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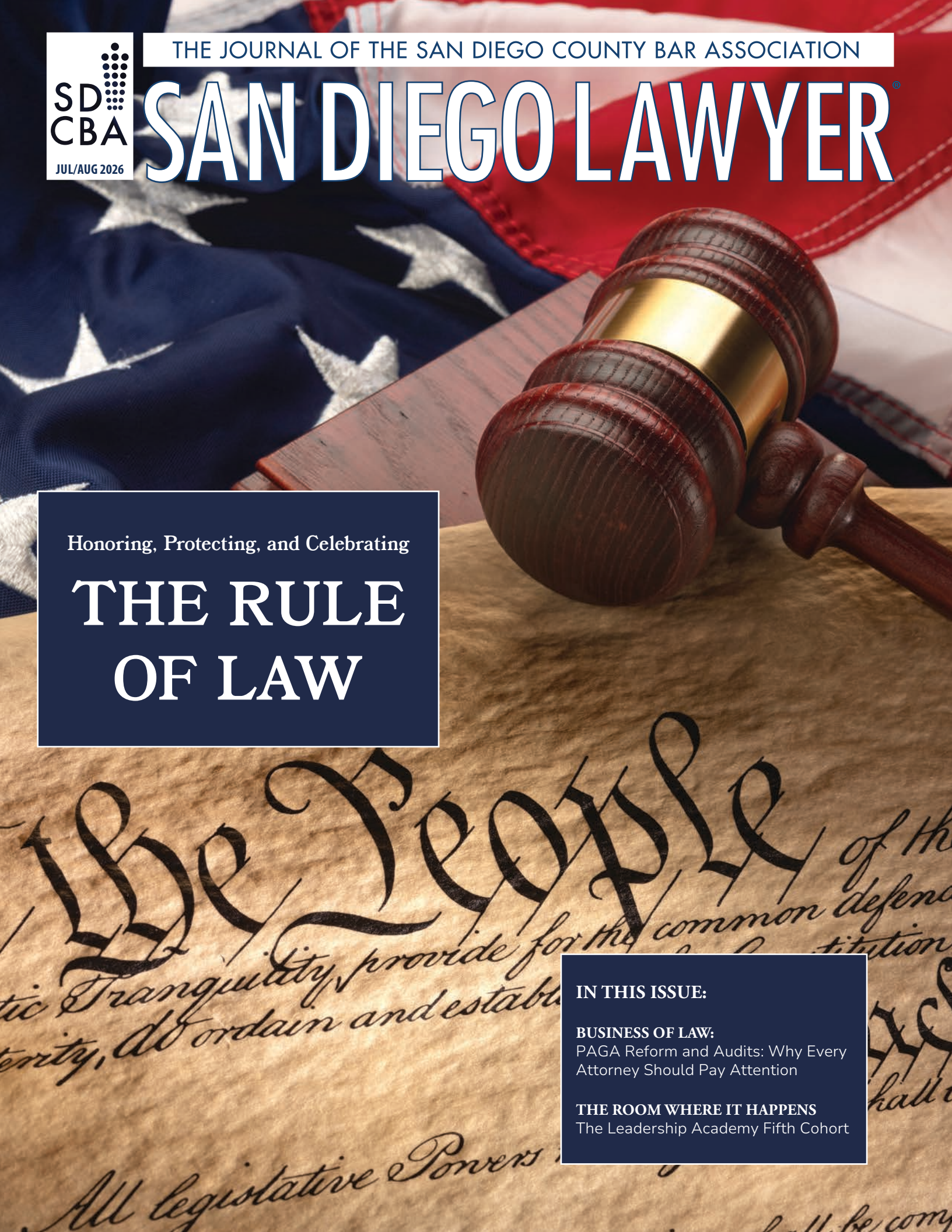

Honoring, Protecting, and Celebrating

THE RULE OF LAW

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PAGA Reform and Audits: Why Every Attorney Should Pay Attention

THE ROOM WHERE IT HAPPENS
The Leadership Academy Fifth Cohort

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BY TIM WILLIAMS

INVESTING IN THE FUTURE OF LAW WITH SDCBA'S LEADERSHIP ACADEMY

As this is the "Leadership Academy" issue of *San Diego Lawyer* magazine, I want to celebrate Leadership Academy for becoming one of the San Diego County Bar Association's flagship programs. Its rise to success as part of a culture of leadership development programs across the American legal industry was built on the idea that leadership in law is essential to our profession.

The Growth of Leadership Academies

Leadership academies first emerged in education and corporate sectors as a way to cultivate talent, strengthen establishments, and prepare individuals to guide teams through periods of growth and change. At their best, the academies develop leaders who create organizational stability and inspire team member collaboration.

As the concept expanded into the legal profession, a group of forward-thinking leaders within the SDCBA recognized the value of creating a San Diego-based program dedicated to developing lawyers as leaders. They understood that while lawyers are extensively trained in advocacy and analysis, leadership itself is rarely taught in law schools, and not enough in law office settings. While law students and new lawyers learn how to analyze cases and prepare memos and motions, few are formally taught how to effectively lead and motivate, mentor, build consensus, and guide colleagues through adversity and change. The SDCBA Leadership Academy curriculum does all of that, and more. Its purpose is to equip attorneys with essential skills and relationships to be effective leaders within the legal profession and across our community. It accomplishes those goals by immersing participants in a series of conversations and training sessions to learn individually and as part of a group.

Now in its fifth year, the SDCBA Leadership Academy has grown into a thriving and respected program that has produced dozens of graduates whose leadership is being felt throughout San Diego County and beyond. Alumni of the program serve in law firms, government offices, nonprofits, corporate legal departments, and on boards and committees. This year, we celebrate another accomplished class of graduates prepared to apply their refined leadership skills across multiple sectors of the legal profession.

Developing Lawyers as Leaders Moves the Legal Field Forward

Leadership itself bonds individuals to teamwork. In a successful group, it creates trust, accountability, and shared purpose. Where good management helps organize people and resources to accomplish a set of tasks, effective leadership motivates individuals to work together toward a common mission. It is necessary in the legal profession because lawyers often rise into leadership roles without ever receiving formal leadership training. A successful lawyer may come to manage a practice group, supervising newer lawyers and staff. But the skills that allow a lawyer to become professionally successful, and even a subject-matter expert, do not always translate into roles that require inspirational communication with colleagues and support staff.

Over the course of my own career, I have come to appreciate how important leadership is to the practice of law. As a younger lawyer, I associated it with good business management, client successes, or with a title or position such as managing partner or practice group chair. Over time, and through involvement in organizations like the SDCBA and other bar associations, I have seen leadership in the law occur in different and more consequential ways. Leadership is the senior attorney who takes time to mentor newer attorneys both in training before a hearing or deposition, and with constructive critique afterward. It is the lawyer who treats staff, opposing counsel, judges and court personnel with consistency and respect, and who can disagree

professionally. In an industry that is adversarial by design, the inherent value of those qualities matters enormously. Lawyers who develop positive leadership qualities are also often better positioned to advance their own careers, influence systemic change, and create a lasting impact within the profession.

Leadership skills have broad application across law firms, public agencies, nonprofit organizations, and within the court system. Lawyers and judges who lead effectively build deep and trusted relationships with clients and colleagues. Those relationships produce benefits that strengthen organizations because, as in any other business, strong leadership improves the internal dynamics of legal organizations. Effective leaders promote collaboration, improve morale, and empower teams to perform at their highest levels. Leadership transforms groups of individuals completing assignments into strategic problem-solvers. In a profession that can often be demanding and high-stress, good leadership creates cultures grounded in respect, accountability, and shared success.

Modern legal leadership in law also enhances adaptability. Our profession continues to be pushed along rapidly through technological innovation and changing client demands. Effective leaders help organizations embrace change and identify opportunities to succeed in new environments. We are already seeing leaders throughout the profession thoughtfully incorporate emerging technologies, most notably with AI-driven tools, to improve efficiency and better serve clients while still maintaining the professional judgment and ethical obligations that define our work as lawyers.

Leadership academies unquestionably fill an important gap within our profession by creating opportunities for lawyers to intentionally develop these skills. Fostering teamwork among lawyers is not always easy. Yet, the SDCBA Leadership Academy's mission to "build lawyers as leaders" continues to succeed because it recognizes that leadership itself is a vital skill that can be cultivated.

One of the things I particularly admire about the SDCBA Leadership Academy is that it brings together lawyers from different practice areas, backgrounds, and perspectives who otherwise may never meaningfully interact. Our Leadership Academy also consistently attracts leaders from our fellow bar associations. Participants find value in those relationships, which become exponentially more valuable over time. In many ways. The Academy reflects the profession at its best: talented people with different backgrounds and experiences learning from one another in pursuit of common goals.

Of course, the Leadership Academy would not flourish without the many mentors, volunteers, guest speakers, alumni, and SDCBA staff members who dedicate their time and energy to the program. Their commitment reflects the very leadership principles the Academy seeks to promote.

I want to congratulate this year's graduates on their accomplishment. I am confident they will become productive leaders across all facets of the profession, and thoughtful stewards of our legal community. They now join a growing network of Leadership Academy alumni whose influence will continue to strengthen the bench and bar. In a profession that depends so heavily on trust, professionalism, judgment, and service, investing in leadership is ultimately an investment in the future of the law itself.

Timothy G. Williams *is the 2026 President of the San Diego County Bar Association, and he is a partner at Berger & Williams, LLP.*

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If you asked me growing up what I wanted to do for the rest of my life, I would have adamantly declared I wanted to be a nurse. Throughout high school, I immersed myself in the healthcare setting by volunteering at hospitals, shadowing nurses, and tailoring my high school curriculum to look "impressive" to undergraduate nursing programs. Although I remained committed to the field academically and professionally, each experience reinforced an internal recognition that nursing was not the path I was ultimately meant to pursue.

From a young age, my mother encouraged me to pursue a career in nursing. After immigrating to the United States from the Philippines, my mother enrolled into an LVN program at the local community college; she did so not out of passion, but out of necessity. Neither of us could have known then that her journey would plant the seed of mine.

Before she even began her program, our family faced a crisis: my father's kidneys failed, leaving him dependent on dialysis three times a week. The treatment left him exhausted, and the weight of our household fell entirely on my mother's shoulders. She cared for me and my brothers, including my younger brother who is autistic and nonverbal and requires specialized, dedicated care,while trying to find ways to keep us afloat.

When my mother learned about government assistance programs, including public housing, she applied with hope. She was rejected. Struggling with limited English, she couldn't understand why she was rejected or what rights of appeal the law granted her. I sat beside her and tried to translate, at the time in my broken Tagalog, not just the words, but the weight of a system she could not access. Watching her navigate that helplessness lit something in me. It opened a deep, unshakeable desire to ensure that people understand the legal processes that govern their lives.

