



# APPELLATE DEFENDERS ISSUES

A Quarterly Publication of Appellate Defenders, Inc.

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## Notes From The Director

by Elaine A. Alexander

### Appellate Advocacy College

I am delighted to report the Appellate Advocacy College May 15-26 was a resounding success from the perspective of all concerned — the trainees, faculty, projects, and judiciary. The curriculum, which included lectures and practical workshops, was intense and comprehensive. The faculty and lecturers gave superb instruction. The facilities were excellent, and the Administrative Office of the Courts staff, especially Marcia Taylor, Donna Drummond, and Deborah Collier-Tucker, went out of their way to make the experience a smooth, collegial, and enjoyable one. The participants all ended with a sense, not only of real professional advancement, but of cohesiveness with their colleagues. The program will continue with a mentoring phase covering about 18 to 24 months.

As I mentioned before, we would like to ensure the most essential benefits of the college are accessible to the panel as a whole. Written materials are available on the Judicial Council Web site (A link to the materials is on the ADI Web site <<http://www.adi-sandiego.com>>, under "Attorney Resources.") and videotapes of the lectures are available in ADI's library. Additionally, ADI is planning a series of brown bag lunches to summarize the topics covered in the college and allow group discussions of them.

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Hopefully, we can begin this in the fall, when summer vacations are over.

### Associate Counsel Policies from AIDOAC

This is a reminder of a policy on associate counsel the Appellate Indigent Defense Oversight Advisory Committee announced a number of months ago:

- ◆ Associate counsel should not be used in assisted cases, without exceptional circumstances and prior project director approval.
- ◆ When submitting a claim that includes associate counsel time, the appointed attorney must include the associate counsel's name and State Bar number with the claim

### Factors Affecting Panel Ranking

As I mentioned in the last newsletter, frequently panel attorneys ask what determines their status on the panel — that is, what kind of cases they will be offered, how often, and whether the cases are assisted or independent. This concern is altogether natural and appropriate, since it affects both pocketbook and professional stature. But the answers are not at all easy, given the complexity of factors that affect such a judgment. They might be summarized as experience and quality of work — two very broad concepts.

### ◆ Weighing Experience

Experience is the easier to describe, since it (Story Continued on Page 2.)

has a larger quantitative aspect to it. It includes background brought onto the panel and work done on the panel. The more years of practice one has coming in, the more exposure to a variety of issues, procedural tools, potential pitfalls to avoid, resources, and the like. But the quality of the experience is even more important. Obviously, relevant experience is much more valuable than unrelated legal practice. And practice that includes training and continual feedback from peers skilled in the field is the most critical of all. There is not much value in getting years of experience doing something the wrong way time and time again. For this reason, we give experience on the panel much greater weight.

When we consider whether an attorney has sufficient experience on the panel to move to more complex or to independent cases, we look at the number and types of cases the attorney has handled and the variety of issues he or she has had to address. Even if they already have superb writing and analytical skills, attorneys who are just beginning in criminal and/or appellate work need help over a number of cases in such experience-dependent areas as awareness of exceptions and nuances in the basic law, issue identification over a broad range of cases, appellate procedural technicalities, and sentencing peculiarities. We have to be reasonably confident an attorney is able to handle the demands of the new work we will be offering in all of these areas.

### ◆ **Assessing Quality**

Experience is a necessary factor for advancement, but it is hardly sufficient and is not the most important. By far the greatest weight is given to quality of work. There is no way I could spell out in a few paragraphs what goes into quality judgments.

The considerations we use in assessing quality have been (and will continue to be) the topic of innumerable articles and guidelines in this newsletter, in our panel handbook and manual, in lectures, conversations, and the like. Attorneys need to be aware of these considerations and perhaps review them periodically as a kind of personal “checkup.” Seeking feedback from staff attorneys via our formal evaluation program (see next paragraph) or in other ways is invaluable.

Since quality is such a broad and inclusive (as well as elusive!) concept, I will just outline some of the most frequently-made observations, positive and negative, in the written evaluations staff attorneys make of the appointed attorney’s work in every case handled under our program. (These comments are available to the appointed attorney on request. Simply attach the evaluation request form, which can be obtained on our Web site, to the copy of the AOB you send ADI.) Every staff attorney will give many nods of recognition in going through this list. These comments show the factors in performance that almost always stand out for those doing and reading the evaluations. It is important to keep these factors in mind as you try to assess your progress on the panel.

