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Spring 2023
Alameda-Contra Costa
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Trial Judges of the Year



Justice Kelli M. Evans
Alameda County

Judge Leslie G. Landau
Contra Costa County



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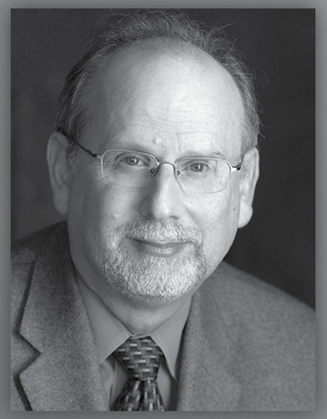

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Charles Dell'Ario has been representing individuals and small businesses in the California and federal courts since 1974. Beginning in 1997, Mr. Dell'Ario has specialized in appellate matters and has participated in over 250 appeals in the California Courts of Appeal, Supreme Court of California, Ninth U.S. Circuit Court of Appeals and the United States Supreme Court.

Fighting the Good Fight for Plaintiffs

Despite the limitations created by the pandemic, I continue to fight successfully for tort plaintiffs in the appellate courts. In connection with my trial lawyers, ACCTLA-member Todd Walburg and co-counsel Celine Cutter, I established the duty of public agencies to maintain their streets and roads free of dangerous conditions that would increase the risks of recreational cycling. Our client was grievously injured when her bike struck a large pothole, throwing her to the pavement. The defendant argued she had assumed the risk of its bad roads. (Williams v. County of Sonoma (2020) 55 Cal.App. 125.)

Former ACCTLA and CAOC president Micha Liberty and I have teamed to fight the cause of school children victimized on account of their disabilities. The Supreme Court of California granted our petition for review and will decide the issue of first impression whether the state Unruh Act applies to the 7 million public school children. The high court only grants about 55 of the 3,500+ petition it received each year.

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— Don't trust your appeal to just anyone! —

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from the editors


Ian A. Rivamonte


Winston W. Moody

The judicial branch has long been the most trusted branch of the government. However, society's trust and confidence in the judicial system have eroded. In 2022, a poll by the National Center for State Courts ("NCSC") found that public trust and confidence in state courts is 60%, the lowest since the organization began tracking in 2012. More importantly, less than half of the individuals surveyed believed that courts can deliver on the core promise of "equal justice for all."

This is unacceptable. The bench and bar are the links between our laws and our people. To deliver on the promise of "justice for all," judges and lawyers must work collectively to ensure that our court system remains strong and that the judiciary remains independent. Unfortunately, the NCSC survey makes plain that society's negative view of the judicial system is rooted in the ambivalence of many in the legal community to accept and seek to correct the shortcomings of the bench and bar.

During Judges' Night, Contra Costa Trial Judge of the Year, the Honorable Leslie G. Landau, delivered a heartwarming speech touching on how the bench and bar could work together to restore faith in the judicial system. In this issue of The Verdict, we printed the entirety of Judge Landau's speech about how we can make the legal system a place that "inspires confidence in fairness and justice."

This issue also introduces the newly appointed Supreme Court associate justice, the Honorable Kelli Evans, as the Trial Judge of the Year for Alameda County. Justice Evans has devoted her legal career to ensuring all individuals receive due process and equal protection under the law. As a trial judge, Justice Evans treated the litigants in her courtroom with dignity, fairness, and respect. Her judicial colleagues also praised her work ethic and professionalism.

Finally, this issue introduces some remarkable new judges — Shara Beltramo, Toni Mims-Cochran, Pelayo Llamas, and Tamiza Hockenhull Stone. In part, they share with us what motivated them to practice law and the challenges they faced as a lawyer and on the bench. ◆

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— Winston W. Moody is a partner at Gwilliam Ivary Chiosso Cavalli & Brewer, APC. His practice focuses on all aspects of employment law and personal injury litigation. He is dedicated to achieving the best possible results for every one of his clients in every case he handles. Mr. Moody can be reached at 510.832.5411 or wmoody@giccb.com.

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executive director's corner



Mariana Harris

I'm sure you know that ACCTLA is member driven. But what does that mean to you?

• It means if you have an MCLE that you'd like to see presented, let me know and I'll find someone to do a presentation.

• It means if you have some great knowledge you'd like to present as an MCLE, let me know and we can work with the MCLE Chairperson to make that presentation happen.

• It means the listserve is a safe space for you to ask questions and share knowledge with your fellow members. It means that if you want to see your name in lights, write an article for *The Verdict* and send it to me for possible publication!

• It means if you have something you want to see from ACCTLA or something you want to change, let me know and become part of the conversation. Get involved and help ACCTLA become *your* Association!

For futher information, please contact me at 925.257.2414 or acctriallawyers@gmail.com

from the president



Jennifer Fiore

As part of *The Verdict*'s tradition, this edition spotlights ACCTLA's 2023 Alameda and Contra Costa Counties Judges of the Year. I would like to thank all the organizers, attendees, honorees and speakers for making the 2023 Judges' Night such a memorable and inspiring event.

It was extraordinary to hear from keynote speaker, California Supreme Court Chief Justice Patricia Guerrero; Alameda Judge of the Year, newly-appointed California Supreme Court Associate Justice Kelli Evans; and Contra Costa Judge of the Year, Leslie Landau. There is much hope for the future of justice and our courts, and more we can accomplish together. Particularly, if we follow Judge Landau's guiding principles: integrity matters, decency matters, and perspective matters. Part of that perspective from my point of view as a civil trial attorney is recognizing that we're still making up for lost access to jury trials due to the pandemic. Many litigants remain in limbo waiting for their day in court. A modicum of grace and understanding on all fronts goes a long way as we all do our best to keep the wheels of justice moving.

The Verdict would not be possible without the significant efforts of our editors, Winston W. Moody and Ian Rivamonte. ACCTLA appreciates your contribution as well as that of all members who volunteer their time and skill to this great organization.

I am honored to be serving as your president and look forward to expanding ACCTLA's reach and commitment to diversity and inclusion. I'd also like to provide programs and tools that best serve our members and their clients. Please reach out with your ideas or suggestions. The proverbial door is open and your input is welcome. ◆

— Jennifer Fiore is a trial attorney and shareholder with Fiore Achermann, where she focuses on catastrophic personal injury, wrongful death, public entity liability, sexual abuse, maritime and other torts. She can be reached at Jennifer@theFAfirm.com

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Alameda County Trial Judge of the Year

Justice Kelli M. Evans



by Ian A. Rivamonte and Megan T. Burns

Before Governor Gavin Newsom appointed her as an associate justice of the California Supreme Court on January 2, 2023, the Honorable Kelli Evans had been a judge in the Alameda County Superior Court since 2021. When she was on the bench in Alameda County, Justice Evans presided over criminal and civil matters, including some of the most challenging court calendars. However, she handled these jam-packed calendars smoothly and efficiently. Most importantly, Justice Evans allowed each litigant to be heard and treated fairly. This is unsurprising because of her commitment to substantive and procedural justice.

