

# California Litigation

THE JOURNAL OF THE LITIGATION SECTION OF THE CLA

**RUNNING  
for the BENCH**



**NO  
BEACH  
ACCESS**



**COURT  
STATISTICS**



**TOUGH CASES**

# Editor's Foreword:

## *Singularly First Person*

By Benjamin G. Shatz, Editor-in-Chief



**Benjamin G. Shatz**

**J**udge Curtis Karnow of the San Francisco Superior Court did us all a remarkable service by publishing a duo of articles in February titled *Dissolving Legal Barriers* (Daily Journal, Feb. 20-21, 2019). He points out that lawyers, judges (trial and appellate), law professors, and law students, are all striving for the same goal—doing justice—yet only have sporadic contact and are not learning from each other. His points are valid and serious.

One of Judge Karnow's proposed solutions is that there be a law journal that connects lawyers, judges, professors, and scholars, and that contains articles that are actually useful to the practice of law. We at California Litigation believe that this journal comes close to connecting these constituencies and has always endeavor-

ed to contain articles of practical use to the bench and bar.

I highly commend Judge Karnow's articles, and I hope they spur you to burst free from whatever silo may be confining you. I also urge you to contact our Editorial Board about article topics you'd like to see. Maybe you even know some willing judges, justices, practitioners, or academics willing to contribute articles or to join the board.

The issue you're now holding emphasizes first-person singular narratives from several varying perspectives. We begin with practitioner Anna-Rose Mathieson's story about opposing a cert petition. Usually a "win" in opposing such a petition is no story at all. But her case was different, special, and worthy of the telling. And she includes some good practice pointers along the way.

Next, the newly Honorable Syda Cogliati relates her inspiring personal story about running for a robe. Judge Cogliati, thank you for sharing your adventure with us and good luck in your new role.

Moving from a brand-new judge to a stalwart, experienced jurist, we turn to Los Angeles Judge Richard Fruin, who for many years now has kept accurate records of everything that has happened in his courtroom. He has crunched the numbers for us with this data and has derived some valuable lessons. Obviously his courtroom is only one of many, but there's every reason to believe that his experiences are mirrored elsewhere. Thank you, Your Honor, for this tremendous labor, which is so useful to us all.

Speaking of useful, check out Stacie Hausner's article on using psychological principles to reach settlement. What could be more practical? Also in the ADR practice category, we have Ana Sambold's discussion of mediation confidentiality, which discloses some new rules that every litigator absolutely needs to know—as a matter of professional ethics. To emphasize the importance of this piece, we've included an MCLE test.

This issue also includes two book reviews. The first, by Editorial Board member Justice Therese Stewart, recounts personal tales by judges resolving very hard cases. We've all heard that "hard cases make bad law." But Tough Cases can make good law, or at least good reading. Justice Stewart herself knows a thing or two about tough cases, so her insights are particularly apt. Second, Editorial Board member and voracious legal reader Marc Alexander reviews *We the Corporations*.

We close with a final personal tale from lawyer David Wong who recounts his transition from skepticism to boosterism regarding bar events. Without lawyers seeing the light (all lawyers, young and old), bar organizations face a troubled future. So, thank you, David, for serving as an example that we hope will energize others.

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