listing all civil verdicts in the Martinez courts. Those verdict reports included both bench trials and jury trials. The report listed the case name, the case number, the presiding judge, the involved attorneys and the prevailing parties. He obviously had more time than I had, as he would then take that report and go to the clerk's office to research each reported case. Goodness, I thought, I had a busy law practice with a big firm, and I certainly could not spend all that time at the clerk's office. Needed all those billable hours back then. So we prepared a form and sent it out to all the listed attorneys. The form asked the pertinent information, most critically a brief fact report and final demands and offers. As you may recall I got a good response and actually wrote a column every month for some years. Of course back then there were many more vehicle-accident cases going to trial, as the cost of experts had not ballooned as we later observed. But that's another story. It was fun providing information which was interesting and helped advocates decide how Contra Costa juries decided civil disputes. I had so much information that I wrote an article listing all the "fast track" judges and how many cases they each handled, how many cases went to trial and the results. I mentioned the article to the PJ at the time and he went a little "ballistic." Apparently it was a sensitive topic considering the perception internally of how hard each judge worked and which judges might have been challenged (170.6) more than others. I got the message and that particular column never saw the light of day.

You have heard it from me many times, when I started writing the Civil Jury Verdicts column, the number of trials to verdict in Martinez alone was somewhere between 50 and 60. As the years went by the number kept falling until it reached a low of 12 actual cases to verdict one year. When I first started there was still a Municipal Court and a Superior Court. Those stats I told you I received did not include the Municipal Court cases. Now don't get excited, the judges are busier than ever and many cases start and settle

midstream. Those matters were not reported as verdicts, even though there were many such cases. In fact in my own experience I have had a least 15 cases start with jury selection and testimony, only to settle before verdict. The advent of ADR (mediations, not the old non-binding arbitrations) also account for the lower numbers of actual trials. And of course don't forget the very successful settlement mentors who assist on the first day of trial. My most recent case settled on the first day of trial after about ten hours of settlement negotiations. All good news.

I love writing the column and every chance I get I lament the fact I do not get all the statistical information I once got in order to inform the readers. No blame is directed at anyone, not the least the Court itself. But the fact is a court administrator several years ago advised I would no longer get the monthly statistical report due to budget issues. I don't think any of the judges even knew I got the report in the first place, much less that I would not be receiving it. I mentioned it again recently and I obviously hit a nerve as I was taken to task as it appeared I was blaming the Court. Not so. I was surprised, as I have mentioned the lack of the statistical report many times in the columns.

Thus my plea in every column for the past years to please send reports about trials, both in-county and out-of-county, both federal and state and even interesting settlements and arbitrations. The invitation still holds.

I was told at one time the Civil Jury Verdicts was the most popular regular column in the Contra Costa Lawyer. It is a fun column to read. It is free advertising for those attorneys who are mentioned, but more importantly it is a real eye opener to read about demands, offers and verdicts. I will say at one time I heard from Judge Cahill, just before my client was hit with a huge verdict in San Francisco, "In most cases when a case goes to trial one side or the other miscalculated." And that is so true. So, we have all read about the \$1 million demand and the \$10,000 offer followed by a defense verdict. Or the opposite where the demand was seven figures, the offer was five figures and verdict was in the eight figure range. Ouch I say! Not long ago a friend was on the defense end of one of those latter-described verdicts. I contacted him and he advised, "Matt I don't tell you about the ones I win, so I certainly won't tell you about the ones I lose."

Over the years I have regularly received telephone calls from out-of-county attorneys asking my opinion about a particular case set for trial in Contra Costa and about the trial judge - all because my name is associated with the column. I do plan to keep writing the column, unless of course somebody has a better idea. And I am pleased to chat about cases with anyone who cares to call me. You will hear it from me however to settle your case if you possibly can. Rare is the case which must have 12 citizens decide the facts.

So the good news is I have been told I will once again be getting reports and statistics for our civil trial departments, and in an unrelated turn of events I just received reports from four attorneys on a number of cases. So, as soon as I finish my new chicken run and winterize my bee hives, I will sit down and prepare a Civil Jury Verdicts column with actual case reports. Stay tuned.

