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LOCAL LEGAL NEWS

Core Competency



BY PAUL WARD

It is a system as old as most of the lawyers we know: defining a law firm associate attorney's level of experience in terms of the number of years out of law school. At Quarles & Brady, that practice has changed in favor of a new model that measures and promotes lawyers according to the development of core competencies. For the past three years, the firm has been moving associates up the ladder toward partnership based on what they can do — their mastery of certain skills and substantive areas — rather than solely on tenure.

“What is great about this approach is that it acknowledges some lawyers learn and master things sooner, and thus can contribute in significant ways sooner. It also is client-responsive in an era when clients are sensitive to paying for the training of lawyers,” said Brad Vynalek, a partner in the firm's Arizona Commercial Litigation Group, whose own professional competencies have earned him the role of national lead of business development for the litigation team in a comparatively short time. Before that, he was the relatively young co-chair of the Phoenix-office Commercial Litigation Practice Group.

Taking ownership of one's career path and seeking advancement based on success, not on years of practice, is something that has always

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Brad Vynalek,
partner, Quarles & Brady

rung true for Vynalek. A 1995 graduate of Stanford and 1999 graduate of University of Arizona Law School, he became a recognized leader in the legal community, with traditionally partner-level responsibilities while he was still an associate and becoming a partner was still primarily a matter of time. In fact, one of the most obvious indicators of his early rise has been his propensity for fostering leadership in others. Late last year, he moderated an American Bar Association annual meeting

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LOCAL LEGAL NEWS

9th Circuit: Wiccans case merits review

THE RECORD REPORTER

A state prison inmate who practices the Wiccan faith got some good news on her religious freedom claims Tuesday from the 9th U.S. Circuit Court of Appeals.

At the state prison for women at Chowchilla, her suit asserts, practicing Wiccans outnumber practicing Jewish and Muslim inmates and outnumber or are comparable to practicing Catholic inmates.

Yet Wiccans are hindered by the lack of prison chaplains versed in the modern pagan religion based on witchcraft, the lawsuit claims. Ordained Wiccan clergy perform initiations, blessings and ceremonies such as Sabbats based on the solar cycle and Esbats based on the lunar cycle, the suit explains.

A circuit panel reversed U.S. District Judge Lawrence J. O'Neill of Fresno and sent Caren Hill's case back to him for further litigation. The panel held that prison administrators may have failed to properly evaluate whether a growing membership in minority religions merited accommodation behind bars. *Hartmann v. California Department of Corrections and Rehabilitation*, 2013 DJDAR 2256.

The former lead plaintiff, Shawna Hartmann, has been dismissed from the case because her release from prison mooted her complaint, the panel noted.

Hartmann and Hill alleged that in denying their requests for a paid full-time Wiccan chaplain, officials violated the U.S. Constitution and the California Constitution, which forbid religious favoritism by government agents.

When the case returns to O'Neill, Hill will have to prove her allegations, the panel noted. If they are true, wrote Kevin T. Duffy, a district judge from New York sitting by designation,

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Numbers:

An inmate survey cited by Duffy found in 2007 that there were 183 Wiccan inmates in California's prison system, down from 598 in 2002. The 2007 count listed 42,666 Protestant inmates, 28,884 Muslims, 23,160 Catholics, 8,296 Native Americans and 3,296 Jews.

VALLEY NEWS

Best-selling author Patricia Cornwell was awarded \$50.9 million Tuesday by a federal jury in Boston.

She had sought tens of millions, contending that her former financial manager, Anchin, Block & Anchin, and its former principal, Evan H. Snapper, handled some \$89 million of her money negligently, failed to account for expenses and personally benefited over the past four years, according to the Boston Globe.

The jury began its deliberations Thursday, and foreman John Martus said it had reached a fair decision concerning Anchin's responsibility to Cornwell.



“Life of Pi” visual effects studio, Rhythm & Hues Inc., is being advised by Greenberg Glusker Fields Claman & Machtinger LLP in its filing for bankruptcy protection.

The El Segundo-based company, which is up for Oscars for its work in “Life of Pi” and “Snow White and the Huntsman,” is the latest visual effects and computer generated animation studio to buckle under global competition and the economic downturn.

DreamWorks Animation SKG Inc. is reportedly mulling laying off as much as 25 percent of its workforce after a disappointing holiday season.



In response to a class action filed by advocacy group Consumer Watchdog calling a mail-order prescription program discriminatory, Health insurer Anthem Blue Cross said this week that it suspended a deadline requiring clients to enroll.



Office Depot and OfficeMAX advanced negotiations for a merger between the two office giants this week, according to sources. The two combined companies would still be behind Staples in the industry.

INSIDE: Mattel wants to step aside while counsel fights for \$172 million appeals verdict. **PAGE 3**

INSIDE: Lawyers becoming cautious of creating another housing bubble. **PAGE 4.**



Wiccans

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prison officials have created staff chaplain positions for five conventional faiths - Catholic, Jewish, Protestant, Muslim and Native American - but failed to account for the possible needs of other faiths.

An inmate survey cited by Duffy found in 2007 that there were 183 Wiccan inmates in California's prison system, down from 598 in 2002. The 2007 count listed 42,666 Protestant inmates, 28,884 Muslims, 23,160 Catholics, 8,296 Native Americans and 3,296 Jews. The total prison population in 2012 was about 141,000.

David C. Kiernan, a Jones Day partner who

argued the case for Hill pro bono, could not be reached. Attorney Barbara A. McGraw, who runs The Prison Religion Project at Saint Mary's College in Moraga, representing Hill, said the case is part of an effort "to promote fair treatment for all religions in the prisons."

