

ATTORNEY NOTES . . .

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DISTRICT ATTORNEYS OF LOS ANGELES COUNTY

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by Newsletter Editor Steve Lopez

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SAFETY RETIREMENT PLACED IN DOUBT AS CAO ATTACKS ADDA EFFORTS AT CERTIFICATION

June 1 marked the original deadline set by an ERCOM Hearing Officer (*The Employee Relations Commission of Los Angeles County*) to receive briefs in the application of the Association of Deputy District Attorneys (ADDA)

for permission to hold an election. The election would determine if the ADDA could represent LA Deputy District Attorneys (DDAs) in a DDA only bargaining unit. These briefs will present the final arguments of the

representatives of the ADDA and the County Chief Administrative Officer ("CAO") in regards to the ADDA's application. Because the CAO has filed an opposition to the ADDA's application, the ADDA and the

DEADLINE FOR FILING BRIEFS EXTENDED TO JUNE 15

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NEWS FROM NATIONAL DISTRICT ATTORNEYS ASSOCIATION (NDAA) Loan Forgiveness Bill for Prosecutors passes in the House

By Richard Ceballos

On May 15, 2007, the House of Representatives passed a bill, which would provide up to \$60,000 in student loan forgiveness for a lawyer who commits to working at least three years as state or local prosecutor or public defender. The bill (HR 916), sponsored by Representative David Scott of Geor-

gia, must still make its way past the senate. According to James M. Reams of the National District Attorneys Association (NDAA), which has been pushing for this legislation, there is still much work to be done to make sure that this bill receives the appropriate funding. Both California senators have indi-

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ADDA CONGRATULATES JUDGE DAVID GELFOUND

ADDA Board Had Supported Candidate For The Bench. By ADDA Board Member Sue Lasikica

May 31, 2007, saw former Deputy DA David Gelfound reach a major accomplishment in his life. On that day, he officially left the DA's office and took his oath as a judge of the Superior Court. Dave had served for years on the ADDA's DDA of the Month Committee, which regularly presents the DDA of the Month Award and selects the recipients. A tireless prosecutor, Dave generously poured his free time and lunch hours into the committee even as he was accumulating a string of impressive trial victories.

His accomplishments even led to the

adoption of a peculiar rule known as the "Gelfound Rule." Dave's colleagues, impressed by his outstanding string of courtroom victories, constantly nominated him for DDA of the Month. However Dave, who was sitting on the DDA of the Month Committee, was too modest to allow any of these nominations to be considered, even though all of them had great merit. Since then, the practice has been known as the "Gelfound Rule": members of the DDA of the Month Committee regularly decline their own nominations for the DDA Month while they are sitting on the committee.

Judge Richard Stone introduces Judge David Gelfound



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ERCOM HEARING Cont.

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March of this year.

However, the ADDA has recently learned that the deadline was extended, at the last minute, to June 15, 2007. Ultimately, when these briefs are filed, they will be posted and made available to the ADDA membership on the ADDA President's Website, deputyda.com. The ERCOM Hearing Officer has 30 days to review the briefs and issue a written recommendation as to the ADDA's application. However, the ERCOM Hearing Officer's recommendation is not the final ruling on the application. The full Employee Relations Commission can uphold or overturn the Hearing Officer's recommendations, and even a decision by the full Employee Relations Commission can be appealed by a writ.

But more than bargaining unit representation is at stake in the

CAO have been locked in a contentious hearing before an ERCOM Hearing Officer since

hearing. When former Governor Davis signed into law the legislation called AB 2023, its provisions permitted and en-

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On June 1, ADDA President Steve Ipsen presented ALADS President Steve Remige and the ALADS Board with a special "Thank You Award" for the support ALADS has given the ADDA through the certification struggle.



NDAAs Loan Forgiveness Bill

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cated their support for this bill.

A similar state bill AB 171 (Beall) is also pending in the California legislature. It would provide approximately \$11,000 in student

loan assistance to lawyers who work for public interest agencies, including prosecutors, public defenders, legal aid, child support, and county counsel.