Matthew P. Guichard is a nationally recognized trial attorney and senior partner and founder of Guichard, Teng & Portello with offices in Walnut Creek, Davis, San Francisco and Willows California. Mr. Guichard specializes in general civil litigation, commercial litigation, general trial work, business transaction and alternative dispute resolution. He is the author of two columns for the Contra Costa Lawyer magazine: Civil Jury Verdicts and Bar Soap.

Pre-flections on the Law: Emily Lahl

Friday, December 01, 2017



I initially became interested in pursuing a career in public service after interning for a non-profit organization, the Center for Bioethics and Culture. The organization focused on the ethical issues surrounding women and fertility and worked on awareness and policy. I was stunned at the lack of information available to women who were making huge decisions about their health and the future. Often times, the women we worked with were physically and emotionally harmed because no one was championing for their well-being. As a result of that experience I knew I wanted to pursue advocacy work. I was also interested in law and crime and how advocacy intersected with those issues. To gain exposure to this work, I volunteered at the Contra Costa District Attorney's Office in college. My experience was eye-opening. I was struck by the destructive effect crime has on individuals and the community and I was inspired by the tangible impact prosecutors have on people's lives. My experiences at those internships instilled in me a desire to advocate for the vulnerable and to seek justice. I decided to go to law school in order to become a prosecutor.

This year, I was a recipient of a scholarship from the Women's Section of the Contra Costa Bar Association. I was so grateful to have received that scholarship not only to help offset the costs of bar preparation, but also because it was incredibly meaningful to have been supported by a group of lawyers who believe in me and the impact I hope to make as an attorney. I am keenly aware of the privilege it is to pursue my education, to choose the profession I am passionate about and to have been given opportunities that have made me a better person and will make me a better attorney. Because of those opportunities, I believe I have a responsibility to give back. This is why I want to pursue a career centered around public service, doing work that reflects my values and positively impacts people's lives. I believe being a prosecutor will be intellectually challenging, fulfilling and exciting. I am sure that at times it will be difficult and frustrating. I know I will make mistakes. I hope they will not be on the record. I hope on the easy days and the hard days I remember why I started.

Pre-flections on the Law: Kate Mignani

Friday, December 01, 2017



Six years ago, I suddenly became a single mother of four, with children ranging from 11 to 21. Though I had a degree from U.C. Berkeley and a previous career in communications, my job as stay-at-home mom had lasted nearly two decades and I was at a loss as to what I would do to provide for my children and put a roof over our heads. A vocational evaluation pointed me to the legal field.

I entered the paralegal certificate program at John F. Kennedy University (JFKU) in fall of 2014, attending part-time at night, while working full-time as an administrative assistant at a law firm during the day. I

received my certificate in December 2015 and started law school the next month. I am currently a “2L” in the night program at JFKU and work full-time during the day as a paralegal and certified law student at Edrington, Schirmer & Murphy LLP in Pleasant Hill.

Voice for the Voiceless

My motivation for entering the legal field largely stems from my heart for the underdog. I have a deep need to stand up to bullies and stand by those who need a strong advocate. I believe I am called to be a voice for the voiceless.

Human trafficking is a crime prevalent in our community and throughout the world that is fraught with bullies and people who need rescuing from them. These victims largely do not have a voice. I am committed to working toward the solution through volunteer efforts now and as an attorney in the future.

I currently serve on the board of New Day for Children, a non-profit organization that helps girls rescued from human trafficking to restore their childhoods. These girls receive housing, education, counseling, and healing activities (e.g. horse camp, art therapy). The young women who persevere and go on to share their stories and join the fight against trafficking are some of my biggest heroes. Their stories are inspirational and often provide the motivation I need when I feel overwhelmed by the struggle to balance work, school, and other facets of life.

I also support A.R.M. (Art * Recreation * Movement) of Care, a local non-profit that uses the healing arts to help abused children, including girls rescued from trafficking. This organization provides trauma-specific programs that help empower abused children to discover their true value and find their place in this world.

