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ELECTED TO
SUPERIOR
COURT**

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RES IPSA LOQUITUR

JUNE/JULY 2023

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2023 Installation Dinner

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2023 KCBA President

Thomas P. Feher

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KCBA WELCOMES 2023 BOARD AND LEADERS

by Paul Harman, 2023 KCBA Executive Board Vice President



KCBA Past Presidents

On January 19, the Kern County Bar Association kicked off 2023 with a packed house at Seven Oaks Country Club for the Annual Meeting and Installation Dinner. Attendees showed up early for a lively social hour featuring hors d'oeuvres, a slideshow from past KCBA events, and, most importantly, dear friends and inspiring colleagues.

After an unusual couple of years, it was refreshing to start 2023 with an event well attended by both our honorable judicial officers and members of the bar. Particularly well represented were KCBA's past presidents who gathered for a photo to celebrate many years of service to our legal community.

Xochitl Garcia, our 2022 President, presided over the 2023 Annual Meeting following the social hour. During the meeting, the bylaws were amended to, among other things, add

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the officer position of Membership Chair. Ms. Garcia also had the honor of bestowing the Honorable T. Mark Smith with the title of Honorary KCBA President following his service as KCBA Vice President and subsequent election.

With the formalities of the Annual Meeting concluded, the Honorable Thomas Clark led the swearing-in and installation of the Section Officers and the KCBA Officers and Directors, most notably 2023 KCBA President Thomas Feher. Mr. Feher will be joined on the Executive Committee by Paul Harman (Vice President), Anthony Azemika (Treasurer), James Harvey (Secretary), Xochitl Garcia (Immediate Past President), and a Membership Chair officer to be appointed following the creation of the position during the Annual Meeting. Serving as 2023 Directors are Carol Bracy, Devin Brown, Vanessa Chavez, Diane Christian,

Alex Dominguez, Danielle Humphrey, Andrea Kohler, Amanda Lucas, and Micah Nilsson.

Following dinner, Stacy Garner was presented with the 2023 Ivy Person Award after being introduced by 2022 recipient Dr. Jeanine Kraybill. The Ivy Person Award is given each year to a non-attorney who demonstrates the highest standards of excellence in the legal profession. The presentation of the award happened to coincide with her 10-year anniversary as a Confidential Judicial Administrative Assistant with the Kern County Superior Court. Congratulations, Ms. Garner and thank you for your service!

Barry Goldner, President of the KCBA Charitable Foundation, provided an update of the Foundation's activities in its efforts to make a positive impact on Kern County's youth, legal system, and the law. The Honorable Susan



Gill, KCBA Charitable Foundation Secretary, also directed everyone's attention to a booklet that had been circulated to each table honoring the members of our legal community that we lost over the past few years. It was a touching moment of reflection on their friendship and legacy.

Newly installed President Thomas Feher concluded the evening with remarks after being introduced by Dennis Thelen, his friend and partner at LeBeau Thelen LLP. Mr. Feher enthusiastically conveyed his optimism for the year ahead by drawing the membership's attention to valuable programs and events on the horizon.

The KCBA is in good hands with Mr. Feher at the helm. He will effectively lead the Executive Committee and Board of Directors to accomplish the KCBA's mission to provide leadership in advancing the professional interests of the members and serving the legal interests of the community. With a delightful January evening behind us, he's off to a good start.

Top: Thomas Feher sworn in by Hon. Tom Clark

Right: Ivy Person Award recipient Stacy Garner



SIKH RIDER/MCBA EVENT HAD SOMETHING FOR EVERYONE

by Navraj (Navi) Rai, Attorney, Hon. Ralph Camacho, Hon. David Wolf

On October 9, 2022 Commissioner Loo, Judge Camacho and I (David Wolf) had the amazing opportunity to attend the Sikh Riders 10th Anniversary motorcycle ride and charity fundraiser held at Lake Ming. The event was co-sponsored by the Multicultural Bar Association (MCBA). Commissioner Loo and Navraj Rai (AKA "Navi" to most of us) were present at the start of the ride, and Judge Camacho, Navi Rai and I had the honor of representing the MCBA at the end of the ride.