The National District Attorneys Association (NDAAs) is the recognized "voice for American prosecutors." Based in Alexandria, Virginia, the NDAAs also operates the National

College of District Attorneys on the campus of the University of South Carolina. Currently DDA Richard Ceballos and DA Steve Cooley serve on the NDAAs Board of Directors. If you are interested in joining NDAAs and help support passage of HR 916, you can log on to NDAAs website at www.ndaa.org or you may contact DDA Richard Ceballos at rceballo@lacountyda.org for more information.

CONGRATULATIONS JUDGE DAVID GELFOUND!

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Dave's appointment to the bench also marked and accomplishment for the ADDA Board, which had been endorsing Dave for the Superior Court Bench since he ran for an open seat in 2004. During his acceptance speech, Dave thanked the ADDA for its support.

Deputy District Attorney David Gelfound received his undergraduate degree from UCLA in 1986 and his J.D. from Pepperdine Law School in 1989.

Upon joining the District Attorney's Office in 1994, he was assigned to the Newhall area office. He subsequently worked in Pasadena Juvenile and then was assigned to felony trials in the Van Nuys Branch Office. In 1998, Mr. Gelfound was selected to join the Hardcore Gang Division, where he spent the next seven years. During this time period, he successfully prosecuted a number of complex, high profile, gang-related murder cases including People v Saldana and People v. Cervantes.

In the Saldana case, Gilbert Saldana was considered to be one of the most violent Avenues gang members ever to reside in the Northeast division of LAPD. In 2004, he shot 2 kids in the head; 1 died and 1 survived, although with permanent injury. In a second case, Saldana shot another male riding on a bicycle 6 times in the chest. Fortunately, this victim survived. David convicted Saldana

on one count of murder and 2 counts of attempted murder. Saldana was subsequently convicted in federal court for a gang-related hate crime.

The Cervantes case involved the murder of an army reservist and the attempted murder of a college student. Three gang members confronted the 2 males and ordered the victims to their knees. Both were then shot in the head. 1 died and 1 is permanently paralyzed. David convicted all 3 defendants at jury trial. This case relied upon the incriminating statements by one defendant made to a third party, which also implicated a second defendant. The court held that these statements were non-testimonial in nature, and thus, admissible against his co-defendant. In the post-Crawford era, this published decision is cited and relied upon by prosecutors around the state who seek to admit declarations against interest. At the time of his judicial appointment, David was assigned to the Organized Crime Unit. His trial abilities earned him the respect of his colleagues in the DA's Office, law enforcement, the defense bar, and the bench. Prior to joining the District Attorney's Office,

David practiced civil law for both plaintiff and defense firms. His areas of practice included construction defect, business, and insurance law. His multi-faceted experience qualifies him as a perfectly well-rounded candidate for the bench. Although we are disheartened at losing one of the Office's great prosecutors, we wish David the best of luck in his new position, which he has so well earned!

Judge Gelfound and family



Waiting to be Appointed? Considering putting in your papers to be appointed judge??
Read "The Recorders" June 7, 2007 story "**Judge Picks Should Be Ready Soon**" for the latest news on next round of Judicial Appointments and NEW application form. Full story at deputyda.com

ERCOM HEARING Cont.

(Continued from page 2)

couraged California counties to provide 3% at 55 retirement plans (commonly called *safety retirement*) to Deputy District Attorneys (DDAs), Deputy Public Defenders (DPDs) and Deputy Alternate Public Defenders (DAPDs). The ADDA established an exploratory committee with the PD's Association and representatives from the APD's office. The members of this committee named it the "Coalition for Pension Reform." (CPR) CPR's goal was to convince the Board of Supervisors to implement the Safety Retirement. But to do so, CPR was first required to determine the costs of providing safety retirement.

