



San Bernardino County Bar Association

BULLETIN

Vol. 49, No. 8

Our 146th Year

June 2021



Summer. Opening soon in a location near you.

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Official Publication of the San Bernardino County Bar Association

2020-21 Kaufman Campbell Awards

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From the President's Desk

by Barbara A. Keough

Be the change you want to see

Inspiration and influence are behaviors that can create a change. Influence is defined as an act whose purpose is to cause another to alter or change a behavior, belief or opinion. Inspiration is sometimes defined as an action or power of moving the intellect or emotions.

As attorneys, we understand the power of influence and persuasion: We use our skills as advocates to convince the judge or jury to adopt our interpretation of the facts.

Inspiration, however, is an entirely different animal. It is more than just influence. Inspiration is the drawing in of air, the creation of life, a sort of divine motivation that begins with the breath of life. Inspiration is not the act of persuading or coaxing another to think a certain way; it is an act that arouses someone to want to do or create something.

We influence our children to live uprightly, to be good citizens, to adopt our values, ideals and ethics and to follow our example. However, our duties as parents go much further than teaching them to stay the course, follow the rules and stand at attention when Captain Von Trapp tweeted his whistle. We want to inspire them to go out, light a fire (figuratively) and make a difference.

On May 27, 2021, this bar association hosted the Kaufman-Campbell Awards Event via video Zoom. We honored three prominent jurists that evening, the Hon. Michael Sachs, Com. Deborah Daniel and the Hon. John Pacheco. The statements made by the presenters and the comments by each of the honorees were touching. In this bulletin is a letter received by the Hon. John Nho Trong Nguyen describing how moved he was when he participated in the event, and I could not say it any better or with more grace than he did. I encourage you to read his letter within this bulletin. There is also a link to a video of the event.

That said, I was – and am – so proud of this Bar Association and our San Bernardino County Superior Court bench and its staff for their loyalty and dedication as public servants in working to keep our doors open to allow access to justice, despite the harsh realities of the pandemic of 2020. You've heard it numerous times: Our San Bernardino Courts are woefully under-funded. We simply do not have the funds to purchase the sophisticated electronics comparable to those used by other counties. We manage to eke by with the little we have, but we, as members of the legal profession, clearly can do more.

Several months ago, this bar association was approached by Presiding Judge Michael Sachs, seeking our help. Our courts are not equipped with the ability to allow virtual web-cam appearances. The only virtual appearances are via a telephone connection which runs close to \$100 per appearance, a costly charge when you have 5-10 telephone appearances a week. The cost of purchasing the hardware and software for the camera-based virtual appearances would be phenomenal and clearly out of reach for our already cash-strapped courts in San Bernardino. For that reason, Judge Sachs asked for our help, knowing that we, as attorneys, as a bar association, have a vested interest in our local courthouses. The members of the San Bernardino County Bar Association answered "yes" to the judge's request and struck up a campaign called, "Vision 2020 and Beyond," with the goal of raising the funds to purchase the software and hardware so badly needed and to bring our beloved court on the same playing level as our sister courts.

Our courthouse, the judges, commissioners, administration and staff have taken deep cuts to keep the doors of justice open, to allow us to practice our profession and to allow those who seek justice, to attain justice.

Our presiding judge has humbly asked for our help. The time to act is NOW. It's time folks that WE step up to the plate and give back. Make a pledge NOW. I encourage every member of this bar association to make a pledge and follow through with it. Every pledge brings us closer to our goal.

For instance, you can pledge \$1,100 towards the Vision 2020 and Beyond campaign. Make your initial contribution \$300; the following consecutive four months, write a check for \$200. That's it. Of course, we welcome ANY pledges, no matter the size.

We are called to make a difference. We can do this! We can be the change.

"We but mirror the world. All the tendencies present in the outer world are to be found in the world of our body. If we could change ourselves, the tendencies in the world would also change. As a man changes his own nature, so does the attitude of the world change towards him. This is the divine mystery supreme. A wonderful thing it is and the source of our happiness. We need not wait to see what others do." – Mahatma Gandhi

Mahatma Gandhi's famous quote above is oftentimes summarized as, Be the change you want to see in the world. May you be inspired to be that change.

