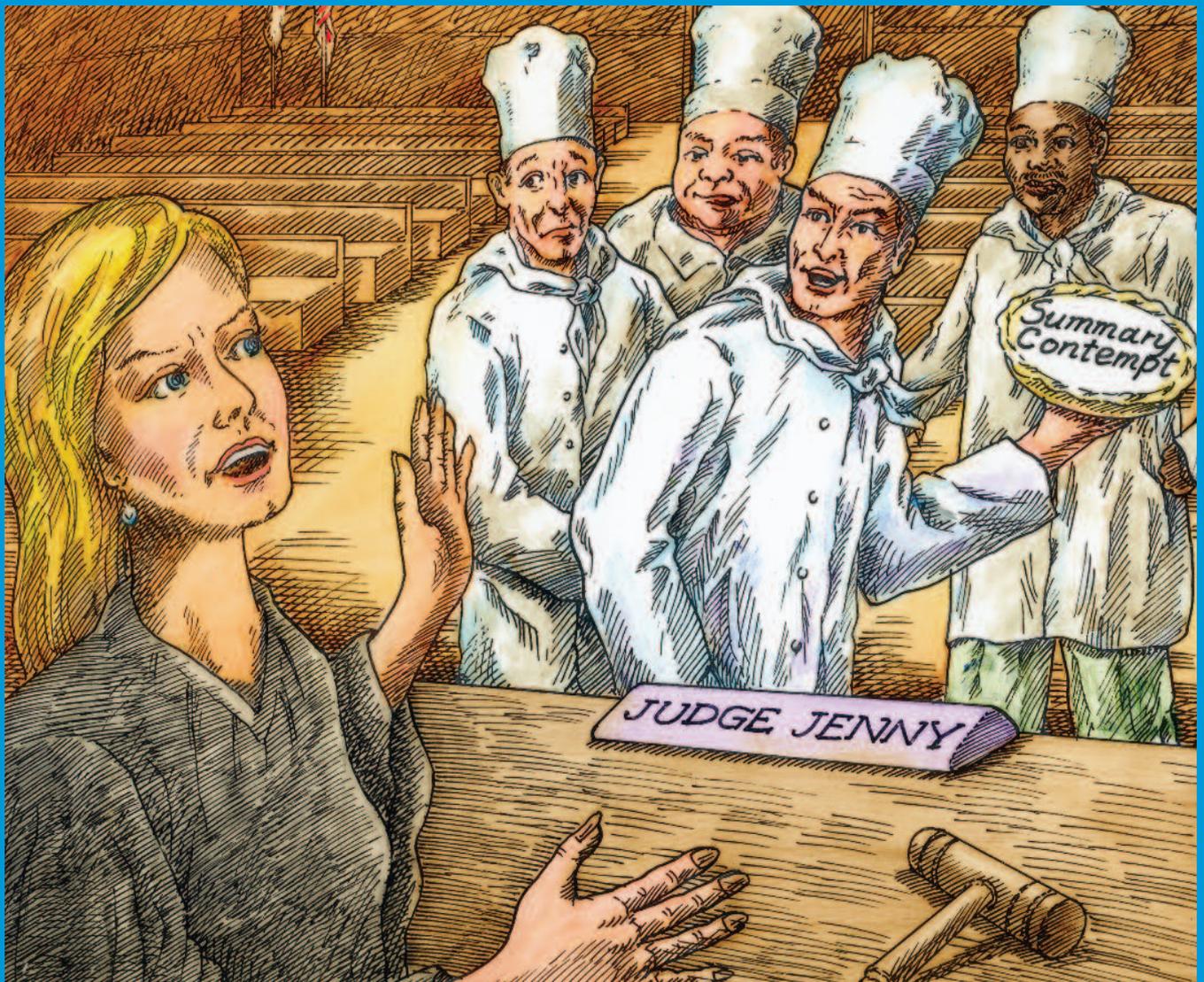


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# California Litigation

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# Editor's Foreword

## *Show and Tell: Food Fight in the Courtroom*

By Benjamin G. Shatz



**Benjamin G. Shatz**

**L**aw review journals have prosaically academic — i.e., *borrrrr...ing!* — covers. If you're lucky, there may be an unimaginative school emblem of some sort, to which no one has paid any attention, possibly for centuries. But perhaps the most enjoyable part of being editor-in-chief of this fine publication is our amazingly talented illustrator, Peter Siu. His skill empowers my imagination to take flight, allowing us to blend articles about automated technology for mass litigation, summary contempt, and the JNE Commission together in a unified montage. Why chefs in the tableau? Well, Ray Gallo's article about a new model for computerized aggregate litigation arose from litigation brought by graduates of a culinary academy.

We continue with a survey analyzing frivolous appeals from Will Tomlinson, followed by Marc Alexander's

piece sharing thematically related vignettes involving summary contempt. This led (naturally?) to visualize that classic slapstick trope, the venerable thrown pie. With the chefs on their marks, who could resist?

Further on, Lara Krieger, a former chair of the State Bar's Judicial Nominations and Evaluations Committee, treats us to a JNE 101 primer — and, voilà, our anonymous soon-to-be-*schlagged* bench officer now has a name. (And how linguistically delicious that *Schlag*, short for the Viennese *Schlagobers* (whipped cream, especially as a topping for a cake or pie), corresponds to the German *Schlag*, a blow, from *Schlagen*, to strike or hit, which arises, of course, from the Proto-Indo-European (there's that PIE again) *slak*, to hit, strike, or throw.) Before Jenny assumed the bench, she apparently drove a truck; Justice Kagan even provides her phone number in *American Trucking Associations, Inc. v. City of Los Angeles* (2013) 133 S.Ct. 2096, 2100 (“How am I driving? [Call] 213-867-5309”).

Elsewhere in this issue you will encounter concrete advice for building one's confidence when making court appearances. Those who learned trial preparation from *Ally McBeal* already know that humming your personally inspirational theme song is essential for taming pre-curtain jitters. But while looping a rousing tune in your head might help, Boalt's William Fernholz offers far more useful teachings.

Additional practical advice comes from SLAPP-master James Moneer, who explains why he would never simultaneously file a demurrer along with an anti-SLAPP motion.

John Derrick and Melinda Ebelhar

present two takes on a now familiar thesis: Perhaps California practice has not kept pace with technology. John sharpens his pen to tackle ink signatures, while Melinda wrestles with the paradox of lending an electronic record without “copying” it. We all know that it's illegal to photocopy reporter's transcripts, right?

We close with a brace of personal reflections. Tyro litigator Paymon Khatibi exhibits sagacity beyond his years with a handful of enlightening tenets that should resonate with lawyers at all experience levels. Batting cleanup, our seasoned veteran Tom McDermott shatters any complacency with the status quo through another tour de force *cri de coeur* that jolts like cask-strength whiskey. His jeremiad posits that a fed-up public may soon simply refuse to fund, and instead abandon, our current legal system, which is too expensive to serve the needs of ordinary Americans. Can we reform in time? Wikipedia explains that “pieing” — i.e., the act of pie throwing — “can be political action when the target is an authority figure.” So our cover's got that covered too.

Something in this issue is bound to spark your ire or delight. Please share your views with an email to the editor. As much as we sincerely love our illustrator, we'd rather use our page-two column for you.

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*Benjamin G. Shatz, Editor-in-Chief of this journal, is certified by the State Bar of California Board of Legal Specialization as a Specialist in Appellate Law and Co-chairs the Appellate Practice Group of Manatt, Phelps & Phillips, LLP, in Los Angeles. BShatz@Manatt.com*  
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