Happy New Year! Welcome to the first Marin Lawyer issue of 2019. We endeavor to bring you articles on topics you find useful and interesting and this month, none of our articles are about "what the law is," but each of them addresses a different aspect of law practice. Some of you may have heard the term, "silver tsunami," which refers to the demographic shift we are experiencing as the baby boomer generation ages, leading to a much larger population of older adults—and Marin County has the oldest population of all the counties in California. Mediator, attorney and RN Carolyn Rosenblatt writes about how (https://marinbar.org/news/article/?type=news&id=400) diminished capacity is affecting more adults and in many cases how difficult it can be for a lawyer to spot without spending adequate time and energy with a client and without an adequate understanding of the symptoms. She gives us all some needed guidance and points out how this is not just for trusts and estates lawyers but all lawyers have a duty to their aging clients to ensure they have the capacity to make the decisions connected with our legal representation and even beyond that to conduct their lives and not be at risk for elder abuse.

Professor Marc Evans writes about the (https://marinbar.org/news/article/?type=news&id=396) importance of storytelling in persuasion and more broadly the importance of not just what you say but how you say it. After a brief review of the classical elements of narrative, and touching on some historical literary approaches to persuasion, he discusses a variety of contemporary resources lawyers may find useful for learning about the role of storytelling in persuasion and how to make use of it. I can attest to storytelling’s power, as one of my best friends wrote a book on it that led not only to him becoming a trial consultant to help craft the story to tell the jury but to many successful verdicts as well.
On the law firm management front, RB Tewksbury writes about the emergence of progressive web apps as a single website solution for both mobile and desktop viewing. If your website needs a redesign, you should read this article before deciding what approach you want to take. If you are not considering updating your website soon, this article is probably not for you but we do want to include articles that may help with the practical side of your practice as well as the legal side. I encourage our readers to let me know if there are topics related to running a law firm that you would like to see addressed.

In addition to penning an inspiring President’s message, our new MCBA President Charlie Dresow reviews a fascinating book: Eisenhower vs. Warren: The Battle for Civil Rights and Liberties. The book explores Eisenhower’s and Warren’s disagreement over Brown v. Board of Education (Eisenhower supported desegregation but using a gradual approach) and explores the critical role of the executive branch in enforcing Supreme Court decisions. Certainly a read relevant to today’s political environment. You can also see what you missed at the MCLE Fair and read about the lawyer’s addiction support organization The Other Bar. And if you are a meditator or have thought about meditating, the Marin Lawyers’ Meditation Group is now meeting weekly at lunchtime. See the details and a little bit of background in the announcement of the new schedule.

The Marin Lawyer encourages our readers to also be our writers. If you have something you’d like to write about, get in touch with us. We also encourage our readers to be our critics. If there’s something you’d like to see (or not see) in the Marin Lawyer, let us know. If you’d like more articles on practical law firm topics, tell us. More book reviews? Let us know. All feedback is welcome.

Here’s to good reading in 2019!
Preserving Access to Justice Through Local Leadership

JAN 06, 2019

BY CHARLES DRESOW

My goal this year is to inspire our members to become leaders of our community. Each of us has the power to positively influence and inform those around us. We must educate the community that our system of justice in Marin is still fair, efficient, and accessible. And we must each dedicate ourselves to doing what we can to preserve, protect and continue the cause of fair, efficient and accessible justice in Marin.

In 2018, we have a duty to preserve our justice system, strengthen our system of laws, protect judicial independence and maintain the public’s easy access to the courts to seek peaceful redress for their grievances. The Marin County Bar Association’s mission statement emphasizes these goals. “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.” It is vital to note that the constituency of our association includes both the membership and the clients they represent. Our association must preserve the public’s trust in our institutions of justice. We must protect the orderly and fair administration of our laws. We must remember that we are a country of due process under the law and no one person can change that.

Given current events, as I read James Simon’s new book, "Eisenhower vs. Warren" (reviewed later in this issue), I pondered the fact that although President Eisenhower did not agree with the Supreme Court ruling in Brown v. Board of Education—feeling a gradual process of desegregation was a better course—his comment on the ruling was nonetheless, “The Supreme Court has spoken, and I am sworn to uphold the constitutional process in the country. And I will obey.” As we all know, the United States Supreme Court lacks an army, or really any real power at all, to enforce its judgments. It depends
on other branches of our government to enforce its decisions. In 1957, the governor of Arkansas refused to comply with Brown and in fact deployed the Arkansas National Guard to stop nine African-American students from attending school. Armed troops were enforcing their governor’s opposition to a Supreme Court decision. President Eisenhower could have allowed the blockade to continue and gutted the country’s faith in the Supreme Court. The world watched. President Eisenhower federalized the Arkansas National Guard to remove them from the control of the governor and sent the 101st Airborne Division to Little Rock to enforce the ruling.

It is hard to imagine the current chief executive of our country using his power to enforce a United States Supreme Court decision he did not like. Think of the damage that would have occurred to the peaceful and fair administration of justice if President Eisenhower had not acted as he did. We are at or approaching another watershed moment in our country’s history. Practically, a local bar association and its members may have limited ability to influence national politics or national issues. But a local bar association does have the ability to support, protect, and preserve our own county’s system of justice. By doing this, we can enact positive change and set a positive example that, with similar efforts of others around the country, can help support, protect and preserve our country’s system of justice.

