Gould-Shaw House, home of the Cloverdale History Center & Museum, Cloverdale, Sonoma County

Jack DeMeeo: Remembering a Pillar of Our Community • Welcome New SCBA Members
Fundraiser for Pulse Nightclub • Working It Out: Meetings & Conferring & Sanctions
Criminal Courthouse Project Stalled • Swinging Success: Bar Picnic 2016
SCBA “Movers & Shakers” • Persons & Mullins Honored at 24th Annual COD Awards
Minor’s Counsel: Children Need Representation Too! • Rent Control Debate in Bay Area Reaches Ballot Box
Bench Bar Retreat Focused on Unrepresented Litigants • Judge Medvigy Soars into Retirement
MASTER OF LEGAL STUDIES & JURIS DOCTOR

*a Perfect Pairing*

Designed to educate working professionals about the fundamentals of the law, our master’s degree program pairs perfectly with a variety of career fields in which knowledge of the law is part of the job. It also pairs perfectly with dual enrollment in the Juris Doctor program.

Since 1973, Empire College School of Law has prepared more than 900 graduates for legal careers. Alumni now comprise approximately 25% of the Sonoma County Bar and include 11 members of the judiciary in Sonoma, Napa, Mendocino, Lassen, Merced, and Calaveras Counties.

- Outstanding Bar Exam pass rate
- Award-Winning Teams, California Moot Court Competitions 2000-2015
- Numerous clinical education opportunities
- Distinguished faculty of practicing attorneys or judges, providing theoretical and practical legal education
- 2-year evening Master of Legal Studies program; 4-year evening Juris Doctor program

Call the Law Admissions Office for details!

707-546-4000
www.empcol.edu/school-of-law

Empire College

3035 Cleveland Ave.
Santa Rosa, CA 95403
President’s Message: Reflections in the Rear-View Mirror

By James DeMartini
President, SCBA

As is the custom, the last President’s Message of the year contains the reflections of the outgoing president. Never one to seriously buck convention, unless it’s just plain dull, I’m following suit.

My first observation is that every member of the Bar should, at one point in their career, become involved in the administration of the Bar Association. That moment arrived for me when the folks charged with administering security at the courthouses decided that lawyers had to remove their belts to go to work. After 30 years of roaming the courthouse fully dressed, I was offended by the suggestion that I undress to represent my clients.

I complained to Glenn Smith, who was then the Bar president, and Glenn’s response was (and I’m sure you expected this if you know Glenn) “Jim, you are appointed to deal with it on behalf of the Bar.” Thus politicized, I took up the challenge and it all got worked out. But in the interval, I ended up with a position on the Bar’s board as an at-large member. I have never regretted that appointment.

It might be different for someone who practices in a large firm in Santa Rosa, but for a lawyer in a two-attorney firm in Cloverdale, the opportunity to interact with lawyers outside the courtroom or deposition facility is limited.

Being a member of the SCBA board has enabled me to meet and work with many attorneys whom I would not have met because they are transactional types, criminal attorneys, or family lawyers, who don’t spend time with the civil litigation crowd.

This is especially true of the young lawyers, a whole generation of whom I did not have the opportunity to meet until I became an SCBA Board member.

Problem solving tends to bring people together. I have made many new friends because we’ve spent time working together as lawyers, rather than working against each other. Since joining the Bar Board, I’ve actually learned to like lawyers. Go figure.

Anyway, please get involved with the administration of the Bar. You’ll enjoy it. There are twelve standing committees devoted to topics ranging from Fee Arbitration to the annual picnic. All of the committees need volunteers. All of the committees are productive and working on them is rewarding.

The second thing the president does in his/her last message is to thank people. This is easy for me because so many people have worked hard this year and made being president fun.

First, I need to thank Peter Steiner and his staff, Amy Jarvis, Susan Demers, and Win Rogers for the enthusiasm and the hard-work ethic they bring to the SCBA. We would not be anywhere near as cohesive and productive an organization without their efforts.

Secondly thank you to the Board of Directors who are really the work-horses of the Bar. Michelle Zyromski, who runs the Education Committee, and Debra Newby, Chair of the Communications Committee made extraordinary contributions to the SCBA. Michelle kept the coffers filled with funds raised from CLE seminars and Debra made us shine in the eyes of the public.

Marla Keenan took on the huge job of Special Events Committee Chair this year. She and her committee members gave us a full year of top level, fun-filled events. Suzanne Babb and her Law Week Committee ran this year’s amazingly successful program. It is our most effective public outreach effort.

A special thanks goes out to Malcolm Manwell and John Borba for heading up the Bar Journal Committee. It was a great pleasure for me to work with the Bar Journal committee, which includes Joni Boucher and Caren Parnes, and

Continued on page 9
The Colin Kaepernick protest illustrates that equality continues to move forward. The fact that our society has a place for an African American man who speaks out in a non-violent, but disturbing way to a lot of Americans, who makes the cover of *Time* magazine to boot, and who can find support and criticism alike, on the merits, shows real progress.

While his act of defying the National Anthem has brought attention to his cause, I am not sure everyone registers the irony here—he is kneeling down in sporting fields across the nation that fought our civilization’s decisive war to end slavery and racism. A huge part of our national character today has been forged by a Civil War over slavery, and the laws developed from it.

America did not bring racism and slavery to the Earth. Both have been going on since the dawn of humanity. We only have recorded history back, say, 10,000 years. America’s part in this has been only the last 400 of those years. Less than 4% of recorded history.

Long before America, civilization embraced racism and slavery. But the irony doesn’t end. Although the Founding Fathers such as Thomas Jefferson and George Washington “owned” slaves as part of that old civilization, they also are among those who, in the eloquent opening line of Lincoln’s Gettysburg Address:

“...brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.”

Something happened on the land in which Colin Kaepernick now kneels in protest. An idea was proclaimed, that “all men are created equal.” It was only an idea at first. It took time to take root, and it is now seared into our national consciousness by a great Civil War.

America fought that great Civil War for all humanity. It was a conflict which told the globe just how important it is to stop slavery and racism. Over 660,000 persons died in that great conflict. According to *The Smithsonian* (November, 2016, p. 104) over 200,000 black men fought on the side that sought to abolish this evil. Our nation lost its greatest president to that conflict.

I believe the American Civil War will go down in history as civilization’s turning point in the rejection of slavery and racism. America is looked at today for its freedoms and protections. The laws of the nation implemented what that war decided: the 13th Amendment [abolishing slavery, 1865]; the 14th Amendment [requiring due process and equal protection, 1868]; and the 15th Amendment [equal voting rights, 1870].

Did that end racism? Are you kidding me? Those of us who are doctors of the law know it takes time to develop. The law proceeds at glacial speed. Can we be so naïve that we think you can reverse tens of thousands of years of cultural evil, overnight?

It really took almost another century after civilization’s Great Civil War before a 1954 U.S. Supreme Court stood up in its epic 8-0 decision, *Brown v. Board of Education*, and said we must try harder. Then, three Massachusetts’ brothers and Martin Luther King followed up, sending public life leaders into our midst who have given life and meaning to equal rights ever since.

More than half a century later, Colin Kaepernick kneels down across this country, during the National Anthem in protest, able to do so because this nation awoke and fought civilization’s great war to end racism and slavery.

So, to Colin Kaepernick, I say this: Continue to kneel down and make your statement about the need to be fair to persons of color. There is much to be done. But then get up and thank the nation that pays you so well to do nothing but play a game, and one which has “…long endured…” fighting mankind’s battle to end racism and slavery. Be proud of where you are, because you are kneeling on hallowed ground. You are kneeling down in the United States of America, the nation that proclaimed to the world that “all men are created equal,” and sealed that Proclamation with its blood like no other.

---

From the Editor: *Hallowed Ground*

By Malcolm Manwell

The Colin Kaepernick protest illustrates that equality continues to move forward. The fact that our society has a place for an African American man who speaks out in a non-violent, but disturbing way to a lot of Americans, who makes the cover of *Time* magazine to boot, and who can find support and criticism alike, on the merits, shows real progress.