### **Frequent Positive Comments**

#### ◆ Astute issue-spotting:

“Found a subtle issue.” Especially impressive in assisted case: “Found an issue I didn’t point out.”



#### ◆ Sound argumentation:

“Logical, complete, and well-organized development of arguments.”

#### ◆ Responsibility:

“Diligent in correcting gaps in the record.”  
 “Handled a difficult client skillfully and patiently.” “Clearly and promptly explained to client possible adverse consequences.”  
 “Performed all tasks in a timely way.”

#### ◆ Skillful writing:

“Clear, concise presentation.” “Very persuasively argued.”

#### ◆ Dilligent and adept research:

“Found factually on-point cases.” “Went the extra mile to find a non-obvious authority that really nailed the point.”

#### ◆ Cooperativeness:

“Intelligently incorporated my recommendations in final draft.” “Submitted drafts in a timely manner.”

## Frequent Critical Comments

◆ Carelessness in writing (by far the most common area of criticism):

“Many typos marred the professionalism of this otherwise well-argued brief.”  
“Sloppy proofreading.” “Used inconsistent citation form that deviated from style manual.” “Inaccurate citations.”

◆ Mis-judgment in evaluating issues:

“One argument is clearly frivolous.” “Failed to raise an important issue on [fill in the blank].” (The staff attorney will always contact the appointed counsel in these situations.) “Raised borderline issues.” (The staff attorney will often contact the appointed attorney in this situation, especially if the borderline issues are the only ones and Wende treatment might be needed.) “Submitted case for Wende review even though there were two obvious issues on the face of the record.”

◆ Careless use of authority:

“Cited a case in which review has been granted.” “Missed recent case on this issue.” “Described *People v. [fill in the blank]* inaccurately.” “Failed to deal with adverse authority on point.”

◆ Poorly developed arguments:

“Disorganized, hard to follow.” “Failed to discuss prejudice.” “Cursory analysis of fairly complex issue.” “Went off on wild tangent.” “Overwritten and verbose: takes 20 pages to make simple point.” (This observation is usually followed by, “Will take account of this on the claim.”)

◆ Poor client relations:

“Client rightfully complained about lack of communication.” “Was curt and discourteous to client.”

◆ Irresponsibility:

“Did not augment until prodded to do so, and waited until third extension.” “Submitted draft on last day of 17(a).” “Needed four extensions on uncomplicated case.” “Allowed 17(a) to issue —

again.” “Raised issue needing client consultation without doing so.”

◆ Uncooperativeness:

“Failed to incorporate my suggestions into final brief, though offered no reason and the changes would have substantially improved brief.” “Did not submit draft at the time promised.” “Did not consult ADI about ineffective assistance of counsel argument.” “Resistant to raising good issue.” “Resentful of criticism, no matter how tactful I was.”

### A Final Suggestion:

The familiar IRAC formula, modified to an unpronounceable IFRAPC for most appellate briefs, really does give a good impression and will help avoid many of the problems that may lead to lower evaluations:

• **I**ssue summary

• **F**acts related to issue, including arguments and ruling below

• **R**ules, principles, and authorities applicable to the issue, including standard of review

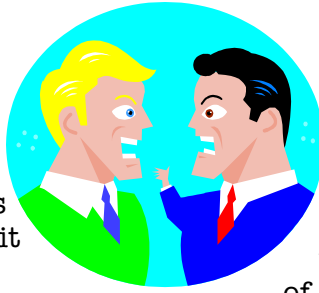
• **A**pplication of that law to the particular case

• **P**rejudice, including standard of prejudice to be applied

• **C**onclusion, including a statement of the exact relief requested.

(Story Continued on Page 4.)

## Getting “Personal” In Legal Pleadings



Inappropriate “personal” language in briefs and other submissions is invariably a hot issue when it occurs.

Sometimes it will appear in an opening brief, particularly in the context of an IAC or prosecutorial misconduct contention. The argument might start, for example, with a quite proper description of the offending conduct and discussion of its prejudicial effects, then degenerate into irrelevant speculation on the offending attorney’s motives or allusion to his/her reputation or conduct in other cases.