I don't ride motorcycles and I'm not Sikh, but this will be on my "do not miss event list" for next year. It was amazing. Upon arriving, I felt like I was transported to India. There was a free Indian lunch that was absolutely delicious. For meat eaters there was also a BBQ food truck on site. There was live entertainment with three different groups of incredible dancers (including some adorable kids). There was also henna, face painting and a balloon artist making balloon animals,

There were numerous speakers and awards; however, the speaker who surprised me the most was a former White Supremacist talking about how to overcome hate. I think our Sikh speakers and the former White Supremacist were right when they said we need more love and less hate in our society. Talk about diversity and elimination of bias, this event had it all.

For those of you unable to attend this year, we thought you might be interested in learning a little about the event and the Sikh culture. Judge

Camacho and I thought it would be a good idea to interview Attorney Navi Rai who was one of the event sponsors.

Judge Camacho: Let's start with what is Sikhism?

Navi Rai: Sikhism is the fifth largest religion in the world, originating from the North Eastern part of India, Punjab. It is a monotheistic faith that is based upon 3 main tenants. 1. Earn an honest living. 2. Selfless service 3. Remember God's name.

Judge Wolf: Who are the Sikh Riders of America?

Navi Rai: The Sikh Riders of America is a non-profit motorcycle group that was created to help spread awareness of Sikhism after Sikhs became the primary targets after the 9/11 attacks in New York. The organization helps to try and educate the community by holding various fundraising events to provide help where it is needed (disaster relief funds, MADD, homeless shelters, Veterans groups, etc.) To date, the Sikh Riders of America have donated over \$500,000, and has also been recognized as the Non-Profit of the Year in the State of California.

Judge Camacho: Why is it important for judges and other elected officials to attend these types of events?

Navi Rai: I believe it is important for our elected officials and judges to attend these types of events because it demonstrates that our leaders in the community understand and know who the Sikhs are. Especially with the event donating to so many

local charities, to have leaders in the community come and acknowledge this gives not only our organization the credibility that it needs, but it demonstrates that our community is unified against discrimination or hate of any kind.

Judge Wolf: What was the role that the MCBA played in the event this year?

Navi Rai: MCBA is a wonderful organization that ventures forth to bring legal assistance to underrepresented communities while also being cognizant of how the law can affect different cultures in unique ways. This year, the MCBA awarded multiple attorneys who served the Sikh community with issues that otherwise could not have been resolved by just any average person. As a member of both the board of the MCBA and the Sikh Riders, Rai Law Firm took it upon themselves to sponsor the awards given on behalf of MCBA to those attorneys as a small token of appreciation for their services.

Navi Rai: Okay, my turn to ask some questions. Judge Wolf do you need to be Sikh or a Motorcycle rider to attend this event?

Judge Wolf: Absolutely not. This event has something for everyone. I think it would be a great event to bring young adults and kids to let them learn about another culture. They would literally be able to see, taste and experience the colors, flavors, and sounds of India without having to get on a plane.



Navi Rai: Why did you decide to attend?

Judge Wolf: Many years ago, my wife and I were invited to attend a service at a local Sikh Gurdwara. We were a little apprehensive about the visit as we were unfamiliar with Sikh customs. When we arrived, everyone was so welcoming and wonderful. Some Sikh women came up to my wife, introduced themselves and made her feel like family. You never forget a kindness made by a stranger to your spouse or children, so whenever we are invited to attend a Sikh event, we always try to be there. Of course, we also always try to attend the MCBA events because they continue to be outstanding.

Navi Rai: In your speech, you said something about why it is important for judges to attend these types of events.

Judge Wolf: The judges of the Kern County Superior Court serve everyone in Kern County. Of course, diversity on the bench helps our diverse community feel that the bench, as a whole, represents this community. While we currently do not

yet have a Sikh judicial officer, having judicial officers attend events like this one helps ensure that everyone in Kern County feels the Court represents them, and that “justice for all” includes them.

Navi Rai: So, Judge Camacho, what did you enjoy the most?