While his act of defying the National Anthem has brought attention to his cause, I am not sure everyone registers the irony here—he is kneeling down in sporting fields across the nation that fought our civilization’s decisive war to end slavery and racism. A huge part of our national character today has been forged by a Civil War over slavery, and the laws developed from it.

America did not bring racism and slavery to the Earth. Both have been going on since the dawn of humanity. We only have recorded history back, say, 10,000 years. America’s part in this has been only the last 400 of those years. Less than 4% of recorded history.

Long before America, civilization embraced racism and slavery. But the irony doesn’t end. Although the Founding Fathers such as Thomas Jefferson and George Washington “owned” slaves as part of that old civilization, they also are among those who, in the eloquent opening line of Lincoln’s Gettysburg Address:

“...brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.”

Something happened on the land in which Colin Kaepernick now kneels in protest. An idea was proclaimed, that “all men are created equal.” It was only an idea at first. It took time to take root, and it is now seared into our national consciousness by a great Civil War.

America fought that great Civil War for all humanity. It was a conflict which told the globe just how important it is to stop slavery and racism. Over 660,000 persons died in that great conflict. According to *The Smithsonian* (November, 2016, p. 104) over 200,000 black men fought on the side that sought to abolish this evil. Our nation lost its greatest president to that conflict.

I believe the American Civil War will go down in history as civilization’s turning point in the rejection of slavery and racism. America is looked at today for its freedoms and protections. The laws of the nation implemented what that war decided: the 13th Amendment [abolishing slavery, 1865]; the 14th Amendment [requiring due process and equal protection, 1868]; and the 15th Amendment [equal voting rights, 1870].

Did that end racism? Are you kidding me? Those of us who are doctors of the law know it takes time to develop. The law proceeds at glacial speed. Can we be so naïve that we think you can reverse tens of thousands of years of cultural evil, overnight?

It really took almost another century after civilization’s Great Civil War before a 1954 U.S. Supreme Court stood up in its epic 8-0 decision, *Brown v. Board of Education*, and said we must try harder. Then, three Massachusetts’ brothers and Martin Luther King followed up, sending public life leaders into our midst who have given life and meaning to equal rights ever since.

More than half a century later, Colin Kaepernick kneels down across this country, during the National Anthem in protest, able to do so because this nation awoke and fought civilization’s great war to end racism and slavery.

So, to Colin Kaepernick, I say this: Continue to kneel down and make your statement about the need to be fair to persons of color. There is much to be done. But then get up and thank the nation that pays you so well to do nothing but play a game, and one which has “…long endured…” fighting mankind’s battle to end racism and slavery. Be proud of where you are, because you are kneeling on hallowed ground. You are kneeling down in the United States of America, the nation that proclaimed to the world that “all men are created equal,” and sealed that Proclamation with its blood like no other.

---

Errata

On page 19 of the 2016 Fall Bar Journal, the article 14th Annual Summer Soirée Kicks off the Season, had an error in attribution in the top left photo caption.

Justice Conrad Rushing was identified as “Hon. Conrad Rushing (Ret.).” Justice Rushing is not retired.

The Bar Journal editorial committee apologizes for the error and the confusion and inconvenience that this may have caused Justice Rushing.
WHAT WILL YOU DO TO WIN?

CASE WINNING GRAPHICS

A LOCAL COMPANY PROVIDING NORTH BAY ATTORNEYS COMPREHENSIVE GRAPHICS AND PRESENTATION DESIGN INCLUDING POWERPOINT SLIDE DECKS, ANIMATED EVENT RECONSTRUCTIONS, INTERACTIVE DOCUMENT EXTRACTS, MEDICAL MECHANICAL PRODUCT AND PATENT ILLUSTRATIONS, ILLUSTRATED MAPS AND CHARTS, LARGE FORMAT RENDERING AND PRINTING, FILM AND VIDEO EDITING, WEBSITE DESIGN, TECHNICAL SUPPORT, WE TAKE CARE OF YOUR VISUAL NEEDS SO YOU CAN STAY FOCUSED ON BUILDING AND WINNING YOUR CASE.

MARAIZON LEGAL GRAPHICS HAVE HELPED CLIENTS WIN

WINNER CONSTRUCTION DEFECTS
WINNER INJURY ACCIDENT
WINNER INSURANCE FRAUD
WINNER MEDICAL MALPRACTICE
WINNER ENVIRONMENTAL LAWSUITS
WINNER PATENT INFRINGEMENT
WINNER PRODUCT LIABILITY
WINNER REAL ESTATE TITLE FRAUD
WINNER LAND USE DISPUTES
WINNER WATER RIGHTS/AGRICULTURE
WINNER ANTI-TRUST PRICE FIXING

MARAIZON INTERNATIONAL
MARAIZONLEGALGRAPHICS.COM

(707) 861-2014

Share Exchange, 533 5th Street, Santa Rosa, CA 95401

To discuss your case requirements call John Leo at (707) 861-2014 or email john@maraison.com
Jack DeMeo: Remembering a Pillar of Our Community

John F. ("Jack") DeMeo died on Thursday, October 6, 2016, at age 82, after losing a battle with malignant myeloma. With his passing, the citizens of Sonoma County have lost a pillar of this community and the Bar has lost one of its most capable, successful and respected members.

A graduate of Santa Rosa Junior College, the University of San Francisco and Hastings College of Law in 1958, where he was a member of the Order of the Coif and Thurston academic honor societies, Jack practiced law in this community for 58 years before pulling back shortly before his death. His entire career was with the firm of DeMeo & DeMeo, established by his father, J. Nick DeMeo and his uncle, Charles DeMeo. As with Jack, Nick DeMeo (who was a successful practitioner and the author of the well-recognized discovery treatise California Deposition and Discovery Practice), practiced law well into his 80s. Charles DeMeo became a councilperson and mayor of Santa Rosa who lived frugally in a small home across from the Santa Rosa High School. Upon his death, Charles left the City of Santa Rosa a multi-million dollar bequest for the betterment of youth which was used for the establishment of the Chops Teen Club. DeMeo & DeMeo was a hard working firm which regularly had office hours six days a week. With Jack’s presence, the firm evolved as a training ground for many young lawyers who have gone on to become successful practitioners, a good example being former Santa Rosa City Attorney, Brien Farrell. Jack was joined in the firm by his son Brad who, after practicing law for 22 years, became a Sonoma County Superior Court Judge in Jan., 2011. At the time of his death, Jack was practicing with his long-time partner, Josh West, and his granddaughter, Emily DeMeo, under the firm name of DeMeo, DeMeo & West.

Jack met his wife Judy during grade school, when they were both entered in a talent contest at the Sonoma County Fair, with Jack playing the accordion and Judy singing. They had a close relationship throughout their school years and were married in 1953. They became strong supporters of youth and education in our community. Their son John F. DeMeo graduated from Cardinal Newman High School. When Thomas, then attending California Polytechnic State University, San Luis Obispo, was tragically killed in an automobile accident in 1972, Jack and Judy established a memorial fund in Thomas’ name at Cardinal Newman which continues to benefit Cardinal Newman youth to this day. The DeMeo’s have kept a close relationship with Thomas’ Cardinal Newman classmates, many of whom were present for Jack’s memorial service on October 14, 2016.

Jack was always a strong supporter of the Sonoma County Fair and was particularly involved in support of its horse racing. He was appointed to the Sonoma County Fair Board in 1965, was its president in 1976, served there until 1977, and then became an honorary lifetime director. Both Jim Moore, a former general manager of the Fair, and Julie Kimmelman, a former board member, commented that Jack was a “calming influence” on the Board through some very tumultuous years. Jack is credited with significant statewide horse racing safety improvements after convincing the California Horse Racing Association to adopt the use of breakaway marker poles, new railings and the practice of having an ambulance following the last horse in the race. He received an award (the “Whinny Award”) from the California Horse Racing Association for his advocacy. Jack and Judy’s focus, however, was with education for young people in agriculture. He was a catalyst for the establishment and success of the Sonoma County Fair Foundation, which has raised funds for the establishment of Saralee & Richard’s Barn, a facility now being completed at fairgrounds for agricultural education.