But the problem usually comes up in reply briefs (in reaction to something irritating in the respondent’s brief) and petitions for rehearing (in reaction to something perceived as egregiously wrong or unfair in the opinion).

The attorney might take offense at the respondent’s characterization of an argument, for example, and launch into a harsh denunciation of the respondent’s attorney, rather than the brief’s poor reasoning. It is especially tempting to reply in kind when the respondent has gotten personal to start with.

Opinions can be a provocative source of indignation, too. For example, in the attorney’s view, an opinion may have failed to address an important issue, or have recast a carefully crafted contention unrecognizably, or have failed to understand or even acknowledge an important point, or have disregarded good authority the attorney had cited. The invariable and highly understandable reaction is frustration. The attorney will fume, “How can they do this to me [or my client]?” The words that follow may not be pretty. We have seen petitions for rehearing accusing judges of dishonesty, incompetence, abuse of office, bias, and indifference to justice, among other things, because of something in the opinion.

It is both unprofessional and tactically unwise to attack other attorneys on a personal level. It degrades the writer and his or her reputation, sometimes permanently. It is a disservice to the client, too. A client’s fate may rise or fall on the credibility of the advocate. And the usual response of the reader is the opposite of the intended one — distaste and reduced respect for the writer, and an urge to come to the defense of the one under attack, instead of the other way around.

If it is unprofessional and inadvisable for a writer to attack another attorney, acting in an offensive and disrespectful manner toward a court or individual judge who will decide the writer’s case (and other cases of the writer, for that matter) can be downright disastrous. Failure to maintain respect for the court not only violates a professional duty, but also, in extreme cases, flirts with contempt. It is also the most counterproductive conduct I can imagine, for it puts the current and other clients at severe risk of a backlash. I have yet to see a judge say, “Oh, yes, now that you have pointed it out, I see I really am incompetent and prejudiced. I’ll change my decision to your favor.”

Once in a while, if the court does grant rehearing, attorneys have concluded their disrespect toward the court was simply justifiable aggressiveness, because it got results. I strongly suspect rehearing is granted in a few of these cases in spite of, rather than because of, the petition’s language. The worst attorney outrage often erupts when the court has in fact made a serious mistake. The court may defer dealing with the attorney temporarily because it does not want the client to suffer from the attorney’s behavior. (Note the words “may” and “temporarily.”) In any event, results do not justify unethical behavior.

I can understand utterly the temptation to lash out. We have all been there. Frustration at having our painstaking work caricatured or maligned or ignored, resentment at being assailed ourselves, the unhappiness at having to deal with a wronged and/or dissatisfied client — all are natural and highly likely to provoke rash impulses. But in the end there is simply no choice. We have to respond

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professionally and confine our aggressiveness to making vigorous arguments on the merits on our client's behalf, not personal attacks on counsel or the court.

A good technique for maintaining this kind of discipline is, when provoked, write two pleadings — the venting one that sits around a few days then gets put in the drawer or shredded, and the real one that sticks to the merits and gets filed. And always, always in a provocative situation, get at least one and preferably more than one, mature, respected, and objective attorney to read it before it is filed. Most of us have had, or someday will have, occasion to be glad we did!

## IN THE NEWS

### **APPELLATE ADVOCACY COLLEGE: MATRICULATION AND GRADUATION IN A MAY FORTNIGHT**

by Neil Auwarter, Staff Attorney

Panel and project attorneys from all over California gathered in San Francisco in May for the first ever Appellate Advocacy College. The two-week program was organized by the appellate projects and the Judicial Council's "AIDOAC" committee and hosted by the Administrative Office of the Courts in the newly renovated State Building. The intensive curriculum combined seventeen substantive lectures and panel discussions with a model appeal practicum.

Lecture topics included: Law Office Management for Panel Attorneys; Relations with the Projects; Approaching Cases—Record Completion; Issue Spotting; Issue Evaluation; Evidentiary Issues; Jury Selection and Jury Misconduct; Research; Statements of Case and Facts; Argumentation; Case Management; Ethics; Sentencing; Reply Briefs; Oral Argument; Petitions for Rehearing, Review, and Certiorari; and Extraordinary Writs. The written materials accompanying the lectures are available on the Internet. ADI has a link to the lecture material at our Web site, under "Attorney Resources." Also, ADI is planning to host a series of lunch-hour MCLE gatherings featuring videotapes of various lectures.

