

Mariposa County Bar Association

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President's Column

Casey Archer, MCBA President

The Mariposa County Bar Association ("MCBA") customarily meets on the second Thursday of each month at the Miner's Roadhouse 140. Our in-person meetings have been suspended since April 2020 due to COVID-19, although we are continuing efforts to provide MCLE meetings via webinar. We recently obtained approval from the California State Bar for MCLE credit for an in-person presentation by attorney Russell Cook regarding private mediation. Mr. Cook is seeking approval from the State Bar to provide the presentation via webinar at a future date to be determined.



The MCBA has also been invited by the Bay Area Lawyers for Individual Freedom ("BALIF") to attend an MCLE webinar tentatively scheduled for December 1, 2020, from 2:00 p.m. to 4:00 p.m. BALIF is a community of LGBTQI+ legal professionals that envisions a world where LGBTQI+ people live with dignity and equality under the law. The webinar will be presented by Mx. Alex Binsfeld, the Legal Director of the Transgender, Gender-Variant, & Intersex Justice Project. Anyone interested may check the BALIF events calendar where the event will be listed soon at the following link <https://www.balif.org/events>. Note that Mx. Binsfeld uses the honorific "Mx." instead of "Mr." or "Ms." It is an honorific used by many people whose gender is outside the binary, and is pronounced "mix".

MCBA Membership is \$35.00 and includes access to several MCLE credits throughout the year as well as a listing on the MCBA website at www.MariposaBar.org. An application may be downloaded at our website and mailed to our PO Box with the yearly dues. Those who are renewing their membership for 2021 may forego the application and simply send in their dues to MCBA, PO Box 628, Mariposa, CA 95338.

Melbourne N. Gwin, Jr.

June 10, 1933 – August 31, 2020

In honor of our long time colleague and friend, Melbourne N. Gwin, Jr., who passed away on August 31, 2020, the MCBA is reprinting herein the following:

Melbourne Norris Gwin, Jr., of Merced, California, known as "Mickey" to friends and family passed away at his home August 31, 2020. He was born in Shreveport, LA June 10, 1933 to Melbourne Norris Gwin, Sr and Myrtis Fortenberry Colcleaser. He graduated from Centenary College of Louisiana with a BS in Business Administration and Spanish in 1955, MA in Education from Stanford University in 1966 and JD from John F Kennedy University School of Law, 1976. He was admitted to the California Bar Association in 1977 where he was in good standing until his death. While at Centenary College he joined the Army ROTC and retired as Lt Colonel from the Army Reserves in the 1980's. He was a member of many community organizations and philanthropic causes over his lifetime; too many to numerate. He also enjoyed sailing, golf and the symphony.



Mickey is survived by his wife of 41 years, Judith V. Hartman, his sister Barbara Gwin Lugo (Roy) of Fremont, CA, half-sister Melba Gwin Ganoe, daughter, Diane Gwin Roof of Virginia Beach, VA, son, Clay Franklin Gwin (Joann) of Elk Creek, CA, step-children John Hartman (Debra) of Plumas Lake, CA, Kristen Andrews of Merced, CA and TJ Hartman. Grandchildren Kyle, Austin and Christian Roof, Marcus and Emmett Gwin. Step-grandchildren Jennifer and Rachel Alcantara, Garrett, Sheridan, Alec and Jordan Hartman. Great-grandchildren, Adelaide, Judah, Lincoln, Amelie, Olivia, Bennett, Isla & Beatrice Roof. Step-great-grandchildren Lauren Lynch, Amy and Nathan Hartman. He was preceded in death by his parents and brother Jack Gwin.

R.I.P Notorious R.B.G*

by Anita Starchman Bryant

As I write this column, the passing of U.S. Supreme Court Justice Ruth Bader Ginsburg has been at the forefront of the news cycle. She was the second woman to ever be appointed to the Supreme Court. Her inspirational life, career, and accomplishments have been the subject of articles and columns published across the globe. Even her incredibly supportive late husband with whom she attended college and law school, and his legendary culinary skills have been described in detail and celebrated while remembering Justice Ginsburg. I felt that there was not much more I could add to the discussion. However, I still wanted to be part of the conversation. I too wanted to honor Justice Ginsburg because without her efforts my life may have been entirely different. Her life's work made it possible for me, and other women and girls to be brought up to believe that we are equal to our male counterparts and that we should, and we must, be treated as such.