Jack juggled these community efforts at the same time that he was handling major responsibilities in significant and complex cases. Jack was a “go-to guy” for the handling of complex personal injury cases. Having taken on the responsibility of a case, he was known to be exhaustingly thorough in his investigation, analysis and preparation of a client’s matter. Since he took over the responsibility of the supplementing and republication of his father Nick’s multi-volumed legal discovery treatise, he was always at the cutting edge of discovery issues. Jack’s forte was working up and trying a case. He achieved many million dollar results both by settlement and trial. For example, an action against the State of California and contractors on behalf of the driver of a car who suffered tragic brain injury when his vehicle hydroplaned at a new freeway construction site; an action on behalf of a widow and surviving children against a geothermal company for the death of a welder who was killed in an explosion at the Geysers; and an action on behalf of a construction worker whose legs were crushed when a crane mounted on a truck bed rolled down a hill at the Geysers. He aptly handled matters of product liability, road conditions and designs, medical, dental and other professional negligence. He had the rare experience of presenting and arguing an appeal to the U.S. Supreme Court in a criminal matter.

Jack gave extensive efforts to the promotion of the standards of practice. In the early years of practice, there was little commu-
nication between the judicial bench and the practicing Bar which led to some inefficiencies and difficulties in the administration of justice. Jack played a critical role in moving the administration of justice in Sonoma County ahead to meet the demands of the changed times. Jack, along with attorneys Jack King, Tom Kenney, Bart Weitzenberg and Hon. Lloyd von der Mehden (Ret.), established a Superior Court Committee, which met regularly at Jack’s office. As matters evolved, he saw a need to expand the role of the judiciary in the handling of such a committee and was instrumental in establishing what is now the Bench Bar Committee, consisting of judges and lawyers who regularly meet at the courthouse to respond to issues developing in the administration of justice. At present, our Bench/Bar relationships have become a model for other courts in our state.

Jack’s efforts and successes were recognized by his colleagues by his admission as a Fellow to the American Board of Trial Advocates (“ABOTA”). ABOTA is a membership “by invitation only” organization. Its members are practitioners with a high and recognized track record of success who are focused upon the promotion and preservation of our jury trial system. Jack’s father, Nick, was instrumental in the founding of ABOTA in Northern California. ABOTA promotes standards of skill and civility in the practice of law. Jack became the president of the Northern California (San Francisco) Chapter of ABOTA in 2004 and of the State of California ABOTA in 2008. No one from Sonoma County had previously achieved such recognition nor has since. Attorney Ralph Lombardi, a successful trial lawyer from the East Bay, who worked closely with Jack at ABOTA since 2002, describes Jack as “the nicest man I ever met in my life” about whom he “had never heard anything negatively critical.” In 2001, Jack was recognized by the Sonoma County Bar Association for having achieved a Career of Distinction for his “distinguished career in the legal profession and his contributions to the community through decades of devoted service to the rule of law, [and] good citizenship.” In 2009, Jack was awarded the Don E. Bailey Civility and Professionalism Award from ABOTA, recognizing him as one “who continually exemplifies civility, professionalism and integrity in the practice of law while always vigorously, courageously and expertly advocating his/her clients’ causes.” Through the Bench Bar Committee, Jack became the catalyst for the emphasis on civility by the Sonoma County Courts and its adoption of the Standards of Civility. Since the early 2000s, Jack regularly organized and presented a civility course as part of continuing the legal education to the Sonoma County and Northern California Bar. In recognition of his efforts, the Sonoma County Bar Association had, before knowledge of his last illness, chosen to honor Jack with its first annual Michael F. O’Donnell Civility Award which is presented to those who have consistently exhibited and demonstrated in good faith characteristics of civility in the practice of law and respect for the courts, clients, adversaries and witnesses. The award was presented to Judy after Jack’s passing.

Most of Jack’s and Judy’s philanthropic efforts were for the benefit of youth in the community. The Thomas M. DeMeo Memorial Fund at Cardinal Newman now exceeds $1,000,000.00. The monies raised for the Sonoma County Fair Foundation for the construction of Saralee & Richard's Barn exceed $3,000,000.00. Commenting upon Jack’s effectiveness in developing community support for such a project, attorney and former Fair Board member Patrick Emery stated that “when Jack DeMeo calls and leaves a message, people return his calls.”

Continued on page 8
In the early 1990s, Jack and retired Superior Court Judge Arnold Rosenfeld focused on funding for abused, abandoned and neglected children in Sonoma County. They created the Valley of the Moon Foundation in 1994. Its original intent was to create a discretionary fund for children living at the Valley of the Moon Children’s Home. The fund was to be used to take children on field trips, provide birthday and Christmas presents, and other extras that benefit the children. However, it soon became apparent to the Foundation and County officials, that the existing home was inadequate for the growing population of abused, abandoned and neglected children. Understanding this, Jack spearheaded an effort to expand the goals of the Foundation by creating a public/private partnership for the purpose of creating a new children’s home. The new Valley of the Moon Children’s Home was completed in 2005. Judge Rosenfeld stated that “Jack’s advocacy was crucial” to the success of the project. Jack remained a member of the Foundation until shortly before his death. The current president of the Home, Laura Colgate, acknowledged that Jack “literally changed lives. He was a rock.”

Jack and Judy have always been humble people who have quietly endowed scholarships and inspired endeavors by the youth of our community. In 2011 they spearheaded financial support to allow a group of drama students at Santa Rosa’s Elsie Allen High School to perform at the Edinburgh Festival Fringe in Scotland. Jack graciously served as a co-chair of the Sonoma County Family YMCA’s first successful capital campaign in the late 1980s for an expansion of the YMCA to provide a multipurpose auditorium for children, sports and activities.

Jack is survived by his wife Judy, son Brad, daughter Nancy DeMeo and six grandchildren.

From this author’s perspective, I hope that Jack, as he knew his time was coming on this earth, had the ability to look back towards the horizon to appreciate the incredible beneficent light that he created for this community, its legal system and its youth. He is truly a person who “walked the talk.” He lived a good life and lived it well. We will all miss him.

By Mike Senneff

Michael D. Senneff is a founding principal of Senneff, Freeman & Bluestone, LLP, and is a long-term colleague of Jack DeMeo, active with him in both the Bar and in the community.

---

**Welcome to New Members of the Sonoma County Bar Association (SCBA)!**

**Joined July 28th – October 31st of 2016**

- Kara Abelson with Sonoma County Counsel
- Justin Aldi with HCS Equity
- Chelsea Condiotti with Terre Family Law
- Jenna Cook with Anderson Zeigler, A Professional Corporation
- Joshua Desautels — Legal Support
- Gayle Detillion with Carle, Mackie, Power & Ross LLP
- Diana Duenas-Brown with Diana Duenas-Brown
- Steven Fichera, J.D., MBA with Santa Rosa Junior College
- Robert Gillies with Robert D. Gillies
- Nicole Jaffee with Perry, Johnson, Anderson, Miller & Moskowitz, LLP
- Johanna Kleppe with Kleppe Family Law & Mediation
- Elizabeth Link with Center for Conflict Resolution and Leadership
- Kristin Mattiske Nicholls with American Mortgage Law Group
- Phillip Mendelson with Phillip Mendelson
- Yaniv Newman with Perry, Johnson, Anderson, Miller & Moskowitz, LLP
- Kelsi Peña with Johnston/Thomas, Attorneys at Law
- Joseph Perry, P.E. with Joseph Perry P.E., LLC
- Miriam Sammartino with Law Office of Miriam Sammartino
- Michael Shklovsky with Anderson Zeigler, A Professional Corporation
- Jennifer Sterling with Law Offices of Omar Figueroa
- Victoria Tallman with Davis Wright Tremaine
- Chris Van Nuys with LEMO USA
- Jordan Wolff with Geary, Shea, O’Donnell, Grattan & Mitchell, P.C.
Fundraiser for Pulse Nightclub

People like to tell lawyer jokes, oftentimes because they believe we are motivated by financial reward rather than public service. The recent efforts of the LGBTQI Section of the SCBA suggest otherwise. This is the story of a small group of people who pulled off a fundraiser in four days that raised close to $20,000 over costs for the victims of a massacre on the other side of our country.