The model appeal practicum consisted of record review, research and drafting of guilt phase and sentencing issues, culminating with mock oral arguments (many in the courtroom of the California Supreme Court). Project and panel attorneys brainstormed and

applied substantive principles from the lectures at each step of the model appeal.

A typical day consisted of four hours of lectures, four to five hours of group discussions, research or critiques, with several hours of reading, brief drafting, or other "homework" in the evening. Participants' labors were rewarded by excellent support and accommodations provided by the AOC. Thanks are owed to the Judicial Council, its AIDOAC committee, and to the staff of the AOC for their unflagging assistance and hospitality.



### **INVITATION TO COMMENT: DRAFT JURY INSTRUCTIONS**

The Judicial Council Task Force on Jury Instructions is currently evaluating public comment received on their draft criminal and civil jury instructions. The Judicial Council Task Force on Jury Instructions was created to draft criminal and civil jury instructions that accurately state the law in language that average jurors can more easily understand. The Task Force completed a substantial number of instructions and sought public comment to inform both revisions of existing drafts and choices for the remaining instructions. The Task Force was interested in reactions to style, format, legal accuracy, clarity, and usefulness of accompanying notes and commentary.

The draft instructions have not been approved by the Judicial Council. The draft instructions appear on the Judicial Council Web site <<http://www.courtinfo.ca.gov/invitationstocomment/appproposals.htm>>.

# APPELLATE PRACTICE POINTERS

## CALIFORNIA STYLE MANUAL, 4TH EDITION CITATIONS

While probably not the most exciting part about briefing a case in the appellate courts, attention to proper citation form is an important component of this process. Incorrect citation form is likely to distract the reader from the merits of the appellate argument. The appellate courts follow the citation style set forth in the California Style Manual. Although ADI does not require this particular style to be followed, we strongly recommend it. Otherwise, some recognized system of citation, such as the Harvard Blue Book, should be used. The application of the chosen system should be consistent throughout the briefing.

If you chose to use the California Style Manual, it is important to note that a new edition has just been published. Unlike previous editions, the new edition is not distributed through the Office of the Reporter of Decisions, but must be purchased from the West Group at 1-800-328-4880. The new manual is organized in a slightly different order from the earlier edition, but many citation rules, such as most of those pertaining to citations to cases and codes, remain the same. (Cal. Style Manual (4<sup>th</sup> ed. 2000) §§ 1:12-1:18 [California cases] and 2:5-2:10 [California codes].)

An important change is in the italicization of case titles. Now it is proper to italicize the entire case title, including the “v.” between party names. (Cal. Style Manual (4<sup>th</sup> ed. 2000) § 1.1[B].) Another change in this style most applicable to our work is the new order of the parallel citations to United States Supreme Court cases. Under the new edition of the California Style Manual, it is proper to place the citation to the S.Ct. reporter before that to the L.Ed. reporter. (Cal. Style Manual (4<sup>th</sup> ed. 2000) § 1:32.) Additionally, the new manual provides guidelines for capitalizing and punctuating parenthetical statements following case citations. Authors should not capitalize the first letter of the parenthetical statement, nor use ending punctuation. (Cal. Style Manual (4<sup>th</sup> ed. 2000) § 1.6.)

Citations to recently filed California opinions before the official reporter citations are available may be accomplished by citing to various computer-based sources including Westlaw, Lexis, the Internet, (Cal. Style Manual (4<sup>th</sup> ed. 2000) §§1:3,1:18) as well as the newspaper advance sheets. (Cal. Style Manual (4<sup>th</sup> ed. 2000) § 1:18.)