Later, my own path deepened that conviction in ways I did not choose. I endured abuse in silence, telling no one, not out of indifference, but out of love and fear. I thought of my mother, of my brothers, of the fragile stability we had built. I made a choice to protect that, as I did not know fully my legal options or ramifications. While there are no circumstances in which abuse is justified, over time I came to understand that silence born from sacrifice carries its own kind of courage. Those experiences did not defeat me. They grew the seed planted by my mother.

That seed has never stopped growing, quietly shaping every professional choice I have made before and during law school, whether that be becoming a paralegal at nonprofits in Los Angeles and Orange County, externing for judges, or working directly with clients as a law clerk in a law firm. Though these past two years of law school have been among the most demanding intellectually, emotionally, and personally — with moments of self-doubt — this experience has solidified the seed. As I step into my final year, I return to this — my why.

Pafracio (pcvallente@law.cwsl.edu) is a 3L at CWSL and active in the community. Now, Pafracio is a law clerk in Bremer Whyte's Family Law Department.

We want to hear from you.

San Diego Lawyer welcomes article submissions from practicing attorneys and industry experts on various law-related topics. Interested contributors can view guidelines and submit their ideas using the form at www.sdcba.org/SDLidea. We also highly encourage the participation of diverse authors, including (but not limited to) people who have less than five years of legal practice, women, people of color, people with disabilities, and people who identify as LGBTQ+. Please read posted submission criteria carefully. Publication cannot be guaranteed, but the SDCBA appreciates and will consider all article submissions.

A recurring series where fictional characters discuss real ethics scenarios. Macbeth, a long-recognized expert in legal ethics, professional responsibility, and the law of lawyering is joined by his nephew Duncan and Sara, the very bright newest member of the firm.

Cartoon by George W. Brewster Jr.

AI BLUES?
MAKE A PLAN

Nancy joined Macbeth, Sara and Duncan. "Thanks for meeting with me."

"Our pleasure, Nancy. What brings you here?"

"I've been appointed my firm's "AI Director" — in addition to my regular practice."

"Congratulations or condolences?" Macbeth asked.

"Given the AI landscape, the latter. In spades."

Sara nodded: "Changes every time you look up."

Nancy: "Precisely. Like being on a speeding train, through a foreign land, going too fast to read the signs, in a language I don't understand anyhow."

Macbeth: "How can we help?"

Nancy: "As Sara said, change is constant. I'm supposed to make sure we're handling AI correctly. For our clients, ourselves. But it seems every day there's a new ethics pronouncement. Another court imposing sanctions. You name it. How can I stay on top of it?"

Sara: "We and our lawyer clients confront the same thing, sometimes daily."

Nancy: "What do you do? What do you tell your clients?"

Macbeth: "It's a bit of a forest/trees problem. We try to focus on the forest."

Nancy: "What do you mean?"

Macbeth: "When the Rules Revision Commission worked on our current rules, they may have provided guidance for our current AI problem."

Nancy: "Was it so acute in 2017? As it is today?"

Macbeth: "Not that I recall."

Nancy: "So — what do you mean 'guidance'?"

Macbeth: "I'll go back to my forest/trees comment."

Nancy: "Please. Not sure I understood it."

Macbeth: "We have rule 5.1 and rule 5.3. Both, I suggest, provide guidance. Even for something as complex and ever-changing currently as AI."

Nancy: "How so?"

Sara: "Rule 5.1(a) requires firm managers to make reasonable efforts that the firm have measures in effect that reasonably ensure all lawyers comply with the rules and State Bar Act."

Duncan: "Rule 5.1(b) provides the same for lawyers who supervise other lawyers. Rule 5.3 applies to a firm's nonlawyer personnel."

Nancy: “I don’t see the AI connection.”

Macbeth: “Instead of attempting to fashion a new set of practices that — take AI for example — attempt to address every changing facet, every nuance, firm managers need to make sure the firm has overarching policies or practices in place. So that the firm’s lawyers and nonlawyers comply with the rules and the Act.”

Nancy: “Can you give me an AI example?”

Macbeth: “Sure. Take our strict confidentiality obligations.”

Nancy: “Okay.”

Macbeth: “Instead of attempting to anticipate every AI circumstance where client confidentiality may become involved or compromised, a firm should adopt policies or practices that deal across the board with client information. Comprehensive and overarching enough to fit whatever unique problem may arise.”

Sara: “How, for example, client confidential information is to be protected from disclosure. Regardless of circumstance. Who must approve disclosure. Who must approve exceptions.”

Duncan: “And, of course, regularly train all lawyers and nonlawyers about those policies and practices.”

Macbeth: “Then, when a new AI application pops up, the firm doesn’t have to rush around to come up with some new practice. Rather, the question becomes: ‘How does this new app fit within our current policy?’ Only if the issue is so unique that it falls outside the firm’s policy or practice does the firm need to reevaluate — perhaps modify — its procedures.”

Duncan: “But, if the firm’s policies or practices are thoughtfully designed — periodically reviewed for completeness — firm lawyers and nonlawyers should have ethical templates against which to measure most new AI technologies.”

Sara: “Remember, when it comes to technology — AI or some other — competence requires that we stay current about its risks and benefits.”

Nancy: “Doesn’t that mean a firm has to have almost an AI guru? To evaluate all those risks and benefits?”

Macbeth: “Yes, likely someone capable of understanding risks and benefits. But remember, if a lawyer — or a firm — doesn’t have that special competence, it can consult professionally with another lawyer who does. And still comply with rule 1.1.”

Nancy: “I guess I feel a bit better. But I’ve got a task ahead of me. Make sure we have policies we need.”

Macbeth: “If you need us —”

Nancy: “Likely, I will.”

Editorial Note: Confidentiality; communication; competence; and candor are among the rules that current AI may affect.

Edward McIntyre *(edmcintyre@ethicsguru.law) is a professional responsibility lawyer.*

LEGAL ETHICS QUESTION?

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BY JAMIE L. GROSS AND MARCO A. GARCIA

PAGA REFORM AND AUDITS: WHY EVERY ATTORNEY SHOULD PAY ATTENTION

By now, most California lawyers have heard about the Private Attorneys General Act (i.e., PAGA). And although it may not keep you up at night, if your clients or your business employs people in California (and virtually all of them do), PAGA can create significant business risks. Nearly two years ago, California finally passed reform legislation meant to provide options to mitigate that risk. But if companies do not have the details and proactively prepare, they will miss out on the benefits that the reform was intended to offer.

PAGA at a Glance

PAGA — the bane of most California employers' existence — allows individual employees to step into the shoes of the state and sue employers for civil penalties based on alleged Labor Code violations. It is essentially a private enforcement mechanism where an employee files suit not just for themselves but on behalf of all other "aggrieved employees" and the State of California to both police and enforce the California Labor Code on private employers. The penalties are calculated per pay period, per employee for each proven Labor Code violation, and even minor technical violations can spiral into staggering exposure for a business. Unlike typical class actions, the representative component of a PAGA claim cannot be waived. The result over the years has been millions of dollars in civil penalties accumulated per year, largely through settlements, most of which go to the State and plaintiffs' attorneys — not the employees.

What Changed and Why It Still Isn't Enough

In 2024, the California Legislature passed AB 2288 and Senate Bill 92, a pair of reform bills that came about to get ahead of a ballot initiative that would have effectively gutted PAGA. Labor and business interests struck a deal, and the Legislature moved quickly to codify it. The reforms introduced new penalty structures, additional defenses for employers, tighter standing requirements, and a new "cure" process that gives employers the chance to fix violations before litigation takes off.

The primary piece of the reform that companies should take note of now, if they have not already, is this: under the reformed statute, employers who take "all reasonable steps" to comply with the Labor Code have a real opportunity to reduce PAGA penalties. The catch? There is a set period of time during which those reasonable steps must be taken, and if a company misses it, they also miss the opportunity to seek a reduction in available penalties up to 85%. As a result, proactive compliance audits are critical.

Despite those reforms, PAGA filings haven't slowed down. The Labor Workforce Development Agency (LWDA) reported that nearly 9,000 PAGA notices were filed in fiscal year 2024 to 2025, with almost a quarter of them coming from just five law firms that relied on nearly identical template notices that did little more than swap the names of the parties involved. Three of those firms

averaged more than one notice per day. That volume prompted the LWDA to propose new regulations targeting what the agency views as systemic abuse of the statute.

The proposed regulations include several meaningful changes. First, pre-litigation PAGA notices will require much greater specificity, meaning no more copy-and-paste templates alleging conclusory violations. This should further enhance a company's abilities to conduct targeted audits to comply with the reasonable steps requirement.

Second, the LWDA will flag what the proposed rules call "high frequency filers," i.e., attorneys or firms sending more than 200 notices in a 12-month period. Those filers would face heightened scrutiny and would need to certify that their allegations are truthful and not intended to burden or harass employers.

Third, and perhaps most beneficial for companies, the cure process gets real teeth. Small employers with fewer than 100 employees will have the opportunity to cure violations involving overtime, meal and rest breaks, and expense reimbursements, which represent the vast majority of PAGA claims. Employers of all sizes can cure violations involving inaccurate wage statements. Cure proposals are confidential and cannot be used against the employer if litigation follows. These regulations have not been finalized, but the public comment period has expired.

Act Now, Not Later

PAGA reform does not come around often, so companies would be well advised to take advantage of these changes that may help reduce penalties. That means wage-and-hour audits, reviewing wage-and-hour policies and practices, training managers on compliance requirements, and creating a documented compliance framework. The goal is to build a defensible record showing that the business took "all reasonable steps" before a notice ever arrives. Note that even if you performed an audit in 2024, the statute suggests that one and done is not enough. Regular audits are likely to be expected and required.

The *business of law* rewards those who plan. With PAGA, the problem is already at the door. The only question is whether you've prepared for the knock.

