

Across the Bar

THE OFFICIAL PUBLICATION OF THE
SAN JOAQUIN COUNTY BAR ASSOCIATION

FIRST QUARTER 2015

WHAT PROPOSITION 47 MEANS FOR YOU PG. 6

ALSO IN THIS ISSUE:

- ▶ NEW PROCEDURAL LAWS AND RULES FOR CIVIL PRACTITIONERS FOR 2015 PG. 9
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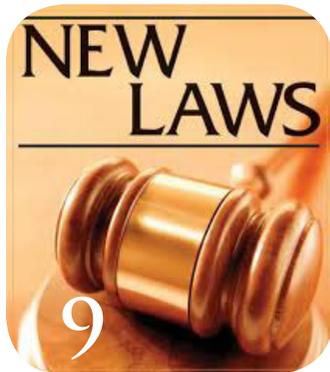
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EDITOR'S NOTES MICHAEL R. TENER

This issue's feature article covers Proposition 47, the initiative passed by California voters in November 2014, which reclassified as misdemeanors simple drug possession offenses and theft crimes where the amount involved is less than \$950. Importantly, the law affects many defendants and inmates whose cases were already in progress or who had already been convicted or sentenced prior to the enactment of the new law. Defense attorney Brian Lafferty explains the law and its exceptions on page 6.

Also in this issue, on page 9, I summarize 12 new laws or rule changes that went into effect in 2015 that affect civil procedure in San Joaquin County, including an "accidental" new court holiday in September; the availability of court interpreters at no cost in civil cases; new schedules for briefing post-verdict motions; and the revival of *Code of Civil Procedure* section 128.5, which allows courts to issue sanctions for attorney's fees and costs for bad-faith or frivolous tactics.

Erin Guy Castillo and Ricardo Aranda recap the 2015 New Lawyers Reception at the Bank of Stockton on page 12, with photos from the event. On page 14, San Joaquin County Bar Association Executive Director Rebekah Burr-Siegel details the many essential services that make the San Joaquin County Bar Association more than "just a bar association."

This issue also covers events at the Superior Court. On page 20, the Court's Public Information Officer, Stephanie Bohrer, provides an update on courthouse construction progress, while on page 22, the Court's Senior Judicial Secretary, Terry Costa, recaps the 2015 mock trial program.

On page 18, retired realtor and paralegal Vicki Gardiner Taylor and attorney Dennis Hay write about the danger that erroneous or forged recorded documents can prevent homeowners from obtaining loans or refinancing their mortgages, and they illustrate how difficult it can be to correct those problems once identified.

Finally, on page 15, Grey Galluzi places John

Harris under oath!

Across the Bar is available to San Joaquin County Bar Association members both electronically and in hard copy format. Members can access *Across the Bar* in three ways: (1) via e-mail and *In Brief*; (2) on the San Joaquin County Bar Association's website, www.sjcbar.org; and (3) in their mailboxes. To access back issues of *Across the Bar*, log-in at www.sjcbar.org, then hover over the "Attorney Resources" tab at the top of the Web page and click "Across the Bar."

The Across the Bar Committee is always interested in new members and contributors. If you would like to write for *Across the Bar*, please contact Michael Tener at atb@sjcbar.org.



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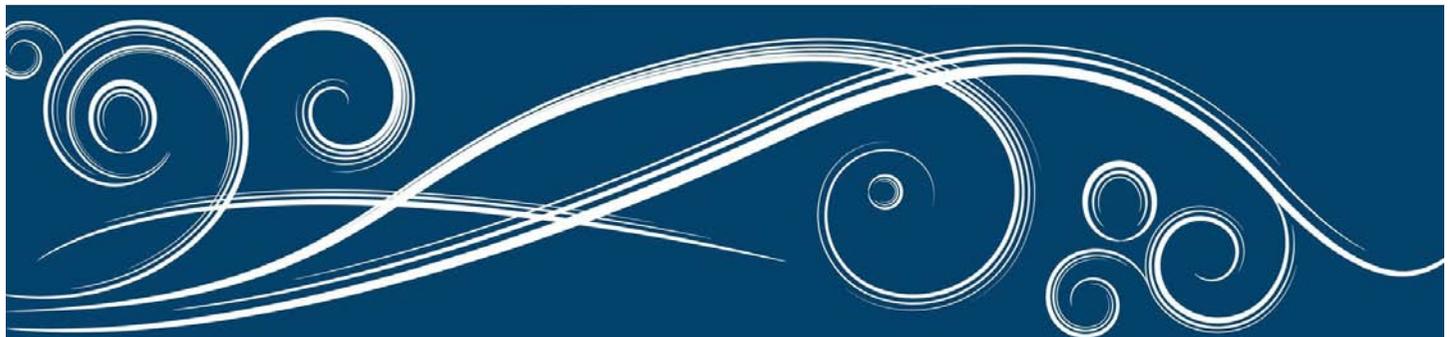


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WHAT PROPOSITION 47 MEANS FOR YOU

BRIAN LAFFERTY



Unless you did not vote in November's election or have generally been living a hermetic existence in a cave in the hills, you probably have heard about Proposition 47. It has turned a great deal of the California criminal law practice on its head in the last few months. The Will of the People was heard by the referendum on our criminal justice system with regards to theft crimes and the possession of controlled substances by approving the "Safe Neighborhoods and Schools Act." This article provides a brief overview of the statutes that have changed, which defendants are affected by Proposition 47, and what to do about it.

What Laws are Affected?

The initiative has changed the charges that a criminal defendant may face, making any violation of "simple drug possession cases" (i.e., where there are no allegations of transportation or possession for sale, or cultivation of marijuana) a misdemeanor. This means that all charges filed under Health and Safety Codes §§ 11350, 11357 and 11377 are no longer either 'straight felonies' or 'wobblers' (i.e. crimes that can be charged as either felonies or misdemeanors), they are all misdemeanors. If the defendant is ineligible for relief under the sections below, she is still subject to felony punishment.

Next, most theft crimes are now only misdemeanors if the amount of the theft is under \$950. Why the reduced amount? There is no clear

reason why that amount was chosen, but one wonders if the cost of prison incarceration versus the value of the wrong was not considered. However, as with most legal rules, there is an exception (or three). First off, Penal Code § 666 (petty theft with a prior) is now no longer available at all, unless the defendant is ineligible for relief. There is a new section for shoplifting (P.C. § 459a), which is a misdemeanor, instead of Penal Code 666 or commercial burglary under Penal Code § 459. Also, Penal Code § 490.2 was created as a new petty theft section defined as "obtaining any property by theft where the value of the money, labor, real or personal property taken" does not exceed \$950. This raises the question whether vehicles less than \$950 in value would be covered by this section, obviating the need for Vehicle Code § 10851. This still appears to be prosecutorial discretion even though the distinctions for the type of property stolen have been removed, but it may be a fertile ground for appeal.

