



REMARKS FROM THE PRESIDENT'S DESK -

By: *Daren Lipinsky*



As we enter this Holiday Season, I am reminded of the saying that “We make a Living by what we get, but we make a Life by what we give.” Our legal community is a strong, tight-knit group. When major tragedy has stricken San Bernardino, we have responded.

Yet, there are several tragedies that don't register on the news but deeply impact the client-base we serve. Hunger, shelter, school supplies, toys for the holidays, and mentorship for kids to lead a righteous and successful life are all issues facing our clients' neighbors, colleagues, families, and friends.

I am therefore encouraging members of our bar this holiday season to seek out a cause in our community that has an impact beyond the law, enhancing our reputation as warriors for a higher justice.

There are several local organizations that can use our help in helping veterans, the homeless, our youth, and our elderly. These include Disabled Veterans Charities, Big Brothers/Sisters of the Inland Empire, Catholic Charities of San Bernardino, the Time for Change Foundation, and the San Bernardino County Homeless Partnership (SBCHP).

Much like we serve our community to make a living, we can do so by making a life.

We can also make a life by making an effort to walk in the shoes of our clients. How can we be effective advocates for our clients if we don't truly understand what they have lost? For those of us who practice plaintiff's civil litigation, where there are broken bodies and broken spirits as a result of negligence or intentionally bad acts, how can we be effective at trial having never been to that client's home or having never visited those who have witnessed the before and after in a surrounding familiar to them? For those of us in defending local businesses, how can we be at our most effective never having visited the factory or office where your client attempts to make a living while balancing the safety and wellbeing of its workers?

As professionals who care about our small community and the clients who seek out our help, it is imperative that we make an effort to truly understand our clients in order to effectively advocate for their interests.

A dinner with a client in their home or a visit to your client's factory floor is sometimes all it takes to accomplish just that.

Last, but certainly not least in making a life during this holiday season is recognizing family. As busy professionals, we often take for granted our families. This time of year is especially conducive to not only saying thanks, but also giving thanks.

Disabled American Veterans
PO Box 1228
Highland, CA 92346
(909) 770-4812

Big Brothers/Sisters of Inland Empire
8880 Benson Avenue, Suite 112
Montclair, CA 91763
(909) 763-5959

Catholic Charities of San Bernardino
& Riverside Counties
1415 N. "D" Street
San Bernardino, CA 92405
(909) 388-1239
Contact: Ken Sawa

Time For Change Foundation
1255 Highland Avenue, Suite 211
San Bernardino, CA 92404
(909) 886-2994

San Bernardino County Homeless Partnership
303 E. Vanderbilt Way
San Bernardino, CA 92415
(909) 386-8203
Contact: Tom Hernandez, Program Manager I

Welcome New WSBBCBA Members

Maria Romo-The Sullivan Group of Court Reporters
Arya Shamuilian-University of La Verne College of Law - Law Student



All times Pacific Standard Time (PST), which is minus eight hours from UTC (Universal Time Coordinated). Location: 34.1 N, 117.7 W.

December Sky: This is the best time of year to catch gorgeous sunsets, due to the low angle of the Sun as it sets and December cloud patterns. The December Full Moon is on December 13, 2016, at 4:05 p.m. and is known as the “Full Long Night Moon”. The Full Long Night Moon goes full at 5:52 a.m., shortly before it rises in the east at 4:57 p.m. Although not as close as last month’s monster Moon, it is still quite close, reaching perigee on December 12, 2016 at 222,737 miles at 5:28 p.m. The start of lunation 1163 begins on December 28, 2016, with the New Moon at 10:53 p.m. On December 29, 2016, you have an 18 minute window to spot the very thin crescent Moon between civil twilight at 5:18 p.m. and moon set at 5:36 p.m. So if you have a clear view of the western horizon, see if you can catch a glimpse.

