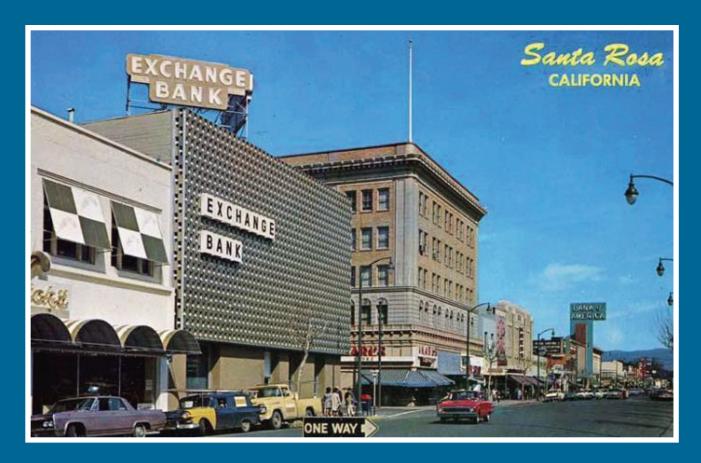
SONOMA COUNTY BAR ASSOCIATION THE BAR JOURNAL

Volume 64 Issue 2 Summer '21



Vintage postcard of 4th St., Santa Rosa, circa 1960s (view from court house lawn)
Celebrating The Sonoma County Bar Association's 100th Anniversary: 1921-2021

To the Editor: An Editorial for Our Colleague & Friend • Thank You, Joni: 20+ Years of Volunteerism for the SCBA
An SCBA Newsletter & Articles from the 1950s • Images of Sonoma County Law, 60s & 70s
Presiding Judges Luncheon 2021—Zoom Style • Stories of Women in Law in Sonoma County
Zoom Law Week 2021: "The Rule of Law" • Alcohol, Drugs, Mental Illness & Aging: Issues Impacting Competence
Pronouns and Privilege • Changes Afoot at Empire College School of Law
From 1998: SCBA Presidents Over the Years



- Quality, affordable evening Juris Doctor and Master of Legal Studies education
- Distinguished faculty who are attorneys or judges
- Outstanding Bar pass rate and ranking in statewide competitions
- Law Clinics theoretical and practical legal education
- Alumni comprise approximately 25% of the Sonoma County Bar and include 16 members of the judiciary

50% of Empire Law students are referred by attorneys

Thank you Sonoma County Bar!



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By Stephanie Hess, President, SCBA

President's Message: Our New Mentoring Program is Here—A Rewarding Way to Pay it Forward

ow did you learn to be a effective lawyer and counselor? Chances are that it was not in law school. More likely, you learned how to navigate the practice of law by observing one or

more seasoned attorneys. If you were lucky, someone took the time to guide you. A mentor.

According to the National Legal Mentoring Consortium: "It is not by accident that the legal profession originally developed as an apprenticeship. A calling like ours demands that wisdom and experience that cannot be captured from case law or text books be passed along from seasoned lawyer to the less experienced, especially in the area of professionalism and ethics. Mentoring can help demystify and clarify what it

means to be a lawyer, while emphasizing honesty, candor, service, and civility. Practicing law and being a lawyer is a way of life as much as it is a profession, and mentors can help ensure that lawyering retains its position as a calling, not simply a career."

Mentoring has been a tremendous benefit to me over the years. Before entering law school, my exposure to the practice of law was limited to watching LA Law, Matlock, and Perry Mason reruns. I exited law school with a solid foundational understanding of law, but no clue of how to put that understanding into practice or how to navigate the business of law. I was lucky to have had a number of mentors throughout my legal career and I am a much better attorney, colleague, and partner with the benefit of their thoughtful guidance. Likewise, I have been honored to mentor several new attorneys myself and have always found the process incredibly rewarding.

This summer the Sonoma County Bar Association officially reintroduces its mentoring program, which was relaunched as a pilot program last winter. Whether you are a new attorney looking to learn from a seasoned attorney's experience or a veteran attorney ready to pay it forward by guiding the next generation of lawyers, please consider joining the Sonoma County Bar Association's mentoring program. Brand new or seasoned pro, you have a tremendous amount to learn and share.

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SCBA Mentoring Program Sign-Up

We hope you will participate in the SCBA's new launch of our mentoring program. To sign up, go to the mentorship page on the SCBA website at: https://sonomacountybar.org/mentorship.

We also encourage you to share this information with your colleagues—tell a friend!

To the Editor: An Editorial for Our Colleague & Friend

There have been many adjustments the SCBA has had to make over this last turbulent Covid year, and one that hits close to home for this publication is the transition we have experienced on *The Bar Journal* committee. 2021 has seen the departure of two key members of the committee who have been central to creating the publication you have enjoyed for so many years: Co-editor Malcolm Manwell, and technical editor and writer Joni Boucher. We are devoting this space to acknowledge Malcolm's role in *The Bar Journal*; please see our "thank you" to Joni on the opposite page.



or 59 issues over 15 years, you have seen an editorial from Malcolm Manwell in this space, so we wanted to devote this spot to him in this issue for one last "editorial" before retiring this column.

First, we want to recognize the level of commitment to this

organization and this publication which that enduring tenure represents. Beyond contributing an article in each issue, Malcolm was actively involved in producing every publication, from brainstorming articles in each planning meeting, to identifying and following up with contributors, reviewing every final layout and addressing any questions or comments that might come in with coeditor John Borba—the behind-the-scenes responsibilities of the editor that the reader does not see.

While Malcolm's editorials (which have engendered a variety of opinions among the membership over the years), were the most visible of his contributions to the publication, he has fundamentally been the driving force behind the committee. He was always *The Bar Journal's* most enthusiastic participant and passionate advocate. In our approximately 90 minute planning meetings each quarter (up until Covid, always held at Peet's on 4th street, thereafter via Zoom), he would lead a lively discussion on a range of topics—from legal to political—which would often get the ball rolling on article topics we would then identify a contributor to write.

As a testament to how engaging these meetings have been, virtually all SCBA presidents since the committee was created have been active participants in all of these meetings, offering their own ideas for articles, their network of contacts, and following through on committee assignments as well as writing their own "President's Message" for each issue. We would hear repeatedly from presidents how, of their many responsibilities as President, this committee stood out as one they partic-

ularly enjoyed participating in. This was due in no small part to Malcolm's leadership and enthusiasm for the process—he really made the meetings fun.

Ultimately he has been a central reason *The Bar Journal* committee had remained consistent for 15 years: Comprising the core team of Malcolm, John Borba and Joni Boucher, along with the presiding SCBA President, a Bar staff member (originally Peter Steiner and in recent years Susan Demers), and graphic designer and copyeditor Caren Parnes.

While change is inevitable and often healthy, the remaining committee members will keenly miss Malcolm, his energy and the contributions he made to the process of creating *The Bar Journal*.

Thank you, Malcolm, for being a seminal part of this publication we can all be proud of. We wish you all the best in your new endeavors.

The Bar Journal Committee

From Bar Journal Editor John Borba

As Co-Editor with Malcolm Manwell for 15 years, I came to know him well. Not as opposing counsel, but rather as the consummate thinker. Every Bar Journal planning meeting started with a 15-30 minute discussion of politics, local news and the always constant reference to Serrano I, II, and III, a series of cases that shaped California school funding. Malcom's suggestions for topics, and his own editorial in each issue, sought to challenge and generate debate in a fair and reasonable matter. Malcolm was neither an arch-conservative, nor a left-of-center liberal. Perhaps the best way to describe Malcolm's role was that of considerate protagonist. He sought to ensure that our Bar Association members would help encourage reasoned debate in our local attorney circle and perhaps even our local community. His presence in creating The Bar Journal will be missed.

Thank You, Joni: 20+ Years of Volunteerism for the SCBA



Joni Boucher, right, with fellow Pro Bono Award recipient, Joan Guillaumin, at the 2017 "Day at the Races" SCBA Event

or the past 20 plus years, if you looked around at the tireless volunteers who made the SCBA run, there Joni would be. On numerous committees over the years, a regular volunteer at SCBA events, and a pinch-hitter whenever anything needed to be done, there is a reason that Joni has been a twotime SCBA Pro Bono Award recipient, first in 2002 then again in

2007—and we argue she should have her number retired as one of the outstanding contributors to a legal community known for its civility and civic-mindedness. She has exemplified those traits.

