

The Sacramento Chapter of the Federal Bar Association
and the
Eastern District Historical Society
proudly present

AN ORAL HISTORY OF THE ROSEVILLE BOMB CASE



Thursday, November 5, 2015
Ceremonial Courtroom, 16th Floor
Robert T. Matsui United States Courthouse

Reception and Display of Exhibits
Immediately Following in the
Anthony M. Kennedy Library and Learning Center

HON. WILLIAM B. SHUBB is a Senior Judge of the United States District Court for the Eastern District of California. As an Assistant U.S. Attorney, he represented the government at the hearing on the preliminary injunction to prevent the transportation of tritinol bombs through the Roseville railyards.

Judge Shubb served as Chief Judge from 1996 to 2003. Prior to his appointment by President George H.W. Bush in 1990, he was a partner in the law firm of Diepenbrock, Wulff, Plant & Hannegan in Sacramento, specializing in litigation in the state and federal courts. He served as the U.S. Attorney for the Eastern District of California from 1980 to 1981 and represented the United States in civil and criminal litigation as an Assistant U.S. Attorney from 1965 to 1974, serving as Chief Assistant U.S. Attorney from 1971 to 1974. Judge Shubb received his A.B. from the University of California, at Berkeley, in 1960, and his LL.B. from the University of California School of Law, Boalt Hall, in 1963. He has taught as an Adjunct Professor at the University of the Pacific, McGeorge School of Law and as a Visiting Professor of Law at the University of California, at Davis.



ANN TAYLOR SCHWING is of counsel in the Municipal Law practice group of Best Best & Krieger LLP. Prior to joining the firm in 2010, Mrs. Schwing was of counsel with McDonough Holland & Allen in Sacramento for twenty-four years. She was a law clerk to Chief Judge Thomas J. MacBride from September 1977 through the end of 1980, spanning the entire Roseville Bomb Trial that started November 7, 1977 and was not wrapped up until early 1980.

Mrs. Schwing received the American Inns of Court Professionalism Award for the Ninth Circuit in 2004 and the Federal Bar Association Sacramento Chapter award for Outstanding and Tireless Service to the Federal Bar and Judiciary in 2003. She also is a recipient of the Melville M. Bigelow scholarship award for the graduate with the greatest promise as a scholar and a teacher of the law from Boston University School of Law in 1975. She is the author of California Affirmative Defenses (about 5000 pages, West Expert Series, annually republished) and Open Meeting Laws (3d edition), as well as a co-author or editor of other treatises and multiple articles.

Mrs. Schwing serves on the board of directors of Scribes, The American Society of Legal Writers, and her research and writing tips are emailed twice a week to Scribes members. She serves as commissioner for the Land Trust Accreditation Commission and as a trustee and secretary for the Land Trust of Napa County. From its inception until 2013, she served as a member and reporter for the Eastern District Judicial Advisory Committee and the Subcommittee on Local Rules. Until moving to Napa in 2014, Mrs. Schwing was also a panel member for the Voluntary Dispute Resolution Program for the Eastern District of California.

HUDSON G. "GREG" VITAICH is a private investigator and forensic analyst practicing in California and the western United States specializing in highway and railroad crash investigation.

At the time of the Roseville munitions train explosion in April of 1973, Mr. Vitaich was working for the Southern Pacific Railroad in the Civil Engineering Department of the Sacramento Division headquartered in Sacramento, California. Mr. Vitaich's first assignment was the organization and analysis of the many hundreds of aerial photos taken of the explosion site in an effort to determine the point of origin of the initial explosion and the extent of damage to the train yard and surrounding area. This photography, wisely ordered by Mr. R. James Diepenbrock, whose firm Diepenbrock, Wulff, Plant and Hannegan, represented Southern Pacific would prove invaluable to the investigation. These and thousands of ground photos were to become the primary focus of Mr. Vitaich's work for the next five years the goal of which was to determine the precise location and lading for each of the fifteen hundred railcars in the train yard at the time of the explosion. This work culminated in Mr. Vitaich providing expert testimony as to the location of all railcars and particularly those carrying hazardous or explosive or flammable materials. In addition, Mr. Vitaich conducted many witness interviews, assisted in writing and answering discovery, assisted in writing test plan protocols, organized court-attended test train outings over the route taken by the munitions train, and prepared numerous exhibits.