Garden Notes: Now is the time to prune your roses and fruit trees. Roses should be taken back to the basic structure, with any canes that overlap or cross taken out. You can also pre-dig holes for new or replacement roses or bare-root fruit trees. By digging the holes now and partially back filling with organics and some dirt, you will be creating an ideal place for your new plants or trees. The winter rains will spread the good stuff into the area where the new roots will be growing. This simple task will give whatever you a planting a chance to hook up and thrive.

December Recipe: I know how crazy December can be. Yet, there is still a need to have some simple comfort food, especially on a cold and rainy day. If you have your ingredients set out, you can make it in a snap. By popular demand, here’s my mom’s quick and easy chili recipe:

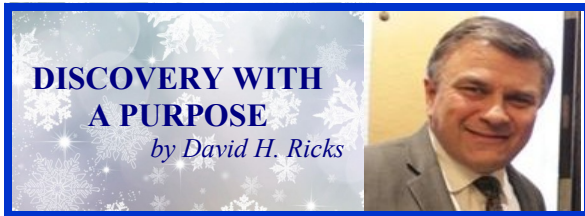
Marie Sears’ Seven Can Chili

Serves 4-6. Prep and cooking time: 30 minutes.
 1 ½ lbs ground sirloin or leanest ground beef or ground turkey
 ½ an onion, diced. Use the other half for garnish.
 1 small can of tomato paste
 1 can of tomato sauce (the rest of the cans are the 14-15 oz. size)
 1 can of water from tomato sauce can
 1 can of diced tomatoes
 1 can black beans
 1 can kidney beans
 1 can of ranch beans
 1 package of chili seasoning. (Lawry’s works just fine, or use whatever you like).
 Garnishes: Grated cheddar, Frito’s corn chips, diced onions, and/or sour cream.

In a Dutch oven, heat 1 tbsp. of olive oil. Cook the onions until translucent. Then brown and cook ground beef or turkey. Drain off as much fat as you can. Then add all remaining ingredients, liquid from the cans included, combine, cover, and bring to a simmer. This is ready to go in about 30 minutes. If you have more time, uncover and reduce heat to a simmer for up to an hour. Will it win a chili cook off? Probably not, as it is not spicy enough. Will it be tasty and make your tummy full? Absolutely. Serve with a small salad or sauteed spinach and freshly baked corn bread. The Marie Callendar’s corn bread mix works great. This is a perfect recipe for older kids and teens. Vegetarian variation: Don’t use ground meat! Let it cool off before you store the left overs. Ummmm, chili dogs....

Wine pick: 2014 Predator Lodi Old Vine Zinfandel, available at Liquorama in Upland and elsewhere. This is a truly exceptional \$15.00 bottle of wine. It won’t last long.
 Buon Appetito! Tony Sears





Nearly all of us engage in discovery in our cases. Our days are occupied in propounding interrogatories, requests for admission, propounding requests for production of documents and participating in and taking depositions. We are bombarded by discovery propounded on our clients and it seems that deposition notices are served on every possible witness, even those whose testimony seem unnecessary. I often see discovery propounded on my office when I realize from the beginning the answers to that discovery will never be used at trial, or even lead to the discovery of admissible evidence. Furthermore, when I try a case, I often don't see a fraction of the discovery used at trial. The question I ask myself is why then are we engaged in discovery if the purpose does not lead to its use for settlement or trial?

Am I too cynical to say that much of the discovery propounded is done for one of two purposes, first, to bill the client or the insurance company thereby generating fees for the law firm or lawyer, or, second, to cause the opposing party to spend time and money responding to utterly worthless discovery requests thereby making it too costly to fight the claim? Can we better serve our clients, and streamline the litigation process, by conducting discovery for the purpose it was intended, to help resolve a claim or prepare a matter for trial? If we change the manner we look at discovery, we can actually reduce the cost of discovery to our clients while increasing our effect use of the information we receive.

Let's look at the four major discovery methods and see how they can be more effectively used to achieve a specific purpose, either to promote settlement or use at trial.