"Receiving stolen property" (P.C. § 496) is now a misdemeanor if the property is less than \$950.

As with the changes in drug possession, the more serious property crimes are not affected. This means that residential burglary (P.C. § 459 first degree), robbery (P.C. § 211), and crimes enhanced with a weapon are not affected. Forgery under Penal Code § 473 is now a misdemeanor if the offender commits less than \$950 per instrument, but Prop. 47 relief would not apply to someone convicted of both Penal Code §§ 473 and 530.5 (i.e., identity theft).

Proposition 47 represents a shift away from the "incarceration only" model of criminal justice.

Which Defendants are Not Affected?

Any defendant who has been convicted under Penal Code § 667(e)(2)(C)(iv) (serious or violent felonies) or a sex offense covered by Penal Code § 290 is not entitled to relief under Prop. 47. These defendants would still remain subject to state prison commitment under Penal Code 1170(h).

This does not include all "strikeable offenses" under Penal Code § 1192.7, such as residential burglary and discretionary registration offenses under Penal Code § 290.006.

Defendants that have been sentenced to a crime subject to Prop. 47, do not automatically receive relief; they must petition the court for resentencing under this provision.

What Do I Do Now?

The California Public Defender's Association (CPDA) suggests that if you have clients that fit this criteria, you must reduce open cases, contact former clients who are still under supervision (probation or parole) or eligible clients that have been sentenced within three years and move for resentencing. Oftentimes, the Public Defender has a form motion developed for such a situation.

However, this does not mean your client automatically receives resentencing if you file. If the defendant has already been convicted and completed supervision, then the Court may deny the resentencing motion if the defendant "would pose an unreasonable ...danger to public safety." (P.C. § 1170.18). The Third District Court of Appeal in *People v. Chaney* ((2014 3d Dist. Court of Appeal)_ Cal. App._ C073949) decided that the court must inquire into whether the defendant will commit a new serious or violent felony in this determination of a three striker's resentencing, interpreting P.C. § 1170.18. Another court decided that this was in the discretion of the sentencing court and not a preponderance of the evidence with the burden on the prosecution. (*People v. Payne* (2014 5th Dist. Court of Appeal) _Cal. App_ F067838.) The *Chaney* court also decided that Penal Code § 1170.18 does not apply retroactively to the sentences enacted before November 5, 2014. (*Supra*). Thus, those who have been sentenced previous to this should be evaluated under an abuse of discretion standard. It appears that some "three strikers" may see relief from Proposition 47 but it will depend on how the defendant has comported herself since the conviction.

It is not clear that this proposition will apply to minors. But under Welfare and Institutions Code § 726(d), a minor cannot suffer a worse punishment than an adult for the same conduct; expect a ruling on this soon.

It appears that firearm possession will still be prohibited if the felony sentencing has become final. However, it is unclear whether the prohibition will be permanent if the resentencing occurs before probation or other supervision ends.

Conclusion

Proposition 47 has drastically changed the California criminal legal system with regards to theft and simple drug possession. Whether it will be a positive or a negative impact on California is up in the air. What it does represent is a shift away from the "incarceration only" model of criminal justice. It is important to be aware that this happened and of the affects it may have on clients.



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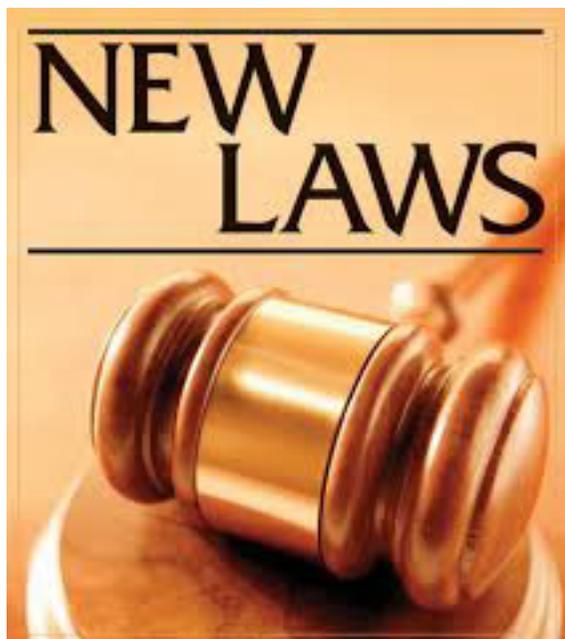
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NEW PROCEDURAL LAWS AND RULES FOR CIVIL PRACTITIONERS IN 2015

MICHAEL R. TENER



California's Legislature enacted hundreds of new or amended laws taking effect in 2015, many of which will affect procedure before the Superior Court. The following is a brief summary of eleven laws (and of some revised local rules) that will impact civil practice in this county. The list is far from exhaustive and does not address the myriad criminal statutes that also took effect at the first of this year.

1. Native American Day: A (Temporary) Court Holiday?

An amendment to *Government Code* section 6700 designates the fourth Friday of September as "Native American Day," a state holiday. *Code of Civil Procedure* section 135 adopts all state holidays under Section 6700 (except Admission Day) as judicial holidays, making Native American Day an official court holiday. However, this is widely reported to have been an oversight: the Legislature evidently did not intend to make Native American Day a court holiday, as the bill's Legislative History reflects. Nevertheless, unless and until changed (as it is expected to be later this year via urgency legislation), September 25, 2015 is a court holiday and should be taken into account when calculating

deadlines. Commentators recommend calendaring conservatively: (1) treat the date as a holiday for calculating notice periods so that if the holiday is eliminated, no harm will be done; (2) treat the date as a regular court day when calculating deadlines; and (3) call the issue to the court's attention if a hearing is set for that date.¹

2. Authorization for Court Interpreters be Provided in Civil Cases at No Cost.

New *Evidence Code* section 756 authorizes the court to provide interpreters in civil cases at no cost to the parties... to the extent of Judicial Council funding for interpreters. In case of insufficient funding, the statute prioritizes interpreter services by case type, with domestic violence and physical elder abuse cases entitled to highest priority, followed by unlawful detainers; terminations of parental rights; conservatorships and guardianships; child custody cases; other elder abuse cases; other family law cases; and, finally, any remaining civil cases.

