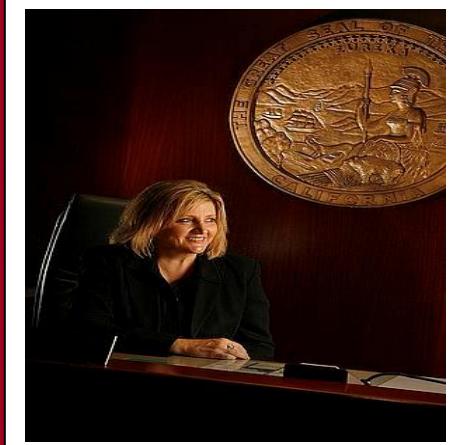


# THE LEGAL LIGHT

THE J. REUBEN CLARK LAW SOCIETY  
ORANGE COUNTY CHAPTER



Judge Sherrill A. Ellsworth,  
Presiding Judge of the Riverside  
Superior Court

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## JUDGE ELLSWORTH SPEAKS ABOUT GENDER BIAS

On April 8, 2011, the Orange County Chapter of the JRCLS hosted a luncheon at which the Honorable Sherrill A. Ellsworth spoke to a rapt audience on the subject of "Gender Bias and Women in the Law". In a fascinating and comparative manner, Judge Ellsworth discussed gender bias issues as they occur both in the legal profession and also within the Church. She illustrated her comments with many personal experiences she has had throughout her legal career, beginning as a young professional and continuing up through her present time on the Bench. Judge Ellsworth also contrasted those experiences in the professional world with those she has experienced within the Church itself, including pointing out that members of the Church of both genders are in no way immune from the concerns expressed.

In order to make this significant presentation available, the text of Judge Ellsworth's speech is being reformatted for inclusion in an upcoming issue of The Clark Memorandum. In addition, since the Orange County Chapter videotaped the entire presentation, the JRCLS is currently working to make that videotape available for use by other JRCLS Chapters which may wish to view and study this important topic.

Judge Ellsworth comes with a very impressive pedigree. She currently is the Presiding Judge of the Superior Court of the State of California for the County of Riverside, one of the largest and busiest State Courts in California. Judge Ellsworth was first appointed to the Bench in 1996 as a Commissioner, and then became a Judge in 2005. She is very involved with judicial education and has served as faculty both nationally and locally since 2000, including, for example, serving as a member of the California Judicial Council's Violence Against Women Education Project Committee, and on the California Judicial Council's Family and Juvenile Advisory Board. Judge Ellsworth was named the American Business Woman's Association Woman of the Year in 1999 for Judicial Leadership. Of particular note is the fact that Judge Ellsworth is believed to be the only currently sitting LDS female judge in California.

Contributed by Jeff Shields

## INSIDE: ELDER DOUGLAS F. HIGHAM, SR. SHARES THOUGHTS ON CALL TO SEVENTY

### MISSION STATEMENT

We Affirm The Strength Brought To The Law By A Lawyer's Personal Religious Conviction. We Strive Through Public Service And Professional Excellence To Promote Fairness And Virtue Founded Upon The Rule Of Law.



## **ELDER DOUGLAS F. HIGHAM, SR. CALLED TO SERVE AS AREA SEVENTY**

The Legal Light recently posed several questions to Elder Douglas F. Higham, Sr. about his recent call to serve as an Area Seventy. In his responses, Elder Higham shares some very personal experiences and his testimony as an especial witness of Christ's name wherever sent by the Twelve.

**Q. Could you tell us a little bit about how your call to the Seventy came about?**

**A.** This was a very interesting process. Under Section 107:95 of the Doctrine and Covenants, the Presidency of the Seventy are to "choose" or recommend those to be called to fill the various quorums. Those names are then presented to the First Presidency and the Twelve for approval. I did not know Elder Whitney Clayton well when he phoned last Fall, said he was going to be in town, and asked if he could come and become better acquainted with my wife (Colleen) and me. He came to our home, we chatted for over an hour about everything under the sun—family, church, Prop 8, our mission—a very unstructured discussion. And then he left. That was it. Very unsettling... And then Elder Clayton phoned a couple of months later, and asked if we could meet again. We arranged to meet in his office before Thanksgiving

last year where, after a very pointed interview, he extended the calling "on behalf of the First Presidency and the Quorum of the Twelve Apostles" to serve as a Seventy—an Area Seventy—in the Fifth Quorum of the Seventy. The "call" letter that he presented to us, signed by the First Presidency, was dated November 2, 2010—a full five months before I was sustained. And we received an interesting mandate. In his words: "It is the First Presidency's privilege to announce this calling, not yours—so you are to tell no one, not even your parents, children or priesthood leaders about this calling until you have been sustained from the pulpit in April." That made for a very interesting five months...and a real surprise for our family!