As ACCTLA Board Member Megan Burns noted during her introductory remarks at Judges' Night, Justice Kelli Evans "truly needs no introduction." Justice Evans has had an illustrious career in public service. Indeed, the Commission on Judicial Nominees Evaluation ("JNE") said in its report that "Judge Evans' nearly 30-year legal career in both criminal and civil law has been marked by excellence and a demonstrated commitment to ensuring that all individuals receive due process and equal protection under the law."

Before her appointment to the California Supreme Court and the Alameda County bench, Justice Evans already had an impressive legal career. She has defended the civil rights of others through her work at the Sacramento County Public Defender's Office, the American Civil Liberties Union, Equal Rights Advocates, and the Civil Rights Division of the United States Department of Justice. Also, Judge Thelton Henderson of the United States District Court for the Northern District of California appointed Justice Evans to oversee the implementation of the consent decree resolving claims against the Oakland Police Department for its members' systematic civil rights violations. Justice Evans also served the State of California as senior director for the administration of justice at the State Bar of California, as the special assistant attorney general to California Attorney General Xavier Becerra, and as chief deputy legal affairs secretary to Governor Gavin Newsom. And Justice Evans has sat on the governing boards of numerous non-profit organizations.

When she was a judge in Alameda County, Justice Evans presided over various matters, from small claims and civil harassment to criminal diversion calendars. Her fellow judicial officers praise her clear written decisions and willingness to help in areas outside her assignments.

Despite her short stint as a judge in Alameda County, Justice Evans made a lasting impression among her fellow judicial officers and the attorneys and litigants who appeared before her. For example, Justice Evans took the time to provide some positive affirmations to defendants in her courtroom. Indeed, one defendant in particular really took Justice Evans' positive feedback to heart. This individual showed up in Justice Evans' courtroom and sat there all morning to tell Justice Evans that she had recently gotten a job.

On November 10, 2022, JNE voted unanimously to approve Justice Evans' nomination to the California Supreme Court. Her appointment has further diversified the California Supreme Court. With Justice Evans, our Supreme Court now comprises three African-American associate justices. Additionally, Justice Evans is the first openly LGBTQ woman to serve on the court.

While a trial judge in Alameda County, Justice Evans treated the litigants who came before her with dignity, fairness, and respect. Thus, it is only fitting that ACCTLA awarded Justice Evans as Alameda County's Trial Judge of the Year. ◆



— Ian A. Rivamonte is an associate with Kazan, McClain, Satterley & Greenwood. He and his office represent persons afflicted with terminal mesothelioma because of their exposure to carcinogenic asbestos. He can be reached at 888.887.1238 or irivamonte@kazanlaw.com.



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Contra Costa County Trial Judge of the Year

Hon. Leslie G. Landau



by Ian A. Rivamonte

On January 19, 2023, ACCTLA recognized Judge Leslie G. Landau as the Trial Judge of the Year for Contra Costa County. The bench and bar of Contra Costa and Alameda Counties came out in full force to applaud Judge Landau's well-deserved and monumental achievement. After the introductory remarks from ACCTLA Board Member Scott Lantry, Judge Landau talked about her judicial experience and thoughts on how the bench and bar can contribute to the betterment of the legal system. ACCTLA would like to share Judge Landau's moving speech for Judges' Night.

I am touched and humbled to be honored tonight. And I have to say, it is particularly poignant to receive this award now, as I approach my 40th year in law, my 20th year on the bench. I am looking at retirement later this year. What a wonderful occasion to reflect on what I have seen, learned, and hope for in the law.

If you do the math — 40 years in law, 20 on the bench — I was an attorney for 20 years. That makes me a recovering lawyer. Or, as a former big law partner, in the view of this gathering, a recovering defense lawyer.

And how life and the law have changed since I started this odyssey in law school in 1980. I never had a woman law professor. Or a law professor of color. There had never been a woman on the Supreme Court; Sandra Day O'Connor was nominated when I was a second-year law student. I began working at the late great McCutchen, Doyle, Brown & Enersen in 1984 and never worked for a woman partner in my entire time as an associate. But things began to change. I made partner in 1990 — and for the first time ▶

Alameda-Contra Costa
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GETTING A WINNING VERDICT IN YOUR PERSONAL LIFE

Whoever said the life of a lawyer would be easy? Whether we are coming home after dealing with a difficult client, addressing challenges in our cases, or spending a long day in the courtroom, we are constantly dealing with stressful situations. In this one our lunch session, our own Gary Gwilliam will explore the difficult topics of mental health, stress management and substance abuse. Mr. Gwilliam has written authored a memoir titled: *Getting a Winning Verdict in My Personal Life: A Trial Lawyer Finds His Soul*. He shares his personal journey of addiction in the hopes that he can help other attorneys dealing with similar issues. You will not want to miss it.



Gary Gwilliam is considered one of the best consumer trial attorneys in the state. His reputation and skill in representing seriously injured plaintiffs is well known. He has tried over 180 jury cases, of which almost 150 were plaintiff civil personal injury cases. He has handled major cases in every area of consumer law, including serious automobile and construction accidents, products liability, medical malpractice, bad faith insurance, civil rights, wrongful termination and employment discrimination and harassment. A noted lecturer and motivational speaker, he has conducted seminars and workshops around California and the United States. He frequently lectures on the topics of substance abuse, stress reduction, improving the quality of life as well as topics related to his practice, and is the author of numerous articles on California consumer law. He has also authored the memoir *Getting a Winning Verdict in My Personal Life: A Trial Lawyer Finds His Soul.*

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Susan Kang Gordon is an attorney based out of Orinda, California. She specializes in the area of elder and dependent adult abuse and neglect. She speaks locally and nationally on the issues affecting the elderly and dependent adults.



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that year, more women were in the new partnership class than men. Of course, three of us were named Randy, Sandy, and Leslie, and we always wondered if the partners just thought we were men. But that was the beginning of doors being kicked open, glass ceilings shattered. Eight years later, my son Sam, then seven, asked me, "Mom, can men be lawyers?" I knew then that things really were changing.

I picked the right place to be in big law — a firm with a deep commitment to excellence, community, diversity, integrity, and giving back. I did a lot of pro bono work for Planned Parenthood, the Jane Goodall Institute, Equal Rights Advocates, [and] other women's organizations. I argued a death penalty case. I worked on cases involving political asylum and gay rights. It was a great ride. But I never meant to stay in Big Law. I figured I'd pay off my loans, get some training, and then move to the public interest. To make people's lives better. To increase access to justice.

The best decision I ever made — other than to marry Jim and have our two boys — was to leave law practice for the bench. I love being a Superior Court judge. Each day I look forward to going to work, knowing I will be challenged and engaged. It is hard work, often heartbreaking, sometimes amusing, but always interesting. I make decisions that affect real people every day. I couldn't be the judge I am without my wonderful bench colleagues. You could not hope for a more committed, smart, warm and supportive group of people.

Our bench has evolved with our world. When I was appointed, men outnumbered women, and there were few judges of color. None were openly gay. Today, our bench officers are well over 50% women and reflect the rich diversity of our community. It is a sign that a lot is working in the law.