As a leader in the paralegal community in Sonoma County, being an educator with Sonoma State's Paralegal Program, then starting up the current Paralegal Studies Program at Santa Rosa Junior College, Joni has been a passionate advocate and mentor for the next generation of paralegal professionals.

Joni officially hung up her spurs, professionally in 2019, and in her volunteer work with the SCBA in early 2021. Her contributions will be greatly missed all over the Sonoma County legal landscape.

But what we will personally miss most is the committment she made to this committee for 15 years—as a knowledgeable legal resource, editor, writer, and just a heck of a good friend and fun co-worker.

As one of the "core three" seminal members of *The Bar Journal* committee, along with Malcolm Manwell and John Borba, Joni has been, as Lewis Warren describes below in his "Thank You," the "heart and soul" of the editorial staff. She attended virtually every planning meeting, contributing fertile ideas and her knowlege of the talent in the legal community for potential writers on a wide range of topics. She volunteered her time and talent to attend SCBA events to do writeups for the newsletter, did the first pass edit for every issue, and always brought a "can do" attitude to every endeavor. Joni's level of volunteerism is rare in any organization, and we will likely need multiple new committee members to fill her singular shoes.

Thank you Joni, for your years of expertise, enthusiastic service and your million-dollar smile. Enjoy your well-deserved retirement—we will miss you! ¶

The Bar Journal Committee

"Thank You" from Lewis Warren (who spearheaded The Bar Journal committee in 2006):

In 2006, to say that the Sonoma County Bar Association was going through a transition, would have been quite the understatement. Our executive director had been out on medical leave for more than a year, the inner workings of the association were in disarray, and we were in desperate need of some new energy. Under the leadership of my predecessors, Glenn Smith, Rachel Dollar and Steve Mitchell, in combination with the hiring of Peter Steiner as executive director, we experienced what felt like a renaissance during the following years—and *The Bar Journal*, rising like the Phoenix from the ashes of its distant past, was a huge part of that. That desperately needed new energy was very capably provided, in large part, by Joni Boucher and Malcolm Manwell.

Malcolm, along with John Borba, was at the helm as our editor for more than 15 years. While Joni, the heart and soul of our editorial staff, contributed masterful writing and editing over that same period. All of their services were performed on a completely volunteer basis—and it is only fitting that both now be commended for their unceasing hard work, dedication and commitment. The Bar Journal was made possible, the Sonoma County Bar Association was made better, and the lives of many past presidents, including myself, was made easier, as a result of their efforts.

A well deserved THANK YOU to Joni and Malcolm.

Lewis Warren

2010 President, Sonoma County Bar Association

100 Years Looking Back: An SCBA Newsletter & Articles from the 1950s

SONOMA COUNTY BAR NEWSLETTER

February 1958

VOL. I No. 2

THIS is a monthly newsletter for the lawyers of Sonoma County, assembled by the Publicity Committee of the Sonoma County Bar Association: Chairman, Les Belden. Your comments, suggestions, announcements, and material for forthcoming issues are invited. Views expressed do not necessarily represent those of the Association.

MEETING: The regular monthly meeting of the Sonoma County Bar Association will be held on Friday, February 7, 1958, at noon at Eisenhood's Restaurant.

DANCE: Scott Foster will report on the Dinner-Dance.

LEGAL AID: Col. Hall will present the By-Laws of the Legal Aid Society on February The Copies are being distributed so that you may peruse them prior to the meeting.

CONDUCT: A vote will be taken on the position of our Bar Association on suggested changes in the Rules of Professional Conduct. You are requested to read these proposed changes which are concerned with advertising, division of fees, and contingent fees. They are contained in the July-August State Ray Journal at 1996 115. fees. They are contained in the July-August State Bar Journal at page 415.

PUBLIC DEFENDER: George Dilley will submit a progress report on the work of the PUBLIC DEFENDER: George Dilley will submit a progress report on the work of the Public Defender Committee. The results of the survey from among the members of this Association: 48 in favor; 5 against. Out of 102 inquiries, only 58 responded. This evidenced a lack of interest and cooperation from our Bar. If you have not already done so places forward your accounts to Chairman Dilley. done so, please forward your comments to Chairman Dilley.

From inquiries sent to Superior Court Judges in the State, there is shown overwhelming endorsement of the Public Defender system.

Now is the time for the Bar to take an affirmative position on this important question.

The Barristers Ball will be held on Saturday, February 15, 1958, at 8:30 P.M. at the SONOMA COUNTRY CLUB. No speeches. Strictly high class entertainment.

DUES: Dues for membership in the County Bar Association have been raised to \$8.50 per year, and are now payable to the Treasurer.

COMMENT:

Editor: In recent months a review of the various court matters reported in the newspaper indicates a certain amount of one-sidedness in the reporting, especially as to matters in the criminal courts. From reading these stories and from personal knowledge, it appears that the reporting are obtaining their entire stories and from personal knowledge, it appears that the reporting are obtaining their entire stories are stories. matters in the criminal courts. From reading these stories and from personal kno ledge, it appears that the reporters are obtaining their entire stories from the District Attorney's Office without consulting or even calling the attorneys repre-District Attorney's Office without consulting or even calling one according representations senting the innocent defendant — these remarks are based upon personal conversations with newspaper reporters who have indicated that their only source has been reprewith newspaper reporters who have indicated that their only source has been representatives of the District Attorney's Office.... After reduction or dismissal (of charges) the newspaper carries an article together with the District Attorney's office "rationalization" that the defendant was guilty, but the District Attorney's office did not have the evidence to prove it. It is not only detrimental to us as members of the profession, but is seriously harmful to our clients...

In Healdsburg Crash

The SCBA Bar Newsletter, circa 1958.

Courtesy of the SCBA Archive Committee

Bar Association to Vote On 3rd Judge Recommendation

Honored By Guide og Group

Above: Santa Rosa Press Democrat for June 10, 1951; SCBA voting on Judge recommendation to Gov. Earl Warren



LINCOLN F. MAHAN BECOMES NEW SUPERIOR COURT JUDGE Oath Administered by Judge Hilliard Comstock, Right

Mahan Pledges 'Equal,

Honest, Efficient' Service Cloverdale Youth Killed

At Right: Santa Rosa Press Democrat for September 6, 1957; Lincoln F. Mahan sworn in as new Superior Court Judge by Judge Hilliard Comstock

Images courtesy of Newspapers.com

From the Archives: Images of Sonoma County Law, 60s & 70s



Below, L to R: Jerry Poznanovich (former Mayor of Santa Rosa), Gene L. Tunney (Sonoma County DA for 20 years), Will Johnson (attorney and former supervisor, 4th District)



Above: Rex H. Sater sworn in as Sonoma County Superior Court Judge.

Rex H. Sater (left), was sworn in as Sonoma County's Fifth Superior Court Judge Friday, March 12, 1976 by presiding judge John H. Moskowitz (right) before a packed courtroom in the Sonoma County Hall of Justice. Sater was appointed to the Bench by Governor Edmund G. Brown Jr. in February, 1976.

Archival images this page courtesy of the SCBA Archive Committee

L to R: John Short, Bob Marmor, Mike Welty





Above: SCBA Officers in 1962-1963:

Seated right: Alex Theile, President; Seated left: Edward Dermott, First Vice-President; Standing L to R: Jack DeMeo, Treasurer, Richard Maxwell, Secretary, & Joseph P. Murphy

Press Democrat image Courtesy of the Archive Committee



Above: SCBA Officers in 1973: L to R: Robert W. Mackey, Pres., Richard F. Dawson 1st Vice President, Robert Leaky 2nd Vice President, B. Scott Foster Secretary, Thomas R. Kenney Treasurer

Photo credit: Dale Sipe

Presiding Judges Luncheon 2021—Zoom Style

The 2021 Presiding Judge's Luncheon was held via Zoom on March 28, 2021 due to the COVID-19 Pandemic. 93 guests tuned in for this event.