Jamie L. Gross *is a Partner at Duane Morris LLP*

Marco A. Garcia *is a Employment Litigation Associate at Duane Morris | Past President, San Diego La Raza Lawyers Association | magarcia@duanemorris*

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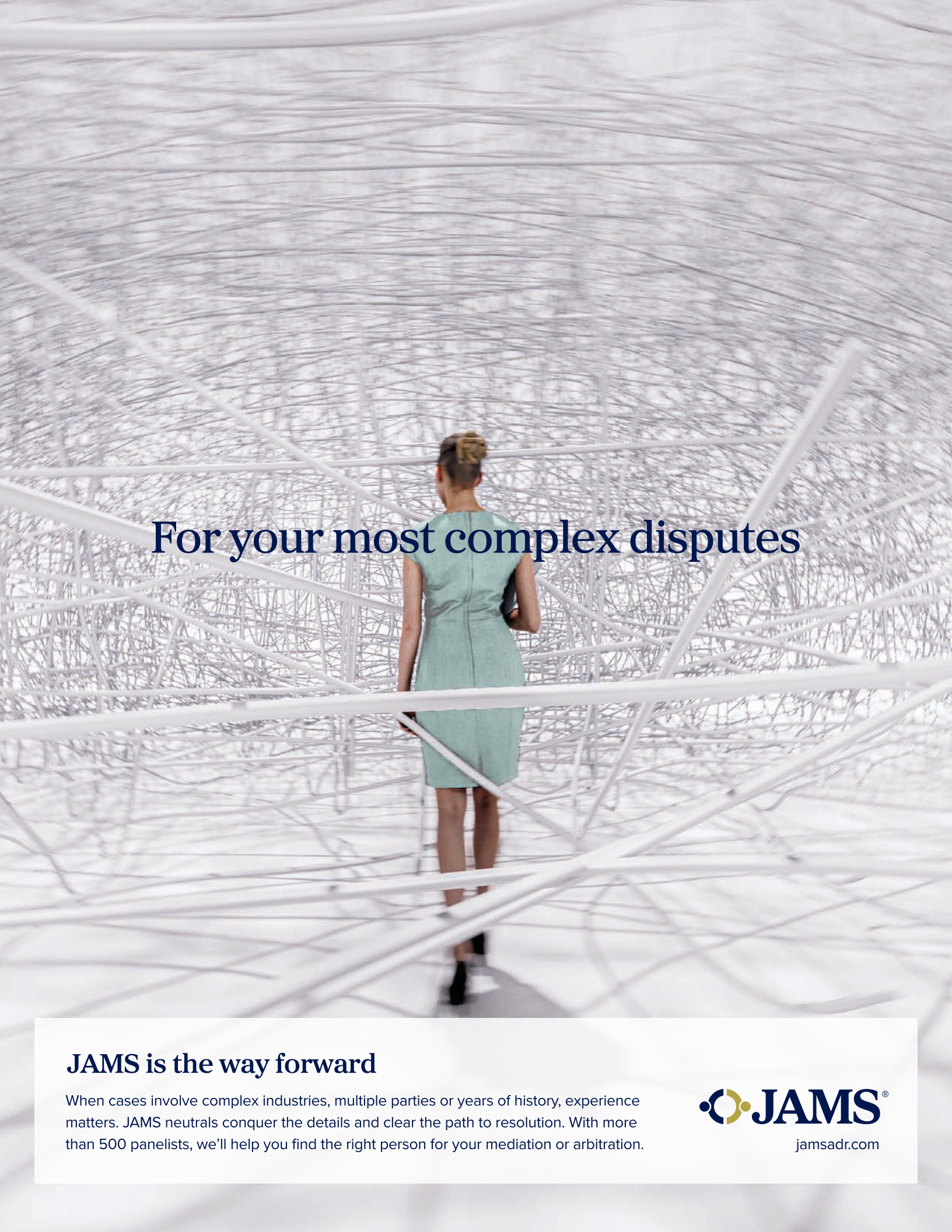

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WHY I LAWYER

DILLON DOBSON

The work I do every day for my clients at Dobson Justice is deeply personal. My practice is built on four core practice areas: tribal law, tenants' rights, employment discrimination, and personal injury. Whether I'm helping a family stay in their home, advocating for a worker treated unfairly, working to strengthen tribal sovereignty, or ensuring that injured people can live their lives with dignity, my goal remains the same: providing passionate advocacy for people who need it most.

The foundation of Dobson Justice, however, wasn't laid in a traditional law firm. It is the result of a long journey that starts with a legacy of ancestral wisdom.

I am a proud citizen of the Cowlitz Indian Tribe and a descendant of hardworking Jewish immigrants, whose teachings have deeply shaped my practice. My Cowlitz people have understood since time immemorial that all life is interconnected, and that we have a responsibility to leave things better than we found them. These principles are mirrored in the Jewish concept of tzedakah, which I was taught means doing the right thing simply because it is just. These aren't just abstract concepts; they are practical blueprints for building a healthy society.

Before becoming an attorney, I led tribal housing departments and California's first Native American community housing development organization, advocating for tribal affordable housing development access. It was exciting, meaningful work. I helped lay the foundation for tribal housing development set-aside pilot programs that have since been codified. These programs have enabled the development of millions of dollars of affordable housing in Indian Country.

At the end of every advocacy meeting in those early days at the Housing and Community Development offices in Sacramento, I noticed that it was always the lawyers who got our policies across the finish line. Once the big ideas were on the table, I saw that it was the attorneys who navigated complex jurisdictional webs, secured the funding mechanisms, and finalized the intricate details. My time working on small reservations in Northern California showed me how desperately Native and other disenfranchised peoples needed those attorneys.

That passion was solidified when I became a father. Looking at my first son (I now have three), I was no longer content to hand off the baton at the most crucial stage; I knew that I needed the power to help shape the law directly.

That realization led me to the University of Arizona, where I received excellent legal training and mentorship from living legends in the Indigenous Peoples Law and Policy Program. They, in turn, helped connect me with leading practitioners from across the country. Eventually, I saw the need to branch out beyond just tribal law and landed at the Legal Aid Society of San Diego.

Being on the ground floor of legal services was an invaluable experience. I saw firsthand how navigating the courts without a dedicated guide often leaves marginalized folks at a severe disadvantage that can have life-or-death consequences in some cases. It also showed me exactly how the right legal intervention at the right moment can stabilize a family in crisis, reinforcing my belief that the law should be accessible, understandable, and protective of our most vulnerable neighbors.

Native attorneys make up just 0.4% of attorneys nationwide. While some tribal nations are blessed now to have tribal gaming, few non-Indians understand the legal or political histories that brought us to this moment. Fewer still realize that most tribes don't have successful gaming operations.

That is ultimately why I lawyer, and why I am proud to serve as the Treasurer of the Native American Lawyers Association of San Diego: so that all my clients can receive the support that they need to live good lives in their bodies, homes, workplaces, and communities. Because I know that every person made whole, every eviction defended, every worker protected, and every bit of inherent tribal sovereignty asserted is a step toward a more equitable society. I am honored to work toward strengthening my community and exemplifying for my sons how we can work toward a more just society by serving those who need it most.

Dillon Dobson *(Dillon@DobsonJustice.com) is a San Diego-based member of the Cowlitz Indian Tribe and a certified expert in Federal Indian Law, Dillon is committed to providing his clients with excellent service characterized by passion, class, and ingenuity.*

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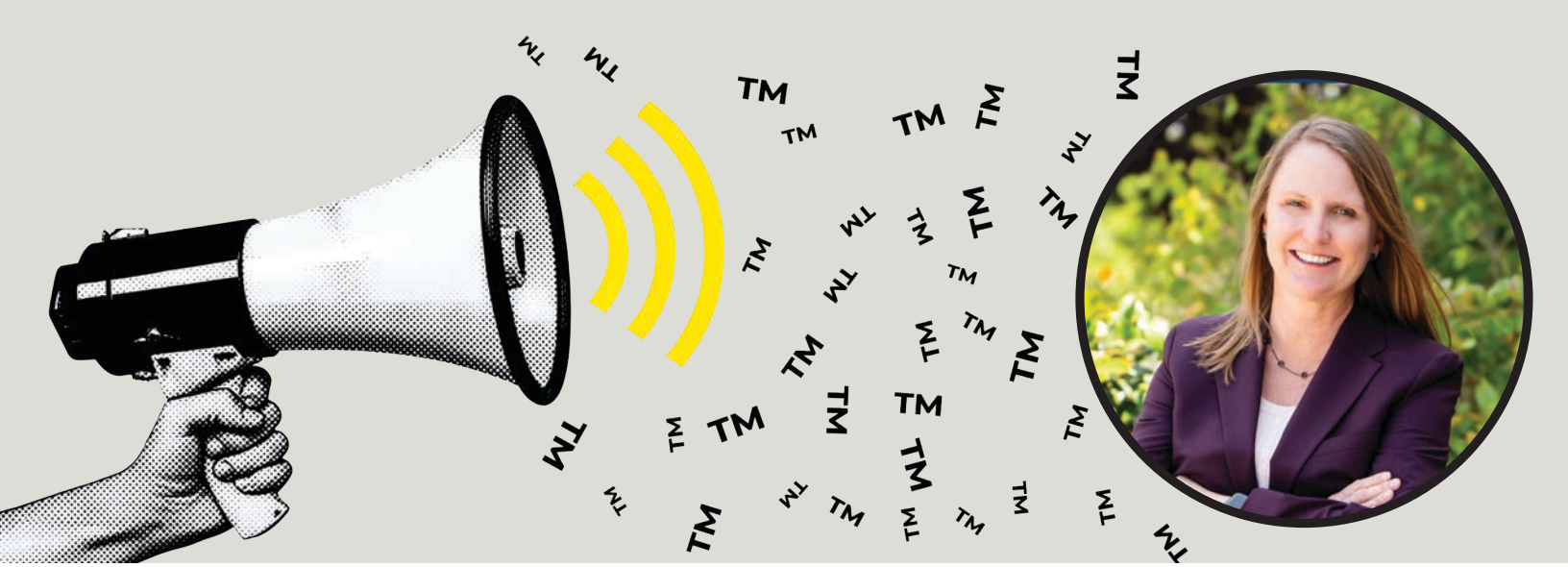

TRADEMARKS AND FREE SPEECH WITH PROFESSOR LISA P. RAMSEY

by Jasmine K. Bond

Trademark law is often associated with protecting brands and preventing consumer confusion. Yet, as trademarks increasingly appear in public discourse, social media, and expressive works, trademark disputes have raised First Amendment questions, creating an intersection of the two. Where should courts draw the line between respecting trademark laws while also safeguarding free speech?

To better understand this evolving intersection, I spoke with Professor Lisa P. Ramsey, author of the book *Trademarks and Free Speech: Conflicts and Resolutions*, and professor at University of San Diego School of Law, who has examined this intersection for over two decades. Our conversation highlighted constitutional principles intersecting with trademark doctrine, recent case decisions, and her thoughts on how to navigate this issue.

What originally drew you to the intersection of trademark law and free speech?

When I was an associate at a law firm, I worked on a case involving an opponent's claim to trademark rights in a descriptive term. I thought it was problematic from a free speech perspective that a single company could get exclusive trademark rights in words that convey product information. So in a 2003 article, I argued that some trademark laws conflict with the right to freedom of expression and it may be unconstitutional to protect trademark rights in descriptive terms if courts applied First Amendment intermediate scrutiny analysis to trademark law.

What do you see as the biggest misconception lawyers have about the relationship between trademarks and free speech?

I think the biggest misconception would be that the Supreme Court's traditional First Amendment jurisprudence applies the same way to trademark law. Typically, in First Amendment cases, the court first determines if a law discriminates based on viewpoint or content. If it does, strict scrutiny applies if the law is regulating noncommercial speech. A court may instead apply Central Hudson's (Central Hudson Gas & Electric Corp. v. Public Service Commission (1980) 447 U.S. 557) intermediate scrutiny analysis if the law is regulating nonmisleading commercial speech. Substantive trademark laws regulate noncommercial speech based on its content, so arguably strict scrutiny analysis should apply in this context.