I look forward to this year as the Marin County Bar Association President. Please reach out to me directly if you have any ideas or suggestions on how to positively lead our community through this challenging time.
Does Your Aging Client Have Diminished Capacity?

JAN 05, 2019

BY CAROLYN L. ROSENBLATT, RN, ATTORNEY, MEDIATOR

It’s inescapable. Living in Marin will bring you into contact with older clients sooner or later. Our county has an increasing number of residents over the age of 65, which means that lawyers in every area of practice will work with them. The County’s Civil Grand Jury projected in its Marin Is Aging report (April, 2018) that nearly a third of our population will be over age 65 by 2020. What does this mean for lawyers?

One thing it means is that we must familiarize ourselves with one of the major risks aging folks face: diminished capacity. Not only does this affect our clients’ decision-making ability, it puts them at significantly increased risk for elder abuse, particularly financial abuse.

As I learned in my prior nursing career, loss of capacity is gradual, can be well hidden for some time, and its effects can be very dangerous. Lawyers need to be aware of the danger signs and know what to do when you see them. They didn’t teach us these nuances in law school.

Estate Plans Can Hurt or Help

The most competent estate planning attorneys understand this risk and build strategies into their documents to help keep aging clients safe. As a consultant in the aging field now, I see many trust documents drafted by lawyers of varying skill levels. Typically, the reason my client—normally the adult child—seeks advice is that their aging parent has diminished capacity or has been diagnosed with dementia. They need to get the parent out of the position of trustee or stop them from continuing to make dangerous financial moves.
Less creative lawyers put boiler-plate language into the trust, saying that if two physicians declare that the client no longer has capacity for financial decisions, the older person can be removed as trustee. This is presumed to be protective but often it is not. In reality, these lawyers have unwittingly set the elder up for refusing to see a doctor (“I feel just fine!”) and the family is stuck. The client shows obvious problems, such as serious short-term memory difficulty. The family doesn’t want to embarrass their loved one by going to court, but they don’t want mom or dad to lose all their assets by making bad decisions with an impaired brain. I see the consequences of this setup often. The elder is being abused by someone. Finances are being drained, stolen or manipulated out of them. The lawyer-drafted paperwork does not help. The elder believes he/she is doing quite well and refuses to give up power.

Even if they see the physician they know, that doctor, typically receiving Medicare for payment, may spend less than ten minutes with the client. That is an insufficient basis to offer an opinion about diminished capacity for finances. So much for the “two physicians” notion as protective. It can easily fail and often does.

There are far better ways to draft a trust and I have seen skilled, very effective work product from creative lawyers. For example, the successor trustees named in the trust can vote the impaired elder out of the seat of power. Other trusts provide for a selected committee of family or friends that can remove the elder as trustee. Still others clearly specify that if a licensed mental health professional examines and tests the client and finds loss of capacity for financial decisions, that is enough for removal.

The Risks of Diminished Capacity

If you are not an estate planner, this may not seem important to you personally, but it is important. Diminished capacity can affect your work in any area of the law. And even with well-drafted estate planning documents, they aren’t effective if no one is paying close attention. Successor trustees may be far away. An agent under a power of attorney may not be aware if they aren’t already managing accounts. There are many reasons an aging client may approach you and they may already be impaired. Perhaps they want to sell a business. Or they want to give away a huge sum to a charity but can’t afford it. They may want to pursue a lawsuit no matter the cost. Or maybe they just mention in passing the great deal a new “friend” has urged them to take and it sounds fishy. If the client is impaired for significant decisions like this, and you explain the consequences of what the client wants to do, he or she
may not grasp your explanation.

Memory loss, being confused, “early dementia,” “mild cognitive impairment” and other descriptors are other ways of saying progressive brain disease. It affects millions of Americans. It affects Marin residents. It can certainly affect your own aging clients. An alert, pleasant person can be very impaired for finances. The subtle signs are sometimes hard to spot at first.

Consider that an elder may ask you to do something. If it looks odd and you never question it because you believe it’s your job to do what the client pays you to do, you may be harming your client by going along. Red flags of diminished capacity exist. When you see them, it is unwise to proceed without taking more time, deeply questioning your client or getting permission to speak to another family member. The point is that blindly following an odd-sounding elder client request can lead to serious harm. Be on the alert for the classic warning signs of diminished capacity. You may not see all of them but any one should tell you to ask more questions, get more information or perhaps involve someone else to assist your client in decision-making.

Nine Domains of Diminished Capacity

Financial capacity is not a vague concept. It has been studied and divided into areas to watch. These defined areas of capacity are based on research data from the University of Alabama, Birmingham by Dr. Daniel Marson, a neuropsychologist and lawyer who has widely disseminated these findings. I drill down into all this more thoroughly in my book published by the ABA: Working With Aging Clients: A Guide for Legal, Business and Financial Professionals (2015). Briefly, here are the domains:

• 1. Basic monetary skills: Knowing the value and relationship of currencies.
• 2. Financial conceptual knowledge: For example, understanding what a loan is.
• 3. Cash transactions: Can the client calculate the tip at a restaurant?
• 4. Checkbook management: Can he or she keep track of spending and balances in an account?
• 5. Bank statement management: Can the client understand a statement or even your bill? Can the client spot an error and correct it?
• 6. Financial judgment: This is extremely important to lawyers. Can the client explain the consequences of a financial decision to you?
• 7. Bill payment: Can the client keep up with and keep track of bills as they come in.
• 8. Knowledge of personal assets and estate: Another one particularly important to lawyers. The client should know what he has, what he can afford and where it all is.

