ANSPACH HONORED WITH 2007 BENCH AND BAR AWARD

By Susan Gill

On Thursday, May 3 at the Petroleum Club, the Honorable Robert J. Anspach will be honored as the 2007 Recipient of the Bench and Bar Award. The Bench and Bar Award is the most prestigious honor conferred by the Kern County Bar Association. It is reserved for those who render outstanding service to the administration of justice, those who bring credit to the legal profession, and those whose contributions are cognizable. Judge Anspach is a worthy recipient of this award.

Robert Anspach graduated from the University of Notre Dame in 1958. He went on to earn his law degree at Boalt Hall, at the University of California, Berkeley. Returning to Bakersfield in 1961, he joined the firm of Mack, Bianco, King, and Eyherabide. That firm evolved into King, Eyherabide, Cooney, and Friedman. In 1960 Anspach opened his own law office, sharing space with the late Paul Griffiths. As a lawyer, Robert Anspach represented clients in insurance defense litigation, as well as in business and real estate transactions. When asked if he enjoyed practicing law, Judge Anspach chuckled and said you have to enjoy the practice of law, because you work so hard at it. He fondly remembers the thrill of discovering just the right case to support his client’s position.

In 1988 Robert Anspach was appointed to the Kern County Superior Court Bench. He and Judge Wallace were the first judges to tackle the backlog of civil cases in the Fast Track program. They were able to make a tremendous difference in these cases, reducing the time it took to bring a case to trial from five years to one year. In 1990 Judge Anspach was sent to Juvenile Court, and Judge Wallace was appointed to their position.

In 1995 Judge Anspach returned to Juvenile Court to the Kern County Courthouse. Returning to Juvenile Court at his request, he has been able to change the difference in these cases, reducing the time it took to bring a case to trial from five years to one year. In 1990 Judge Anspach was sent to Juvenile Court, where he spent one to two years. He is now in the third year of his second tour, having returned to Juvenile Court at his request.

Judge Anspach has enjoyed the past 19 years immensely. He explained that as a judge, one is constantly challenged and presented with new people. “As a judge, you can really affect some peoples’ lives in a great way.” Judge Anspach also appreciates the opportunities to accomplish things for the community that he would not be able to as a lawyer or layperson. He explained that people listen to judges because of their position, and they are willing to implement ideas coming from a judge. Because people are willing to listen to him, he has been able to change the

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The Honorable Robert J. Anspach with Terry Foley (l), Susan Gill (m) and Suzan Hopper (r).
**PRESIDENT’S MESSAGE - ALL THE NEWS THAT’S FIT TO PRINT?**

By Steve Katz


I was interested in the book for two reasons. First, I have been a big fan of Mamet, who wrote the screenplay for the movie *The Verdict*. The movie screened shortly before I began my first year of law school and is one of my favorites. I went to see the film several times during my first year to glean whatever I could that might help with my first year studies (don’t ask). Second, I was born in a few blocks from Hollywood and grew up in Los Angeles, I have always been interested in the motion picture industry. When I grew up I thought I might someday be in the movie industry. In law school I studied entertainment law. I became a prosecutor (don’t ask).

In his book, Mamet observes that, “For the newspaper, whatever its flag of convenience, exists to sell gore, and outrage. Much like the movies.” Reading that passage I thought about the several “high profile” cases in our county and the coverage that they have been given by our local media.

I have often thought that newspaper, radio and television accounts sometimes do a disservice in covering “high profile” cases. Often, they report the most shocking or “sexy” details as they unfold in the testimony and evidence. The daily reporting, though, most often sensational, lacks the context of where that day’s detail fit with the entire body of evidence in a case.

For further information contact Randall Dickow, 334-4709.

**WEDDELL HONORED BY SECTION**

By Randall Dickow

The KCBA Criminal Defense Section (CDS) has named Willard L. Weddell as recipient of the Atticus Finch Award for 2006. The award will be presented at a dinner in Weddell’s honor the evening of April 25th at the Bell Tower Club. Invitations have been sent to all members of the KCBA and legal community, with RSVPs requested by April 23.

The Atticus Finch Award is the highest honor conferred by the CDS to a member of the defense bar. Named after the character in Harper Lee’s classic novel *To Kill a Mockingbird*, the award is presented to the attorney who epitomizes the quote from the book, “Simply because we were licked a hundred years before we started is no reason for us not to try to win.”