The new manual also contains rules that pertain to written text of the brief, including capitalization and punctuation. (Cal. Style Manual (4<sup>th</sup> ed. 2000) §§ 4:1-4:11 [capitalization] and 4:46-4:55 [various punctuation].) Other useful additions to the new edition of the California Style Manual include: recommendations for racial and gender designations in legal writing (Cal. Style Manual (4<sup>th</sup> ed. 2000) § 5.1); guidelines for citing legislative history, including a “template” for citations for which no example is provided (Cal. Style Manual (4<sup>th</sup> ed. 2000) §§ 2.24-2.36); guidelines for the use of numbers (Cal. Style Manual (4<sup>th</sup> ed. 2000) § 4.28); and rules governing the use of acronyms: no parenthetical designation is required if the acronym is found in the dictionary (Cal. Style Manual (4<sup>th</sup> ed. 2000) § 4.64).



### Performing Electronic Research? Check Your Citation Form

In light of the prevalent use of the Internet as a legal research tool, the Fourth Edition of the California Style Manual addresses the method for citing to electronic sources. This article provides a brief summary of citation form. For a full explanation of the proper method for citing to Internet sources, please see sections 1:3, 1:18, 2:16, 2:18-2:20, 2:22, 2:36, 2:5 of this new edition of the California Style Manual.

## Citation To Recently Filed Opinions

Recently published opinions found online shortly after filing through sources such as Westlaw, Lexis, or at the Judicial Council's Web site should be cited, pending publication, as follows: *People v. Jones* (Mar. 17, 1998, A495005) \_\_ Cal.App.4th \_\_ [1998 Cal.App. Lexis 4567].; *Silva v. Lucky Stores, Inc.* (June 29, 1998, F026156) \_\_ Cal.App.4th \_\_ <<http://www.courtinfo.ca.gov/opinions>>. It is helpful, but not necessary, to provide a citation to the California Daily Opinion Service or to the Daily Appellate Reports.

In out-of-state cases, where a volume and page citation to a paper-based reporter is unavailable, use the following citation form: *Knowles v. Iowa* (Dec. 8, 1998, No. 97-7597) \_\_ U.S. \_\_ [1998 WL 840933]; *Knowles v. Iowa* (Dec. 8, 1998, No. 97-7597) \_\_ U.S. \_\_ <<http://www.supct.law.cornell.edu/supct>>. After opinion title, provide the full date the opinion was filed and docket number in parentheses. In federal cases, court and jurisdiction information must be provided before the date within the parentheses. If you are uncertain whether the case will be published in a specific reporter, leave out the reporter designation. Example: *Roe v. Kidder Peabody & Co., Inc.* (S.D.N.Y., Apr. 18, 1990, No. 88 Civ. 8507) 1990 WL 5200.

### Internet Sources For Legislative History Information

There is a wealth of legislative information available on the Internet. The official site for California legislative information is <<http://www.leginfo.ca.gov>>. This site has a comprehensive collection of legislative materials with access to bills introduced from the 1992-1994 session forward. Included are bill texts, amendments, committee analyses, bill digests, votes, and statutes. The California Secretary of State Web site <<http://www.ss.ca.gov>> contains the ballot pamphlets of recent state elections with the full text of ballot measures and analyses of the Legislative Analyst, arguments and rebuttals. The Legislative Analyst's Office Web site <<http://www.lao.ca.gov>> hosts a list of all the

Legislative Analyst's Office reports and publications from 1985 to the present.

When citing to information at one of the state government's Web sites, include as much of the Uniform Resource Locator (URL) information as is necessary to facilitate locating the material on the Web site. (Cal. Style Manual (4th ed. 2000) § 2:24.) Example: Ballot Pamp., Primary Elec. (June 2, 1998) argument in favor of Prop. 220, p. 10 at <<http://Primary98.ss.ca.gov/VoterGuide/Propositions/220.htm>> [as of Feb 25, 1999].

## Additional Resources

There are several on-line resources providing instructions for citing to Internet sources. Two of the sites are: the *Citation of Legal and Non-Legal Electronic Database Information* by Candace E. Person <<http://www.michbar.org/publications/citation.htm>> and the Citation Styles for Internet Sources at <<http://www.sonoma.edu/library/Resources/citation.html>>.



### FORMATTING YOUR BRIEF - ARE YOU IN COMPLIANCE?

#### California Rules of Court, rule 15(d)(3) - Make Sure Your Margins Are Correct

In a recent case, the Court of Appeal rejected a brief because the side margins did not comport with California Rules of Court, rule 15(d)(3) which states: "The margins shall be not less than 1 ½ inches on each side (so that each line is no longer than 5 ½ inches) and one inch on the top and bottom."