However, the Supreme Court recently held [in Vidal v. Elster (2024) 602 U.S. 286] that heightened scrutiny is not required in trademark disputes when a viewpoint-neutral law regulates the content of speech. Some people call this trademark exceptionalism. Also, the Supreme Court held that three trademark laws that discriminated based on viewpoint were unconstitutional speech regulations without applying strict scrutiny analysis in those cases. Outsiders might not realize there are rules in the trademark context which are different than the Court's usual approach in cases involving First Amendment challenges to laws regulating the viewpoint or content of speech.

In sum, Professor Ramsey's perspective illustrates that the relationship between trademark law and free speech is far more nuanced than the simple clash of the two legal principles. Rather, it is shaped by the many rules and doctrines covering trademark law while simultaneously balancing constitutional protections of free speech.

In your view, what makes trademark law different when it comes to free speech?

The fact that most trademark laws are constitutional even though they regulate the content of speech. Historically, we think it's bad if the government is regulating or restricting speech based on its content, but there are a lot of trademark laws that restrict speech based on its content for good reasons.

In your book, you discuss how trademark law primarily applies to commercial uses of marks, but it also regulates noncommercial expression. You also note there is disagreement over whether the "commercial use of a mark" is the same as the "use of a mark in commercial speech." In your view, are these distinct concepts, or do they significantly overlap?

I think they significantly overlap, but courts may find some uses of marks to be commercial uses even though this expression is not commercial speech under First Amendment law. An example is use of another's mark in the title or content of a film, song, video game, or other expressive work.

Today I think whether an unauthorized use is a source-identifying trademark use or not is more important than whether it is a commercial use. But of course, the commerciality of the use is still going to be important.

In sum, the constitutional concerns Professor Ramsey describes have surfaced before the Supreme Court, most notably in the cases of *Matal v. Tam* (2017) 582 U.S. 218, *Iancu v. Brunetti* (2019) 588 U.S. 388, as well as *Jack Daniel's Properties, Inc. v. VIP Products* (2023) 599 U.S. 140. In *Tam*, the Court invalidated the disparagement clause, while in *Brunetti* it struck down the prohibition on immoral or scandalous marks. More recently in *Jack Daniel's*, the Court held that the *Rogers* test – a test established in *Rogers v. Grimaldi* (2d Cir. 1989) 875 F.2d 994, that allows artists to use trademarks unless the use has no artistic relevance or is explicitly misleading – does not apply when an accused infringer uses another's trademark as a source identifier. Together, these decisions demonstrate the Court will need to continue navigating the evolving relationship between trademark and free speech.

Historically, we think it's bad if the government is regulating or restricting speech based on its content, but there are a lot of trademark laws that restrict speech based on its content for good reasons.

In *Matal v. Tam* and *Iancu v. Brunetti*, the Supreme Court held the First Amendment applies in the trademark context. How do you think these decisions will influence the future relationship between trademark law and free speech? Do these rulings create tension between protecting expression and limiting potentially offensive or disparaging speech, and if so, how should courts navigate that tension?

After Tam and Brunetti, many applicants attempted to register hate speech and swear words. With Brunetti, he got a registration for F-U-C-T and then applied to register the word F-U-C-K. However the Trademark Office concluded F-U-C-K was a swear word and did not function as a trademark.

There have also been attempts to register a swastika as a mark for flags and a racial slur for black people as a mark for clothing. Both applicants argued they had a free speech right to register these marks after Tam and Brunetti. The Trademark Trial and Appeal Board ("TTAB") and Federal Circuit said that is incorrect. The U.S. Patent and Trademark Office ("USPTO") cannot ban registration on the ground the mark is disparaging, scandalous, or immoral after Tam and Brunetti, but it can apply trademark failure-to-function law. I agree that doctrines like failure to function should apply in these circumstances.

In the trademark enforcement context, accused infringers should include a First Amendment defense in their affirmative defenses so this argument is not waived in litigation.

Trademarks may be refused for "failure to function" when the USPTO determines that a proposed word, slogan, symbol, or design does not identify and distinguish a product's source. If consumers view the mark merely as a common message, decoration, or background information rather than a brand badge, registration is denied.

Reading the *Tam* decision, I wondered whether the decision would open the door to more registrations of derogatory terms. Professor Ramsey's discussion of failure-to-function doctrine highlighted an argument I had not previously considered and may discourage use of offensive and derogatory speech as a trademark.

If you could reform one aspect of trademark law to better protect free speech, what would it be?

I think the USPTO needs to clarify trademark failure-to-function doctrine. Also, sometimes applicants can overcome this refusal with evidence of secondary meaning. The problem is that often it will only be large companies and celebrities that can afford to submit this type of evidence.

For example, after Lizzo used the phrase "100% that Bitch" in her famous song, she applied to register the phrase for her entertainment services, t-shirts, and other things. Her registration for clothing was initially refused, but the TTAB reversed this decision because some t-shirt sellers are referring to Lizzo and consumers associate this phrase with her. I think an association should not be enough for registration because the issue is whether this expression is functioning as a mark that identifies the product's source.

The USPTO should be more aggressive about refusing registration of marks that have substantial preexisting informational, expressive, or decorative value. The trademark office should apply failure-to-function doctrine in this context, and not allow proof of secondary meaning or acquired distinctiveness to overcome these refusals except in very exceptional circumstances.

As trademarks continue to appear in public discourse, social media, and expressive works, the courts will continue to grapple with the difficulty drawing the line between enforcing trademark laws while also safeguarding free speech. Whether there is continued development in the failure-to-function doctrine, evolving First Amendment affirmative defenses, or future Supreme Court guidance, this area of the law will continue to evolve.

Jasmine K. Bond, Esq. *is an attorney at Law Offices of Stacey L. Tokunaga.*

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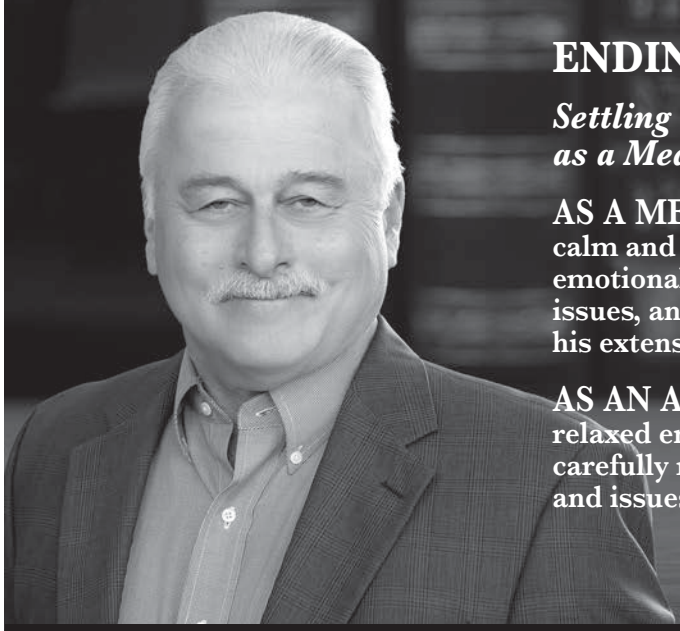

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GUARDING THE RULE OF LAW IN THE FACE OF FEDERAL CHALLENGES TO STATE ATTORNEY DISCIPLINE

By David C. Carr

Attorneys in country, they get silver for naught;
They make men begin what they never had thought;
And when they come to the ring, they hop if they can.
All they can get that way, they think all is won for them
With skill.
No man should trust them, so false are they in the bile.

"Poem on the Evil Times of Edward II," 14th century[1]

Even in the 14th century when our Anglo-Saxon legal tradition began, people were unhappy with lawyers. But our role as lawyers is to guard the rule of law, even if if that is unpopular.

Today, there is a movement at the federal level to protect lawyers who take actions in violations of their oath to support and defend the Constitution. That effort is contrary to lawyers' role in upholding the rule of law.

The Lawyers' Role in the Rule of Law

Lawyers are an integral part of our justice system, which implements and upholds the rule of law. The Preamble to the American Bar Association's Model Rules of Professional Conduct makes this point repeatedly:

[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice.

[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law, and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.

[11] To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

The values the Preamble articulates inform the Model Rules that serve as the basis for disciplinary enforcement (with variations) in every American jurisdiction.

As Professor Rose's article illuminates, regulation of the legal profession began almost from the outset. It continues today.

The principal way we regulate our profession is conscientious lawyers' own internalization and application of norms of lawyer conduct. But, although complete self-regulation is a fine ideal, unfortunately, as the 14th-century poem highlights, human nature puts the lawyer in a position where a lawyer's power can be exploited for ends far removed from justice.

Thus, we turn to three important forms of external regulation: (1) legal malpractice liability through the civil court system; (2) sanctions courts and administrative agencies mete out; and (3) professional discipline that authorities in each jurisdiction impose. This article focuses on the last and its importance to the rule of law.

There weren't many government lawyers in the 14th century; their ranks, however, have grown as government has expanded exponentially over the centuries. Thus, ABA Model Rule 3.8 highlights the special responsibilities that criminal prosecutors bear, in addition to their other duties as lawyers. Comment 1 states: "A prosecutor has the responsibility of a minister of justice and not simply that of an advocate." Moreover, criminal prosecutors are not insulated from professional discipline, nor should they be.[2]

Professional discipline, however, is under direct attack from an unexpected source: the federal government—through the Department of Justice (DOJ). These direct attacks have taken two forms: (1) a proposed rule change attempting to deprive state discipline agencies of the ability to review DOJ lawyers' conduct and (2) a lawsuit seeking to void the disbarment recommendation for a DOJ lawyer involved in attempts to subvert the 2020 Presidential election.

Proposed Regulation 28 CFR Part 77

On March 5, 2026, the DOJ proposed a rule change that would significantly impair state discipline agencies' ability to investigate DOJ lawyers' misconduct. The proposal would authorize the DOJ's Office of Professional Responsibility (OPR) to preempt state discipline agencies' investigations of complaints against its lawyers and conduct its own investigation. It would mandate OPR to "request" that state discipline authorities abate their own investigations. To leverage that request, it would prohibit respondent lawyers from cooperating in those investigations. It would also empower the DOJ to take unspecified steps to prevent state "interference" in its in-house investigation.[3]

Former Attorney General Pam Bondi, a driving force behind this proposal, said it is necessary because of what she calls the "weaponization" of state discipline agencies by political activists filing complaints against DOJ attorneys. According to Bondi:

Even more troubling than the recent spate of State bar complaints is the willingness of some State bar discipline authorities to give credence to such complaints. Recently, for example, certain State bar discipline authorities have undertaken investigations of [DOJ] attorneys without notifying and coordinating with OPR. [¶] This unprecedented weaponization of the State bar complaint process risks chilling the zealous advocacy by [DOJ] attorneys on behalf of the United States, its agencies, and its officers.

