

Mariposa County Bar Association

Volume 3, Issue 31

www.MariposaBar.org

Newsletter@MariposaBar.org

November 2020

President's Column

Casey Archer, MCBA President

The Mariposa County Bar Association ("MCBA") in-person meetings have been suspended since April 2020 due to COVID-19. We look forward to resuming our meetings sometime in 2021 at the Miner's Roadhouse 140. In the interim, anyone with information regarding free MCLE webinars, or who would like to submit a news article of general interest, is invited to email the information to MCBA@MariposaBar.org for inclusion in our monthly newsletters. We previously 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 currently seeking approval from the State Bar to provide the presentation via webinar at a future date to be determined.



MCBA Membership is \$35.00 and includes a listing on the MCBA website at www.MariposaBar.org. We recently updated our website to include a "Resources" page, and invite members to provide input regarding additional information to include on our website. We are also working to provide access to MCLE credits for our members throughout 2021. For new members, the attached application may be mailed to our PO Box with the yearly dues. If current members would like to maintain membership including their listing on our website, they should send their annual \$35.00 dues to MCBA, PO Box 628, Mariposa, CA 95338.



Justice Martin J. Jenkins Confirmed to California Supreme Court

Justice Martin J. Jenkins has been confirmed to the California Supreme Court. Praised for his "brilliant intellect, first-class temperament, and boundless humanity," Justice Jenkins makes history as the first openly gay California Supreme Court justice and only the third African American man to serve on the state's highest court. The Judicial Branch of California has issued the following News Release:

November 10, 2020 -- Chief Justice Tani G. Cantil-Sakauye, chair of the Commission on Judicial Appointments, announced that the commission today confirmed Justice Martin J. Jenkins as Associate Justice of the Supreme Court of California.



Governor Gavin Newsom at Justice Martin J. Jenkins' nomination to the California Supreme Court

The appointment was approved by a unanimous vote in the Supreme Court Courtroom in San Francisco.

A report by the Commission on Judicial Nominees Evaluation found Justice Jenkins "exceptionally well qualified"—the highest possible rating—for service on the California Supreme Court. "He is praised for his brilliant intellect, first-class temperament, and boundless humanity," the report said.

...continued on page 3

2020 SECURE Act Impacts Estate and Retirement Planning*

by Anita Starchman Bryant

On December 20, 2019 President Trump signed into law the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019. This law, which went into effect on January 1, 2020, made changes to how Individual Retirement Accounts (IRAs) are used for estate and retirement planning. An IRA is an account set up at a financial institution that allows an individual to save for retirement with certain tax-saving benefits, depending on the type of IRA.



Prior to the SECURE Act, children who inherited a parent's IRA could "stretch" out their distribution over their own life or life expectancy. This allowed children beneficiaries to take the minimum distribution each year, thereby preventing them from moving into a higher tax bracket. It also enabled the children beneficiaries to spread out the payment of taxes on their inheritance from an IRA. These so-called "stretch IRAs" were mostly eliminated by the SECURE Act. Non-spouse beneficiaries of inherited IRAs must now withdraw and pay taxes on all distributions from inherited accounts within 10 years. This rule also applies to inherited funds in a 401(k) account or other defined contribution. There are exceptions to this rule for surviving spouses, disabled individuals, minor children and individuals not more than 10 years younger than the original account owner. If you had already inherited a stretch IRA prior to the SECURE Act, you aren't affected as the new law only applies to beneficiaries of someone who dies after the end of 2019.

The SECURE Act made some other key changes to retirement planning. The SECURE Act pushed back the age at which retirement plan participants need to take required minimum distributions from 70 ½ to 72 (for those who are not 70 ½ by the end of 2019). Beginning in the 2020 tax year, the SECURE Act also now allows traditional IRA owners to continue to make contributions to their plans after the age of 70 ½, so long as they are still earning wages or self-employed income.

Other highlights of the SECURE Act include provisions allowing penalty-free withdrawals from tax deferred accounts for certain purposes. Normally, if such withdrawals occur before the age of 59 ½ it is subject to a

2020 SECURE Act, *cont.*

10% early withdrawal penalty. The SECURE Act allows penalty-free withdrawals for qualified birth or adoption expenses, up to \$5,000 per individual. A couple each having their own individual account could then withdraw penalty-free a total of \$10,000 for qualified birth or adoption expenses. The SECURE Act also allows penalty-free withdrawals of up to \$10,000 from tax-advantaged 529 accounts for qualified student loan repayments. Under the new law, a 529 plan may also be used to pay for certain apprenticeship programs without the early withdrawal penalty.