3. Sanctions Available for Bad Faith Actions or Tactics.

California Code of Civil Procedure section 128.5 has been amended by deleting the sunset provision in the previous version of the statute and adding certain qualifications and conditions. The result is to resurrect a statute providing for the payment of reasonable expenses, including attorney's fees, incurred by another party as a result of bad-faith actions or tactics that are frivolous or intended solely to cause unnecessary delay. Those actions include, without limitation, the making or opposing of motions or filing and service of a complaint or responsive pleading, but the statute expressly does not apply to discovery requests, responses, objections, or motions, which are subject to their own sanctions standards. The party making the motion for sanctions must promptly transmit specified information to the California Research Bureau. The statute sunsets on January 1, 2018.

4. Witness Fees Increased for Local Agency Employees.

An amendment to *Government Code* section 68096.1 increases the fee that must be paid to a local

agency from \$150 to \$275 per day that an employee of that agency is required to attend a civil action or proceeding as a witness. If the actual cost of the employee's salary and traveling expenses exceeds that amount, the party must pay the difference to the agency; if less, the difference is to be refunded.

5. Clarification of Statute of Limitations for Action to Recover Liquidated Damages for Minimum Wage Violation.

An amendment to *Labor Code* section 1194.2 clarifies that the statute of limitations on an action to recover liquidated damages for failure to pay the minimum wage is coextensive with the statute of limitations for an action on the wages themselves.

6. Alternatives to Bonds.

Amendments to *Code of Civil Procedure* sections 995.710 *et seq.* add cashier's checks, notes or bonds of the State of California or of the United States, and share certificates issued by a credit union to the list of property that can be deposited with the court in lieu of a bond without prior court approval.

7. Briefing Schedule for Post-Verdict Motions.

Amendments to *Code of Civil Procedure* sections 629, 659a, and 663a establish a uniform briefing schedule for motions for a new trial, motions for judgment notwithstanding the verdict, and motions to vacate judgments. Within 10 days after filing the notice, the moving party must serve and file any brief and accompanying documents, including affidavits. The other parties shall then have 10 days to file and serve opposing briefs and accompanying documents, including counter-affidavits. Upon a showing of good cause or upon stipulation, the court may extend these deadlines by up to 10 days.

8. Domestic Partner Community-Property Exemption to Enforcement of Money Judgment.

An amendment to *Code of Civil Procedure* section 703.020 extends to domestic partners the exemptions from execution upon community property available to the spouse of a judgment debtor under *Code of Civil Procedure* section 703.010 *et seq.*

9. Equitable Right of Redemption Not Eliminated by Sale to Enforce Judgment.

An amendment to *Code of Civil Procedure* section 701.680 provides that, although the sale of property to enforce a judgment may not be set aside except as provided therein, the sale does not affect, limit, or eliminate a judgment debtor's equitable right of redemption.

10. Costs/Attorney's Fees Awards in Family Law Cases Not Automatically Stayed by Filing Appeal.

New *Code of Civil Procedure* section 917.75 provides that the perfecting of an appeal shall not stay enforcement of a judgment or order awarding attorney's fees, costs, or both in a proceeding under the Family Code unless an undertaking is provided.

11. Decisions in Appeals from Limited Civil Cases Must State the Reason for Judgment.

An amendment to *Code of Civil Procedure* section 77(d) requires that a judgment issued on an appeal to the appellate division of the Superior Court contain a brief statement of the reasons for the judgment. The statute provides that a judgment stating only "affirmed" or "reversed" is insufficient.

12. New Family Law Local Rules for San Joaquin County.

San Joaquin County Superior Court Local rules 7-110 and 7-110.5, which were to sunset on January 1, 2015, have been extended with minor changes relating to settlement conference briefs. Rule 7-111 was changed to exclude motions for joinder of parties involving custody or visitation from the family law tentative ruling system.

Information for this article was obtained from the source statutes or rules and from the Judicial Council of California's Summary of Court-Related Litigation issued Nov. 2014, available online at: http://www.courts.ca.gov/documents/2014_LegSummary.pdf. For a more expansive summary of California laws taking effect in 2015, see the Daily Journal's January 21, 2015 supplement, New California Laws for 2015.

¹ See, e.g., Goren, *Litigation By The Numbers*, "There's an accidental court holiday coming to California in 2015" (2014) <<http://www.litigation-bythenumbers.com/about-julie/julies-articles/native-american-day>> (as of March 29, 2015).



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The San Joaquin County Bar Association

The Civil Litigation Section Presents an MCLE:
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Trent Walton, U.S. Legal Support

Trent Walton has been Chief Technology Officer of U.S. Legal Support, Inc. since July 2013. He is a leading expert in complicated discovery matters - such as cloud computing, computer forensics, electronic data discovery, internal investigations and hosted document review - and provides consulting services for U.S. and international law firms, corporations and service bureaus.

David S. Rosenbaum, McDowall Cotter, APC

Practicing since 1991, David provides defense litigation in the areas of Trusts and Will Disputes, Employment, Breach of Contract, Personal Injury Defense (CGL, Homeowners, Automobile policies), and Public Entity Defense (Dangerous Condition, Policy Officer Liability). He has tried 26 cases (24 jury trials and two court trials), 300 + arbitrations, 300+ mediations and numerous appeals.

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NEW LAWYERS RECEPTION RECAP

ERIN GUY CASTILLO AND RICARDO ARANDA



The Bank of Stockton hosted another terrific reception on February 4, 2015, honoring the newest members of the San Joaquin County legal profession and community. The Reception featured San Joaquin County's newly elected District Attorney, Tori Verber Salazar and the 2014 Outstanding New Lawyer Award was also presented to our very own editor-in-chief, Michael Tener.

While the overall California State Bar passage rate was down after the July 2014 exam (only a 48.6% pass rate, the lowest in ten years), San Joaquin County recognized 17 new lawyers at the Reception. More than 150 community members, judges, lawyers, family and friends joined in the Bank of Stockton headquarters to honor our newest lawyers to our great County. Many of these new lawyers already have jobs in local law firms or with government agencies, so it was great to welcome, recognize, and celebrate them into our community. The evening kicked off with opening remarks from San Joaquin County Bar Association President-Elect Jim Morris and Bank of Stockton's Executive Trust Officer, Dan Fargo.

Newly-elected Judge Michael Mulvihill, Jr. introduced the keynote speaker, District Attorney, Tori Verber Salazar. Judge Mulvihill told the new lawyers to work hard and become members of the community because it makes the experience that much richer.

District Attorney Verber Salazar's message focused on the importance of learning from your mistakes as she emphasized that you are judged by how you pick yourself up when challenges knock you down. Ms. Verber Salazar reflected on her first

experience in a courtroom as a new attorney, which taught her to be a better attorney. She said "good judges make you a better lawyer" and to always have your "A' game ready." She reminded us that being a good attorney is very demanding, but it is fun.