In between the afternoon and Priesthood sessions of conference on the day that I was sustained, Colleen and I had the privilege of meeting with Elder M. Russell Ballard, who ordained me a Seventy and set me apart to serve in the Fifth Quorum of the Seventy, with specific assignments to the North America West Area ("NAWA"). Elder Steven Snow, a long-time JRCLS member, assisted.

**Q. What are the duties of an Area Seventy and what are your weekends like as you travel in the Southern California area to fulfill such duties?**

**A.** Our duties are only those specifically given to us by the Twelve. Section 107:34 states that "The Seventy are to act in the name of the Lord, under the direction of the Twelve...in building up the church and regulating all the affairs of the same in all the nations..." We hold no keys, so all that we do is by assignment and acting under delegated apostolic authority. Our first duties as we carry out our assignments are found in Section 107:25 and 124:139 of the Doctrine and Covenants: "...to preach the gospel, and to be especial witnesses" of Christ's name in all the world—wherever sent by the Twelve—"to prepare a way before my [Christ's] face."

I think that the long time period between receiving the call and being sustained is intended, in part at least, to allow those responsibilities to "distill upon the soul" a bit.

Bringing it all down to practical realities: Being assigned to the NAWA, which includes California and Hawaii, the eight Area Seventies that are assigned to the NAWA preside in any church meeting in those states—unless a higher authority is

*"The Seventy are also called to preach the gospel, and to be especial witnesses . . . in all the world – thus differing from other officers in the church in the duties of their calling."*

*Doctrine & Covenants 107:25*

*"I share my witness that the gospel of Jesus Christ, well-lived, will support us in all of those areas of life that are important to us; that we do have a loving Heavenly Father who is as actively involved in our lives as we invite Him to be; and that Jesus Christ lives, He is our Savior and Redeemer, and through His grace (which Elder Bednar defines as 'enabling power'), we can be all that He would have us be."*

*Elder Douglas F. Higham, Sr.*

*(Elder Higham Interview Con't )*

present. If we attend church outside of those states, we are total "civilians"--unless we are there on specific assignment by the Twelve. Each of us are given two or three "Coordinating Councils" over which we preside, which consist of about 10 stakes each, and often are co-extensive with mission boundaries. In my case, I preside over both the Riverside and the San Bernardino Coordinating Councils, meet with all of the stake presidents to provide training in each of the Councils at least quarterly, and am a resource for those stake presidents when they have questions or needs.

I also receive stake conference assignments, most of which will be in California and Hawaii—the process for which is also very interesting. The Office of the Quorum of the Twelve ask me in April for any "blackout dates" I may need from July through December, and then in May or early June, I receive a calendar for the second half of the year that lays out my life every weekend—including weekends when I am "assigned home." The same process is repeated in the Fall for the first half of next year. The goal is to be in our home ward at least one Sunday per month.

***Q. How often do you or will you meet with your particular Quorum?***

**A.** We only meet with our specific quorum (the Fifth Quorum) once a year—but what a meeting it is! We meet with 100% of the General Authorities and Area Seventies on Thursday and Friday prior to April Conference for our annual training. On Thursday evening, we have our annual dinner meeting with our separate quorums—also attended by members of the Twelve. I had the privilege of sitting with Elder Bednar in our quorum meeting dinner—where we discovered that we likely played basketball against each other in a regional playoff game held in Oakland some 43 or so years ago. Amazing! Those two days of training, by the way, are about as powerful as they come.

Imagine joining in singing the hymn "I Know that my Redeemer Lives" with all 330 or so latter-day special witnesses of the Savior in dozens of different languages in that intimate setting—an experience never to be forgotten.