Some of that "zealous advocacy" has been the, thus-far unsuccessful, efforts of Lindsay Halligan, former U.S. Attorney for the Eastern District of Virginia, to prosecute James Comey, Letitia James, and five members of Congress who participated in a video message encouraging armed services members not to obey illegal orders. Halligan's situation may be behind this proposal. The Florida Bar recently corrected its notice to a complainant against Halligan that she was under investigation by the Florida Bar.[4]

California Discipline System

While sometimes viewed as the "ethics police," the California State Bar is more accurately characterized as a consumer-protection law-enforcement agency. Its statutorily mandated, paramount mission is to protect the public.[5] It groans under the weight of 21,205 complaints,[6] most of which are ultimately dismissed, but only after the meticulous investigation process the Legislature has mandated. One reason for the dramatic increase in complaints may be the simplified, and thus easier, online Stater Bar complaint process; the other, adoption of Rule of Professional Conduct 8.3, requiring California lawyers to report other lawyers' possible misconduct.

All across the country, the discipline process has historically—and wisely—been wary of being embroiled in political fights. As the former Attorney General notes in the memorandum supporting the proposed rule change, "bar discipline complaints against [DOJ] lawyers were comparatively rare, and complaints with political valences vanishingly so." Admittedly, organized activists can flood discipline agencies with complaints. It occurred, for example, in John Eastman's California case, which reached the point where the Chief Trial Counsel had to announce publicly a pending investigation, in part to stem the tide of incoming complaints. But such events are rare.

This proposed DOJ rule strikes at the heart of our system of checks and balances and the principles of Federalism. One hallmark of Federalism is that it distributes power to prevent any one governmental actor from monopolizing it.[7]

DOJ Lawsuit Against the District of Columbia Disciplinary Counsel

On May 13, 2026, the DOJ filed a lawsuit against the District of Columbia Office of Disciplinary Counsel, its chief discipline counsel, Hamilton Fox III, and the D.C. Court of Appeals Board on Professional Responsibility.[8] The action

targets the discipline prosecution of former Assistant Attorney General Jeffrey Clark. The "weaponization of the discipline process" rubric was again employed to serve this move. "As our complaint and history make clear, the DC Bar has long acted as a blatantly partisan arm of leftist causes. No more," Acting Attorney General Todd Blanche said. The DOJ's legal theory is that the D.C. Bar is seeking to discipline its attorneys "for making recommendations, factual assertions, and providing legal advice during confidential internal agency deliberations on law enforcement and sensitive public policy" and that this is "improper and constitutionally impermissible."

According to the July 1, 2025, Report and Recommendation of the Board of Professional Responsibility, Clark sought to enlist other DOJ lawyers in sending misleading letters to political bodies in several states, including the Georgia Legislature, claiming DOJ had identified "significant irregularities" in the 2020 presidential election, when in fact then-Attorney General William Barr had publicly stated that DOJ had uncovered *no* evidence of outcome-determinative fraud in 2020. Clark failed to provide other senior DOJ lawyers with evidence to support the assertions.[9] President Trump considered appointing Clark acting Attorney General after Barr resigned. When other senior lawyers warned that such a move would prompt mass resignations at DOJ, that idea was dropped, and the misleading letter was never sent.[10]

In its massive, 111-page decision, the D.C. Board of Professional Responsibility upheld the Hearing Committee's finding that Clark had violated Rule of Professional Responsibility 8.4(a) by attempting to make a false statement in violation of Rule 8.4(g). The board increased the level of recommended discipline from two years actual suspension to disbarment. The DOJ lawsuit seeks to upend those findings and subsequent discipline.

Threat to the Rule of Law

Efforts to reduce external oversight of our profession put the rule of law in jeopardy. Firing inspectors general, eliminating senior JAG officers, forcing DOJ attorneys to resign for resisting superiors' directives, and flouting court orders all highlight extraordinary and unprecedented circumstances.

The oath we took when we joined our profession—to support and defend the Constitution—mandates we do whatever we can to preserve and advance the rule of law. Hindering or attempting to eliminate the role state discipline agencies play as watchdogs, imperfect as they may be, is the last thing we should permit.

David C. Carr *(dccarr@ethics-lawyer.com) is an attorney in private practice in Tucson, Arizona who specializes in ethics advice to California lawyers, California State Bar discipline defense, and California attorney licensing.*

FOOTNOTES

1. Thomas Wright, Political Songs of England 323,339 (1839, Peter Coss ed., 1996 edition) quoted in Rose *The Past as Prologue: The Legal Profession in Medieval England: A History of Regulation,* 48 Syracuse L. Rev. 1 (1998).
2. *In the Matter of Field* (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171.
3. *See* proposed changes to 28 CFR Part 77, available at https://federalregister.gov/d/2026-04390.
4. The letter from the Florida Bar confirming the investigation is available on its website https://campaignforaccountability.org/.
5. Bus. & Prof. Code §6001.1.
6. Fiscal year 2025.
7. Everyone has heard of Lord Acton's dictum, "Power corrupts, and absolute power corrupts absolutely." *Dune* author Frank Herbert reframed it as "power corrupts because corrupt people are attracted to power."
8. https://www.justice.gov/opa/pr/justice-department-files-complaint-against-dc-bar-disciplinary-authorities-over-their.
9. Report and Recommendation, at pages 2-3.
10. https://www.dcbar.org/ServeFile/GetDisciplinaryActionFile?fileName=JeffreyBClark22BD039.pdf.

CELEBRATING 250 YEARS OF THE RULE OF LAW

by Michael L. Crowley

By all accounts, the Justice 250 event on the USS Midway on July 2 was a complete success. This momentous celebration of the semiquincentennial anniversary (250 years) of the Declaration of Independence was made possible by efforts of the Honorable Judge Joan Weber, the Justice 250 committee, the bench, the bar and the indefatigable bar staff. The concept and importance of the rule of law was a core focus of the event, which was attended by hundreds of non-lawyers in addition to bar members.

There were more than 70 participants from legal-related organizations manning tables. The energy from the crowd, including the bright faces of parents and children alike, was palpable; at one point, the line was out the door and down the steps of the ship. A particular hit was the "challenge coins" given to attendees to commemorate the event. Some of the "justice partners" were in period costumes as we were celebrating the Declaration of Independence's 250th birthday. The parents in many cases were obviously seizing the event for "teaching moments" with their children. After perusing the vendors and getting a hot dog as part of their admission, the attendees sat on the flight deck where fighter jets once took off in defense of our liberties.

Speakers included Chief Justice Patricia Guerrero of the California Supreme Court, Senior Judge M. Margaret McKeown of the Ninth Circuit Court of Appeals, and our own SDCBA president Tim Williams. These speakers articulately and anecdotally explained how our system works and the importance of respecting the rule of law. Most spoke of their concerns that the rule of law is eroding and must be maintained. They referred to several seminal U.S. Supreme Court decisions– including *Brown v. Board of Education* (striking down the notion of "separate but equal" which had allowed the continuation of Jim Crow segregation laws), *Loving v. Virginia* (striking down laws banning interracial marriage), *Obergefell v. Hodges*, (allowing same sex marriage) and *Korematsu v. United States* (upholding the interment of Japanese people, but later reversed with an eventual apology showing that mistakes can be rectified). Many of the speakers discussed their personal journeys in the law, telling stories of how they were profoundly affected by an event in their life that led them to the law.

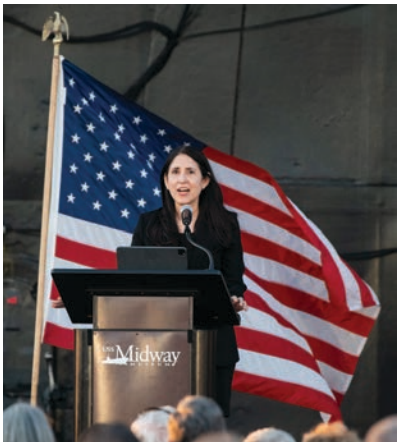
The evening also featured a short but powerful video stating our system is one that relies on deciding disputes by "reason, evidence and the rule of law." It also explained that this event was held on July 2 instead of July 4 because that was the date the Lee Resolution was passed in the Continental Congress, declaring the colonies independent of Great Britain. That led to the official signing of the Declaration of Independence two days later. About a decade later, the Constitutional Convention produced the Constitution to specifically articulate the freedoms and rules guaranteed to citizens in this new nation made possible by the Declaration of Independence. The video further made the point that no one is above the law.

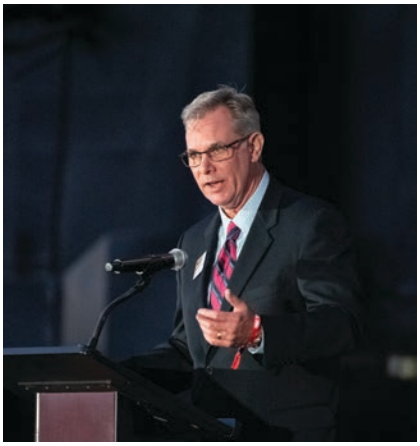
Michael L. Crowley *(MLCrowley@usa.net) has been practicing for 40 years as a Certified Criminal Law Specialist, and has served for more than 20 years on the SDCBA Ethics Committee.*

PICTURES OF 250

PICTURES OF 250

l to R: Senior Judge M. Margaret McKeown, Judge Joan Weber (Ret.), Chief Justice Patricia Guerrero





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SAN DIEGO COUNTY BAR ASSOCIATION

LEADERSHIP ACADEMY 2026

By Rolando I. Gudiel Sanchez

THE ROOM WHERE IT HAPPENS

LEADERSHIP ACADEMY GRADUATES FIFTH COHORT

When Jennifer McCollough and I accepted the opportunity to become the first Leadership Academy graduates to serve as Co-Chairs of the SDCBA's Leadership Academy, we knew we had inherited something special. Having experienced the Academy ourselves as Scholars, it has been both a privilege and an honor to return and help guide this year's cohort.

On opening night, we told the 2026 Scholars that over the next six months, the Leadership Academy would become "the room where it happens."

We challenged them to show up with curiosity, authenticity, accountability, and courage. We boldly promised that if they fully invested themselves in the experience, they would move one step closer to becoming the leaders they knew they could be — the leaders the community needs them to be.

By graduation night, that promise had become reality.

On June 17, the fifth cohort of the Leadership Academy graduated, bringing the Academy community to 84 alumni representing dozens of law firms, nonprofit organizations, government agencies, and every corner of the legal profession throughout San Diego County and beyond.

From January through June, the 2026 Scholars immersed themselves in leadership development through seven Saturday sessions and one Sunday session exploring self-leadership, purpose, vision, empathy, listening, mindset, team building, recruiting, and conflict management. Throughout the program, Scholars learned from an extraordinary faculty representing the judiciary, elected officials, law firm leaders, business executives, human resources professionals, entrepreneurs, and leadership experts.

