

The **BARRISTERS BULLETIN** of the South Bay Bar Association

October 2002

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VOLUME 28 NUMBER 7

PRESIDENT'S MESSAGE

Well, here we are. We have made it one year from September 11, 2001, and, of course we did! Americans have a unique talent to overcome obstacles, no matter how tragic they may be. We all should be proud of our United States of America, now we finally realize what it's all about!

I have both sad and happy news to report. First the sad news, our energetic Executive Director, Melissa Rivera is moving to the Big Apple to discover why we all live in Southern California. The happy news, we found a replacement. Beginning October 1, 2002, Shannon Marie Shockley will be taking over the reigns as Executive Director of the SBBA. Thank you Melissa for quickly stepping in, reorganizing the SBBA, leaving the office in excellent and spit-spot shape. Thank you for your devotion and hard work during your tenure. You will be sorely missed. We wish you the best of luck in your future endeavors.

A special thanks to our new section, the South Bay Women Lawyers' for its generous donation.

I am proud to announce that each of you should be receiving your new, bright, shiny and "red" 2002-2003 SBBA Membership Directory. Putting the directory together was no easy task. Thank you Melissa and Nicole for a job well done!

The SBBA Pro-Bono Program on the 3rd floor of the Torrance Courthouse is up and running. As always, volunteers are needed on Wednesdays 9 to

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What's Happening

By James M. Hallett

Correction, deletion, apology, mea culpa: In the last issue I wrote that **Judge Fumiko Wasserman** was the first woman judge assigned to the Torrance courthouse.

First, let me try a little blame shifting: you can't believe everything you read in the newspaper.

Anyway, I have tried to think of whom I may have inadvertently offended. On the former South Bay Municipal Court alone, I have been reminded of **Judge Sandra Thompson** and **Judge Gaye Herrington**. The Superior Court list is longer than I want to think about, but may include **Judges Dana Senit Henry, Jean Matusinka, Lois Smaltz, and Candace Cooper**.

On August 30, 2002, our local court manager, Theresa Scotto put together a wonderful program in Department "J" concerning the court's newly acquired Digital Evidence Presentation System (DEPS).

You can now call Theresa at 310-222-1987 to reserve (and get assistance with set-up) DEPS. Her office can now provide a screen, a projecting VCR, a document camera, and a projector. The document camera is the really cool piece of equipment; some of you may know it as an "Elmo," although the court is using a different brand. They also provide a laser pointer. If you like to have your exhibits organized on a CD, just bring a laptop and you can plug that into the system.

Also available to help with this in Theresa's office are Andrew Nguyen at 310-222-6548 and Jeff Dominguez at 310-222-1792.

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SAVE THE DATE!

Annual Keynote Speaker Meeting

Date: Thursday, September 26, 2002
Time: 6:00 – 9:00 p.m.
Place: Portofino Hotel & Yacht Club, 260 Portofino Way, Redondo Beach
Topic: "Strict Scrutiny: The Accountability of Lawyers and Judges"
Speaker: California Supreme Court Justice Carlos R. Moreno

CALL TODAY To Make Your Reservation!
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Opinions expressed in the Bulletin are not necessarily those of the SBBA, its officers, directors, or members.

The South Bay Bar Association Barristers Bulletin is published monthly, except February and August. Articles on topics of interest and letters from readers are welcomed and will be published as space allows. Submitted materials will be subject to editing and approval of content, with final approval for form and content to be under the authority of the Editorial Staff.

Articles, announcements and advertising copy are due by the 15th of the month preceding publication. Please submit your contribution to: South Bay Bar Association, 3465 Torrance Blvd., Suite C, Torrance, CA 90503, Tel. (310) 543-9773, Fax (310) 543-3273, E-mail: dir4sbba@aol.com

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CALENDAR OF EVENTS
SOUTH BAY BAR ASSOCIATION

Family Law Section Brown Bag Luncheon (1 Hour MCLE Credit)

Date: Tuesday, September 24, 2002
Time: 12:00 noon
Place: Torrance Courthouse, Dept. J
825 Maple Avenue, Torrance