Mr. Weddell, a graduate of McGeorge School of Law, was admitted to practice in January, 1961. Four years later the Kern County Board of Supervisors appointed him as the county’s first public defender, a post he held until his retirement in 1995. Throughout that time Mr. Weddell built that office into a model for other counties, and even states, to emulate.

Judges instruct jurors at each recess not to form an opinion until all of the evidence is submitted to them for their deliberations. No such instruction is given to the reader or viewer of the daily news. News outlets are not encumbered by a duty to instruct nor should they be. Nevertheless, it is important that the public keep in mind (and perhaps the media too) that like jurors they should not “rush to judgment” simply based upon that day’s reporting.

Up until recently, I thought that open access to the courts was a good way to show the citizenry exactly what happens in the court system. I favored the use of cameras in the courtroom. Then I saw some of that recent proceeding in Florida and how most of the lawyers and the judge played to the camera.

Mamet wrote, “The O.J. Simpson show-trial was a corruptive entertainment. The probity, the careful and decent aversion of interest in a civil society, were replaced with the lurid, insatiable need for retelling what the viewing audience quickly forgot was a human tragedy.” And that is the point: all of us—the participants, the public, and the news media ought to always remember that our courts involve human beings with human problems. The problem might be the decision in a murder case or whether a former county official must pay back money. These are human problems and they should be covered with the dignity that not only our system of justice deserves but that fundamentally all people deserve.

Mamet also wrote, “Perhaps those of us who live surrounded by emotion—doctors, police, lawyers, dramatists—are not much moved by the emotional.” Judges and lawyers should also keep in mind the dignity that our legal system deserves no matter how it is reported.

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The Kern County Bar Association provides leadership in advancing the professional interests of the membership and serving the legal interests of the community:

- Build and maintain programs to assure financial stability.
- Promote professional development and improve participation by all members.
- Facilitate the use of technology in the practice of law.
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During the middle of the twelfth century, King Henry II of England sought a way to consolidate his power and to concentrate some of the wealth of his broad country. He developed a system to expand the jurisdiction of his royal courts. Those courts traditionally dealt with questions that affected only the king's property, and royal courts could assume jurisdiction over any dispute. Most citizens had historically relied on the courts set up by the barons to cover most treasured element of American the courts traditionally dealt with questions about the dispute to investigate and resolve the matter. Because some summoned jurors were too busy or at too great a distance to respond to a summons, litigants were allowed the right to fill the jury with uninvolved citizens. Within a few years, those knowledgeable about the problem were summoned as witnesses, and all jurors knowledgeable about the problem were summoned as witnesses, and all jurors were uninvolved citizens. Determination of the facts of a dispute, whether civil or criminal, was entrusted to twelve men good and true. Six centuries later, political commentator, Alexis de Tocqueville, in his Democracy in America, wrote that participation in the jury system was the most treasured element of American democratic process. Since that time, many commentators have criticized, defended and belittled American reliance on the jury system. No more, however, has anyone proposed a workable alternative that can boast either the logic or history of the jury system. The California constitution expresses a uniquely American concept that the power to govern lies with the people. The jury system is a reflection of that central concept. No elected or appointed official can avoid reliance on the citizenry for making the most crucial decisions: the resolution of disputes under the law. I fervently hope that in our modern efforts to streamline and expedite the judicial system, we avoid the dangerous temptation of abandoning the jury system.

Law Day Returns to Celebrate the “Liberty Under Law”

By Kathleen Kress, Court Project Analyst, Kern County Superior Court

What the heck is “Law Day”? Another commemoration day dreamed up by Hallmark to sell greeting cards? Actually, Law Day is a national day set aside to celebrate the rule of law. The concept originated with the American Bar Association. In 1958, President Dwight D. Eisenhower established Law Day as a day of national dedication to the principles of government, and judicial independence. Over the last five years, each law firm has grown exponentially, with strong support from law enforcement. By 2007, the Kern County Bar Association, Kern County Law Library and Kern County Superintendent of Schools. A single day of observance has been expanded to an entire week, this year April 29 – May 5. Different community partners are invited to participate each year, based upon how their organization’s mission fits with the theme. This year’s theme, which the local planning group has shortened to “Youth and the Law”, is drawing outstanding community support. After only two planning meetings, about 25 events are scheduled. The court has formally invited Governor Schwarzenegger to participate, based upon his support of recent initiatives. His appearance would be the culminating event to a week of community forums, presentations and workshops.