• 9. Investment decision-making: This is broad, not limited to an investment portfolio. It can mean investing in a lawyer’s work, hiring any expensive professional or in putting funds into anything.

The Lawyer’s Duty of Loyalty

The question of how much the lawyer should get involved when a client seems to have diminished capacity can come up in any context. It raises the issue of what you think it means to be loyal. Does that mean taking steps to protect your client from predatory people? Does it mean asking the client if it’s okay to speak to a family member about a proposed transaction? Or does it mean you just stick to client confidentiality and let someone else worry about your client’s memory loss and confusion? As long as she’s paying the bill, do you need to consider anything else?

We as lawyers do need to figure out our own ethics on this. For me, protecting clients from harm is paramount. Most of them will trust us and when we say we need another person to weigh in on an important decision, they are likely to listen. (Of course, some will not but that’s not most.) The American Bar Association advocates for what it calls “supported decision making.” It’s a sound concept: You allow your apparently impaired client to be there for everything needed, but you involve a watcher, a loved one who cares, a trustworthy other to ensure that what the elder is doing is truly in her best interests. Conservatorships can be avoided and the client can still remain safe.

I have expertise in spotting diminished capacity, yet I can tell you that I’ve spoken to many elders who sounded perfectly fine on the phone or even in person for at least 20 minutes. When I questioned them more or asked to meet with them a second time, it was only then that I saw cracks in the façade of “normal.”

The Takeaways

Diminished capacity is a feeding ground for financial abuse. And any aging client is at risk for diminished capacity. Don’t move too fast with an aging client’s requests. Be aware. Look for signs. Get
permission and talk to trusted others about the client. Every lawyer can develop a keener sense of loss of capacity. Every lawyer, no matter what your area of practice, can step up your skills in managing clients who are sliding downhill in their decision-making. Let's all keep our aging clients as safe as we can.
"Words. Words when spoken out loud for the sake of performance are music. They have rhythm and pitch and timbre and volume. These are the properties of music, and music has the ability to find us and move us and lift us up in ways that literal meaning can’t."

Screenwriter Aaron Sorkin, in an attempt to extol the virtues of oratory through the character of President Josiah Bartlet, presents a poetic vision for persuasive narrative. Whether in the guise of a political speech, a religious sermon, or the closing arguments of a case, all oratory attempts to achieve the outcome that Sorkin describes. Anyone who attempts to persuade another person must contend with a widening political gap, moral conflicts, personal codes of behavior, an ever-growing sentiment of cynicism, and a rapidly diminishing sense of empathy in our communities. Before I paint too gloomy a picture, let me pivot to say that such challenges only place a greater burden on the speaker. An orator cannot focus only on the content of what they are conveying but must give greater attention to the manner in which the idea, the sentiment, or the argument is presented. To put it another way, it is not just about what, but rather, how something is communicated. To be persuasive, to achieve efficacy in argumentation, requires crafting an appropriate narrative. The oft-repeated phrase from the largely forgettable 2003 military thriller Basic provides a mantra for this perspective: "All we gotta do is tell the story right."

The academic in me sees this topic as an opportunity to revisit the classical origins of rhetoric and the argumentative appeals of Aristotle. Excluding ethos, the use of logos and pathos figure more directly into the persuasive power of narrative. As a rhetorical appeal that is reductively understood by first-year philosophy and composition students as logic, logos represents the implicit reasoning used within an argument. Seemingly the most trustworthy and valued element of rhetoric, logos relies on objective
information, data, and statistics to deductively convey the merits of a conclusion or way of thinking. However, reason and the way that we process information are not universal; not all data is equally convincing, statistics can be skewed or biased, and now we must even acknowledge the emergence of “alternative facts” (or at least, recognize that there are those who assign them value). As a result, this approach to persuasion is becoming increasingly inadequate because its content-centric focus diminishes the importance of audience awareness.

Audience awareness is at the heart of Aristotelian pathos and it is this appeal that most implicitly connects orator and audience. Pathos attempts to engage and evoke an emotional response from an audience (traditionally sadness or pity). I am sure that the more astute among you are already seeing red flags and receiving internal fallacy warnings. Though I concede that pathos is, by definition, manipulative, attempting to trigger feelings rather than employing reason, I insist that it can be extremely powerful, nevertheless. But the power and effectiveness rely on knowing one’s audience. To be able to cheer up a distraught friend requires a shared history, an awareness of the problem, and familiarity with what makes that particular friend happy. Whether you are inciting, provoking, producing, or inspiring a desired response (the “sliding scale of manipulation”) requires crafting, that is, forming a narrative that seeks a specific outcome from a specific audience.