The Academy's eighth session was a capstone project focused on access to justice, developed in partnership with the Same Day Solutions Fairs (formerly "Homeless Court Pop-Up Resource Fairs"), a San Diego County collaborative that brings court and legal services directly to unhoused and justice-involved community members. Working alongside leaders from throughout San Diego's legal community and the Homeless Court Program, Scholars developed practical recommendations designed to strengthen legal services and improve access to justice for those who need it most.

As always, the capstone demonstrated that leadership is not simply about developing individual skills. It is about using those skills in service of others.

Each session challenged Scholars not only to become stronger leaders, but also to better understand themselves and one another.

Perhaps the Academy's greatest lesson, however, cannot be found on an agenda or in a presentation.

Every January, attorneys from every corner of our profession walk into the Academy carrying different experiences in life and profession, practice areas, perspectives, and aspirations. Litigators sit beside transactional attorneys. Public servants learn alongside private practitioners. Lawyers who may never have crossed paths during their careers suddenly find themselves solving problems together, challenging one another, encouraging one another, and discovering just how much they have in common.

Somewhere along the way, titles begin to matter less. Employers matter less. Practice areas matter less.

What remains is a shared commitment to becoming better leaders and better people.

It happens every year, and this cohort was no exception.

By graduation, it was difficult to remember that many of these Scholars had been complete strangers just six months earlier.

With each passing session, the Scholars not only learned more about leadership, they became increasingly invested in one another. They celebrated one another's victories, supported one another through challenges, and became genuinely invested in each other's success. If history is any indication, many of these relationships will continue long after the Leadership Academy course concludes. In fact, one of the Academy's defining characteristics is that its alumni remain connected through friendships, mentorship, professional collaboration, and a shared commitment to lifting one another throughout their careers.

The Academy course culminated with graduation, which was held at the SDCBA Bar Center. We celebrated not only the Scholars' accomplishments, but also the relationships they built throughout the Academy. The evening featured inspiring remarks from U.S. Congressman Scott Peters, who encouraged Scholars to embrace leadership through service and civic engagement.

The celebration concluded with one of the Academy's signature traditions: Networking-in-Action ("NIA").

During NIA, each Scholar courageously stood before colleagues, family, judges, elected officials, mentors, and leaders from throughout our legal community to share a personal vision for the future. In return, the audience offered introductions, mentorship, encouragement, opportunities, and practical advice to help turn those aspirations into reality.

For many, it was the first time they publicly declared not simply what they wanted to do, but the leader they hoped to become.

And NIA was when the room really came alive.

What began six months earlier as a gathering of accomplished strangers had become a community genuinely invested in one another's futures. "The room where it happens" was no longer a metaphor. It was unfolding before our eyes as our legal community rallied around each Scholar, reminding us that leadership is not a journey to be taken alone.

This year's graduation also marked another milestone for the Academy with the presentation of its inaugural Leadership Academy challenge coin.

For the first time, every Scholar earned the coin upon successfully completing NIA, marking the completion of the Leadership Academy course, their welcome into the Academy alumni community, and the beginning of the next chapter of their leadership journey.

While the course concludes on graduation night, the Academy itself does not. From that moment forward, the challenge coin reminds each Scholar that they are part of a lifelong community committed to supporting one another in leadership and service. It serves to unite Academy alumni across every graduating class while reminding them of the leadership values they carry with them throughout their careers.

Its design reflects the Academy's mission.

The laurel wreath symbolizes victory earned through hard work, perseverance, and personal growth.

The torch represents the light of leadership that guides and inspires others. After all, a flame loses nothing by lighting the torch of another.

The hand holding the torch reminds every alumnus that leadership is not something to admire from afar, but a responsibility each of us must willingly accept

and carry forward in service to others.

As we continue to celebrate the Academy's fifth graduating class, we find ourselves reflecting on where this journey began.

On opening night, we promised the Scholars that the Leadership Academy would become "the room where it happens."

By the end, they discovered that "the room where it happens" was never really a room at all. It was built through relationships, shared purpose, courageous conversations, and a community willing to invest in one another's success.

Now, these 14 graduates take their rightful place among the Academy's growing network of alumni. Their coursework may be complete, but their journey with one another is just beginning. They leave prepared to carry the torch of leadership wherever their careers may take them... and to light new torches along the way.

We hope all graduates of the Leadership Academy remember what they learned here: they are worthy of the rooms they want to enter; every room they walk into can become "the room where it happens," and if the room they need does not exist, then they have what it takes to build it — one brick, one relationship, and one opportunity at a time.

We look forward to welcoming the next generation of lawyer-leaders into "the room where it happens" — and perhaps, one day, watching them create rooms of their own.

The Leadership Academy would not be possible without the extraordinary commitment of our Subcommittee volunteers, faculty, sponsors, and SDCBA staff, including Executive Director Scott Carr, Krystyna Coria, and Vannak Seang. Jennifer and I are deeply grateful for everyone who generously invested their time, expertise, and encouragement into this year's Scholars. Their dedication continues to make the Academy one of the most distinctive leadership programs for attorneys in California.

If you are looking to accelerate your leadership development, expand your professional network, and discover new ways to serve both the legal profession and our community, we encourage you to explore the Leadership Academy. Applications are now available, and we invite you to attend one of our upcoming information sessions to learn more. You may also contact either of the Co-Chairs of the Leadership Academy Subcommittee, Rolando I. Gudiel Sanchez, at Rolando.gudielsanchez@gmail.com, or Jennifer McCollough at Jennifer.mccollough@gmail.com if you have any questions.

SPECIAL THANKS

Leadership Academy Subcommittee:

Rolando I. Gudiel Sanchez - Co-Chair
Jennifer McCollough - Co-Chair
Sarah Garrick - Board Member
Lucas Hirsty
Michael Crowley
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SAN DIEGO COUNTY BAR ASSOCIATION

LEADERSHIP ACADEMY

2026 SCHOLAR TESTIMONIALS

See Scholar bios at www.sdcba.org/2026-LA-Scholars

The following Leadership Academy Graduates were part of the 2026 Leadership Academy cohort. Members of the cohort share their experiences and growth with the program and provide their thoughts on why you should consider participating in the Leadership Academy.

Alexandria Hopson

Attorney
Taylor Anderson LLP

Reflections: *"I originally was voluntold to join the SDCBA Leadership Academy, but it was the best decision I made. Not only did I make some great new friends, but I learned what kind of leader I would like to be. Great leaders are hard to come by, and I am excited to try and be that in the future. For anyone thinking or hedging of doing the Leadership Academy, apply today! You will not regret it."*

Nar Cruz

CEO/Attorney
The Cruz Law Office APC

Reflections: *"I joined the SDCBA Leadership Academy to grow through a structured leadership program, build deeper relationships within the Bar, and prepare for greater service. The most valuable lesson has been learning to have difficult conversations — about expectations, performance, and growth — with clarity and care with my own team. For attorneys considering it, apply: it is a strong introduction to leadership, meaningful networking, and deeper involvement in the San Diego legal community."*

Austin Lucas

Assistant Director,
Employer Outreach & Advising
California Western School of Law

Reflections: *"I joined the Academy because people I trust encouraged me to and it was unlike anything I had done before, so why not? It may seem elementary, but through this experience the importance of listening and following truly sunk in as a characteristic of good leaders and there is a difference between authority and leadership. My advice: the Academy is an investment in yourself so do not simply go through the motions."*

T. Sean Mann-O'Halloran

Senior Associate
Sheppard, Mullin, Richter, & Hampton, LLP

Reflections: *"I joined the Leadership Academy at the suggestion of Elizabeth Balfour in order to enhance my leadership skills. The Leadership Academy provided me with a varied toolkit to further my personal and professional goals and introduced me to a talented cohort of San Diego attorneys. I am very grateful to everyone who contributed to the Leadership Academy."*

Heather Melone

Founder & Managing Attorney
Wellspring Law

Reflections: *"I joined the SDCBA Leadership Academy to strengthen my leadership skills, expand my network, and learn how to better serve my clients and community. The Academy provides invaluable mentorship, practical leadership tools, and lasting professional relationships that will strengthen your career and broaden your impact within the legal profession. I encourage every attorney to participate in the SDCBA's Leadership Academy – you won't regret it!"*

Michelle Patterson

Attorney at Law
Michelle Patterson Law

Reflections: *"Growing up and in my adult life, I've often found myself in leadership roles. But none of those positions came with a guidebook. Leadership Academy is that guidebook. I learned a lot about myself as a person and as a leader, both personally & professionally, through the academy. I encourage anyone in leadership positions, and those aspiring to make a difference in the world, to join the academy. You'll come out feeling inspired and you'll make some new friends along the way."*

SAN DIEGO COUNTY BAR ASSOCIATION

LEADERSHIP ACADEMY

2026 SCHOLARS

See Scholar bios at www.sdcba.org/2026-LA-Scholars

Alma Robbins

Deputy City Attorney
Office of the San Diego City Attorney

Reflections: *"I joined the SDCBA Leadership Academy to grow professionally, develop my leadership skills, and get more involved in the legal community. The academy provided me valuable insights into my communication style, showing me that I can effectively lead and drive change. I would encourage those interested in the academy to join. It is an exceptional opportunity to build deep personal connections, deepen self-awareness, and expand your professional network."*

Jana Mickova Will

Senior Deputy City Attorney
Office of San Diego City Attorney

Reflections: *"This academy is fantastic and thoughtfully orchestrated to help attorneys become their highest selves. It is personal and introspective, helping define one's core values and belief systems, while also ensuring our personas are accurately reflected to the outside world. It places significant weight on authenticity and emotional intelligence, two qualities all great leaders must possess. All the speakers and SDBCA volunteers were top-notch, especially Rolando [Gudiel Sanchez] and Jennifer [McCollough]."*

Rebecca Womelsdorf

Staff Attorney
San Diego Volunteer Lawyer Program

Reflections: *"I joined the Leadership Academy because I want to serve my community better. The most important skill I learned for my leadership growth was understanding how to utilize my communication style in conflict resolution. I would recommend the Academy to any attorney looking to better themselves, their practice, or their community."*

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The Squeeze on justice

by Chris Evans

In San Diego and across the country, legal aid nonprofits are being asked to do more at the exact moment the resources to do it are shrinking.

Earlier this year, the Legal Aid Society of San Diego closed its Southeast San Diego office. This was a location it had operated for over 45 years. The reason, in the words of their CEO, Joanne Franciscus: “unprecedented funding challenges” heading into 2026.

At the federal level, the Legal Services Corporation (the single largest funder of civil legal aid in the country) faced proposed outright elimination in 2026. Congress ultimately preserved its funding, but at reduced levels, and the uncertainty alone forced legal organizations nationwide to make painful decisions about staffing, services, and the clients they could afford to serve.

The Numbers Tell the Story

The consequences of that squeeze are measurable, and they fall hardest on the people who can least afford it.