REQUEST FOR ADMISSIONS

This form of discovery is often under utilized both before and during trial. When preparing requests for admission, you need to know the elements of each cause of action of the case, or each affirmative defense, to be

proven or defended against. Focus the requests for admission on the key issues or facts so that you can either eliminate or support an element of the claim or affirmative defense. Narrow the disputed issues with simple request for admission thereby reducing the cost of proving the case. Using the responses to the requests for admission at trial establishes conclusively the issue or fact which thereafter cannot be disputed once admitted unless the court allows the admission to be withdrawn due to inadvertence, mistake, negligence or error.

A wrongful denial to a clear request for admission also allows a party to seek the recovery of fees and costs associated with proving that which should have been admitted. Have you ever considered that you could secure an award of attorney's fees in a personal injury case, or a case where fees are not provided for by contract or statute? Are you missing out on the ability to amplify your judgment by using this discovery tool when the opposing party wrongfully denies a request for admission?

REQUESTS FOR PRODUCTION OF DOCUMENTS

This is the one discovery method which does not limit the number of requests which can be made, but do you really need every document in the opponent's filing cabinet? Most documents are never used in trial, nor used to find a resolution to the case. Do you really want to fill your own filing cabinets with useless paperwork? Before deciding on what documents to request, identify exactly what you will need to support your client's claim, what may defeat a defense to a claim, what may help support your client's position or target the opponent's credibility. Stop there! You do not need sift through 10,000 documents when 1,000 documents will achieve the same purpose.

Once you have the responsive documents, review them, categorize them for purposes of trial, understand how you are going to use them and identify them as the exhibits to be used in further discovery, or for trial. Finally, if you are still missing critical documents, send a second request for the specific documents you believe you still need.

Finally, understand how you are going to authenticate the documents and make them useful at trial. If you can't get the documents admitted into evidence, they serve little purpose for trial or in settling your case. Those documents may become critical and you will want to have them properly authenticated during the discovery process and not wait until the day of trial to figure out how you are going to get them admitted.

Continued on page 4

ATTENTION NEWLY ADMITTED ATTORNEYS

If you would like mentoring, please contact the Western San Bernardino County Bar Association at (909) 483-0548 or email at mail@wsbcbca.org and request an attorney mentor. We are here to help you succeed!

Discovery With A Purpose

Continued from page 3

Once authenticated during the discovery process, most counsel will stipulate to their authenticity at trial, thereby saving time and money when it matters most.

INTERROGATORIES

I recently received nearly 200 interrogatories for a relatively simple injury claim. Most of the interrogatories were of little relevance to the action. In fact, I believe that nearly half of those interrogatories were answered as “Not applicable” because it was clear that the propounding attorney never looked at the complaint to see what allegations were being made. Why? Did it make the propound attorney feel good about him or herself by pushing a button and sending out useless interrogatories, or was it just a way to bill the insurance company?

I find most interrogatory responses are often manipulated or prepared by the attorney and not by the actual party. So really how effective is this method of discovery? I believe that if you go back to the simple use of interrogatories they are most effective. Direct the interrogatories to simple facts or issues. Focus the interrogatories on things such as the identity of witnesses, information that the party opponent should know, secure information about where information can be obtained, or understanding the theories or defenses raised by your opponent. Remember, that you want responses which can be used at trial against your opponent, or to contradict your opponent if he or she varies from the previously provided testimony.

DEPOSITIONS

Like some of you, I have sat through depositions which last two or three times longer than they really needed to. Other depositions never seem to accomplish anything of substance. Finally, there are those depositions which are on point, focused and can be easily used at trial to support or defeat a claim or defense. These depositions are the most effective discovery tool so long as they are designed to be used at trial. Preparation for the deposition is the key to making a deposition useful at trial. Having relevant documents ready, key questions ready to which direct responses are required and a logical flow of questions which could be read at trial or easily used if necessary.

Two final tips on the use of depositions. Read the transcripts after you receive them from your court reporter. Learn from your style of questioning, try to make your next deposition even more useful than the

last. Finally, video recording your depositions if you want them to be most useful at trial. There is nothing like a video to tell the story or to contradict a change in the testimony of a witness at trial.