Joseph Daniels, a law student, learned of a terrible massacre in Orlando, Florida. He wondered if the country would rally behind the victims and their families, or choose this as an opportunity to further divide us because the nightclub was a gathering spot for the LGBTQI community. He chose to take action to unite us behind a fundraiser for those victims, and called upon the section to join in. We are a small section and most of us had not even met one another before. We are busy with our professional and personal lives, but signed up to support the LGBTQI community.

So suddenly we found ourselves organizing a fundraiser. Joseph seemed to have an incredible social media community and before we knew it we had a date and a donated venue—the Healdsburg Golf Course Clubhouse at Tayman Park. Instantaneously, people and organizations jumped in to volunteer time, food, beverages, music and silent auction items—this was fast becoming a reality. As each day passed, the support poured in and we rallied around it. Businesses and individuals from all over the county, as well as leading law firms, chipped in. I found people in my office willing to help—picking up donated beverages and preparing an awesome PowerPoint display that remembered each of the victims. I remember going to collect ice in Roseland and speaking with the owner of the store and her grandson who filled the back of the truck. In that brief interaction, I was reminded of the sense of community that permeates this county.

Hundreds gathered at this incredible event that was organized in only a few days. Joseph, his parents and his friends were amazing, as were the section members and all of our supporters. The party went on for hours and people from all different backgrounds came together to raise funds to support those victims, showing that together we are stronger than anyone who tries to take us down.

Many thanks to Joseph Daniels, his dedicated parents Angela and David Daniels, our Steering Committee members Kinna Crocker and Angela Clements, and Javier Rosales of Positive Images. We rose to meet the challenge and saw firsthand that we live in a community that cares. I am encouraged by this support and am proud of what we created. I am hopeful that the connections people made remain strong and that the community will continue to rise to the challenge when the time calls.

By Jill Ravitch

Jill Ravitch is the Sonoma County District Attorney and serves on the Steering Committee of the LGBTQI Section of the SCBA.

President’s Message (continued from page 3)

contributions from Jeff Lyons, Linda Tavis and others. I encourage anyone who likes to write to contact the Bar Journal Committee. It is a wonderful opportunity to write something other than pleadings, briefs, or contracts.

No single person runs the SCBA. Management of the association lies primarily with the Executive Committee of the Bar. I was blessed with the most intelligent, hard-working, collegial committee a guy could ask for. Suzanne Babb, our secretary, consistently provided us with lucid and creative observations and suggestions. She’s also incredibly humorous...in a dark kind of way.

Mitch Greenberg, as our treasurer, actually understands the SCBA financials and for a full year he made them comprehensible to the rest of us. Carla Boyd-Terre, Mom-of-the-Year, brought us her organizing skills, honed over years of raising kids. She provided me perspectives that I would not otherwise have recognized.

Finally, to the-bast-darned-Vice-President—a-guy-could-have: Thank you to Greg Spaulding. Greg had this notion that being Vice-President meant that you really had no duties except to remain one heartbeat from the top. Wrong. Every time I had a job to do that I couldn’t seem to get to, Greg jumped in. When I suggested a Civility Award, Greg grabbed the idea and ran with it. Thus we have the Mike O’Donnell Civility Award. As Mitch Greenberg put it, in the “eighth inning” of the negotiations for the new Bar offices, Greg entered the game and closed the deal for us. He’s been an amazing support for me.

I leave knowing that the SCBA is in good hands. I’ve had a great run. Thank you all for letting me serve as president.
Working It Out: Meetings and Conferring and Sanctions

“Musings from the Bench” is an ongoing column on the Judiciary by the Hon. Gary Nadler, who serves in the Civil Division of the Sonoma County Superior Court. Judge Nadler is an Adjunct Professor at the University of San Francisco School Of Law, and is on the faculty of the B.E. Witkin Judicial College. Judge Nadler also serves on the Judicial Council, the policy making body of the California Courts.

By Hon. Gary Nadler

The California Discovery Act of 1986 was, at the time enacted, groundbreaking legislation. Under the Act, discovery is to be self-executing; courts are to be brought into the process as a last resort. The parties are required to act reasonably in attempting to resolve their differences (Townsend v. Superior Court (1998) 61 Cal.App.4th 1431, 1434 [72 Cal.Rptr.2d 333].) Under the Act, parties are required to use reasonable effort to resolve discovery issues (unless there is no response to the discovery). A failure to do so, when required, is a “misuse of discovery” subjecting parties or their attorneys to sanctions. In fact, sanctions “shall” be imposed “[n]otwithstanding the outcome of the particular discovery motion” (Code Civ. Proc., § 2023.020.) Further, sanctions shall be imposed against any party, person, or attorney who unsuccessfully makes or opposes a motion, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances made the imposition of the sanction unjust. A failure to meet and confer may, by itself, support a finding of lack of substantial justification. See, for example, Code of Civil Procedure section 2023.010. The “default” is thus that the court shall award sanctions. In contrast, the court must make a finding that the exception of substantial justification exists (Parker v. Wolters Kluwer United States, Inc. (2007) 149 Cal.App.4th 285, 293-294 [57 Cal.Rptr.3d 18].) The purpose of sanctions is not to punish, but to encourage “voluntary compliance with discovery procedures by assessing the costs of compelling compliance against the defaulting party” (Argaman v. Ratan (1999) 73 Cal.App.4th 1173, 1179[86 Cal.Rptr. 2d 917].)

It is useful to review how the courts have addressed the “meet and confer” requirement. Courts have provided some guidance as to what degree of meeting and conferring is reasonable. Although there is no bright line answer to this question, the following examples may be helpful.

The “ground rules” include the following: The meet and confer rule is designed “to encourage the parties to work out their differences informally so as to avoid the necessity for a formal order...” (McElhaney v. Cessna Aircraft Co. (1982) 134 Cal.App.3d 285, 289[184 Cal.Rptr. 547].) This, in turn, is designed to lessen the burden on the court and reduce the unnecessary expenditure of resources by litigants through promotion of informal, extrajudicial resolution of discovery disputes (Townsend at pg.1435.)

The level of effort at informal resolution which satisfies the “reasonable and good faith attempt” standard depends upon the circumstances. In a larger, more complex discovery context, a greater effort at informal resolution may be warranted. In a simpler or more narrowly focused case, a more modest effort may suffice. The history of the litigation, the nature of the interaction between counsel, the nature of the issues, the type and scope of discovery requested, the prospects for success, and other similar factors are relevant. (Obregon v. Superior Court (1998) 67 Cal.App.4th 424, 431[79 Cal. Rptr. 2d 62].)

“More than 10 years ago, Townsend v. Superior Court (1998) 61 Cal.App.4th 1431, 1434 [72 Cal.Rptr.2d 333] (Townsend) lamented the all too often interjection of ‘ego and emotions of counsel and clients’ into discovery disputes, warning that ‘[i]ke Hotspur on the field of battle, counsel can become blinded by the combative nature of the proceeding and be rendered incapable of informally resolving a disagreement.’ (Id. at p. 1436.) Townsend counseled that the ‘informal resolution’ of discovery disputes ‘entails something more than bickering with [opposing counsel].’ (Id. at p. 1439.) Rather, the statute ‘requires that there be a serious effort at negotiation and informal resolution’” (Id. at p. 1438.)

“This case illustrates once again the truth of Townsend’s observations, as well as highlighting the lengths to which some counsel and clients will go to avoid providing discovery (in this case by responding to straightforward interrogatories with nitpicking and meritless objections), resulting in delaying proceedings, impeding the self-executing operation of discovery, and wasting the time of the court, the discovery referee, the opposing party, and his counsel” (Clement v. Alegre (2011) 177 Cal.App.4th 1277, 1281 99 Cal.Rptr.3d 791] [footnotes omitted].)

Clement addressed two special interrogatories: seeking a description of economic damages sustained, and stating the amount of any damages referred to in the former interrogatory. As to the objection that the interrogatory was not “full and complete in and of itself”, the court determined that the interrogatories were clear and concise, and that the objection was at most an arguable technical violation of the rule. Finding this to be gamesmanship and delay, sanctions were upheld even though the parties had sent several meet and confer letters.
In *Leko v. Cornerstone Building Inspection Services* (2001) 86 Cal.App.4th 1109 [103 Cal.Rptr.2d 858], the party noticing a deposition called to confirm opposing party’s appearance, and at which time was informed that due to a mistake the deposition was not calendared and counsel could not attend. An apology, and an offer to reschedule at a mutually convenient date was rejected unilaterally by the noticing party. Sanctions against noticing party were upheld due to failure to meaningfully meet and confer, and failure to re-set the deposition without justification.