Judge Camacho: I really enjoyed meeting everyone, and I was humbled by the kindness and friendship everyone showed. I really enjoyed the food, and the performances by the dancers were very good. I had a good laugh watching Judge Wolf attempt to do the dance moves. Overall, I felt very welcomed, and glad I attended.

Navi Rai: Judge Camacho, why did you decide to attend?

Judge Camacho: To be honest I knew very little of Sikh culture, and was curious to find out what motorcycles had to do with it. I have always believed that understanding other cultures is an important part of being a well-rounded individual.

Navi Rai: Judge Camacho, why is it important for judges and other

elective official to attend these types of events?

Judge Camacho: We are all public servants. We cannot fully serve a community if we do not understand their culture and their way of thinking. It is also important that we are seen in the community and people can talk to us. By interacting with us, they can see that we are just ordinary people like them, trying to do our job as best we can. By interacting with our community, it allows us to be better judges, and show that we seek access to justice for everyone in our community.

In conclusion:

So, if you are like me and you are not Sikh and don't ride a motorcycle, I hope you'll join Commissioner Loo, Navi Rai, members of our MCBA, Judge Camacho and me at next year's event. Hopefully, next year MCLE Elimination of Bias credits will be available too. But even if they aren't, this event should not be missed.

HON. HUMPHREY NAMED BENCH AND BAR AWARD RECIPIENT

by David A. Torres

A strong woman knows that she has strength enough for the journey, but a woman of strength knows that it is in the journey where she will become strong.” ~Luke Easter

The Kern County Bar Association is proud to recognize the exceptional lifetime achievements of the Honorable Colette Humphrey with its highest honor, the Bench and Bar Award. The awardee is selected yearly by a committee consisting of esteemed members of the bench, past awardees, and attorneys whose law practices represent all bars, including government agencies in the legal profession.

Many who know and practice before the Hon. Humphrey revere her as a humble yet amiable and approachable judge with an extensive breadth of legal knowledge. Attorneys know her well for her ability to finish a lengthy criminal calendar in a small cozy room buzzing with verbose defense lawyers and stubborn DDA's well before the noon hour. With an impressive intellect, she can complete a tremendous amount of work in a very short period despite an atmosphere of what at times appears to be organized chaos. In a recent Daily Journal interview, she attributed her management skills by saying, “I like being organized and knowing how to run things efficiently.” Judge Humphrey said, “it’s kind of like my forte.” Long time friend, Craig Harrison, who has known Judge Humphrey since the first grade, put a different spin on her organizational skills, “she is always in charge! She

can make you think it is your plan, but she is in control. I love to tease her about loving to be in control from selecting which plays to watch at Stars Theater to our sitting arrangements at dinner, however, the problem is, she is always right. Her gift is that she is always willing to step up and help; just don’t get in her way.”

Judge Humphrey was born in Casper, Wyoming, and her family moved to Bakersfield when she was four years old. She attended grade school at St. Francis Catholic School and high school at Garces Memorial High School (as did her children, Julianne and Danielle). She received a Bachelor of Arts Degree in English (in three years) from California State College, Bakersfield. She received her Juris Doctor from University of San Diego School of Law in 1984. After passing the July 1984 California Bar Exam she spent the early part of 1985 working for a solo practitioner in San Diego.

Fortunately for all of us, she was hired by former District Attorney Ed Jagels and returned to Bakersfield and began working as a deputy district attorney in September of 1985. Like all new Deputy DA's, she began prosecuting in the misdemeanor unit and eventually worked her way into the general felony unit, the narcotics unit, and ultimately, the special prosecutions unit where she successfully handled many high-profile cases. Judge Humphrey was eventually made a supervisor of the preliminary hearing unit, the misdemeanor unit, and the complaint desk (filing unit).

Judge Humphrey’s career and life changed when then-Superior Court Judge Rebecca Wiseman (now, retired 5th DCA Justice) advised her that she should put her name in for a judicial appointment. Judge Humphrey had never considered the idea but was counseled by Judge Wiseman that the Governor would not be able to appoint women to the bench if qualified women did not apply for the job. Judge Humphrey followed this sage advice, applied for a judicial appointment, and at age 38 was appointed to the Kern County Municipal Court by Governor Pete Wilson in February of 1998. She was elevated to the Superior Court by unification in 2000.