This trip to classical antiquity (while fun for some in its own right) serves to reinforce the idea that how we convey an idea is as important as the idea that we are conveying. Turn-of-the-20th-century architect Louis Sullivan may have coined the phrase “form follows function” to express the relationship between utility and presentation in matters of structural design but modern discourse is shifting the relationship between form and function — arguably reversing it. I certainly do not subscribe to the pervasive notion that substantive content matters less than style. Nevertheless, it is difficult to ignore the rising tide that is carrying the idea. That said, comfort can be taken in the fact that narrative can sustain and marry the opposing forces of form and function, of style and substance.

Literary history, in almost every genre, provides iconic illustrations of the persuasive power of narrative. For example, the medieval morality plays of Everyman and Mankind present allegorical depictions of abstract ideas, values, and vices in an effort to inform and instruct the lay audience. Simply put, damnation was dangled to promote ethical and moral behavior. Renaissance drama, epic in 17th and 19th-century forms (the latter emphasizing nationalism), as well as the emergence of the novel and its
sweeping, romantic, reimagining of history — all use their narrative forms with an eye for persuasion. You do not have to be a literary historian who “reads against the grain” to recognize this longstanding tradition.

Yet some readers might object to the round-about way that I am approaching this topic. Rhetoric and a generic (relating to genre) approach to literary criticism hardly demonstrates an alternative approach to persuasion. Here’s something you probably never received from a professor during your academic careers: “Apologies.” My efforts thus far were to establish the foundation for a shift in perspective, that the “how” of persuasion matters as much (if not more so today) as the “what.” The function and definition of narrative does not have to be limited to manipulation through story. It is a simply another way to connect, to engage, and if done correctly, persuade. Narrative can be a vehicle to carry an idea, not unlike data, statistics, evidence, and honest-to-god facts. However, the advantage that narrative has over other logos-centric means of persuasion is an acknowledgement of audience.

To reinforce and develop the idea that I am presenting in this article, I would like to share some writings of authors who develop and illustrate the relationship between narrative in literature and persuasion:

"The SAGE Handbook of Persuasion: Developments in Theory and Practice" provides a useful chapter (“Narrative Persuasion”) that explains the relationship and fundamental differences between narrative and argumentation in areas related to persuasion. Another equally important foundational text on the subject is "The Cambridge Introduction to Narrative." It takes a wider literary approach to constructing narrative, examining features of effective storytelling. Brusselle and Bilandzic’s “Fictionality and Perceived Realism in Experiencing Stories: A Model of Narrative Comprehension and Engagement” takes a theoretical approach to explain responses to perceived fictional narratives. Negative outcomes or influences, that is, those elements that lessen a narrative’s persuasive power are also examined and evaluated. Similarly, "Argument Strength and Persuasiveness of Stories" looks at the importance of argument within the narrative itself. The study examines credibility and engagement via the science of listener attention. Audience awareness and customization is the focus in Hirsh, Kang, and Bodenhausen’s “Personalized Persuasion: Tailoring Persuasive Appeals to Recipients’ Personality Traits.” Their research on message-framing literature looks for ways to maximize the potential value of personality-based communication strategies.
In a more acutely legal approach to the topic, Yanrong Chang's "Using Storytelling in Culturally Situated Ways to Persuade" provides a cautionary tale for narrative persuasive run amok in Chinese criminal courts. Through cultural appropriation and manipulation, storytelling is used to redefine justice and reeducate the public about legal and moral conduct. Likewise, Caroline Lipovsky's "Storytelling in Legal Settings" takes a linguistic approach to analyze the opening statements. Word choice, repetition, and rhetorical organization form the basis for this study of an Australian murder trial.

The idea that storytelling can be an effective means of persuasion is not a groundbreaking revelation. However, its increasing value in today's culture and socio-political climate has prompted other industries to reexamine narrative function. Marketing, healthcare, and economics all are placing a premium on narrative to carry their message. A key difference and feature of a successful narrative is the attention given to the audience. The higher the awareness of audience, the better crafted the message can be.
Eisenhower vs. Warren: The Battle for Civil Rights and Liberties

JAN 03, 2019

BY CHARLES DRESOW

James F. Simon’s, “Eisenhower vs. Warren: The Battle for Civil Rights and Liberties,” is a compelling study of the relationship between a president and chief justice at a critical time in the history of civil rights. Given today’s tense atmosphere between the judiciary and the chief executive, the book is especially timely. Mr. Simon begins with a summary of the often forgotten fact that Chief Justice Earl Warren had a long and influential career in California prior to President Eisenhower appointing him to the United States Supreme Court. Among other accomplishments, he was the District Attorney of Alameda County, the Attorney General of California, and eventually Governor of California during World War II. Although the book primarily focuses on Warren’s relationship with Eisenhower, it is worth pondering that the man who authored the Brown v. Board of Education opinion which led to the legal desegregation of our society also was a wholehearted supporter of the internment of Japanese Americans during World War II. Simon briefly discusses Warren’s support for internment but the primary focus of the book is on Brown and Eisenhower and Warren’s disagreements over it.