As always, it is best to consult with a professional financial planner that can provide you with personalized advice regarding your specific investment issues.

*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.



Domestic Violence Support Services



Mountain Crisis of Mariposa provides hope, support and recovery for those who are or who have been victims of domestic violence. Their office is located at 5075 Hwy 140, Suite C, Mariposa, California. Their office number is (209) 742-5865, and their 24-Hour Hotline is 1-888-966-2350. For more information visit their site at the following link: <https://mountaincrisisservices.org>.

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

Judge Fagalde, speaker, Law Day postponed due to COVID-19.

June 11, 2020

Miles Menetrey, Chairman of the Mariposa County Board of Supervisors, 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 at ArcherHall, with a presentation on "How to Find and Use Location Information in Litigation".

August 13, 2020

Russell Cook, MCLE presentation, luncheon meeting postponed due to COVID-19.

September 10, 2020

Luncheon meeting postponed due to COVID-19.

October 15, 2020

Luncheon webinar meeting postponed pending MCLE webinar approval by the State Bar: Speaker, Russell Cook, with a presentation on "Effective Mediations through Zoom".

November 12, 2020

Luncheon meeting postponed due to COVID-19

December 10, 2020

Holiday Luncheon and Judges Appreciation Day postponed due to COVID-19.

Jenkins Confirmed, *cont.*

Justice Martin Jenkins fills the vacancy created by the retirement of Justice Ming Chin on Aug. 31. Justice Jenkins is the first openly gay California Supreme Court justice and only the third African American man ever to serve on the state's highest court.

Justice Jenkins has held several prominent state and federal judicial positions throughout his career, his most recent role as the Governor's judicial appointments secretary. In that role, he spearheaded transparency efforts by making public the Regional Judicial Selection Advisory Committees, so that for the first time in California history, the individuals who provide feedback on judicial candidates for nomination and appointment will be known to the public.

Justice Jenkins has worked closely with these committees and the Governor to build a judiciary that reflects the people they serve, appointing a diverse group of 45 jurists that will help shape the California judiciary for years to come.



Confirmation of California Supreme Court Justice, Martin J. Jenkins
(photo courtesy of Commission on Judicial Appointments)

Prior to his role in the Newsom administration, Justice Jenkins served as an associate justice on the First District Court of Appeal from 2008 to 2019. He was appointed by President Bill Clinton to the U.S. District Court for the Northern District of California in 1997 and served on that bench until 2008.

Justice Jenkins served as a judge on the Alameda County Superior Court (1992-1997) and on the Oakland Municipal Court (1989-1992). From 1986 to 1989, he was a trial attorney with the Pacific Bell Legal Department of San Francisco and from 1983 to 1986, he worked in the U.S. Department of Justice as a trial attorney litigating civil rights cases. From 1980 to 1983, he worked as a prosecutor for the Alameda County District Attorney's Office.

Justice Jenkins earned a Juris Doctor degree from the University of San Francisco School of Law.

Job Opportunitites

Judicial Council of California/The Commission on Judicial Performance

Position: Intake Attorney (Senior Attorney II)

Salary range: \$8,050 - \$10,232 per month

Location: San Francisco

Posted: November 24, 2020

Position: Investigating Attorney (Senior Attorney III)

Salary range: \$9,268 - \$12,368 per month

Location: San Francisco

Posted: November 24, 2020.

Judicial Council of California/California Supreme Court

Position: Supreme Court Chambers Attorney or Law Clerk on the personal staff of Justice Jenkins.

Salary range: \$5,854 - \$13,931 per month

Location: San Francisco or Los Angeles

Posted: November 17, 2020

Mariposa County Superior Court Facilitator

The Mariposa County Superior Court is seeking an attorney to fill the position of Family Law Facilitator/Small Claims Advisor/Self-Help Center. The job involves approximately 20-30 hours per week, some of which may be conducted remotely via zoom. The position provides a competitive salary but does not provide benefits. The attorney filling the position cannot practice law in Mariposa County, but may continue to practice law in neighboring counties.

2021 Judicial Holidays

Mariposa Superior Court will be closed on the following days during 2021:

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)

Family Law News

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

Is Calling Opposing Counsel a "Liar" Contemptuous?