#### California Rules of Court, rule 44(d) - Identify Yourself On The Cover Or On The First Page Of Any Pleading.

In another case, the Court of Appeal rejected an extension request because the attorney's name, address, telephone number and bar number did not appear on the first page of the extension request. If the pleading requires a cover, identifying information should be on the cover.



## HELPFUL HINTS FOR MINORS' ATTORNEYS PREPARING THE CLAIM FORM

By Dave Rankin, Staff Attorney

Minors' attorneys play a unique role in appeals. They're not usually representing the appellant, and they're not really the respondent either. They're charged with discovering and presenting the minors' current circumstances to the court, even though this information is not really part of the appellate record. So, it should come as no surprise that when it comes time to getting paid, the claim form presents unique difficulties for minors' attorneys.

The standard claim form is designed for criminal appeals, and the guidelines for each category were determined with that in mind. Consequently, some of the form's categories don't easily encompass the work done by minors' attorneys, especially when it comes to claiming time for a letter brief and for reviewing the briefs filed by the other parties.

Where should you claim time for the brief you filed? To paraphrase an old saying about ducks, "If it looks like a brief, then it's a brief. If it doesn't, then it's not." The typical minor's brief does not look like a brief, it looks like a letter. It includes a short description of the case, the current circumstances, a joinder, and, sometimes, legal argument. If you filed a typical letter brief, you should claim your time as an "other service" on line 22, 23 or 24. Even if you wrote a legal argument in the letter brief, and put a cover on it, you still should claim the time as "other services." That's the presumption.

But, if you filed a brief with a cover that included a full-blown statement of case and facts and legal arguments, then, and only then, should you claim your time as an "opening brief" on line 6.

What about claiming time for reviewing all those briefs filed by the parents and county counsel? The decisive factor here is whether you opposed any argument made by the other party. Line 10, "review of opposing briefs", is where you should claim your time for reading the briefs filed by the party whose position you opposed. Even if

you agreed with some arguments and opposed others made by the party, you should claim time for reviewing the brief on line 10. On the other hand, the time you spent reading a brief filed by a party you aligned with or joined on all arguments, should be claimed as an "other service" on line 22, 23, or 24.

A final helpful hint for preparing the claim form is to follow these rules of thumb: When in doubt, claim the time as an "other service" on line 22, 23, or 24; or, pick up the phone, give your friendly monitoring attorney here at ADI a call.



## TO FILE OR NOT TO FILE: PETITION FOR REVIEW

By Cindi Mishkin, Staff Attorney

After the Court of Appeal has issued its opinion in a case affirming the conviction, the decision must be made whether to file a petition for review in the California Supreme Court. The answer is not automatic, but turns on several factors, including, but not limited to, the chance for obtaining relief, the strength of the merits of the issues, and the need to exhaust federal issues raised in the appeal. A useful guide to the analysis is whether, if the case were a retained one by a client of limited resources, the appellate attorney would recommend to the client to spend the money to have the petition prepared and filed. In certain cases, however, the importance of the issue itself, in other words, the public interest in having the issue reviewed by the Supreme Court, is a consideration.

If the decision to file a petition for review is made, it is important to remember the nuts and bolts of the process. The petition itself should focus on why review is necessary. (Cal. Rules of Court, rule 29.) It must be filed within ten days of the finality of the Court of Appeal opinion. (Cal. Rules of Court, rule 28(b).) In an appeal, the Court of Appeal opinion becomes final thirty days after it is issued. (Cal. Rules of Court, rule 24(a).) If the petition for review follows the denial of a petition for writ of habeas corpus, in which no

(Story Continued on Page 9.)

alternative writ or order to show cause had been issued, that denial is final when it is filed, and thus the petition must be filed within ten days of the denial. (Cal. Rules of Court, rule 24(a).) But when the denial of the petition for writ of habeas corpus is filed the same day as the opinion issued in the related direct appeal, the date of finality of the petition is the same as that of the direct appeal opinion: thirty days after it is filed. (Cal. Rules of Court, rule 24(a).)

