

# Immigration

AUG 02, 2018

**BY ROBERT ROSBOROUGH**

Immigration has been front-page news more times than I can count in the last several months, not to mention since the start of the 2016 election cycle. I would like to thank our guest editor this month, Anna Pletcher, for curating a topical immigration-themed issue. The vast majority of the immigration news coverage has been about illegal immigration. Melissa Harms has written an eye-opening article on the Trump administration's changes to legal immigration. Even if your clients do not hire foreign nationals and you don't know that "parole" is an immigration term or what it takes to get an H-1B visa, Melissa's article is a fascinating look at the scope of executive power and what a dramatic difference a president can make in the legal landscape without so much as a rule-making. It's also a very helpful look at numerous changes affecting not only new immigrants but foreign nationals already legally living here.

Anna herself writes about the intersection of immigration and the criminal justice system, addressing the law and policy relating to ICE's use of local jails for arresting immigrants and prosecutors' responsibility to consider the effect on immigration status during plea bargaining. As most of you know, Anna is a candidate for District Attorney and the opinions she expresses are her own and not necessarily those of MCBA. The Marin Lawyer welcomes submissions from those with differing opinions. Anna also profiles the Social Justice Collaborative, a robust non-profit that represents immigrants in litigation related to their status.

We also profile Scott Buell, MCBA's newest board member. You will learn much about Scott's interesting personal and legal journey, including the role of the Affordable Care Act in creating more career choices for those who have suffered a serious illness. Check out our bi-monthly political column from Greg Brockbank, wherein he recaps the results of the June primaries and sets the stage for the November election. And if you missed MCBA's July luncheon on the gig economy, take a look at Sue

Feder's recap to learn how interesting it is to be a lawyer at two of the central players in it and the numerous social policy and business aspects of practice in this rapidly developing field.

I hope you enjoy the remaining days of our waning summer. In addition to reading the Marin Lawyer, please consider sharing what you're finding interesting in the law these days by writing for the Marin Lawyer.

# A Mid-Year Report

AUG 01, 2018

**BY THOMAS BROWN**

We have crossed the 50-year line of 2018 and I wanted to take a few moments to reflect on what we've accomplished at the Marin County Bar Association and what we still hope to do this year. In my January message, I reminded you of MCBA's Mission Statement: "To involve, encourage, and support bar association members, to serve as a liaison to the Marin County Courts, and to educate the community and enhance access to legal services." One of the ways we advance those goals is through our monthly membership programs. We kicked off the year with a timely and fascinating talk by Dan Mogulof, Assistant Vice Chancellor for UC Berkeley, about the challenges of enforcing and protecting the First Amendment at our nation's largest public university system, followed by Santa Clara Law School Professor Gerald Uelman's thoughts in February on "Whether a Trial Is a Search for the Truth." Our annual pro bono luncheon in March recognized the outstanding contributions of many members of our community and included an impassioned speech by board member and award recipient Tim Nardell.

Turning to the political arena, MCBA sponsored the well-attended and informative District Attorney Candidates Forum in April. In May, we heard from Jennifer Reisch and Bernice Yeung regarding gender inequality issues in light of the #metoo movement and then were regaled by Professor Rory Little in June on Justice Kennedy's retirement and the Supreme Court docket. Last month featured a discussion about the gig economy and the changing nature of legal representation from Nancy Allred (Senior Counsel, Policy for Airbnb) and Loni Mahanta (Associate General Counsel for Lyft), two of the gig economy's key players (which you can read about in Sue Feder's report in this month's issue.) I am pleased to report that the feedback on all of these meetings has been very positive and we look forward to continuing to offer you informative and entertaining programs. To that end, we are thrilled to announce that Judge William H. Orrick has agreed to address the membership at our September meeting, which will be followed by the always popular Judges' Luncheon in October, before we wrap

up the year with the annual MCLE Fair in November.

This month's newsletter focuses on educating the membership on the hot-button issue of immigration and its impact on our local community. Immigration is indeed a complicated and multi-level issue and has certainly dominated the national headlines of late. At press time, the President was threatening a shut-down of the government if Congress did not provide funding for the border wall. Here in Marin County, several hours and hundreds of miles away from the Mexico/United States border, we may question what our legal community can do to become involved in the challenging issues raised by the separation of families. I wish to bring to your attention two opportunities for attorneys to assist with family detention cases in a way that provides enhanced access to legal services. These opportunities involve spending a week at either the Karnes Detention Center or Dilley Detention Center, located one hour and one and one-half hours from San Antonio, respectively, as part of a 10 to 15 lawyer team of onsite volunteer lawyers. The programs are run by Refugee and Immigrant Center for Education and legal Services (RAICES) and CARA Family Detention Pro Bono Projects. These organizations provide training and put together the teams so there are attorneys with Spanish and immigration law skills on each team. My firm as well as several other large corporate law firms in the Bay Area are involved in seeking approval to assist at these programs on a pro bono basis. More information about each organization can be found at (<http://caraprobono.org/> ) [caraprobono.org](http://caraprobono.org/) and (<https://www.raicestexas.org/volunteer>) [www.raicestexas.org/volunteer](https://www.raicestexas.org/volunteer).

A number of pieces have appeared in the media over the last several months regarding the mounting pressures at work and the impact those pressures can have on the mental health of individuals. Lawyers, regardless of how mentally strong we may consider ourselves, are not immune to those pressures and impacts. Practicing law comes with challenges that we all should not simply ignore; we need to consciously manage the fast pace of our practices and our own personal well-being and mental health. I include

(<https://www.law.com/americanlawyer/2018/06/01/we-need-an-open-dialogue-on-mental-health-in-the-law/>) here a link to a recent article from the American Lawyer that touches on the widespread mental health concerns plaguing the legal profession and how those concerns can be addressed. This fall, we hope to offer the membership several supportive opportunities designed to improve our individual and collective mental health. One event to place on your calendars for September 28, 2018, is the (<https://www.eventbrite.com/e/joy-in-the-law-conference-2018-tickets-41299245154?discount=MCBA>)

Joy In The Law Conference sponsored by the Maier Law Group and The Joy In The Law Planning Committee. Look for additional updates from MCBA and check our website for details on other upcoming programs.

Finally, and unfortunately, this summer seems like déjà vu all over again. Fires are raging throughout California, resulting in the evacuation of thousands of people, destruction of entire neighborhoods, closure of Yosemite National Park, and the ultimate tragedy, the death of several residents and first responders in the Carr Fire outside of Redding. I have reached out to the President of the Shasta-Trinity Counties Bar Association to offer any assistance from MCBA. I am informed that the courts are closed for the week while the evacuation orders remain in effect and that many attorneys have been displaced either from their offices or their homes. Please contact me directly if you are willing and able to cover court appearances on behalf of members of the STCBA. You can also help by donating to a Carr Fire-specific community disaster relief fund (<http://www.shastarcf.org/funds/cdrf>) here.

As always, please let us know if there is anything the Marin County Bar Association can do to assist in your practice. Enjoy these last few weeks of summer and I'll see you around the courts.

