

Moot Court sessions offered

December 20, 2008

To the Editor:

I enjoyed the article on oral argument in your December, 2008 issue.

I run a program at Golden Gate called Moot Court for Practicing Lawyers. I put together panels of law professors and lawyers who serve as "judges" for lawyers who want to practice their oral arguments on cases pending in appellate courts. After asking tough questions during the argument, we give the lawyers feedback and ideas about increasing their chances of winning. It works – many of these lawyers report that the practice and feedback helped them win.

Lawyers come to San Francisco from all over the state to argue moot courts in cases pending in the California Supreme Court, Courts of Appeal, 9th Circuit, and even the U.S. Supreme Court.

It's free, and you receive MCLE credit – so long as you don't mind students watching. (The program is meant to educate them as well as help you.)

A more complete schedule of moot court sessions follows this letter. If interested, contact me at mmoskovitz@ggu.edu or (510) 384-0354.

Myron Moskovitz
Professor of Law,
Golden Gate University
www.myronmoskovitz.com

APPELLATE ADVOCACY INSTITUTE
Golden Gate University School of Law
Professor Myron Moskovitz, Director
mmoskovitz@ggu.edu – Telephone (510) 384-0354
www.myronmoskovitz.com

Moot Court for Practicing Lawyers Spring 2009 Schedule

Moot Court will be held on Thursdays from 12 noon to 1:00 p.m. at Golden Gate University School of Law, 536 Mission Street, Room 2202, San Francisco, CA 94105

(Note: Copies of briefs are on reserve in the Golden Gate University Law Library located on the first floor of 536 Mission Street.)

FEBRUARY SCHEDULE

February 12

John Steinberg, Esq., will argue *People v. Medina*, California Supreme Court No. S155823.

Issue: Barba, a member of the San Fernando Gang, went with fellow gang members to a home where members of the Lil Watts Gang were partying. Someone from Lil Watts asked Barba, "Where are you from?" This led to an attack on Barba, which led to a general fistfight among the gang members, which led to one Lil Watts member (Medina) shooting Barba, who died. Lil Watts members, Marron and Vallejo, were charged with first-degree murder on the ground that they had aided and abetted an assault on Barba, and the killing was a "natural and probable consequence" of that assault. A prosecution expert testified that the question "Where are you from?" in this context was aggressive and could lead to a fight and a killing. Marron and Vallejo appealed their convictions for first-degree murder.

Court of Appeal: Reversed. Death was not reasonably foreseeable from "Where are you from?" (63 Cal.Rptr.3d 203.)

Judges: Neil Morse, Esq., Kat Kozik, Esq. and Professor Myron Moskovitz.

February 19

Douglas Rappaport, Esq. will argue *People v. Nguyen*, California Supreme Court No. S154847.

Issue: A juvenile has no right to a jury trial in juvenile court proceedings. Because of this, may a prior juvenile "conviction" be used as a prior "strike" under California's "three strikes" sentencing statutes?

Court of Appeal opinion: No. 152 Cal.App.4th 1205.

Judges: Ira Barg, Esq., Jenny Huang, Esq. and Professor Myron Moskovitz

February 26

Therese Stewart, Esq. will argue *CCSF v. Horton*, California Supreme Court No. S168078.

In November of 2008, California voters enacted Proposition 8, which added a provision to the California Constitution, providing that only marriage between a man and a woman shall be valid or recognized in California.

Issues:

1. Proponents obtained enough signatures to place Proposition 8 on the ballot as an "amendment," but not enough to qualify as a "revision" to the Constitution. Plaintiffs claim that Proposition 8 "revised" the California Constitution and therefore it was invalid because there were not enough signatures to put it on the ballot.

Copyright © 2009 by the author.
For reprint permission, contact the publisher: **www.plaintiffmagazine.com**



2. Does Proposition 8 invalidate gay marriages performed before Proposition 8 became law?

Judges: Joe Grodin (former Justice of California Supreme Court), Jerry Falk, Esq., Jon Eisenberg, Esq., Professor Rachel Van Cleave and Professor Myron Moskovitz.