Legal Career Goals

In line with my passions, I intend to use my legal education to help victims become victors. For now, I will continue with volunteer efforts and endeavor to understand the Rule Against Perpetuities. I am deeply grateful to the CCCBA's Women's Section for the generous scholarship, as I am paying for law school as I go. It is a bit of a faith journey, and the financial support I received from the Women's Section makes it possible for me to keep going.

***Kate Mignani** is a second-year law student at John F. Kennedy University in Pleasant Hill. She currently works full-time as a paralegal and certified law student for Edrington, Schirmer & Murphy LLP in Pleasant Hill and is on the board of New Day for Children, a non-profit that helps girls who have been rescued from human trafficking.*

Pre-flections on the Law: Chelsea Davis

Friday, December 01, 2017



At a young age I knew I wanted to become a protector of legal rights and a social justice advocate just like my honorable father who served as a police officer in Contra Costa County and Alameda County for 25 years. He frequently referred to me as “Judge Chelsea” because I never hesitated to voice my opinion. Unfortunately, his high-stress occupation took a toll on his health and he died of a heart attack when I was fifteen. It was then that I realized the importance of appreciating my parents’ sacrifices and not being afraid to be the self-confident and intelligent girl my family raised me to be.

My academic background in Political Science and African-American studies at UCLA fostered the development of my vigorous passion for a future career in law, public policy, and politics. My exposure to the recurring values of justice and morality in political and ethnic studies texts activated my awareness of the importance of law in our society. Firstly, my study of Political Science has provided me with the theoretical framework to understand the world in which our current legal system exists, especially in California. Secondly, my background in African-American studies has taught me about historical and structural formations of inequality and power as they pertain to racism, class hierarchy, and sexism within American society. The legal field in particular is one of the least racially diverse professions in the nation. In response, I decided to be an agent of change, which is why I co-founded UCLA’s Black Pre-Law Association (BPLA) in hopes to connect underrepresented students to the resources necessary for successful matriculation into law school and increase diversity within the legal profession.

After graduation, I served as a legislative aid to one of the few female legislators in the California State Legislature, Senator Holly J. Mitchell. My position allowed me to acquire a deeper understanding of the legislative process and public policy formation, while advocating on behalf of underserved communities. I assisted Senator Mitchell in the Senate Select Committee on Women and Inequality and the Senate Health Committee. I also managed four bills, wrote talking points for committee hearings and floor sessions, and met with committee consultants, lobbyists, and constituents regarding various issues throughout California. Through this experience I gained invaluable leadership experience, professional development, and learned new methods of advocacy.

Although civic engagement is essential to my growth as an advocate, it was also clear that law school would equip me with the education, skills, and training necessary to navigate complex legal systems and bring about positive change. The Honorable Patricia Herron and Ellen James Scholarship will help me achieve my academic goals by providing me with funding to pay for books for the next three semesters of law school.

In the future, I plan on returning to state government and use my J.D. to become a legal analyst for the Office of Legislative Counsel in Sacramento. There I would have the

opportunity to draft legislative proposals, prepare legal opinions, and provide other legal services to the Legislature and non-profits in Contra Costa County. I'm hopeful that I can use my law degree to substantively contribute to local, regional, and state governments and make government resources more accessible to underprivileged communities.

Chelsea Davis is a second year law student at UC Berkeley School of Law.

Reflections & "Pre-flections"

Friday, December 01, 2017



As we near the end of another year, many of us naturally tend to look back and reflect on the past year. Regardless of your political affiliation, it is safe to say that 2017 was a year of great change - change that continues to shape our world, both personally and professionally.

We, at the Contra Costa Lawyer, thought this was a good time to take a moment and think about change, not just in 2017, but in our profession generally. We asked our authors to reflect on how things have changed over the course of their careers, and we got a lot of different viewpoints.

Some of these reflections were more personal. Judge Ellen James reflected over her career, moving from a Judge to a mediator, and what that change has meant her. Mark Frisbee, who recently retired, reflected on the process of retirement and what lies ahead for him. One of our authors focused more on changes that took place on a larger scale and affected not just individuals, but our legal community generally. Dean Barbieri, Dean of the JFKU Law School, has looked back at how the California Bar Examination has changed over the years, and how those changes affected the way legal education is delivered in this state.