Best,  
Tom

# Immigration and the Criminal Justice System

JUL 31, 2018

**BY ANNA PLETCHER**

In April 2018, the Trump administration announced a “zero tolerance” policy at the southern border. Everyone who crossed illegally was to be criminally prosecuted, including parents and children. Parents were sent to jail to await court proceedings while their children were deemed “unaccompanied minors” and sent to separate facilities. Between May 7 and June 20, when the President signed an executive order ending his administration’s practice, more than 2,300 families were separated.

The policy set off protests across the country. Here in Marin, I attended a vigil at the Marin Civic Center with approximately 700 concerned residents. Even though Marin is more than 500 miles from the Mexican border, the administration’s policies have a significant local impact.

The Migration Policy Institute estimates that Marin has about 16,000 undocumented immigrants, approximately 6% of the total population. According to a 2014 report by the Pew Research Center, Marin has 41,627 Latinos, accounting for about 16% of the total population. Increased immigration enforcement in Marin has resulted in families torn apart by deportation, widespread anxiety, and distrust of government institutions.

Increasingly, our local criminal justice system has become the primary gateway to federal immigration enforcement. As a result, it is important to look at the roles that local sheriffs and district attorneys play in the current immigration landscape.

The Role of the Sheriff

Immigration and Customs Enforcement (ICE) commonly arrests undocumented individuals in many different contexts - at homes early in the morning; when parents are dropping children off at school; at work. But most frequently, ICE uses the local jails.

When someone is arrested and brought to the county jail, their fingerprints are sent to the FBI and ICE as a routine part of the booking process. If ICE determines that an arrestee is a priority for deportation, ICE may request that the sheriff provide the date that the individual will be released from custody so that ICE can make an arrest.

SB 54, the California Sanctuary State law that went into effect in January 2018, prohibits local law enforcement from providing release dates to ICE. There are two exceptions: first, in cases where the inmate is convicted of or on trial for a serious crime, and second, if the sheriff's office had a practice of making release dates available to the public for all inmates.

Sheriffs around the state vary in their approach to the law. In San Francisco and Sonoma Counties, the sheriffs provide release dates only in cases of serious crimes. On the other end of the spectrum, Marin County's Sheriff provides ICE with release dates regardless of the type of crime alleged, including minor offenses. According to the San Francisco Chronicle, in the first four months of 2018, Marin's Sheriff provided ICE with release dates 90% of the time, compared to 42% in San Diego County, and 29% in Alameda.

After SB 54 went into effect, Marin's Sheriff changed his policy to publish release dates for all inmates on the Marin County Booking Log website. This means that ICE has access to anyone who comes through the jail, regardless of the seriousness of the underlying offense.

The Marin Sheriff's policy creates a situation where anyone who comes into contact with the criminal justice system is at risk for deportation. In an amicus brief filed by Marin and other California counties defending SB54 from a federal challenge, the local governments explained the problem this creates for community safety:

"If immigrants fear that any interaction with the police may lead to deportation for themselves or a loved one, they will not willingly assist law enforcement, and public safety will suffer....Trust between law

enforcement and the communities they are sworn to protect is weakened when peace officers are viewed as de facto immigration enforcers.”

Consider this actual case. A 50-year-old Guatemalan construction worker has been living in Marin undocumented for 20 years. He has a wife and two grown children. He strained his back while working but cannot afford to take time off from work or to pay for health care.

A friend of his tells him that marijuana can help relax his back, and he decides to try it. His friend takes him behind the Home Depot in San Rafael where a man he has never seen before sells him marijuana. Soon after smoking, he begins to hallucinate, runs dangerously out into the parking lot, and crawls under a car, yelling and refusing to come out. The friend alerts the man’s son who, afraid for his father’s safety, calls the police.

The police took the man to jail. Ultimately, he was released with a citation instead of facing criminal charges. He was fortunate. Under the Sheriff’s current policy, a man’s misguided yet earnest attempt to treat his back pain could have had catastrophic consequences – expulsion from his home, loss of his career, and separation from his family.

### The Role of the District Attorney

Although the Sheriff decides whether and how ICE accesses the jail, prosecutors also have an important role to play. Prosecutors can use the tools at their disposal to rebuild trust in the community.

For one, prosecutors should carefully consider the consequences of deportation in negotiating plea agreements. The United States Constitution requires that defense attorneys inform their clients whether their plea carries a risk of deportation. *Padilla v. Kentucky*, 559 U.S. 356 (2010). For prosecutors, California Penal Code section 1016.3 requires them to consider the immigration consequences of a plea deal as one aspect in reaching a just resolution.

Certain offenses carry a greater risk of deportation than others. When prosecutors push through plea bargains without taking into account the immigration consequences, they put the defendant at risk for future deportation. This can lead to particularly troubling results when a non-citizen defendant is only



convicted of a minor crime. A United States citizen, accepting a plea bargain for a minor crime under the same terms and conditions, would not have to risk losing their home and being separated from their family. Prosecutors should strive to avoid these inequities and ensure that deportation does not become an inadvertent consequence of a plea bargain for a minor offense.

Second, prosecutors should support pre-arrest or pre-plea diversion programs for low-level offenses. Diversion programs are alternatives to the traditional criminal justice system that focus on addressing the root causes of crime and holding the offender accountable to the community. They are typically used for minor, “quality of life” crimes, such as driving without a license or possessing a small amount of drugs. Diversion programs promote public safety by requiring offenders to complete community service, attend counseling or substance abuse treatment, or pay to repair the damage caused by their offense. They also save taxpayer money by reducing reliance on incarceration and reducing recidivism.

However, many diversion programs require a guilty plea that could serve as ground for future deportation. Pre-plea and pre-arrest programs can provide the same benefits as diversion without the unintended immigration consequences.

## Conclusion

Although immigration is technically a federal issue, the local criminal justice system plays an important role. As the Supreme Court recognized, deportation is an extremely harsh consequence. It affects both the offender and innocent family members left behind. When even a minor encounter with law enforcement results in a risk of deportation, it weakens public safety, trust in law enforcement, and the integrity of the justice system. Sheriffs and prosecutors in Marin and across the country should adopt policies that recognize the impact of deportation, rebuild trust, and promote safety and justice for all.

# Legal Immigration: The Other Crackdown

JUL 31, 2018

**BY MELISSA HARMS**

There has been no shortage of press coverage about the challenges facing immigrants as they seek refuge in the United States. Indeed, the separation of families, ending the Deferred Action for Childhood Arrivals (DACA) program, and the travel ban are common stories in the mainstream media. However, the changes to immigration law that affect work-authorized foreign nationals and the businesses that employ them are just as widespread and have disastrous consequences for the U.S. economy. Although President Trump has been vocal in his aim to construct a physical wall, behind the scenes his administration has worked to curtail legal immigration through an abundance of policy memoranda and executive orders altering visa policies and procedures to the detriment of those seeking and even holding visas.