The featured case this month is *Moore v. Superior Court of Orange County* (11/16/20). In *Moore*, during a mandatory settlement conference before a temporary judge, petitioner's attorney was rude and unprofessional. Among other things, petitioner's attorney (1) persistently yelled at and interrupted other participants; (2) accused opposing counsel of lying while providing no evidence to support his accusation; (3) refused to engage in settlement discussions; and (4) effectively prevented the settlement officer from invoking the aid of the supervising judge. After a hearing, respondent court convicted petitioner's attorney of four counts of civil contempt, and the attorney appealed.

The appellate Court held that the conduct of petitioner's attorney was in fact contemptuous, but that the conduct should have been consolidated into one count of contempt rather than four. In finding the behavior to be contemptuous, the Court states:

"The contempt conviction in count two was based on [petitioner's attorney] brazenly accusing opposing counsel [Parnall] of "lying" without identifying any lie. A lawyer's core function includes demonstrating through evidence and argument that an opponent's statements are inaccurate, incomplete, or misleading. That function is never properly discharged through name calling or by hurling insults. Interrupting an opponent's presentation to loudly proclaim that opponent is "lying" or is a "liar" undermines the legal process. This sort of tactic is inappropriate in a courtroom and is objectively disrespectful of our system of justice. (See *In re Buckley* (1973) 10 Cal.3d 237, 250-255 [statement that judge "obviously doesn't want to apply the law" was objectively contemptuous].) In a word, it is contemptuous....[Petitioner's attorney] demonstrated a total lack of respect for the court, the settlement officer, opposing counsel, and the opposing party. This was contemptuous."

The Appellate Court concluded by directing the Clerk of the Court to provide a copy of the Court's opinion to the State Bar.

2020 MCBA Officers



Casey Archer
President



Ed Johnson
Vice-President



Anita Starchman Bryant
Secretary



Skye Emery
Treasurer

2021 MCBA Officers

The Final Panel for the 2021 Officers' Election is as follows:

Casey Archer, President
Anita Starchman Bryant, Vice President
Ed Johnson, Secretary
Skye Emery, Treasurer

Due to COVID-19, votes for the 2021 panel will be transmitted electronically to the MCBA via email. All 2020 Members are invited to submit their votes by emailing: MCBA@MariposaBar.org.



Family Law, *cont.*

This case serves as a reminder that although attorneys may certainly be called upon to be zealous advocates, repeatedly interrupting opposing counsel, insulting them, and calling them names, is contemptuous and disrespectful to the Court and the judicial process.

The meetings for the Family Law Section of the Merced County Bar Association are suspended due to the COVID-19 pandemic, but will hopefully resume in 2021. For more information, please email the Merced County Bar Association Family Law Section President, Casey Archer at Casey@MercedDivorce.com.

MCBA Membership List

As the year draws to an end, we would like to thank our 2020 members for their involvement and support during these unprecedented times:

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

With 2021 approaching, the MCBA extends its thanks to the members who have paid their 2021 dues:

Casey Archer	Skye Emery
Marvin Brown (retired)	Walter Wall
Anita Starchman Bryant	

If your name is not included in the 2021 membership list and you would like to renew your membership and maintain your listing on the MCBA website, you may do so by sending your \$35.00 annual dues to our PO Box. For new members who wish to join and have their information listed on the MCBA website, a Membership Application is attached and may be mailed with your dues to MCBA, PO Box 628, Mariposa, CA 95338.

MARIPOSA COUNTY BAR ASSOCIATION

Membership Application – 2021

2021 dues: \$35.00

Please mail the completed application and dues payable to:
Mariposa County Bar Association
P.O. Box 628
Mariposa, CA 95338

The following data will be used for your Member Information of the MCBA records. Please indicate what information you would like included on the public web site.

	Include on Website?	
	Yes	No
Name: _____	<input type="checkbox"/>	<input type="checkbox"/>
Bar#: _____	<input type="checkbox"/>	<input type="checkbox"/>
Firm Name: _____	<input type="checkbox"/>	<input type="checkbox"/>
Address: _____	<input type="checkbox"/>	<input type="checkbox"/>
Phone: _____	<input type="checkbox"/>	<input type="checkbox"/>
Fax: _____	<input type="checkbox"/>	<input type="checkbox"/>
Email: _____	<input type="checkbox"/>	<input type="checkbox"/>
Website: _____	<input type="checkbox"/>	<input type="checkbox"/>
Areas of Practice: _____	<input type="checkbox"/>	<input type="checkbox"/>
Law School: _____	<input type="checkbox"/>	<input type="checkbox"/>
Languages: _____	<input type="checkbox"/>	<input type="checkbox"/>
Free Consultations: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>

Dues Enclosed: _____

Mariposa County Bar Association • Membership Application • 2021
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