Speaker: Gleda Anderson, Staff attorney for the El Segundo Division of the LA County Child Support Services Department
Topic: "How The Private Attorney Handles Title IV Child Support Cases" (Formerly Known As District Attorney Child Support Cases)

Place: Torrance Marriott,
3635 Fashion Way, Torrance

Speaker: David Rice, J.D., Tax Attorney
Topic: "Innocent Spouse Provisions & The IRS"

Employment Law Section Luncheon (1 Hour MCLE Credit)

Date: Wednesday, November 13, 2002
Time: 12:00 noon
Place: Torrance Marriott,
3635 Fashion Way, Torrance

Moderator: Hon. Elizabeth Allen White, former Board member of the South Bay Women Lawyer Association

Speakers: Curt Surls, Esq., *Bornn & Surls & Debra Lauzon, Esq., Lauzon & Euler, Co-Chair – Employment Law Section*

Topic: "The Employment Law Maze – Are You Lost Yet?"

Annual Keynote Speaker Meeting (1 hour MCLE Credit)

Date: Thursday, September 26, 2002
Time: 6:00 – 9:00 p.m.
Place: Portofino Hotel & Yacht Club,
260 Portofino Way, Redondo Beach

Topic: "Strict Scrutiny: The Accountability of Lawyers and Judges"

Speaker: California Supreme Court Justice Carlos R. Moreno

****NOTE: Please have your credit card available when calling the SBBA to make a reservation. Reservations cannot be made without a credit card. For Reservations for all SBBA meetings – Call SBBA at (310) 543-9773**

Be sure to check out our website for up-to-date information on upcoming events!

www.SouthBayBar.org

Family Law Section Luncheon (1 Hour MCLE Credit)

Date: Wednesday, October 16, 2002
Time: 12:00 noon

IMPORTANT INFORMATION REGARDING SBBA LUNCHEONS

- ◆ The South Bay Bar Association will charge \$25.00 for those SBBA members who make reservations 5 business days in advance for MCLE luncheons, those SBBA members who pay at the door will be charged \$35.00.
- ◆ Non-member attorneys will be charged \$50.00 if reservation is made in advance and \$60.00 at the door.
- ◆ Non-lawyers will be charged \$35.00 if reservation is made in advance and \$45.00 at the door.
- ◆ In advance means that payment has been received by the SBBA 5 business days prior to the luncheon date.
- ◆ **We are now requiring that a credit card number is provided when making the reservation to ensure payment is made. It is essential that we collect payment from those who make reservations and fail to attend the luncheons.**

IMPORTANT — SBBA EVENT POLICIES

Discounts. The SBBA offers a discount for any person who reserves and pays for an event at least 5 days in advance of the event. Payment can be made by mailing or delivering a check to the SBBA at 3465 Torrance Blvd., Suite C, Torrance, CA 90503, or charging it on a Visa or Master Card by calling (310) 543-9773. In order to receive a discount, payment must be actually received by the SBBA at least 5 business days before the date of the event.

Reservations. Please reserve for events as early as possible. In the event there is not adequate seating at an event, those persons who have reserved and paid for their reservations 3 days or more in advance will be given priority as to seating. Others

will be seated to the extent they can be accommodated. Your early R.S.V.P. and pre-paid reservation will enable the SBBA to ensure that there is adequate seating at its events enable it to avoid being charged for guarantees which are not met.

Cancellation. If the SBBA offices does not receive an adequate number of R.S.V.P.s at least 5 days prior to any event, the event will be canceled without further notice. Anyone who has reserved will be contacted.

Refunds. A full refund will be given if the SBBA cancels an event or if a reservation is cancelled more than 3 business days prior to an event. Otherwise, amounts paid will not be refunded.

What's Happening

Continued from page 1

We have lost three more of our dearest friends in the past month or so.

In late July, **John F. Maloney** died. His funeral was July 29, 2002 at St. Lawrence Martyr Church in Redondo Beach.

Some words of remembrance from the any of you who knew John well would be most welcome for our next Bulletin.

On September 5, 2002, former **Deputy District Attorney Irvin Bloom** died of liver cancer.

Irv spent 37 years with the District Attorney, retiring in 2000 to become legal counsel for the Hawthorne Police Department. He learned about his illness only about a month before his death, according to the *Daily Journal* obituary.