The proceedings opened with SCBA Vice-President David Berry acknowledging the immediate Past President, Michelle Zyromski, for leading the Bar efforts through the initial COVID plan. After thanking the Bench and all Court Staff for ensuring Sonoma County's safety through the recent fires and the following pandemic, he introduced Presiding Judge Bradford DeMeo.

Judge DeMeo started his remarks by acknowledging how challenging the last year has been for the Bar as a whole and thanked the SCBA for all that they do on behalf of the entire bench. Judge DeMeo went on to congratulate Judge Troye Schaefer as the newest appointed member of the Sonoma County bench.

Judge DeMeo continued his remarks stating he was going to do something he'd never done before and introduced five people that were instrumental in keeping the Courts running over the last year. Judge DeMeo began by introducing Kwesi Williams, the Division Director of the Family Courthouse. He noted that Kwesi never says "no" and was instrumental in the implementation of efiling in Sonoma County. Judge DeMeo then introduced Susannah Groshong, whom he noted worked tirelessly on the Pre-Trial Release Program and making the whole Program

paperless. Judge DeMeo went on to introduce Margaret Smith, the Division Director of the Criminal Courthouse, whom he noted helped develop an app that allows the Court to monitor foot traffic in the buildings. Her team's work allowed more than 25,000 people to enter the courthouse from June 1, 2020 to present, despite the pandemic. Judge DeMeo then introduced Hema Krishnamurthy who was able to upgrade all equipment to Windows 10 and targeted equipment that would work for a Court. Her work will allow the permanent implementation of Zoom into the Courts, allowing appearances by Counsel and clients to be made remotely unless it's an evidentiary hearing or a trial. Lastly, Judge DeMeo introduced Rhonda Bolla, the Supervisor of Court Services, who has led the process of resuming jury trials during the pandemic by using Sonoma County Fairgrounds for jury selection. Judge DeMeo notes that without her, jury trials would not be happening now.

Judge DeMeo closed his remarks by thanking Court Executive Officer Arlene Junior for her tireless work over the last year. "I have never enjoyed working with someone more" he noted and praised Arlene for always being one step ahead in both workload and processes.

Judge Kenneth Gnoss reported on the status of the Juvenile Division. He reports that the Division (Continued on next page)

SCBA Summer '21 "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.

Angelle Wertz has moved her office to 610 Davis Street, in Santa Rosa... Michelle Lydon is now with Perry, Johnson, Anderson, Miller & Moskowitz in Santa Rosa... Sonoma Law Firm Haeuser, Valluzzo & Piasta is in growth mode and has added staff for Concierge Services... Devina Douglas has moved her office to 700 College Avenue in Santa Rosa... Edie Sussman moved her office to 1160 N. Dutton Ave. in

Santa Rosa... Marvin Pederson has a new address: P.O. Box 336, Point Reyes Station, CA 94956 ... Johanna Kleppe has joined Merrill, Arnone & Jones, LLP in Santa Rosa... Amanda Neal is now with Redwood Legal Document Services in Kenwood... Cenaida Guzman is now with Jackson Lewis P.C. in San Francisco... Ashlee Hellman is now with Spaulding McCullough & Tansil LLP in Santa Rosa.

Presiding Judges Luncheon (continued from page 8)

remained operational through the pandemic, as they were deemed an essential function of the Court. Judge Gnoss reviewed the obstacles that the Juvenile Justice Center at Los Guilicos faced over the last year: Floods that required evacuation by boat, and the Wallbridge Fire that required evacuation of the minors to Solano County. Judge Gnoss reports that with the passing of SB 823, the Department of Juvenile Justice will be closed permanently by July 1, 2023. The good news is that both the Juvenile Delinquency and Juvenile Dependency Courts have no backlogs at this time.

Judge James Bertoli reported on the Family Law Division. He reports that the Family Courts do not yet have an in-person opening date but notes that Zoom is working very well for the department. Judge Bertoli reports that the division has been caught up on all of the backlog as of January 1, 2021 and all calendars are currently running. Judge Bertoli noted that with the judicial vacancy in Department 23 and FCS, only having two recommending counselors is the biggest challenge the division is facing. Judge Bertoli reviewed the statistics for the Domestic Violence calendar and fears the numbers will continue to rise as the pandemic restrictions are lifted. Judge Bertoli closed his remarks by thanking all of the members of both the Family Law Bar and the Family Law Steering Committee for their hard work in the past year.

Judge Patrick Broderick reported for the Civil Division. He began his remarks by noting he is "constantly impressed" by all of the hard work that has been put in by the Civil Department staff. The Civil Division has continued to deliver all services with the exception of jury trials. Judge Broderick thanked the SCBA and all attorney's hearing small claims cases and noted that Mandatory Settlement Conferences have resumed thanks to the SCBA and the Civil Bar. Judge Broderick closed by thanking Judge DeMeo and Arlene Junior for their steady leadership during the pandemic.

Judge Arthur Wick was called upon to update the bar on the Coordination Motion that was directed to us by the Chief Justice for the Kincade Fire cases involving PG&E as a Defendant. Judge Wick reported that all of the Kincade Fire cases involving PG&E from Sonoma County and all surrounding counties would

be heard via Zoom on Friday, April 2, 2021.

Judge Christopher Honigsberg reported for the Criminal Division. He began his remarks by thanking all of the Court staff for helping things move as smoothly as possible and implementing procedures for the new criminal justice legislation put into place January 1, 2021. He noted two major legislative changes: AB 1950 which shortens the length of probation for both misdemeanor and felony cases, and Misdemeanor Court Diversion. Judge Honigsberg reported that jury trials have resumed, and Zoom has been great for the division. Judge Honigsberg ended his remarks by noting the hard work and collaboration of the staff that has kept the division running smoothly.

Judge DeMeo closed the meeting by thanking numerous committees and persons for all of the collaboration over the last year during the pandemic to ensure that there is access to justice and that justice is served. He concluded his remarks by praising Judge Shelly Averill, noting that without her, he would have "probably jumped off a bridge by now." Judge DeMeo predicted that Judge Averill will be an amazing Presiding Judge when she takes over in January, 2022. Judge DeMeo finished his closing remarks by stating that our County is "not doing too bad" with the budget, and states he remains cautiously optimistic moving forward.

Danielle Petersen

Danielle is an attorney practicing in Family Law, Estate Planning, and Trust and Estate litigation at Mullins Henderson Law, PC.

2021 Upcoming Schedule of Seminars & Events

Due to the fluid nature of the SCBA event plans and schedule during Covid-19, we are directing our newsletter readers to view our seminar and event schedules online.

Please visit https://www.sonomacountybar.org

and go to the Seminars/Events tab at the top navigation bar for the list of events. Thank You.

How Times Have Changed: Stories of Women in Law in Sonoma County

FEW YEARS BACK I rejoined the board of Sonoma County Women in Law and became its first-ever Historian. I decided to start interviewing female judges and lawyers so that I could write brief biographies for the SCWiL website. These women shared experiences with me that were inspiring, humorous, heartwarming, and at times infuriating. Although there was no man-bashing involved, their stories made it obvious that the legal arena was not an easy place for women in years past. With the support of their bosses, peers, loved ones and friends, these women persevered. Allow me to share some of their stories.

IN AUGUST 1973 THERE WERE EIGHT WOMEN in Empire Law School's inaugural class. The Honorable Raima Ballinger (Ret.) was part of this group. Judge Ballinger soon realized that one of the professors was ignoring female students during class. The female students had a meeting with the dean to address their concerns. Dean Gary Antolini summoned the offending professor to the meeting to find out if what they were saying was true. The professor said, "They (women) don't belong in the law school. Women weren't allowed at my law school in Texas, and they shouldn't be here." Dean Antolini made it clear to the professor that the female students had paid their tuition and deserved to participate in classroom discussion. The professor relented. Judge Ballinger went on to get her law degree, pass the bar, and have an impressive career.

Several years later, Ms. Ballinger asked this professor to write a letter of recommendation for her judicial

Below: First graduating class at Empire College, 1973. Judge Ballinger is in the first row, far left.



application. To her surprise, he agreed. Even more amazing, the professor wrote a glowing three-page letter praising Judge Ballinger's hard work and qualifications. He described several key moments in her legal career and recalled specific events that Judge Ballinger herself had forgotten. This professor, the same person who originally did not want women in law school, had evolved into one of Judge Ballinger's staunchest supporters. She ended our interview with two simple words, "People change."

