



Jump Start for 2011

By Bradley P. Boyer and Steve Truitt

The start of a new year is the perfect time to recreate yourself, learn new skills and implement new habits. To ensure that 2011 treats you better than the last year, focus on developing new habits that will generate business for you and your firm. Here are a few for you to consider:

Join an organization. There are many organizations that a professional can join to meet potential clients. There are charities, chambers of commerce, bar associations, networking groups, etc. Any organization can get you exposure to potential clients — you just need to make sure that these are the types of clients you want. Joining organizations is not a numbers game — it makes most sense to get extremely involved in one if you are short on time. Get on a board or leadership committee, this will give you exposure to all members and extra face time with the leaders. There is a great story of two lions in the jungle. One spends his days chasing squirrels. He catches one, eats it, gets hungry, then runs and catches another, eats it and so on. The second lion waits until he finds an antelope. He chases it down — expending much more energy on the large beast, but once he catches it he has enough food for a week. What are spending your time on...squirrels or antelopes?

Do not eat lunch alone. It is often said that a lunch at your desk is a wasted opportunity to get business. Ask yourself right now: “Is there a contact or lead that I’ve been putting off for whatever reason?” Maybe you are worried about how to approach that contact, or about what may happen. Take a risk and challenge yourself. Step out of your comfort zone. You will have a breakthrough in networking when you call the scariest person on your list and set a meeting!

You can’t always get the business, but you can look great losing it. Someone will see that and it will make a difference in how you get clients in the future.

Market with others. When networking it is better to have a “wing man” or “wing woman.” It is much easier to sell others than to sell yourself. If there are two of you marketing, there is double the chance that the potential client will like you. This is time to get creative with your coworkers — roll play, discuss outcomes, create scenarios to visualize. The best teams are comprised of people who compliment each other, not compete with each other. Find the person that gets you and lets you have the floor when it’s your turn — and you do the same. You’ll be amazed at how much trusting someone else with your vision can improve your message.

Market your current clients for new work. Getting a new client is difficult. Thus, one way to expand your practice is to expand the type of work you get from your current clients. You’ve spent a lot of time working from one chair — maybe it’s time to step out of the “work zone” and tap some other resources that you have, which you don’t normally exhibit at work — creativity, communication, etc. The well-rounded professionals who employ several different aspects of their make up can be very successful.

Connect with your potential clients. In order to find out what is important to your clients, It is imperative that you listen to them. The act of listening to someone is a rare and precious art. When you listen to someone, you’re taking in all they say, feel, do, and expect. One client may say “I feel...” while another client may say “I think...” These are keys into how they see the world and how you should approach them. Knowing how your client thinks, acts and communicates can go a long way to creating a stronger connection.

Find a mentor. A key act of success in any field is modeling someone who is slightly older than you, or slightly ahead of you, but doing the same thing you want to. Finding out how they got there, what mistakes they made, how they show up to work everyday, what others are saying about them, what they say about themselves — are all keys to understanding the mind, actions and intentions of someone a few steps ahead on your path to success. The Human Triad model sets for three keys to consider: What do they say to themselves while working? Does how they “show up” at work match what they say about themselves? What are others saying about that person at work — is it in conjunction with the previous two? If all three match, their triad is in order. Is yours?

Refer business to others. People refer business to those that refer business to them. If you cannot send them work, send them indirect referrals — i.e. introduce them to others that may send them business. This is another great networking tool. You can’t always get the business, but you can look great losing it. Someone will see that and it will make a difference in how you get clients in the future.

Become the go-to advisor. People like to surround themselves with others that appear to be a hub. Thus, if you can help others with their problems or set them up with others, this will lead to business. Make sure you also set guidelines and boundaries — you don’t want to be taken advantage of, or lose your own ambition in the process.

Follow up. Most people stop following up with prospects when they do not get business immediately. Stay in the game. Create a simple spreadsheet that tracks your contacts and when you last followed up. If you have an assistant to do it, even better. Find a good balance between being invisible and being a pest.

If you want to achieve success in your firm, you need to excel at one main thing — generating business. The generation of business is the best way to distinguish you from your colleagues. Follow these tips and you should be able to make this year as successful as possible.



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High Court Asked to Broaden Scope of Prop.

By Laura Ernde
Daily Journal Staff Writer

Unlike her allies fighting Proposition 8, San Francisco Chief Deputy City Attorney Therese M. Stewart isn’t urging the state Supreme Court to stay out of the same-sex marriage fray.