In *Townsend*, the court noted that depositions differ from other manner of discovery mechanisms in that counsel for both parties are present. The immediacy of counsel allows for the instantaneous discussion of an objection and attempts at informal resolution. The court noted that “too often the ego and emotions of counsel and client are involved at depositions.” After describing the “blow-by-blow” of exchanges, the court noted that arguing during the deposition under the circumstances there presented was *not* an adequate meet and confer. “Argument is not the same as informal negotiation. In short, debate over the appropriateness of an objection, interspersed between rounds of further interrogation, does not, based upon the record before us, constitute an earnest attempt to resolve impasses in discovery… . Real parties contend that it would have been futile to meet and confer with Townsend. The Discovery Act makes no exception based upon one’s speculation that the prospect of informal resolution may be bleak. Our history is replete with examples of traditional enemies working out their differences by way of peaceful negotiation and resolution” (*Townsend* at pg. 148.)

In *Obregon*, the court examined the minimal attempts at conferring, and the timing, finding them to be inadequate. A party responded to a meet and confer letter regarding interrogatory responses by mailing a response four days before the motion to compel filing deadline (received one day prior to the deadline). That response included the typical “do not hesitate to call”. Of course, the motion to compel was filed due to the time limitations. In affirming sanctions, the court determined that a greater attempt at informal negotiation should have been made.

In *Stewart v. Colonial Western Agency, Inc.* (2001) 87 Cal.App.4th 1006 [105 Cal. Rptr.2d 115], the court looked to the totality of circumstances, and found that an off the record discussion of the deposition issue sufficed. Unlike the situation in *Townsend*, the attorneys were not arguing and name-calling. Rather, they truly addressed the issues presented during the deposition.

Attorneys often ask what is considered a reasonable attempt to resolve the discovery issues presented. The answer is hard to define, as each situation is somewhat unique. However, to mitigate the potential for a sanction award, a showing that an attempt to reach agreement was made and that those attempts were reasonable under the circumstances presented. As important, civility in the practice of law supports a reasonable and thorough attempt to address and hopefully resolve the issues at hand. “(Z)ealous advocacy does not equate with ‘attack dog’ or ‘scorched earth’; nor does it mean lack of civility…Zeal and vigor in the representation of clients are commendable. So are civility, courtesy and cooperation” (*Marriage of Davenport* (2011) 194 Cal.App.4th 1507,1537[125 Cal.Rptr.3d 292].)
Criminal Courthouse Project Stalled

During October and November, Judges Ballinger, Nadler, Chouteau and Court Executive Officer José Guillén, met with Senator Mike McGuire, and Assembly members Bill Dodd, Jim Wood and Marc Levine to further discuss the delay in the ongoing Criminal Courthouse construction project. Judge Ballinger had previously reported this delay to those gathered at the Bench Bar Retreat in August. The initial surprise there quickly gave way to expressions of disbelief, frustration, and even anger, as Judge Ballinger revealed that the funds so carefully saved had been swept away from the courthouse construction fund, for the second time, to avoid dipping into the state’s General Fund, with no plan in place for replacement of those funds, thus delaying the project indefinitely.

In 2008, California voters approved a $5 billion dollar bond, specifically for courthouse construction and replacement. The Sonoma County Courthouse is one of 23 identified as an Immediate Critical Needs facility. Fees and fines, primarily from traffic and criminal cases, were used as a revenue stream to service the bond debt. This fund—Immediate and Critical Needs Account (ICNA)—was swept during the recession into the General Fund to ease the financial pinch the state was experiencing during that time.

A second sweep occurred because General Fund money had been specifically promised for a public-private courthouse project in Long Beach by then Governor Schwarzenegger. Unfortunately, Governor Brown refused to honor this promise, resulting in funds being diverted once again from the ICNA fund to pay for the Long Beach project. Although we recognize that the Long Beach Courthouse was a critical need project, funding for it was not included in the original plan. This became a classic case of robbing Peter to pay Paul.

In addition to the Long Beach debt service of $54 million annually, the Governor also presented the Judicial Branch with a “Sophie’s choice” between funding for core operations or courthouse construction. In the end, the Judicial Branch decided to fund operations and allow $50 million to be redirected from ICNA on an ongoing basis to prevent further erosion of access to justice.

When combined, these redirections (borrowings) have resulted in a staggering total of $1.4 billion dollars swept from the court construction account (ICNA). In addition, and what killed the golden goose, is the decline of 20–25% in criminal and traffic filings statewide. Added to that was the Governor’s imposed amnesty for delinquent traffic and misdemeanor cases. This confluence of events has depleted the account that was created strictly for building courthouses, not as a gap-filler for the General Fund. As a result, the Judicial Council has had to stop every project, other than the six that were already in their construction phase, leaving 17 courts penniless, as far as construction funds are concerned. There is simply no money to pay for the bond debt or for new construction.

The Sonoma County Board of Supervisors has already invested $26 million in this project. Additionally, the State/Judicial Council has spent $10.6 million on this project thus far. The combined investment of $36.6 will be jeopardized and eroded with continued delays.

Aside from the financial investment, our courthouse, despite the valiant efforts of the Court itself, is in a state of physical disintegration, compromised security, severe overcrowding and is in danger of further damage and loss of life should an earthquake occur. A pamphlet describing the present condition of the Hall of Justice and neighboring Courts (Lake and Mendocino County) is available on the court’s website, www.sonomacourt.org. It is replete with photos of disgusting amounts of termite feces in areas where staff and citizens are present, jumbles of files with nowhere for storage, jurors stacked like cordwood waiting to do their civic duty, inmates escorted by deputies through public hallways (not to mention the back hallways frequented by the judges and staff), lines of citizens waiting to deal with traffic citations, inadequate HVAC systems, peeling paint, water damage, and elevators that are on the brink of total inoperability. It is an accident looking for a place to happen.

We urge every member of the legal community to contact every representative in Sacramento, every government official, to voice their strong support of the repayment of the $1.4 billion. Do it today. Contact information appears below:

Bill Dodd (D) P.O. Box 942849, Room 2137, Sacramento, CA 94249-0004; 916-319-2004; Jim Wood (D) P.O. Box 942849, Room 6005, Sacramento, CA 94249-0002; 916-319-2002; Marc Levine, (D) P.O. Box 942849, Room 5135, Sacramento, CA 94249-0010; 916-319-2010; Mike McGuire (D) State Capitol, Room 5064, Sacramento, CA 95814-4900; 916-651-4002; Luis Wolk (D) State Capitol, Room 5114, Sacramento, CA 95814-4900; 916-651-4003.

By Joni Boucher & José Guillén
Joni Boucher is a contract paralegal, providing services directly to attorneys. José Guillén is CEO, Sonoma County Superior Court.

Joseph Baxter 707-544-1149

Joseph Baxter is the only Certified Appellate Specialist between Santa Rosa and Oregon.

- 45 Years Experience
- Civil and Criminal Appeals & Writs
- Federal and State Law
- United States Supreme Court Success
- Served on the State Bar Appellate Law Advisory Commission

645 Fourth Street, Suite 205, Santa Rosa, CA 95404
707-544-1149 • appeals@sonic.net
Swinging Success, Continued: Bar Picnic 2016

The Sonoma County Bar Association's Annual Picnic was held on September 9th, and the revenge match between Team Justified (winners of the 2015 Smack down "Friendly Match to the Death") and Bonnie's Bombers proved to be a hard-fought affair. The Bombers eked out a win with the help of the father/son team of Greg and Andrew Spaulding, Josh Myers, Abbey Weitzenberg’s trio of Lewis Warren, Mitch Greenberg and Michael Wanser, Ryan Thomas, Oscar Pardo, Amy Winters, Brian Purtill, Matt Defer, Alexis Kent, and the special guest appearance of Anthony Sinigiani.