Of course, not all developments in the world of law have been good. Attorneys have been derided since time immemorial; since Shakespeare said, "the first thing we do, let's kill all the lawyers." It is perhaps an inevitable hazard of an adversarial system. But judges used to be revered. Clearly, not so much now. Judges are threatened. We are attacked on websites. We are stalked. Federal judges are assumed to be biased, identified in news reports by the president who appointed them. Respect for the U.S. Supreme Court is at an all-time low.

It is heartbreaking, as a judicial officer, to see all of that. The judges I know all take their oath of office seriously. When we raise our right hand and swear to defend the Constitution, we mean it.

So how do we restore faith — both in you lawyers and in us judges — and use law for good? None of us can change the zeitgeist of the country, of the world. But in our small way, person to person, we can make change.

I have spent most of the last 10 years on the bench in some of the toughest assignments. Family law, where parties are hurting, sometimes afraid, often self-represented, and usually struggling financially and emotionally. Juvenile, where kids are caught in terrible situations, and often the best decision is the least bad decision. It has given me a rare glimpse into how people live in our community — a view I never had from my 25th-floor office in the Embarcadero Center, a view that most of us here have little occasion to see. And it has given me a hard education in how, sometimes against the odds, to do right by everyone, and especially people who may not appreciate your efforts. So here are my two cents, as a judge with almost 20 years of time handling thorny personal cases, on what I have learned that may help us all make the legal system some place that inspires confidence in fairness and justice.

Integrity matters. As a lawyer. As a judge. As a person. We have seen too many cases where people have not been straight with the court, with the public, with the press, and with themselves. Our word is our bond. If we say it, it must be true. If we advocate it, it must be right. Always.

Decency matters. Treat other people with respect. Do right by them, even if they are opposing us, even if they are difficult. We all remember the opposing counsel who treated us poorly. Don't ever be that person. The more challenging the situation, the more important it is to be decent. Recognize that if someone is being difficult, it probably means it is difficult being them. Channel my mom. She is 88 years old and still playing tennis, if you can believe it. She has a magnet on her refrigerator that says, "be a little kinder than necessary." We can all vow to do that. Even with opposing counsel and parties. Even with annoying judges.

Perspective matters. When I took the bench, I thought I had been in the world. Boy, was I wrong. We in this room are so fortunate, so crazy fortunate. We have stable housing, heat, and transportation. We have access to healthy food and access to health care. We are educated. When we speak, we are heard. Many people don't have those things. Don't take them for granted. Part of appreciating all we have is to commit to giving back, which brings me to access to justice.

Access to justice matters. Not everyone who needs the help of the legal system has real access to it. Sure, people can represent themselves. And we have self-help programs to assist them. But most people have overwhelming challenges — economic challenges, language challenges, educational challenges, cultural challenges, health and mental health challenges — that keep them from the justice they need and deserve.

There is so much everyone here can do. Here are just a few ideas:

• Obviously, the lawyers here can represent people who may not be able to pay. You all probably do a lot of that. Resolve to do more.

• Look for volunteer opportunities where your skills can be used to help people who are not represented. The Bar has programs in all corners of the law. Just one example: Many of the lawyers here have served as settlement mediators in our court, helping self-represented litigants resolve their family law disputes. We so value your expertise and commitment, as do the families you help to move on with their lives. If you speak another language, look for chances to use that gift; nothing better increases access to justice than helping people navigate the law in their own language.

• Help the next generation to understand the law, engage with the law, maybe enter the law. Mentor kids in your local law academy. Mentor college students considering a career in law — especially young people who may be first-generation college students. Coach or judge mock trial competitions. Talk to school children about the law or lead tours of the courts for fifth and eighth graders. Volunteer as a CASA for a foster child; you can save a life.

Those are just a few ideas. There are many other opportunities. Let's all commit to taking up the mantle, to find a way to give back that is meaningful to us and to those around us, and improve life in the law and in our community.

I have been so very, very lucky to have had the family I have had, the career I have had, the colleagues I have had, and the life I have had. It has been a privilege of a lifetime to serve on the Contra Costa Bench, in a community I love, doing work that is meaningful. And I am so very grateful for this honor tonight. Thank you all. ◆

— Ian A. Rivamonte is an associate with Kazan, McClain, Satterley & Greenwood. He and his office represent persons who are afflicted with terminal mesothelioma because of their exposure to carcinogenic asbestos.

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Cassie Springer Ayeni has handled plaintiff-side ERISA litigation, claims, and appeals since 2002, with a focus on disability employee benefits. She has been recognized on the *Northern California Super Lawyers* Top 100 and Top 50 Women lists. She was named a "Top 40 under 40" *Daily Journal* attorney in 2014, and a *Recorder* Top 50 Attorney "On The Fast Track" in 2012. She is proud to serve on the ACCTLA Board.



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Hon. Shara Beltramo



by Winston W. Moody

Governor Gavin Newsom recently appointed Shara Beltramo to serve in the Contra Costa County Superior Court. Judge Beltramo brings to the bench her experience as a deputy district attorney in Alameda County, as well as private practice experience with Morrill Law, a boutique trust and estate litigation law firm. Judge Beltramo succeeds Judge Steven K. Austin.

What motivated you to become an attorney?
It was a combination of things that led me to pursue a career in law, and specifically a career as a litigator. From a young age, I participated in the performing arts and really enjoyed performing in front of audiences. In high school, I was engaged in student government and enjoyed studying U.S. history and government. My uncle was also a trial lawyer and he often shared stories with me about his cases and experiences in the courtroom. My background in the performing arts, my uncle's influence on me as well as my desire to find a profession that would allow me to help others led me to pursue a career in the law.

What were the most challenging aspects of your work as a Deputy District Attorney in the Alameda County District Attorney's Office?
For both the prosecution and the defense, handling criminal matters can be stressful because of the subject matter and the large and serious effect criminal cases can have on those involved. While working as a prosecutor in Alameda County, my caseload was often voluminous and the nature of my cases were often serious. I put a lot of pressure on myself to make sure I handled my cases in an ethical, professional and compassionate manner. This often led to working evenings and weekends so that I was well prepared. The heavy and emotional subject matter of these cases also took a toll on me. Learning to manage the stress of such a large caseload was the most challenging aspect of being a prosecutor in Alameda County.

What are the challenges of being a new judge?
I feel incredibly fortunate to have the opportunity to serve my community as a judicial officer. Being new to any job can be stressful and there is always a learning ▶

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John T. Martin has presented this seminar to hundreds of attorneys at multiple Associations with 16 years experience as a Motorized Forensic Expert in over 800 litigation cases both civil and criminal. He is ASE, MAP, OSHA certified and a Certified Crash Data Retrieval Specialist with 35 years hands-on experience in virtually every aspect of automotive and truck repair, maintenance and Instruction. His expertise includes Motorcycles, RV's, Semi's, Trucks, Tractors, Tesla and Off Road Vehicles. Through his company, Blue Eagle Associates, John provides Collision and Mechanical Inspections, Crash Data Retrieval & Analysis, Expert Witness Services and Litigation Support in the all areas of motorized vehicle Collisions, Rollovers, Property Damage, Repair Analysis, MIST cases, Mechanical Issues, Substandard Repairs, Tires, Seats, Belts, Airbags, Product Failures, Fires, Bad Faith Insurance, Lemon Law, and Vehicle Locator Services.