Format for the petition for review is set forth in California Rules of Court, rule 28. The length of the text of the petition for review cannot exceed thirty pages. (Cal. Rules of Court, rule 28(e)(6).)

### **CALIFORNIA INNOCENCE PROJECT**



**T**he **California Innocence Project** is a new and exciting program at California Western School of Law. Students enrolled in the project will assist attorneys and law school faculty in investigating and representing defendants in cases where there is strong evidence of innocence. The program is modeled after the Innocence Project at the Benjamin N. Cardozo School of Law, co-directed by Peter Neufeld and Barry Scheck. To date, the Innocence Project has secured the release of more than 50 wrongly convicted people. To refer cases to the California Innocence Project contact Executive Director Justin Brooks at (619) 525-7079.

The **Institute for Criminal Defense Advocacy (ICDA)** at California Western School of Law seeks to improve the quality of criminal defense representation. For the past eight years, ICDA has hosted the nationally recognized Trial Skills Academy, a program dedicated to improving the trial skills of criminal defense attorneys. The California Innocence Project will serve the mission of ICDA by training law students to be ethical, justice-driven advocates while seeking the release of people who have been wrongly convicted. For more information about the work of ICDA call Kimberly Hernandez at (619) 525-1485 or visit their Web site at <<http://www.icda.cwsl.edu>>.

### **MEET ADI'S NEWEST PARALEGAL - DIN VILLA**

**D**in joined the ADI team in July. Din graduated from U.C. Berkeley in 1996 with a major in Ethnic Studies and a minor in Education. He later obtained an ABA approved paralegal certificate from U.C. San Diego.

Din is a San Diego native and is the proud father of a five month old son. Din has previous criminal law experience from an internship with the District Attorney's Office.

### **APPELLATE DEFENDERS ISSUES: A NEW LOOK**

**T**o better serve our panel and those interested in receiving the ADI newsletter, we have decided to streamline our newsletters by eliminating KUDOS and CIVIL TONGUES from the published newsletter.

The ADI Kudos will be maintained on our Web site in "ADI News" <[http://www.adi-sandiego.com/ADI\\_News/Kudos/Kudos.htm](http://www.adi-sandiego.com/ADI_News/Kudos/Kudos.htm)> . The Kudos are added to the Web site on a regular basis and are maintained by month and year. Starting in May, the Kudos for each month are in alphabetical order by appointed counsel's last name. As with our entire Web site, Kudos may be searched by entering your search terms in the search box located on the first page of our Web site. Helpful Hint: enter the term "kudos" along with your other search terms to limit the results to those pages containing the Kudos. If you need help on searching our Web site, contact Amanda Doerrer at <[afd@adi-sandiego.com](mailto:afd@adi-sandiego.com)>.

To eliminate duplication of effort, we are no longer preparing Civil Tongues. However, please visit our Web site in the dependency section under "Attorney Resources" which provides links to recent case summaries in the dependency and juvenile delinquency arenas.

In addition, to conserve resources, all future ADI Newsletters will be published on our Web site in the "ADI News" section. A printed newsletter will be sent only to those who request it. Please complete the following form advising us of your preference and either mail it to ADI or E-mail the information to Lori Olthoff at <[lmo@adi-sandiego.com](mailto:lmo@adi-sandiego.com)>.

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**Please indicate your preference regarding receiving future ADI newsletters:**

Name: \_\_\_\_\_.

I would like to receive a printed newsletter: \_\_\_\_\_.

Please notify me at my E-mail address when the newsletter is available on the ADI Web site.

My E-mail address is: \_\_\_\_\_.

Don't forget to keep us informed of any changes in your E-mail address!!

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## LINKS IN THE LAW: ADI'S WEB SITE

[<http://www.adi-sandiego.com>](http://www.adi-sandiego.com)

### **VISITED THE ADI WEB SITE LATELY? SEE WHAT'S NEW**

The goal of ADI's Web site is to provide a one-stop resource for appointed appellate counsel. In accordance with this mission, we are constantly adding new material and tools to our site. Recently, the entire site underwent a major face-lift. New tool bars and a new navigation structure should make the ever growing site easier to navigate. In addition, the main page of our site lists highlights of new materials in each of the site's six main sections and provides a search box to help you quickly find the information you need.