Throughout her career, Judge Humphrey has handled numerous assignments on the bench including supervising the misdemeanor unit, the pre-preliminary hearing calendar, and the criminal calendar. In 2013 and 2014, Judge Humphrey made history when she became the first female presiding judge of the Kern County Superior Court. While serving as the presiding judge she began the process of implementing a mental health court in Kern County which eventually became the STAR court presided over by Judge Gill. Always the trailblazer, Judge Humphrey once again made history when she volunteered to serve a second term as presiding judge in 2021 and 2022, with the Honorable Judy Dulcich as Assistant Presiding. This was the very first time two females served in that capacity in the history of Kern County.

In addition to the above, while serving



as both PJ and APJ, Judge Humphrey was actively involved in vetting prospective judicial candidates and contacting the Judicial Appointments Secretary to ensure that Kern County was going to get its allotted judicial officers (and then some) as quickly as possible. Moreover, she ensured she had the requisite contacts of those who controlled the purse strings to insure our courts remained fully funded. Just as important, and as a testament to her high standards, during the years Judge Humphrey served as Presiding Judge, Kern County possessed some of the highest court efficiency ratings in the state of California.

Judge Humphrey is currently assigned to Department 14, the Pre-preliminary hearing department attempting to resolve criminal cases prior to proceeding to preliminary hearing. Hers is a job tantamount to herding cats, however, she is quite proficient, and the reduction in both preliminary hearings and trials are indeed noticeable when she is assigned to this courtroom. Prominent criminal defense attorney, H.A. Sala, said this about our recipient, "Judge Humphrey epitomizes the Bench and Bar Award which recognizes outstanding service to the administration of justice and the

manner in which it is accomplished. She has demonstrated a commitment to public safety and to respecting the rights and dignity of those who appear before her. Judge Humphrey has an unparalleled ability to analyze the facts of a case from the perspective of opposing legal adversaries, and apply the law without bias, favor or prejudice. She has developed a gifted approach to settling complex criminal cases by considering the impact of the offense on victims and developing a sentencing structure that will ameliorate the harm, promote restitution and ensure accountability and rehabilitation of the accused. In doing so, she has accomplished an admirable contribution to the administration of justice, which has served our community in immeasurable ways. She has been instrumental in reducing recidivism, protecting society and ensuring true justice for all." Mr. Sala's comment truly captures Judge Humphrey's work ethics, high moral standards, and her love for her community.

Former Supreme Court Justice Ruth Bader Ginsberg said, "I try to do the good job that I have to the best of my ability, and I really don't think about whether I'm inspirational. I just do the best I can." Unbeknownst to Justice

Ginsberg, she was inspirational. Like Ginsberg, Judge Humphrey performs her job to the best of her ability, whether as a mother, a professional, a volunteer, a judge, or friend. Judge Humphrey doesn't think she inspires, but along the way, she and her husband, defense lawyer Kyle Humphrey, have raised two beautiful successful daughters who are now attorneys. Mom, you inspired. Every high school student, law student, young lawyer, and aspiring judge who sat inside her courtroom and observed how she treated everyone with the utmost respect and dignity, whether they wore a business suit or an orange jumpsuit, she performs her job to the best of her ability, and in doing so, she inspires. It is in this long and successful legal journey carved by destiny, that her strength continues to grow.

Judge Humphrey, the Kern County Bar Association recognizes and appreciates your nearly 40 years of dedication and exemplary service to the legal profession and the positive image of the legal system that you have projected upon our community. Thank you for your dedication, hard work and inspiration.

OUR OBLIGATION AS LAWYERS TO DEFEND DEMOCRACY

by Mitchel L. Winick and Jackie Gardina

Our democratic republic is approaching its 250th year anniversary which, unfortunately, makes it easy to take it for granted. However, it is not an overstatement to believe that democracy and the democratic process are currently under attack in our country. We are being confronted by one of the most polarized, divisive, and dangerous political and social periods in recent history. Over the past several years, we have witnessed increasingly hateful rhetoric by members of the public and even elected officials at the local, state, and national level. Physical confrontations at local school board meetings, city council sessions, and an armed mob attack on the nation's capital are urgent warnings that the rule of law and our democratic institutions are at risk.