CONCLUSION

Conducting discovery with a purpose seems to be a lost art form not taught to the next generation of lawyers, or even used by the last generation of lawyers. It is not about billing the client or frustrating the opponent. Discovery with a purpose is discovery designed to elicit the responses required to resolve cases or to prepare for trial. Next time you prepare discovery think about what you want to accomplish with your discovery, then tailor your handiwork to accomplish your intended goals.

By the way, I have found that if I prepare discovery with a purpose, I actually have more time to do what I need to do and more fully enjoy the practice of law. You can have the same results as I have experienced, if you efficiently design your discovery with a purpose.

WSBCBA MEMBERS:

**If you have a suggestion for an
MCLE topic, speaker, or know
somebody who is interested in
speaking at one of our
luncheons, please
contact Deva Mora at the
WSBCBA Office.**

Phone: (909) 483-0548

Fax: (909) 483-0553

E-mail:

mail@wsbcba.org

OCTOBER 2016, Article from President of the Campbell Inn of Court, Comm. Donna Connally

The Hon. Joseph B. Campbell Inn of Court kicked off its 2016-2017 year on Wednesday, October 12th at the Castaway Restaurant in San Bernardino. This year we are rebooting classic lawyer movies, using selected clips to examine critical areas of law practice in the light of today's technology, newer law, and other factors. Our first presentation team of the year treated us to an excellent program.

The October panel presented "*My Cousins Daubert and Sargon*" (a reboot of *My Cousin Vinny*). The focus was on the preparation for and admission of expert witness testimony in accord with California's Evidence Code and applicable case law, including the Daubert and Sargon decisions.

Our presentation team jumped into the program by reviewing black letter law, including qualifying experts, admissibility requirements, and judicial discretion. Within only a few minutes, in response to questions posed by the panel, attorneys and bench officers were sharing their respective understanding of the law. The discussion included attorneys' practices as well as what judges are bound to consider in making rulings.

As the presentation turned to voir dire of potential experts, scope of testimony, and opinions based on reliable material, we heard anecdotes, tips, strategies, and the ever-present (and expected) differing points of view. There was some discussion of "junk science" -- what it is and how it may sometimes become accepted science. The presenters concluded with a summary of the Kelly-Frye test, and an examination of how Daubert, Sargon, and their progeny, have or have not altered practitioners' approach to expert testimony California State courts.

Good news! Each of our meetings offers just such a high-level presentation and avid interaction with both attorney and judicial members of the Inn. Also, members receive MCLE credit for each program during the year. Our 2016-2017 programs will variably offer general and special credits in such areas as Legal Ethics and Competency. Please come join this outstanding organization -- the American Inns of Court -- and your remarkable colleagues who continue to build and further civility, professionalism, and ethics in the practice of law.

[See the attached President's Letter for more information about the Hon. Joseph B. Campbell Inn. For membership information contact Membership Chair Lisa DeLorme directly: 626-302-6889, lisa.delorme@sce.com]

NOVEMBER 2016, Article from President of the Campbell Inn of Court, Comm. Donna Connally

There is still time - and room - for new and returning members to join The Hon. Joseph B. Campbell Inn of Court. This month, we are embarking on our traditional December Field Trip. We will be visiting the **Islamic Center of Inland Empire (9212 Baseline Road, Rancho Cucamonga 91701)**. This event takes place on **Wednesday, December 14, 2016**. **Members should arrive at the Islamic Center by 5:30 p.m.**

For more information about membership and details regarding the field trip, contact Lisa DeLorme (Membership Chair): 626-302-6889, or lisa.delorme@sce.com.]

At our November meeting we had the second of our 2016-2017 Inn year programs. The presentation team crafted the program around "*Miracle on 5150 Street*," a reboot of the classic "*Miracle on 43rd Street*." For those who may be uninitiated, "5150" is a reference to that section in California's Welfare & Institutions Code. Simply, it addresses involuntary hospitalization of persons who appear to pose a danger to themselves or others as a result of issues of mental health or disability.