We couldn't do an issue focused on introspection without turning the mirror on ourselves! Matt Guichard has shared his thoughts on writing the popular Civil Jury Verdicts column for this magazine and how that has changed through the years. Similarly, David Pearson, our outgoing Editor, has reflected on his many years sitting on the editorial board for the Contra Costa Lawyer and how this magazine has changed dramatically during that time, moving from a black and white print publication to an award-winning, full-color online/print hybrid. While the outside of the magazine has changed, what has remained the same is the dedication of our editorial board and the enthusiastic support we receive from the legal community.

Finally the end of one year brings with it the beginning of the next, and so in that spirit we sought out not "reflections" but "pre-flections" of those about to enter the practice of law. We asked the three recipients of the Women's Section Annual Scholarships to give us their thoughts about why they are entering into the practice of law and what they hope to accomplish. These three women, Chelsea Davis, Kate Magnini and Emily Lahl, are all dedicated to serving others, and their fresh perspectives will hopefully start all of us out in 2018 with a renewed sense of what is possible when we utilize the privileges of our profession for the betterment of others.

Thank You

Friday, December 01, 2017



This is my last President's Message to you. [1] I want to take this opportunity to thank all of our 1,537 attorney members for your amazing work this year.

I believe the true measure of success of any organization is how much its members give back, and by that measure this year has been a resounding success! Our Executive Director, Theresa Hurley, and her staff have done an incredible job this year in tapping into our giving sides and motivating us to serve and help others while our Contra Costa County Bar Association Board Members have generously donated hours of their time

attending board meetings, section events and mixers to keep us going, but that isn't even close to everything. Here are just a few examples of the things our members have done so far this year- and this is just through the end of October!

Our members generously donated over \$100,000 to great causes. Specifically, the Women's Section raised \$7,200 for their scholarship fund, helping three deserving women achieve their dreams of becoming lawyers so that they might help others. The Food from the Bar event raised \$56,800 for the Food Bank of Contra Costa and Solano Counties. Finally, The Bar Fund raised \$42,000 for the Social Justice Collaborative, which provides attorneys to help undocumented immigrants and unaccompanied minors navigate the immigration system.

Our members didn't just donate money, though. They also donated their precious time to help out with free legal workshops to the public in the areas of Family Law, Immigration, Bankruptcy, Civil Pro Per and Employment. We had over 60 volunteers in these programs who donated over 150 hours.

Our members also volunteered hundreds of hours serving the courts and the general public who desperately need access to justice. For example, self represented litigants in the Family Law Courts received over 769 hours of free legal services from the 25 regular family law volunteer attorneys who worked in the Family Law Self-Represented Litigant Calendar and Clinic programs.

Our Discovery Facilitator program helps unclog the congested civil calendar. Over 189 discovery disputes were handled by volunteer attorneys totaling over 400 hours of donated time.

Our Pro Tem Judges served in our various court rooms on at least 183 days handling traffic, small claims and unlawful detainer matters. It is conservatively estimated that our attorneys gave over 1,000 hours of their time helping as Pro Tem Judges.

The time spent by our attorneys giving back this year totals over 2,319 hours. If we

assume that attorney time is valued conservatively at \$300.00 per hour, the total value would be \$695,700. Think about that for a moment- almost \$700,000 worth of attorney time was donated by our members this year alone.

In addition to this, our 20 sections held over 103 events such as mixers, seminars, and clinics. The Bar staff (with Anne Wolf as the primary coordinator) helped organize these but they took hundreds of hours of time by the section leaders and members to plan and carry them out.

This has been a very fulfilling year for me to associate with you and to watch you in action as you help others through your legal training and expertise. My vision this year was to help us all give back through our sections and to increase diversity in the legal profession and I think we have made great progress on both goals- thanks to all of you. [2] In addition to all the time and money you have given this year, our Diversity Award Program [3] is off to a good start and we will hand out the awards in January at our installation lunch scheduled for January 26, 2018. I hope to see you all there.

In my messages, and hopefully in my practice, I have tried to convey the importance of getting along with others [4], giving back [5], being effective in ADR (and in practice generally) by being professional and courteous [6], helping the elderly [7], achieving a better work/life balance [8], coping with stress [9], being courteous with claims adjusters [10] and serving as Pro Tem Judges [11].