Instead, the gay rights litigation veteran who represented the city as an intervenor in the federal case is asking the court to rephrase what she considers a slanted question from the 9th U.S. Circuit Court of Appeals.

The 9th Circuit earlier this month asked the justices to help decide whether Prop. 8 proponents have legal standing to appeal a federal judge’s order striking down the ballot measure as unconstitutional.

On Monday, Stewart submitted a letter to the state Supreme Court outlining her concerns.

Stewart said the state high court should not just address whether Prop. 8 proponents have an interest in the validity of the initiative, but also whether they are harmed by a decision that the initiative is unconstitutional. Unless they are harmed, she argues, proponents won’t have standing to appeal in the federal

courts under Article III of the U.S. Constitution.

“We said, ‘Look, if you’re going to shed any light on this at all, tell us what the interest is,’” Stewart told attorneys coincidentally gathered for a Prop. 8 seminar Tuesday at Sedgwick, Detert, Moran & Arnold in San Francisco. “You’ve got to do more than say yes or no.”

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— Therese M. Stewart

Also, the appellate court’s question said public officials refused to defend Prop. 8. But Stewart pointed out that then-Gov. Arnold Schwarzenegger and Attorney General Jerry Brown allowed the trial to go forward, but exercised their discretion not to appeal.

“It’s neither the first time and it won’t be the last time the governor and attorney general decide not to take a case up they’ve lost,” she said.

The court has received only a handful of letters on the issue so far, from the parties and one from

several groups who have defended other, unrelated initiatives in court.

The plaintiffs’ attorney, Theodore B. Olson, asked the court not to answer the question because he said it’s clear the proponents don’t have standing and the Supreme Court’s involvement will delay the recognition of marriage rights for same-sex couples in California.

Charles J. Cooper of Cooper & Kirk, who represents the official proponents of Prop. 8, urged the justices to weigh in on an issue important “not only to the future of marriage in California but also to the very integrity of the state’s initiative process.”

“Surely the momentous issue of Proposition 8’s validity under the federal constitution should not be determined by an unreviewed trial court decision,” Cooper wrote.

Ballot sponsors are often put in the position of enforcing ballot measures when government officials fail

to, said Damien Schiff, an attorney for the Pacific Legal Foundation, a conservative legal group.

“The right of initiative sponsors to defend their measures in court is of paramount importance to the vindication of the initiative power, which this court has recognized as ‘one of the most precious rights of our democratic process,’” Schiff wrote.

Many legal experts have said they expect the justices to answer the 9th Circuit’s question, even though they are under no obligation to do so. The Supreme Court also has the power to reformulate the question.

Stewart knows the importance of asking the right question. Several years ago, her opponents argued that the California Constitution didn’t recognize the right to same-sex marriage.

Then-Chief Justice Ronald M. George framed the issue slightly differently. He said there’s a fundamental right to marriage itself, and that denying that right to same-sex couples violated the constitution. *In re: Marriage Cases*, 2008 DJDAR 7079. The ruling allowed 18,000 gay weddings to take place until Prop. 8 passed in November 2008.

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Tribe’s Suit Over Tejon Ranch Is Dismissed

By Jason W. Armstrong
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A federal judge tossed out a lawsuit by an American Indian tribe that tried to halt development within the 270,000-acre Tejon Ranch in Kern County by claiming it had an ownership stake in the property.

Judge Oliver Wanger of the Eastern District dismissed the suit by the Kawaiisu Tribe of Tejon and plaintiff David Laughing Horse Robinson on Monday, finding he lacked jurisdiction over claims to the sensitive area that is part of a carefully crafted conservation plan between the developer and environmental groups.

The tribe sued the U.S. Department of the Interior in 2009, contending, among other things, the agency declined to consider the Kawaiisu a federally recognized American Indian tribe and its claim for an ownership stake in Tejon Ranch. The tribe alleged government officials failed to “engage” the Kawaiisu in talks about plans for the property, including Tejon Mountain Village, a future development planned to consist of 3,400 homes, two golf courses, a commercial area and hotels.

Lawyers for the Interior Department argued the case should be dismissed because, among other things, the tribe’s claims were barred by the statute of limitations. Also, the Kawaiisu’s

quest for recognition as a federal tribe was still unresolved, and the court lacked jurisdiction to consider it, government lawyers argued in court papers.

“A decision concerning whether the United States should recognize a government-to-government relationship with an Indian group is a nonjusticiable political question that is inappropriate for judicial review,” Barbara M. R. Marvin, a trial attorney with the Department of Justice, wrote last year.

