possible record and avoid reversal.

The issue addresses other subjects as well. Judge Bert Glennon presents an article on making civil settlements bulletproof. If you find this to be helpful. Finally, CJA President, Judge Terry Friedman writes about a very real, external threat to the independence of the judiciary: JAIL 4 Judges. Your comments and feedback may be e-mailed to mrosenblatt@lasuperiorcourt.org.

In My Opinion: Domestic Violence Cases Merit Greater Attention By CJA

Eugene M. Hyman, *Santa Clara County Superior Court*

What can California's judges do to help Chief Justice George improve the way domestic violence cases are handled?

That's a question raised by last summer's blistering report from California state Attorney General Bill Lockyer's Task Force on Local Criminal Justice Response to Domestic Violence. Among its other conclusions, the AG's sharply critical report documented worrisome weaknesses and inconsistencies in the way domestic violence cases are adjudicated in California, including the failure to remove firearms from the recipients of restraining orders in some jurisdictions, notwithstanding legal requirements.

The issues raised bring to light the need for more participation by members of the California Judges Association (CJA) in areas of professional development including training, education, resource sharing and appropriate legislative advocacy related to domestic violence. They also highlight the need for a new CJA-affiliated association populated by judges who have experience in domestic violence cases. A new judicial association on domestic violence would be of great value to the judges who sit on those cases. The association could provide judges with assistance in a very tough area of the law, including by operating list-serves that circulate news about effective strategies, new resources, referrals, and by providing moral support. It could also review, develop and, most critically, periodically refine and improve best practice recommendations to make them more useful and timely. The need for this approach is particularly acute in the domestic violence arena given the recently documented inconsistencies in approach.

The best way to make that happen is by making sure judges are more deeply involved, under the auspices of our California Judges Association, in the job of understanding and remedying the issues at hand. An early model of this type of involvement is the CJA-affiliated Juvenile Court Judges Association of California, which was established after Santa Clara County Judge Leonard Edwards convinced our colleagues that special cases merit special resources. In a similar vein, a CJA committee currently in operation in the area of probate law is well positioned to assist in efforts to improve conservatorship procedures, which is another area where momentum for reform is building in response to public pressure. Problems in probate law were highlighted last November by the Los Angeles Times, which published a scathing investigative story documenting lamentable abuses of current procedures, including an instance where a conservator billed a client's estate $1,700 for attending her funeral, and another where a conservatee was forced to pay $170 for the delivery of less than $50 worth of groceries.

In January, Chief Justice Ronald M. George announced the formation of a new statewide task force charged with making recommendations for improvement in the management of probate conservatorship cases in California. The Chief Justice's new probate reform task force takes its place alongside a domestic violence task force he empanelled last year after the release of the report from the AG's panel. Both groups are looking at ways to improve the system. Unlike the probate reform efforts, however, there is no standing CJA committee on domestic violence in place to assist in formulating or implementing strategies to improve outcomes.

As in the juvenile justice arena, the special nature of domestic violence cases necessitates more than just a committee. The Juvenile Court Judges Association has a large and *(continued on page 4)*

ballot a popular initiative to crack down on illegal immigrants? Or another court declares unconstitutional a state law barring late term abortions? Or a trial judge releases a violent predator from custody due to a "technicality?"

While we do not wish this ill wind on our colleagues in South Dakota, why should we in California be worried that it will blow our way? Because the main sponsor of JAIL 4 Judges in South Dakota is a Californian who has tried twice to qualify a similar measure here. His new strategy targets a small state where it is easier to fund a campaign. If he succeeds in South Dakota, or even if he loses but attracts sufficient national interest and support, he then could return to California with the momentum he needs to raise enough cash to qualify the initiative here. With $1 million, you can hire petition gatherers to put just about anything on the California ballot. As California voters, we all know how often crazy initiatives make it here.

Too often in history, "it can't happen here" happens. Imagine this. You apply longstanding law in crafting jury instructions. The losing litigant thinks your decision violates the Constitution and sues you. If the lay grand jury agrees, you are unprotected. You could face staggering personal liability. You could lose your job. You could go to jail. If you are interested in learning more about JAIL 4 Judges, you many contact the South Dakota Bar Association at WWW.SDBAR.ORG.

The best offense is a good defense. Now is the time for us to build public support for the California judiciary. A good place to start is for judges to reach out into the community, particularly the non-legal community. Give speeches to service organizations, schools, business groups, etc. Learn how to deliver the message. A recent survey by Justice at Stake found the most effective vocabulary to connect with American values. Too often, judges and advocates for the courts choose terminology that works well within legal circles, but does not connect with a wider audience. For example, the survey found that the general public responds more favorably to "fair and impartial courts" than to "judicial independence" and cares most about access to justice. The survey summarized a recommended message:

> "To protect access to justice for all and our rights under the Constitution, we must defend fair and impartial courts from political interference. The courts are an important part of our democracy and provide essential balance in our government. We cannot let politicians limit access to justice by allowing them to decide the cases the courts can and cannot hear. We cannot allow political intimidation of judges to undermine our system of fair and impartial courts. The courts are accountable to the Constitution and Bill of Rights and not to politicians or special interest groups."

I urge my colleagues to maintain your vigilant defense of judicial independence in all its forms. If you are concerned about the implications of mandatory judicial education, please speak out, but be sure to keep in mind that external threats to our impartial decision-making may be the gravest of all.

TBF

diverse membership, in part, because juvenile cases often cut across several disciplines, including delinquency, dependency and family law. Domestic violence cases are often even more multidisciplinary. They frequently involve criminal, juvenile, dependency, family, probate and civil divisions. The comprehensive and inclusive approach established by the juvenile court judges would be valuable in the legally and socially complex domestic violence area, as well.

To be sure, judges are among those included on both the probate and domestic violence task forces named by the Chief Justice, along with law enforcement personnel and other interested parties. There is a clear and pressing need for those efforts. They merit our full support. At the same time, they are not a substitute for even deeper judicial involvement.

The CJA is in an excellent position to take on the role of helping to give birth to this new affiliated association devoted to domestic violence. Like most judges, I am grateful we have an organization that looks out for us. The CJA should continue to emphasize its traditional primary concerns on topics such as remuneration, facilities and pensions. Those are issues that would likely go unaddressed were it not for the tireless advocacy of the CJA. But we must also work harder and in a more systematic way on issues of concern to us that are being investigated by others. Taking on more of those responsibilities will have a direct and positive impact on how we do our work and how the public perceives that work. Establishing this new association will require not only more from the CJA but also more from the individual judges whose membership will bring the organization life. In this new arrangement, the dues that will make the most difference are the dues paid in the currency of time, by sharing ideas, expertise and experience.

Special CJA-affiliated associations and committees can also make meaningful and welcome contributions to the deliberations of the task forces currently in operation. It's possible the recommendations of these groups may not be accepted by the task forces or by the legislature. On the other hand, if members of the CJA do not develop more avenues to tap the expertise of the judiciary in areas of judicial reform, the failure will be entirely ours.

CORRECTION

IN THE SPRING, 2006 ISSUE OF *THE BENCH*, SAN BERNADINO SUPERIOR COURT JUDGE CYNTHIA LUDVIGSEN'S NAME WAS MIS-SPELLED AND HER STATUS WAS LISTED AS RETIRED.

JUDGE LUDVIGSEN IS INDEED AN ACTIVE MEMBER OF CJA AND THE SAN BERNADINO COURT. THE BENCH REGRETS ANY CONFUSION CAUSED BY THESE ERRORS.