To determine the safety retirement's costs, CPR retained a financial consulting firm to conduct an actuarial study. However, the actuarial study required special retirement data controlled by the CAO. Historically, the CAO routinely authorized LACERA (our retirement association) to provide retirement data to any union requesting it. As a registered employee organization, but not a union, the ADDA believed the CAO would act honorably and disclose this data. But ADDA representatives on CPR soon discovered that the County planned to stonewall CPR and refuse to disclose any information, or even meet with ADDA representatives. Without this data, the actuarial study could not be completed and the ADDA was blocked from making any progress in obtaining safety retirement. The only option left for the ADDA to pursue safety retirement was to unionize. As a represented group, the CAO would have to meet with the ADDA and provide actuarial information.

However, unionizing presented its own stumbling blocks. In particular, recent history demonstrated that any attempt to form a bargaining unit including both PDs (Public Defenders) and DDAs in the same unit would collapse due to persistent infighting. For instance, testimony by DDA Hyatt Seligman during the recent ERCOM hearing revealed that in the early 90's, he coordinated the submission of signature cards by DDAs requesting a DDA only bargaining group. But Seligman was beseeched by PDs requesting a joint bargaining unit. So he resubmitted his request and asked for a joint bargaining unit made of PDs and DDAs. Due to political differences, PDs swamped the election with "NO" votes and, according to Seligman, they "torpedoed" the proposed bargaining unit.

But even more recent history indicated that unionizing DDAs and PDs in the same bar-

gaining unit tempted fate. Bart Deiner, Special Assistant to the President of Local 721 of the Service Employees International Union (SEIU) also testified during the ERCOM hearing and described his efforts, on behalf of SEIU's leadership, to organize PDs, APDs, DDAs and Child Support Attorneys into one SEIU bargaining group. Deiner noted that although SEIU initially wanted all these attorneys in one SEIU group, SEIU conclusively found that DDAs and DPDs will never be able to operate together. Said Deiner, "[W]e heard loud and clear from DDAs that their position in the justice system put them at odds with PDs."

Mindful of the pitfalls of past organizing efforts, the ADDA launched a campaign to establish a DDA only bargaining unit which would secure safety retirement for DDAs,

The first step was completed over a year ago when the ADDA circulated and submitted signature cards calling for a certified bargaining group comprised of DDAs. (These cards were called "blue cards" because the ADDA printed them on blue paper.) The ADDA filed the blue signature cards with ERCOM more than a year ago. However, once again, the CAO chose to obstruct ADDA efforts, and objected to a DDA only bargaining group. The CAO filed an opposition, demanding that any bargaining unit be forced to include Deputy Public Defenders (DPDs), Deputy Alternate Public Defenders (DAPDs) and Family Support Attorneys. At the request of representatives of the (CAO), ERCOM delayed the matter for more than a year.

The hearing to determination the ADDA's petition finally commenced on March 29, in front of ERCOM Hearing Officer Robert D. Steinberg.

To show that a DDA only bargaining unit was an "appropriate" unit, ADDA representatives Helen Schwab and Derald Breneman, of the law firm of Green and Shinee, presented the ERCOM Hearing Officer, Robert D. Steinberg, with the testimony of Deiner, Seligman and others.

Perhaps the most compelling evidence of the appropriateness of a DDA only unit was not the testimony of one, but the votes of many. In addition to the witnesses listed above, ADDA President Steve Ipsen testified and detailed the hotly contested 2005 ADDA Officer Elections. A slate of candidates, lead by Ipsen, ran for re-election to ADDA Officer and Board of Directors positions. Ipsen's slate favored an independent DDA only bargaining group loosely aligned with the Association of Los Angeles Deputy Sheriffs. This slate was opposed by a slate of candidates who favored working with PDs and APDs in a joint unit. The Ipsen slate won the vote by a margin of ten to one.

But the CAO launched a counterattack. The

CAO presented a day of testimony to dispute points raised by the ADDA. The CAO's Representative, John Garisi, opened by stating the county's policy against a proliferation of bargaining units. Garisi explained that if DDAs are given their own bargaining unit, DPDs, DAPDs and Child Support Attorneys would each want their own units. The effect would be a disaster because the county would have to deal with too many parties.