Ms. Verber Salazar concluded by encouraging community involvement through joining the Bar Association, a community organization, or non-profit board, and always banking locally. San Joaquin County, after all, is "the best damn place to live and practice law."

Following District Attorney Verber Salazar, 2013 New Lawyer Award recipient Erin Guy Castillo presented Michael Tener with the 2014 Outstanding New Lawyer Award for his dedication to the legal profession, the Bar and community. Mr. Tener was honored and humbled to be the recipient. He thanked his family (his parents, wife, and brother who were in attendance) and colleagues at Neumiller & Beardslee. Mr. Tener's message to new lawyers – put as much time and energy as you are willing into your career.

Afterward "unnamed sources" overheard Mr. Tener showing off his award and excitedly telling others how great it will look alongside his replica Boba Fett armor and his limited edition Charizard hologram. [Editor's Note: It's Star Trek, not Star Wars. Live long and prosper.]

Thank you to Bank of Stockton who generously hosts this fun and memorable reception year after year.



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Photos clockwise from top left: 1. Judge Michael Mulvihill; 2. District Attorney Tori Verber Salazar; 3. 2014 Outstanding New Lawyer Award Recipient Michael R. Tener; 4. SJCBA President-Elect James Morris; 5. Michael Tener and family; 6. 2013 Outstanding New Lawyers Award Recipient Erin Guy Castillo presenting the 2014 Outstanding New Lawyer Award to Michael Tener.

WE'RE NOT JUST A BAR ASSOCIATION

REBEKAH BURR-SIEGEL



Recently, I heard someone say that the San Joaquin County Bar Association (SJCBA) is “just a bar association”. This comment took me aback and I thought: “No, we are not ‘just’ a bar association—we are so much more.” This random comment drove me to consider it more deeply. I wondered, if someone who is familiar with the SJCBA thinks this, how many of our members or those in our community share this same thought: that we are “just a bar association”? Probably a lot.

Managing the SJCBA and the Bar Foundation is my full-time job—I’m here every day; this is my passion. But not everyone is as familiar with our programs as I am; nor are they aware of the various serves we offer the community at large, lawyers and anyone involved in the legal field (assistants, clerks, paralegals, etc.). Here’s an overview of what we offer and what we are working towards.

“No, we are not just a bar association—we are so much more.”

San Joaquin County Bar Association (SJCBA) which serves as an umbrella for a total of four other (five total) programs including: Lawyer Referral Service, Court Assigned Counsel (indigent defense), and Small Claims Advisor. Here’s a breakdown

of all the programs and organizations run by the SJCBA.

Court Assigned Counsel (CAC)

Since 1983 the CAC—a panel of criminal defense attorneys has provided indigent defense for San Joaquin County when the Public Defender has a conflict or is unavailable. Our panels of attorneys and investigators serve indigent defendants in all the local courts (Stockton, Tracy, Lodi, and Juvenile). There are eight bar associations in the state that run the indigent defense conflict panels for their local courts. This is one of the most important programs the SJCBA runs and helps the largest population we serve.

During the drastic budget cuts of 2010 – 2012 when the Public Defender’s budget was slashed we were able to pick up the slack. Our case count increased by 380% in a few months. For nearly 2 years we handled as many cases as the Public Defender’s Office. When the County was able to provide much needed funding back to the Public Defender’s Office and they were able to staff the courts our cases dropped significantly. Today we are closer to where we were before the budget crisis.

Lawyer Referral Service (LRS)

The State Bar of California certifies our LRS every year (#0012) as the only local and certified referral service in San Joaquin County. The LRS is a great way to improve your client base, and gain experience. For the clients it provides the legal advice they need, specifically, and is a public service for the larger local community. Sometimes people just need to be pointed in the right direction—and we can help with that too. All too often people don’t know where to turn for legal help. LRS is the perfect solution provided by the right organization.

San Joaquin County Bar Foundation

The Bar Foundation has recently become an employer! In 2014 the Board of Directors added an additional program under the already existing umbrella of the Bar Foundation. This group focuses on raising funds for educational programs in the County. The Bar Foundation is single-handedly responsible for the Decennial Milestone Event that happens every ten years (the next one will be in 2019) and the 2013 Past President’s Evening (Continued on page 17)

UNDER OATH: JOHN HARRIS

GREY GALLUZI



John Harris and I met for breakfast. After placing our orders and catching up we started with the questions.

Q. What is your idea of perfect happiness?
A. “WOW,” he laughed, “I thought this was gonna be easy! I guess family, friends, health and a purpose. When you have that, you have happiness.”

Q. What is your greatest fear?
A. “I would have to say it’s letting people down; disappointing people, especially those I care about.”

Q. What is the trait you most deplore in yourself?
A. “Deplore? Did you say deplore?” He joked. “At one time I use to be too unselfish, but thankfully, I’ve gotten over that!” He is still extremely generous and giving, so maybe he doesn’t have this trait as bridled as he thought.

Q. What is the trait you most deplore in others?
A. Without hesitation, he answered “I don’t like it when people aren’t honest or when they are disrespectful. I just can’t tolerate it.”

Q. What is your greatest extravagance?
A. “Well, my wife and I have a condo in San Francisco, I guess it would have to be when my wife and I go there. It’s nice to get away from it all and relax.”

Q. What is your favorite journey?
A. “I hate to sound cliché, but the entire journey of life.” We spoke about how every stage in life has value and contributes to the creation of the life journey as a whole.

“At one time I use to be too unselfish, but thankfully, I’ve gotten over that!”

Q. What do you consider the most overrated virtue?
A. After going over the virtues, John selected, “temperance and chastity.”

Q. What do you dislike most about your appearance?
A. He looked at me rather seriously. “You may not believe this, but I could stand to loose a few pounds.” He couldn’t maintain the serious expression for a second longer and his smile erupted with a laugh. “No, but honestly, I have been trying to be better over the past few months, watching what I eat and stuff, so we’ll see how that goes.”

Q. Which words or phrases do you most overuse?
A. “I try not to use clichés or current catchphrases, I make a conscious effort not to. It’s a pet peeve of mine when someone does “

Q. What is your greatest regret?
A. He smiled and said, “Well, to quote Tom Keeling, that I agreed to do an interview! I do have regrets and things I would like to do over, but dwelling on them is a wasted exercise. Hopefully we learn from our regrets and become better people.”

Q. What or who is the greatest love of your life?
A. “I’m gonna sound corny again, but I have to state the obvious. Jill, my wife of 40 years this August. I am just so fortunate to have her in my life.”

Q. When and where were you happiest?
A. “Agh! This is so hard! I was expecting questions like, ‘when was your first job?’ or tell me a story. It is hard to pick a specific time, but I enjoyed my marriage, my children, for the most part,” he joked, “and it continues.”