***Q. You and Colleen were blessed with 12 children – could you share some advice or counsel on how you balanced your professional career and responsibilities with your family responsibilities?***

**A.** We still have two teenagers at home yet—so I hesitate to give advice! But everyone has to handle their own situations as best they can. The practice of law can consume a father or mother and leave little room for quantity or quality (which seem to go together, whether we like it or not) time. Sometimes the advice we receive can be rope that we hang ourselves with, so we have to be careful—but some of the best advice that I ever received about balancing all that we have to do in life came from a good stake president who counseled that we all have three parts of our lives that are all competing: work, church and family (and a fourth should probably include taking time for ourselves...). He said that if we're always saying "yes" to one or two of those areas, and "no" to the other(s), then we're out of balance. If we're always saying "yes" to church or family and "no" to work, then we're just as out of balance as we are if we're always saying "yes" to work and "no" to the others. Each of them, at times, requires an occasional "no!" Bottom line: We have to understand that we're never going to be able to do all that we want as well as we'd like...so we're going to have to do the best that we can, understand that all three areas of life are important (at varying levels at varying times), and trust that as we're doing all that we can, Heavenly Father will help us to balance.

For me, being home with my family for dinner has always been a priority. That meant for years while I was a partner at a major law firm that I was often the first one out the door in the evenings—so I worked hard to be the one to turn on the lights in the morning and let people see that I was there first thing. I usually could have family prayer with the kids and still be the first in the office in the morning.

Sundays, too, are only on very rare occasions interrupted by work matters—and then only the proverbial "ox in the mire." It's amazing how often most things can wait. Now, this means that there have been quite a few Saturday nights

*(Elder Higham Interview Con't on page 5)*

*The Quorums of Seventy are "instituted for traveling elders to bear record of my name in all the world, wherever . . . mine apostles, shall send them to prepare a way before my face".*

*Doctrine & Covenants 124:139*

*"And these seven presidents are to choose other seventy besides the first seventy to whom they belong, and are to preside over them; and also other seventy, until seven times seventy, if the labor in the vineyard of necessity requires it."*

*Doctrine & Covenants 107:95-96*



## MEET JOHN GAINES - SPONSOR JRCLS – OC CHAPTER

In order to get to know our newest non-attorney sponsor we asked John Gaines, CLU®, ChFC®, a Registered Investment Advisor (RIA) with LPL Financial, a few questions:

***Q. What makes you unique in your profession?***

A. I try to help my client(s) be more informed as they set their investment risk level(s). I do this by encouraging my client(s) to look at the long-term history of investment markets in terms of ten-year smoothed trailing averages of price to earnings ratio (PE) relationships. The higher the PE ratio, the higher the risk in owning stocks. Very few investment advisors pay attention to this aspect of investing & of course there is no guarantee of success with this method.

***Q. What is the importance of the PE cycle?***

A. The PE cycle, cycling in approximately 33 year periods since 1871, seems to be the most potent factor in determining rate of return over periods like 10-20 years (like the retirement years). The buy-and-hold philosophy has not always worked well in short periods like 10-20 years.

For example, in early 2002 and early 2008 many of my clients set their risk levels with reference to the pattern of PE ratios since 1871 and could see that the PE ratio was relatively high and the risk was correspondingly high. By July 2002, and March 2009, the PE ratios were significantly lower, and hence there was less risk in owning stocks. Shortly after that, many of my clients changed the risk level with their investments to be more aggressive.

***Q. What has been the pattern of PE ratios?***

A. Since 1871, approximately every 33 years, the PE ratio has peaked somewhere above 23, and then taken about 19 years to decline to the range of 5 to 8. The peaks were in 1901, 1929, 1966 and 2000.

***Q. Where are PE ratios today?\****

A. It's about 23.5 which is essentially equivalent to the peaks in 1901 and 1966. The years of 1929 and 2000 had higher peaks but were accompanied by liberal credit practices.

***Q. What was the average rate of return at those four peaks during the following 10 years?***

A. It was almost exactly 0%. In fact, from 2000 to 2010 the rate of return in the American large capitalization markets including dividends was just about exactly 0%.