Members of our Inn are employers, attorneys practicing employment/labor law, and bench officers and courtroom lawyers who see and manage litigants' mental health issues frequently. The panel did a terrific job of introducing our membership to statutes that deal with mental health issues and scenarios faced in the legal profession. Here are a few of the laws that are often in play:

FEHA (California's Fair Employment and Housing Act, codified at Government Code sections 12900 – 12996; a powerful statute used to fight a range of unlawful discrimination in employment and housing)


ADA (Americans with Disabilities Act, and the ADA Amendments Act [2008], protecting individuals' jobs and benefits from prejudiced attitudes and ignorant behaviors)

CA Code of Civil Procedure section 527.8 (restraining orders for workplace violence)

We heard about questions, cases and scenarios we may face in our various law and justice roles. The panel and members shared ideas and experiences on several of these, including the duty to make reasonable accommodation for a known disability; a California case where issues of an employee's mental disability (here, bipolar disorder) had to be balanced with laws regarding workplace violence; and the importance of maintaining a detailed paper trail of issues raised, employee performance, and complaints that have been made. One remarkable and important note is that the correlation between mental disorder and violence is actually quite small.

Join the Inn! And gather with your practitioner and bench colleagues for socializing, dinner, and our high-level MCLE presentations. **UPCOMING MEETINGS:** Always on the 2nd Wednesday evening of each month (exception this year is March 2017). **Wednesday, December 14 at 5:30 p.m.:** Field Trip to the Islamic Center of Inland Empire (9212 Baseline Road, Rancho Cucamonga 91701); **Wednesday, January 11 at 5:30 p.m.** and **Wednesday, February 8 at 5:30 p.m.,** dinner and program on both dates, at Castaway Restaurant in San Bernardino.





The Western San Bernardino County Bar Association would like to thank all of you for your membership and support in 2016.

From our family to yours...

HAPPY HOLIDAYS AND A PROSPEROUS NEW YEAR!

Special thank you to all of our 2016 sponsors.

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Holiday Greetings from our members...



All at the Law Offices of William D. Shapiro wish you, your family and staff the Happiest of Holidays and the Healthiest and most prosperous New Year!

Law Offices of William D. Shapiro

Merry Christmas and Happy Holidays
Law Offices of Charisse L. Smith

May you and all those you love experience peace and health in 2017.

Martha Bellinger, Judge Ret.

Happy Holidays and best wishes for a wonderful New Year!
Cutler Legal, a law firm in Upland, CA

Happy Holidays and a Prosperous New Year!
Board of Directors and Staff of the San Bernardino County Bar Association

Wishing you and yours the happiest of holidays.
Law Offices of Angelique G. Bonanno

Happy Holidays! Wishing everyone a prosperous 2017.
Bristol & Haynes, APLC

May the excitement of these Holy Days and Holidays bring peace and joy!
Stanley J. Dale, MA, JD, CCEP

Happy Holidays and a Happy New Year to all.
David M. Goldstein Attorney at Law.

Wishing everyone a very merry holiday season
Fullerton, Lemann, Schaefer & Dominick

Season's Greetings to our Inland Empire colleagues from the Intellectual Property team at
Leech Tishman

Joyful greetings to the brothers and sisters
Barry Brandt Mediation

Merry Christmas and best wishes for a wonderful holiday season.
Law Offices of Diane M. Hartog

Happy Holidays and best wishes for a prosperous New Year!

JAMS

Happy Holidays and Best Wishes for a Grand 2017
Barbara at Legal Nurse Consulting

Happy holidays to all the WSBCBA members; and here's to a great 2017!

Shernoff Bidart Echeverria LLP

Wishing you all a very happy holiday and all the best in the new year!

Dean McVay

Lewis Brisbois Bisgaard & Smith

Happy Holidays to All
Law Offices of Matthew L. Taylor

May your holiday celebrations be overflowing with good food, fond times with family, and prayers of thanksgiving to our Lord, Jesus Christ for all of His blessings!