It has been a pleasure to serve you this year. Thank you for all of your time and efforts that have made this such a successful year for the CCCBA - and for me personally. I look forward to many fulfilling interactions with you over the years to come.

Philip M. Andersen is the Managing Attorney of the State Farm Insurance Company In-House Litigation Department in Pleasanton (Philip M. Andersen & Associates). He has extensive litigation and trial experience defending policy holders in personal injury lawsuits. He has been managing in-house insurance litigation offices since 1994. Contact Phil at (925) 225-6838 or philip.andersen.nx3z@statefarm.com.

[1]The views expressed in this article are my own and do not necessarily reflect those of my employer, State Farm.

[2] <http://cclawyer.cccba.org/2017/01/new-cccba-board-president-philip-andersen-sr/>

[3] <http://cclawyer.cccba.org/2017/07/cccba-diversity-award-announced/>

[4] <http://cclawyer.cccba.org/2017/02/can-we-all-get-along/>

[5] <http://cclawyer.cccba.org/2017/03/giving-back/>

[6] <http://cclawyer.cccba.org/2017/04/an-insurance-defense-attorneys-perspective-on-effective-adr/>

[7] <http://cclawyer.cccba.org/2017/05/reflections-on-life-and-death/>

[8] <http://cclawyer.cccba.org/2017/08/healthy-work-life-balance/>

[9] <http://cclawyer.cccba.org/2017/09/stress-management/>

[10] <http://cclawyer.cccba.org/2017/10/an-insurance-defense-attorneys-perspective-on-best-practices-in-working-with-insurance-claims-adjusters1/>

[11] <http://cclawyer.cccba.org/2017/11/volunteering-with-the-court/>

Civil Jury Verdicts - Musings

Friday, December 01, 2017



Just to be clear, I did not come up with the idea of a Civil Jury Verdicts column. In fact the column was a big hit long before I arrived on the scene. The person who was writing the column was leaving the area and I was asked if I could take over the column. I leapt at the opportunity. Recall, I spent 10 years in the publishing business prior to becoming a lawyer, and I thought I could hone my literary talents (such as they are). At any rate the proposal at the time was we would do both a civil jury verdict column and a criminal jury verdict column. I chose the civil column as I had transitioned from the DA's office into the civil arena and another lawyer was designated as the criminal column author. I knew you would ask: "So whatever happened with the criminal jury column?" Good question. It simply never got off the ground. I do believe all that started somewhere in the 1990s if memory serves.

Prior to taking on the assignment, I met with my predecessor at the courthouse in Martinez to discuss the column and how to prepare for the writing. He advised he got a monthly report from the court administrator's office listing all civil verdicts in the Martinez courts. Those verdict reports included both bench trials and jury trials. The report listed the case name, the case number, the presiding judge, the involved attorneys and the prevailing parties. He obviously had more time than I had, as he would then take that report and go to the clerk's office to research each reported case. Goodness, I thought, I had a busy law practice with a big firm, and I certainly could not spend all that time at the clerk's office. Needed all those billable hours back then. So we prepared a form and sent it out to all the listed attorneys. The form asked the pertinent information, most critically a brief fact report and final demands and offers. As you may recall I got a good response and actually wrote a column every month for some years. Of course back then there were many more vehicle-accident cases going to trial, as the cost of experts had not ballooned as we later observed. But that's another story. It was fun providing information which was interesting and helped advocates decide how Contra Costa juries decided civil disputes. I had so much information that I wrote an article listing all the "fast track" judges and how many cases they each handled, how many cases went to trial and the results. I mentioned the article to the PJ at the time and he went a little "ballistic." Apparently it was a sensitive topic considering the perception internally of how hard each judge worked and which judges might have been challenged (170.6) more than others. I got the message and that particular column never saw the light of day.