Spokespeople for Attorney General Kamala D. Harris, who defended the prison officials, did not immediately return a call seeking comment.

Core

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panel for GCs, entitled "General Counsel Give the Real Deal: Performance Tips and Life in the Value-Challenge Legal World." He has also been asked to present on topics such as "building your own brand" and "driving business success with an eye on ethics." Recently, he assembled and led a panel on succession planning and moving up the corporate ladder, featuring a host of local business luminaries, including Jerry Colangelo and Roy Vallee.

"Brad is not just a great litigator, he is a force in the community," said a past litigation opponent who did not wish to be identified.

"People in my space, around my age, we need to hear from those who have been there before and succeeded," said Vynalek. "We need to know what their challenges were and how they overcame them. It is easy to look at successful people but overlook all the obstacles and challenges they overcame," he said. "Often, the greatest lessons are reflected in those challenges."

One of the obstacles facing Vynalek, and all litigators in the future, is the increasing client demand for certainty of legal outcomes, both in terms of results and the costs of achieving them. Here, again, youth is not Vynalek's weakness but his strength. Developing his career with a partner "mentality" over the past 13 years, rather than waiting for seven or eight years before assuming that role, has allowed him to observe the evolving legal industry and respond to it as he has refined his professional skills, enabling him to anticipate, adapt, and ultimately lead where other attorneys of similar years' experience might not as clearly see the path ahead.

"The days of a partner or two managing the case with a few associates brought in for discreet tasks — the traditional paradigm — is going to morph into who can project manage the process most effectively and get the right outcomes most efficiently. That is going to continue to be transformative of the legal pro-



Vynalek

fession because value will be the primary determinant of success with clients," said Vynalek.

"The practice of law is headed toward one thing: certainty," he added. "For example, alternative fee arrangements are now in great demand, from capped fees to blended rates and many more options, but no matter what the arrangement, cost savings are only part of the equation; what clients really want is certainty. Thus, traditional hourly fees may continue to be used, but building in certainty through advance budgeting will be critical to the practice," he said.

Speaking of certainty, one thing that Vynalek confidently foresees in the future of law is that change, in a profession characterized by tradition, will be the rule rather than the exception. "The amount of space needed to practice law will diminish as things become so much more digital, clients become more national and global, and they aren't always where we are," he said.

Another new trend he sees is in the nature of training — law firms will increasingly partner with their clients and work in joint training sessions to facilitate better service. "Tailored training is often overlooked, but it is critical for both in-house and outside counsel. We will need to do more of it," he said. "Likewise, if you partner with clients on training, you are better able to serve them and represent their business interests."

Whatever Vynalek augurs, he'll be the first to remind you that clairvoyance isn't the secret to success. "Seeing ahead isn't what's needed, just seeing clearly is, and being ready to take action based on what you see," he said. "That's the kind of leadership every organization wants, no matter how old you are."

LEGAL NEWS

Toy giant Mattel wants to step aside

Toy giant Mattel Inc. late Wednesday asked a federal court to let it step aside while rival MGA Entertainment Inc. and its insurers and legal counsel fight out who gets how much of last month's \$172 million appeals verdict and a \$315 million bond Mattel posted in 2011 ahead of the appeal. The move is the latest in an ongoing war between the makers of Barbie and Bratz over accusations each stole trade secrets from the other. In January, the 9th Circuit reversed a \$172 million jury verdict against Mattel on technical grounds. Since then, MGA and others notified Mattel of their claims to the judgment, Mattel said in a court filing. These companies include MGA's former counsel, law firm Orrick, Herrington & Sutcliffe LLP, and five insurers, Mattel said.

County Attorney Montgomery issues statement regarding hit-and-run with AG

To address questions regarding the decision to send the misdemeanor hit-and-run investigation involving Attorney General Tom Horne to the Phoenix Police Department and the circumstances surrounding that decision, Maricopa County Attorney Bill Montgomery issued the following statement.

"The decision to refer the misdemeanor hit-

and-run investigation involving Attorney General Tom Horne to the City of Phoenix Police Department was done at my direction following the conclusion of the investigation into the independent expenditure committee and the decision to not file felony charges. Ordinarily, towns and cities have primary jurisdiction over misdemeanors committed within their jurisdiction. Otherwise, the Maricopa County Attorney's Office only files misdemeanor charges where there are other felonies associated with the case. In this instance, because no felony charges were going to be filed, the misdemeanor case was appropriately referred to the municipal police department with jurisdiction over the alleged criminal offense.

"Additionally, since there was a time lag between the decision to not file felony charges and refer the misdemeanor investigation to the City of Phoenix, and an announcement of that decision, I asked the local Federal Bureau of Investigation office to give a courtesy call to the City of Phoenix Police Department and alert them that a high profile case was going to come to them for review. This was a courtesy notification and not out of the ordinary. I also asked that the City of Phoenix Prosecutor's office be given a courtesy notification that this matter might come to them for review.

"There was no political motivation to either refer the case to the City of Phoenix or to give the Phoenix Police Department courtesy notification that the case would be coming to them.

eDiscovery and Digital Evidence Conference

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Sandra Day O'Connor College of Law
Arizona State University, Tempe campus

This conference will focus on the practical and cutting-edge issues in the discovery and admission of electronic information, including legal holds, computer-assisted search, predictive coding, project management, competency and proportionality. U.S. Magistrate Judges **John Facciola** and **Craig Shaffer** will deliver the keynote addresses.

Panel topics include:

- Litigation holds
- Meet and confer essentials
- Technology Assisted Review (TAR)
- Preserving and collecting electronically stored information
- Achieving eDiscovery competency

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