Moderated by:
Scott J. Lantry is a Certified Specialist in the field of Family Law with the law firm Whiting, Ross, Abel & Campbell, LLP. Mr. Lantry is currently serving on ACCTLA's Board of Governors as co-chairperson of Continuing Education.



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curve, but this community has been tremendously welcoming and helpful. One challenge I have faced since joining the bench is learning the differences between how cases are handled in Contra Costa County versus Alameda County. I am learning how each county has a unique way of handling cases. During my first few weeks on the bench, I have leaned on my fellow judges, courtroom staff and attorneys to help get me up to speed on the procedural differences amongst counties. I am also pretty good with faces, but not as great with names, so it has been challenging learning the new names of the numerous attorneys appearing before me in court. I hope the parties who appear in front of me will be patient with me and, with time, I will make sure to know everyone's name.

What are the most valuable lessons you learned in private practice?
One of the most valuable lessons I learned during my time working in private practice was the experience and responsibility of representing a client. Prior to working at the firm, I had only worked as a prosecutor and never represented a client; however, my time working in private practice allowed me to represent clients from the start to the end of litigation. It taught me the importance of ensuring my clients felt heard and well represented. My time working in private practice also allowed me to engage in civil discovery, an aspect of the law that I had never done prior to joining the firm. The experience of representing clients and learning the art of civil discovery were valuable experiences that will serve me well as a judicial officer.

What experience best prepared you for your work as a judge?
Appearing in court almost daily is what best prepared me for my new role as a judicial officer. It allowed me to watch other judges and learn how they run their courtrooms. It taught me how to think on my feet when issues arose in a trial or a preliminary hearing. It taught me how to manage and work with different personalities within a courtroom. My experience in the courtroom as an attorney was invaluable and helped make my transition to the bench a little easier.

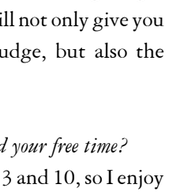
Aside from becoming a judge, what do you consider to be your greatest accomplishment in your career?
As I discussed, handling criminal cases and the heavy subject matter can take its toll on those involved, including the lawyers. After the passing of several members of my former office, I co-founded the Peer Support and Wellness Program at the Alameda County District Attorney's Office. I became a trained peer support counselor and I helped about 30 other members of the office become trained as peer support counselors as well. It was important to me to make sure every employee had someone to talk to who would understand the unique stress those working in this area of the law often feel. Creating such a program was my greatest accomplishment prior to being appointed to the bench.

What advice would you give an attorney who would like to become a judge?
I would advise an attorney who wants to become a judge to obtain as much courtroom experience as you can, either as a litigant or as an observer. Being in a courtroom on a regular basis will give you a sense of whether being a judge is something you believe you could do and do well. It will also give you the opportunity to observe a variety of judges, which will help you decide whether the path to the bench is the right path for you.

What advice would you give to an attorney appearing before you?
Always be prepared. As the attorney, you should know the case better than anyone in the courtroom. You should figure out the weaknesses of your case ahead of time and be prepared to respond to those weaknesses. If you have a unique legal issue, provide the court with caselaw to support your argument. Also, learning to pick which battles to fight while litigating a case is important. It will not only give you credibility with the judge, but also the jury.

How do you like to spend your free time?
I have two sons ages, 13 and 10, so I enjoy spending most of my free time at their various sporting events. I also like to hike, read and spend time with my fiancé and friends.

What do you enjoy about Contra Costa County?
I enjoy the people of Contra Costa County. Not only do I work in Contra Costa County, but I also live in Contra Costa County. I feel very fortunate to be surrounded both at work and at home by people who share a sense of community, who are friendly and who want to help and support each other. I would not want to live or work any place else! ◆



— Winston W. Moody is a partner at Gwilliam Ivary Chiosso Cavalli & Brewer, APC. His practice focuses on all aspects of employment law and personal injury litigation. He is dedicated to achieving the best possible results for every one of his clients in every case he handles. Mr. Moody can be reached at 510.832.5411 or wmoody@giccb.com.

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Hon. Pelayo Llamas



by Ian A. Rivamonte

On June 7, 2022, the Honorable Pelayo Llamas was elected as a judge in Alameda County to fill the vacancy created by the retirement of Judge Delbert Gee. As a result of Governor Gavin Newsom's interim appointment, Judge Llamas immediately resumed the position he was otherwise elected to begin in January 2023. In a county and state with a significant Filipino population, Judge Llamas' election and subsequent appointment to the bench are truly historic because he became the first Filipino-American judge in Alameda County.

Public service is in Judge Llamas' blood. His grandfather, Don Vicente Llamas, worked in government service while the Philippines was a Spanish and American colony. Judge Llamas' father, Pelayo F. Llamas, was a career diplomat and retired as a Philippine ambassador to Argentina. Even the husband of Judge Llamas' aunt, Carlos P. Romulo, was a decorated soldier who served with General Douglas MacArthur during World War II and later became the first Asian to serve as the President of the United Nations General Assembly.

Despite his lineage, Judge Llamas initially did not envision being a public servant, let alone anywhere near a courtroom. When he started law school at Santa Clara University, Judge Llamas intended to practice business, real estate, and transactional law. However, in his second year, Judge Llamas was a summer law clerk for the Santa Clara County District Attorney's Office and found it "incredibly fun" to be in the courtroom. After several years in private practice (civil litigation) and a short stint as a solo practitioner, Judge Llamas spent most of his legal career at the Oakland City Attorney's Office. After 19 years as a Deputy and Senior Deputy City Attorney, Judge Llamas wanted to have a more significant impact on the community. In 2019, Judge Llamas served as a Commissioner at the Alameda County Superior Court and became the first Filipino-American judicial officer in Alameda County. Now, Judge Llamas runs a criminal calendar at the Wiley Manuel Courthouse in Oakland.

In his spare time, Judge Llamas enjoys repairing and riding his vintage motorcycles. Indeed, he regularly participates in Moto Melee, a three-day, 850-mile backroads adventure for pre-1971 motorcycles.

How does one become a judge, like Judge Llamas, in the first place? Alameda County and other courts throughout California launched the Judicial Officer Mentorship Program to demystify the process. Mentee attorneys are paired with a mentor judge who will discuss the prospective applicant's career objectives, answer questions, and provide guidance regarding the judicial application process. Further, the State Bar of California's Rules and Procedures of the Commission on Judicial Nominees Evaluation ("JNE") shed further light on the judicial investigation and appointment process.

> Even the husband of Judge Llamas' aunt, Carlos P. Romulo, was a decorated soldier who served with General Douglas MacArthur during World War II and later became the first Asian to serve as the President of the United Nations General Assembly.

Judge Llamas certainly has the legal experience and acumen to be a judge. Beyond that, Judge Llamas suggests potential judicial candidates get involved with their local bar associations and community activities. Judge Llamas reasoned, "because you are appointed as a member of the community, you must relate to the community that you're going to serve." Further, your reputation as a legal practitioner precedes you. When practicing law, you "must act with integrity and balanced judgment" because JNE looks for those qualities when they evaluate judicial candidates. Thus, it is unsurprising that Judge Llamas was elected and later appointed as an Alameda County judge because his career has been based on integrity, fairness, and experience.