BEING A WOMAN PROSECUTOR IN THE 1970's was no easy task. In 1976, the Honorable Cerena Wong (Ret.) was the second woman to be hired at the Sonoma County District Attorney's Office, and one of the first women to practice law in the male-dominated (Continued on next page)

New Committee For Bar Association



L - R: Top Row: Cerena Wong, Susan Mawell, Helena Jackson, Marion McCrae, Caroline Kerl, James P. Cooper, Lynn S. Young, Linda Millspaugh, L - R: Bottom Row: Katherine Nowell, Nancy Gunn, Terry R. Bloch, (Chairman)

Committee became a standing committee of the Sonoma County Bar Association in the Fall of 1976. The Chairperson is Terry Ann Bloch, and the commit-tee members are: Helena Jackson, Lynn Young, Katie Nowell, Hilda Haselwood, Caroline Kerl, Lisa Mendelsohn, Nancy Gunn, Linda Millspaugh, Carolyn Atkin-son, Deanna Beeler, Theodora Newton, Dee Schilling, Laura Bruyneel and James Cooper. Law students and interested laypeople also serve on the committee and the committee is presently the Bylaws of the Bar Association so that law students

The Women and Law and paralegals may serve a standar committee of the Sonbecoming a committee of the Bar Association, the group shared legal expertise and personal exper-iences with each other. During this period Judith McKelvey, President of the California Women Lawyers, addressed the group. Pat Schmidt of the YWCA Women's Emergency Shelter Program spoke at our February, 1977 meeting.

Recently, the committee has written letters of support for Athena House and for additional funding for the Family Support Division of the District Attor ney's Office, as well as

sending telegrams in sup-port of the nomination of Rose Bird. We have launched work on a Talent Bank and a Speakers' Bureau of women attorneys. Our most recent undertaking if the writing of a Legal Handbook for Sonoma County women. We continue the women. We continue the process of defining our role regarding women and the law in Sonoma County.

The next meeting of the committee is on May 13, 1977 at the offices of the Sonoma County Commission on the Status of Women, 2403 Professional Dr. at 12:00 noon. All interested are urged to attend.

How Times Have Changed (continued from page 10) -

criminal courthouse. The bailiffs were particularly happy when then Deputy DA Wong arrived on the scene, which they demonstrated by pinching her cheeks, hugging her, and grabbing her by the waist in open court. Judge Wong said, "You never thought of it as sexual harassment, you just put up with it." Inevitably, the bailiffs' touching escalated to derrierepatting (also known as misdemeanor sexual battery). This was the final straw for Judge Wong. She went to her boss, the legendary Gene Tunney, and told him that the pinching, touching, and patting were becoming a problem. Soon thereafter the offending behavior abated. "It went down about 80 percent, which was a big improvement," said Judge Wong, who went on to become the second woman appointed to the Superior Court bench. The criminal courthouse is now close to 100 percent harassment-free, thanks in part to the Judge Wong's efforts.

IT WAS NOT JUST THE BAILIFFS WHO NEEDED sexual-harassment training. In 1976, Peggy Schmeck went

to the Sonoma County D.A.'s office looking for a job. She spoke with the Assistant District Attorney who was holding down the fort while the boss was on vacation. He bluntly told her, "I would never hire a woman. Try again when Tunney's back." Ms. Schmeck was rejected a couple of more times, but persevered and got hired.

A couple of years later, Ms. Schmeck was prosecuting a felony robbery/kidnap case in front of Judge Kenneth Eymann. At the start of the trial, Judge Eymann invited the two male defense lawyers into chambers to discuss the case. The judge advised Ms. Schmeck that women lawyers were not allowed in chambers; however, her male D.A. Investigator was welcome to join the party. Judge Eymann's bailiff explained, "The judge sits in there and tells dirty jokes; he doesn't want you to hear that." Ms. Schmeck was not mollified by that explanation. She left court and headed to a nearby department store for some retail therapy.

(Continued on page 12)

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How Times Have Changed (continued from page 11)

SHE WAS DRESSED FOR SUCCESS the next day in court, which the judge apparently noticed. Once the jury had assembled, Judge Eymann ordered Ms. Schmeck to stand in the well and turn around in front of them. He asked/told the jury, "Doesn't she look cute?" (During our interview, Ms. Schmeck mentioned that this "compliment" was probably that judge's way of making up for his rude behavior the day before.) After the trial, Ms. Schmeck 170.6'd Judge Eymann for the rest of his career. More importantly, she was never ordered to twirl in front of jurors again.

DESPITE THE TEACHABLE MOMENT, Judge Eymann continued to annoy the female lawyers. Mary Jane Schneider was a brand-new attorney in the mid '80's when she appeared on his Friday trial calendar. Judge Eymann called her case and said, "And what can I do for you today my little lady?" (Please note that Ms. Schneider is 5'9", was wearing heels, and was easily taller than half the men in the courtroom). Judge Ballinger had a similar experience when she appeared before him as a prosecutor. She had a felony case on calendar, and as she stood up to speak, Judge Eymann said, "Sit down little lady." (I should add that Judge Ballinger is 5'8" and was nine months pregnant at the time.) For the duration of the court appearance, she was not allowed to speak. At the time of their interviews, both women remembered their experiences like it had happened yesterday.

YOU CAN CATCH MORE FLIES WITH HONEY THAN WITH VINEGAR-this I learned from interviewing Marylou Hillberg. She graduated from UC Hastings in 1979 and promptly went to work at the District Attorney's Office. Soon thereafter, Ms. Hillberg became the chair of Sonoma County Women in Law. She decided that the organization needed to "up its game" in order to compete with the men's swanky lunches. From that point on, SCWiL transitioned from brown bag lunches in the law library to fancy meals in nice restaurants. SCWiL's luncheon tradition continues to this day (except, of course, during a global pandemic).

Ms. Hillberg attempted to win Judge Eymann over. She realized that he never spoke to female lawyers outside the courtroom, and needed to get to know them better. Marylou and some other female lawyers invited him to lunch. Judge Eymann miraculously

showed up at the restaurant, flanked by his court reporter and judicial assistant (both female, and probably there as witnesses, just in case). Ms. Hillberg observed, "That lunch changed things, it gave us a familiarity with the judge, and things got better for us [in his courtroom]."

In 1982, the SCBA sent a letter out to all attorneys instructing them to wear a coat and tie for the directory photos. Several of the women lawyers approached Ms. Hillberg and asked her to do something about this (none of them owned ties). Ms. Hillberg said, "I figured I would get better results if I handled this in a non-confrontational way." She wrote a polite and constructive letter to the SCBA on behalf of the women lawyers, suggesting that they create a "tie bank" for the women. After Ms. Hillberg's letter was printed in the SCBA

newsletter, she appeared in front of Judge Raymond Giordano on a serious felony case. At the conclusion of the matter, Judge Giordano

(Continued on next page)

LETTER

TO: Jerry B. Abbott, Chairman **Directory Committee** Sonoma County Bar Ass'n.

Dear Mr. Abbott:

As chair of the Women in Law Committee, I thought I would take a moment to make an inquiry regarding the photographs for the annual bar directory. You have stated that uniformity in appearance of the portraits is important and have requested that we all wear suit coats and ties.

Many of the women attorneys in Sonoma County do not customarily wear ties. It would be nice if our directory committee would form a sub-committee for the purpose of instructing those of who are unfamiliar with the neckware on the proper methods for their tying and wearing. Since we do not have too many occasions on which ties are required, it would also be appreciated if a special "tie bank" were set up so that we could simply borrow one rather than purchase an item that may never be worn again.

Thank you for your cooperation. Very truly yours

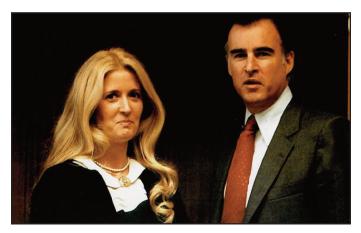
Marylou Hillberg, Chair Women in Law Committee of Sonoma County Bar Ass'n



How Times Have Changed (continued from page 12)

ordered Ms. Hillberg to approach the bench. She wondered, "Oh Lord, what did I do?" The judge handed her a brown paper bag, stating, "Open this outside." She walked outside the courtroom and opened it, finding a very loud and colorful tie inside. Ms. Hillberg still has that tie as it is one of her most cherished mementos.