Anita Starchman Bryant at the Mariposa County Courthouse, donning a face mask in honor of Ruth Bader Ginsburg

I'm obviously known to be a huge fan of Justice Ginsburg, along with many others in our community. This became very evident to me the afternoon she passed away. It started with a text from my mom. She immediately let me know as soon as she heard the sad news. I was on my way home after a long work week and was picking up takeout from a local restaurant. I ran into some friends enjoying a drink on the patio and I shared the news with them. All three immediately teared up. Throughout the evening, other friends and clients texted and emailed me, checking on me and reaching out to share in their sorrow. I have discovered that regardless of my friends' and clients' political leanings, most respectfully paid their respects on social media.

I did read one woman's Facebook comment which asked "how was she responsible for me having a credit card when she joined the Supreme Court in the 90s?" Obviously that person had no idea that Justice Ginsburg was a fierce litigator who fought for women's rights long before she was a Supreme Court Justice.

Before Justice Ginsburg became a federal judge, between 1969 and 1980 she methodically fought a multitude of legal battles against gender discrimination, case-by-case and statute-by-statute. Then, after being appointed to the Supreme Court, Justice Ginsburg joined the majority in numerous cases to deem unconstitutional those policies that treated men and women differently simply on the basis of sex, including a state educational institution's admission policy that only permitted men to enroll.

One of my friends recently asked me to tell him "in sixty seconds, what did Justice Ginsburg do for women." How do you answer that question in sixty seconds!? There are entire books devoted to answering that question, one of which my mother-in-law gave me for Christmas last year.

So, here's my attempt at a "sixty-second" summary of just a few doors that Justice Ginsburg helped open for me and why I wish to honor her in my very small way. Although Justice Ginsburg graduated at the top of her law school class, she could not get a job at a law firm because she was a woman. Thanks to her tireless efforts, I was able to land a job at a top Sacramento law firm immediately out of law school. Although Justice Ginsburg was an excellent employee, she had to hide her pregnancy in fear that she would be fired because she was having a child. Thanks to her efforts, it never even crossed my mind that my employment would be in jeopardy when I became pregnant with my first child. In the 70s, women could not get credit cards simply because they were not men. Thanks to Justice Ginsburg's efforts, I was not discriminated against on the basis of my sex when I applied and obtained my first credit card, one of the basic tools of financial independence.

Regardless of your political party, Ruth Bader Ginsburg deserves a great deal of gratitude and respect for fighting to obtain those rights that we women now take for granted. As stated by Chief Justice John Roberts on the day of her passing, "[t]oday we mourn but with confidence that future generations will remember Ruth Bader Ginsburg as we knew her, a tireless and resolute champion of justice."

*This column was originally printed in the Mariposa Gazette

Anita Starchman Bryant, who earned her J.D. from UC Berkeley School of Law, is a Mariposa attorney practicing in the areas of real estate, land use, estate planning & administration, and probate law. Disclaimer: This article is intended to provide general information. The content of this publication is for informational purposes only. Neither this publication nor its author is rendering legal or other professional advice or opinions on specific facts or matters.

MCBA 2020 Meetings

The MCBA meetings are temporarily suspended due to COVID, but are usually held on the second Thursday of each month at the Miner's Roadhouse 140 banquet room. The following is the 2020 schedule:

January 9, 2020

Luncheon meeting: Strategic Planning Meeting for 2020

February 13, 2020

Luncheon meeting: Speaker, Dr. Eric Sergienko, Mariposa County Public Health Officer, regarding COVID-19 and Public Health Law

March 12, 2020

Luncheon meeting: Judge Michael Fagalde, .5 MCLE credit in Ethics with his presentation "Ethics-A Perspective After Crossing the Divide from Attorney to Judge"

April 9, 2020

Luncheon meeting postponed due to COVID-19.

May 14, 2020

Law Day postponed due to COVID-19.

June 11, 2020

Luncheon meeting postponed due to COVID-19.

July 9, 2020

Luncheon meeting: 1 hour MCLE credit Webinar with Speaker, Brian Chase, Director of Digital Forensics, with a presentation on "How to Find and Use Location Information in Litigation"

August 13, 2020

Luncheon meeting postponed due to COVID-19.

September 10, 2020

Luncheon meeting postponed due to COVID-19.

October 15, 2020

Luncheon meeting postponed due to COVID-19.

November 12, 2020

Luncheon meeting postponed due to COVID-19.