Eisenhower’s pre-presidential history is much better remembered than Warren’s earlier years. As a general, Eisenhower commanded the allied forces who liberated Europe during World War II. He was known as a consensus builder who was able to hold together a coalition of allies in the liberation of Europe and effectively manage some of the very difficult personalities who served under him. As President, Eisenhower’s directives were critical in the final steps of the desegregation of the military and other federal programs. As President of Columbia University after World War II, Eisenhower staunchly supported academic freedom and opposed faculty loyalty oaths.
Simon uses the loyalty oath controversy to paint the first contrast between Eisenhower and Warren. In the late 1940s and early 1950s at the height of the anti-communist Red Scare movement, Senator Joseph McCarthy led a movement to have professors at colleges take a “loyalty oath,” in which they would profess that they were not communists and did not support communism or the overthrow of the United States Government. Professors faced termination if they refused. Eisenhower was an outspoken advocate of academic freedom and went on record opposing any loyalty oaths on the grounds that they restricted academic freedom. Warren initially opposed the oaths, but then in his role as governor of California supported legislation that required a loyalty oath of all California state employees, which of course included the public university system. It is fascinating to read how both Eisenhower and Warren responded to infringements of civil liberties during World War II and the early cold war/red scare era. It is useful background for the main portion of the book, which is a compelling story of how Brown v. Board of Education fractured the relationship between Eisenhower and Warren.

President Eisenhower appointed Earl Warren as Chief Justice of the United States Supreme Court based on an earlier promise to fill the first vacancy on the court with Warren. The votes controlled by Warren's political power in California and the western United States were necessary for President Eisenhower’s election to the presidency. Eisenhower made the appointment promise to gain this support. He was later quoted as saying his biggest mistake as president was appointing, “That dumb sob Warren to the Supreme Court.” It is fascinating to read how a president and a chief justice could both be pro desegregation but have vastly different opinions about how to accomplish the task. Eisenhower felt the Brown decision would force desegregation too rapidly, causing the South to become alienated from the rest of the country. He favored a gradual approach. The author contrasts the steps Eisenhower took while president to desegregate federal institutions with his somewhat contradictory stance regarding Brown and is clearly more sympathetic to Warren than he is to Eisenhower.

Readers interested in the history of the early civil rights era, cold war era national politics, and legal historians will all find Simon’s book of great interest. I also found it interesting in light of President Trump’s attacks on the independence of the judiciary. Despite Eisenhower’s disagreement with Brown, he sent federal troops to Little Rock, Arkansas to enforce its mandate. His first comment regarding the opinion would fit, ironically enough, into a modern tweet: “The Supreme Court has spoken, and I am sworn to uphold the constitutional process in the country. And I will obey.” Even
though his views did not align with the Brown decision, when the chips were down, he was respectful of the Supreme Court’s role in our system of government and ultimately used his power to enforce the ruling. In some ways his support of the decision by sending federal troops to Little Rock cemented the ability of the Supreme Court to effectively resolve divisive and controversial issues in the modern era.
.app Domain Names and Progressive Web Apps

JAN 03, 2019

BY RB TEWKSBURY

New, secure top-level domain combined with high-performance mobile web frameworks are replacing websites and native mobile apps. Really.

Two technologies you’ve probably never heard of are transforming the web and how we use it. Google’s new .app top-level domain provides peerless security and speed by default. Progressive web apps may be the most significant advance in mobile web technology since Apple’s release of the iPhone on June 29, 2007.


<blockquote>Google’s estimated share of global search engine market August 2018: 78%.</blockquote>

Google is also the largest recipient of online advertising dollars, with an estimated 37% of total online ad spend in 2018 or $42 billion in U.S. ad dollars.

Law firms that lack a mobile-first web strategy are at a competitive disadvantage to firms that fully embrace mobile. Secure top-level domains like .app and progressive web apps are replacing traditional websites and native mobile applications. This is where the web is heading next.

.app Domain Names

There are [https://data.iana.org/TLD/tlds-alpha-by-domain.txt](https://data.iana.org/TLD/tlds-alpha-by-domain.txt) more than 1,500 top-level domains—also known as TLDs, available for registration. The most common generic TLDs include .com, .net and .org. There are country code top-level domains like .us for the United States,
.uk for the United Kingdom and .io for the British Indian Ocean Territory. There are restricted TLDs for example .bank for financial institutions, .gov for U.S. Government and .mil for the U.S. Department of Defense. There are several attorney-related TLDs available including .abogado, .associates, .attorney, .law, .lawyer, and .legal.

Now there's .app ... an important new unrestricted top-level domain (https://www.google.com/url?q=https%3A%2F%2Fwww.registry.google%2F&sa=D&sntz=1&usg=AFQjCNFqf4tU_5bGB8iMpeD_AvJvm70P3Q) backed and (https://www.google.com/url?q=https%3A%2F%2Fget.app%2F&sa=D&sntz=1&usg=AFQjCNHSu0BJ5Ss mRQxm_tsEFU67KnWC-g) managed by Google. According to Google Tech Lead and Senior Software Engineer Ben McIlwain, .app is ...

<blockquote>the world’s first entirely secure all HTTPS open top-level domain.</blockquote>(https://developers.googleblog.com/2018/05/introducing-app-more-secure-home -for.html "target="_blank) Google states "A key benefit of the .app domain is that security is built in—for you and your users. The big difference is that HTTPS is required to connect to all .app websites, helping protect against ad malware and tracking injection by ISPs, in addition to safeguarding against spying on open WiFi networks. Because .app will be the first TLD with enforced security made available for general registration, it’s helping move the web to an HTTPS-everywhere future in a big way."