You have heard it from me many times, when I started writing the Civil Jury Verdicts column, the number of trials to verdict in Martinez alone was somewhere between 50 and 60. As the years went by the number kept falling until it reached a low of 12 actual cases to verdict one year. When I first started there was still a Municipal Court and a Superior Court. Those stats I told you I received did not include the Municipal Court cases. Now don't get excited, the judges are busier than ever and many cases start and settle

midstream. Those matters were not reported as verdicts, even though there were many such cases. In fact in my own experience I have had a least 15 cases start with jury selection and testimony, only to settle before verdict. The advent of ADR (mediations, not the old non-binding arbitrations) also account for the lower numbers of actual trials. And of course don't forget the very successful settlement mentors who assist on the first day of trial. My most recent case settled on the first day of trial after about ten hours of settlement negotiations. All good news.

I love writing the column and every chance I get I lament the fact I do not get all the statistical information I once got in order to inform the readers. No blame is directed at anyone, not the least the Court itself. But the fact is a court administrator several years ago advised I would no longer get the monthly statistical report due to budget issues. I don't think any of the judges even knew I got the report in the first place, much less that I would not be receiving it. I mentioned it again recently and I obviously hit a nerve as I was taken to task as it appeared I was blaming the Court. Not so. I was surprised, as I have mentioned the lack of the statistical report many times in the columns. Thus my plea in every column for the past years to please send reports about trials, both in-county and out-of-county, both federal and state and even interesting settlements and arbitrations. The invitation still holds.

I was told at one time the Civil Jury Verdicts was the most popular regular column in the Contra Costa Lawyer. It is a fun column to read. It is free advertising for those attorneys who are mentioned, but more importantly it is a real eye opener to read about demands, offers and verdicts. I will say at one time I heard from Judge Cahill, just before my client was hit with a huge verdict in San Francisco, "In most cases when a case goes to trial one side or the other miscalculated." And that is so true. So, we have all read about the \$1 million demand and the \$10,000 offer followed by a defense verdict. Or the opposite where the demand was seven figures, the offer was five figures and verdict was in the eight figure range. Ouch I say! Not long ago a friend was on the defense end of one of those latter-described verdicts. I contacted him and he advised, "Matt I don't tell you about the ones I win, so I certainly won't tell you about the ones I lose."

Over the years I have regularly received telephone calls from out-of-county attorneys asking my opinion about a particular case set for trial in Contra Costa and about the trial judge - all because my name is associated with the column. I do plan to keep writing the column, unless of course somebody has a better idea. And I am pleased to chat about cases with anyone who cares to call me. You will hear it from me however to settle your case if you possibly can. Rare is the case which must have 12 citizens decide the facts.

So the good news is I have been told I will once again be getting reports and statistics for our civil trial departments, and in an unrelated turn of events I just received reports from four attorneys on a number of cases. So, as soon as I finish my new chicken run and winterize my bee hives, I will sit down and prepare a Civil Jury Verdicts column with actual case reports. Stay tuned.

Bar Soap

Friday, December 01, 2017



There are so many things to talk about in our local legal community, I am developing a case of mental paralysis. Things come up and I make a mental note to mention it in a Bar Soap. Then when it comes time to actually put pen to paper I freeze up. (Well okay, fingers to a key board). Did I remember everything? Is there room in the column to even mention what I did remember? So, I have taken to putting thoughts on a list each time I think it might bear mentioning in a Bar Soap. Problem is, I have so many such lists. Anyway, here goes another Bar Soap column.

By way of history, and stop me if I already told you, some years ago Harvey Sohnen called to ask if I would be willing to author a column in our Bar magazine about local legal news. It was to be kind of a “Herb Caen” style column and titled “Bar Soap.” Harvey came up with the clever title. I thought about it for a moment or two, knowing I might have trouble putting my hands on the type of typewriter Herb always bragged about. However I did leap at the chance to give it a try, but confessed it would have to be done on a computer, not a typewriter. The column always gets a response, some good and some not so good. But I do enjoy it and should certainly get it done more than I do now. I am shooting for every other month.

