

# EDITOR'S FOREWORD

FOREWORD IS FOREARMED

Written by Benjamin G. Shatz  
*Editor-in-Chief*



Your Editorial Board here at California Litigation thrives on feedback and letters to the editor. One especially meaningful letter comes from Sid Kanazawa at ARC in Los Angeles, who writes:

"I loved *Litigation v. Transaction Work: Who's the 'Real Lawyer'?* in California Litigation's last issue! It was a hoot to read, and I could hear cheers erupting from both sides of the debate as I progressed through the back and forth!"

"On a more serious note, I thought the article could have been the lead thematic piece for the entire issue, much of which was about our increasingly dysfunctional dispute resolution systems. Our current culture emphasizes distrust and the fight for our rights. In that adversarial process, we negatively teach each other and our fellow citizens that we are enemies who cannot be friends. But we are not enemies. Nor are we representing enemies. We are all part of the same society, albeit one that needs and thrives on conflict."

"New ideas, new paradigms, new approaches, and new perspectives on justice, fairness, and liberty cannot spawn or grow or transform our society without challenges to the existing status quo and power structure. Without conflict, we stagnate and die. But as subtly pointed out in the article, our job as lawyers is to practically build bridges and agreements between collaborators, opponents, juries and judges — regardless of whether we are litigators or transactional lawyers. Shaping how we get along and work together is our job."

"As lawyers in a free society, we have a duty to remind each other and our fellow citizens of our shared values and what we have in common (e.g., our constitutions, statutes, prior agreements, common goals and ethics) and thereby bring people together to build buildings, cities, and nations — and to step out of the dissonant past and into a more harmonious and just future. As Shakespeare's anarchist aptly recognized, 'The first thing we do, let's kill all the lawyers.' We lawyers are the glue that keeps our society together. Thank you for a great article and publication!"

We hope that the issue you're now reading will spur similar reactions. In the spirit that a foreword should forearm you, here's what's in store in the ensuing pages. We begin with Kirk Jenkins's annual California Supreme Court review. No one puts in the time and crunches the numbers like Kirk—and we all get the benefit of his analysis. Be sure to check out his blog: [CaliforniaSupremeCourtReview.com](http://CaliforniaSupremeCourtReview.com).

Next, Paul Dubow writes about the many Supreme Court cases addressing arbitration. Kris Whitten then shares his views on the controversial matter of renaming a certain law school. Is “Hastings” the new Voldemort? On a related topic, Marc Alexander reviews Smashing Statues. (That’s not a typo: it’s literally about statues, not statutes!) And from statues, we progress to Judge Abe Meltzer’s thought-provoking piece on hyperreality and fraud. Gopi Panchapakesan and Jong-min Choi then write about dueling experts.

Longtime Litigation Section Judicial Advisor Justice Eileen Moore shares her views on remote oral arguments. Spoiler alert: she doesn’t like them. Also from the judicial perspective, our Section’s Federal Courts Committee presents an interview with Judge Vince Chhabria.

Moving to practice practicalities, Stephen Sulmeyer and Richard Collier teach about how not to let your client’s bequest be a lawsuit. Dan Barer then explores the strange world of litigation involving governmental entities. On the money side of things, Matthew Harrison and Doug Geysler bring us up to speed on the latest in litigation financing.

We end with a pair of articles about working. Jasmine Samuels discusses the new wage transparency laws. Finally, we have something really special and different from any other article we’ve ever ran. So much of our attention is naturally focused on the law, lawyers, clients, witnesses, and judges. But it takes more than that to actually run a court system. In the grand tradition of Louis “Studs” Terkel (1912-2008), the Pulitzer Prize winning author and historian best known for his oral histories of common Americans—including his 1974 book “Working: People Talk About What They Do All Day and How They Feel About What They Do,” Eddy Board member Justice Beth Grimes did the leg work to gather interviews with some of the behind-the-scenes real folks who keep the wheels of justice moving forward. The pandemic has taught us to value our essential workers more than ever. Justice Grimes shines some overdue light on some overlooked people. Take that look. Then tell us what you think. My inbox is always open.

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**Strengthen and unify the CLA Community to create a culture of collaboration and partnership, while respecting the unique strengths and supporting the work of our CLA Sections and other components.** This work starts at home and our home is CLA. This year we work to leverage our collective power and vision to ensure that we are the premiere statewide voluntary bar association of choice for California attorneys based in large part on the value, service and commitment to inclusivity that we provide to our members.

The Litigation Section is committed to these ideals and beyond as we step into the new year with a commitment to going further and stronger together with all of you!

*\*Mary McKelvey is a partner and trial attorney at Polsinelli who litigates for national and global clients. She serves as the Immediate Past President of Women Lawyers of Los Angeles.*