In February 2015, Google paid a then record-setting $25,001,000 to The Internet Corporation for Assigned Names and Numbers ((https://www.icann.org/) ICANN) for the registry rights to the .app TLD. The company launched .app at (https://youtu.be/kBkX30Cj7Bw) Google I/O 2018.

GoDaddy Vice President (https://domainnamewire.com/2018/05/07/app-continues-to-soar-sets-records-at-godaddy/) Paul Nicks is quoted as saying ".app is its biggest new top level domain launch to date in terms of pre-orders at the registrar. Every day of early access has beaten the same day of other new TLD early access periods, and it has more pre-orders than any other domain."

More than 250,000 .app domains were registered in the first month of availability.

<h4>.app is an excellent top-level domain choice for attorneys—offering better user experience opportunities and private, secure attorney-client communications.</h4>Domain names are not
purchased, they are registered. To register a domain name you use a domain name registrar like GoDaddy. Registrars either own the rights to a specific top-level domain—also making them the registry for that TLD. Or they acquire those rights from the rightful owner. Think of registrars like retailers. These retailers get their TLDs from wholesalers called registries. The registries acquire their rights to a specific TLD directly from ICANN.

<blockquote>... the Internet Corporation for Assigned Names and Numbers (ICANN) helps coordinate the Internet Assigned Numbers Authority (IANA) functions, which are key technical services critical to the continued operations of the Internet's underlying address book, the Domain Name System (DNS).</blockquote>

As with other TLD extensions like .com or .lawyer, your desired .app domain name may already be registered. Do not wait. Even if you have no intention of building a progressive web app anytime soon. It’s a good idea to secure your .app domain(s) right now. New domain names can be registered at (https://get.app/) Google, (https://www.godaddy.com/) GoDaddy, (https://donuts.domains/great-domains/premium-domains/) Donuts, (https://www.hexonet.net/) Hexonet and most other domain registrars. Domain name registrations fees vary by registrar so it pays to shop around.<h4>Mobile Applications</h4>Mobile apps—also referred to as native applications, are designed and optimized to run on mobile devices such as smartphones, tablets and watches. The vast majority of us use mobile apps all day, every day. Mobile apps are most often searched for, found, downloaded, installed and/or updated directly from (https://www.apple.com/ios/app-store/) Apple's App Store for iPhone/iOS devices or from (https://play.google.com/store/apps) Google Play for Android devices.

The Web and our mobile devices have changed dramatically since Apple launched the iPhone nearly a dozen years ago. Today, more people access and search the Web using mobile devices and smartphones than those using desktop computers.

Google is by far the dominant moving force in mobile technology today. The company's mobile operating system Android powers around 60% to 65% of mobile devices in the U.S. and 85% or more of the world market. All of these mobile devices have Google accounts. Apple's share of the smartphone market in the second quarter of 2018 was approximately 13% in the U.S. and 11.9% worldwide.
Google Play and Apple’s App Store are powerful marketing and content distribution channels for app developers, content creators and attorneys alike. By the first quarter of 2018 there were about 3,800,000 Android apps available on Google Play. There were approximately 2,000,000 more iOS apps available in Apple’s App Store.

According to Google “Mobile apps have become an integral part of people’s daily routines, with 92% of smartphone owners using apps. New research from Ipsos shows that, when done right, advertising through mobile apps is successful both at reaching decision makers and at driving action.”

There are many attorney-related mobile apps in the App Store and on Google Play. Most law firms however have not yet embraced native apps for mobile marketing or for enhanced, secure attorney-client communication and engagement.

Law firms that have and use native mobile apps almost always have firm websites as well. This mobile marketing strategy is inefficient, expensive to develop and difficult and expensive to maintain. Mobile apps require separate application builds for each mobile platform: Android, iOS and the web. Updating content, finding and fixing bugs, releasing new features and updates and managing app version control and web servers can sometimes overwhelm even the most talented technical teams.

Many law firms have opted instead for building and maintaining mobile responsive websites. A web design concept first introduced by Audi.com in 2001. Websites like these offer limited user-engagement capabilities and are often constructed using content management systems like WordPress—first released May 2003. There is a better way … it’s PWA. Progressive Web Apps leverage the benefits of open web standards and modern web browsers to provide users with a rich mobile experience. Progressive web apps are not actually apps at all. But instead, a mobile-web framework for defining minimum code requirements and best practices for a better mobile-user experience.

According to Google
“Progressive Web Apps (“PWAs”) are experiences that combine the best of the web and the best of apps. They are useful to users from the very first visit in a browser tab, no install required. As the user progressively builds a relationship with the app over time, it becomes more and more powerful. It loads quickly, even on flaky networks, sends relevant push notifications, has an icon on the home screen, and loads as a top-level, full screen experience.”


Not true. Many law firms do have and use mobile applications. These firms represent only a small fraction of all law firms that could use and financially benefit from mobile app marketing.

.app top-level domains provide a superior solution for securing attorney-client communications. The TLD
also adds browser speed and better user experience opportunities.

