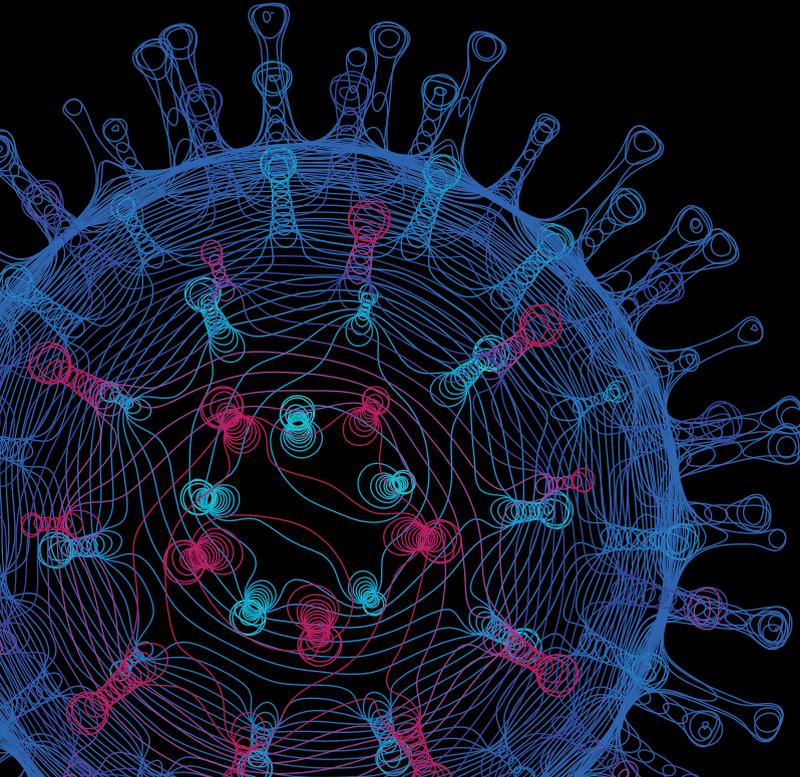
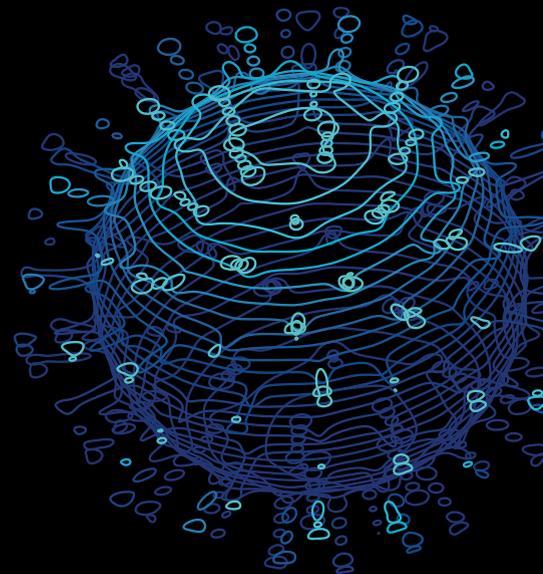




California LITIGATION

JURY TRIALS IN THE
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*Remedies for the
Courthouse Flu:
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EDITOR'S FOREWORD

PPP = Post-Pandemic Planning

By Benjamin G. Shatz



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After a year and a half, it seems like the light at the end of tunnel is within reach. Although I have not been inside my Century City office since Friday, March 13, 2020, I'm expecting to return sometime ... soonish. I hope that a moldy cup of coffee will not be there to greet me, and I wonder what other surprises might have developed in an untouched space over such a long period. I hope you all weathered COVID-19 well and are having an easy transition to our new normal. What might that brave new world be like? Several articles in this issue attempt to answer that question. PPP no longer stands for Paycheck Protection Program, but Post-Pandemic Planning.