If you ever find yourself in Judge Llamas' courtroom, make sure you are prepared and persuasive: "Besides presenting evidence and meeting their burden of proof, lawyers forget that they have to persuade the decisionmaker." Judge Llamas suggests that lawyers should "stick to contentious points. That way, they don't lose sight of the judge's questions." And ad hominem attacks on opposing counsel are never persuasive. Judge Llamas commented that such remarks are "a waste of space on the papers and start to erode your credibility."

Judge Llamas sees himself in the "customer service business": "My role is to serve the people here. My life experience helps me do that."

ACCTLA welcomes Judge Llamas to the Alameda County bench! ◆

— Ian A. Rivamonte is an associate with Kazan, McClain, Satterley & Greenwood. He and his office represent persons afflicted with terminal mesothelioma because of their exposure to carcinogenic asbestos.

Hon. Toni Mims-Cochran



by Winston W. Moody

Judge Toni Mims-Cochran is a Bay Area native, born in San Francisco and raised in Oakland. She attended Chico State University where she was active in the student law program and moot court. After graduating from the San Joaquin College of Law, she worked as a staff attorney at the Eviction Defense Center before opening her own practice in Oakland. She then served as a Commissioner for the Alameda County Superior Court prior to Governor Gavin Newsom appointing her to serve as an Alameda County Superior Court judge.

What motivated you to become an attorney?
I always wanted to be an attorney. I can't explain the motivation, I just did. As a child I was always the person who protected others. It seemed very natural to me to speak up or advocate for someone who could not. In college, I experienced a personal tragedy, and while this event could have derailed my dream, instead it motivated me to take definitive steps forward. While I always wanted to be an attorney, my loss motivated me to be more intentional about my educational decisions and activities.

What were the most challenging aspects of your work as a Commissioner at the Alameda County Superior Court?
As an attorney in private practice for 16 years, I represented tenants in unlawful detainers, parents or children in juvenile dependency proceedings and children in family law proceedings, among other things. Additionally, I served as a Pro Tem for the Court, and was extremely active in the legal community; therefore, transitioning from attorney to Commissioner seemed like a natural progression of my career.

The most challenging aspect of my work as a Commissioner came during the Covid 19 pandemic. The Court had to respond to an unprecedented world-wide ▶

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pandemic while continuing to provide access to justice to the community. In response to the pandemic the Court initiated technological advancements that may have taken 10 years or longer to implement under normal circumstances. My colleagues and I all stepped out of our comfort zones and held court where we could. Our homes became our courtroom and, as a result, we expanded the boundaries of a traditional courtroom. While I look forward to the day when we can all see each other in person again, it is my hope that we continue to embrace technology for the benefit of the community we serve.

What are the challenges of being a new judge?
Fortunately, I had the benefit of serving as Commissioner for six years prior to my appointment which gave me the opportunity to grow as a judicial officer and prepare for consideration of judicial appointment. In some respects, I see my appointment as a continuation of my service with permission to do so in a greater capacity.

Part of the challenge of being a new judge is presiding over a department that is outside of your practice experience, but I welcome the challenge. Judges have numerous training resources available through the Judicial Counsel. However, the most valuable resource we have is the experience and knowledge shared by our judicial colleagues, and Alameda County is fortunate to have a bench that is rich both in experience and diversity. While uncertainty — or the unfamiliar — is challenging, we serve at the pleasure of the Court and go where we are needed.

What are the most valuable lessons you learned a sole practitioner?
In my practice, I was the attorney, office manager, staff, IT, and everything else. I was in court, almost daily, for both the morning and afternoon sessions. If I wasn't in court, I was in my office and, as a result, being a sole practitioner can be very isolating.

I became active in the legal community because it's important to give back to our community in any way we can, but I also wanted to force myself out of the office. I learned that there is more to private practice than the daily grind of court and everything that goes along with an active practice. Balance is important. Setting healthy boundaries and prioritizing your time is important and good for you. I started by joining the Alameda County Bar Association, and later Women Lawyers of Alameda County and California Women Lawyers. I was able to serve in a leadership role in all three organizations but, more importantly, I established relationships with amazing people who are still very dear to me and who have been supportive throughout my career.

What did you learn from your work as an attorney at the Eviction Defense Center (EDC)?
My position as a staff attorney at the EDC was an invaluable learning experience. I had the pleasure of representing tenants defending unlawful detainers in Alameda and Contra Costa County. I gained my initial litigation and trial experience while working as a staff attorney at the EDC and developed my own style of representation. I learned, in order to be effective, I had to litigate in a manner that was consistent with my personality; I couldn't imitate someone else.

The Executive Director, Anne Omura, was an amazing mentor and friend. Each week we appeared for settlement conferences and jury trials at a time when demanding a jury trial for unlawful detainers was discouraged. Each week, we gave our clients 100% with limited staff and resources but, no matter what happened the prior week, we would start the next week with renewed energy and resolve. Representing tenants was challenging and meaningful work, but at the EDC it was like working with family. ◆

— Winston W. Moody is a partner at Gwilliam Ivary Chiosso Cavalli & Brewer, APC. His practice focuses on all aspects of employment law and personal injury litigation. He is dedicated to achieving the best possible results for every one of his clients in every case he handles.

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Hon. Tamiza Hockenhull Stone



by Angelina Austin

Tamiza Hockenhull Stone was elected to be a judge of the Alameda County Superior Court in June of 2022. Judge Stone was invested and assumed office on January 3, 2023. She ran unopposed for one of three available judicial seats. She was the only female judicial candidate on the ballot and election results show that she garnered more votes than her male counterparts who also ran unopposed.

Prior to her election, Judge Stone served as a Commissioner for the Alameda County Superior Court since February of 2016. From 2015 to 2016, she served as an Administrative Law Judge with the California Board of Parole Hearings. From 2014 to 2015, Stone volunteered as a Judge Pro Tem for the Alameda County and San Francisco Superior Courts. From 2005 to 2007, she worked as an adjunct professor at U.C. Hastings. She also served as a state commissioner for the Fair Employment and Housing Commission from 2006 to 2008. Stone began her career as an attorney working at the San Francisco City Attorney's Office from 2001 to 2005 before opening her own law firm where she practiced Civil, Criminal, Family and Juvenile law from 2005 to 2015. Stone is an alumna of Golden Gate University School of Law.

Judge Stone comes from a family dedicated to public service. Her mother taught elementary and middle school in Oakland and her father was a Naval lieutenant. Although the judge is bay area native, she spent her formative years in Guam, where her father was stationed. As a result, she considers herself an island girl of sorts. After returning to the bay area, Stone went on to attend high school at James Logan High School in Union City. There she became a member of the inaugural team of *Forensics*, the nationally renowned speech and debate team coached by Dr. Tommie Lindsey, Jr. She quickly discovered that she excelled at extemporaneous debate — a form of debate where competitors are given a "library" ▶

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to study for 30 minutes and must create a speech based on the provided materials. During her time with *Forensics*, Stone became a highly decorated competitor.