As American lawyers, we consider the Constitution and respect for the rule of law to be the foundation of our democracy. This is such an important principle that, as a condition of licensure, we take an oath to support both our U.S. and state constitutions. If it has been a while since you took or administered the attorney's oath, in California, it is the following:

California Attorney's Oath

I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of an attorney and counselor at law to the best of my knowledge and ability. As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy, and integrity.
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As members of the legal profession and sworn officers of the court, there is no question that we have an important role to play in navigating our country and our communities through these challenging times. In this context, perhaps we should take a step back to consider whether, individually and collectively, we are adequately meeting our professional obligations to come to the defense of democracy, the rule of law, and the Constitution.

As attorneys, we have the professional, intellectual, and educational skills to define, discuss, and educate about the distinctions between legal vs. illegal behavior, honest vs. fraudulent allegations, and factual vs. false narratives.

In fact, we have taken an oath to do so.

If we remain silent when members of our profession, and in rare cases, members of the judiciary, intentionally abuse the justice system by pursuing lawsuits without legal foundation or fact, publicly advocate claims that they know have been judicially determined to be without legal basis, fail to recuse in cases that appear to have specific conflicts of interest, and act openly and publicly in violation of the attorney's oath . . .

If lawyers in elected office or serving in public or administrative positions of trust sit silently when presented with evidence of alleged fraud, illegal behavior, false filings or intentional



Mitchel L. Winick

non-filings of statutorily required public and financial disclosure information . . .

If we are not horrified and outraged to the point of feeling compelled to speak out in defense of democracy and the rule of law in the face of an illegal and violent mob attack on our center of democracy . . . the U.S. Capitol . . . that disrupted the peaceful, democratic transfer of power and caused our elected officials to literally flee from their Congressional duties in fear of injury or death . . .

. . . then as lawyers, law professors, and judges we are sitting idle when we have a professional and ethical obligation to act.

Can there be any doubt that we, as lawyers, have an obligation to – defend the process, participation in, and outcomes of free and fair

elections – demand the timely investigation, judgement, and discipline of lawyers, judges, and elected officials who violate legal and ethical standards – and support equal access to justice and protection of our Constitutional rights, regardless of ideology, financial ability, origin, or identity?

These are not issues that can be disregarded by the legal profession under the excuse that they are merely issues of partisan politics and not fundamental attacks against the rule of law. Abandonment of the rule of law cannot be dismissed as politics-as-usual in the face of violent insurrection and the mainstreaming of hate-based rhetoric within our political parties and in our public dialogue.

What weighs in the balance are the foundational Constitutional protections that define our democracy – freedom of speech, freedom of religion, freedom from discrimination, and freedom to participate in free and fair elections. History has taught us that the sustainability of these freedoms

requires vigilance and a commitment to act when it is necessary to defend democracy and enforce the rule of law.

And that is the obligation that we have accepted as lawyers.

Although attribution of the quote, “all tyranny needs to gain a foothold is for people of good conscience to remain silent,” may be disputed (with apologies to Edmund Burke), the point is well made. Therefore, what steps should we be taking as lawyers of good conscience to speak out in defense of democracy?

First and foremost, we need to identify more ways to actively and publicly work together . . . regardless of politics, ideology, or identity . . . to be leaders in our communities speaking out against false, divisive, and hateful rhetoric. We need to accept responsibility to stand up to those who attack the most vulnerable in our communities and use our knowledge and ability, as required by our oath, to defend their rights and provide

access to justice. Finally, we need to have zero tolerance for members of our profession who intentionally, openly, and repeatedly violate our professional ethics.

In this new year, let's commit to work together as lawyers to remind all members of our community that democracy must not be taken for granted and that the rights, privileges, and freedoms that are guaranteed under the Constitution and protected by the rule of law are essential to another pledge that we each have taken as Americans . . . to be “one nation under God, indivisible, with liberty and justice for all”.