Law Offices of Fernando D. Vargas

Happy Holidays to my WSBCBA friends, and best wishes for a happy and healthy 2017.

Will Wooten

San Bernardino County District Attorney's Office

Wishing you Joy and Peace during the Holidays and throughout the New Year!

Tracy Guthrie

**Director of Catering Events
DoubleTree by Hilton**

Warmest thoughts and best wishes for a wonderful Holiday and a very Happy New Year. Wishing you the gifts of the season — Peace, Joy and Hope. Merry Christmas. Happy New Year.

Deva Mora

WSBCBA - Executive Director



The Board of Directors for the Western San Bernardino County Bar Association cordially invites you and yours to attend our annual

Holiday Celebration

Please come and join us for refreshments, dinner, entertainment, great conversation and holiday cheer

Friday, December 16, 2016
6:00 p.m. - 9:00 p.m.

at
Dean McVay's North Euclid Home, Upland, CA
[Address and directions given upon RSVP]

Cost \$35.00 per person or \$60.00 per couple and one unwrapped toy per person

All unwrapped toys will be collected for donation and given to the United States Marine Corp. Toys for Tots Foundation to benefit less fortunate children/families during this holiday season

Please RSVP by calling the WSBCBA @ (909) 483-0548 or email: mail@wsbcba.org
Western San Bernardino County Bar Association
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Please note: A \$35.00/\$60.00 fee will be charged for failure to show or cancelation of reservation within 24 hours of event.



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FRIDAY SESSION

Friday, January 27, 2017
6:00 p.m. - 9:00 p.m.

1- Ethics MCLE Credit
Speaker:
Timothy Corcoran

1 - Bias Credit
Speaker: Hon. Martha Bellinger
(Ret.)

1 - Competence MCLE Credit
Speakers:
James O. Heiting, Esq.
Timothy Corcoran



Hon. Martha Bellinger (Ret.)



Hon. Bryan Foster



Tim Corcoran



James O. Heiting



Justice Douglas P. Miller

SATURDAY SESSION

Saturday, January 28, 2017
9:00 a.m. - 12:00 noon

3 General Credits

Mediation, Trial and Appellate Briefs

Mediation Briefs
Speaker: Timothy Corcoran

Trial Briefs
Speaker: Hon. Bryan Foster

Appellate Briefs
Speaker:
Justice Douglas P. Miller

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NOTE: A \$60.00 /\$75.00 fee will be charged for each session for failure to show or cancelation of reservation within 24 hours of event. The WSBBCBA certifies that this activity has been approved for up to a total of 3.0 general and/or 1.0 Ethics, 1.0 Bias and 1.0 Competence MCLE Credits by the State Bar of California.

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SAVING MOM & DAD

2016 EDITION | By Robert J Cullen, CFP®



Helping Boomers Care for Their Parents

“Robert Cullen has created a well-crafted explanation of the complex bureaucracy of Medi-Cal. These real-life scenarios are easily adapted to one’s personal situation. And sprinkled throughout this very readable book are numerous practical suggestions for dealing with aging — be it yours or your parents.”
Linda Maxwell, private conservator, Upland.

“Robert Cullen’s book makes the complex area of Medi-Cal and long-term care understandable for consumers and lawyers who need to advise them. This book is next to my desk for frequent and easy reference.” *John P Howland, attorney, Buxbaum and Chakmak, Claremont.*



Robert J Cullen, CFP, AEP

Robert Cullen is president of Retirement Planning & Management Group, a registered investment advisor, that offers specialized Medi-Cal consulting services. Saving Mom & Dad is available through Amazon or contacting Robert’s office in Upland at 800-RCULLEN. Securities offered through LPL Financial, Member FINRA/SIPC

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A professional headshot of Greg Rizio, a middle-aged man with short, wavy grey hair, smiling warmly. He is wearing a dark suit jacket, a light blue dress shirt, and a blue patterned tie. The background is a blurred indoor setting with a wooden door and greenery.

Greg Rizio

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