As a practicing civil attorney (both a civil attorney AND I like to think a civil attorney) I always look closely at the annual judicial assignments in the Contra Costa Superior Courts. Our 2018 assignments came out recently and the civil bench remains relatively unchanged. Being a creature of habit I rather like that. I did note lots of changes in Criminal, Family law and some new categories. We have a Mental Health assignment, and a Specialty Courts assignment. My Deputy DA days are in the past, so I don’t have a feel for the changes in the criminal or specialty assignments, but I am very pleased with the move of Juvenile to the Walnut Creek Courthouse. That empty courthouse needed to be enlivened. There hasn’t been that much excitement in Walnut Creek since some disaffected fellow tried to burn that courthouse down. Recall he didn’t just pick on Walnut Creek. He also started a fire in the Martinez Courthouse and the Concord Courthouse. All in all, the courthouses got new coats of paint and some other upgrades, except of course the Concord Courthouse, which got bulldozed.

We have a couple of new judges. Time was I knew all the judges on our bench. Not anymore however. I will certainly make a point of saying hello when I get the chance. You should do the same. One of the benefits of being a member of the Robert G. McGrath American Inn of Court is meeting judges I would normally never appear before. Those who are not members of the Inn should certainly give it a thought. It is nice to meet our judges in an informal setting, unburdened by benches, bars and robes.

Speaking of the Robert G. McGrath Inn, we recently had the 20 year anniversary celebration of our Inn. It was a wonderful event and very well attended. Although many

have contributed to the Inn over the years, we honored Justice James Marchiano and Judge John Minney as the individuals behind the push to start our local Inn, as well as Joyce Cram the original president. I was lucky enough to be the president of the Inn at our 10 year anniversary. That too was a fun celebration and we had Judge McGrath's wife as our honored guest. Very hard to believe it has already been ten years since that last celebration. This time around Justice Marchiano gave a very nice history of the Inns in the United States and then our Inn in particular. He is a very good historian when it comes to our local legal community. Perhaps sometime he can write a history of our Inn for all to read.

Our local Bar Association works very hard to schedule events to bring us all together for a bit of fun and education. By the time you read this we will have had another of the very special MCLE Spectaculars. I know I have said it is the best attended legal event in the Bay Area, and well worth the time and relatively small expense. A great time to catch up with old friends, get those continuing legal education credits and actually learn something.

The 33rd Annual Dinner Meeting of The One Hundred Club of Contra Costa County took place this past November 9. The President of the club Dominique Yancey presided. Dominique is a Deputy District Attorney in Contra Costa County. The guest speaker was none other than our Presiding Judge the Honorable Jill Fannin. Judge Fannin gave us all an update (and perhaps a hopeful wish list) of the anticipated computer systems scheduled to come on line in the Superior Court in the next few years. I had no idea we are still using tin cans and string to communicate between the various departments.

Let's move on to a bit about the actual practice of law. I keep mentioning my personal observations when I attend case management conferences in person throughout the state. Each county does it differently and it would be wonderful to see some uniformity. San Francisco only has appearances in very limited single assignment matters. Alameda County normally issues tentative rulings the day before a conference and in most cases, no appearance is required. Here in Contra Costa we do have regular appearances and I rather like that. However, we need a code of conduct for those who use Court Call. Please limit comments to relevant issues. Please do not bring up discovery issues. We have a place for that and a nasty comment about discovery at the CMC is not the place for that fight. Brevity and civility should be the rule of the day. As I have always advised, if a comment will be neither helpful nor instructive, please don't say it. Vitriol should be left to comments about your favorite sports team or perhaps your least favorite politician, and all outside the courtroom setting.

I recently attended mandatory fee arbitration training. I have been a regular State Bar Fee Arbitrator for going on 20 years and the Bar recommended its fee arbitrators attend class for an update. The course was held in the newly refurbished Old Solano County Courthouse. They did a wonderful job bringing the old place back to life. At any rate I will mention an issue which seems to come up in almost all the fee arbitrations I handle. That is Fee Agreements, or as I like to call them "Legal Services Agreements." Please ensure you have an updated agreement. Research the law regularly so that your agreement complies with the newest regulations, and from my perspective be very careful with those "flat fee" non-refundable retainers.

Many people on the move. As I mentioned we have some new judges and more on the way. People on the move always makes for a positive story. We do have a new DA and congratulations to her. The Honorable Diana Becton was appointed by the Board of

Supervisors to complete the term of our former DA. That of course promises an election soon. Deputy District Attorney Paul Graves has thrown his hat in the ring. We shall see who else plans a run for that coveted office.