Q. Which talent would you most like to have?

A. "I guess I would have to say, art. I have no understanding or appreciation for it. I guess I was born without that gene."

Q. What would you consider your greatest achievement?

A. "My contribution to my marriage, family and relationships."

Q. If you were to die and come back as a person or thing what would you like to be?

A. "It's hard to picture yourself as someone else. I can't pick a specific person, but I would like to come back as someone with basic virtues and go through the new journey of life all over again. I wouldn't want to be a bad guy--obviously--but a good person taking life where it takes me."

Q. What is your most treasured possession?

A. "I would have to say my law degree and license. It affords me the opportunity to do what I do and being a lawyer is a significant part of my life both professionally and personally."

Q. What is your favorite occupation?

A. "I am in the best occupation. There are so many different options and directions which someone could go. There is a place in law for every skill set. It is just so broad." He laughed and added, "Some people are gonna read this and throw up!"

Q. What is your most marked characteristic?

A. "I am interested in every person I meet. I enjoy connecting with good people."

Q. What do you most value in your friends?

A. "Honesty and respect; and, of course, they should be fun too!"

Q. Who are your favorite writers?

A. "I read scholarly books, but I would have to say the writers of my favorite TV shows: *News Room*, *Big Bang Theory*, *Episodes*, *Modern Family*. My college English professors are probably rolling in their grave right now."

Q. Who is your favorite hero of fiction?

A. "Every John Grisham protagonist."

"I am interested in every person I meet. I enjoy connecting with good people."

Q. Who are your heroes in real life and which living person do you most admire?

A. "I admire the new Pope and I'm not even Catholic. He is real, truly caring and a man of the people. I think he will do a lot for people in his faith and in turn for the world. On a more personal level, the late Pete Simonelli. He was a local attorney who recommended me to mediator training for which I am extremely grateful."

Q. What is it that you most dislike?

A. "People who violate the golden rule."

Q. How would you like to die?

A. He quickly replied, "very old, very sharp of mind, painlessly, and surrounded by family."

Q. What is your motto?

A. "Well, it's not mine, I got it from Judge Mulvihill, "your reputation is like your virginity, you can only lose it once." After sharing some good laughs the interview came to an end. Although John feared that he would sound corny, I believe that readers will appreciate the honesty and personal insight from one of our great, local, respected attorneys.

"Under Oath" is a recurring feature submitted by the Women's Lawyer's Section for Across the Bar. Members of the SJCBA are interviewed and asked to give responses to a set of questions. Responses maybe paraphrased or condensed.

GREY GALLUZI is an attorney at law.
Contact Grey at greygalluzi@yahoo.com.

WE'RE NOT JUST A BAR ASSOCIATION

(CONTINUED FROM PG. 14)

honoring each of the SJCBA presidents from 1940-2012.

Dispute Resolution Services (DRS)

When the Mediation Center closed their doors, after 21 years, we took over the contract with the Superior Court to provide alternative dispute resolution services. We do this two ways:

- 1) We have a trained mediator in the courthouse everyday offering people in Unlawful Detainer, Small Claims, and Civil Harassment disputes the opportunity to mediate their problem instead of going before a judge. In the first 3 months of 2015 we have handled 55 mediations with 40 of them resolving. We are starting to do more out-of-court mediations and look forward to advancing that program over the course of the year.
- 2) We provide mediation skills training to interested members of the public, attorneys, professionals who need to be skilled in conflict resolution, etc. how to mediate. The first training will be from 9 am – 3 pm, June 15 – 19, 2015 for 25 hours. This training complies with the requirements of the Dispute Resolution Programs Act. Anyone who participates can volunteer to mediate in court (small claims, UD, and civil harassment courts). For more information about the mediation program in general or, the mediation training specifically, contact Paula Turocy at 209-474-8794.

When the Mediation Center closed their doors last year, after 21 years, we took over the contract with the Superior Court to provide alternative dispute resolution services.

Small Claims Advisor (SCA)

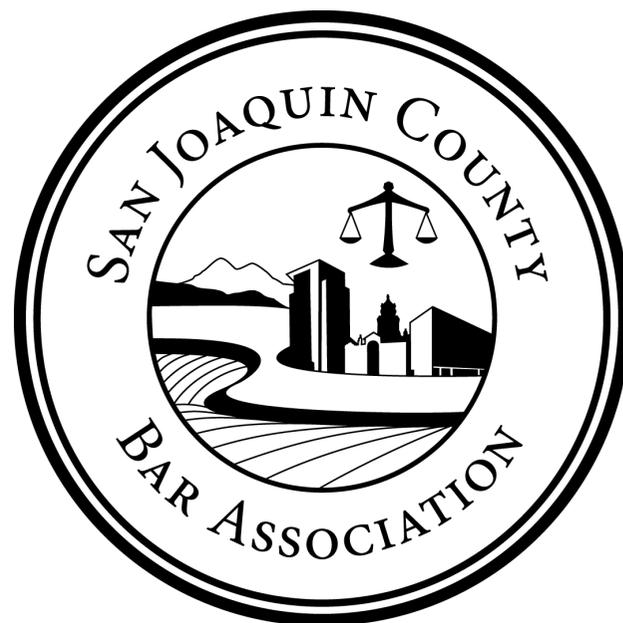
Along with the dispute resolution services we provide for Superior Court through the Bar Foundation, we are the Small Claims Advisor. Anyone can call the small claims line: 209-473-6463, access the website at: <http://disputeresolution.sjcbar.org/>, or attend a free small claim clinic. We help provide local volunteers, law students, and attorneys with valuable experience advising clients at the clinics and on the phone. If someone

can't make it to the clinic and wants to meet with someone one-on-one, we nearly always honor their request and meet with them individually. Since January 1, 2015 we have provided advice to 448 people over the phone; 29 people through email; and 73 people in person. In total for 3 months the Small Claims Advisor service has helped 550 people.

No, we are not "just" a bar association, far from it! We have a few new LRS panels we are developing, one for modest means and one for limited scope representation. These should be up and running and approved by the State Bar by the end of the year. After these panels are approved we hope to use them to develop an incubator program for new solo practitioners or those wanting to change their practice area.



REBEKAH BURR-SIEGEL is the Executive Director of the San Joaquin County Bar Association and Foundation. Contact Rebekah at (209) 948-0125 or rburr-siegel@sjcbar.org.