Progressive web apps provide a unique opportunity for attorneys to connect and engage with their clients and the public. They’re also an often overlooked and underutilized mobile-marketing channel for law firms. Firms that use mobile apps and/or progressive web apps as part of their mobile-first marketing strategy can enjoy a significant competitive advantage. When a well-built progressive web app is paired with an appropriate .app domain name, traditional websites and native mobile apps cannot effectively compete.\blockquote\A well-built progressive web app—combined with a premium .app domain name, is a winning Web-marketing strategy for law firms and attorneys.\blockquote

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The Other Bar – Supporting Recovery in the Legal Profession

JAN 02, 2019
BY MEE MEE WONG

The Other Bar is a network of recovering lawyers, law students and judges throughout the state, dedicated to assisting others within the legal profession who are suffering from alcohol and substance abuse problems and other addictions. It is a private, non-profit corporation founded on the principle of anonymity and provides services in strict confidentiality.

In existence for over twenty-five years, it serves people from all walks of the profession, including judges, prosecutors, defense attorneys, large firm partners and solo practitioners. The Other Bar’s purpose is to provide strength and support, which it does through entirely voluntary AA-type meetings in dozens of cities and towns across California. This network of “lawyers helping lawyers” comprises over 30 peer support meetings throughout the state, most of which meet every week and serve more than 600 lawyers each year who support each other in recovery and assist others in becoming and staying clean and/or sober. The Other Bar is not a 12-step program, although many meetings follow the 12-step model. Individual meeting formats are decided at the local level. For many, however, The Other Bar serves as a bridge to the larger community of recovery options. All recovering lawyers, judges, and law students are welcomed regardless of their recovery model: 12-step, medical, therapeutic, religious, secular, etc.

In addition to its basic recovery programs, The Other Bar also provides education and outreach in the form of MCLE programs, both online and live, focused on recovery. And through its Shot of Sobriety Loan Program, it assists with the costs associated with hospitalization and residential treatment for attorneys and judges who need it. Finally, it provides two retreats in the fall, one for men and one for women, and a statewide networking conference each spring, where lawyers, judges, law students and their families
come together to share their experience, strength and hope. Need-based scholarships to the retreats and conference are available through the Judge William Beard Memorial Fund.

The Other Bar is completely unrelated to the discipline system of the State Bar of California. In fact, many Other Bar participants have had no disciplinary problems at all. And unlike the State Bar Lawyer Assistance Program, the Other Bar has no dues or fees for participation and serves a community of lawyers, judges, law students and others in the legal community at various stages of recovery. It is the only network that focuses on continuing recovery -- for life. It is also the only recovery forum where lawyers can openly work on problems and pressures directly related to the practice of law. Lawyers can be assured of complete confidentiality and the mentorship of others with decades of experience with the same challenges.

If you, or someone you know, is suffering from alcoholism or chemical dependency, you can speak with one of its professional consultants (800.222.0767) who can immediately respond to an individual's concerns with hands-on help with recovery and referrals. These consultants, David Mann (Northern California) and Greg Dorst (Southern California), provide confidential assistance and both have personal knowledge of what it means to be an attorney in need of help with alcoholism and/or drug addiction. Their hands-on help may even be a ride to your first meeting. Donations to the non-profit are encouraged to support this important resource for substance abuse support.
The Marin Lawyers’ Meditation Group provides an opportunity for lawyers (and allied professionals, including any member of MCBA) to take a lunchtime break from their day to meditate and connect with fellow meditators. Founded by lawyers a number of years back, the group provides a space to meditate away from the office and discuss the challenges of practice—both legal and meditative.

Starting this year, the group is meeting every Thursday (instead of twice a month) at noon at 1000 4th Street, San Rafael in the second-floor conference room (No. 285.) Meetings last until 1:00 and you are welcome to bring your lunch. Everyone is welcome no matter your level of meditation experience, whether you are just beginning to meditate or have been meditating for years.

Each session starts with a 25-minute meditation (self-guided, although on rare occasion there may be a guest who leads a meditation,) followed by a chance to discuss whatever is on your mind, whether the stresses of law practice, a personal issue or questions about meditation practice. People sometimes share something they are reading or other resources (such as news about retreats) relating to meditation practice. The group is an ideal place to learn a little bit but most importantly feel supported in your own meditation practice no matter what it looks like.

Attendance is always free and no sign-up is required. There’s no formal agenda and no one goes to every session—you can just show up whenever you want. You can get on the group's mailing list, which is mostly a reminder for each meeting, by emailing (awolfe@montywhitelaw.com?subject=Please%20Add%20Me%20to%20the%20Marin%20Lawyers'20
Meditation Group E-Mail List) Andy Wolfe. The December, 2018 "Wellness" issue of the Marin Lawyer (which you can find (https://marinbar.org/marin-lawyer/newsletter/?id=38) here) has some articles about meditation and further useful resources in Marin.
Report from MCBA’s 11th Annual MCLE Fair

JAN 02, 2019
BY MEE MEE WONG

Those who missed MCBA’s annual MCLE Fair missed both a roster of stellar speakers and the chance to check off the boxes for their specialty credits. And for the first time this year, attorneys and their staff could attend concurrently, with MCBA offering a separate track for legal professionals that covered everything from e-filing rules to the role of a law office in the aftermath of a disaster. Attendees were able to select programs from either track.