California Accredited Law School Deans Mitchel L. Winick (Monterey College of Law/Kern County College of Law) and Jackie Gardina (The Colleges of Law) are cohosts of the new podcast SideBar (www.sidebarmedia.org) on the Legal Talk Network that discusses current challenges to our individual constitutional and civil rights. Comments are welcome at www.sidebarmedia.org/comments.

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WHEN YOUR TENANT IS A HOARDER

by H. Dennis Beaver, Attorney at Law

“Terry” was my first hoarder client. About 50 years old, he worked as a custodian at a high school in a small town not far from where I was living at the time.

He was a genuinely nice guy and proud of his collection of washing machines from the 1940’s onward.

Now, “collectibles” to some people are pure junk to others and to Terry’s neighbors, his front and back yard, as well as the inside of his rented home had become a dangerous junkyard, complete with rats and other vermin that freely roamed the property.

The place was overflowing with, not just washing machines, but broken down cars, airplane parts, toilets, sinks, you name it.

In those years, he was known as a junkman. Today he would be called a hoarder.

He had received and ignored notices from his town’s Code Compliance Officers to remove the items, and especially the things that made entry or exit from his home dangerous. With few window coverings, the home’s interior was visible, piled to the ceiling with “stuff.”

His wife and children were living in dangerous conditions that Terry did not acknowledge. With the assistance of Code Compliance, they and their landlord arranged for a meeting at my office to work out a clean-up plan with Terry - or he would face prosecution.

I was asked to drive him to my office. In reality—behind my back—during our lengthy afternoon meeting, Terry’s wife—with the enthusiastic approval

of the landlord—had embarked on something like an intervention. Later she told me, “I hired a disaster restoration company and told them to remove every last piece of junk from inside and outside the home. Anything of value was purchased by a scrap dealer.”

The crew did such a good job that when I drove Terry home, it took a few minutes before we could find his house!

I have to admit that it made me happy to see this crap gone and a bit of sanity restored to his family and the neighborhood. Terry got into therapy and did not repeat his hoarding behavior. He was lucky as there is a high relapse rate among hoarders.

But this was well before the psychology of hoarding became widely understood. Today, if the same things happened, some poor landlord—driven out of his mind by the insanity of having a hoarder as a tenant—could wind up being sued.

Seen as a Mental Illness—Landlords Must Protect Themselves

Once called “junkmen,” hoarders—who landlords and governmental officials agree pose major risks to the health and safety of not only themselves, but their families,

neighbors and communities—are viewed as suffering from various forms of mental illness and are generally protected under the ADA, the Americans with Disabilities Act.

“This is why it is so important for landlords and property managers to have proper language in their rental agreements that covers these types of tenants and scenarios,” San Diego attorney Evan Walker points out.

“State law requires landlords to maintain habitable dwellings, and also requires tenants to keep their units clean and sanitary, disposing of



garbage properly, avoiding excessive clutter and not damaging the property or using the premises in an improper way.

“So, when you are on notice that the tenant’s ‘stuff’ is blocking exits or doorways, interferes with ventilation or sprinkler systems, and attracts pests because of improper food storage—to list just a few—this could be a hazard for other tenants, and could be considered as a violation of the rental agreement and, likely, state law.

“At this stage, contact the tenant, point out what you have seen, and politely—but firmly—indicate that if the problem isn’t resolved, you may have to file an eviction suit. Be sure you can prove that you have brought these items to the tenant’s attention.”

Build Your Case Against the Hoarder

Pasadena, California property manager Jon Anthony Dolan says, “Document Everything!

If the tenant will not respond appropriately and clean up the mess, you may have no choice but to evict them. So, begin preparing for the possibility now and document your correspondence with the tenant and keep detailed, chronological records. This means taking videos, photos, detailed notes which establish a record of the property’s condition. This material is critical to prove your case.”