The CAO's most important witness was perhaps the CAO's most controversial witness.

Director John Paul Bernardi of the Bureau of Prosecution Support Operations was called to testify by the CAO. During testimony, Bernardi detailed similarities between DDAs and other county lawyers, such as education and licensing.

During Bernardi's testimony, Garisi explored the operation of the 9/80 program in the DA's office. Presumably, Garisi was attempting to draw parallels between the operation of the DAs office and the PD's office, which offers the 9/80 program countywide to a large percentage of DPDs. In response to Garisi's inquiry about 9/80, Bernardi stated "It's just in the civic center area. Most Deputy District Attorneys can request a 9/80 schedule, assuming it does not interfere with the normal operation of the office." In regards to the availability of the 9/80 program in the Bureau of Central Operations, Bernardi stated "[t]here's recently been a - I believe there's recently been a limitation of the availability of the 9/80 program in Central Operations. That's our component in the criminal justice center." Bernardi explained, "[n]ow it hasn't been abolished." "In Central Operations it was - that Bureau was having a problem keeping all of the courts staffed; keeping all of the courts running on time." "And it was eliminated for, I believe, some." "I don't believe all of the Deputy District Attorneys in Central Operations."

Since the publishing of the May, 2007, issue of *Attorney Notes*, we have been made aware that months earlier the 9/80 program had been completely terminated in Central Operations. In a memo to all Central Trials Deputies dated December 12, 2006, the 9/80 program was terminated for all attorney staff effective "as of the first of year 2007." No Central Trials attorneys were on the 9/80 work schedule when Bernardi testified on April 16, 2007.

**The Newsletter of the
Association
of Deputy
District
Attorneys
of Los Angeles County**



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and for the Deputy
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of Los Angeles County**

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ATTORNEY NOTES . . .

SAVE THE DATE

June

June 19-ADDA Board of Directors Meeting. 5pm, Younger Conference Room, 18th floor, CSFCJ

June 21- (Thursday) - **LPA General Meeting and Happy Hour** at Tamayo's Restaurant located at 5300 E. Olympic Blvd. ELA at 5:00 PM

June 23-Saturday Seminar, 8:30am to 12:30 p.m., Board of Supervisors Hearing Room, Kenneth Hahn Hall of Administration, 500 W. Temple St.,

June 25-29-CDAA Summer Conference, Sponsored by the Cal. Dist. Atty's Ass'n (Contact: Linnea Hull, lhull@cdaa.org). (916) 443-2017. Silverado Resort, Napa CA.

July

July 17-ADDA Board of Directors Meeting. 5pm, Younger Conference Room, 18th floor, CSFCJ

July 17th – 20th: CGIA (California Gang Investigators Association) & USDOJ (U.S. Department Of Justice) Bureau of Alcohol, Tobacco, Firearms And Explosives Present the Sixteenth Annual NATIONAL GANG VIOLENCE CONFERENCE. The Anaheim Marriott Hotel, 770

Convention Way, Anaheim, CA. 92802. Registration Fee: \$250.00 for CGIA members, \$275.00 for non-members. Group Rate is available. Payment may be made by Check, Purchase Order or charged to American Express, Visa or Master Card. A late registration fee of \$25 will be assessed after June 29, 2007.

Mail Registration Form and Payment to CGIA, PMB 331, 5942 Edinger, Suite #113, Huntington Beach, CA 92649. Email: wmcbride@socal.rr.com, aserratt@verizon.net or paulg2@charter.net

August

August 10- (Friday) **LPF Hollywood Bowl Night** "Sgt. Peppers at 40 a Beatle's Celebration" Tickets will be available from LPA/LPF board members for \$55.00 (includes shuttle, appetizers and sangria)

August 21-ADDA Board of Directors Meeting. 5pm, Younger Conference Room, 18th floor, CSFCJ

September

September 18-ADDA Board of Directors Meeting. 5pm, Younger Conference Room, 18th floor, CSFCJ

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