The *Daily Journal* also reported that the Dream Foundation, a national organization that grants wishes to terminally ill people, granted Irv's wish that Dennis Franz, the star of NYPD Blue, make a personal visit to see him.

Irv was a calendar deputy in the Torrance courthouse, a head deputy within the District Attorney's office, and best known most recently as an exceptionally fair-minded filing deputy and a gentle soul.

South Bay Attorney **Mike Batista** died July 26, 2002 of an aortic aneurysm.

Mike leaves behind his adult son, Mike, and his wife, Long Beach Attorney **Valerie Monroe**.

The basic facts are that Mike was a USC graduate (and fanatic), after which he went to Loyola Law and joined the Public Defenders' office. In 1981 he went into private practice. He was a founding member of the South Regional Capital Case Panel, which our Bar Association administers.

The Rosary and Mass took place August 2-3, 2002 in Bakersfield, and a memorial service was held at the Compton Community College gymnasium on August 9, 2002, the theme of which was, "One has a right to judge a man by the effect he has on his friends."

Countless judges, prosecutors, and public defenders attended and spoke at the service honoring this distinguished member of the local criminal defense bar.

Most unforgettable for all in attendance was the eulogy given by Valerie Monroe, herself a widely admired member of the local criminal defense bar.

Mike's death comes at a time when Valerie is severely physically debilitated by an undiagnosed muscular disorder. Confined to a wheelchair, severely underweight, and with a sometimes shaky voice, Valerie was a pillar of strength to everyone at Mike's memorial, a gracious hostess to all.

She described Mike as a professional colleague, her mentor in the law, her best friend, a devoted father, and then went on to describe a spouse/soulmate so profoundly attached to her that the rest of us could only look on with awe.

While Valerie admitted that she looks forward to being reunited with Mike, she promised to be strong and continue to fight her illness as long as she can. As she said a final goodbye to Mike, she said to the rest of us, "I know you have to get back to court. That is, after all, what we do."



**In Memorium
ALVIN B. CALOF
1927-2002**

Help Low Income Job Seekers In Need Of Interview And Work Clothing By Donating Your Old Business Attire

CLOTHES THE DEAL needs your pre-owned business clothes to give to those in need! **CLOTHES THE DEAL** is committed to helping low-income job seekers look and feel great as they interview for employment. **CLOTHES THE DEAL** does this by giving donated business clothing to job service agencies that prepare people to enter the work force. Your business clothes can help someone in need get their foot in the door and the job they desperately need. Please contact Cheri Ainsworth at **CLOTHES THE DEAL** for a drop-off location nearest you at (310) 530-3665. All donations are tax deductible.

ATTENTION MEMBERS!

The South Bay Bar Association has added two new sections! Please contact Melissa at SBBA (310) 543-9773, if you are interested in being a member of the **Employment Law Section** or the **South Bay Women Lawyers' Section**.

BRIEFS BY BLOODGOOD

CAL FAMILY LAW: DISPUTED PATERNITY RULE GETTING CHANGED?

There is a Family Law Bill in the Cal Legislature which looks like it will change the Paternity Law. It is AB 2240 aimed at disputed Paternity. It will require a DNA test. It is called the "Cal Paternity Justice Act".

It has passed the Assembly and is now in the Cal Senate getting a favorable treatment.

It is the result of many horror stories of "Father Shopping" including one local in Torrance (in re RIDDICK). News items 7-28 and 8-7-2002.

UNREPORTED TIPPING MUST STOP SAYS U.S. SUPREME COURT:

Facts: There are 200,000 restaurant, and other, workers who do not report tips to the IRS.

Held: The US High Court gave its blessing to the IRS' practice of making estimates to catch unreported tipping.

In a 6-3 Decision the Justices said that "Congress, not the Courts, is the proper venue to challenge the IRS' auditing method".

(National Restaurant Ass'n v IRS?) _____ US _____, 6-17- '02.

DOG MAULING MURDER COUNT DISMISSED BY COURT:

Facts: In the San Francisco murder Trial, the Wife, MARJORIE KNOLLER was found guilty of Murder by her dogs.