At the Otay Mesa detention facility, detention numbers have surged, driving a sharp increase in demand for immigration legal services. San Diego County’s own Immigrant Legal Defense Program, projects that caseloads could double in the coming fiscal year. Yet even after years of deliberate effort to expand access, only 41% of detainees at Otay Mesa had legal representation in the most recent fiscal year, which means the majority still face removal proceedings alone. Nationally, detained immigrants with legal representation are up to 10.5 times more likely to succeed in their cases than those without. The gap between represented and unrepresented isn’t marginal. It is, in almost every case, the difference between staying and being deported.

Immigration is only part of the picture. Across housing, family law, elder care, and domestic violence, the pattern holds: legal representation is frequently the deciding variable between a just outcome and a catastrophic one. These aren’t abstract statistics. They are the difference between a family keeping their home and losing it, between a survivor getting a protection order and going without one, between a child aging out of the foster system with support or without it.

Where the Foundation Fits

This is precisely the gap the San Diego County Bar Foundation exists to close.

In 2025, SDCBF awarded a record $429,000 in grants to 36 organizations providing services like asylum representation, housing defense, support for domestic violence survivors, services for homeless youth, elder law assistance, and more. Those grants represent real impact through cases taken, clients served, and outcomes changed. But they also represent a sobering reality. SDCBF received over $1 million in grant requests last year (i.e., more than double what we were able to fund). The gap between what was requested and what we could award is a measure of unmet need that no single funding source can close alone.

How You Can Help

The legal community has always been the engine behind this work, and there are meaningful ways to engage at every level.

A direct donation to SDCBF is the most straightforward place to start. Every dollar is carefully vetted and directed by a board that takes that stewardship seriously. For those looking for a starting point, donating the equivalent of one billable hour through the Donate Your Rate program goes directly toward funding these services. An Evening in La Jolla, the Foundation’s flagship annual fundraiser, brings the legal community together each year for a celebration that directly funds the grant program. And for those who want to give beyond a check, our grantees depend on volunteer attorneys, whether that’s at legal clinics, on pro bono matters, and in courtrooms where experienced advocacy changes everything.

The San Diego County Bar Foundation has been the legal community’s vehicle for this work since 1979. The organizations it supports are absorbing more pressure than ever. And the people those organizations serve, who are navigating the most difficult moments of their lives, are counting on us to show up.

BY GEORGE W. BREWSTER JR.

THE ART OF LAW AND THE LAW OF ART

The 56th annual San Diego Comic Con is now in the books. It is a far cry from its early days, first known as the Golden State Comic Con with a focus on comic art and the comic business. These days, it is all Hall H and Hollywood. Let's go back in time for an adventure down comic lane — ready to sally forth?

The daily (and Sunday) comic strip "Sally Forth" debuted in 1982, written and drawn by Greg Howard. Howard was at that time a 37-year-old Minnesota attorney who had quit the profession to become a cartoonist. He told The Minneapolis Star in a 1982 interview that after nine years in practice, he wanted to give cartooning a try "before I turn 55." Although Howard no longer draws or writes the strip, it continues to this day.

He is not the only lawyer turned cartoonist. Another is Stephan Pastis, 58, who writes and draws "Pearls Before Swine." A native of Los Angeles, he worked as an insurance defense attorney (1993-2002—9 years in practice, is this a trend?) before hitting the cartoon market (after several failed attempts) with "Pearls." He was a special guest panelist at this year's Comic-Con (and in prior years as well) and has received multiple National Cartoonists Society Newspaper Comic Strip awards and the 2018 National Cartoonists Society Reuben Award.

Another mainstay at the San Diego Comic-Con was Batton Lash, not an attorney but he wrote and drew comic books about them. Lash (1953-2019) held prime real estate on the Comic-Con convention floor, pitching his "Supernatural Law" comic books, which starred lawyers Wolff and Byrd, counselors of the macabre. Looking like a dapper Jeff Goldblum, Lash would amicably converse with attendees. He also wrote for other strips, most notably for "Radioactive Man" (Bongo Comics) and Archie comics (Archie Meets the Punisher), and was a 2002 recipient of the Eisner Award for Best Humor Publication. Lash, born and raised in Brooklyn, started his strip about lawyers representing ghouls and monsters who had everyday legal problems, like unlawful evictions or traffic violations, for The Brooklyn Paper, then for the National Law Journal (1983-1997). Lash's true passion was monsters, and he relied on a Brooklyn lawyer and friend for legal jargon and procedure, even after moving to San Diego. (Batton Lash was not his given name — early on he named himself after the DC western hero Bat Lash.)

Why move to San Diego? To marry Jackie Estrada, whom he had met at the 1990 Chicago Comic-Con, and later at the San Diego Con. He arrived in San Diego in 1993, and he and Estrada married the next year. Estrada has been involved with the San Diego Comic-Con since its first event in 1970, and she has overseen the administration of the Eisner Awards for Comic-Con since 1991. She is the longest standing San Diego Comic-Con organizer, although this year's Con was her last in her administrative role, mentoring her replacement. She and Lash started their own publishing company, Exhibit A Press, in 1994 and did what they could to succeed in the business. "It is hard to make it as a comic creator…you are always looking for other gigs, writing projects," she said, noting that Lash at one point was doing posters for Broadway shows. She turns 80 this year and feels it is time to retire.

Local attorney and cartoonist Stu Rees knows a thing or two about the business of cartooning. Since 2000 he has run a solo legal practice in San Diego, representing

hundreds of cartoonists. “I’m the only lawyer to do what I do,” he said, with a specialization geared toward helping newspaper cartoonists. He handles syndication contracts and publishing deals and is a frequent panel member at Comic-Con. He is licensed in California, New York, Massachusetts and Missouri. California for Hollywood deals, New York for publishing concerns, Massachusetts because he is a Harvard law grad, and Missouri…? “That’s where the headquarters for one of the largest comic syndicates is located, so I do a lot of court work out there.”

Rees did cartooning at Harvard, primarily writing while a law school friend drew them (the friend became a patent lawyer and never went back to cartooning). But nothing much came of Rees’ cartoon adventure until 2001 when West Law hired him to illustrate case summaries with single panel cartoons. He went on to do these for the next 10 years, “Stu’s Views” — something that also appeared for a while in San Diego Lawyer magazine. (A frequent collaborator is his wife Maddy, also a Harvard law graduate.) As he will tell you, he does not consider himself an artist—his style developed by studying, and tracing, the once-popular “Dilbert” strip by the late Scott Adams. “I ended up with a way to convey humor without a great piece of art,” he said, and he works hard to keep the words to a minimum. “You’d be surprised at how many cartoon jokes are a “B” at 12 words but an “A” at 7.”

Here’s a piece of trivia: what do Stu Rees and Harry Truman have in common? Both received the National Cartoonist Society’s “Silver T-Square” award for service to its members — Rees in 2008 for his legal work on behalf of cartoonists, Truman in 1950 for supporting cartoonists and their participation in savings bond drives.

Prior to the pandemic, the San Diego County Law Library regularly did an off-site program during Comic-Con entitled “Law & the Comics” with Rees as a frequent panelist. While other panel members discussed the art of comics, Rees got a lot of audience questions about how to make it in the business. “My advice is, and was, to focus your cartooning on a niche that you are passionate about and an expert in, then build your brand online. The mass market is very difficult to break into, as there is too much established competition.”

Editor and cartoonist Bob Mankoff, the long-time cartoon czar for The New Yorker from 1997-2017, said it best: “Cartoonists…make sense of life. They are devoted to drawings that puncture authority, pinpointing the absurdity of the human condition. In the process, they give people a voice for things they feel but can’t say.”

George W. Brewster Jr. *(sandbrews@aol.com) wrote and drew the law-firm based comic strip “Cheetum & Howe” from 1990 to 2000 (1200 strips) for the San Diego Daily Transcript, for very little compensation and even less glory. He goes to Comic-Con every now and again and especially admires the dreamers in Artist Alley.*

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THE MINDFUL PRACTICE OF BEING A LAWYER:

FINDING BALANCE IN THE LEGAL PROFESSION

by Sasha Jamshidi

As conversations surrounding attorney wellness continues to evolve, I spoke with attorneys JIm Eischen and Julie Thorpe, who provided invaluable insight into their practices that help them manage stress, address burnout, and integrate mindfulness into their lives.

Both attorneys shared their practical tips and strategies for maintaining resilience and achieving a sustainable work-life balance throughout their careers drawing from their personal experiences and professional journey.

Jim Eischen has dedicated much of his career to promoting attorney well-being through leadership, education, and mentorship. In addition to maintaining a practice focused on healthcare regulatory compliance and complex litigation, he is the author of the California Medical Association's Physician Legal Desk Book Chapter on cash healthcare practice compliance and has developed the legal curriculum for the University of Arizona Andrew Weil Integrative Health Institute.

Beyond his legal practice, Eischen serves as Chair of the San Diego County Bar Association's Wellness Subcommittee and San Diego Mindfulness in Law Society, where he has advocated for initiatives designed to help attorneys manage stress, prevent burnout, and cultivate resilience.

Q: What collaborations have you done recently for the legal community to promote mindfulness and wellbeing?

A: As Chair of the Wellness Committee, the committee hosts monthly virtual meditations, presents ongoing presentations and panels on attorney wellness, and provides monthly blog articles with wellness pledges that both young and old attorneys can benefit from and incorporate into their legal practices. The committee's overall message emphasizes that the attorney well-being is essential to maintaining professional competency and ethical duties.

The Mindfulness In Law Society (MILS) provides weekly virtual meditation sessions on Mondays at 12:00 p.m. PST and Wednesdays at 2:00 pm PST. Monthly meetings are held on Wednesday of each month at 12:00 p.m. PT.

The SDCBA wellness subcommittee and the MILS SD Chapter have collaborated on beach clean-ups for Surfrider Foundation as well as outdoor wellness and community service events. I have also hosted multiple networking mixers and am working on ongoing financial guidance for attorneys' discussion panels/presentations for the end of this year and next year in collaboration with the SDCBA wellness subcommittee and the New Lawyers Division/NLD.

Q: What do you wish you had known about managing stress when you first started practicing law?

A: Reflecting on the challenges of managing stress early in the career, I recognized navigating the legal profession involves a significant learning curve; setting clear intentions, and finding the right work environment was essential to my professional growth and overall well-being. My advice for young attorneys is to start by clarifying their career goals and intentions, emphasizing the importance of being flexible and patient in their career development. It is also important to maximize health and mental well-being alongside professional ambitions, as this would make other goals more achievable.

Q: Have you experienced burnout, and what advice would you give young attorneys for preventing burnout before it becomes overwhelming?

A: When overcoming burnout, I would recommend a problem-solving approach by forming intentions and finding solutions rather than just suffering from it, especially during trial preparation and managing deadlines. The core skill in managing deadlines is to train yourself to stay calm under pressure through whatever activity you enjoy—yoga, golf, surfing, music, and not following a formula.

Q: What activities and/or hobbies do you consistently do to maintain a balanced wellness lifestyle?