NEVER UNDERESTIMATE A WOMAN who knows what she wants. In 1982, Judge Gayle Guynup was appointed the first woman judge in Sonoma County.



Above: Hon. Gayle Guynup with Gov. Jerry Brown in 1982

At that time, it was the practice that the judges could select a sofa for their chambers. Judge Guynup, who has an excellent eye for decorating, selected an ivory linen couch. The presiding judge was certain that Judge Guynup would only be around for the remainder of her current term. He suggested that she select a brown leather couch which her inevitable (presumably male) replacement would prefer. Judge Guynup declined his suggestion and instead bought the ivory linen sofa. Almost 40 years later, the couch is still in use and she is still on the bench.

PEOPLE CHANGE, AND TIMES CHANGE. Thank you to the women who bravely changed the things that needed to be changed. Thank you to the men who helped them with kindness and support. Thank you all for sharing your stories. Keep them coming. III

By Carla Rodriguez

Carla Rodriguez is Sonoma County Women in Law board president, and a member of SCBA Archives Committee. She is Chief Deputy District Attorney at SoCo DA's office.

SCBA Welcomes Our New Summer 2021 Members!

Alison Alcocer, Law Student Stephen Clemmer, Law Office of Stephen B Clemmer

Catherine Edmondson, Law Student

Vincent Goble, Law Student

Elaine Graham, Law Student

John Kopilow, Legal Document Professionals & Notary Services

Kristopher Lopez, Rybicki & Associates, P.C.

Kathleen Nava-Lifter, Law Student

Anastasia Reyes, Attorney

Debbie Smith, Carle, Mackie,

Power & Ross LLP

Chris Stafford, Exchange Bank

WELCOME BACK TO THE SCBA OFFICE!

We're very happy to announce the reopening of the SCBA office on September 1, 2021 for in-person programing. For the comfort and safety of our guests, in-person seating will be limited, and SCBA will continue to offer remote options. All attendees joining us in person will need to provide proof of full vaccination before being admitted into the office.

For more information on SCBA's reopening protocols, please visit our website at www.SonomaCountyBar.org/office-policies

From the Archives: Images of Sonoma County Law, 60s & 70s

Snapshots of Women in Law

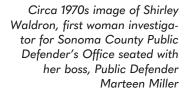
At Left: 1974-1976 Installation of Officers: L to R: Lou Phelps, Ann Jay, Isobel C., Rosemary Laphan, Toni Hansen, Charlotte Rebin



Above: Unknown 70's ladies from the Legal Secretaries archive



Above: 1976 Installation of Officers: L to R seated: Cleo Culley, B. Jo Hoppin, Judy Nissen, Linda Hopkins and Theresa Matott; Standing: Doreen Battersby, Ann Jay, Diana Estabrook (president), Karin Herring, Rosemary Sonnicksen and Betty Lou West.







1971 Sonoma County Bar Association Roster; image courtesy of The Sonoma County Law Library

Images below Courtesy of the Archive Committee

Below L to R: James Monroe, Nick DeMeo, B. Scott Foster, John DeMeo & John Waner in 1962



Below L to R: Standing: Lloyd von der Mehden, Thomas Passolacqua, B. Scott Foster, (unknown). Seated: Dick Dawson & Robert Leahy in 1974



Zoom Law Week 2021: "The Rule of Law"

The Sonoma County Bar Association had another successful Law Week after a one-year pandemic hiatus. This year, thirty-eight legal professionals presented at seven high schools...via Zoom. While unique and perhaps somewhat challenging due to its remote format, the classes nonetheless enjoyed lively discussions about this year's timely and appropriate topic: "The Rule of Law." Law Week is such an amazing program, allowing legal professionals to step into classrooms throughout Sonoma County. With the disappointment of not being able to have Law Week in 2020, 2021's Law Week was much anticipated.

The Rule of Law is defined as "[t]he authority and influence of law in society, especially when viewed as a constraint on individual and institutional behavior; (hence) the principle whereby all members of a society (including those in government) are considered equally subject to publicly disclosed legal codes and processes." This topic gave students the opportunity to learn and discuss how both locally and internationally the Rule of

Law helps facilitate successful democratic societies. The curriculum also included examples of Rule of Law within our American society by discussing hot topics such as bail reform and qualified immunity.

As always, all volunteers were provided in-depth material that they could adapt or supplement however they felt necessary. While going through the material, some presenters feared that with a remote platform students would turn off their cameras or not truly participate. As so much of our lives have been forced to adapt since the COVID pandemic, remote platforms have been adopted throughout many industries, including the legal world. We have likely all experienced the technical challenges of being muted, poor internet connection, perhaps even (locked) filters. One thing to note, of course, is that this next generation of high school students are more tech-savvy than ever before. They have grown up with computers and social media and feel comfortable behind the screens. (Continued on next page)

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Zoom Law Week 2021: "The Rule of Law" (continued from page 16)

Whether that's a good or bad thing, they are definitely ronment. Mr. Pardo stated it was almost like having two comfortable with Zoom.

very active discussions, one on the video feed, and one

This year was Oscar Pardo's fourth year presenting in Law Week. He was paired with Elizabeth Ann Reifler to present at El Molino High School to a smaller World Civics class of sophomores. They targeted the material to focus on how Rule of Law affects the students in their daily lives: The balance of personal rights versus the community's rights. Spotlighting the discussion on events and major issues that the students have actually lived through—including Black Lives Matter, Proud Boys and the far right, the insurrection on January 6th, as well as generally the right to bear arms—resulted it meaningful and relatable real-world application.

While remote presentations definitely have their challenges, the platform actually allowed for more introverted students to become actively engaged in the discussion. In prior years, Mr. Pardo found some students, while listening, were not actively participating in the discussion. This year, the students had the option to submit questions and comments in the chat function of Zoom. From there, the questions could be pulled into the verbal discussion and resulted in a very dynamic discussion space. While some of these students had their cameras off, once their question or comment was being discussed, they would turn their camera on and become even more involved.

Another positive change resulting from the remote platform was that it forced students to really think about what they were saying versus just sending reactive commentary in the chat. While some comments were most definitely reactive at first, it gave the presenters the opportunity to pull the written comments into the verbal discussions and openly talk about it with the student who sent it, forcing critical thinking and debate.

These high school students are living in a historic time and developing their own opinions based on personal experience and observations; they had a lot to say. When discussing restrictions or requirements that should be placed on the ability to get a gun to help prevent mass shootings as well as the interplay of freedom of assembly and the individual's right to protest, students spoke up with varying views from opposite ends of the spectrum, all the while maintaining a respectful envi-

ronment. Mr. Pardo stated it was almost like having two very active discussions, one on the video feed, and one through the chat function. He hopes that the virtual space for students who don't normally speak up can somehow be preserved in years ahead.

Other presenters found little participation from the students and that they mostly kept their cameras turned off. It is hard to say what will come next year and how our world and profession will readapt to whatever the "new normal" will be, but all we can say is we can't wait until Law Week 2022, in whatever platform is available. I

Special thanks to Carmen Sinigiani and Oscar Pardo.

By Amy S. Winters

Amy S. Winters is a Senior Associate at Barulich, Dugoni & Suttmann Law Group, Inc. where she practices primarily trust and estate and business litigation.



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Alcohol, Drugs, Mental Illness & Aging: Issues Impacting Competence

Introduction: What is Competence?

It almost goes without saying a lawyer must practice law with competence. Rule 1.1 of the Professional Rules of Conduct provides that "[a] lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.¹

But what is competence and how is it determined? "For purposes of [Rule 1.1], 'competence' in any legal service shall mean to apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably necessary for the performance of such service."²

This article will focus on identifying issues affecting competence and how such issues may be detected.