As the project coordinator, one of the things I really enjoy about Law Week is the opportunity to be creative and make new connections with the community. Last year’s culminating event, a local appearance by Clay DeNatale, or Email her at banducci@youngwooldridge.com

For our next community affairs event, KCPA is organizing a clothing drive to benefit the Alliance Against Family Violence and Sexual Assault. KCPA is soliciting clothing (including underwear and bras, toiletries, personal hygiene products, school books and school supplies) for young children. Donations of in-season clothing or history of the jury system. The jury system is a reflection of that central concept. No elected or appointed official can avoid reliance on the citizenry for making the most crucial decisions: the resolution of disputes under the law. I fervently hope that in our modern efforts to streamline and expedite the judicial system, we avoid the dangerous temptation of abandoning the jury system.
The Family Law Section of the Kern County Bar Association has grown to 37 members. We have monthly luncheons with MCLE presentations, and a "blowout" dinner/dance in December.

Judge H.A. (Skip) Staley has been the presiding Family Law Judge for over a year, and he has settled matters in a way that is acceptable in the system. Judge Staley addressed the Family Law Section at its monthly meeting on February 22, 2007.

Judge Staley expressed his appreciation for Judge Robert S. Tafoya, a tremendous judicial asset, who has worked with Judge Staley on numerous family law projects. Judge Tafoya has been reassigned to the North Shafter/ Delano courts; however, he will continue to write the family law policies and procedures. (These will be available partially on the internet as well as hard-copied). Kern County’s most senior jurist, Judge John L. Fielder, has been assigned to hear family law cases.

Judge Staley also expressed his appreciation for Marisol Alcantar, who assumed the position of Supervising Family Law Clerk following Karen Houl's retirement last year. He also acknowledged the family law attorneys, who impressively and skillfully handle cases under difficult circumstances.

The State of the Court was the topic of Judge Staley's address. He explained that in 2006 there was a significant increase in filings for that period. This has established court sessions exclusively for domestic violence matters twice weekly, and the parties leave with orders in hand. He lauded the use of the expert and temporary restraining order information cover sheets, the requirement of filing preliminary disclosure statements prior to the filing of attache memorandum and changes in the ethical requirements for temporary judges. Judge Staley said that he is continuing to identify ways to handle the family court caseload.

Other issues affecting family law that Judge Staley has identified for resolution in 2007 are:

1. Security delays. (The removal of traffic court to the Buck Owens Blvd. location should help).
2. Redevolving the procedure, funding, payment and recovery of minor's counsel's fees.
3. Two terminals for the clerk's office for retrieving information re criminal and restraining orders which is helpful in domestic violence cases.

Court and clerk staff and some attorneys have been in communication with Napa County regarding their child custody and visitation orientations for parties. They have also visited the Tulare County Court to observe the conduct of its law hearings. Tulare County handles more cases than Kern County has computed time calendaring and case management systems, and sets cases in mornings and afternoons. In addition, Tulare County mediators make recommendations regarding custody and visitation. Judge Staley will continue to conduct monthly FLAG (Family Law Advisory Group) issue resolution meetings open to court and clerk staff and attorneys.

Res Ipsa Loquitor

By Kathe Kates Davis, Treasurer

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KCPA POINT OF VIEW - NO APOLOGY NECESSARY

By Aneta L. Adams, CLA, KCPA President

A paralegal who has fulfilled the requirements of Business and Professions Code §6450 has earned the title. In this day of so-called political correctness, a paralegal should not have to apologize for the issue. We have a profession that we’ve worked hard and long to create, and we’d better protect it!

We finally have a California law defining and regulating our profession, and nobody is paying attention! Besides qualified paralegals, this means, in particular, attorneys and HR personnel who hire paralegals. Before hiring a paralegal, the attorney or HR personnel should understand the educational and prior experience requirements for a paralegal position, as opposed to a legal secretary position. Here are the differences:

Paralegal/Legal Assistant:
A. Must have at least one of the following:
1. Certificate of completion from an ABA approved paralegal program.
2. Certificate of completion from a paralegal program or a degree from a post-secondary institution that requires a minimum of 24 semester units in law-related courses and accredited by the Bureau for Private Postsecondary and Vocational Education.
3. A bachelor’s or advanced degree in any subject, a minimum of one year of law-related experience under the supervision of a qualified attorney, and a written declaration by that attorney stating that the person is qualified to perform paralegal tasks.