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FROM THE DESK OF THE PRESIDENT OF THE HON. JOSEPH B. CAMPBELL AMERICAN INN OF COURT

By **Susan B. Grabarsky**



Every year, the Inns of Court devotes one month to addressing lawyer well-being. As we cautiously emerge from the pandemic, during which the entire world's physical and mental well-being suffered, this is an issue that has come to the forefront.

Over the past fifteen months, professional courtesies were freely given, allowances were made for technical difficulties, and legal deadlines were extended almost across the board. Even in the rigid world of ERISA, which is part of my practice, time limits were relaxed. It was the most reasonable and compassionate way to respond, as many of our colleagues suffered illness, grieved the death of family and friends, and grappled with extraordinary stress. But those accommodations will soon come to an end, even if the physical illness and emotional sequelae of the pandemic have not. It is a recipe for disaster unless lawyers recognize and address the potential problems that may arise in post-pandemic practice.

There are many resources which were established long before 2020 for lawyers struggling with substance abuse and mental illness. Most of these programs have expanded to deal with grief and recovery following the death of a loved one. Some have pivoted to address anxiety and depression over the past year as well. The State Bar of California's Lawyer Assistance Program provides free short-term counseling and referrals. The American Bar Association also maintains a directory of resources for lawyers in distress: https://www.americanbar.org/groups/lawyer_assistance/.

What about post-COVID conditions that can cause diminished cognitive abilities and chronic fatigue, among other problems? These will certainly impact an attorney's fitness to practice, but members of our profession are notorious for working despite illness or injury. As a disability insurance lawyer, every attorney I have ever represented admitted that he or she delayed filing a disability claim as long as possible – sometimes far longer than anyone would consider wise, resulting in malpractice, worsened health, or both.

The typical consequences for failure to meet the demands of our profession—which can be fast-paced, cognitively demanding, and stressful in the best of times—may not be sufficient or appropriate in the immediate aftermath of the pandemic. As the National Task Force on Lawyer Well-Being stated in its 2017 report: “Discipline does not make an ill lawyer well.”

Members of the legal profession are generally responsible for ascertaining their own fitness and competence to resume normal practice. Ideally, we could all self-assess and nip problems in the bud using tools available from the Institute for Lawyer Well-Being at <https://lawyerwellbeing.net/>, the ABA, the California State Bar, or from our firms, institutions, and organizations. Unfortunately, this is sometimes not possible. In times like these, it behooves us to look out for each other and, more importantly, to allow others to help us.

The Inns of Court approach is through mentoring and outreach programs, both formal and informal. If you are a member of the Campbell Inn interested in mentoring or seeking a mentor in these difficult times, please reach out to anyone on the board. The Inns, like many professional organizations, actively advocates for members' well-being. The MCLE credits are just the icing on the cake.

Ultimately, the California Rules of Professional Conduct challenge each of us to be our brothers' and sisters' keepers. Rule 1.0 states the overarching objective is “to protect the public, the courts, and the legal profession; protect the integrity of the legal system; and promote the administration of justice and confidence in the legal profession.” Helping fellow members of the bar – especially those who are struggling to return to normal practice in this post-pandemic world – furthers those objectives. Moreover, looking out for each other, the public, and the profession as a whole is now more than ever the right thing to do.

The American Inns of Court is an organization of judges and lawyers with the collective goal of advancing the rule of law by achieving the highest level of professionalism, civility, and ethics. The Hon. Joseph B. Campbell American Inn of Court based in San Bernardino County is a nationally-recognized, award-winning Inn that has achieved Platinum-level status, the highest honor in the Achieving Excellence Program of the American Inns of Court. To inquire about membership, please contact Susan Grabarsky, President, at [Susan@DarrasLaw\[dot\]com](mailto:Susan@DarrasLaw[dot]com) or Jesse Male, Membership Chair, at [JesseMale@RivCoDA\[dot\]org](mailto:JesseMale@RivCoDA[dot]org).