We begin with a piece on *Jury Trials in the COVID-19 Era* by Stuart Purdy, emphasizing the importance of a predetermined trial plan. Then Judge Sam McAdam explores how Yolo County Superior Court coped with the pandemic, and, more importantly, what lies ahead in *The Future of the Virtual Courthouse*. Next, retired Judge Allan Goodman (an Editorial Board member of this journal) prescribes *Remedies for the Courthouse Flu: How to Get Your Civil Case Tried During the COVID-19 Crisis*. Spoiler alert: He's a fan of references under Code of Civil Proce-

dure section 638 as way to address the backlog. Finally, Gary London ponders post-pandemic properties, i.e., commercial realty, in *The Once and Future Office Market*. In his view, hundreds of thousands of California workers are likely to continue working away from the office because ... well, it works. To the extent they were not already there, lawyers are likely to jump on that bandwagon. Indeed, even before the pandemic, we probably all knew a lawyer who habitually worked remotely. Henceforth, such arrangements will be banal, not intriguing.

Moving beyond COVID-19 and back to our regularly scheduled subject matter, in *Revisiting California's No-Citation Rule*, David Ettinger and Dean Bochner delve deep into Rule of Court 8.1115, about citing unpublished opinions, and make a strong case for tweaking the rule. This topic is a hot one, and not just for appellate lawyers. Every litigator needs to know what can be cited and what is verboten.

On the ethics front, Merri Baldwin and Amy Bomse teach us about *Advance Waivers, Disclosures, and Arbitration Agreements*, consequences of 2018's landmark *Sheppard Mullin v. J-M Manufacturing* opinion.

From the ADR side of things, Paul Dubow (another longstanding member of our Editorial Board) contributes *The CAA v. The FAA: The Dangerous Differences*. That FAA is the Federal Arbitration Act—not the Federal Aviation Administration (remember flying in aeroplanes?)—and Paul spells out how it differs from California’s version. Relatedly, Chuck Dick supplies an article on *Recovering Attorney Fees in Arbitration*.

Justice Terry Stewart (another eddy board member) provides a diptych book review, cleverly titled *Two #MeToos*, covering *She Said*, by Jodi Kantor and Megan Twohey, and Ronan Farrow’s *Catch and Kill*. With the recent decision by the Pennsylvania Supreme Court overturning Bill Cosby’s conviction, sexual harassment remains as vital an issue in the public spotlight as ever.

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the Charles Houston Bar Association; Tamara Benefield, Director of Region 9 of the National Bar Association; Umica Anderson-Howard, Diversity Manager at Duane Morris LLP; and Joseph K. West, Chief Diversity & Inclusion Officer of Duane Morris for working with me in the pursuit of justice. Additional thanks to our Section Coordinator John Boxberger, all of the members of our Section Executive Committee, and all of our subcommittees and publications for the support that you provided during my tenure. None of this would have been possible without you.

Last, but not least, thanks again to my amazing parents, Cora B. Evans and Ozan J. Evans, for all of your love and support throughout my life. I am because you are.

I am excited about the future of the Litigation Section under the leadership of your next Chair, Jessica Barclay-Strobel; next Vice Chair,

We conclude with two additional practical pieces. Marc Weitz maps out *Navigating the Adversary Proceeding in Bankruptcy for General Litigators*. Finally, Alex Behar and Paul Traina teach us *How to Strike the Answer of a Non-Participating Defendant*. As always, these are topics worth knowing about, and when the need arises, you can return to these articles for guidance.

And that’s it for this issue. If you’ve read this far into the foreword, maybe you really like to read. Maybe you like what we run and wouldn’t mind submitting a piece yourself, or taking a hand at editing someone else’s article, or—using your thick rolodex of lawyers—soliciting articles for this fine publication? If that sounds fun, shoot me an email and we can discuss what’s on your mind, and maybe invite you to join our Editorial Board. Think about it.

Mary McKelvey; next Treasurer, Erik Silber, and next Secretary, Adriannette Ciccone. I will continue working closely with all of them as the Section’s elected Board Representative and Co-Chair of the Racial Justice Committee. We have more great work to do.

I will continue devoting my life to the fight for diversity, inclusion, equity, civil rights, women’s rights, LGBTQ rights, and racial justice for all. The best is yet to come. It has been the honor of a lifetime to be your Chair. Much love to all of you. #BlackLivesMatter #BlackLawyersMatter #BlackJudgesMatter

Terrance J. Evans

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2020-2021 Chair of the Litigation Section of the California Lawyers Association