In January of 2017, the Trump administration enacted Executive Order 13788, "Buy American and Hire American," with a stated purpose "to create higher wages and employment rates for workers in the United States, and to protect their economic interests...to rigorously enforce and administer the laws governing entry into the United States of workers from abroad."<sup>(1)</sup> In furtherance of this stated objective, the administration has enacted several initiatives that have drastically curtailed the approval of employment-based immigration applications.

Changing the definition of which applications qualify for H-1B status. The most common work-authorized visa, H-1B status, is accorded to individuals in positions that require at least a bachelor's level degree in a specific field. The high-tech sector heavily relies on this H-1B foreign workforce to fill scientific and computer-related occupations. As part of this visa, the employer must guarantee the worker meets the prevailing wage for the occupation as established by either an authoritative or government survey. However, on March 31, 2017, the Customs and Immigration Service

(USCIS) released a policy memorandum which not only restricted the types of computer professionals that would qualify for H-1B status, but also stated in a footnote that using a level 1 (entry-level) wage from the government's own survey indicates that a position is not sufficiently complex and therefore would not qualify for H-1B status.<sup>(2)</sup> As a result, the USCIS issued a large number of requests for evidence (RFEs) on first-time H-1B applications. Indeed, from January 1, 2017 to August 31, 2017, the USCIS issued 85,000 RFEs on H-1Bs, representing a 45% increase over the same period in 2016.<sup>(3)</sup>

Re-adjudication of previously approved work-authorized visa applications. Shortly thereafter, in October of 2017, the USCIS issued a policy memorandum stating that when adjudicating petitions for extensions of a foreign national's existing work-authorized immigration status, the USCIS would not accord deference to the previously approved application even when the facts of the case and law had not changed.<sup>(4)</sup> This policy has resulted in an increase in RFEs and uncertainty for businesses that have relied for years on the same workers who fill critical positions for which employers cannot locate similarly trained American workers.

Dismantling of International Entrepreneur Rule (IER). In August of 2016, the USCIS issued the International Entrepreneur Rule to grant parole (a specialized type of entry) to entrepreneurs who have already gained US investor funding to create start-ups to pursue technological innovations and research ideas.<sup>(5)</sup> After a notice and comment period in accordance with the Administrative Procedures Act (APA), the USCIS published a final rule to take effect on July 17, 2017. However, on July 11, 2017, the Department of Homeland Security announced that implementation would be delayed until March 14, 2018. After a legal challenge, a district court vacated the delay of the rule.<sup>(6)</sup> In December 2017, the USCIS began accepting applications. It remains to be seen, however, how the USCIS will adjudicate these petitions, as they require a subjective determination of whether the petitioner submitted compelling evidence of the potential for growth and job creation.

Charging the USCIS with issuing Notices to Appear. On June 28, 2018, the USCIS issued a policy memorandum expanding the range of circumstances in which USCIS officials may issue a Notice to Appear (NTA) to a foreign national after denial of an immigration benefit. An NTA is the charging document that places foreign nationals into immigration proceedings, requiring them to appear before an immigration judge to determine whether they should be removed from the United States. Previously, NTAs were generally issued by the enforcement arm of the Department of Homeland Security:

Immigration and Customs Enforcement (ICE) or by Customs and Border Protection (CBP).(7) From 2013 to 2017, the USCIS issued only 12% of all NTAs. This policy memorandum is broad in scope and has implications for employment-based cases, as it states that if an applicant is not “lawfully present” in the United States at the time an application is denied, the USCIS should issue an NTA. The resulting effect will overburden the already backlogged immigration courts with cases where individuals could otherwise have opted to depart the United States on their own or simply re-file or appeal the denied application. In the past, most applicants for employment-based immigration status would re-file another application or seek another immigration benefit and very few would remain in the United States illegally.

Denials of immigration applications without an opportunity to address application deficiencies through the Request for Evidence (RFE) process. In one of the biggest blows to the consistency and transparency of immigration adjudications, on July 13, 2018, the USCIS issued a policy memorandum that provides USCIS adjudicators the discretion to deny an application without first issuing an RFE or notice of intent to deny (NOID). Effective September 11, 2018, this policy reverses a 2013 policy memorandum that stated that unless there is no possibility for eligibility, the USCIS would issue an RFE to allow the petitioner the opportunity to overcome any deficiencies in the application. Under this new policy, USCIS officers can use their discretion to deny applications for lack of sufficient initial evidence (as well as for statutory ineligibility), without specifying what additional information would have been necessary for a successful application. This memorandum together with the June 28, 2018 memorandum allowing the USCIS to become an enforcement arm of Department of Homeland Security substantially increases the likelihood that previously work-authorized individuals could find themselves in immigration proceedings--a costly and time-consuming process.

In-person interviews for employment-based permanent residency applications. Effective October 1, 2017, the USCIS announced that applicants for employment-based permanent residency (green card) must attend an interview at a field office of the USCIS.(8) Previously, the USCIS only required interviews for cases warranting additional scrutiny due to suspected fraud, inadmissibility, or ineligibility, while waiving the interview for the vast majority of employment-based green card cases. As a result of the change, the local USCIS field offices do not have the resources to process both employment and family-based applications, which has led to a backlog of many years for many permanent residency applications.

Elimination of work authorization for certain spouses of foreign nationals. The USCIS announced in

December of 2017 that it plans to eliminate a regulation issued by the Obama administration that provides for work permits for spouses of H-1B workers who are awaiting USCIS adjudication of long-pending permanent residency applications.<sup>(9)</sup> From February of 2015 to June 29, 2017, USCIS approved over 104,000 work permits for these individuals who, along with their H-1B spouses, are sometimes facing processing delays of ten years or longer for their permanent residency applications.<sup>(10)</sup>

Additional security checks and processing time for overseas visa issuance. When U.S.-based foreign nationals travel abroad, they must have a visa in their passports to re-enter the United States. Previously, when these individuals applied for these visas abroad at a U.S. consulate or embassy, they would occasionally encounter a security processing “hit,” referred to as “Administrative Processing,” which could delay issuance of the visa for weeks to several months. Due to the Trump Administration’s “Extreme Vetting” policy, administrative processing delays are more common and lengthier. In many cases, foreign national employees leaving the U.S. for either work or personal travel are stranded outside the U.S. for weeks or months at a time, causing severe disruption to U.S. businesses.

As is evident from the numerous USCIS policy memoranda and procedures, the current administration has dismantled a significant portion of the existing immigration legal framework without congressional action or administrative rulemaking through the Administrative Procedures Act. These changes are having an enormous impact on businesses that rely on foreign talent to fill jobs for which there is a shortage of qualified U.S. applicants.

<hr><font size=2>(1) Exec. Order No. 13788, 82 Red. Reg. 18837 (Apr. 18, 2017).

(2) “PM-602-0142, Policy Memorandum, Rescission of the December 22, 2000, Guidance Memo on H-1B Computer Related Positions” (03/31/2017).