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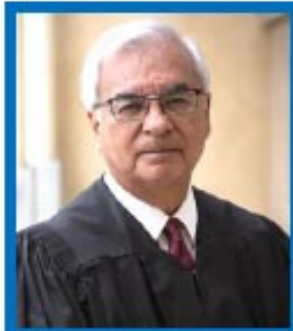
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Wednesday June 9, 2021

5:30 pm – 6:00 pm Social Time

6:00 pm - 7:00 pm Presentation

Via Zoom Click [HERE](#) on June 9 @ 5:30 pm

To inquire about membership, please contact Jesse Male,
Membership Chair, at JesseMale@RivCoDA.org

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A Thank You Letter to the Bench & Bar

From the Editor: The morning after our Virtual Kaufman Campbell Event, I received the following email from Judge John Nho Trong Nguyen. I asked the Judge if he would mind if I shared his kind and uplifting comments with our readers – he didn't mind at all.

A Note from Last Night: The Kaufman-Campbell Awards.

Last night, May 27, 2021, I had the honor to attend the San Bernardino County Bar function to honor three distinguished members of the bench, Presiding Judge Michael Sachs, Commissioner Deborah Daniel, and Judge John Pacheco.

In all the 21 years serving the public as a judge both full time and part time as an active and an assigned judge, this bar event is among the best I have ever attended.

There were speeches, there were presentations of the awards. Yet, the Covid-19 crisis gave the night a very different feeling of happiness, intimacy, friendship among the members of the bench and the bar. The “virtuality” ceded and everything seemed real.

There was no pleasing language, no hidden meaning, and not even a single casual joke. There was no alcohol served, no loud noise, no bravado. None was needed to attract the participants’ attention from beginning to end. Even after the event was formally closed, people stayed attached to the ZOOM collage of pictures. The warm conversation continued, reminiscing what were in the hearts and mind, the work, the dedication, in all, the humanity of the honorees and of the ideals of the legal profession which they represent. After the beautiful introduction by Judge Schneider, the words spoken softly by Judge Sachs were simple, modest, and sincere, making his speech more meaningful and moving. As I listened, I thought of Sam Walton, the father of Walmart, the billionaire from Arkansas, who built and managed the world largest chain of supermarkets by “walking around”, mixing himself with the workers at all levels, tried to understand them, to appreciate their hard work and contributions, and to give them the confidence that he had their backs, and that he sincerely wanted to create and build a worldwide company for them, not just for him and his empire. In his speech, like Walton, Judge Sachs thanked all members of the bench and the Bar, his personal staff and the entire admin staff of the court, crediting his success in leading the San Bernardino Superior Court out of the Covid-19 tornado, none to him, but to all others. Now I know why some of my staff at the court had told me that they were very grateful for the kindness of the leadership of the Court in not laying them off or put them on furlough during the Covid-19 crisis.

Then the words of Commissioner Gassner, the remarks by Commissioner Daniel whom I had met several times during our lunch at the Mexico, and lastly the words of Judge McCarville, whose civil calendar I had the privilege to cover a few times, speaking about my gym hero, Judge John Pacheco. I have the great fortune to be Judge Pacheco’s gym partner - not really, as he is a superman who conquers the machines at LA Fitness, and I, an old man, watch him admiringly.

John Pacheco, Michael Sachs, Deborah Daniel symbolize the San Bernardino bench. It is true because the judges of this court are all like them - sincere, dedicated, ethical and professional, all do their utmost to serve the public in their pursuit of justice for all, equally, without distinction. *“There is no place for any discrimination in this Court,”* the words in Judge Sachs’ speech were so reassuring and comforting in time of crisis and instability. Indeed, the San Bernardino Superior Court not only pronounces the motto of equal justice for all, the Court lives, breathes and practices that motto every day, in every case, and in every courtroom.

So, last night we celebrated the honorees who well deserved to receive the awards bearing the names of two legal giants, Justice Kaufman and Justice Campbell, and in doing so, we reminded ourselves of the late Justices’ contributions to the richness of our State legal tradition. But, last night, we also celebrated the entire San Bernardino County Bar, the entire Superior Court bench, all members of the legal community, including the wonderful court staff, security staff, custodial staff and others who worked together in harmony to create the best court in the State.

I wish to thank Judge Glenn Yabuno for giving me the info on the Bar function so I could join in at the last minute.

Finally, I thank the San Bernardino County Bar for such a beautiful event. I wish the Bar continued success in its tradition of public service as the guardian of the American’s ideals of equal justice for all.