The Trial Judge, JAMES WARREN, dismissed the Murder Verdict finding, but still allowed a Manslaughter finding to lie. Judge says: "Lack of evidence".

News item, 6-27-2002.

EAVESDROPPING ON JAIL INMATES IS OK SAYS CAL SUPREME COURT:

Facts: For 30 years the Cal rule has been that evidence obtained by eavesdropping on jail inmates could not be used in Court.

This was contra to Federal Rules allowing eavesdropping.

Held: By unanimous 7-1 Decision the Cal High Court ruled that such conversations can be used in Court.

Note: The Attorney-Client Privilege still stands!

(_____ v Superior Court)

_____ C4 _____, 5-6-2002.

EXPECT TO SEE FROM U.S. SUPREME COURT:

The US Supreme Court has noted that it will consider two areas of the law as being unfair;

- * Cal "Three Strikes Law"; and
- * Reverse Discrimination in that the University of Michigan has "skirted" the rule of Cal Regents v BAAKE. Stay tuned.

US SUPREME COURT REVIEWED:

Our Cal Bar Journal (newspaper) for August has a good article by Professor CHEMERINSKY on the US Supreme Court. It cites several recent closely decided cases with important rulings:

- * DEATH PENALTY should not be used on "Mentally Retarded". Cruel and unusual punishment. 6-3 Decision.
- * SCHOOL VOUCHERS now for use at parochial schools. 5-4 Decision.
- * DRUG TESTING: Schools may require "Random Drug Tests" as a condition for participating in interscholastic activities. 5-4 Decision.

Read the Article for a feeling about the High Court.

Next year we can expect a review of our "Three Strikes Law".

MORE MAXIMS OF JURISPRUDENCE:

CCC 3526. RESPONSIBILITY FOR UNAVOIDABLE OCCURRENDE.

No man is responsible for that which no man can control.

CCC 3527. VIGILANCE AND DELAY.

The law helps the vigilant, before those who sleep on their rights.

CCC 3528. FORM AND SUBSTANCE.

The law respects form less than substances.

CCC 3529. PRESUMPTION OF PERFORMANCE.

That which ought to have been done is to be regarded as done, in favor of him to whom, and against him from whom, performance is due.

EDITOR'S NOTE: Telephone comments to GENE BLOODGOD at (310) 316-1501.



Pro Bono Program

We are currently scheduling Attorneys for our Pro Bono Program at the Torrance Courthouse from 9:00 a.m. to 12:00 noon on Wednesdays.

This is a great outreach program to become involved with. Please contact the SBBA today to reserve a date on our calendar.

Thank you!

Got An Interesting Article or Announcement?

We'd Really Like to Hear About It!

If you have any articles or special announcements on topics which might be of interest to our readers, please send them to us. Articles and/or announcements submitted will be published as space allows and will be subject to editing and approval of content, with final approval for form and content to be under the authority of the Editorial Staff. Articles, announcements and advertising copy are due by the 15th of the month preceding publication. Please submit your contribution (in electronic form if possible) to:

Melissa Rivera, Executive Director
South Bay Bar Association
3465 Torrance Blvd., Suite C, Torrance,
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Tel. (310) 543-9773, Fax (310) 543-3273
Email: Dir4SBBA@aol.com

Employment Woes!

by Robert R. Ronne and Debra A. Lauzon

Nearly everyone in our society is either an employer or an employee. Employees depend on their jobs (almost uniformly) as their sole source of income, and derive a sense of purpose and meaning from their jobs. Employers depend on their employees to competently and loyally produce the product, or provide the service of the business. The relationship is critical to the worker, the boss and to society. Yet, every single day brings conflicts and issues in the workplace which require resolution. Some issues are handled internally. Many others require the intervention of our legal system, making employment related disputes one of the fastest growing areas in civil litigation.

Those of us who address these issues daily are thrilled that the South Bay Bar Association has added a new section: The Employment Law Section. Our inaugural meeting will be held at noon on Wednesday, November 13, 2002. That first program, entitled "The Employment Law Maze—Are You Lost Yet?," is intended to introduce all South Bay Bar members to the "maze." Sexual harassment? Discrimination? Wrongful Termination? What is appropriate conduct at the workplace? What are the employer's and employee's responsibilities for conduct outside the workplace? Where are the lines drawn? Are there lines? Do the lines "move?" Because employment issues affect all of us in our day to day life, each and every client of yours, and each and every business (yes, including law firms), has employment law issues, whether they realize it or not.