Our long time firm partner Will Portello has taken a position as Director of Litigation Management at Bickmore Risk Services. No more form interrogatories for Will to ponder. He actually will manage litigation all over the state. Will is a brilliant lawyer and we will certainly miss him. We wish him the very best in his new endeavor. We have always maintained the name Guichard, Teng & Portello even with new partners. Now we must change that. I thought perhaps it would be easy, as another partner is Erika Portillo. I thought perhaps a magic marker to simply change the "e" in Will's last name to an "i" in Erika's last name, but that didn't look so good. Our firm will now be Guichard, Teng, Portillo & Garrett. Chris Garrett has been elevated to partner. Congratulations Chris.

My friend and occasional legal adversary Zachary Smith has left the Farmer's staff counsel office and taken a position at Freeman, Mathis & Gary LLP, in San Francisco. Congratulations Zach. And Irene Takahashi a former partner at Lewis Brisbois Bisgaard & Smith, recently joined ADR Services, Inc., as a panel mediator. I remember well, being mentored on trial issues when we were both Deputy DAs in the Contra Costa County DA's Office. Congratulations Irene. And speaking of our DA's office again, Steve Mowad recently left that office to become Chief Trial Counsel at The State Bar of California. Very nice move for Steve.

Finally I will end on the sad note of mentioning a couple of attorneys we lost this year. Michael C. Scranton, the founder of the Scranton Law Firm passed away this year. He was a giant in the civil trial world and his firm handled many of the cases I first saw when I went to work at Ropers Majeski Kohn Bentley Wagner & Kane. We also lost James Giller this past summer. Jim was a giant in the criminal defense filed. He was a real gentleman. At the time I was a member of the Contra Costa County DA's Homicide team, I often crossed paths with Jim and other members of his law firm.

Please keep those cards and letters coming so that I can report on the comings and goings in our wonderful legal community.

Robert G. McGrath American Inn of Court 20th Anniversary

Friday, December 01, 2017

On November 2, 2017, the Robert G. McGrath American Inns of Court held its 20th Anniversary celebration with a sit down dinner at Zio Fraedo's in Pleasant Hill. The Inn was formed by a group of judges and senior trial attorneys in Contra Costa and was originally called the Contra Costa County American Inn of Court. The Inn is part of the national Inns of Court with the mission of fostering professional relationships, ethical practice, professional integrity and civility. Awards were given to Judge Minney and Justice Marchiano as founding members who were instrumental in founding the Inn and to Judge Cram as the first President. Approximately 100 current and past members attended the dinner with almost one third of the original Inn from 20 years ago coming back together to celebrate as well as all of the past Presidents.

[metaslider id=14860]



0103620077



Non-customer created content © XanEdu and its licensors.
All rights reserved by their respective parties. Patents pending
for the XanEdu technology. NOT FOR RESALE.
For personal, noncommercial use only.
LIABILITY LIMITED TO COST OF PRODUCT.

CONTRA COSTA LAWYER

[Current Issue](#)
[Features](#)
[Spotlight](#)
[Pro Bono](#)
[Self-Study MCLE](#)
[About](#)
[MarketPlace](#)

[Home](#)
[President's Message](#)
[News & Updates](#)
[Bar News](#)
[Lifestyle](#)
[LPS](#)
[Ethics Corner](#)
[Coffee Talk](#)
[Magazine Archive](#)

System: I grew, during my years on the bench, and I observed the congratulatory gestures, the four stars,
 [handshakes and all-around buzz that follow a successful retirement](#). A successful retirement is an elusive

Spotlight

The Reflections on the Law: Emily Latt
I initially became interested in pursuing a career in public service

Reflections and "The Reflections" on the Law: Julie Mazzoni
Six years ago, I suddenly became a single mother of four, with children

The Reflections on the Law: Chelsea Davis

News & Updates

Robert G. McGrath American Inn of Court 20th Anniversary
On November 2, 2017, the Robert G. McGrath American Inn of Court held

2018 Judicial Assignments

PROUD to Be Equal Benefit
Members of the Contra Costa County Bar