Legal Secretary:
A. Qualifications decided by the attorney and/or law firm.

No continuing education required.

LAW WEEK MCLE OFFERINGS

By Carol Brady

Attorneys and their teens have the opportunity to experience law week together. The seminars listed below are offering MCLE credit. Teens want to ask teachers whether they can also get credit for attending. The Volunteer Attorney Program/GBLA, Kern County Law Library, and Family Law Bar present:

Tuesday, May 1, 2007
The Rights of Foster Care Youth* at Kern County Superintendent of Schools, 6-7 p.m.
Special Education Law* at Kern County Superintendent of Schools, 7:15-8:15 p.m.
Custody and Visitation* Location TBA, 6-7 p.m.
Minor’s Counsel: How it applies to Custody and Visitation* Location TBA, 7:15-8:15 p.m.

Wednesday, May 2, 2007
School Discipline Process* at Kern County Superintendent of Schools, 6-7 p.m.
The Juvenile Justice System* at Kern County Superintendent of Schools, 7-15:8-15 p.m.
The ABC’s of Guardianship* at Board of Supervisor’s Chambers, 6-7 p.m.

Tuesday, May 8, 2007
An Overview of the Emancipation Process* at Tejon Room of the Beale Library, 6-8 p.m.

*Greater Bakersfield Legal Assistance Inc. certifies that the State Bar of California has approved this activity for MCLE credit in the amount of 1 hour of credit.
Every once in awhile, the United States Supreme Court issues an opinion in the criminal law and procedure area with earth shattering effects. In earlier days there were a number of such opinions: Mapp v. Ohio (mandating exclusion of the right to remain silent); Miranda v. Arizona (suppression of unlawfully seized evidence.) In more recent years under the Rehnquist/Roberts Court, such opinions have been rare. However, even in recent years a few opinions stand out. Crawford v. Washington in 2004 reframed the 6th Amendment right to confrontation. Apprendi v. New Jersey in 2000 started a string of opinions (Ring v. Arizona, Blakely v. Washington, Ring v. Arizona, Blakely v. Washington and United States v. Booker) where the Court looked at and struck down various sentencing schemes.

Based on those opinions it should not have been a surprise when the High Court struck down California’s determinate sentencing scheme earlier this year in Cunningham v. California. In a nutshell the Court held that California’s Determinate Sentencing Law (DSL) violated a defendant’s right to a trial by jury under the 6th and 14th Amendments. The Court found a sentencing scheme to be unconstitutional, which allows a judge to impose a sentence higher than the statutory maximum based on facts not found by a jury to be unconstitutional.

While the Court identified the problem, it did not provide the solution, leaving the state with several options. Played up in the press as earth shattering, the reality is effect is not. The result will be in defendants recently sentenced to greater than a mid-term (with several exceptions) having to be resentenced. The number of such defendants in Kern County is unknown at present.

The State Legislature has been quick to react with SB 80 already passed out of the State Senate and currently pending in the Assembly. An “urgency measure,” the bill will statutorily provide that where the sentencing statute specifies three possible terms, a judge can make the choice of the appropriate term within the sound discretion of the court. The bill specifies what a judge may consider in the exercise of such discretion.

It is expected that this bill will pass out of the legislature and be signed by the governor soon. The defense bar took a neutral position, neither for nor against the bill in senate hearings, primarily because later this year the entire system of sentencing laws in California will be reviewed by the legislature.

In the meantime, our local court has been dealing with sentencing under the Cunningham scheme or obtaining waivers when sentences may fall outside of the High Court’s mandates. The District Attorney’s Office has been including “aggravating factors” in many of their filings and the defense bar is demanding to such inclusion. At press deadline, none have been litigated to my knowledge.

Anyways, my parents were faced with a three-day blizzard recently. Wisely, they stayed inside and refused to venture out. You learn these things when you are raised in the Upper Midwest where Winter blizzards are fairly common. You learn to be prepared all the time because on the prairie, a blizzard will descend in moments. And when that happens, you are facing a res judicata situation. The results will either be for you or against you. You are either going to survive, or it is your curtain call.