We will provide an informative (and entertaining) program at our lunch meeting on November 13. Judge Elizabeth Allen White, former Board member of the South Bay Women Lawyers Association and current Los Angeles Superior Court Judge, will moderate the panel. Judge White was a plaintiff's employment law attorney when she was in private practice. Curt Surls, a partner with Bornn & Surls, and a well-known employment law attorney, will serve on the panel and offer many insights, with lots of humor, on employment laws that effect you and your clients. Debra Lauzon, a partner with Lauzon and Euler, employment law attorney, will also serve on the panel. Deb also serves as the Chairman of the Board of the Manhattan Beach Chamber of Commerce.

The Chair of our new section is Rob Ronne, who has over 20 years experience in labor and employment law. The Co-Chair is Debra Lauzon, who has over 15 years experience in this area. If you have employees, if you have clients who have employees, if you have friends who work (in short, all of you) will benefit by attending this luncheon. We are excited to start this new section for the South Bay Bar and hope you will join us and support us.



Los Angeles County Bar Association Report

New LA County Jury Policies and California Case Management Rules

Effective July 1, 2002 two new sets of rules went into effect altering the way trials will be handled in Los Angeles County.

Changes to California Rules of Court 201 through 225, effect the times for Service of Pleadings, taking of Defaults, and setting of the Case Management Conference. These Rule changes apply only to case filed on or after July 1, 2002.

The changes are far to numerous to address individually, and South Bay Bar Members are encouraged to obtain copies of the Rule changes from the Judicial Counsel of California, or from the LA County Bar Association web site at www.lacba.org. We will also have copies of the Rule changes available at the South Bay Bar Office.

A major change is to Rule 212 mandating a State-wide requirement that a "Case Management Conference be held no later than 180 days after the filing of the initial complaint." There is now a new Judicial Counsel form, CM-11 – "Case Management Statement", which must be filed, and from which the Court will set all further dates for discovery and trial.

Previously we have informed you of proposed changes in jury procedures initiated by the LA Superior Court under the "One Trial" program. The changes are now being implemented as court policy. South Bay Bar Members can obtain copies of the "One Trial Policies and Guidelines" from the LA County Bar website at www.lacba.org.

The policy that has raised the most comment is the limitation placed upon attorney voir dire: within judicial discretion, a maximum of 30 minutes. Also of concern is the requirement that all jury selection "shall commence no later than 9:30 a.m."

While the changes mandated by the California Rules of Court are not subject to further comment, the LA Superior Court is still considering comments on the One Trial jury Policies and Guidelines. If you have any comments or if you want to discuss the policies you can contact the LA Superior Court directly through Judge Robert Dukes, 213/974-5550 or you may contact Roy Daniel at 323/526-6201, or by e-mail at rdaniel@counsel.co.la.ca.us.

Thank you,
Roy Daniel



Bench & Bar Report

Avid readers of this column will recall that back in February I told you about Department 89 in the Central Civil Courthouse [Hill Street], the first fully digital [read electronic] courtroom in Los Angeles County, and I suggested that you visit Department 89 in order to view the wonders [and blunders] of presenting electronic evidence.

Well, on August 30, 2002 the Torrance Courthouse held a training class in Department J on "Presenting Digital Evidence – How to Present Your Evidence on the Big Screen, and the Use of PowerPoint to Enhance Presentations." The Torrance courthouse now has available to for use by attorneys a "state-of-the-art" digital projector, a digital overhead viewer [an "Elmo" to those of you into the electronic jargon], a VCR for videotape projection, and, of course, a big screen for viewing.

The equipment is available on a first request basis and will be set up by the Court technical staff in the appropriate Courtroom. Attorneys must first get the permission of the trial judge to use the equipment; and, we were assured that the Torrance Courthouse judges are receptive to the use of the equipment. The attorneys must provide their own laptop computer with appropriate Windows PowerPoint software, and their own CD-ROM or DVD disk. Of course, the Rules of Evidence still apply, and the admissibility of any particular piece of evidence is at the sound discretion of the trial judge.