Important—You are NOT Evicting Because They are a Hoarder! You are Evicting Because of Their Behavior

Dolan stressed the importance of understanding what you are NOT evicting them for - “You are not evicting them because they are a hoarder, because if you use that language, it is a violation of Fair Housing laws, since mental illness is a protected class.

“In addition to a possible violation of the rental agreement, often the hoarding behavior can be seen

as a nuisance to other tenants if it substantially interferes with their use of the property. For example, filth that creates a pest infestation, and clutter in common areas can create accessibility issues for EMS personnel.”

Walker strongly recommends retaining experienced landlord-tenant counsel, “As hoarders are among the most difficult of tenants. They may be unlike any tenant you will ever have, and the risks of being sued for violating their rights are very real.”

Dennis Beaver practices law in Bakersfield and welcomes comments and questions from readers, which may be faxed to (661) 323-7993, or e-mailed to Lagombeaver1@Gmail.com. And be sure to visit www.dennisbeaver.com.



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JUDGE T. MARK SMITH JOINS SUPERIOR COURT

by Micah Nilsson and Donald Oldaker

The Kern County Bar Association is fortunate to welcome Judge T. Mark Smith to the Kern County Superior Court. After being elected as a Kern County Superior Court Judge last year, Smith officially took the bench in January, replacing Judge David Lampe following Judge Lampe's retirement from the bench.

Born and raised in Bakersfield, Judge Smith is a product of the Kern County community. He attended Highland High School, where he participated in speech and debate, mock trial, and tennis. While attending Claremont McKenna College Judge Smith interned with the U.S. Supreme Court in Washington, D.C., interned for Congressman Bill Thomas, and wrote his senior thesis on the Supreme Court confirmation process. Smith's thesis was awarded Outstanding Thesis in Government for his class. Judge Smith graduated magna cum laude and with honors in his double-majors of economics and government.

While attending UCLA Law School, Smith clerked for the Law Offices of Young Wooldridge. Judge Smith's 30 years of legal practice include seven years with the Sonnenshein Firm in Los Angeles before returning to Kern County where he worked with Clifford & Brown, rising to a partner and shareholder before becoming one of the founding partners of Zimmer & Melton, LLP in 2019. Judge Smith's litigation practice has included



a variety of industries, including agriculture, oil & gas, personal injury, real estate, construction, healthcare, labor & employment law.

Judge Smith served on the Board of Directors of the Kern County Bar Association from 2015 through 2022, including as Vice President in 2022. With his broad background in law and litigation, including his diverse range of clients, Judge Smith is especially well-suited for the bench and has recently been assigned to bring his expertise to preside over the Kern County Superior Court's newly established fourth civil department.

Judge Barmann said of Smith, "Having known Judge Smith for more than 40 years, I will tell you that he has long been one of the people I most highly regard and respect. Judge Smith is one of the brightest, most honorable, humble, and nicest people I know."

Drawing from his experiences with Judge Smith, Judge Clark said, "I have had the opportunity to observe Mr. Smith in numerous appearances in my court. Not only does Smith have the legal experience, the legal knowledge, and the analytical ability to address the issues he will be dealing with as a judge, but in his 30 years of experience he has acquired the virtues that come along with that kind of experience: Patience, understanding, courtesy, judgment, respect for others and their opinions."

Having grown up in Kern County and spending the majority of his years in practice here, Smith knows the county, its citizens and local issues and needs extremely well. The local bar and the County's residents are truly fortunate to have Judge Smith on the bench.

LEGAL WRITING

PRINCIPLE 6

by Joe Regalia

Principle 6: Highlight the Gold

Beginnings are everything in persuasion science. The beginning of your briefs will color everything else that comes after. Same goes for the beginning of your sections, your paragraphs—and even your sentences. Once your reader picks up your document they start making judgments about you. Some are explicit and some are implicit. And these initial ideas—these judgments about things like your credibility and competency—are nearly impossible to shake. The psychology literature is full of studies showing that even when faced with proof that we were wrong, we humans have a real problem changing our first impressions.