Team Justified made it a co-ed affair, sporting the athletic prowess of team Neal (Amanda, Jason and Jacob), Tony “Hitman” Zunino, Becky “The Commish” Rasmason, Steve “The Bomber” Olsen, Jacob “Barrister” Faircloth, Laura “Sweet Swing” Hawkins, team Noble (Brian and Nicole), and John “Tomahawk” Geary. The rowdy group played hard, dusted off their cleats and enjoyed the refreshing elixirs and delights offered by Chefs Turer, Persons and Trombetta as we all pondered the fate of the Giants.

This year's annual SCBA Picnic took place at a new venue, Keiser Park in Windsor. The canopy of oaks shaded the picnic area and was close enough to the ball field to enjoy the sporting event while consuming scrumptious peaches in a bed of greens salad tossed by this year's COD recipient, Sondra Persons. Peter Trombetta, AKA “The Sue Chef,” was manning the main grill and serving up a spicy rubbed grilled chicken and other delectable meats with the assistance of Stephen Turer. Jim DeMartini, SCBA's 2016 President, was serving up hot dogs smothered in onions from his personal grill. A fun time for all!

**By Bonnie Freeman, Marshall Bluestone & Susan Demers**

Bonnie Freeman was SCBA President in 2014, and she and Marshall Bluestone are partners at Senneff, Freeman & Bluestone. Susan Demers is SCBA Staff, Membership and Communications Coordinator.

---

SCBA “Movers & Shakers”

If you have new information about yourself or any other SCBA member, please send to SCBA “Movers & Shakers” at info@sonomacountybar.org. Include position changes, awards, recognitions, promotions, appointments, office moves, or anything else newsworthy. If your firm sends out notices to the media, please add info@sonomacountybar.org to the distribution list.

Catherine Conner and Amy Rodney were named Super Lawyers and Best Lawyers in America in 2016 . . . Catherine Conner won the Best Lawyers Santa Rosa Family Lawyer of the Year in 2016 . . . Michael Liotta is now with Blevans & Blevans LLP . . . Ferchland Law Office, P.C., announces that Katie Ferchland Boriolo has been awarded her specialty in Workers’ Compensation Law by the California Board of Legal Specialization. She is the third in her family to obtain such a designation . . . Sarah Montgomery is now with Kathleen Mullins Henderson Law . . . Malcolm Manwell with Perry, Johnson, Anderson, Miller & Moskowitz LLP has been certified by the State Bar of California as a legal specialist in Estate Planning, Trust & Probate Law . . . Deborah Bull with Perry, Johnson, Anderson, Miller & Moskowitz LLP has been certified by the State Bar of California as a legal specialist in Appellate Law . . . Harry Sewall moved his firm to 160 Johnson St., Windsor . . . Sanford I. Horowitz moved his firm to 1510 4th St., Santa Rosa . . . Anderson Zeigler Law Firm appointed Donald Black as co-managing partner along with Wendy Whitson . . . For the fourth consecutive year, Empire College has been named to President Obama’s 2015 Higher Education Community Service Honor Roll with Distinction . . . Carla Boyd Terre, Past SCBA President, gave birth to a baby boy in September . . . Samantha Pungprakeart is a new associate with Carle, Mackie, Power & Ross . . . Clyde A. Nelson, SCBA President in 1964, passed away on October 10 . . . Lorilee DeSantis has changed the name of her firm to DeSantis Law Group, Inc. . . . Terre Family Law has a new attorney, Chelsea Condiotti . . . SCBA Past President (1969 and 1970) Harrison Comstock’s wife of 40 years, Diane, passed away on November 30.
Persons and Mullins Honored at SCBA’s 24rd Annual Careers of Distinction Awards Banquet

On Friday October 6, 2016, over 250 colleagues, friends, and family gathered at the Hyatt Vineyard Creek Hotel to celebrate the 24th Annual Careers of Distinction Awards hosted by the Sonoma County Bar Association. This year, the organization honored the remarkable careers of two of Sonoma County’s most respected attorneys: Sondra Jean Persons and J. Michael Mullins.

To open the night, Sonoma County Bar Association staff and volunteers welcomed all attendees. Guests moved on to enjoy the pleasant weather of the courtyard and adjacent lobby, and caught up with friends while sipping on Kenwood Winery’s finest wines and cocktails.

The main event commenced with a phenomenal three-course meal, fresh from the Hyatt kitchen and accompanied by more excellent wine, which continued throughout the program. Amidst all the enthusiastic chatter, SCBA President James DeMartini took the stage where he welcomed everyone and presented the prestigious awards to the night’s honorees. In his introduction, DeMartini recapped his experiences with the award recipients and then gave the stage to the commentators. Kathleen ‘Katie’ Mullins Henderson spoke first, giving a whimsical perspective of her father, J. Michael Mullins and his accomplishments, which ended in a standing ovation when she spoke of Mullins’ legacy: “[He] has never forgotten humanity and has carried integrity throughout his career.” Following the acceptance of the award by Mullins, SCBA Past President Rose Zoia described her experience as a long-time friend of Sondra Jean Persons. Persons accepted her award, ending her speech with motivational certainty: “Be a voice not an echo!”

Special thanks go to all those that made this event a success, including SCBA’s Special Events Committee, SCBA President James DeMartini, all volunteers, and Kenwood Winery. We hope to see all of you at next year’s awards program!

By Danielle Petersen
Danielle Petersen is a second year law student at Empire Law School.
Perry, Johnson, Anderson, Miller & Moskowitz LLP congratulates Deborah S. Bull and Malcolm T. Manwell for recently achieving official recognition as Legal Specialists* in their fields.

(*The State Bar Of California Board of Legal Specialization)

Deborah Bull
Certified Legal Specialist
Appellate Law*
Ms. Bull has handled over twenty five appellate matters to decision, including six reported decisions.

Malcolm Manwell
Certified Legal Specialist
Estate Planning, Trust & Probate Law*
With over 25 years experience, Mr. Manwell leads the Perry, Johnson, Anderson, Miller & Moskowitz LLP estate planning team.
Minor’s Counsel: Children Need Representation Too!

The Sonoma County Bar Association, along with the Family Law Education Committee, recently hosted the Minor’s Counsel yearly training required for Minor’s Counsel participants. With 42 participants from all of the surrounding counties, we had a diverse group who learned not only from the presenters, but also from the seasoned Minor’s Counsel participating in the program.

An attorney who wants to represent minors must complete 12 hours of legal education as specified by Rule of Court 5.242. An attorney who wants to continue to represent minors must complete eight (8) hours of continuing legal education every year in compliance with this rule. In Sonoma County, the number of attorneys who represent minors has increased, so this year the Family Law Education Committee decided to offer the full 12 hour program. Applications to join the Minor’s Counsel Panel were provided during the presentation.

The two day workshop was held on September 17th and September 18th. Participants earned a total of 12 specialization credits by participating in the workshop.

The presenters included Commissioner Bayles-Fightmaster (Ret.), Kate Robey, MFT, Jennifer Santos, MFT, Daniel Chester, Esq., and James Sansone, Esq. The topics were: Legal Authority Surrounding Attorneys Representing Minors, Interviewing for Abuse and How that Applies to Minor’s Counsel, Developing Rapport with Children, Preparing Children for Family Court Services or Judicial Interviews and Consideration of Children’s Wishes, How the Brain Works and How it Breaks, Custody and Visitation Issues, Child Protective Services Reports, Drugs, Alcohol and Child Custody, and Cultural and Ethnic Diversity and LGBT Issues.

This year we saw the interplay of Family Law and Dependency matters as attorneys who practice in both areas shared their experiences with cases that have involved both the Family Law Court and the Dependency Court. Experienced Minor’s Counsel were able to share their stories with the rest of the participants, which allowed for many open discussions to occur.

If you are interested in joining the Minor’s Counsel Panel and have met the qualifications as outlined in Rule of Court 5.242, please contact the Judicial Assistant.