COUNTERFEIT DEEDS CREATE COUNTERFEIT DEBT: WRONGLY RECORDED MORTGAGE DOCUMENTS CAN DOUBLE YOUR DEBT

VICKI GARDINER TAYLOR WITH DENNIS HAY



I was shocked by what I learned from a visit to my county recorder's office. In 2013, I visited the recorder's office to double-check the record on my personal residence and, with permission, that of a close family member. It was to be a routine review of the mortgage records, ensuring that all loan documents on our homes had been recorded correctly; it turned out to be anything *but* routine. The paperwork on my home looked fine, but the paperwork on my relative's home did not look right. I knew something was wrong, but what?

On close examination and comparison to the homeowner's real estate records, which included copies of all of the loan documents, it became clear that the lenders had recorded my relative's home mortgages *twice!* I was stunned. New first and last pages had been added to one deed so that it almost looked like a new document, and then the lender recorded it again. The other deed was a draft that should have been shredded when the new deed was signed, but instead, both the final deed *and the draft* had been recorded. On paper, the erroneous recording of these two deeds had more than doubled my relative's mortgage debt!

Erroneous or counterfeit deeds or mortgage loan documents may not necessarily show up on credit reports. Like hidden financial landmines, they may remain unknown to unsuspecting homeowners for

years, ready to blow up in their faces whenever they go to refinance, sell their home, or retire. What a shock to homeowners when erroneous or counterfeit deeds are suddenly unearthed on their properties and they are forced to deal with the appearance of additional debt before they can refinance, sell, or pay off their mortgage and retire with some financial security!

Erroneous or counterfeit deeds or mortgage loan documents may not necessarily show up on credit reports. Like hidden financial landmines, they may remain unknown to unsuspecting homeowners for years, ready to blow up in their faces whenever they go to refinance, sell their home, or retire.

In some cases, mortgage loan documents may be held for years and recorded later without notice to the homeowners and without showing up on their credit reports. The burden appears to be on the homeowners to discover any errors in the recorded document history. In this bureaucratic world, even after errors are discovered, homeowners may be treated as guilty (of any questionable debt) until they are proven innocent. Yet homeowners may have no expedient way to make corrections to loan documents that other people or institutions have recorded on their homes. Instead, it is the responsibility of the lenders (which, for purposes of this article, includes their agents, associates and/or affiliates) to correct any of their recorded documents that are erroneous or counterfeit. In other words, the very institutions that recorded the counterfeit or mistaken loan documents in the first place must somehow be persuaded or prevailed upon to correct their own mistakes and clear the record. The burdensome, phony debt is likely to remain on the

home (and the homeowner) until the homeowner somehow discovers the problem and informs and motivates the lenders to correct their mistakes and clear the invalid deeds from the recorded record. This may not be an easy task.

What does this mean to you? Real estate loan documents may be recorded against you incorrectly. What can you do about it? Keep fully-signed and notarized copies of all your real estate documents indefinitely, not just for a few years, because you may need to refer to them later to demonstrate what you actually signed. And just as it is advisable to annually check the accuracy of any credit reports which are issued by the credit bureaus (which can be obtained for free from www.annualcreditreport.com), so it is also advisable to regularly check the accuracy of the recorded document history at your county recorder's office on real property that you own. After all, your financial health and reputation may be on the line. It would be inadvisable to wait until your mortgage is close to payoff or you are about to refinance or sell your home, since the erroneous debt could make selling or refinancing impossible until the problem is cleared, which can take an excessively long time.

How can you check the accuracy of the recorded history on your home? Call or go to the local county government's official website for directions to your county recorder's office. Records indices may be available online, although I have found that my county website sometimes only lists document names (which are often abbreviated and may not match the actual names on the original documents), so it can be confusing and misleading. A better way to check the accuracy of the recorded documents is to go in person to the office to personally obtain certified copies of key recorded documents and review them with trusted advisers, or consult with a local real estate attorney in your area about how best to ensure the recorded document history on your property is authentic and accurate.

You may also ask a local title company for a title report which includes the recorded document history on your property, but be aware that neither the county recorder nor any title company employee can answer legal questions or give legal advice. If you have serious questions, you should ask a real estate attorney to review the records with you. There are also statute of limitations concerns involving time-

sensitive deadlines that can place homeowners at risk losing key legal rights. It is wise to consult a qualified attorney about your particular situation to avoid missing time-critical deadlines and protect your rights.

In the twenty-first century, ordinary consumers have a variety of ways to protect their personal credit histories which are on file at the three major credit bureaus, including automatic monitoring and immediate notification of the consumer regarding any changes to their credit histories. But for California *homeowners*, key safeguards have already been removed in years past, and it may be difficult or impossible to find automatic monitoring or notification systems able to protect against the recording of counterfeit deeds on their homes, nor any effective means for homeowners to remove them.

Be especially careful if you or a family member has purchased, lost, or refinanced a home sometime in the past fifteen years. To ensure that your personal residence is protected, compare the recorded documents to your own records to be sure the recorded documents are authentic and accurate. Of course, always obtain complete copies of all the fully signed and notarized (not blank) real estate documents *at the time you sign them*, then keep them in a safe place for future reference. If you own a home, it is wise to protect your own interests and personally check the recorded history on your home at least once a year. No homeowner wants to be blown up by hidden financial landmines and find himself unexpectedly burdened with erroneous debt.



VICKI GARDINER TAYLOR is a retired legal secretary, paralegal and realtor. Contact Vicki at wordservant@yahoo.com, and find her or Dennis Hay on Facebook.



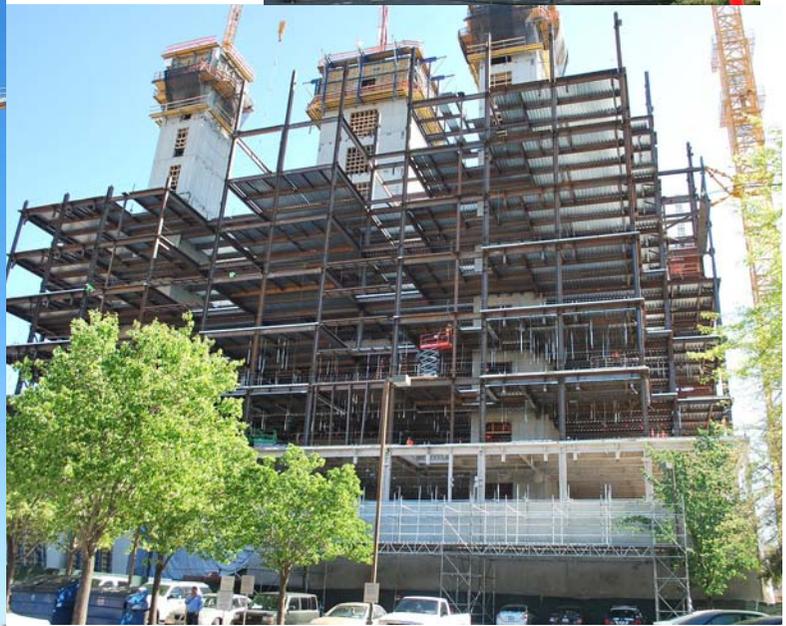
NEW STOCKTON COURTHOUSE UPDATE

STEPHANIE BOHRER

There is no shortage of hustle and bustle around the construction site these days! There are approximately 120 construction workers on site daily. Passers-by cannot miss the two cranes hoisting steel beams into the air-one is 319 feet tall and the other is 377 feet tall. It is anticipated that by the end of April, the steel structure will be completed. The steel is completed to the 10th floor. Metal decks will start being poured after that. The cores of the building are completed to the 13th floor.