Judge Stone attended U.C. Berkeley for undergrad, majoring in Political Science. Her chosen major was a direct consequence of her desire to practice the law. Her mind had been set on becoming an attorney since she was a child, so when Stone found herself on the same campus as Boalt Hall, Berkeley's law school, she took advantage of the opportunity. Without an appointment, she walked into the admissions office and asked to speak with an admissions officer about what steps she needed to take to realize her aspirations.

After graduating from Berkeley, Stone went on to attend law school at Howard University, ultimately graduating from Golden Gate University School of Law in San Francisco. Stone describes the beginning of her law school career as a homecoming of sorts and still recalls feeling as if she had landed where she knew she had always belonged during a Constitutional Law class. Still, her first semester was not without its challenges as she learned how to juggle being a wife, mother and law student. Dissatisfied with a "B" average in her first semester, Stone was determined to improve her performance. The next semester, she attended multiple study groups, preparing for each class with a rigor that undoubtedly became the foundation for her path to the bench. Stone's fortitude was rewarded with academic accolades and opportunities to compete in Moot Court competitions, write for the law review, and TA for Constitutional Law and Civil Procedure courses.

The hunger for knowledge and challenging experiences that had defined her law school career did not abate upon graduation. Stone's legal career, which spans over 23 years, has been anything but typical. She has had the unique experience of being an educator, an advocate and a neutral. According to Stone, it is her vast and varied past experiences that have prepared her for assuming the bench. To further introduce the members of ACCTLA to Judge Hockenhull Stone, here's some more information about her path to the bench, her likes and dislikes in the courtroom, and what she does when she is not on the bench.

What motivated you to become an attorney?
Growing up, my godfather was an attorney. Other than that, my only exposure to the legal field was what I saw in the media, the movies I was exposed to, the books I read as I grew up — like, "To Kill a Mockingbird" by Harper Lee. As a young person, my motivation was very pure — I just wanted to help people. Back then, I thought that the best way to help people was to become a doctor or a lawyer. It just so happened that I excelled in academic areas that lent themselves well to the practice of law. For example, I was a natural writer and I had strong communication skills. A real turning point happened for me in high school. I was in the Honors and AP program in high school. My AP History teacher showed the class the entire "Eye on the Prize" series, which documents the history of the civil rights movement in America. I was inspired by the role the courts played in people's lives and how it protected the rights of our citizens.

Did you always want to be a judge?
By the time I was in college, yes, I knew I wanted to be a judge. I had done my own independent research into different attorneys who had become judges. Thurgood Marshall was one of my heroes. I planned to follow in his footsteps. So, I researched the path to becoming a Supreme Court Justice.

What judges and justices do you most admire? What traits of theirs do you hope to emulate?
I admire the Hon. Gail Brewster Bereola (retired). She approaches each case with the same focus. Judge Bereola takes her time, is methodical, thoughtful, and prepared. I also admire the newly confirmed California Supreme Court Justice Kelli Evans. I had the opportunity to work with her on same team for a period of time while she was on the bench in Alameda County. I found her to be smart, very thorough — and like Judge Bereola — thoughtful and methodical about what she does. I hope to emulate all of these traits in my courtroom.

What are you most looking forward to in your new role on the bench?
I am looking forward to more challenging assignments. I became an administrative law judge in 2015. So I have not practiced law since then. For the last six years, I have been working as a Commissioner. As a Commissioner, I am used to dealing with a high volume of cases, but they did not vary much. Currently, I am assigned to Family Law, which feels very new and every case is quite unique. I'm looking forward to the challenges that will bring.

What experiences best prepared you for your work as a judge?
I think each of my previous work experiences has prepared me for the work I do as a judge. As a practicing attorney I've held different positions over time, including the Deputy Attorney at the San Francisco City Attorney's Office. I worked at a private civil practice and had my own law firm where I practiced juvenile dependency, family law, criminal law, civil law and estate planning. In addition to being an Administrative Law Judge and a Commissioner, I also ran a court appointed program for ▶

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Alameda Superior Court and worked as an adjunct professor U.C. Hastings teaching Moot Court and Legal Research and Writing. As a result of these experiences, I have become more multifaceted, a quality I think is invaluable in my work as a judge.

How do you prepare for a case over which you preside?
I give each case the attention it deserves: I read the record, I take notes, I print out what I need, and I do my own legal research into the issues.

What are your top pet peeves in the courtroom?
Most of my pet peeves stem from the fact that I believe in the formality of the courtroom. One of my biggest pet peeves is talking over the judge. Oftentimes, when an attorney is speaking, I have to interrupt to ask questions. I dislike it when attorneys continue talking or attempt to interrupt me while I am speaking. In my courtroom, when the judge is speaking, everyone else needs to stop talking. I believe this practice makes it easier for the court reporter and lends to a good record of the proceeding.

Another pet peeve of mine is when attorneys speak out in the courtroom to alert me to their presence after we have already taken role based on the calendar that day. Again, this is part of the decorum and formality of the courtroom. If you haven't been invited to speak by the judge, then sit and wait until your case is called. I know who is present in my courtroom because we've taken roll in advance of the calendar.

What differentiates a good lawyer from a great one?
The level of preparedness is what differentiates a good lawyer from a great one. This is evident in their understanding and familiarity with the case and the issues. Being well prepared does not always mean you should take a kitchen sink approach. If you are presenting a motion or having a trial on specific issues, the evidence you are seeking to admit or present should be directly related to those issues. Precision is also a hallmark of preparedness.

What advice do you have for new lawyers?
Find a good mentor — they are invaluable. Also, there is no such thing as being overly prepared.

What is the best thing about being a judge?
Not being an advocate. The best thing about being a neutral is that you are not in the fight. That gives you more clarity on the issues. Because you are not in the fight, you can better see the solutions within the law.

What is the hardest part about being a judge?
Rendering a decision. Not that it is difficult to decide. The law, the facts, and the evidence are ultimately what guide your decision. But understanding that your decision impacts a family; that there is a ripple effect of ruling: It's a burden the judge carries. I don't take it lightly.

If you were not in the legal profession, what would you love to do for a living?
I would teach. I think being a college history professor would be my preferred non-legal career.

What advice would you give to lawyers who aspire to be a judge?
Be open to opportunities that present themselves. Expand your knowledge of different areas of law where possible. Attend CLEs and attend training courses in areas of law that you are not familiar with to become a more diverse candidate.

How do you like to spend your free time?
I spend most of my free time with my family. If I am able to travel, I love island destinations. When I am home, I enjoy hiking. I also like to read for enjoyment, so I am part of a book club.

What do you enjoy about Alameda County?
Alameda County is so special to me. I consider myself a daughter of Alameda County. It's my home. It's where I grew up. I was educated in Alameda County. I raised a family here. I love the diversity of our county because it is a true melting pot. As a result, we are exposed to different ideas, different traditions, and different cultures. My family loves ethnic foods — Mexican, Chinese, Indian — the list goes on! We are fortunate to have such easy access to all of this in our own backyard. It's all because of the diversity of Alameda County.