(3)

(<https://www.reuters.com/article/us-usa-immigration-employment-insight/trump-administration-red-tap-e-tangles-up-visas-for-skilled-foreigners-data-shows-idUSKCN1BV0G8>)

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(4) “PM-602-0151, Policy Memorandum, Rescission of Guidance Regarding Deference to Prior Determinations of Eligibility in the Adjudication of Petitions for Extension of Nonimmigrant Status”

(10/23/2017).

(5) International Entrepreneur Rule, 82 Fed. Reg. 5238 (Jan. 17, 2017).

(6) National Venture Capital Association v. Duke, Case 1:17-cv-01912 (D.D.C. Sept. 19, 2017), available at (<http://www.aila.org/File/Related/17091932.pdf>) <http://www.aila.org/File/Related/17091932.pdf>

(7) "PM-602-0050, Policy Memorandum, Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens" (6/28/2018).

(8) USCIS to Expand In-Person Interview Requirements for Certain Permanent Residency Applicants, U.S. Citizenship & Immigration Services (Aug. 28, 2017),

(<https://www.uscis.gov/news/news-releases/uscis-to-expand-in-person-interview-requirements-for-certain-permanent-residency-applicants>)

<https://www.uscis.gov/news/news-releases/uscis-to-expand-in-person-interview-requirements-for-certain-permanent-residency-applicants>.

(9) Employment Authorization for Certain H-4 Dependent Spouses, 80 Fed. Reg. 10283 (Feb. 25, 2015).

(10) Number of Approved Employment Authorization Documents, by Classification and Basis for Eligibility October 1, 2012 – June 29, 2017, U.S. Citizenship & Immigration Services, available at (<https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/BAHA/eads-by-basis-for-eligibility.pdf>)

<https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/BAHA/eads-by-basis-for-eligibility.pdf>. (Note that some of these approvals include renewal applications).

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# Scott Buell

JUL 30, 2018

**BY MARIN LAWYER**

The Marin Lawyer sat down with Scott Buell, mediator and MCBA's newest board member, who stepped in when Toussaint Bailey stepped down to run a wealth management firm. Scott shared with us an interesting look at his career and the role the Affordable Care Act played in making his current career feasible.

What is your practice area?

I like to think I've entered the third phase of my career—as a full-time mediator at Buell Law and Mediation. I primarily mediate personal injury cases; however, I have been increasingly intrigued by mediating cases where the parties need to maintain some degree of ongoing personal relationship past the resolution of the case at hand. I've also become fascinated by the restorative justice movement.

The first phase of my career was fifteen years as a public defender at the Legal Aid Society of New York City, later at New York County Defender Services. It was difficult, sometimes frustrating work and often under less than ideal circumstances. You tend to meet people on their worst day. Despite this, I enjoyed working in the trenches and even felt I occasionally made a difference in people's lives. I especially enjoyed the camaraderie with my co-workers.

It's important here to add in what was a major life-changing event: In January 1991, I was diagnosed with Stage 3 Hodgkin's lymphoma. I underwent six months of chemotherapy and thereafter radiation treatment. The treatments appeared to be successful and by the early spring of 1992, there was no sign of the disease in my body. This made it all the more shocking when in July 1992, after experiencing some odd symptoms, another biopsy discovered the disease had returned, this time Stage 4. I was advised my best shot at survival was undergoing a bone-marrow transplant, which I underwent the

following year. It was a surreal and frightening experience; it was also an experience not without some positive attributes. Not to be Pollyannaish, I believe the experience made me a better, more empathetic person and lawyer. I have tried to remind myself going forward of the duality of human experience, how things can be simultaneously good and bad. It's been twenty-five years and fortunately, the memory of that time seems more distant every day.

The second phase of my career was as a trial attorney for three different liability insurance carriers in the Bay Area between 2002 and 2015. I had never engaged in civil practice prior to coming to California and it required a new way of evaluating the value of a case where the risk of going to prison did not have to be factored into the equation. The civil practice brought with it a requirement for an alternative dispute resolution process which in California is primarily mediation. I enjoyed attending mediations and met a lot of very effective mediators.

What turned out to be the most lasting aspect of my cancer experience was that I was considered to have a pre-existing condition. Health insurance carriers could deny coverage to people like me who merely had the misfortune of surviving a serious illness. While I enjoyed trying cases, it became clearer to me mediation was almost always a superior way to resolve a case as opposed to the expense and uncertainties of a trial. I thought I would enjoy being a mediator, and took some mediation training courses, but never really thought it was a realistic possibility given my pre-existing condition status. That changed when the Affordable Care Act (ACA) was passed. I didn't expect to ever be in a position to open my own mediation office, but the third phase of my career is truly the charm.

Why did you decide to become a lawyer?

I'd love to say it was because the law had always fascinated me, but actually, I tended to make fun of the "serious" pre-law students I met in college. I was an English Lit major and was otherwise busy playing guitar. When graduation came, I wasn't sure what I wanted to do, but I knew I wanted to continue with my education. I rationalized going to law school as a way I would ultimately make enough money to build a home recording studio. Thirty-two years later, I still don't have a proper home recording studio. I have enjoyed most aspects of practicing law over the past three decades and I'm more excited than ever to use my training as a mediator along with my prior experience to help people resolve their cases and problems.



Why did you choose to live in Marin?

I had never been to Marin County (or even California) prior to 1998. I was perfectly happy living in my co-op apartment along the Brooklyn Heights Promenade. However, my best friend and law school housemate met a woman from the Bay Area and they moved to Marin County to be married. I was asked to be the best man and when I arrived for the wedding I was blown away at how beautiful it was. October is a particularly gorgeous month weather-wise especially compared to the autumn cold weather creeping into New York City. My friend had just finished taking the California bar exam and he noted his bar review books were as current as they would ever be, so on a lark with his encouragement, I brought them home with me to study. I took the California bar exam in the Spring of 2000. When I found out I passed, I took it as a sign I was destined to move here. I sold my apartment and everything I owned except for what I could fit in my Toyota Camry and drove across the country.

I initially lived in San Francisco, but later moved to San Rafael and now Novato. One remarkable quality of Marin life is the access to nature and hiking trails, but Marin also provides easy access to San Francisco, Napa/Sonoma wine country, and the Pacific Ocean. I felt like I was on permanent vacation for the first several years living here. I sometimes think people born in Marin don't fully realize how fortunate they are to live in such a wonderful place.

What do you love to do when you're not busy practicing law?

When I'm not mediating cases for clients, I volunteer my services as a pro tem settlement panelist here in Marin and through the MCBA's Modest Means Mediation panel. I also serve as a settlement conference panelist in Sacramento County and mediate cases for in pro per litigants through the Congress of Neutrals in Contra Costa County. Outside of that, I spend my free time with my wife Grace mostly puttering around the house. We're celebrating our tenth wedding anniversary this month. We've been living in Novato since 2012 and are very happy here with our cat, Moby, who controls both of our lives more than we care to admit. I still play guitar but not nearly as much as I used to. I'm working on changing that. I switched to a plant-based diet nearly two years ago which has had a positive impact on my health. Another major advantage of Marin County life is having access to excellent farmers markets at least twice a week. I still love reading. I hike between five and ten miles daily, and

since that takes an hour or two every day, I often combine that with listening to audio books or podcasts. As I read this over, it doesn't sound particularly exciting, but we love it.