It’s like preparing for trial. You have to do what you can to prepare before you enter the courtroom to start picking a jury, because once you begin, there’s not a lot of time to complete what you should have done previously. All you can do is be ready. There are few necessary adjustments during the storm and hope for a good outcome. But I digress, as usual.

What do the winter birds do when faced with a storm? I have learned via my parents observations, they “hunker down” inside naturally created snow caves under the lower limbs of Evergreen trees. They come out to feed on seeds, etc., then find the entrance to their snow home, safe from predators who are busy hibernating, or snug inside someone’s house. Come to think of it, I have seldom seen any marauding cats in the Midwest in Winter. Good thing for the birds whose snow homes are, no doubt, quite susceptible to attack.

Hey, this makes me realize that when we see the news of some cat stuck upon the top of some tree and unable to get down (requiring mass quantities of taxpayer funds for the firemen to get them down), they have to have gone up there to try to get a bird or two. So cats have their own res judicata situations. In the meantime, I’m pleased to see lots of ducks and geese flying over Bakersfield waiting for their blizzards to finish so they can head North. The six new Lilac bushes I planted last fall are sprouting leaves already and I am hoping for more than one flower this year. Yup, all we have here is Hakuna Matata, and mine has something to do with lilac bushes actually putting out flowers! Happy Spring! I promise to try to write about some serious legal thing for the May issue….that is if my Spring Fever has broken. Thanks for reading.
GUTSTEIN SWORN IN AS SUPERIOR COURT COMMISSIONER

By Steve Katz

On Friday, February 23, 2007 the Kern County Superior Court gathered en banc in the Board of Supervisors Chambers to swear in the newest Kern County Superior Court Commissioner Michael Lawrence Gutstein.

In a relatively short, but nonetheless dignified ceremony, Presiding Superior Court Judge Jerald Turner administered the oath to Mr. Gutstein. After the oath, Commissioner Gutstein's wife, Alma, presented Commissioner Gutstein with his new judicial robe.

Kern County Bar Association President Steve Katz presented Commissioner Gutstein with a framed copy of A Judge's Obligations. While making the presentation Katz described Commissioner Gutstein as a "mentsh." That's a word that means: 'an honorable and decent person,' Katz explained. "All of us who know Mike – and those of you who don't even speak Yiddish – know that Mike is a mentsh."

Superior Court Judge Cathy Purcell praised the selection of Gutstein as a court commissioner. Commissioner Gutstein will join Judge Purcell and sit in the Ridgecrest court of the East Kern Branch of the Superior Court.

"I have been on both sides," commented Commissioner Gutstein. "I'll try my hardest to be a fair judge. As a lawyer I always appreciated a judge who allowed both sides to fully present and argue their case. I want to give everybody a fair hearing. I want to treat all participants with respect."

For the past six years Commissioner Gutstein practiced as a prosecutor in the Kern County District Attorney's Office, most recently assigned to the White Collar Crime Section where he oversaw investigations and prosecuted insurance fraud cases. Prior to joining the District Attorney's Office Commissioner Gutstein served as a Deputy Public Defender in the Kern County Public Defender's Office for twelve years. As a prosecutor and as a defense attorney Commissioner Gutstein handled all types of cases from infractions up to and including death penalty cases.

A 1981 graduate of the University of West Los Angeles school of Law Commissioner Gutstein studied under the evidence expert, Justice Bernard Jefferson. Commissioner Gutstein grew up on Oahu and earned a Bachelor of Arts in Religion and a Bachelor of Science in Biology from the University of Hawaii in 1978.

Prior to going into to public service in Kern County Commissioner Gutstein began his law career as corporate counsel for Compex Systems, Inc. in Los Angeles. Later he practiced in Ventura, California where he was the managing attorney for Jacoby and Meyers Ventura office. He met his wife Alma while living in Ventura.

When asked how he ended up in Kern County, Commissioner Gutstein displayed his noted wit, by explaining, "My car broke down on the Grapevine and the next thing you know, I'm living here." Commissioner Gutstein originally came to Kern County to practice medical malpractice defense with Patterson, Ritter, Jurich et al. Obviously central in Commissioner Gutstein's life is his family. He and his lovely wife have five children and six grandchildren; most of whom were in attendance at the swearing in ceremony. At the ceremony Commissioner Gutstein remarked that he was proud of his family. In a touching moment he said that he wished his departed mother and father were able to see his appointment.