Identifying & detecting alcohol abuse issues that impair competence

Most lawyers know abuse of alcohol and other substances is unusually prevalent in our profession. The Hazeldon Betty Ford Foundation opines that "[w]hether it is a result of long work hours, flexibility in scheduling, a professional network that incorporates alcohol into social events more often, or all of the above, lawyers have been identified as a professional group that uses alcohol and other drugs more often than other occupations."³

Well, how much more often do attorneys use alcohol than other occupations? The statistics are a bit startling. Information found on the Hazeldon Betty Ford website provides that national surveys reveal 36.4 percent of lawyers had scores consistent with problematic drinking on the Alcohol Use Disorders Identification Test, version C (AUDIT-C), compared with only 15.4 percent of surgeons.⁴ Women in legal professions appear particularly vulnerable, with 33.7 percent self-reporting problematic drinking scores on the AUDIT-C, compared to 19 percent of women in the general population.⁵

1 Id. at subs. (a).

2 Id. at subs. (b).

3 https://www.hazeldenbettyford.org/education/bcr/addiction-research/substance-abuse-legal-professionals-ru-317.

4 Ibid.

5 Ibid.

But at what point does use of alcohol or another substance turn into abuse? The Centers for Disease Control and Prevention ("CDC") Alcohol Team defines alcohol misuse for women as more than one drink per day on average, and more than two drinks per day on average for men.⁶ Binge drinking is defined as four or more drinks on a single occasion for women, and five or more drinks on a single occasion for men.⁷

The CDC Alcohol Team classifies excessive drinking as involving heavy drinking, binge drinking, or both.⁸ Similarly, it defines alcohol misuse as "...a pattern of drinking that results in harm to one's health, interpersonal relationships or ability to work," and notes that "[a]lcohol dependence, also known as alcohol addiction and alcoholism, is a chronic disease and is associated with experiencing withdrawal symptoms, loss of control, or alcohol tolerance."⁹

The California State Bar Website provides three self-assessment tests to aid attorneys in determining whether they may have an issue with substance abuse, anxiety, or depression. The Twenty Questions of Drug and Alcohol Abuse Self-Assessment Test is a tool to help attorneys identify whether they are misusing alcohol.¹⁰

Identifying & detecting substance abuse issues that impair competence

The CDC website further explains that "[m]any other substances, both illegal and legal, have the potential for misuse."¹¹ "Common examples include cocaine, ecstasy, heroin, inhalants, marijuana, methamphetamine, PCP/Phencyclidine, and prescription narcotics."¹²

(Continued on next page)

6 https://www.cdc.gov/workplacehealthpromotion/healthstrategies/substance-misuse/index.html.

7 Ibid.

8 Ibid.

9 Ibid.

10 http://www.calbar.ca.gov/Attorneys/Attorney-Regulation/Lawyer-Assistance-Program/Resources.

11 https://www.cdc.gov/workplacehealthpromotion/healthstrategies/substance-misuse/index.html.

12 Ibid.

Issues Impacting Competence (continued from page 18)

The Journal of Addiction Medicine sampled 12,825 licensed, practicing attorneys with surveys addressing, among other things, "...drug use, and symptoms of depression, anxiety, and stress." 13 "Of participants who endorsed use of a specific substance class in the past 12 months, those using stimulants had the highest rate of weekly usage (74.1%), followed by sedatives (51.3%), tobacco (46.8%), marijuana (31.0%), and opioids (21.6%)."14

The Twenty Questions of Drug and Alcohol Abuse Self-Assessment Test mentioned previously aids in identifying substance abuse issues, along with alcohol abuse issues as set forth above.

Identifying & detecting mental illness issues that impair competence

Mental health issues such as anxiety and depression can also impact competence. The same research also revealed attorneys suffer mental health issues with disturbing frequency. "The most common mental health conditions reported were anxiety (61.1%), followed by depression (45.7%), social anxiety (16.1%), attention deficit hyperactivity disorder (12.5%), panic disorder (8.0%), and bipolar disorder (2.4%)."15

"In addition, 11.5% of the participants reported suicidal thoughts at some point during their career, 2.9% reported self-injurious behaviors, and 0.7% reported at least 1 prior suicide attempt." 16

The Anxiety Assessment and Depression Assessment Tests can help identify potential mental health issues that can interfere with competence.¹⁷

Identifying & detecting age-related issues that impair competence

Additionally, age-related issues can impair an attorney's competence. The State Bar of California pro-

vides a Wellness Guide for Senior Lawyers and Their Families, Friends, and Colleagues ("Wellness Guide") on its website. The Wellness Guide explains that aging can "...trigger a decline in our ability to think, changes in our behavior or personality, or problems with our mobility, function, and other conditions that affect our ability to work." It can show up as a noticeable decline in mental abilities, including memory and thinking skills." 20

The Wellness Guide describes a "silver tsunami" of aging lawyers whose numbers will only increase in coming years. The State Bar's 2020 demographic survey showed there are 189,971 active attorneys in the state, with an average age of 50 and that "...more than 16 percent are over the age of 65."21 "[T]he good news is there will be an increase of experience, insight, and wisdom that can be shared with new attorneys, but the bad news is there will be an increased risk of attorneys with age-related impairment and insufficient preparation for transitioning away from practice before a crisis occurs..."22

What are the first signs that an attorney may be losing competence to practice law as a result of age-related issues? "According to the Mayo Clinic, mild cognitive impairment ("MCI") is the stage between the expected cognitive decline of normal aging and the more serious decline of dementia...[and] can involve problems with memory, language, thinking, and judgment that are greater than normal age-related changes."²³

An attorney who is suffering MCI "...may be aware that [their] memory or mental function has 'slipped.'"²⁴ Attorneys with MCI may be at increased risk of "... developing dementia caused by Alzheimer's disease or

(Continued on page 20)

13 Journal of Addition Medicine: January/February 2016, Vol. 10, Iss. 1, pp. 46-52; https://journals.lww.com/journaladdictionmedicine/fulltext/2016/02000/the_prevalence_of_substance_use_and_other_mental.8.aspx.

14 Ibid.

15 Ibid.

16 Ibid.

17 http://www.calbar.ca.gov/Attorneys/Attorney-Regulation/Lawyer-Assistance-Program/Resources.

18 http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Senior-Lawyers-Resources/Publications/Wellness-Guide.

19 Ibid.

20 Ibid.

21 Ibid.

22 Ibid.

23 Ibid.

24 Ibid.

Issues Impacting Competence (continued from page 19)

other neurological conditions..."²⁵ Dementia is "...a set of symptoms triggered by a loss of brain function that can affect memory, thinking, language, judgment, and behavior."²⁶ "An individual may not be able to do normal activities, such as getting dressed or eating."²⁷ "They may be quick to anger or forget things they just learned."²⁸ "A person with dementia may show signs of confusion and personality changes. As it gets worse, they may become lost, have difficulty doing basic tasks, and see things that aren't there."²⁹

"A person in the early stages of dementia or Alzheimer's disease may seem healthy, but is actually having more and more trouble making sense of the world around them." 30 "Family members are often the first to sense that something is wrong...[t] hey may notice that their loved one has difficulty paying bills, gets lost often, or repeats questions during conversation." 31

If a professional colleague is experiencing symptoms of mental decline, the Wellness Guide advises to "...urge them to contact a health professional, such as a personal physician or a neurologist, and schedule a complete evaluation." 32

"For a legal professional with signs of cognitive impairment, early diagnosis affords the attorney an opportunity to participate in decisions, such as appointing a successor attorney or closing the law practice, rather than waiting until such arrangements become the responsibility of colleagues or family members." 33

"A lawyer with more severe forms of dementia may want to consider limiting or ending their law practice while they are still capable of doing so."34

Duty to identify and detect competence issues

Rule 5.1 of the Rules of Professional Conduct mandates that a lawyer with individual or shared managerial

25 Ibid. 33 Ibid.
26 Ibid. 34 Ibid.
27 Ibid. 35 Rules of Professional
28 Ibid. Conduct, Rule 5.1, subs. (a),
(b). 36 Id. at subs. (c).
37 Rules of Professional
Conduct, Rule 5.3.

authority in a firm, or any lawyer who directly supervises another lawyer whether as an employee or not, is charged with making 'reasonable efforts' to ensure all those subject to supervision comply with the Rules of Professional Conduct and the State Bar Act.³⁵

"A lawyer shall be responsible for another lawyer's violation of these rules and the State Bar Act if: (1) the lawyer orders or, with knowledge of the relevant facts and of the specific conduct, ratifies the conduct involved; or (2) the lawyer, individually or together with other lawyers, possesses managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, whether or not a member or employee of the same law firm, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action." 36

Applying Rule 5.1 to Rule 1.1 regarding competence, it is clear that a supervising attorney must keep watch and identify issues with subordinates that may cause them to fall short of the competence required to practice law. Rule 5.3 of the Rules of Professional Conduct applies a similar standard to non-lawyers "...employed, retained by or associated with a lawyer." 37

Conclusion

It is clear that misuse of alcohol or other substances, mental health issues, and age-related issues can impair a lawyer's ability to practice law with competence as required by Rule 1.1 of the Professional Rules of Conduct. It is also clear that lawyers supervising other lawyers or non-lawyers associated with their practice can be found responsible for conduct of others which falls short of the competence standard.