There is a model of the precast to be used for the new courthouse in the grassy area just south of the new courthouse. The model shows the different materials that will be used on the exterior of the building. It will be there for several months and we encourage people to go and take a look at it. On April 20th, precast on the exterior of the building will begin and the entire building will be wrapped (i.e., precast completed) by mid-October. Concrete is being poured one floor per week and is currently poured to the 4th floor.





SAN JOAQUIN COUNTY MOCK TRIALS

TERRY COSTA

Mock Trial is a true-to-life competition of high school teams debating fictitious cases before presiding Superior Court judges and scoring attorneys. Cases involve contemporary issues and pre-trial arguments on the amendments to the U.S. Constitution. There are county, state and national levels of competition. In each of the last three years, our San Joaquin County team winner has placed in the top 10 at the state level!



Clockwise from top right: 1. Tracy High School; 2. Lincoln High School; 3. West High School; 4. Pacific Law Academy; 5. Langston Hughes Academy.

CALENDAR & MEMBER ANNOUNCEMENTS

APRIL 2015

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
		1 Civil Lit Brown Bag Crim Law Roundtable	2 Women Lawyers Section Annual Meeting at Dave Wong's	3
ATB Comm 6 Probate, Trust, & Estate Planning Ex Comm Dispute Resolution Comm	7	8 Family Law Ex Comm	9 Criminal Law Ex Comm	10
13 BOG Ex Comm	14 MCLE Comm	15 Civil Litigation Ex Comm Paralegal Ex Comm	16 BOG	17
20 75th Anniversary Planning Meeting (Conference Call)	21 CAC Comm Lodi Legal Clinic Small Claims Clinic LL	22 Young Lawyers Ex Comm Stockton Legal Clinic	23 Judicial Liaison	24
27 Lawyers Assistance Comm	28 Program	29	30 Law Day Luncheon at SGCC	

MCLE
 Off Site Meeting
 Legal Clinics
 Small Claims Clinics
 Holiday

UNLESS OTHERWISE INDICATED, ALL MEETINGS START AT 12 NOON AND ARE HELD AT THE SJCBA OFFICE.

WILLIAM PARISH, PLC IS NOW PARISH GUY CASTILLO, PLC

William Parish, PLC has been renamed Parish Guy Castillo in recognition of the addition of new name partner Erin Guy Castillo. Parish Guy Castillo has also announced the addition of trial attorney Rebecca Diel to the firm. The firm will continue to be located at 1919 Grand Canal Blvd., Suite A-5 in Stockton, but has a new website: www.parishlegal.com.



Erin Guy Castillo



Rebecca Diel

HERUM CRABTREE SUNTAG ADDS SENIOR LITIGATOR

Carlos Ambriz has joined the Stockton law firm of Herum Crabtree Suntag as a senior litigation attorney. Mr. Ambriz's practice focuses on the areas of public agency, business, employment, bankruptcy, creditors rights, and natural resources litigation. He will bring his experience to the firms growing appellate practice group. Mr. Ambriz was born and raised in Stockton and now makes his home in Lodi with his wife and three daughters.

CALENDAR & MEMBER ANNOUNCEMENTS

MAY 2015

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
				1 Farmer's Market Opens Downtown
4 Probate, Trust, & Estate Planning Ex Comm Dispute Resolution Comm	5 LRS Comm	6 Crim Law Roundtable	7 Women Lawyers Ex Comm Small Claims Clinic TL	8
11	12 MCLE Comm	13 Family Law Ex Comm w/ Bench	14 Criminal Law Ex Comm	15
18 BOG Ex Comm	19 CAC Comm Tracy Legal Clinic Small Claims Clinic LL	20 Civil Litigation Ex Comm Paralegal Ex Comm	21 BOG	22
25 Memorial Day Holiday SJCBA & LRS Closed	26 Program	27 Young Lawyers Ex Comm Stockton Legal Clinic	28	29

MCLE
 Off Site Meeting
 Legal Clinics
 Small Claims Clinics
 Holiday

UNLESS OTHERWISE INDICATED, ALL MEETINGS START AT 12 NOON AND ARE HELD AT THE SJCBA OFFICE.

NEUMILLER & BEARDSLEE ADDS NEW ATTORNEYS

Neumiller & Beardslee has announced the addition of Joshua P. Hunsucker and Elise M. Sisson as associate attorneys.

Joshua P. Hunsucker is a Distinguished Military Graduate from the University of California, Davis, where he graduated with a B.A. in Political Science and a B.A. in History in 2005. In 2014, he earned his Juris Doctor from the University of the Pacific, McGeorge School of Law, graduating with distinction. Prior to attending law school, Mr. Hunsucker served in the U.S. Army as an Infantry officer. In 2014, Mr. Hunsucker was admitted to practice in California. His areas of practice include community association law, real estate development, business law, and litigation.

Elise M. Sisson graduated cum laude from Loyola Marymount University in Los Angeles with a B.A. in Psychology in 2011. In 2014, she earned her Juris Doctor from the University of the Pacific, McGeorge School of Law. While serving as President of the McGeorge Water Law Society, Ms. Sisson was a panel chair for a presentation on winegrape growing at the intersection of water quality and water conservation at the California Water Law Symposium.



Joshua P. Hunsucker



Elise M. Sisson

CALENDAR & MEMBER ANNOUNCEMENTS

JUNE 2015

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
1 Probate, Trust, & Estate Planning Ex Comm	2	3 Crim Law Roundtable	4 Women Lawyers Ex Comm Small Claims Clinic TL	5
8	9 MCLE Comm	10 Family Law Section w/ Court Mediators	11 Criminal Law Ex Comm	12
15 BOG Ex Comm	16 CAC Comm Lodi Legal Clinic Small Claims Clinic LL	17 Civil Litigation Ex Comm Paralegal Ex Comm Mediation Training	18 BOG	19
22 Lawyers Assistance Comm	23 Program Comm	24 Young Lawyers Ex Comm Stockton Legal Clinic	25 Judicial Liaison	26
29	30			



MCLE



Off Site
Meeting



Legal
Clinics



Small Claims
Clinics



Holiday

UNLESS OTHERWISE INDICATED, ALL MEETINGS START AT 12 NOON AND ARE HELD AT THE SJCBA OFFICE.