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I complain about the Res Ipsa deadline fairly often, and I miss it even more often. The deadline has two distressing features. One is that it arrives so soon. The other is that the Res Ipsa appears so long after the deadline. The events attracting my interest at the time of the deadline will be forgotten by the time of publication. (This usually isn’t too much of a problem, actually. The things interesting me at the time of the deadline are not terribly interesting to most normal people even then.)

This deadline week I am interested in a story that will be, I sincerely hope, forgotten by the time you read this. In a school in northern California a child was being teased about her Mormon heritage.

“Do you have ten moms at home?” she was asked. “That’s so gay,” she retorted.

The retort got her a talk with the principal and a record of discipline in her “permanent record.” The school had a “no tolerance policy” for the use of the term “gay” as an epithet even since two boys were paid to beat up an allegedly homosexual child at the school last year.

It’s the sort of story that conflicts me. I loathe all “no tolerance” policies—we’re humans here, facts change cases, we HAVE to apply rules in ways meant to serve their purposes, Cessat ratio lex, cessat lex and so on—but I am sympathetic to attempts to reduce harassment of people, especially for their group identity.

(Which reminds me—I wonder if the other kids have a mark in their permanent record for making fun of the kid for being a Mormon?)

I am particularly worried when the fuss is about something as malleable and impermanent as slang. Yes, I know that once “gay” only meant cheerful or lighthearted or happy but now it means “homosexual” and has also been, for fifteen years or so, a term kids use as a pejorative, with the meaning that something that is “gay” is weird or bad. How can we punish the kid who said the idea of ten moms at home was “gay” unless we know for sure whether she meant “homosexual” or “weird”? (Or maybe “happy”? How happy it would be to have ten moms at home—)

Finally, and I am only partly kidding when I say this, in five years (or less!) the school rule may become even more ridiculous when the term “gay” morphs into a positive term (if it isn’t already)! “Look at those wonderful shoes! They’re so gay!” “That movie’s gay. Let’s see it again!” I’m not sure it will shift its meaning, of, course, but the odds are good.

By Jay C. Smith

“Only words/...and words are all I have...”
The Probate and Estate Planning Section of the Kern County Bar Association met on February 14 to hear the State of the Probate Court address by Commissioner Janie L. Vega. Section President Nancy Oehler noted that Commissioner Vega’s address always addresses a well-attended meeting.

Commissioner Vega explained the changes which have been made by the new Probate Examiner, John Dunn, and the Probate attorney, Alisa Knight, and their staff.

• Whenever confidential information is filed in a probate case, it will be kept in a red file folder, to ensure it is not disclosed to members of the public who request to see the file.

• There will be a three-tiered calendar on Mondays and Tuesdays. The first group of cases called [the 9:05 calendar] will be conservatorships. The second group of cases called [the 9:01 calendar] will be a three-tiered calendar including hearings which have problems and are marked not ready for hearing. The Probate Examiner’s notes regarding matters will be scheduled for hearing if approved by the court. http://www.kern.courts.ca.gov/probate.asp

• Ex parte hearings will require five days’ notice. The Family Court Investigator will assist with adding one staff person to address time and background issues.

• In addition to the recorded message [at 868-4881] advising which hearings are ready for hearing and which have problems and are marked not ready for hearing, the Probate Examiner’s notes regarding matters will be scheduled for hearing if approved by the court. www.kern.courts.ca.gov/probate.asp

Commissioner Vega closed with an explanation of the difference between neurotic and psychotic. A psychotic person adds 2 + 2 and gets 5. A neurotic person, on the other hand, knows that 2 + 2 equals 4, but still worries about it. Commissioner Vega said that with a little less psychosis, and a little more neurosis, the probate calendar will run smoothly.

By Susan Gill

In 1970 the California Legislature enacted the Lanterman Petris Short (LPS) Act, creating a second advocate for persons with mental health disabilities. Typically, California’s patients’ rights advocates are not lawyers; they are usually lay people trained in the laws and regulations which govern mental health treatment in our state. Patients’ rights advocates are charged with many responsibilities, all of them weighty — they investigate complaints regarding mental health services and facilities providing such services; monitor mental health facilities and programs to ensure compliance with statutory and regulatory provisions; provide training to mental health professionals; make sure that patients know of their rights under the law; and exchange information and cooperate with the California Patients’ Rights Office.