What do you hope your legacy will be?
It is my hope to do as good a job as judges who mentored me and have since retired. I occupy the seat of an African American woman judge who mentored me for years. When she asked me to run for her seat, it felt like the passing of the baton. I want to carry the baton a little further. I hope to run this leg of the race and take the baton as far as I can go before passing it on to the next. I mentor a diverse group of people and I am always hoping someone will take it from me one day and keep on running. ◆



— Angelina M. Austin is an associate with Gwilliam, Ivary, Chiosso, Cavalli & Brewer, APC. Her practice focuses on all aspects of employment law, personal injury and civil rights litigation.

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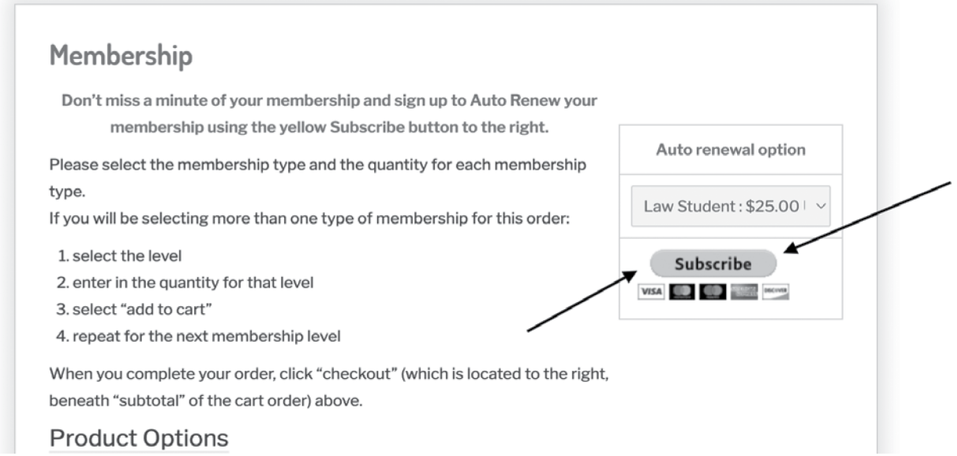

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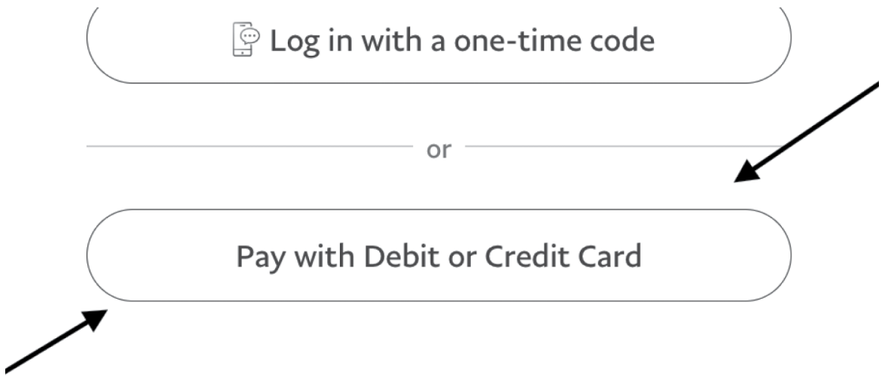

If you have any questions, please do not hesitate to reach out.
Thank you for your membership!

CAOC's 2023 Agenda: Preventing Elder Fraud and Protecting Civil Justice

by Jacquie Serna, Consumer Attorneys of California Deputy Legislative Director
and Saveena Takhar, Consumer Attorneys of California Senior Legislative Counsel

This year we have introduced **Senate Bill 278** (Dodd) to hold negligent banks accountable when they assist in financial fraud or scams that hurt elders. Financial scams against elders are on the rise in California, and too often banks are turning a blind eye while scammers rob older Californians of their life savings. Often called the "crime of the 21st Century," financial scams against elders are an epidemic, with estimates of annual economic losses of $3 billion. This form of financial exploitation robs victims of their resources, dignity and quality of life.

As mandated reporters, banks, credit unions, and other financial institutions are uniquely positioned to detect when a customer might be the victim of a scam or other financial abuse — and take action to protect elders from the devastating loss of their life savings. Unfortunately, the language of California's current financial elder abuse statute (Welfare & Institutions Code §15610.30) is unclear. So when an elder victim of a financial scam attempts to sue their bank for assisting their scammer, banks will claim that the institution must have «actual knowledge» of the purported fraud in order to be held liable for assisting in a scam. (Banks cite to *Das v. Bank of America, N.A.*, 186 Cal. App. 4th 727 to support this errant standard.) This impossible standard was never the intent of the law. SB 278 will clarify that the standard for proving "assisting" under the elder abuse act is whether the bank "knew or should have known."

Senator Scott Wiener introduced **Senate Bill 365** (co-sponsored by CAOC and the California Employment Lawyers Association), legislation aimed at protecting workers and consumers from the delay tactics corporations use when a court rules that an arbitration agreement is invalid, or that a signed agreement does not exist. Too often, corporations will file an appeal solely to delay a victim's case — sometimes for years on end. SB 365 would allow the case to move forward when a company files such an appeal.

When the court finds that a worker or consumer never signed a forced arbitration agreement, or when that agreement is invalid, current law incentivizes bad actors to delay justice for workers and consumers by filing meritless appeals, which stay the case from moving forward, adding years to the process.

Real individuals are suffering real harm. The impact on consumers can be devastating. In one instance, a cryo-storage tank failure at a fertility center in San Francisco damaged or destroyed hundreds of frozen eggs and embryos. When the court ruled that the tank manufacturer could *not* force the victims into arbitration, the manufacturer filed an appeal that stopped the case in its tracks for *more than two years*.

We need your examples! Please share with our legislative team how meritless appeals of motions to compel arbitration have impacted your clients and delayed or denied justice.

Senator Tom Umberg introduced **Senate Bill 21** to extend the sunset on remote access to the courts. CAOC was one of the leaders on creating statutory authorization during the pandemic to ensure the court doors could remain open virtually. Given the success of remote hearings in increasing access to justice, CAOC and a coalition of legal aid, housing rights, children advocates and others supported the continuation of this authorization. SB 21 will make sure the current law does not expire on July 1.

Senator Umberg has also introduced **Senate Bill 652**, sponsored by CAOC, to ensure all expert witnesses testify to a reasonable degree of probability. One isolated court in *Kline v. Zimmer, Inc.* (2022) 79 Cal. App. 5th 123, 131–32, review denied (Aug. 31, 2022), upends current law by allowing only defense experts to testify to any "possible" cause of the injury rather than what "more likely than not" caused an injury. This errant court decision threatens to upend the credibility of expert witness testimony.

Not all witnesses can offer opinions. Most witnesses can only testify on facts: the who, what, when, where and how (Evidence Code §702). Experts, however, are the exception. They can offer opinions outside the areas of knowledge of the average juror to help them understand the issues and reach an informed decision. This includes opinions on the ultimate issue of fact in a case, such as what caused the plaintiff›s injury: is the defendant responsible? Since expert testimony often carries greater weight than other witnesses, experts must be qualified, and there is an entire body of law governing qualifications of experts and their testimony. Evidence Code §801.