A: Achieving a work-life balance starts with knowing oneself, including identifying personal preferences, strengths, and hobbies. People should focus on activities they genuinely enjoy rather than following popular trends. Forcing trendy activities that don't resonate is counterproductive. Maintaining a healthy work-life balance requires knowing what environment suits you best, not just in practice but in your daily life from what law you practice well to what you genuinely like to do outside of work.

Q: What can law firms and legal organizations do to better support young lawyers' mental health and well-being?

A: Law firms should create more supportive and sustainable environments for attorneys, with the following key principles: (1) recognizing and expressing appreciation for lawyers as individuals rather than simply as business contributors, (2) helping attorneys develop meaningful career paths aligned with their personal and professional goals, and (3) fostering a workplace culture that prioritizes support, connection, and work-life balance.

Julie Thorpe, is a seasoned trial attorney and leading advocate for attorney wellness. She currently serves as a board member of the Consumer Attorneys of San Diego where she has played an active role in statewide efforts to strengthen the California State Bar's wellness and mental health education requirements for attorneys. Throughout her career, Thorpe has found that most MCLE courses teach attorneys how to identify stress and burn out, but few provide meaningful, solution-oriented tools to promote lasting well-being. Given these concerns, she has worked to expand both the number of required MCLE credit wellness hours and the scope of qualifying wellness topics, inspiring the San Diego County Bar Association to petition the State Bar to adopt these reforms.

Q: What advice would you give young attorneys in managing mindfulness and wellness early on in their careers?

A: Based on my experience, attorneys should identify early on in their careers what they consider to be their non-negotiables in order to stay productive and avoid burnout. Not only should attorneys make time for their non-negotiables, but they should also ensure that they are consistently incorporated into their work-life balance. My non-negotiables are (1) exercise; (2) sleep; (3) reaching out for support, and (4) prioritizing spending time with family.

Being able to organize your schedule around your non-negotiables is key. Even if it is 10 minutes a day or more, exercise has become an important part of my routine. Sleep is also necessary and essential to improving productivity and wellbeing.

Q: Have you experienced burnout and what advice would you give young attorneys for preventing burnout before it becomes overwhelming?

A: Yes, she further recalls an experience as a young attorney where she was expected to work excessive hours, just had a baby, and was involved in a car crash. She developed and suffered from postpartum depression and anxiety but was afraid to tell anyone (even her doctors) given the mental health stigma at the time.

In juggling work and a family, I learned the importance of communicating early on and seeking help. My advice to attorneys emerging in the field is to find an outlet to communicate your thoughts whether it be through family, friends, or your bosses, and to seek professional help early for an easier recovery into wellbeing.

Q: What strategies help you manage the constant demands of deadlines and common stressors in the profession?

I believe it's important to build a buffer when there are upcoming deadlines or trials. While this chain of events can be stressful, it is essential that you plan your weeks to months well-in advance with adequate recovery time in between, which is crucial in practice. And if your workload feels overwhelming, ask for help.

Other stressors I commonly see emerging attorneys experience are emerging attorneys experience are learning to avoid comparisons and lack of civility in opposing counsel. We often hear about other attorneys' wins and other success stories but never learn about how they deal with their losses or mistakes. While this paints a perfect picture, it is not reality. It's not always about what's marketed but how we prioritize the important things to get to our goals. Make every effort to minimize any drain and focus on the next steps in your case.

Q: What can law firms and legal organizations do to better support young lawyers' mental health and well-being?

I strongly advocate that law firms should begin by fostering environments where seeking support and wellness is viewed positively and that they are able to promote a healthy work life balanced schedule for their attorneys.

Firms should provide more access to mental health resources, encouraging open dialogue, and training leaders to recognize signs of stress, burnout, and isolation among attorneys.

Ultimately, supporting attorney wellness requires a cultural shift—where firms recognize that investing in the health of their lawyers not only benefits individuals but also strengthens the profession as a whole.

Sasha Jamshidi (*sjamshidi.jdesq@gmail.com*) *is an associate attorney working out of Bremer Whyte Brown & O'Meara, LLP's San Diego office.*

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SAN DIEGO COUNTY BAR ASSOCIATION

WHAT TO DO WHEN… SILENCE SEEMS SAFER

by Christopher L. Ramey

After a client call, you realize a position was overstated. Or you re-read an email and realize you should have included a qualification. No deadline was missed, no client decision turns on the point, and no obvious harm exists. Rather than "malpractice," the more likely question is, "Do I say anything?"

Every lawyer understands the temptation to lie low. Clients want answers, peers expect reliability, and courts demand trustworthiness. Practice rewards confidence, and lawyers learn early not to create a problem unless required. But is silence the best approach?

Not every harmless oversight requires a formal disclosure. The California Rules of Conduct and formal opinions make clear that materiality, prejudice, and client decision-making matter. But professional judgment requires more than asking whether a rule plainly compels disclosure. The better guide is whether silence protects the client or merely protects the lawyer from discomfort.

That distinction matters. A lawyer who routinely stays quiet to avoid discomfort starts treating the client relationship as something to manage, rather than a professional trust to honor. Trust-repair research suggests a corrected oversight may look like human fallibility, while concealment can turn the same issue into a damaging integrity problem.

The better course is not theatrics or extensive discourse. Instead, offer a candid correction delivered like advice: plainly, calmly, and with the client's decision-making in mind. Tell the client what changed, why the point matters, and what you recommend next. Instead of perfection, clients expect their lawyer to pay attention, tell them the truth, and stay focused on the problem.

California's renewed emphasis on civility and professionalism is a useful reminder that integrity is not limited to how lawyers treat courts or opposing counsel. An attorney's value is also measured by what the attorney does when silence feels safer and accountability costs something.

Christopher L. Ramey *is an Assistant Professor of Lawyering at Thomas Jefferson School of Law and has more than 20 years of civil litigation experience in California state and federal courts.*

GET THE MOST OUT OF YOUR MEMBERSHIP - JOIN A SECTION

The SDCBA has 28 Sections – communities of lawyers practicing a specific area of law. Section memberships are all free! Join as many sections as you like and **get connected with upcoming programs and events, post questions, and interact with others in your practice field of interest.** This is a great way to learn about different areas of law and meet other members.

To learn more and see all the available sections visit www.sdcba.org/sections

Meet Your Bar-ista

Isabela "Bela" Diaz

What are your main responsibilities at the Bar?
I serve as the front desk receptionist and provide support for the various programs and events the SDCBA hosts for the legal community.

How long have you been working at the Bar?
I have been working at SDCBA for about 6 months now.

What is your favorite part of your job?
My favorite part of my job is getting the chance to interact with our members daily and getting to know many of the people who have an impact on the legal community in San Diego. As a law student, it has been inspiring to meet successful people in the career I have wanted to pursue all of my life.

What is your favorite movie and why?
My favorite movie has been Breakfast at Tiffany's since I was very young. I love Audrey Hepburn's glamour, the nostalgia of old New York, and the comfort the movie has always held for me.

What is your favorite quote?
My favorite quote is "The best way out is always through" by poet Robert Frost. Life can be uncomfortable at times, but the only way to truly move past difficult moments is to face them rather than trying to find a way around them.

What do you love about San Diego?
I love that San Diego has so much to do and explore. I try to take advantage of it and do as many new things as I can on my free time.

Main Atrium

Program Room

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DISTINCTIONS

The following individuals in our community were recently honored for their achievements. If you achieve a professional success, feel welcome to submit it to bar@sdcba.org for inclusion in an upcoming issue of San Diego Lawyer.

Marsha Amin has been nominated to serve as an Associate Justice in the Fourth District Court of Appeal, Division One. She fills the vacancy created by the death of Justice Joan Irion. This position requires confirmation by the Commission on Judicial appointments. Since 2023 Amin has served as a Judge in the San Diego County Superior Court, and previously she served as Managing Attorney at the Fourth District Court of Appeal from 2018 to 2023, and from 2011 to 2018 she served as Senior Attorney. She also previously worked as a litigation attorney at Procopio, Cory, Hargreaves & Savitch and as a law clerk in the U.S. District Court for the Southern District of California.

Lisa Rodriguez has been nominated to serve as an Associate Justice in the Fourth District Court of Appeal, Division One. Rodriguez has served as a Judge in the San Diego County Superior Court since 2015. If confirmed, Rodriguez will fill the vacancy created by the retirement of Justice Terry B. O'Rourke after Justice O'Rourke completes his term of office on January 4, 2027, and Rodriguez's appointment to a term beginning January 4, 2027 will be subject to voter confirmation during the general election scheduled for November 3, 2026. Rodriguez worked as an Adjunct Professor at the University of San Diego School of Law since 2014, as a Deputy District Attorney at the San Diego County District Attorney's Office from 1998 to 2015, and she served as a Deputy City Attorney at the San Diego City Attorney's Office from 1996 to 1998.

Dick A. Semerdjian of Schwartz Semerdjian Cauley Schena & Bush LLP has been nominated by the President of the American Bar Association to a three-year term as a member of the ABA Standing Committee on the Federal Judiciary representing the Ninth Circuit. Semerdjian also received the Best Lawyers "Lawyer of the Year" designation this year in Personal Injury Litigation - Defendants in San Diego.

PASSINGS

Barbara Kay Strickland, formerly of Santee and San Diego, passed away peacefully on June 7, 2026, in Hingham, Massachusetts, at the age of 79. She built a distinguished career in immigration and family law, including seven years working for Mexico's Department of Foreign Affairs after moving to Mexico City in 1983. In 1996, she married Bill Cadwallader and the couple established a successful law practice, where Barbara became known as a tireless advocate whose work helped many people obtain lawful status in the United States. She and Bill enjoyed extensive international travel and treasured time with family, particularly her grandson, Alejandro. Barbara is survived by her son, grandson, siblings, extended family, and many friends; she will be buried beside Bill at Miramar National Cemetery.

Pride Parade 2026

The SDCBA is immensely proud of the fantastic turnout at the Pride Parade this July. Approximately 80 members of the legal community joined us, including our friends from Lawyers Club of San Diego, Office of San Diego Public Defender, and Legal Aid Society of San Diego. "Love is Blind, So is Justice."

Summer Social 2026

Thank you to everyone who rocked out with us at our annual New Lawyer Division Summer Social! A special thank-you goes out to our event sponsors JAMS, Lawyers Mutual Insurance Company, Western Alliance Bank, Veritext, Acrisure, Klinedinst, and Sheppard Mullin.

Robert Shawhan and Lillian Glenister

Rolando Guidel Sanchez, Kyle Anderson, Morgan Chandegra, Joel Corrales

THANK YOU

100% CLUB 2026

The San Diego County Bar Association wants to thank all of the San Diego law firms, public agencies, and nonprofi-t legal organizations that have provided SDCBA membership to 100% of their attorneys in 2026. Your commitment to the San Diego legal community is greatly appreciated.

100% Club member list as of August 2026

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