KROLOFF ADDS NEW ASSOCIATE ATTORNEY

Kroloff, Belcher, Smart, Perry & Christopherson has announced that Avninder “Alex” Sohal has joined the firm as an associate attorney. Alex received his Juris Doctorate, with a concentration in Business, from the University of the Pacific, McGeorge School of Law, graduating with distinction. Mr. Sohal is admitted to the California Bar as well as the Eastern District of the U.S. District Court, California. Alex is a native Stocktonian. Alex is an avid soccer fan and enjoys playing and watching soccer in his free time.



Avninder Sohal

THANK YOU TO THE VOLUNTEER ATTORNEYS FOR LAWYERS IN THE LIBRARY AND SMALL CLAIMS CLINIC:

Sidney Alegre	Francisco Medina
Gus Barrera	Wendy Morodomi
Guy Burns	Jennifer Niemeyer
Alan Coon	Dennis Noble
Corinne Coston	Kristen Rinaker
Fred Feilzer	Janette Rossell
Gary Gershon	Sabrina Schneeweis-Coe
Javier Guerrero, Jr.	Kurt Siebert
Millicent Guiliani	Alex Sohal
Jeff Heiser	Gurjit Srai
Jonathan Hernandez	Kathy Lynn Trosclair
Doug Jacobsen	Brittney Tubbs
Brian Lafferty	John Welch
Anna Maples	
Craig Marks	

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**Contact Marc for more information
(209) 954-9001**

OFFICE SPACE AVAILABLE

FOR LEASE: 7540 Shoreline Drive, Stockton, CA. 3 professional offices with 2 secretarial carrels. Great space suitable for attorneys, accountants, real estate brokers or other professionals in a prestigious location with Kroloff, Belcher, Smart, Perry & Christopherson. Shared amenities include nightly janitorial, building alarm, onsite parking, reception area, and furnished lobby.

**Contact Tammy Ryans for more
information (209) 478-2000**

ATTORNEY OFFICE SPACE SUBLEASE

This 165/sf attorney office has good natural light and comes with a large (36 sf) cubicle available in a shared 4-cubicle 'bullpen', as well as use of the following shared space: two conference rooms; waiting room; a desk for a receptionist at the shared front window; a small break room; and a private restroom reserved for tenants. Downtown location near courthouse and SJCBA, this 4th floor wheelchair-accessible space has front-entrance security in a beautiful historic building. \$800/month. Utilities negotiable.

**Contact Ellen at (209) 948-9384
for a tour of the space**

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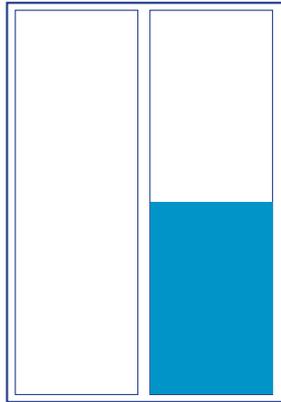
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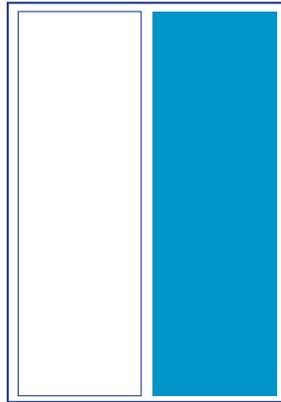
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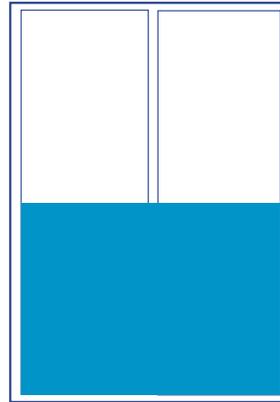
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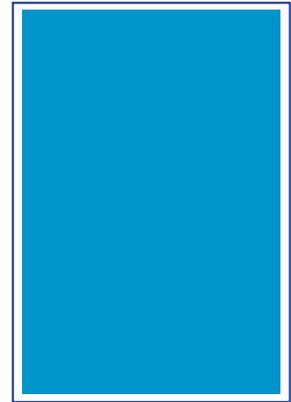
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ISSUE

1st Quarter
2nd Quarter
3rd Quarter
4th Quarter

SPACE RESERVATION

February 1, 2015
May 1, 2015
August 1, 2015
September 1, 2015

ART DEADLINE

February 15, 2015
May 15, 2015
August 15, 2015
September 15, 2015

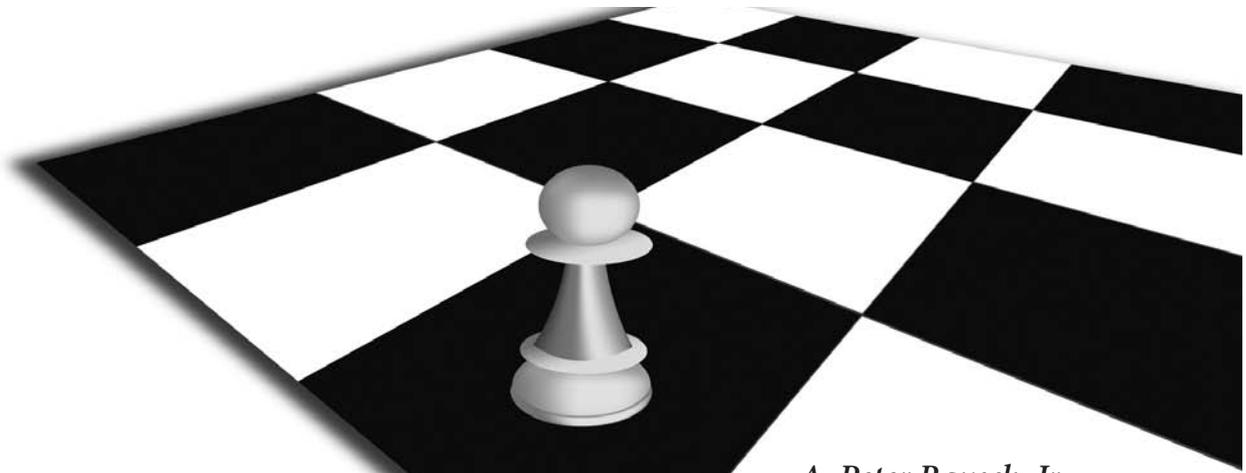
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