John Nho Trong Nguyen
San Bernardino, May 28, 2021

*For those who missed it, you may
[click here to watch the video.](#)*

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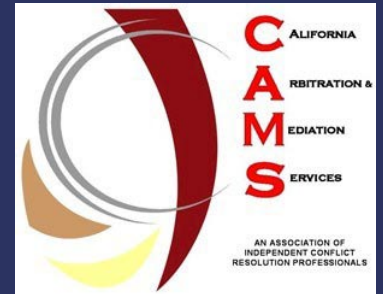
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Luis E. Lopez

SBCBA General Membership Meeting (An MCLE Webinar)

June 15, 2021 | 12 noon to 1:15p

The following MCLE program will be presented online:

"How Covid Has Changed Your Digital Marketing Approach... Ethical Advertising For 2021"

Sean Stonehouse
National Sales Director, MediaSmack

- Since COVID, individuals have changed the way they search online, how they connect to friends & loved ones. Due to this change in behavior, it also affects how they look to reach business owners. This webinar will discuss how to adjust your marketing approach and how to highlight your firm online in this new world.

- There will be ethical guidelines for marketing in California for law firms.

**To RSVP, send your name, State Bar No. and 6-15 to: web-events@sbcbca.org
Zoom information will be sent to attendees the day prior to the event.**

MCLE: San Bernardino County Bar Association, California State Bar-approved MCLE provider #2813, certifies that this activity is approved for 1.0 hour of California MCLE ethics credit by the Calif. State Bar.

Upcoming General Membership Meetings:

Tuesday, July 13: A Special Panel on "Diversity in the Law"

Tuesday, September 14: "Civility Matters"

Mark Your Calendar!

Thursday, November 18th: Bench Bar Symposium: Estate Planning, Trust & Probate

Watch for details!

The San Bernardino County Bar Association's Lawyer Referral Service...

needs additional panel members!

We have a need for qualified panel members practicing in the following fields of law:

Landlord-Tenant Law (commercial), and Juvenile Dependency Law. We also need attorneys located in the High Desert areas who practice Criminal Defense and Family Law.

Please call the SBCBA office at (909)885-1986 or send an email to claire@sbcbca.org or lisa@sbcbca.org.

NOTICE

If you wish to have an article, notice, or advertisement published in the Bulletin, please submit it to the bar office by the 15th of the month prior to publication month.

Space for camera-ready ads must be reserved by the 10th of the month prior, ad copy submitted by the 15th. (Items submitted will be accepted depending on available space.)

2021 Golf Tournament photos by Amanda Bailey



The Benchwarmers - Ron Atkinson and Judges Jon Ferguson, Glenn Yabuno, & Ron Christianson.



LOMAS #2: Michael Scaffiddi, Robert Friedman, Chris Gardner



The Ball Busters: Paul Shimoff, Tom Dominick, Wacy Armstrong, Jr., and Judge Tom Garza



Breathe Easy Bombers -Trey Roberts, Jarrett Mahoney, Christopher McCann, and Richard Wagner



Rekte Law - Andre Rekte, Ted Beltran, Lucas Beltran, Keith Kelly



LOMAS #1: Ricson Dakanay, Gregory Daly, Roderick Daly, Anthony Scaffiddi



Derek's Dominoes - Jared Shimoff, Mitch Raynes, Cheyne Wells, Derek Raynes



Kim & Sons - Don Kim, his son, Eugene Kim, and Eugene's son, Kyle



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Fullerton, Lemann, Schaefer & Dominick...

...provided a welcome pit stop for our thirsty golfers.



Legacy Team - Danny Gomes, Matt Drumm, Ruben Medina, Sam Murphy





Fifty-six golfers hit the course at Arrowhead Country Club on Friday, May 21, 2021 for SBCBA's favorite event, the Annual Bench-Bar Golf Tournament. Fourteen teams competed on a beautiful (and thankfully cool) day.

Players were treated to a box lunch provided by Hogi-Yogi; golf hats by Law Offices of Justin H. King; and water bottles by the Law Offices of William D. Shapiro. The tourney was followed by a delicious patio buffet dinner at the "19th hole," lovingly prepared by QWorks.

Two teams tied for First Place with a score of 55. After the traditional "card off," the trophy was awarded to the FLSD Sharks, starring David Colella, Mark McGuire, Aric Davison and Zachary Hagenbuch. Second place trophies went to the Not So Fearsome Foursome of Rick Ewaniszyk, Justin Ewaniszyk, James O. Heiting and Dennis Stout. Andre Rekte, Ted Beltran, Lucas Beltran, and Keith Kelly took home the 3rd Place trophy with a score of 57.