For all these reasons, and given the prevalence of alcohol and substance abuse issues, along with mental health and age-related competence issues, it is crucial that all attorneys take a hard look at themselves and those around them in their professional environment to ensure compliance with Rule 1.1—or pay the price. ¶

By Sarah M. Lewers

Sarah M. Lewers is a trial attorney at Abbey, Weitzenberg, Warren & Emery, P.C., representing plaintiffs in a wide variety of matters.

Issues Impacting Competence—Self-Study MCLE Credit

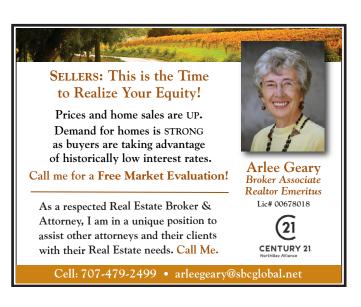
HOW TO RECEIVE ONE HOUR OF SELF-STUDY MCLE CREDIT

Below is a true/false quiz. Submit your answers to questions 1-20, indicating the correct letter (T or F) next to each question, along with a \$25 payment to the Sonoma County Bar Association at the address below. Please include your full name, State Bar ID number, and email or mailing address with your request for credit.

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- 1. Rule 1.1 of the Rules of Professional Conduct requires that a lawyer perform legal services with competence.
- 2. "Competence" as defined by Rule 1.1 includes, but is not limited to, application of the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably necessary for the performance of such service.
- 3. Lawyers use alcohol at a rate consistent with the non-lawyer population.
- 4. In a recent study, 36.4 percent of lawyers had scores consistent with problematic drinking on the Alcohol Use Disorders Identification Test, version C (AUDIT-C), compared with only 15.4 percent of surgeons.
- 5. The CDC Alcohol Team defines alcohol misuse for women as more than four drinks per day on average.
- 6. The CDC Alcohol Team defines alcohol misuse for men as more than five drinks per day on average.
- 7. The CDC Alcohol Team advises that excessive drinking only occurs when standards for binge drinking are met.
- 8. The CDC Alcohol Team defines alcohol misuse as drinking that makes others uncomfortable, but has no effect on the drinker.
- 9. Attorneys who abuse non-alcohol substances are more likely to abuse stimulants than other substances.
- 10. Mental health disorders such as anxiety and depression can impair an attorney's ability to practice law with competence
- 11. Research conducted by the Journal of Addiction Medicine found the most common mental health issue suffered by attorneys is anxiety.
- 12. Research conducted by the Journal of Addiction Medicine found 45.7 percent of attorneys included in the sample were affected by depression.
- 13. Research conducted by the Journal of Addiction Medicine did not find that 11.5 percent of attorneys experienced suicidal thoughts at some point during their career.

- 14. There are no age-related health issues that can impair an attorney's ability to practice law with competence.
- 15. Aging can trigger a decline in an attorney's ability to think, changes in behavior or personality, or problems with our mobility, function, and other conditions that affect an attorney's ability to work.
- 16. Age-related competence issues can surface as a noticeable decline in mental abilities, including memory and thinking skills.
- 17. The initial signs of age-related cognitive decline such as problems with memory, language, thinking, and judgment never impair an attorney's ability to practice law with competence.
- 18. An attorney developing dementia may be quick to anger or forget things they just learned.
- 19. The State Bar's 2020 demographic survey found that the average age of a practicing attorney in the State of California is 65 years old.
- 20. An attorney supervising another attorney or a non-attorney employee may be found responsible for violations of the Rules of Professional Conduct committed by the supervisee pursuant to Rules 5.1 and 5.3 of the Rules of Professional Conduct.



Pronouns and Privilege

With the introduction of the Diversity + Inclusion section this year, SCBA has invited the section to submit articles which address the relevant topics, issues and goals of their mission, as stated below:

The Diversity + Inclusion Workgroup of the Sonoma County Bar Association works to create and support diverse leaders in our legal community, inclusive & equitable workplaces, and to develop a local pipeline of diverse legal professionals by providing relevant resources, training, and best practices for our members.

s with much of what will be addressed quarterly in this space by the Diversity + Inclusion section of the Sonoma County Bar Association, the concept of gender (our deeply held, internal sense of self as a woman, man, a blend of both, or neither; who we internally know ourselves to be; often heavily influenced by socialization, and is fundamentally different than one's assigned sex at birth¹) as binary – that is, that there are only two sexes, female or male; that there are only two genders, man or woman; that there are only two sexualities, gay or straight — arrived uninvited on the North American Continent with the Puritans in the early 17th Century.² The "City on the Hill" had clearly defined roles for all members of the Elect and the experience of what scholars call "Two Spirit," (those with both a male and female spirit inside them) was not part of the Puritan society or culture.

As it turns out, many, many cultures around the world recognize that gender is not, in fact, experienced as binary. This is as true today as it was 500 years ago, but what we have now that those Europeans didn't is scientific evidence which demonstrates irrevocably, irrefutably, and inexorably that human beings at our core are far too sophisticated to be binary, about *anything*.⁴

1 hub.sonoma.edu/gender-sexuality/glossary

As our society has begun to understand and validate the lived experiences of transgender and non-binary individuals, we have become more aware of gender pronouns and how they limit expression.

Being reminded of the challenges we don't have to navigate when our physical appearance, presentation, or abilities align with those of the privileged caste in our culture can be uncomfortable (although not nearly as uncomfortable as having to navigate those challenges) and no one wants to feel scolded for unconsciously upholding a system that benefits some at a cost to others; nonetheless, the responsibility is on those who are benefiting from this system to examine, address and ultimately act to make those benefits available to everyone. One way to hasten and ease the process is to make discomfort your ally, to sit with it just long enough to provoke action. Those in the privileged caste cannot wait for the "perfect" response; we must take action as imperfect allies.

"The single biggest problem in communication is the illusion that it has taken place." G.B. Shaw

Recognizing that much of the bias experienced or benefits accrued in life are based on the implicit and unconscious biases underlying our social structure, we cannot separate the role of language in upholding the bias ingrained in our appearance-based caste system.

Language is complicated and contains many parts; syntax, vocabulary, and grammar all combine in an agreed upon series of utterances which allow us to express the complex, intimate, far reaching, and deeply personal ideas, experiences and circumstances of each of our daily lives. Found in many languages around the world, pronouns are nouns which take the place of proper nouns, e.g., "Have you seen the large, antique, round, green, flour sifter?" "No, haven't seen it." Pronouns are a communication short cut, and of the 23 pronouns used in modern English, it is third person, personal pronouns that end up limiting communication instead of supporting it. This is because so many of us have an implicit understanding of what it is to be "she," "her," "he," or "him," (and a lot of us are just plain stubborn about using the third

(Continued on next page)

² https://www.khanacademy.org/humanities/us-history/colonial-america/colonial-north-america/a/puritan-new-england-massachusetts-bay

³ https://www.pbs.org/independentlens/content/two-spirits_map-html/

⁴ https://blogs.scientificamerican.com/voices/stop-using-phony-science-to-justify-transphobia/

Pronouns and Privilege (continued from page 22)

person "they" for a singular being; it is past time to get over that) that we use our own understanding of that pronoun to define and describe the person in front of us, to decide who they are, before they tell us who they are. These shortcuts often reflect and reinforce the implicit biases of the privileged caste. This is prejudice.