The court technical staff is willing to provide modest training in the use of the equipment and expressed a willingness to assist attorneys in becoming familiar in the use of the equipment. The contact person at the Torrance Courthouse is the Court Manager, Teresa Scotto, at 310/222-8865 or 310/222-1987.

If you have not as yet done a trial using PowerPoint or digital projection equipment you should definitely avail yourself of the opportunity to see this powerful trial tool in operation. If you have done a trial using digital evidence you know how much force it can have with the jury and with the Court, when properly used. The key to this newest trial tool is, as it has always been, the skill of the attorney presenting the evidence. This is a skill we all need to develop.

Thank you,
Roy Daniel



TORT TACTICS

The Secrets Of Final Argument

By Lawrence R. Booth of Booth & Koskoff

Those people who think that final argument doesn't make a difference are nuts. While it is true that there is no substitute for the presentation of evidence which is more persuasive than the evidence presented by the opposition, I have seen far too many cases in which lawyers destroy a good case with poorly prepared and inadequately-presented final argument and, unfortunately, I have seen good cases demolished by lawyers who have the skill to dismantle their opponent's case with rhetoric, even though they may not have the evidence to back up that rhetoric.

Don't Rehash the Evidence

Far too many lawyers think that final argument is designed only to remind the jury of the evidence presented during the trial, in usually some sort of boring chronological presentation. Most trials are not long enough so that the jury has any trouble remembering the testimony. The purpose of final argument is not to remind the jury of what they've already heard but to capture the essence of the testimony in a way that is persuasive. Everyone knows that two automobile salesmen can present exactly the same car and one will sell the car and one will not. The difference is emphasizing the features which are unique to that particular car and, more importantly, sizing up the customer so that the salesman fully understands and takes advantage of that particular customer's interest. Final argument should not be presented in chronological order but it should be presented in an order which emphasizes the strengths and weaknesses of both sides of the case. The plaintiff's attorney should open strong and end strong, regardless of whether the strongest part of his case chronologically, either based upon the events or the order in which the witnesses appear, actually was first heard by the jury in the beginning, the middle or the end. The plaintiff should always freely admit any

weaknesses in his case and anticipate the arguments which the defense will raise during their argument. It's a lot better to anticipate the defense arguments and try to shoot them down then to save these answers for rebuttal. As a practical matter, rebuttal should be short, sweet and to the point and, from a human nature standpoint, if the jury hears the answer to the defendant's argument right after they hear it for the first time, then they will be more easily satisfied than if they hear it an hour later.

Show and Tell

It is absolutely essential to use audiovisual aids during final argument. These may consist of blowups, slides, models or whatever was used during the course of the trial. Some lawyers even prefer to use preprepared outlines on poster boards or a projector. The point here is that the jury has a very narrow concentration span and although they may be enthralled by the attorney's oratory, they will quickly forget the substance of what he was saying unless it is permanently engraved in their minds by the use of outlines and other demonstrative evidence so that they can organize, remember and follow the logic of the presentation. Some attorneys delude themselves into believing that they can make a magnificent hour or hour and a half oratory and that the jury will remember everything that is said. What will happen is that the jury will be persuaded and then quickly unpersuaded when they are unable to recall the essence of the arguments which supported their tendency to lean in favor of the plaintiff in the first place.

Develop a Theme

Nike said, "Just Do It," and Avis said, "We Try Harder." These themes stick in your mind and help you to focus your attention on the positive aspects of whatever is being promoted. For example, a defect in some premises might be described as "an accident waiting to happen" or a defective automobile

might be described as a "time bomb." Some themes are easy to remember, succinctly tell the story and give the lawyer a pivot point whereby he can categorize all the sub parts of his presentation.