December 10, 2020

Luncheon meeting: Holiday Luncheon and Judges Appreciation Day

Family Law News

by Casey Archer, President, Merced County Bar Association Family Law Section

The featured case this month is the California Supreme Court case of *People v. Clark* (2016) 63 Cal.4th 522, which analyzes the Rule of Completeness and the hearsay exception set forth in Evidence Code section 356. Although it is not a family law case, *Clark* is highly useful in family law evidentiary hearings, particularly since it is becoming increasingly more frequent for litigants to attempt to introduce hearsay evidence of social media posts or cell phone recordings.

Evidence Code section 356 provides: "Where part of an act, declaration, conversation, or writing is given in evidence by one party, the whole on the same subject may be inquired into by an adverse party; when a letter is read, the answer may be given; and when a detached act, declaration, conversation, or writing is given in evidence, any other act, declaration, conversation, or writing which is necessary to make it understood may also be given in evidence."

In *Clark*, the defendant cross-examined a witness about an interview, thereby placing at issue the entire context of the conversation. The prosecutor argued that it was necessary for the jury to hear the entirety of the interview in order to rebut the misleading impression the defendant had created during cross-examination, and the trial court allowed the tape recording of the conversation to be received into evidence. The defendant contended the trial court erred in admitting the tape recording of the interview. However, the California Supreme Court concluded the trial court properly admitted the evidence under Evidence Code section 356, the Rule of Completeness. In so holding, the Court states:

"The purpose of Evidence Code section 356 is 'to prevent the use of selected aspects of a conversation, act, declaration, or writing, so as to create a misleading impression on the subjects addressed.' (*People v. Arias* (1996) 13 Cal.4th 92, 156.)....In applying Evidence Code section 356 the courts do not draw narrow lines around the exact subject of inquiry. 'In the event a statement admitted in evidence constitutes part of a conversation or correspondence, the opponent is entitled to have placed in evidence all that was said or written by or to the declarant in the course of such conversation or correspondence, provided the other statements have some bearing upon, or connection with, the admission or declaration in evidence.' (*People v. Harris* (2005) 37 Cal.4th 310, 334–335.)

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State Bar Legal Specialization

The State Bar of California Department of Legal Specialization has requested the MCBA to disseminate information regarding the State Bar's Legal Specialization program. The Legal Specialization program was created with the purpose to protect the public and continually develop attorneys academically and professionally. It assists in advancing the legal profession and offers an additional opportunity for attorneys to be distinguished in their legal profession, thereby assisting legal professionals in making career development opportunities. All MCBA members are encouraged to look into the State Bar's Legal Specialization Program. For more information, please see the flyer attached to this Newsletter.



Mariposa County Superior Court Holiday Schedule

The Mariposa County Superior Court has released the Court's schedule of its 2021 holiday hours. Please see the attachment for details.



Merced Superior Court Announces Extended Terms for Leadership

To allow for continuity of leadership during the COVID-19 pandemic, the Judges of the Merced Superior Court have elected to extend the term of the Presiding Judge and Assistant Presiding Judge for an additional year to December 31, 2021. The current Presiding Judge is Honorable Donald J. Proietti and the Assistant Presiding Judge is Honorable Mark Bacciarini.

Family Law News, *cont.*

Here, whatever the form of the evidence, the 'subject of inquiry' under Evidence Code section 356 concerned the same conversation..... The trial court therefore did not err in admitting the tape recordings under Evidence Code section 356."

Thus, if a litigant in a family law proceeding uses a select portion of a hearsay text message communication to impeach a witness, under *Clark* and Evidence Code Section 356 the court may allow the admission of the entire hearsay communication, to the extent necessary to establish the context of the communication.

The meetings for the Family Law Section of the Merced County Bar Association are suspended due to COVID-19, but will hopefully resume in the coming months. For more information, please email the Merced County Bar Association Family Law Section President, Casey Archer at Casey@MercedDivorce.com.

MCBA Membership List

It's time to renew your membership for 2021! If your name is on the list and you would like to renew your membership for 2021, no application is needed, just send in your payment to our PO Box. For new members who wish to have their information listed on the MCBA website, a Membership Application may be downloaded at www.MariposaBar.org and mailed with your dues to MCBA, PO Box 628, Mariposa, CA 95338.