If you could pursue any career other than law, what would it be and why?

I've played guitar since I was a young teenager and throughout high school I was convinced I was headed for rock stardom. That conviction lessened through college and even more so through law school. Nonetheless, I sometimes viewed being a trial attorney as performance on a much smaller stage for an audience of twelve. More realistically, I think I would enjoy being a literature or history professor. I am a voracious reader, especially about history and politics. I spent a semester of my junior year in college in London, so the possibility of scholastic trips abroad as a professor always seemed appealing.

Why did you join MCBA?

I've never been much of a 'joiner.' When the ACA was found to pass constitutional muster in 2015, I decided I was going to open a mediation practice in San Rafael and joined the MCBA. I had previously worked only for non-profit or corporate law offices that provided relatively substantial support for their attorneys and I was hopeful I could look to the MCBA for such support for my solo business. When I opened my office in January 2016, I immediately joined the Alternative Dispute Resolution (ADR) Section where I found many experienced practitioners who were wildly supportive and encouraging. I began to volunteer with the ADR Section, helping to find presenters for our monthly MCLE/lunch meetings. In 2017, I was the Secretary/Treasurer and I'm proud to say I'm the 2018 Chair of the ADR Section. Joining the MCBA was one of the smartest decisions I've made since opening my mediation practice. I'm looking forward to my tenure on the Board.

If you could pick a single highlight of your career, what would it be?

During a night arraignment session in 1995, I was assigned a case of a sixty-four-year-old man named Eddie Brown. Mr. Brown's car had been struck by another vehicle in Brooklyn. It was a minor accident, and no one was injured. However, when the police came to investigate, a routine warrant check revealed Mr. Brown was an escapee from a Florida chain gang in 1952. The circumstances behind his escape were dramatic and remarkable. He made his way to Brooklyn where he married, had several children,

grandchildren and great-grandchildren. He lived an exemplary life for more than forty years and at various times was the president of his neighborhood block association. His family did not know about his past. When I met him, he was in poor health: he had diabetes, high blood pressure and a heart condition. Suddenly, Florida was seeking his extradition to be returned for the balance of his sentence and to be prosecuted for his escape. His family rightly feared he may not survive extradition.

Since Mr. Brown's prospects of legally challenging his extradition were less than ideal, we eventually decided to take his situation to the New York Times, after which it blew-up into a nationally-covered story. Happily, after lengthy negotiations, Florida's governor ultimately decided to withdraw the warrant and allow Mr. Brown to resume his quiet life in Brooklyn. His case took nearly a year to resolve (he initially spent about a month in jail before I was able to convince a judge to allow him bail) but doing so without Mr. Brown even having to be extradited to Florida made a tremendous difference in his and his family's lives. As satisfying as it was to be a part of that, I still hope the best highlight of my career is yet to come.

# Report on the MCBA July Membership Luncheon: Legal Challenges of the Gig Economy

JUL 29, 2018

**BY SUSAN FEDER**

MCBA members who attended our July membership meeting and lunch heard an informative and interesting presentation on how the gig economy is changing the legal landscape. Exploding developments in technology and the popularity of online app-based companies have shifted the business paradigm in many areas. With these increased business opportunities come significant legal challenges, however. This program addressed the role of the legal profession in the rise of on-demand businesses, and the significant legal challenges these companies face as employers and as providers of goods and services to consumers.

Our speakers were Loni Mahanta, Associate General Counsel at Lyft, and Nancy Allred, Senior Counsel (Policy) at Airbnb. Loni Mahanta oversees all of Lyft's labor and employment issues, including the defense and preservation of Lyft drivers' status as independent contractors. Her work with Lyft includes managing class action litigation and government audits, negotiating with the NLRB and with the City in its efforts to permit collective bargaining by independent contractors, and helping to develop policy beyond just Lyft around portable benefits and the creation of a modern, flexible social safety net suited to the gig economy. Prior to joining Lyft, she was an attorney at Folger Levin LLP, and Cowell & Moring LLP, where she specialized in employment litigation. She obtained her BA in International Relations from Stanford University, and her JD from Hastings.

Nancy Allred advises Airbnb on regulatory, policy and governmental affairs. She also supports Airbnb's public policy team on legislation, regulatory reform, compliance and product

implementation. Prior to working at Airbnb, she was in-house at Uber and before that on the legal team at Southern California Edison and at Baker & McKenzie in San Francisco. She earned her undergraduate degree from UC Berkeley and her JD from Columbia University.

Tom McInerney, a shareholder at Ogletree Deakins in San Francisco, and co-chair with yours truly of MCBA's Program Committee, moderated the program.

What do your companies currently do in the marketplace, and where are they headed in the future?

On behalf of Lyft, Mahanta said that it is a "mission-driven" company with a big picture focus. Their long-term vision is providing a better transportation model for society. That future includes autonomous vehicles and the prospect of Lyft partnering with public transportation to optimize traffic reduction, including through providing "last-mile" solutions. Lyft was launched on May 31, 2012, and has already grown to employ more than 3400 people.

With respect to Airbnb, Allred recounted the local beginnings of the company ten years ago, and the vision of allowing homeowners to "monetize" their homes. Airbnb is now a global business, with a presence in 191 countries. One new vision is providing "Airbnb Experiences" where customers purchase an entire experiential package in addition to lodging. The overriding emphasis of Airbnb's philosophy is "living like a local" and helping people feel like they belong anywhere they stay.

What are the companies' most vexing legal challenges?

For Airbnb, dealing with the various laws of 191 different countries presents an obvious challenge, particularly since they must deal not only with national laws but also down to the local level. Worldwide, Airbnb maintains a 300-person policy team to deal with compliance and other issues. In addition, protecting data and maintaining privacy rights presents a significant legal challenge in that a great deal of data is generated on both guests and hosts on the platform.

For Lyft, regulatory issues and privacy are the most difficult legal issues. Mahanta emphasized that Lyft must be a careful steward of information collected on its riders. Another challenge is keeping up with the company's almost overnight changes and ideas. As a fast-growing and relatively new startup, new

programs are constantly suggested and implemented and the legal team is called on to support the company's hyper-growth model while maintaining legal compliance. This aspect of her work is what makes her job so fun and stimulating.

How have your views of the practice of law changed since joining a general counsel's office?

Both speakers answered that their jobs are less about discreet legal problems and more about partnering with their businesses in an advisory role. They also noted that the high-profile of their companies adds another layer of concerns.

What are the current regulatory challenges facing your companies?

For Lyft, Mahanta responded with a history of why the ride sharing app is regulated by the CPUC, noting that in California, most regulations faced by Lyft come from the state, rather than at the local level. For Airbnb, Allred stated that the operative regulations are on a city-by-city basis, and almost invariably include taxes. She emphasized that Airbnb needs to be a good partner with city governments and act as a "voluntary collection agent" but expressed concern about creating "platform liability" to act as a government enforcement arm for local zoning and taxing issues.