Ricson Dakanay, Gregory Daly, Roderick Daly, and Anthony Scafiddi of the now-infamous "LOMAS #1" were sent home with the coveted "Bringing up the Rear Award" for carding an impressive 77.

The longest drive trophy went to Jared Shimoff. Closest to the pin award went to Robert Friedman.

A very special "thank you" goes to our many generous sponsors (see this page), who are the ones that make this tournament possible -- year after year.

Thank you to committee co-chairs, Diana Carloni and David Colella. Thanks to Tom Dominick, who emceed the after-party with his usual flair. And a big thank you to Bar staff members Lisa, Charla, Amanda and Claire, who all coordinated and staffed the event.

We hope to see you all out there again next year.

Click here to see more tournament photos on www.sbcba.org

2021 SBCBA Bench-Bar Golf Tournament

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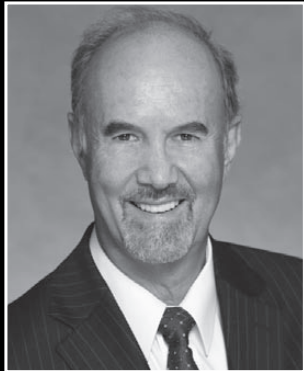
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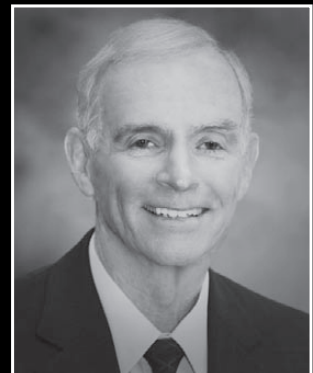
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Zero Trust Architecture Made Simple for Lawyers

by Sharon D. Nelson, Esq. and John W. Simek

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We are still unconvinced that we will ever know the full extent of the damage from what is perhaps classified as the worst data breach ever. The compromise of the SolarWinds Orion platform has impacted approximately 18,000 public and private sector customers according to Cyber Unified Coordination Group (UCG). The UCG also said that the Russian-backed Advanced Persistent Threat (APT) group is most likely responsible for the SolarWinds hack. As the investigation continues, we are learning more and more details about the attack and those impacted.

What we do know is that the attackers spent many, many patient months learning about the SolarWinds environment and determining the best and most effective way to insert backdoor access into the Orion product. The supply chain attack was extremely sophisticated and a real wake-up call for cybersecurity professionals.

It is now painfully obvious that the traditional castle and moat designs for security don't work in these modern computing days. We can't just create perimeter security by walling off our resources and controlling access through a firewall. We are very much a mobile workforce and many of the services we utilize in our law practices are cloud based. We need a new approach to secure access to the confidential data law firms possess.

The National Institute of Standards and Technology (NIST) released the final version of its Zero Trust Architecture (ZTA) publication (NIST Special Publication 800-207) in August 2020, which will help organizations deploy a security model for the future. The National Security Agency (NSA) and Microsoft are also advocating for Zero Trust Architecture to help combat sophisticated cyber-attacks such as SolarWinds.

The obvious question is...what is zero trust? The concept of zero trust networks has been around for at least a decade, but cybersecurity events such as SolarWinds and attacks on Microsoft on-premise Exchange servers has brought renewed focus to the Zero Trust discussion.

The NSA stated, "The Zero Trust security model assumes that a breach is inevitable or has likely already occurred, so it constantly limits access to only what is needed and looks for anomalous or malicious activity. Zero Trust embeds comprehensive security monitoring; granular risk-based access controls; and system security automation in a coordinated manner throughout all aspects of the infrastructure in order to focus on protecting critical assets (data) in real-time within a dynamic threat environment. This data-centric security model allows the concept of least-privileged access to be applied for every access decision, allowing or denying access to resources based on the combination of several contextual factors."

In other words, trust nothing and constantly verify. It gives new meaning to Ronald Reagan's words, "Trust, but verify."