Some of the reason is that once we make initial judgments, we are constantly looking for evidence that we're right about them. This is known as confirmation bias. So if your reader spots a poorly written sentence at the outset, their mind can't help but look for more bad writing as they go. Also important is that those first sentences will spark emotions in your readers (either favorable or not). And studies suggest that sundry other biases (like our hatred of uncertainty, our reliance on imperfect information, and the effects of priming) all conspire to make the beginnings extra important.

Not surprisingly, the best legal writers know crafting strong beginnings takes extra care. Check out the below examples.

Let's start with a Judge on the 11th Circuit. Below is the first paragraph of her opinion. Note how she takes your assumptions about what a "felony battery" is and blasts them out of the gate. Note also the fantastic style: A well-placed colon, followed by two short conjunctions—and a well-balanced trio of sentences with a medium, short, and longer one to finish. Finally, the judge incorporates her theme: Felony battery is a term of art that should be defined by legal analysis and precedent, not gut reactions to what seems "violent."

No question about it: a crime called "felony battery" sure sounds like a violent crime. But sometimes intuition can be wrong. So we evaluate whether a crime qualifies as a crime of violence under the federal definition of that term of art by conducting legal analysis and applying Supreme Court precedent.

Here's an opening sentence from Judge Wood on the Seventh Circuit in the Brendan Dassey case. This is easily



the best sentence of her dissent. The theme is blaring: Dassey's confession was a script provided by police. And the style is excellent. It's also a great example of a long sentence done right. The phrases in between the punctuation are all well balanced and clear, with little room to get lost:

Psychological coercion, questions to which the police furnished the answers, and ghoulish games of "20 Questions," in which Brendan Dassey guessed over and over again before he landed on the "correct" story (i.e., the one the police wanted), led to the "confession" that furnished the only serious evidence supporting his murder conviction in the Wisconsin courts.

Or take this opening salvo from Judge Davis. Lots of pith and poignant examples to create a good first impression and get his key points across:

Our country has a long and ignominious history of discriminating against our most vulnerable and powerless. We have an equally long history, however, of brave individuals—Dred Scott, Fred Korematsu, Linda Brown, Mildred and Richard Loving, Edie Windsor, and Jim Obergefell, to name just a few—who refused to accept quietly the injustices that were perpetuated against them.

And to round things out, Circuit Judge Wilson. He makes his first impression here by leading off with some direct dialogue and a hypothetical that gets his readers thinking:

If, while walking down the street, you tap a jogger on the shoulder and the tap startles him, causing him to trip, hit his head, and suffer a concussion, have you committed a violent act? Most would say no. But if you punch the jogger and the punch causes him to fall, hit his head, and suffer a concussion, you have undoubtedly committed a violent act. The difference

between a non-violent and violent act, then, is the degree of force used. Both a tap and a punch are capable of causing great bodily harm, but a tap involves a limited degree of force while a punch involves a substantial degree of force. Or, in the words of the Sentencing Guidelines, a punch involves “physical force.”

Other Tips to Start Smart

Here are some other tips and strategies you can use to strengthen your starts.

- Write with incredible pith at the outset. Top legal writers put their best material in the start.
- On the flip side: No typos, odd constructions, or simply poor word choice or dense sentences.
- Try to counteract biases or assumptions your reader has.
- Figure out how you can incorporate key themes, facts, rule statements—or whatever else is most persuasive from your document.
- Consider how you can put your reader in the right emotional state.
- Direct dialogue can be a helpful tool to connect with your reader on a deeper level, too.

Starting strong in your legal writing is incredibly important. So try these techniques to write stronger introductions, section starts, and other beginnings throughout your legal documents.

Joe Regalia is a law professor at the William S. Boyd School of Law and co-founder of Write.law, a legal e-learning company for lawyers and legal professionals. Joe is a nationally recognized legal writing and technology consultant for law firms, courts, agencies, nonprofits, corporations, and other organizations. His research and teaching focus on legal writing, persuasion science, technology, and innovation.

Joe graduated first in his class at the University of Michigan Law School. He went on to clerk for the U.S. District Court and the U.S. Court of Appeals for the Ninth Circuit. Joe previously practiced at the international firms of Wilson Sonsini, Sidley Austin, and King & Spalding.



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