Today, California has an extensive web of advocacy support for persons with mental health disabilities. Typically, California’s patients’ rights advocates are not lawyers; they are usually lay people trained in the laws and regulations which govern mental health treatment in our state. Patients’ rights advocates are charged with many responsibilities, all of them weighty — they investigate complaints regarding mental health services and facilities providing such services; monitor mental health facilities and programs to ensure compliance with statutory and regulatory provisions; provide training to mental health professionals; make sure that patients know of their rights under the law; and exchange information and cooperate with the California Patients’ Rights Office.

In Kern County, the Patients’ Rights Advocates work for Kern County Mental Health. For many years one man, Day Altair, performed the duties of the advocate alone. However, in 1997, a second advocate was added to the staff, to help ensure that the rights of the mentally ill in Kern County were being protected and respected. This second advocate, Steve Musick, was born to the role of a patients’ rights advocate, and he earned the respect of all with whom he worked, patients and providers of mental health services alike. On Sunday, March 4, 2007 Kern County lost this gentle man, in a motorcycle accident on Glennville Highway.

Steve Musick began working with mentally ill persons when he was a young man in the Army. When he was discharged from the Army, Steve earned his AA degree and obtained his license as a Psych Tech. He worked in just about every facet of the Kern County Mental Health System of Care, providing outpatient services to adults, working in the Emergency Room at Kern Medical Center, working in the County’s designated facility for involuntary mental health treatment, Unit 3-B; and the Crisis Stabilization Unit. While Steve was respected, appreciated, and valued in each of these positions, he truly found his niche when he joined the Patients’ Rights Advocates office. Day Altair explained that the breadth of Steve’s experience in the mental health system was an invaluable asset to both of them as advocates. In addition to his familiarity with the various programs offered by the County, Steve had a broad understanding of the medication and treatment used for mental illness.

In every Tuesday and Friday afternoon Day and Steve would represent patients in hearings to determine if there is probable cause to continue involuntary mental health treatment. Steve took great pleasure in learning the facts of all of the cases construing the LPS Act, and he often cited such cases to the Administrative Hearing Officers who go over these hearings. Perhaps because he was not a lawyer, or perhaps because he was so human, Steve would effectively communicate the humanity of those involved in the cases. While we may never write Conservatorship of Smith (1986) 187 Cal.App.3d 903 and discuss the facts only to support the holding that bizarre and repeated disruptive behavior alone are insufficient to justify LPS committed care and treatment and spoke of Elsie Smith as a person, not as a bundle of interesting legal facts. When a patient in Unit 3-B bore resemblance to Elsie Smith, Steve not only cited the case, but talked about Elsie.

In his role as a Patients’ Rights Advocate, Steve Musick came to know many of the most severely mentally ill persons in our county. Some of these people are charming, and some can be quite challenging. Yet, Steve viewed every single person without prejudice and with a sense entitled to his respect and honest compassion. Steve passed that perspective along, too; training most of the people who are now his co-trainer, Mike Frederick emphasized the importance of treating persons with mentally illness with dignity and respect.

Steve understood his role in the mental health system – to ensure that the legal rights of the patients were protected and respected, and that the patient’s position was given a voice. He also understood that sometimes if he won a hearing, a person who desperately needed mental health treatment would leave the hospital, sometimes at his or her own peril. In those cases, Steve was careful to make sure his client was detained on the right grounds – and only those grounds.

More importantly, Steve’s passion, empathy and conscientiousness in these difficult situations were effectively marshaled to make sure that case planning for treatment and eventual discharge was the best that could, and should, be offered. However, when Steve believed there was not a sufficient basis to detain a patient for involuntary mental health...
SPOTLIGHT ON VOLUNTEER ATTORNEY LAURA OLIVIER

By Carol R. Bracy, Volunteer Attorney Program Coordinator

Almost every Thursday night for months in a row, Laura Olivier could be found at a desk at GBLA dispensing legal advice to tenants with a dose of down home common sense. Laura’s voice would ring down the hallway with sounds of indignation or sternness, depending on the caller’s attitude or the situation. “You talked to your landlord how many times asking him to make repairs?...Do you have e-mail? Give me a few minutes and I’ll shoot you off a letter that you can send.”

