

California Litigation

THE JOURNAL OF THE LITIGATION SECTION, STATE BAR OF CALIFORNIA





Editor's Foreword

Class Without Ostentation

By Benjamin G. Shatz



Benjamin G. Shatz

Change is afoot at *California Litigation*, physically, digitally, and ethereally. You can feel our tangible change in your fingertips right now: We're using better paper. We have always prided ourselves in standing out from the pack of periodicals through the quality of our pages — both written content and actual sheafs. But after years of using a highly textured (and highly costly) pulp product, we are now saving money by using an improved paper, one easier for our printing house and illustrator to use. We still have our distinctive touch, but at a sounder price, to the delight of the Section's Treasurer, the Bar, and, really, all of us. Our new fine paper preserves our class, but drops our ostentation — and operating budget.

"But," you exclaim, "what is this 'paper' of which you speak? I'm reading this electronically." Well, bully for you! This reflects another change we're embracing. Soon we'll be functioning at levels rivaling the late Twentieth Century, we hope. Our website, <http://litigation.calbar.ca.gov/Publications/CaliforniaLitigation.aspx>,

now has *some* of our recent material online, available to Section members only. We positively hope to continue this electrifying development, but we face surprising challenges with technology and — as you, of all readerships, will appreciate — legal issues. In his latest Year-End Report on the Federal Judiciary, Chief Justice Roberts pointed out that "courts will often choose to be late to the harvest of American ingenuity." Well, the same is true for this legal publication: In less stylistic a phrasing, we are damn slothful in adopting tech, let alone high-tech. But we're working on it. Really.

Finally (while we're name-dropping Justices here) our spiritual change: We have lost our guiding star, Justice Rylaarsdam, from the editorial board. After a mere 27 years of volunteer work, infinite edits, and scintillating board meetings, he has hung up his pen — at least for this publication. He will, of course, continue to write opinions for the Court of Appeal; but no more editorial opinions in these pages. I'd complain about this (in fact, I did, loudly), but the truth is we've been incredibly blessed to have his participation for so long. The only conceivable upside (one for me alone) is that if this journal tanks, I may be able to distract attention from my weak helmsmanship by fingering Bill's departure as the fatal blow. (See Sharon Arkin's *A Fond Vaarwel...* on page 2.)

Onward to this issue. What's with the ape on the cover? That's no monkey, that's a sloth! Mr. Sloth, Esq. of Sloth, Envy & Wrath, LLP, highlights Richard Nakamura's ditty linking the Seven Deadly Sins with written advocacy. More monkey business kicks in with thematically related pieces on attorney civility (by Mike Stein) and extortionate demand letters (by Felix Shafir and Jeremy Rosen).

From evil lawyers, we descend to evil clients in Scott Reddie's discussion of the disentitlement doctrine. And, on that same topic of "how to mess up your appeal," Kevin Green and Rupa Singh cover waiver and forfeiture issues in the pleading context.

Next, learn the latest lingo from Justice Beth Grimes and Robert Toews in their litigators' lexicon. If you haven't heard these terms yet (lucky you), you will soon. Jill Friedman then updates us on how the courts are viewing your cell phone. Paul Dubow supplies his ADR Update column. And we conclude with a trio of renown all-stars, Bruce Brusavich, Cris Arguedas and our own irrepensible Tom McDermott, sharing their wisdom on litigation.

Finally, you may notice that instead of our Litigation Section Chair's column, we've added some colour with a primer on English law practice. This is to build excitement for the Section's Week in Legal London program in April. The program opens with The Right Honourable The Lord Thomas of Cwmgiedd, Lord Chief Justice of England & Wales, and you'll also get to meet Master of the Rolls, Lord Neuberger of Abbotsbury, as well as The Right Honourable Lord Wallace of Tankerness QC. I kid you not; just more name-dropping here. And given this year's 800th anniversary of the Magna Carta, you could also bop on over to Runnymede. So check it out. Our article helps bridge the culture clash. That ringing you hear? London calling.

.....
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
.....

California Litigation Vol. 28 • No. 1 • 2015