The current security perimeter model is one and done. Once a device or person is trusted, that trust is not re-verified. This means if someone gains access to a user's credentials, they will be allowed to access the network and data no matter who they really are. Since users and devices regularly move from inside the network to outside, the ZTA approach means that a once-safe device cannot be assumed to still be safe.

We won't drill down into the intimate details of ZTA since it will probably make your head hurt. Instead, we'll describe some general concepts and techniques for moving forward with ZTA. As previously stated, our approach is to trust nothing and to constantly verify.

The 'trust nothing and constantly verify' means that every device, user, application, network traffic, etc. is untrusted. Every attempted access needs to be authenticated and explicitly authorized with the least amount of privilege. Multi-factor authentication is a good first step to authenticate a user. MFA was very influential in helping to uncover the initial SolarWinds compromise of FireEye. A second MFA device (a phone) was registered to a user using valid credentials. The second registration was an unusual event and required verification. When queried, the authorized user verified that they did not register a second device, hence an impersonator was accessing the network.

Our network designs will also need to be changed. Instead of a single "flat" network, we'll need to segment the network into much smaller pieces that can be monitored and controlled. A user could be authorized for access to resources on one segment but denied access to resources on a different segment.

It's not just users either. Application access also needs to be authorized. In other words, if a piece of software wants to access data in a database, the application needs to be authenticated for access. The type of access is also verified and granted. Just because an application can access data in a database doesn't mean it can actually change the data. Perhaps only read or view access is granted. Next generation firewalls will monitor and control traffic between the various segments.

Another baseline principle is always to assume a breach. The assumption is that an attacker has already compromised your network and is present within the environment. The assumption is further justification for segmentation of the network. Compromising one segment won't allow complete access to all of the firm's data. Assuming a breach means all access should be denied by default. It also means that we need to have a way to continuously monitor access to all resources, monitor any configuration changes and certainly monitor all network traffic for suspicious activity.

ZTA will not happen overnight and is a long-term project. TechRepublic published a very good “cheat sheet” for implementing ZTA and boiled the project down to five steps.

1. Segment the network
2. Implement access management and identity verification
3. Extend the principle of least privilege to the firewall
4. Firewalls should be contextually aware of traffic
5. Gather, and actually analyze, security event logs

These five steps will allow for a controlled implementation in a gradual fashion. As we move our computing environment to a Zero Trust Architecture, we must be cognizant of the user experience. Any restrictions or access to resources cannot be difficult or time consuming for the user. It needs to be a “frictionless” rollout. If it isn’t already obvious, there is a lot of data to analyze in order to make the necessary decisions to allow whether to grant access and the type of access that should be allowed. Firms will ultimately need to implement a SIEM (Security Information and Event Management) solution to analyze all of the collected data in order to make those access decisions.

Zero Trust Architecture is the future of our computing environment. COVID-19 has certainly accelerated the need to change the way we authorize and verify people, devices and application access. We are already seeing ZTA being adopted, mostly in the corporate world. Law firms will have a slower adoption rate, but we expect ZTA to be widely embraced by law firms in 2022.

Sharon D. Nelson, Esq. is a practicing attorney and the president of Sensei Enterprises, Inc. She is a past president of the Virginia State Bar, the Fairfax Bar Association and the Fairfax Law Foundation. She is a co-author of 18 books published by the ABA. snelson@senseient.com.

John W. Simek is vice president of Sensei Enterprises, Inc. He is a Certified Information Systems Security Professional, Certified Ethical Hacker and a nationally known expert in the area of digital forensics. He and Sharon provide legal technology, cybersecurity and digital forensics services from their Fairfax, Virginia firm. jsimek@senseient.com.



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IN REMEMBRANCE

Bruce D. Varner*November 1936 - May 8, 2021*

Bruce D. Varner, philanthropist, UC regent, and prominent Inland Empire lawyer, has died at the age of 84. He had been a valued member of the San Bernardino County Bar Association since January of 1963.

Varner grew up in San Luis Obispo, and earned a bachelor's degree in political science from UC Santa Barbara in 1958. He attended college on a football scholarship, and rather than pursuing a career playing professional football, he instead went on to earn a law degree from UC Hastings in 1962. In 1997, he became a founding partner of Varner & Brandt, LLP.