If you have not visited ADI's Web site, we encourage you to give it a try! Here is some of the information available on our site:

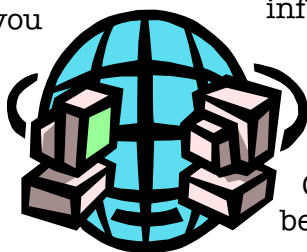
1. About ADI: A complete list of ADI staff with links to each staff member's E-mail address.

2. ADI News: Here you can find current and past Kudos, read recent news bulletins from ADI, and obtain copies of current and past newsletters.

3. Compensation Claims: Everything you need to prepare your compensation claim: claim news, a claim form, unbriefed issue attachment, previously briefed/3x material attachment, information on claim software, and a copy of the claim guidelines.

4. Attorney Resources: This section is the one of ADI's Web site. Here you can find court addresses, court opinions, cases on review in the California Supreme Court, information on handling dependency appeals, a large listing of Judicial Council and ADI forms, MCLE information, and other information.

5. Research Links: This section is constantly growing with new links to sites related to criminal law. Check out the monthly "Hot Site" and be sure to send us your favorite sites!



Can't find something at our site? Check the "Site Map" or use the search feature on our home page. Still no success? Contact Amanda Doerrer <afd@adi-sandiego.com> for help. We encourage you to use the "Comments" feature to provide us with with your suggestions for how the site can better serve your needs.

**Searching For Old Copies of Appellate Defenders Issues?  
Visit the ADI Web Site!**

Go to ADI News and in the "Newsletters" section we have posted PDF copies of ADI's more recent publications of "Appellate Defenders Issues." Because the newsletters are in PDF format, they are searchable and can be easily printed out. Currently, newsletters published between since January 1998 are available on our Web site.

Additionally, thanks to the tremendous work of former Senior Paralegal Elaine O. Sinagra, we now have a complete index of all past issues of "Appellate Defenders Issues." The newsletter index is on the ADI Web site under "ADI News." Click on "Newsletters" and then select "Index." The index lists each of the past issues with title information for each of the articles. ADI currently has extra copies of many previous issues. Issues where extra copies are available are marked with a red link. If you would like a copy of a past issue, or if you would like a copy of a single article from a past issue, please click on the "Article Request" link at the top of the Index and complete the request form.

## 4TH APPELLATE DISTRICT COURT NEWS

### Court of Appeal Web Site

Fourth Appellate District case information is now available on the Internet at <<http://appellatecases.courtinfo.ca.gov>>.

The Web site allows you to look at the actual court dockets for pending Court of Appeal cases. Division One only has case information for cases after appeal no. D035601; however, Divisions Two and Three appear to provide case information dating all the way back. Visitors can search by attorney name, party name, superior court number, or Court of Appeal number.

Using the new Web site, visitors can find the following information:

1. The date of filing of any brief;
2. The due date for the brief;
3. The next pending action on a case;
4. Court calendars;
5. View the Court of Appeal docket.

Perhaps the best feature of all is that you can enter your E-mail address to be *automatically notified* on various activity

occurring in a case such as when briefing is filed or when there is a disposition entered. The E-mail feature and the ready access to the court docket should substantially reduce time and expense in calling the court clerks.

Because attorneys are likely to want to go to the new Court of Appeal site repeatedly, visitors to the ADI Web site may go directly to the Court of Appeal site by clicking on the button titled "COA Docket" appearing at the top of each page.

### Oral Argument in Division Three

Sometimes attorneys waive oral argument, especially in cases where the appellant is serving a relatively short sentence, thinking the opinion might issue more quickly. Currently, if oral argument is requested in Division Three, it takes about four or five months for the case to be scheduled on the oral argument calendar. If oral argument is waived, it can take up to a year for the opinion to issue. Thus, waiving oral argument will not speed up the process. Bottom Line: Don't waive oral argument for the wrong reason!

### New Filing Hours in Division Three

Effective July 3, 2000, the filing window hours in Division Three will be 8:00 a.m. to 4:00 p.m. Telephone hours will be 8:00 a.m. to 5:00 p.m.