The case is *Kawaiisu Tribe of Tejon v. Salazar*, 09-CV01977 (E.D., filed 2009).

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Solar Project Firms See a Wave of Legal Challenges

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member national organization that advocates for wildlife and water sources in the western U.S., contends in its suit against the Ivanpah solar project that the Interior Department certified a “legally deficient Biological Opinion” for the project.

The department, Western contends in the suit, failed to “reinitiate consultation, as required, when impacts on endangered species proved to be greater than anticipated.” The Interior Department also rejected “several environmentally preferable alternatives to the project,” the lawsuit states.

The suit seeks a judicial declaration that federal officials violated laws including the National Environmental Policy Act. The plaintiffs are asking the court to halt the project until the government complies with the statutes.

The case is *Western Watersheds Project v. Salazar*, CV11-00492 (C.D., filed Jan. 14, 2011). It is assigned to U.S. District Judge Dolly M. Gee.

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Angels Fans Must Build ‘Class’ to Proceed

By Don J. DeBenedictis
Daily Journal Staff Writer

SANTA ANA — A federal judge tentatively certified a class action against the Los Angeles Angels of Anaheim baseball team and the city of Anaheim for having too few wheelchair-accessible seats in the team’s stadium.

But U.S. District Judge David O. Carter first wants the plaintiffs’ side to come up with about 40 potential class members.

In fact, Carter wrote in a tentative decision Monday, “should Plaintiffs fail to secure at least forty class members in the future, the Court may consider revoking its granting of certification.” *Charlebois v. Angels Baseball*, 8:10-cv-853-DOC (CA C.D., filed June 15, 2010).

The lawsuit claims that Angels Stadium has only two wheelchair-accessible seats out of 3,733 on the higher-priced “Club level,” which is the only area in the stadium in which waiters serve food to patrons. That’s only 0.05 percent of the seats, rather than the one percent that the Americans With Disabilities Act generally requires, according to the named plaintiff’s attorney, V. James DeSimone of Schonbrun DeSimone Seplow Harris Hoffman & Harrison in Venice.

Moreover, an expert for the plaintiff said in a declaration that the stadium has a total of just 287 wheelchair seats, rather than the 439 it should have under the disabilities



Associated Press

Angel Stadium in Anaheim

act. Of those 287 accessible seats, 64 percent are in the cheaper “Terrace level,” where sightlines are poor, rather than being spread proportionally around the stadium as the act requires. Two levels of the stadium have no accessible seats.

Attorneys for the Angels and the city countered in pleadings that the team works closely with Loyola Law School’s Disability Rights Legal Center to assure disabled baseball fans are treated properly. They also argued that the existing number of wheelchair-accessible seats must be sufficient because “more than 85% of these seats go unsold.”

But the real issue in terms of whether to certify a class action is numerosity — whether there are enough potential plaintiffs to justify creating a class, argued Brent M. Giddens of Carlton DiSante & Freud-

enberger.

“While identifying a precise number is not essential, Plaintiff cannot ask this Court to take the quantum leap of faith necessary to equate all wheel chair users to putative class members,” Giddens wrote.

DeSimone said he doesn’t believe the law requires identifying a minimum number of class members. He estimated that if only 15 percent of the number of wheelchair seats are sold each year, there could be at least 3,000 class members.

Carter agreed in his tentative opinion that statistics could be used to estimate the class. Nevertheless, he wrote, the issue of numerosity “is a close call.”

The judge set a second hearing on the issue for May 23.

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BRIEFLY

SANTA ANA — The man once touted as “America’s Sheriff” is now in federal prison. Former Orange County Sheriff Mike Carona surrendered to authorities at a minimum-security prison in Colorado Tuesday morning, according to the assistant U.S. attorney who convicted Carona of witness tampering in 2009. “Justice has been served,” U.S. District Judge Andrew J. Guilford said in concluding a brief hearing Tuesday morning. Guilford sentenced Carona to prison for 66 months in 2009, saying the former sheriff’s actions shamed Orange County. Following the hearing, Assistant U.S. Attorney Brett A. Sagel said the government is pleased that a federal appellate court rejected Carona’s appeal earlier this month and that Carona is in custody. “Michael Carona can no longer deflect attention away from his criminal conduct,” by accusing prosecutors of misconduct. “At the end of the day, Michael Carona has been removed from office, he is a convicted felon, and he is now in jail,” Sagel said. Noting that Carona headed the Orange County jail system, Sagel said, “I’m sure he’s not going to be too happy going to sleep in a prison cell the next 5½ years.”