By Carla A. Hernandez
Carla A. Hernandez is a Senior Associate at Terre Family Law, and is the current President of Sonoma County Women in Law. She currently serves on the SCBA Board of Directors.
Rent control has been around a long time. John W. Wills published his *Short History of Rent Control Laws*, 36 Cornell L. Rev. 54, in 1950. There, he describes rent control mechanisms dating back to the Middle Ages when Pope Pius IV ordered the Papal Chamberlain to stabilize and freeze rents for the Jewish community in 1562. This protection was temporary, but other nations followed the Vatican’s lead, with several enacting various forms of rent control over the following centuries.

Wills opines that the modern history of rent control began in 1910 in Australia, with rumblings eventually resulting in passage of the Fair Rents Act of 1915. During the interim, rent control mechanisms were enacted by European countries such as France, Italy, Greece, and Britain. The Appendix to Wills’ article lists dozens of countries spanning the globe which had enacted some form of rent control legislation as of his 1950 publication.

Rent control came later to the United States. Various attempts were made to enact forms of rent control during the early portion of the 20th century, but it wasn’t until mid-century that protections first became organized on a federal level.

A variety of protections fall under the broad umbrella of “rent control.” These protections include the historic form of rent control in the form of price controls dictating what a landlord may charge, landlord obligations, oversight, and standards for terminating tenancy.

California first addressed rent control on a statewide level in 1995 with the adoption of the Costa-Hawkins Act, codified at Civil Code sections 1954.50, et seq. While some municipalities had rent control mechanisms in place prior to Costa-Hawkins, the Act preempted “strict” rent control laws which limited the amount of rent a landlord could charge.

Costa-Hawkins limits the circumstances under which a landlord may establish the initial and subsequent rental rates for dwellings subject to its provisions, and provides exceptions to these rules. It mandates dwellings issued a certificate of occupancy after February 1, 1995 be exempted from rent control, as would new construction that was already exempted from a local rent control. Single family homes and condominiums are similarly exempt from the Act’s provisions, which do allow a landlord to establish a new rental rate when a new tenancy begins.

Notably, the Act doesn’t affect the authority of any public entity to enact further rent control measures or to dictate the circumstances under which a tenant can be evicted.

The Supreme Court of California held in *Birkenfeld v. Berkeley* (1976) 17 Cal.3d 129 [130 Cal.Rptr. 465, 550 P.2d 1001] that rent control provisions may be enacted pursuant to a local government’s police power so long as the ordinance is “reasonably calculated to eliminate excessive rents and at the same time provide landlords with a just and reasonable return on their property.” Id. at 160. The same Court held a housing shortage provided the necessary foundation to exercise the police power. Id. at 160.

It is no secret the greater Bay Area is experiencing a housing crunch of epic proportions following years of stagnant construction brought on by the Great Recession. In the midst of this environment, several Bay Area cities are considering enacting—or have enacted—rent control measures. But voters and local government are still struggling to reach a consensus on whether rent control should be enacted at all and, if so, on what terms.

The results are mixed.

 Voters in Oakland, Alameda, Burlingame, Mountain View, Richmond, and San Mateo all decided various rent control measures on the ballot, each of which includes limits on rent increases for specified units and restrictions on evictions. Richmond, Oakland and Mountain View each enacting some form of rent control. Alameda, San Mateo and Burlingame measures have been defeated.

The North Bay is also exploring rent control. The Healdsburg City Council recently issued an advisory stating rental increases should not exceed ten percent per year, a 3-month notice should be provided in advance of any rent increase if possible, and directing landlords to amortize the cost of any improvements over at least four years. While not binding, the advisory polarized stakeholders and remains the subject of much debate.

Santa Rosa went a step further than its neighbor to the north. Following a year of consideration, the Santa Rosa City Council approved the City’s first rent control measure in May, following a hotly-debated 4-3 vote. Council members Gary Wysocky, Erin Carlstrom, Julie Combs, and Chris Coursey voted in favor of the measure, with Mayor John Sawyer, Vice-Mayor Tom Schwedhelm, and Councilmember Ernesto Olivares voting no. Mayor Sawyer abstained from the final vote on the issue, pending a decision on whether his status as a landlord presented a conflict of interest.

The Santa Rosa ordinance would, among other things, cap rent increases at a maximum of three percent per year unless the landlord could show major improvements were made. In addition to the dwellings exempted under Costa-Hawkins, the ordinance excludes duplexes and owner-occupied triplexes from its provisions. It also provides for just-cause eviction and for relocation benefits to tenants forced to vacate as a result of work performed on units.
The terms of the ordinance provide the Council can revisit the issue if citywide rental vacancy exceeds five percent.

Despite the months of political wrangling and a deluge of public commentary both for and against rent control, Santa Rosa voters could have the final say on the City’s first rent control ordinance—but not yet. It was set to go into effect September 30, but is currently suspended by a referendum petition pending a vote.

Rent control foes mounted an aggressive campaign to gather the 8,485 signatures to force either repeal or a vote on the ordinance. Opponents of the Santa Rosa ordinance turned in 12,524 signatures purportedly in support of their cause on September 26.

However, Santa Rosa voters may have noticed the rent control ordinance was not on their ballot.

While the Sonoma County Registrar of Voters initially concluded on October 14 that the signatures submitted were sufficient, subsequent review has necessitated a full recount estimated to take until December 22.

If eventually presented to and approved by voters, Santa Rosa’s rent control ordinance can only be amended by a subsequent vote. Further changes would be beyond the reach of the City Council. See Mobilepark West Homeowners’ Assn. v. Escondido Mobilepark West (1995) 35 Cal.App.4th 32, 43 [41 Cal.Rptr.2d 393].

However, if the ordinance is voted down, rent control proponents will still have the support of the City Council given the re-election of Combs and the election of newcomers Chris Rogers and Jack Tibbets to seats vacated by Carlstrom and Wysocky. Both Rogers and Tibbets pledged during their campaigns to support rent control. Incumbent Ernesto Olivares was also re-elected, so the 4-3 balance of the Council in favor of rent control seems to have withstood the election.

For now, Santa Rosa’s would-be rent ordinance remains in limbo. Whatever the eventual result, it is a safe bet the rent control debate will continue as it has for centuries.

By Sarah Lewers

Sarah is a litigator with Krankemann Petersen, LLP, in Santa Rosa.
On August 19, 2016, sixty members of the Sonoma County bench and bar met for its 14th Annual Bench Bar Retreat. The theme for this year’s retreat was to explore ways to insure access to justice for unrepresented litigants.

Presiding Judge Raima Ballinger was joined by SCBA President Jim DeMartini to welcome attendees to the retreat. Judge Ballinger drew a collective gasp of dismay from those present when she reported that construction of the new Criminal Courthouse has been delayed for an indefinite period due to funding issues at the state level. Nevertheless, the Court will continue in its efforts to move this project forward. (See article on page 12).

José Guillén, the Court’s Executive Officer, presented an overview of the Tyler Case Management System, which will streamline the court’s processes and provide automated features available to the legal community. Mr. Guillén noted that the goal is to move toward a paperless system, with e-filing capabilities online by May 2017.

Bonifacio Torres, Director for 2-1-1 Sonoma County, outlined the services and capabilities of this information and referral call center that connects Sonoma County residents with non-emergency health, human and disaster resources. It is available by phone and searchable online. This resource can expand its offerings to include legal resources not already in its scope, to assist those in search of legal assistance in a wide variety of matters.

Bonnie Rose Hough, the Principal Managing Attorney for the Judicial Council of California’s Center for Families, Children and the Courts, shared tips on the enhancement of access to justice and self-represented litigant services, which guided the breakout sessions that followed.

The SCBA Unrepresented Litigants Task Force welcomes all members to participate in its efforts to implement effective and practical means of providing assistance to this population. Please contact the SCBA for more information.

By Joni Boucher
Joni Boucher is a contract paralegal, providing services directly to attorneys.
Recently, Judge Gary A. Medvigy announced his retirement from the Sonoma County Superior Court bench. While I am losing a friend and colleague, I am happy he will now be able to pursue his dream of training to become a commercial flight instructor. Gary and his wife, Chris Ping-Medvigy, will be moving to a new home in Vancouver, Washington.