What is the current state of the dispute regarding the legal classification of drivers on the Lyft platform?

Mahanta responded that the vast majority of Lyft drivers work part-time (85%) to supplement their income and not only want but need flexibility. The California Supreme Court's decision in the Dynamix case has created much uncertainty in the area. One of the interesting aspects of her job is working on broader solutions to the problem of trying to fit gig workers into classifications designed for the traditional economy. She works on social and legal policy related to developing more portable benefits that would work best for gig economy workers and noted that solutions have to come from the joint efforts of many different stakeholders.

How have your companies addressed issues regarding discrimination, including against customers with disabilities?

Airbnb is working hard to tailor its booking process to reduce discrimination, experimenting with various features such as not showing photographs of guests until later in the process. They are growing a “book now” feature where hosts do not vet individual guests, thus allowing anyone to book. And they have partnered with the NAACP for help in this work. They are also working to enlist more hosts who can accommodate guests with disabilities. One problem on that front is that many hosts do not realize what constitutes true accessibility and advertise their homes as accessible when they are not and Airbnb is working to ensure that descriptions correctly reflect the accessibility.

Lyft has been working with the National Federation of the Blind to educate drivers on riding with service animals, and as a result has improved access in the last two years. They have also been working to train drivers in providing additional help to disabled passengers, such as assistance getting from the car to the destination.

Audience questions touched on some of the broad social policy implications of the gig economy, from worker benefits to the role of autonomous vehicles, reinforcing how interesting and challenging legal work in the gig economy arena can be. The meeting concluded with a rousing thank you to our excellent speakers and moderator!

# An Enjoyable Evening Shared with Allied Professional Service Associations

JUL 28, 2018

**BY MEE MEE WONG**

Over 120 professionals enjoyed shared conversations, networking and nibbles. Old friendships were nurtured and new acquaintances were made at the 999 Fifth St. patio in what has become a summer tradition. Thank you to Magnolia Park Kitchen for preparing a sumptuous spread of spicy meatballs, crispy chicken and grilled vegetarian sandwiches, along with Asian noodle salad. Special thanks to our sponsors, First Republic Bank and Homa Rassouli, Reverse Mortgage Specialist, who graciously raffled exciting gifts - an apple watch and a gift certificate to Nordstrom. Don't miss out next year!

Check out photos of the event on our Facebook page:

([https://www.facebook.com/pg/marincountybar/photos/?tab=album&album\\_id=1873180259654770](https://www.facebook.com/pg/marincountybar/photos/?tab=album&album_id=1873180259654770))  
FACEBOOK.



# A Political Junkie Dissects the June Election Results, with a Look Ahead to November

JUL 27, 2018

**BY GREG BROCKBANK**

## <h4>LOCAL NONPARTISAN RACES FOR PUBLICLY ELECTED OFFICES</h4>

COUNTY SUPERVISOR (Novato area). I thought that incumbent Judy Arnold would beat challenger Toni Shroyer much more easily than she did four years ago, which was a very close race, because four years ago was a big “anti-incumbent” year, and it didn’t appear that this year was. But this year was again very close, and in fact Shroyer was leading Arnold at the end of election night, only to see her slim lead shrink and disappear as the final votes were counted in the couple weeks or so after the election, giving Arnold a slightly larger (51.91% - 47.81%) victory than she had four years ago.

DISTRICT ATTORNEY. This very hot race was expected to result in a runoff, and it did, but many thought outsider Anna Pletcher would be the top vote-getter, with insider Lori Frugoli well behind. Instead, it was the opposite, with Frugoli almost winning it outright, with nearly 49% of the vote. So Frugoli is now the frontrunner going into November, although I understand Pletcher (30.56%) continues to think she can win, since third-place finisher A.J. Brady’s votes (20.32%) are up for grabs, and there will be a larger electorate, with many more voters voting beyond those who voted in June. Full disclosure: I’ve endorsed Pletcher.

ASSESSOR-RECORDER. Not surprisingly, Shelly Scott won the race outright with a hair over 70% of the vote. She jumped in early, had name recognition from her earlier run for this seat eight years ago, and has been politically involved as an eight-year Novato school board trustee, and on the Marin Democratic

Party's governing board, among others, not to mention her 30-plus years working in all three divisions of this office. The other two candidates didn't have very visible campaigns, as far as I could see.

SUPERINTENDENT OF SCHOOLS. Incumbent Mary Jane Burke also won handily, as expected, with 78.9% of the vote against her first challenger in her entire 24-year tenure.

CORTE MADERA TOWN COUNCIL. This was another nail-biter, with David Kunhardt only narrowly winning the third and final seat by 15 votes two weeks after the election. Also winning were 25-year old Eli Becker, an impressive young newcomer who quickly involved himself in town affairs, and appointed incumbent Bob Ravasio, who had served a full term, lost re-election two years ago, and then was appointed to fill a vacancy when another councilmember retired last year. I expected Kunhardt to bring in more votes -- he is a bright, articulate, knowledgeable former Corte Madera Citizen of the Year, and he is deeply involved in Democratic and environmental organizations, among others. But as an affordable housing advocate, he ended up (rightly or wrongly) getting some blame for the much-hated "WinCup" housing project, so he probably did well to get elected at all.

#### <h4>MARIN'S PARTISAN RACES FOR CONGRESS AND LEGISLATURE</h4>

Not surprisingly, all three incumbents in these races won handily (72-80%): Democrats Jared Huffman for Congress, Mike McGuire for State Senate, and Marc Levine for State Assembly. Their four challengers were all relatively unknown and poorly funded, making their campaigns almost invisible, and the three incumbents might not have needed to campaign at all for the primary.

Nonetheless, three of the challengers will go on to face the incumbents again in November (even though two of them are also Democrats), because of our relatively new "top-two" primary system which puts the top two vote-getters on the November ballot, regardless of party. The incumbents are once again the favorites. It will be Huffman versus Dale Mensing, the same unknown Republican from a northern county he soundly defeated four years ago; McGuire versus Democrat Ronnie Jacoby, a frequent candidate (and former one-term Santa Rosa City Councilmember) who ran against Levine two years ago; and Levine versus Democrat Dan Monte, a first-time candidate this year who is a long-time progressive activist who claims, with some justification, that Levine is not progressive enough for many or most in Marin and Sonoma. Monte particularly cites Levine's failure to support SB562, the most recent single-payer

health care bill, and other issues. Full disclosure: I'm Monte's campaign treasurer.