\*As of May 14, 2011; For more information, contact John A. Gaines, CLU®, ChFC®, 30131 Town Center Drive, Suite 170, Laguna Niguel, CA 92677; Tel. (949) 495-7107

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*The Legal Light welcomes the input of our Chapter members. If you know of interesting topics or have been involved in a particularly interesting case or activity that you would like to share in The Legal Light, please contact Rick Varner at (949) 724-7906 or rick@shieldslawoffices.com.*

*"Since all legislation is based on moral judgment ... it is not an imposition of religion or religionists to take part of discussion. There is no justice in one side with deeply held values seeking to silence the other because it espouses different deeply held values." Elder D. Todd Christofferson*

*"Religious persons should insist on their constitutional right and duty to exercise their religion, to vote their consciences on public issues, and to participate in elections and in debates in the public square and the halls of justice. These are the rights of all citizens and they are also the rights of religious leaders and religious organizations." Elder Dallin H. Oaks*

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*(Elder Higham Interview Con't)*

when I worked until midnight; and Monday mornings when I was in the office at 2 a.m. to do what needs to be done. [This may seem formulaic for some...but for me, the cleansing that comes from leaving the world behind for 24 hours is huge—and I believe helps me to be much more effective during the rest of the week.] And if I'm away from home when it's time for family prayer, we've all been grateful for modern technology that allows us to hook up on a conference call and have family prayer together. As with most things, maintaining the basics tends to hold everything else together: Family prayer, family scripture study, temple attendance, family home evening, and showing lots of love to my wonderful wife and God-given children.

Being away many weekends and still supporting a full time practice of law while having two high schoolers still at home all keep me focused on these simple priorities.

***Q. Do you have a favorite scripture that has guided you or given you encouragement as you have accepted and fulfilled your various responsibilities as a Bishop, member of a Stake Presidency, Mission President and now Area Seventy?***

**A.** Although not a scripture, Colleen and I adopted a line from a hymn as our "marriage motto:" "Sacrifice brings forth the blessings of heaven." (*Praise to the Man*, 4<sup>th</sup> verse, Hymn #27). We have tested it, we have taught it to our children, and we have not found it wanting. Similarly, when we (with our children) were called to pack up our bags and leave for three years, our children chose for our family missionary plaque a scripture that has long been a family favorite: "...Choose you this day whom ye will serve...but as for me and my house, we will serve the Lord." Josh. 24:15 Choosing is the key...everything after that is just logistics.

In closing, I share my witness that the gospel of Jesus Christ, well-lived, will support us in all of those areas of life that are important to us; that we do have a loving Heavenly Father who is as actively involved in our lives as we invite Him to be; and that Jesus Christ lives, He is our Savior and Redeemer, and through His grace (which Elder Bednar defines as "enabling power"), we can be all that He would have us be.

*[Editor's Note: Thank you Elder Higham for sharing your testimony with us, as well as sharing with us some aspects of this very personal and sacred experience.]*

**"SACRIFICE BRINGS FORTH THE BLESSINGS OF HEAVEN"**  
***PRAISE TO THE MAN, 4<sup>TH</sup> VERSE, HYMN #27***

**"CHOOSE YOU THIS DAY WHOM YE WILL SERVE . . . BUT AS FOR ME AND MY HOUSE, WE WILL SERVE THE LORD."**

*Joshua 24:15*

# THE LEGAL LIGHT

## INFORMATION

*All luncheons are held at Knobbe Martens Olson & Bear, LLP, 2040 Main St., 2nd Floor, Irvine. There is free validated parking. The luncheons and the dinner qualify for MCLE credit. The luncheons are from noon to 1:30.*

*The cost of luncheons are prepaid for the year for Gold and Silver members, \$25 with RSVP for Bronze members, \$30 at the door for Bronze members, and \$35 for all others. Lunches are free to Law Students. The cost of the annual dinner is prepaid with membership for Gold members, \$50 for Silver and Bronze members, \$50 for guests of members, and \$60 for all others. Students are \$25, guests of students \$25.*

## UPCOMING EVENTS

July 14, 2011

Luncheon

Speaker: Dyke Huish – “The New Face of Criminal Fraud in California”

12:00 pm

Knobbe Martens Olson & Bear, LLP, 2040 Main St., 2nd Floor, Irvine.

October 7, 2011

Annual Dinner

Speaker: Hugh Hewitt

TBA

Irvine Marriott

November 17, 2011

Luncheon

Speaker: Merilee Boyac

12:00 pm

Knobbe Martens Olson & Bear, LLP, 2040 Main St., 2nd Floor, Irvine.