"It is easier to build strong children than to repair broken men (sic)." Frederick Douglass

History has clearly writ the dominant influence the Puritans would play in developing, installing and maintaining a caste system based on appearance, a slippery slope down which third person, personal pronouns have been sliding over the last few decades.

In the case of pronouns, a person whose external appearance complies with the Puritan's vision of gender roles, and is an accurate reflection of who they know themselves to be, is in the privileged caste, and might look forward to an afternoon with their family because they won't be asked intrusive questions, or be misgendered; they won't be avoiding their family because their family doesn't or won't use language to recognize and accept them; that person will have the support of their community in their daily lives. These

are microaggressions with macro consequences. Not being seen and accepted leads to harm from without and within as pan gender and non-binary teens are five times more likely to attempt suicide than those identifying as binary or one gender⁵ and, on top of the other horrors of 2020, last year included a startling increase in the murder of transgender and non-conforming people.⁶

"Do the best you can until you know better. Then when you know better, do better." Maya Angelou

As attorneys, judges, legal secretaries, and paralegals, we believe in the power of the rule of law and are committed to equitable access to that essential, foundational element of the American legal system. To do that, our legal community must take steps to reflect and respect all the members of our community at large. The question of pronouns is really a question of (Continued on page 24)

5 https://www.thetrevorproject.org/resources/preventingsuicide/facts-about-suicide/

6 https://transequality.org/blog/murders-of-transgender-people-in-2020-surpasses-total-for-last-year-in-just-seven-months

Subject	Object	Possessive	Possessive Pronoun	Reflexive
Не	Him	His	His	Himself
"He studied"	"I called him"	"His pencil"	"That is his"	"He trusts himself"
She	Her	Her	Hers	Herself
"She studied"	"I called her"	"Her pencil"	"That is hers"	"She trusts herself"
They	Them	Their	Theirs	Themselves
"They studied"	"I called them"	"Their pencil"	"That is theirs"	"They trust themselves"
Ze (or Zie)	Hir	Hir	Hirs	Hirself
"Ze studied" ("zee")	"I called hir" ("heer")	"Hir pencil"	"That is hirs"	"Ze trusts hirself"

Pronouns and Privilege (continued from page 23)

respect, empathy and compassion. Asking someone "What are your preferred pronouns?" or including pronouns when introducing yourself, demonstrates you possess those qualities.

It can feel daunting to ask someone their pronouns, what if you offend someone just by asking? When meeting someone for the first time, offer your own as part of your introduction. By offering pronouns first, others notice your awareness of the fact that not everyone fits into stereotypical binary gender and that you are interested in other people's lived experiences. This may be the first opportunity they have had to consider how pronouns affect them and others, and to talk about why pronouns are important. Sharing pronouns and teaching others about the importance of doing so disrupts the privilege of that assumption and broadens normalization.

It is important to remember not to single out one person in a group and ask them to share pronouns. This may cause others to think that person is transgender or nonbinary and can put them at risk. Being simply perceived as transgender or nonbinary, whether the person truly is or not, can make a person feel unsafe and may even be dangerous for that person. Instead, in a group setting, it is best to share your name and pronouns to allow others to do so as part of their own introductions. You can also include your pronouns on business cards near or below your name, on your professional website, and on your social media accounts and many people include links to websites below the pronouns to explain why naming the pronouns is important.

Also, introducing yourself with your pronouns, using gender neutral honorifics such as Mx. instead of Mr., Mrs., Ms. or Miss, or asking someone their preferred pronouns is 100% guaranteed to keep you from embaryourself by misgendering Misgendering a person means referring to someone in a way that does not correlate with their gender identity. If you find you have done that, it is no greater or less a social faux pas than any other; simply apologize! Being willing to admit that one's unconscious racial/ educational/language/cisgender/heterosexual/religious bias made an appearance is a great practice for allies to acknowledge privilege and demonstrate allyship. Forewarned is forearmed: You are undoing a lifetime of unconscious bias, so you may apologize more than once. It's not about feeling shame or guilt, it's about the members of our family, our professional colleagues, our clients and our co-workers feeling safe and known. And anyone can do the right thing; if someone else misgenders a person, do not ignore it. You can correct them politely and swiftly, without making it a big deal (e.g., actually Max uses she pronouns).

Allyship is crucial. Representation matters. Because pronouns are shortcuts and those shortcuts have been reinforced on this continent for the past 500 years, those of us who have the good fortune to present as we are must stand for diversity and inclusion. On a larger note, who is anyone to judge how another human being wants to be addressed? Why wouldn't you want to express compassion and empathy for someone who, through no fault of their own, has had to face greater challenges than you? Shortcuts are for the lazy and language is no exception. Use a little creativity and individuality instead of relying on the worn and tired "sir" and "ma'am." The legal community can demonstrate our allyship and our commitment to a more inclusive, more just society by demonstrating that compassion and empathy for all members of our community.

By Rebecca Slay (she/her)

Rebecca Slay (she/her) is a member of the Diversity + Inclusion section of the SCBA and worked in public policy before joining Meechan, Rosenthal & Karpilow, P.C. as a civil litigation paralegal.



From 1998: SCBA Presidents Over the Years

L to R, Front Row: Sam Salmon (1998), Winfield Anchor (1956), Rose Zoia (1996), John Hawkes (1968), Dennis Keegan (1959), Hon. Alan Jaroslovsky, (1987). L to R, Back Row: Jeffrey Walter (1985), Mark Peters (1994), Eric Koenigshofer (1997), Ed Dermott (1963), Harrison Comstock (1969), Richard Abbey (1982), Tom Kenney (1977), Craig Johnston (1980-81), John McDonald (1961).

Photo credit: Erik Cummins



Changes Afoot at Empire College School of Law

Some of you may be wondering what is going on at Empire, given the real estate sign on Cleveland Avenue. We do have space to lease in the building to replace the Business School's operations, but the Law School is staying put. We are excited about the changes we're making, including a new HVAC system for the building, new carpets, paint, distance learning equipment in the law school classrooms, and more. Empire will be sharing the first floor with a new tenant, and improvements to accommodate that change

will begin in mid-May. The Law School will continue teaching via Zoom for the summer trimester, looking forward to the Fall at which time we hope to have all of this work completed and folks back on campus as conditions permit. So stay tuned; change can be exhilarating and we're making the most of it!

By Brian Purtill
Brian Purtill is Dean of Empire
College School of Law

25 foot Thunderbird - Twin Engines
Sandy Ann
6 People Maximum

Salmon Fishing Whale Watching

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Capt. George Castagnola



SCBA Bar Journal

The Bar Journal is published quarterly by the Sonoma County Bar Association.

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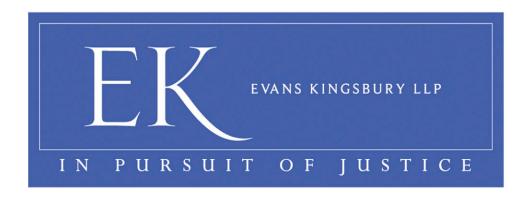
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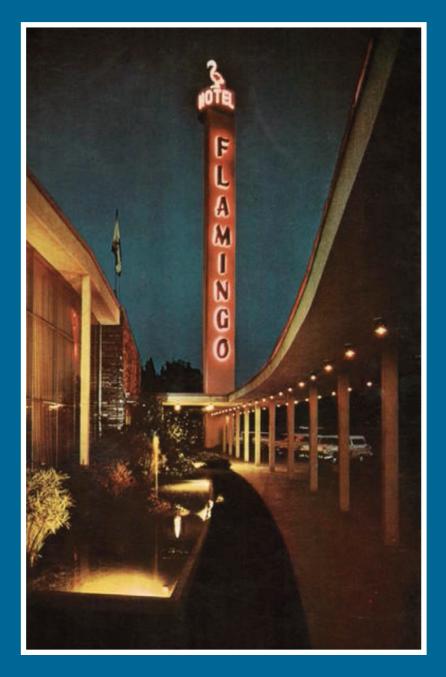
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