Thank you to our 2020 members:

Casey Archer	Steven W. Dahlem
Nanette M. Beaumont	Skye Emery
Kevin Briggs	Kimberly G. Flores
Marvin Brown (retired)	Edward J. Johnson
Anita Starchman Bryant	Andrew Kucera
Aaron Castleton	Robert B. Lindley
Jeffrey Castleton	Brent Richardson
Russell D. Cook	Elizabeth E. Waldow
Thomas K. Cooke	Walter Wall



State Bar News: Provisionally Licensed Lawyers

On October 22, 2020, the California Supreme Court issued an administrative order approving New Rule 9.49, which implements a provisional licensure program for 2020 law school graduates, with an effective date of November 17, 2020. The State Bar will open applications on that date.

As currently structured, the program will allow eligible 2020 law school graduates to practice law as provisionally licensed lawyers under the supervision of fully licensed lawyers who meet the requirements of the rule and who agree to assume professional responsibility over the work of the provisionally licensed lawyers. The program will terminate June 1, 2022 unless extended by the Court.

Provisionally licensed lawyers will be able to engage in all of the same activities that a fully licensed lawyer is permitted to engage in, under their supervising lawyer's supervision and subject to certain restrictions. Both the provisionally licensed lawyer and their supervising lawyer are expected to abide by all applicable State Bar rules and guidelines and are bound by the disciplinary authority of the CA Supreme Court and the State Bar.

Job Opportunities

Continuing Education of the Bar (CEB), Oakland – CEB is seeking applications for a full time Content Attorney with 2-3 years minimum experience. CEB provides innovative resources and practice-oriented tools that help attorneys better serve their clients. From online legal research and MCLE to forms solutions and print books, CEB strives to make high-quality legal information accessible to everyone, from rural solo practices to large law firms.

Earthjustice, Right to Zero, Los Angeles -- Earthjustice is now accepting applications for a Staff Attorney to join their California Regional team in its Los Angeles office. This position will focus on litigation and advocacy to compel a shift away from fossil fuels and toward equitable zero-emissions solutions across the transportation, power, and building sectors in California. This work serves as an important part of their work to clean up places in the country with the most polluted air. Earthjustice is the nation's premier nonprofit environmental law organization. They take on major, precedent-setting cases across the country.

2020 MCBA Officers



Casey Archer
President



Ed Johnson
Vice-President



Anita Starchman Bryant
Secretary



Skye Emery
Treasurer

2021 MCBA Officers

The MCBA Officers Election will occur in December 2020 per the MCBA bylaws. This year, due to COVID-19, votes will be transmitted electronically to the MCBA via email. The nominations thus far include: Casey Archer, President; Anita Starchman Bryant, Vice President; Ed Johnson, Secretary; Skye Emery, Treasurer. Please email any additional nominations to MCBA@MariposaBar.org. The final panel will be announced in the November 2020 Newsletter, and voting will commence via email on December 1, 2020.



2021

JUDICIAL HOLIDAYS

MARIPOSA SUPERIOR COURT WILL BE CLOSED ON THE FOLLOWING DATES:

January 01, 2021	New Year's Day (2021)
January 18, 2021	Martin Luther King, Jr. Birthday
February 12, 2021	Lincoln Day
February 15, 2021	Presidents' Day
March 31, 2021	Cesar Chavez Day
May 31, 2021	Memorial Day
July 05, 2021	Independence Day
September 06, 2021	Labor Day
October 11, 2021	Columbus Day
November 11, 2021	Veterans Day
November 25, 2021	Thanksgiving Day
November 26, 2021	Day after Thanksgiving
December 24, 2021	Christmas Day
December 31, 2021	New Year's Day (2022)



The State Bar of California

Become a certified specialist!

Specialty Areas

- Admiralty & Maritime Law
- Appellate Law
- Bankruptcy Law
- Criminal Law
- Estate Planning, Trust & Probate Law
- Family Law
- Franchise & Distribution Law
- Immigration & Nationality Law
- Legal Malpractice Law
- Taxation Law
- Workers' Compensation Law

Benefits

By becoming a certified specialist, you will be recognized as an expert in your specialty area, show clients that you have taken every step to prove you are the right choice, and sets you apart from attorneys who have not been willing to take this extra step for their clients.

General Requirements

- Pass the written exam in your specialty area
- Practice law for at least 5 years, 25% of your time in your specialty area
- Complete additional MCLE requirements
- Completion of variety of matters in your specialty area
- Favorable references from judges/attorneys who are familiar with your work in your specialty area

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