In her day job, Laura works as an attorney with Klein, DeNatale, Goldner, et. al. Specifically, she is the Arvin City Attorney, a job which entitles her to carry a badge (much to her son’s delight) and at which there is “never a dull moment.” Laura enjoys working in municipal law, especially with the support that she has from her firm. “Seventy percent of any job is who you work with and for.” And Laura is enthusiastic about working with her firm.

“I love being a lawyer,” Laura exclaimed in a recent interview. “I love having a skill which helps people... I love the way law school teaches you to think... I love the community and I love where I work.” While she derives obvious joy from her work, Laura’s primary focus is in raising her 2-1/2 year old son Conrad, born of a previous marriage. She credits Jay Rosenlieb, managing partner at KDG, with working out a flexible schedule so that she can parent Conrad and work on a part-time basis, primarily from her home.

Laura is an Orange County native who still has a close family connection to the area. She and Conrad go to visit grandparents, aunts and uncles at least twice a month and enjoy playing at the beach. Even in Bakersfield, Laura keeps an “over the Grapevine” connection, as she has developed close bonds with Southern California transplants in a small group that calls itself “Bak Pak.” They have family dinners together, play sports, go to parks and meet in book groups. All of the families have children Conrad’s age and the parents include the children in all of their activities.

Between Laura’s work, family life, and dedication to friends and volunteer activities (she also helps with Habitat for Humanity), there are times when she has a lot to juggle. As one attorney friend commented, “Laura is an example of someone who clearly loves her work and still keeps her family first. At the same time, she is generous with her time to those who need her.” The Volunteer Attorney Program is grateful that Laura shares her time with the low-income population of Kern County!

The Kern County Bar Association and Greater Bakersfield Legal Assistance would like to thank the following attorneys for providing pro bono legal assistance to low-income residents of Kern County through the Volunteer Attorney Program during the month of February 2007: Amy Johnson Barks, Kassandra Clingan, Terry Dennis, Diane Dodds, Kathryn Fox, George Manolakas, Terry McMahon, Lori Pesante, Tim Swanson, Paul Swanson, and Jeff Travis.
If you have kids in high school, you may have known about mediation programs in our local high schools. I read about it in "The Californian" late last year during "the holiday season." I was delighted to see that our school system has been using peer mediation since 1996 at West High, and tangents have been at Ridgeview High and Arvin High for about five years.

Stockdale High has a mock mediation program where a group of students can be trained to help fellow classmates work out their problems peacefully before they escalate to physical or verbal means. The counselor of one school's program said that such programs will be welcomed and that such programs will be part of the solution. It has helped students as well as in those who are trained and increase in healthy skills in any area of life.

The system works in our schools among our teens. Counsellors have found that students involved in conflict are more likely to open up with other students than with adults. In their experience, students relate their side of the story to an adult from the perspective of being "the victim" when that may not be the case. The same story related to a fellow student usually reflects the truth of a situation rather than a one-sided version.

The teenagers follow the model format: First – a referral of the parties to mediation; Second – get the parties to the table; Third – ensure confidentiality before, during, and after the mediation session; Fourth – explain the rules of mediation so that the parties don’t escalate their differences during mediation but begin on a level field of understanding and respect for one another; and Fifth – agree to be cooperative and abide by the terms of resolution reached at the end of the mediation. Finally – assist in communication of interests and positions, and help find a solution that both sides can accept, and uphold as their solution to the problem.

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The result of mediation in our schools? Reduced fights on campus, and increase in healthy skills in students who are referred to the program as well as in those who are trained and act as mediators. It has helped students grow from quick-tempered reactions to cool, calm, kids who know there is a better way than violence to resolve conflict. One teen high school student even meditated at home – between her younger sister and the sister’s boyfriend. A great example of what mediation skills can do for anyone, in any area of life.

What we, as attorneys and mediators, can then anticipate from such information, is that our future generations will not only be informed and open to the concept of a mediation program in our courts and society, but that such programs will be expected. Thus, the efforts of our courts, judges, attorneys, mediators and community agencies to develop mediation programs within the parameters of our judicial and court system will be welcomed and utilized by upcoming generations. It’s good to know. Thanks for reading.