I first met Judge Medvigy in 1988, when he began working in the Sonoma County District Attorney’s Office. Over the years, in addition to working as fellow Deputy District Attorneys, we also became friends. When trial schedules permitted, we had a loosely organized running group consisting of Greg Jacobs, Barry McBride, Bud McMahon and Jim Shine. There was no better way to relieve the stress of the prosecution of criminal trials than to take a trail run up to Lake Ilsanjo in Annadel State Park. In addition to these local runs, we regularly made an annual backpacking trip to the Sierras or other mountain ranges in and outside of California that continues to this day. In fact, Judge Medvigy is already lobbying for a trip to the Cascade Mountains next year, near his new home in Washington.

Among many successful felony prosecutions during his career in the District Attorney’s Office, the one I remember the most was the prosecution of the Reverend Donald Kimball, a local Catholic Priest who sexually assaulted a 13 year-old girl in a church rectory and was sentenced to state prison. 

In addition to being a prosecutor, Judge Medvigy also enjoyed another active career as an Officer in the Army Reserves. Besides his local reserve duty, he spent several active tours in various parts of the world that were in conflict. After rising to the rank of Major General in the Army, one of his last assignments was as the Deputy Commanding General of the Eighth Army in South Korea. While these assignments took him away from his family, Judge Medvigy served our country well.

Judge Medvigy was appointed to the Bench in 2007, and spent the majority of his time working hard in handling felony criminal matters. He had great case and trial management skills, always setting high expectations for trial attorneys. He was always proud of optimizing judicial time and ensuring that all cases be tried expeditiously, fairly, and with the strict application of the law. He was also known for his ability to control his courtroom and demand proper decorum, especially when trying high profile cases.

Despite the lack of adequate funding for the trial courts provided by the state and the challenging adverse impacts of the criminal realignment laws, Judge Medvigy continued to dispense justice in each case with commitment to the ideals of fairness, equality, independence, accountability, and rule of law. Our bench will not be the same without his presence.

I join with everyone from the Bench and the legal community to wish Gary the very best! 

By Hon. Ken Gnoss
Judge Gnoss is a Sonoma County Superior Court Judge, Juvenile Division.
<table>
<thead>
<tr>
<th>DATE</th>
<th>PROGRAM &amp; PRESENTER(S)</th>
<th>WHERE</th>
</tr>
</thead>
<tbody>
<tr>
<td>01/12/17</td>
<td><em>The Care and Feeding of Clients</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Jim DeMartini, Tom Kenney</td>
<td></td>
</tr>
<tr>
<td>01/18/17</td>
<td><em>New Federal Rules of Civil Procedure</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Hon. Susan Illston, Hon. Jacqueline Scott Corley</td>
<td></td>
</tr>
<tr>
<td>01/20/17</td>
<td><em>Presiding Judges Luncheon</em></td>
<td>Fountaingrove Inn</td>
</tr>
<tr>
<td>01/27/17</td>
<td><em>Recent Developments in L&amp;E (Case Law)</em></td>
<td>Fountaingrove Inn</td>
</tr>
<tr>
<td></td>
<td>Valorie Bader, David King, Vic Thuesen, Nancy Watson</td>
<td></td>
</tr>
<tr>
<td>01/31/17</td>
<td><em>Breaking Bad: An Attorney’s Guide to Managing Difficult Clients &amp; Impossible Adversaries (formerly Civility in the Legal Profession)</em></td>
<td>Fountaingrove Inn</td>
</tr>
<tr>
<td></td>
<td>Hon. Lynn Duryee</td>
<td></td>
</tr>
<tr>
<td>02/01/17</td>
<td><em>Expert Witnesses: Basic Rules, Strategic Considerations, and More</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Steven Teal</td>
<td></td>
</tr>
<tr>
<td>02/03/17</td>
<td><em>Use of Graphics in Trial and Litigation</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>John Leo, Russell Jackman</td>
<td></td>
</tr>
<tr>
<td>02/06/17</td>
<td><em>Unconscious Bias</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Kelly Dermody</td>
<td></td>
</tr>
<tr>
<td>02/09/17</td>
<td><em>The Do’s and Don’ts of Presenting Evidentiary Exhibits (in Whatever Format) to The Trier of Fact</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>David Berry, Hon. Arthur A. Wick</td>
<td></td>
</tr>
<tr>
<td>02/15/17</td>
<td><em>Social Security for Family Law Practitioners</em></td>
<td>Fountaingrove Inn</td>
</tr>
<tr>
<td></td>
<td>Bill Ferchland, Hon. Louise Bayles-Fightmaster (Ret.)</td>
<td></td>
</tr>
<tr>
<td>02/24/17</td>
<td><em>Anatomy of a Murder/DNA Evidence</em></td>
<td>Fountaingrove Inn</td>
</tr>
<tr>
<td></td>
<td>Walter Rubenstein, Bruce Enos</td>
<td></td>
</tr>
<tr>
<td>02/27/17</td>
<td><em>Civil Forms/Law</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Karen Wilmes, Rhonda Bolla</td>
<td></td>
</tr>
<tr>
<td>03/03/17</td>
<td><em>Family Law Judicial Officers Luncheon</em></td>
<td>Fountaingrove Inn</td>
</tr>
<tr>
<td>03/10/17</td>
<td><em>Intermediate to Advanced DissoMaster How-To</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Art Grater</td>
<td></td>
</tr>
<tr>
<td>03/25/17</td>
<td><em>Trial Prep</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Kristine Burk</td>
<td></td>
</tr>
<tr>
<td>04/03/17</td>
<td><em>How to Not Kill Your Appeal</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Joseph Baxter, Bart Weitzenberg</td>
<td></td>
</tr>
<tr>
<td>04/13/17</td>
<td><em>Spring CEQA Update</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Les Perry, Tina Wallis, Rose Zoia</td>
<td></td>
</tr>
<tr>
<td>04/20/17</td>
<td><em>End of Life Option Act</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Sarah Hooper, Dr. Andrew Wagner</td>
<td></td>
</tr>
<tr>
<td>05/11/17</td>
<td><em>Financial Documents &amp; Tax Returns in Family Law</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Darlene Elmore, Catherine Conner, Bill Doty</td>
<td></td>
</tr>
<tr>
<td>05/18/17</td>
<td><em>Evidence How-To at Trial</em></td>
<td>SCBA Office</td>
</tr>
<tr>
<td></td>
<td>Hon. Bradford DeMeo, Chris Honigsberg, Scott Roberts</td>
<td></td>
</tr>
</tbody>
</table>
The editors and the Sonoma County Bar Association (“SCBA”) reserve the right to determine in their sole discretion whether material submitted for publication shall be printed, and reserve the right to edit all submissions as needed in any respect, including but not limited to editing for length, clarity, spelling, grammar, compliance with all laws and regulations (including not limited to libel), and further at the sole discretion of the editors and SCBA. The statements and opinions in this publication are those of the editors and the contributors, as applicable, and not necessarily those of SCBA. This publication is made available with the understanding that the editors and SCBA are not engaged in rendering legal or other professional advice. If legal advice is required, the services of a competent professional should be sought.

Submissions for the Bar Journal

The Bar Journal editorial staff welcomes articles submitted by its members. All submitted articles should be educational in nature, and can be tailored for the new practitioner or experienced lawyers. Feature articles should be between 750 to 1,000 words in length. Citations should be within the article’s text (no footnotes). A byline must be included and articles must be submitted electronically. The editorial staff reserves the right to edit material submitted. For further information contact Malcolm Manwell at 707-525-8800 or Peter Steiner at 707-542-1190 x22. Submit all editorial materials by email to peter@sonomacountybar.org. To place an ad contact Caren Parnes at 707-758-5090 or caren@enterprisingraphics.com. All advertisements are included as a service to members of the Sonoma County Bar Association. The advertisements have not been endorsed or verified by the SCBA.
Neutrals Like No Others

Access to the best mediators and arbitrators practicing today—that's the power of difference® only JAMS delivers.

JAMS neutrals successfully resolve cases in a wide range of practice areas, typically achieving results more efficiently and cost effectively than through litigation.

JAMS Santa Rosa
Resolution Center
50 Old Courthouse Square
Suite 600 | Santa Rosa, CA 95404
707.527.5257 | www.jamsadr.com

Resolving Disputes Worldwide