Organization

My particular method is to collect ideas on little memos and scraps of paper during the pendency of the case and even during the pendency of trial. Clever sounding themes and slogans can be deposited in this section of the file for later retrieval. When one sits down to write the argument, I favor going through all the testimony and writing a running list of all of the key items pulled out of each witness' testimony and then basically doing a cut and paste in putting these various ideas in the right order. I also favor writing the argument out word for word, even though it is presented extemporaneously with little or any reference to notes. When a simple outline is prepared on the assumption that somehow the lawyer will mystically be able to fill in the gaps, he often is not nearly as able to do that on his feet as he can during the quiet time associated with preparation. A careful writing out of final argument word for word will completely organize the presentation, provide the opportunity to reorganize various sections and, eventually after enough work, the argument will be pretty much committed to memory without really trying.

Damages or Liability First

The answer to whether damages or liability is presented first depends upon the strengths in the case. It does not follow at all that the plaintiff will emphasize liability and then logically go to damages. He may very well want to start out with damages because the injuries are so devastating that when the jury fully understands not only the physical injuries but the economic impact on the plaintiff, then they will be much more amenable to believing the liability arguments. On the other hand, if liability is

President's Message

Continued from page 1

noon. For those of you that would like to volunteer or need more clients, please sign up now!

Hats-off to Michael Todaro and Rodney Wickers for their contributions in donating the much needed computers to the SBBA office. Thank you.

Last, but not least, do not miss our Keynote Speaker Dinner Meeting featuring Justice Moreno, on September 26, 2002, at the Portofino Hotel And Yacht Club. Call the SBBA office today to guarantee your RSVP.

I'll see you there!

Susan E. Hargrove,
President



Mystery Photo



Can you identify this distinguished attorney?

This attorney is a long-time member of the South Bay Bar Association and is very active in both the SBBA and other community-related organizations.

If you can identify this good-looking person, call Melissa at (310) 543-9773. As always, the first person (or persons) to guess correctly win our usual "valuable" prize – *special recognition* in the next issue of the Barristers Bulletin.

If you have a "Mystery Photo" (of yourself or someone else in your firm) please send it to **Jim Hallett or to Melissa Rivera at SBBA.**

Thanks!

The Secrets Of Final Argument

Continued from page 7

egregious, then pounding away on liability is a great ensure that the jury will not have very much trouble with the substantial damages being requested on behalf of the plaintiff. The bottom line is that every case is different, but following the chronology of the testimony or following the logic of presenting liability first doesn't necessarily follow.

Rebuttal

Rebuttal argument should be short, sweet and to the point. When the plaintiff attempts to answer everything the defendant says, it will look like he is desperate and does not believe that his case has survived the onslaught of the defense attorney's argument. Consequently, with as much confidence as possible and avoiding arrogance, the plaintiff's attorney should pick out two or three of the weakest arguments that the defense attorney has presented and try to demolish them, while at the same time having the last word.

Additional Tips

The worst thing you could do in argument is apologize or make excuses. Lawyers frequently stand up and say that this is only their recollection and that if the jury remembers it differently, they should go on their recollection. The jury is going to do that anyway

and it immediately suggests that the lawyer is either incompetent or fudging. Either way, he loses credibility. Almost as bad is the lawyer who apologizes for not having enough time to answer all of the arguments raised by his opponent but says, as many defense lawyers do, I am not entitled to rebuttal argument but I want you the jury to sit there and think of what I might have said in response to what the plaintiff's attorney says on rebuttal. This is a completely ridiculous suggestion and, again, creates the impression of weakness. There is nothing wrong with the defense attorney anticipating what the plaintiff's attorney might say in rebuttal, and if he knows his case, he ought to be able to do that without saddling the jury with some illusionary job to perform his function for him. Finally, it is crucial that the argument not be constantly shrill. Sometimes quiet arguments are far more powerful than someone screaming at the jury, and after awhile, too much screaming only results in the high points being lost in the noise level. If an attorney is truly outraged by either the conduct of the defendant or his opponent's argument, there is nothing wrong with showing that outrage, but it should be done selectively and on a limited basis so as not to render the entire presentation as simply one of hysteria. Usually the words alone will carry the necessary emotional impact. We had a case not too long ago where a mother was trapped in an automobile after an accident with her child's head in her lap and the child's brains were literally oozing out of his head. Quietly stating that fact is much more powerful than screaming about the outrage to this family.