The one-sided lowering of the standard in *Kline* allows defense experts to offer any alternative cause whether they have data, science or any rationale to support that cause. Anything may arguably be possible. As long as the action is a "possible" cause for the injury, and not purely speculative, *Kline* now permits this weaker, unreliable testimony to be provided to juries by an expert with credibility that is now illusory. This case has opened up the floodgates for junk science and simply absurd expert testimony. **SB 652** will codify the longstanding "reasonable degree of probability" standard to ensure juries can rely on all expert testimony equally.

In addition to working on our sponsored bills, your team at CAOC will review *every* bill to ensure the rights of consumers are protected. Thank you for your support of CAOC's legislative program. ◆

— ACCTLA Calendar of Events —

Thursday, April 13
Spring Cocktail Reception
Trader Vics | 5:30 - 7:30pm
(see page 27 for more details)

Friday, July 21
A's Game with CAOC | 6:40pm

Sunday, August 6
Annual BBQ | 10am - 2pm

Thursday, August 31
Diversity Mixer
Seawolf | 5:30 - 7:30pm

Tuesday, September 26
Fall Cocktail Reception
Lafayette Park Hotel | 5:30 - 7:30pm

Tuesday, October 10
Diversity Scholarship Fundraiser
Seawolf | 5:30 - 7:30pm

Workers' Compensation Specialists


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Jeffrey B. Wolfert

Gorelick Wolfert, P.C.

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Sanchez v. Hamzat, 22CV007178
Alameda Superior Court
Amount: $1,000,000.00
February 17, 2023

In the evening of February 22, 2020, 25-year-old veteran Neal Sanchez and his 15-year-old brother, Noah Sanchez, were on electronic motorized long boards, skating around the neighborhood. Plaintiffs were hit by an Uber vehicle at an intersection in Hayward, driven by defendant Hamzat, who had a green light. The plaintiff sustained traumatic brain injury, and fracture to his right ankle, with open reduction and internal fixation surgery. Plaintiff's younger brother has a claim for negligent infliction of emotional distress. The police found plaintiff at fault for not using the crosswalk.

Defendant contends that Mr. Sanchez was in the intersection when the light was red, failed to wear a helmet in violation of California Vehicle Code Section 21292, and failed to use a lamp in violation of California Vehicle Code Section 21293. Mr. Sanchez contends that he entered the intersection when the light was green and the light subsequently turned red before he was able to cross the intersection. He also contends that he was required to use the regular vehicle lane instead of the crosswalk when operating an electric motorized longboard in compliance with Vehicle Code Section 21294. Mr. Sanchez also contends that the defendant failed to yield to him in violation of California Vehicle Code Section 21800(a).

At the time of the collision, Mr. Sanchez was scheduled to start his job as a TSA agent at SFO in a couple of days. Due to the collision, Mr. Sanchez was unable to work. After the collision, Mr. Sanchez went back to school, studying to be an American sign interpreter.

A $1 million 998 policy limit demand was made and was going to expire on the day of mediation. The offer was later extended by 30 days after the mediation. The case reached a settlement just days before the expiration of the 998 offer. Although it is an Uber case, there is no confidentiality, non-disparagement clause, liquidated damage clause, or destruction of evidence is in the release.

Mediator
Debra Bogaards

Plaintiff's Counsel
Teresa Li, Law Offices of Teresa Li, PC

Defendant's Counsel
Ian Schaeffer and **Peter J. Hirsig**
McNamara Ambacher, Wheeler, Hirsig & Gray LLP.

(Pursuant to California Code of Civil Procedure §1010.6, we request that all represented parties serve documents electronically.)

Does v. CONSUMES Community Services District, et al.
Sacramento County Superior Court
Settlement: $10,535,000

On July 14, 2018, the plaintiff, a 62-year-old man, attended the Elk Grove Summerfest at the Elk Grove Regional Park and was sitting near a band listening to music when a huge 4,500 pound tree branch fell 40 feet from above, causing severe injuries to him including paralysis of his lower body (paraplegia). His wife was nearby and witnessed his injury.

The plaintiff's attorneys filed a lawsuit against the Park District and its arborist. The plaintiff claimed the tree that caused the injuries had been previously identified as a hazardous tree in 2011. The plaintiff claimed that an improper flush pruning cut many years before the accident created an opening in the branch that created a pathway for decay fungi to destroy the wood internally, and that a large hole that was visible from the ground for several years was a clear indicator of internal decay that should have been discovered and the branch removed several years before the accident. An inspection several years before the branch failure would have revealed a lengthy internal cavity with massive insect infestation.

In 2017, the defendants again failed to inspect the tree and discover the large internal cavity and remove the dangerous branch. The Park Manager stated, "We keep losing limbs" and identified several trees to be pruned, including the tree with the internally decayed branch. When the cost of pruning was told to him by the District's arborist, the Park Manager did not follow through with an inspection and failed to remove the hazardous decayed branch. Within a year, the branch broke and fell, causing severe life-changing injuries to the plaintiff.

The plaintiff suffered a burst fracture at L4, comprehension fracture at L2 and a fracture at L1, rendering him permanently paralyzed with neurogenic bowel and bladder. He also received a fractured left scapula and other fractures. After extensive physical therapy, he can walk a few steps with assistance but relies on his wheelchair most of the time.

He married his wife in 1984 and they were and still are very much in love with each other. She received a settlement as part of the global settlement.

The case was set for trial in Sacramento Superior Court the first time in November 2020. Thereafter trial was continued five times at the request of the defendants or by the Court until September 2022. The case settled on the first day of trial for a total of $10,535,000.

Plaintiff's Counsel
R. Lewis Van Blois
Thomas C. Knowles
Michael E. Gatto

John Doe v. Express Services, Inc., Motor Parts Distributors, Inc.
Stanislaus County Superior Court
Settlement: $8,875,000

On January 3, 2018, a 55-year-old retired police officer was severely injured when his vehicle was struck head on by a speeding negligent delivery driver on State Route 108/120 in Stanislaus County. The negligent delivery driver was killed instantly and he only had a minimum insurance policy of $15,000. The plaintiff had to prove the negligent driver was driving in the course and scope of his employment with the staffing company and an auto parts delivery company. The defendants claimed the delivery driver had called into work to take the afternoon off and was driving for himself and not for his employer when the accident happened. The plaintiff contended the driver took the afternoon off to repair his flat tire, which benefitted his employers and therefore he was driving in the scope of employment under the vehicle use exception to the going-and-coming rule (CACI 3725).

The staffing company defendant claimed the defendant auto parts company had complete control of the delivery driver and was the special employer of the delivery driver and therefore the staffing company was not liable for the delivery driver under California law (CACI 3706). The plaintiff contended that both defendants had the right to control the activities of the delivery driver and that both defendants were liable for the negligence of their driver.

The plaintiff suffered over 30 fractures, including pelvic, spinal and leg fractures, a dropped foot and a traumatic brain injury that caused a neurogenic bladder.

After four years of litigation and multiple trial continuances, the case settled for $8,875,000.

Plaintiff's Counsel
R. Lewis Van Blois
Michael E. Gatto

Got News?

If you have any member news that you'd like to share, please email it to:

Ian Rivamonte
irivamonte@kazanlaw.com

- or -

Winston Moody
wmoody@giccb.com

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For further information on any of the above, please contact:
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