Law Professor Carol Langford from the University of San Francisco kicked off the attorney program with an overview of the newly updated rules of professional conduct along with “beware narratives,” or anecdotes about some of the ways you can get into trouble. Next came David Mann, a consultant for the Other Bar (see the profile of the Other Bar in this issue.) After polling coffee drinkers about the power of addiction, he reviewed the brain chemistry of addiction and discussed its behavioral and health consequences. David was a Stanford Law School graduate and served as a deputy public defender in San Francisco before resigning his license due to substance abuse issues. Attendees were moved by his relentless battle with addiction, which included numerous hospitalizations and periods of living on the streets, before he succeeded in getting clean and sober in 1998.

Expert mediator and litigator Matt White then covered recent developments in negotiating settlements and not crossing the boundary from advocacy to dishonesty. The audience peppered the speaker with scenarios and a lively discussion ensued. You can get Matt’s handout (https://marinbar.org/docs/mcle/mcba-ethics-in-mediation-white-93-4410.pdf) here. The Hon. Jeffrey Bleich, a former U.S. ambassador to Australia, delivered the luncheon keynote address. Jeff is a former special counsel to President Obama and a former California state bar president, now a partner at Dentons in its public policy and regulation practice. After a self-deprecating introduction acknowledging
his loss in the Lt. Governor’s race, he expressed gratitude to the Marin precincts for the votes. He spoke of hope and change during tumultuous political times and discussed revisions to the Constitution that resulted from some of those times. He concluded the Q & A with a hilarious and previously-untold story of his journey to Graceland and a sweet homage to the King. He was “on key.”

Incoming MCBA President Charles Dresow then moderated a panel with Judge Geoffrey Howard and Judge Sheila Shah Lichtblau on guidelines for courtroom behavior. Discussion included using PowerPoint and “bad behavior.” On these two points: “If you don’t know how to create a good PowerPoint, don’t use one,” and bad behavior creates a lasting memory, or in other words, a bad reputation. Next up was Vince Mancini, a Los Angeles writer, comedian, podcaster and Senior Film and Culture Writer for Uproxx who shared the stage with Charles Dresow on how media and pop culture influence trial outcomes. Discussion ranged from the success of the podcast Serial to navigating public perceptions while defending clients in criminal court.

The fair concluded with an update on the legal landscape of cannabis businesses, with a panel of Habib Bentalab and Shabnam Malek, attorneys advising clients in the cannabis industry, and Josh Fryday, Mayor of Novato, who spoke about his city’s experience developing local ordinances in response to legalization of the recreational use of cannabis. The panel provided an overview of the cannabis industry and discussed current laws and regulations. You can find the handouts (https://marinbar.org/docs/mcle/mcba-ca-legal-landscape-for-cannabis-bentaleb-89-9188.pdf) here and (https://marinbar.org/docs/mcle/mcba-ca-landscape-for-cannabis-malek-90-7295.pdf) here.

MCBA would like to extend a tremendous thank you to all of the speakers, to MCLE Fair Chairperson Charles Dresow for organizing such a successful event and to the fair’s sponsors:

Buddish Insurance
Homa Rassouli, Reverse Mortgage Specialist
Ragghianti Freitas
Resolution Remedies
Rutter Group, Thompson Reuters
West Coast Reporters
Don’t miss next year’s fair! You can see photos of this year’s on MCBA’s (https://bit.ly/2Rd72nV) Facebook page.
On December 11, 2018, Mee Mee Wong, MCBA Executive Director, accepted a Certificate of Appreciation as Community Partner Extraordinaire at a ceremony held by the Marin County Board of Education. The Marin County Bar Association was recognized for its longtime support of the Marin County Mock Trial Competition.

The Marin County Board of Education acknowledged MCBA’s commitment to the program:

> The Marin County Bar Association has provided generous financial support over many years that helps to make the competition possible for our students. The Bar Association also has a strong commitment to encouraging their members to volunteer for the competition. The level of volunteer dedication from Bar Association members as attorney coaches, scorers and judges, paired with the financial commitment, has helped to create and sustain a strong and vibrant educational program. In short, we simply could not do without the Marin County Bar Association and its members.

The Marin County Bar Association demonstrates that by working together, community organizations and educators can continue to expand our students’ horizons with valuable opportunities such as Mock Trial. In addition, our students benefit from working with caring professionals interested in, and encouraging of, their futures.

The Marin County Mock Trial competition supports approximately 250 high school students as they explore a working knowledge of our judicial system. Volunteer scorers are needed at the next Mock Trial competition. If you would like to participate, please see the time slots below along with information on the role and how to register as a volunteer.
• SAT | Jan 26, 2019 | Round 1 | 8:30am-10:30am
• SAT | Jan 26, 2019 | Round 2 | 11:00am-1:00pm
• SAT | Jan 26, 2019 | Round 3 | 2:30pm-4:30pm
• SAT | Feb 2, 2019 | Round 4 | 8:30am-10:30am
• SAT | Feb 2, 2019 | Round 5 | 11:00am-1:00pm
• SAT | Feb 2, 2019 | Final Round | 3:15pm-5:15pm


On behalf of the Marin County Bar Association, thank you to our members for supporting the Marin County Mock Trial Competition for nearly two decades.