#### <h4>STATEWIDE RACES</h4>

U.S. SENATE: Running against an incumbent U.S. Senator in your own party is always tough, especially when the incumbent has served 26 years, is widely respected (even among many Republicans), and can raise substantial money. Challenger Kevin de Leon (who just stepped down as State Senate President Pro Tem, and will be termed out of the Legislature at the end of the year) knew this going in, but he also knew that many in the Democratic Party preferred him because Feinstein doesn't oppose Trump forcefully enough or vote often enough against his nominees. De Leon was nearly endorsed by the California Democratic Party at their convention in February (I was there as delegate, as I've been for over 30 state conventions, supporting him), but was in fact endorsed by the party at its Executive Board meeting in July by a surprisingly large margin. But he did not do well in the June election, losing 44.2% - 12.1% to Feinstein, and may well lose by a similar margin in November. The moral of the story is that the State Democratic Party Convention delegates are considerably more progressive than the rank-and-file Democratic voters, and the party's Executive Board members are more progressive still.

GOVERNOR: Gavin Newsom (33.7%) has been the frontrunner wire to wire – first to enter the race, first in fundraising, and first, consistently, in the polls. However, his lead in June was narrower than predicted, and although many thought he'd face former Assembly Speaker, former L.A. Mayor, and fellow Democrat Antonio Villaraigosa (13.3%) in November, Villaraigosa faded down the stretch. Instead, Newsom (whom I've always supported) will face Republican John Cox (25.4%), who came on strong at the end, was endorsed by Trump, and looks and sounds good (for an unknown Republican), even though he's never held elected office, despite several attempts (including the presidency), mostly from other states. Although Newsom's lead was narrower than expected in June, he is expected to get most of the votes from the other three major Democratic candidates and win handily in November.

LT. GOVERNOR: The top two vote-getters in June, as expected, were former Ambassador (to Hungary) Eleni Kounalakis (24.2%) and State Senator Ed Hernandez (20.6%). Hernandez is the "traditional" candidate, being termed out of the Legislature after 12 years, which is where most statewide office candidates come from, but he doesn't seem to be very well-known and/or very well-liked. Kounalakis is something of an indefatigable campaigner, and I support her, even though it isn't very clear who is

the most progressive. They both campaign as progressives.

ATTORNEY GENERAL: One of the great surprises in the June election for many of us was how poorly Dave Jones did in this race (15.4%), considering that he is a two-term Insurance Commissioner who jumped into the race nearly two years before appointed incumbent Xavier Becerra was even appointed (to fill the rest of Kamala Harris' term after she was elected to the U.S. Senate), locked up most of the local activists' support, and raised considerable money early. But he came in third (after a relatively unknown Republican, Steven C. Bailey with 24.5%), and out of the November runoff, with Becerra having the advantage of incumbency (albeit appointed), and the high profile of his many legal battles (mostly winning ones) with the Trump administration, and having quickly closed the gap from Jones' initial fundraising advantage, despite Jones' accusations that Becerra hasn't fought Trump aggressively enough.

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION: Although Marshall Tuck is a Democrat (technically, this is the only statewide nonpartisan position), the State Democratic Party is quite cool to him, since he ran against incumbent Tom Torlakson (who is now terming out) four years ago, and is primarily known as a strong supporter of charter schools, something an increasing number of Democrats are growing suspicious of (especially the for-profit variety). But Tuck (37.0%) successfully portrayed himself as a successful school reformer against his Democratic Party-endorsed opponent Tony Thurmond (35.6%), a relatively new (and, like Tuck, young) Richmond Assemblyman. The two will face off again in November, and it could be close.

STATE TREASURER: State Board of Equalization member (and former S.F. Supervisor) Fiona Ma (44.5%) was relatively unopposed for this open seat, and will face Republican Greg Conlon (20.8%) in November, and presumably beat him handily.

STATE INSURANCE COMMISSIONER: This is the only statewide race where a non-Democrat was the top vote-getter in June. Steve Poizner (41.1%) held the seat as a Republican for one term until he ran for Governor eight years ago, taking hard right positions as a gubernatorial candidate which damaged his centrist reputation. He's now an "independent," more recently called "Decline to State," and properly now called "No Party Preference," and could win in November, given his lead in June against relatively unknown Democratic State Senator Ricardo Lara (40.5%), but the remaining two

candidates were another Democrat and a Peace and Freedom Party member.

SECRETARY OF STATE: Incumbent Alex Padilla (52.6%) will face relatively unknown Republican Mark Meuser (31.0%), and should cruise easily to a second term.

STATE CONTROLLER: Incumbent Betty Yee (62.1%) also won handily in June, and will face Republican Konstantinos Roditis (33.9%) in November. Yee is heavily favored for a second term as well.

#### <h4>STATE BALLOT MEASURES</h4>

As a result of a relatively new law, only statewide ballot measures ("propositions") put on the ballot by the Legislature appear on the June ballot in even-numbered years, and the more contentious and hard-fought campaigns, put on by citizen signatures, appear in November. There were five in June, a few more than usual, and the results were about as expected, and as urged by the California League of Women Voters and the State Democratic Party, among many others. Four of them won handily, all relatively uncontroversial, and the only loser was Prop. 70, the "Greenhouse Gas Reduction Reserve Fund," which I theorize was put on the ballot with Democratic support as part of a budget deal to maybe give Republicans a little more say in the disposition of those special funds if it passed, but which the Democrats knew would lose when put to the voters.

In November, as "usual," we'll have a dozen or so (although the headline-grabbing advisory measure on splitting California into three separate states was recently removed from the ballot by court decision), many of them quite interesting and significant, and may give many voters (including me) a need to think and study them long and hard, and not just jump to knee-jerk positions based on endorsements by favored groups like the State Democratic Party. It's a little early, and would take up too much space here now, to go into detail on all of them, but I'll try to do so in my next article a couple months from now, in late September, when more is known, and major endorsements are in.

But one which may be the most controversial (and both sides have already raised millions of dollars) is Prop 10, to allow cities more latitude in enacting rent control. It would repeal the Costa-Hawkins Act of about 20 years ago, which limited rent control to buildings built before about 1995 (earlier in cities that already had rent control), and which prohibited rent control for single-family homes and for newly vacant

units, all of which would be allowed if Prop. 10 passes. The Democratic Party supports it, and the Republican Party opposes it, and I just read that virtually all economists oppose rent control generally on the grounds that it inhibits the construction of new housing units (a contention hotly disputed by proponents), which we desperately need statewide.

#### <h4>NATIONAL ELECTIONS</h4>

U.S. SENATE: (Repeated from my early June article) Everyone wants to know if the Democrats can take back the Senate in November in what is expected to be a blue wave (size not yet known), but the road to success is narrow. Of the 33 Senatorial seats up nationwide this year, only ten of them are held by Republicans, and except in Nevada (the only state Trump lost among those ten; the others are deep red), most of the incumbent Republicans look pretty secure – although there is a chance for a few upsets. Meanwhile, there are ten incumbent Democrats running for re-election in states won by Trump, and five of them are currently trailing in the polls. But they say a month is an eternity in politics, so three months (until the November election) is more than enough time for the polls to reflect a reversal of fortune for the currently trailing Democrats if that blue wave indeed appears nationwide in November, and is big enough, and holds. So the Democrats do have a chance to take control, but they would have to keep all their seats and take Nevada (50/50 at present) and at least one other state (e.g., Arizona, Tennessee, or Mississippi – all possible).