MARCH

March 5

Lawrence Schonbrun, Esq. will argue *Garvin v. Consumer Privacy Cases*, California Court of Appeal, First District, No. A120145.

Issue: Consumer group brought class action against Bank of America for disclosing customers' confidential information to marketing companies. Trial court approved settlement agreement that included a provision that the bank would pay plaintiffs' attorneys fees up to $4 million, and that if the court awarded less than this amount, this would not affect the award to the class members.

Garvin (one of the plaintiffs) objected, arguing that the provision is unethical, because if the court reduces the award below $4 million, the amount of the reduction should go to the class and not be retained by the bank. The trial court rejected this argument and awarded plaintiffs' lawyers $3 million in attorneys' fees.

Judges: Professor Myron Moskovitz, other TBA.

March 12

Open. Attorneys interested in presenting a case should contact Professor Moskovitz.

March 26

Matthew Siroka, Esq. will argue *People v. Low*, California Supreme Court No. S151961.

Issue: Defendant was arrested and taken to jail where he was searched. Narcotics were found on him, and he was prosecuted for crime of "knowingly" bringing narcotics into a jail. Defendant claimed that because he was arrested and taken to jail, he did not *voluntarily* bring narcotics into jail. The jury convicted him. He appealed, arguing that evidence was insufficient to support verdict.

Court of Appeal Opinion: Affirmed. 2007 WL 756952.

Judges: Bill Robinson, Esq., David Lampkin, Esq. and Professor Myron Moskovitz.

APRIL

April 2

Jay Moller, Esq. will argue *People v. Gamache*, California Supreme Court No. S052808.

Issues: A jury convicted Gamache of first-degree murder and sentenced him to death. On direct appeal to the Supreme Court, he contends that the trial court erred by denying his motion to withdraw his plea of not guilty by reason of insanity, and by permitting the jury to view three times a videotape not admitted into evidence.

Judges: Mary Mona, Esq., Aundre Herron, Esq. and Professor Myron Moskovitz.

April 9

Thomas E. Owen, Esq. will argue *Murphy v. Burch*, California Supreme Court No. S159489.

Issue: Federal government owned large tract of land in Mendocino County. Feds sold Parcel #1 to Burch's predecessors, and later sold Parcel #2 to Murphy's predecessors. Murphy's parcel was "landlocked," so Murphy sued Burch to quiet to title to an "easement by necessity" across Burch's parcel. Trial court ruled for Murphy.

Court of Appeal Opinion: Reversed. When Feds owned Parcel #1, Feds could have obtained easement across Parcel #2 by eminent domain, so easement was not necessary. (156 Cal.App.4th 1434.)

Judges: Diana Sam, Esq., Professor Roger Bernhardt and Professor Myron Moskovitz.

April 16

Gilbert Gaynor, Esq., will argue *People v. Vines*, California Supreme Court No. S065720 .

Issue: Death penalty case.

Judges: Mary Mona, Esq., Morey Garelick, Esq. and Professor Myron Moskovitz.

April 23

Greg Maizlish, Esq. will argue *Lexin v. Superior Court*, California Supreme Court No. S157341.

Issue: San Diego city officials were charged with violating statute forbidding government officials from making government contracts in which they have a financial interest. Prosecutor alleged that defendants voted to underfund City's pension fund in way that would increase pension benefits to defendants. Defendants moved to set aside charges, arguing that they came within statutory exemption for that [which] exempts their "salary" from prohibited financial interests in contracts. Trial court denied motion. Court of Appeal denied defendants' petition for writ of prohibition, but California Supreme Court order Court of Appeal to hear the case.

Court of Appeal Opinion: Writ denied. (154 Cal.App.4th 1425.)

Judges: Professor Myron Moskovitz, others TBA.

Copyright © 2009 by the author.
For reprint permission, contact the publisher: **www.plaintiffmagazine.com**