The well-known 1980s proxy fight over control of Stater Bros. was considered one of his highest achievements and the most-recollected. Varner helped the late company president Jack Brown win a bitter fight against the former chairman of Stater Bros. In 2012, he received the San Bernardino County Bar Association's highest honor awarded to an attorney, the John B. Surr Award. It was presented to him at the ceremony by Jack Brown.

Varner was predeceased by his wife and is survived by four children and eight grandchildren.

In lieu of flowers or gifts, the family asks that you please donate to one of Bruce's most important causes: Cal State San Bernardino Doyle A. and Ann Varner Memorial Scholarship Endowment (Athletics), UC Riverside Bruce D. and Nancy B. Varner Presidential Endowed Chair in Cancer Research, Loma Linda University Children's Hospital Foundation and/or Redlands Community Hospital Foundation.



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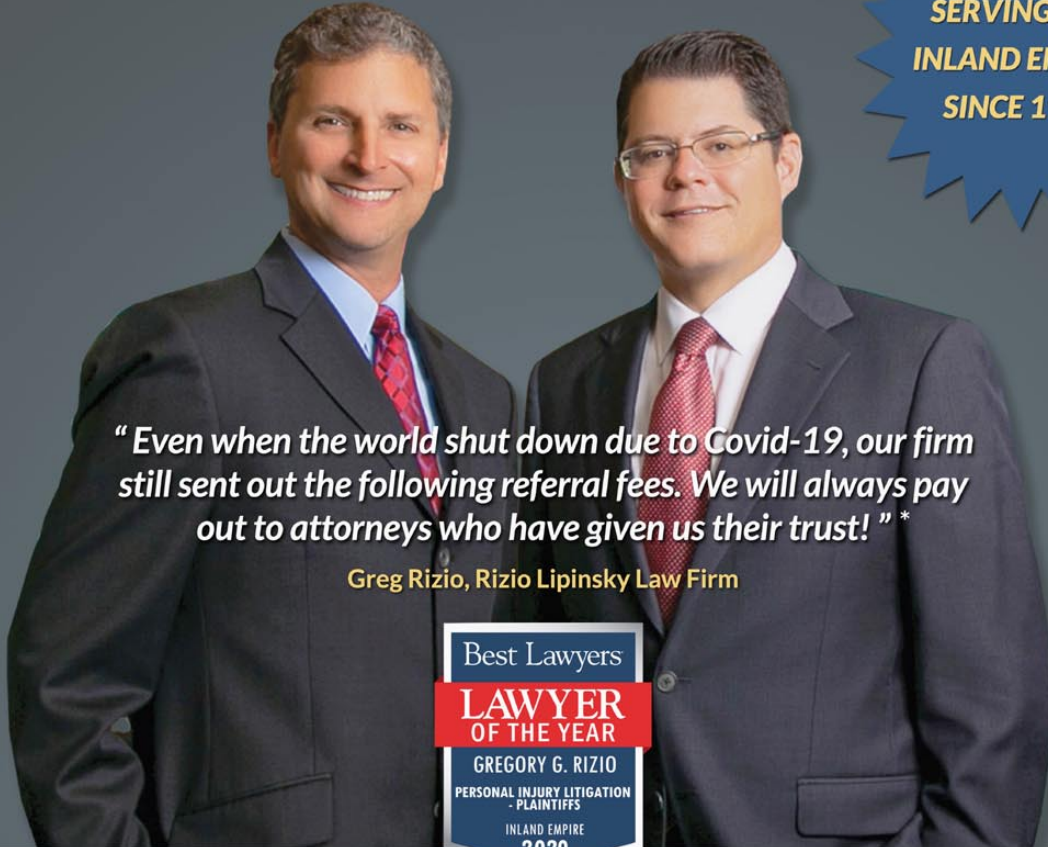
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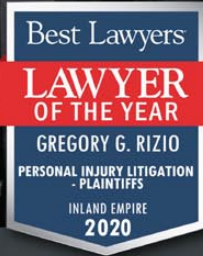
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The Bulletin of the San Bernardino County Bar Association is published 11 times a year. Our circulation is approximately 1,000, including: our bar membership of 800, 100 state and federal judges, state & local bar leaders, legislators, media, and businesses interested in the advancement of our mission.

Articles, advertisements and notices should be received by the bar office no later than the fifteenth of the month prior to the month of publication. For current advertising rates, please call the number listed above. Please direct all correspondence to the above address.

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