HOUSE OF REPRESENTATIVES: The party in the White House nearly always loses seats in the mid-term elections, and the less popular the President is, the more seats are likely to be lost. Donald Trump's approval ratings have set record lows for a first-year President (starting in the high 40s), and dropped throughout last year (to the low 30s), although recent polls show he's bounced back to the low 40s, perhaps due to the December tax bill which is somehow still viewed positively, surprisingly, by too many people. The Democrats need to flip 24 seats to take control, which is doable with presidential approval ratings around 40, but in a big wave year, they could take at least twice that number. Several could come from California, as we have 14 Republican Congress members (out of 53), seven of whom are in districts won by Hillary Clinton. There are huge mobilizations from Democrats in those districts (with help from neighboring districts) to flip those seats.

# Social Justice Collaborative

JUL 26, 2018

**BY ANNA PLETCHER**

In 2012, Gautam Jagannath and Emily Abraham noticed that there were many non-profit organizations helping immigrants with transactional work, such as visas, but litigation was generally left to the private sector. This left a large void in services for low-income non-citizens who needed representation in immigration court and criminal court. Jagannath and Abraham founded Social Justice Collaborative to fill that gap.

Six years later, SJC is making good on its guiding principle that all non-citizens deserve the right to a high-quality attorney. SJC has provided free and low-cost deportation and related criminal defense services to thousands of clients. In 2017 alone, they helped 370 families, represented 360 children, and filed 700 applications for legal status. Based in Oakland, SJC has satellite offices in Modesto, Stockton, and San Rafael. In Marin, SJC has partnered with Canal Alliance and shares their offices in San Rafael. SJC has 28 staff, including 6 attorneys.

More than 80% of SJC's clients are refugees seeking asylum, primarily from Guatemala, Honduras, El Salvador, and Mexico. Jagannath, SJC's Executive Director, explained that there is no way to apply for asylum from outside the United States; refugees have to physically arrive here first. Once they get here, SJC can step in to help from start to finish.

SJC has several programs, almost exclusively serving the most vulnerable groups: families and children. SJC's deportation defense focuses on single women with children and domestic violence survivors. According to SJC, 90% of women being deported have no criminal record and 90% have suffered gender-based violence.

Representing children in particular is a major component of SJC's work. Jagannath said that

“children are particularly at risk in immigration proceedings because they do not have a right to an attorney. Children as young as three, four, five are left on their own.” Every child whom SJC represents is fleeing violence and/or poverty in their country of origin. In 2017, SJC served one hundred unaccompanied minors, including ten victims of human trafficking.

SJC offers all unaccompanied minors free, full-scope legal representation. They use a holistic legal services model and become true advocates for the children’s well-being. They work with guardians and family members to make sure that the children are placed in schools and stable, healthy living environments.

SJC carries a heavy caseload: they have 1500 cases pending and expect that only about 200 will be resolved within a year. But they have an impressive record: SJC has won 99% of their cases. Jagannath attributes their success to “going the extra mile.” He notes, however, that they face many challenges with the current administration. For example, the Department of Justice recently altered several administrative rules, resulting in fewer due process protections for SJC clients.

Jagannath, however, is not deterred. He loves his job because he is “helping to build a generation of people who will be compassionate towards others. If we are compassionate and provide for others, they in turn will do it for the next generation. It is very empowering to work with a child who comes to the United States and is now on their way and thinking about college.”

To learn more about SJC, volunteer, or donate please visit (<https://socialjusticecollaborative.org/>) [www.socialjusticecollaborative.org](http://www.socialjusticecollaborative.org). Donations to the general fund primarily support services for undocumented minors.

SJC also relies on a network of pro bono attorneys to support the high volume of clients it serves. Pro bono attorneys must be able to commit to at least one year of work. All attorneys are welcome, but family law experience is a plus.



# Pro Bono & Services News

JUL 25, 2018

**BY MEE MEE WONG**

## Lawyers in the Library

A special thanks to the following attorneys who volunteered at our twice monthly Lawyers in the Library in July: Sylvia Shapiro (Probate and Estate), Randy Hornibrook (Family Law), Sandra Acevedo (Family Law), Bryan McCormack (Employment/Labor), Mark Rice (Landlord Tenant); Christian Wijnberg (Family Law), Scott Slomiak (Family Law), Godfrey Tencer (Employment/Labor) and Stephen Lightfoot (Landlord Tenant) and Coordinator Emily Vance (Family Law).

Our volunteers are what make Lawyers in the Library possible and they report how rewarding it is. Please sign up to be a volunteer at future sessions:

(<https://www.signupgenius.com/go/30e0f4aaaa72b0-mcba>) Volunteer Signup Calendar

## Marin County's Department of Child Support Services

DCSS is celebrating Child Support Services Awareness month in August. The goal is to educate the community about the availability and benefits of child support services, which include programs and services that are low-cost or free and available to any party to a child support order, regardless of participation in public assistance. Please help DCSS spread the word to those who could use its services and to lawyers who might refer them. More details about Child Support Services Awareness month and DCSS's services are in the (<https://marinbar.org/docs/mcba/mcba-dcss-press-release-aug-70-9799.pdf>) Press Release.

## Canal Alliance

The Canal Alliance needs volunteer lawyers to help complete immigrant N-400 Naturalization forms at a clinic on Saturday, September 8th in Novato. Contact Laurie Joyce at ([ljoyce@legalaidmarin.com](mailto:ljoyce@legalaidmarin.com))  
[ljoyce@legalaidmarin.com](mailto:ljoyce@legalaidmarin.com)

#### <h4>The Marin Pro Bono Network</h4>

The Marin Pro Bono Network launched this spring with generous funding and support from the Marin Community Foundation. The Network will help coordinate the provision of pro bono services in Marin. One exciting feature is that lawyers interested in pro bono opportunities in Marin now can review and select options on the Network's website: (<https://www.marinprobononetwork.org>)  
[marinprobononetwork.org](https://www.marinprobononetwork.org)

Legal Aid of Marin and Canal Alliance are the founding legal service organizations of the Network and invite other interested legal service agencies to join as partners. Legal Aid of Marin attorney Laurie Joyce is the Network Coordinator, together with bi-lingual Spanish-speaking assistant, Tomas Avina. San Francisco-based One Justice provides technical support. For more information, either about volunteering or about becoming part of the Network, contact Laurie Joyce at ([ljoyce@legalaidmarin.com](mailto:ljoyce@legalaidmarin.com))  
[ljoyce@legalaidmarin.com](mailto:ljoyce@legalaidmarin.com) or visit the Marin Pro Bono Network (<https://www.marinprobononetwork.org>) website.

#### <h4>Restorative Justice Training</h4>by Marin City Community Services District and SF/Marin YMCA

Participants learn restorative justice tools/methods, conflict resolution and community building circles. Learn how restorative justice practices can be used to help heal and restore family organizations and communities.

(<https://marinbar.org/docs/resources/mcba-restorativejusticetraining-75-3173.pdf>) Event Details