With the end of the trial in August of 1979, Mr. Vitaich returned to the Civil Engineering Department to assume a new position as a Construction and Maintenance Supervisor. In May of 1983, Mr. Vitaich left the Southern Pacific to become the staff investigator for the law firm of Greve, Clifford, Diepenbrock & Paras, a position he enjoyed for twenty-five years until his transition to private practice in 2009.

Mr. Vitaich lives and works in Sacramento providing investigation and analytical services to the legal community while enjoying his hobby of the restoration of classic sports and racing cars.



LANNY T. WINBERRY is an attorney in private practice in Sacramento who concentrates on real estate law, land use entitlements, environmental law, and the regulation of hazardous substances. In addition to his real estate practice, Mr. Winberry occasionally represents plaintiffs in federal civil rights litigation.

When the Roseville bomb train explosions occurred in April 1973, Mr. Winberry was an Army JAG Captain assigned to the Military Traffic Management Command, which managed the DODX boxcars involved in the explosions. In 1975, when (now District Judge) William B. Shubb had successfully defended the Ayala injunction action, the focus of discovery in the Federal Tort Claims litigation shifted away from the “bad bomb” theory to investigations of brake shoes and spark shields on the DODX boxcars and to “interchange car maintenance” and train operations. Captain Winberry traveled to numerous DOD locations examining boxcar maintenance records. He also worked with Navy scientists and the Federal Railroad Administration to plan and conduct full scale testing of boxcars in an attempt to identify and quantify the factors which might have resulted in a fire in a DODX boxcar – and to attempt to determine whether, and how, such a fire might have existed but escaped notice during the hours preceding the explosions.

After finishing his four-year tour of active duty, Mr. Winberry was appointed Special Assistant U.S. Attorney to continue preparing for trial in the Roseville Bomb litigation. He recruited and managed a team of law clerks that created a digital, word-searchable database indexing and summarizing the 500,000 pages of depositions and documents amassed during the four years of investigation and discovery. Beginning in the Fall of 1977, Mr. Winberry participated in the two-year long trial before Judge Thomas J. MacBride. Working as co-counsel with Assistant U.S. Attorneys, Robert B. Miller and James Joiner, Mr. Winberry cross-examined the plaintiff Southern Pacific’s expert and percipient “boxcar-issues” witnesses and, in effect, presented the results of the DOD boxcar testing program via the testimony of those adverse witnesses. He also contracted with consultants in Los Angeles to digitize the daily trial transcripts and to make them word-searchable and available via a teletype connection with the USDOJ computer system in Washington. That was the first time the USDOJ had digitized an evidentiary database and used it during a trial.

When the Roseville bomb train litigation ended in settlement in the Fall of 1979, Mr. Winberry embarked on private practice in partnership with Ted Giattina, who had been the USDOJ special litigation attorney initially assigned handle to the Roseville tort claims litigation.

Mr. Winberry resides in Sacramento with his wife of forty-six years, Toni. Their two sons, two lovely daughters-in-law, and a total of three delightful granddaughters also reside in Sacramento – making every day an occasion for thanksgiving.

DAVID W. MCCLAIN has a Bachelor's Degree in Mechanical Engineering from Cal Poly, San Luis Obispo. Mr. McClain has worked for an asphalt paving company, AC Dike Co., for thirty-three years and is Vice President of Operations. He has always pursued his love for diesel engines and is a Cummins Journeyman mechanic and has worked on all makes of engines. He also enjoys learning about and working on Electro Motive Division locomotive engines for the Feather River Rail Society in Portola.

Mr. McClain has been fascinated with railroads since the age of four and, since then, has been watching more or less the local, western railroads as a hobby. He became very interested in the sounds of locomotives at an early age, thereby thinking he should save for the future the sounds of older diesel locomotives for private use and listening pleasure. Mr. McClain is interested in all facets of railroading, including camping near railroads, riding trains, and modeling them.

Being Southern Pacific's number one witness for the specific train that was involved in the Roseville disaster on April 28, 1973, propelled Mr. McClain to the forefront of explaining his more or less self-taught knowledge of the workings of trains and locomotives. He convinced Southern Pacific and the U.S. Government of his expertise by demonstrating the sounds and special effects of different trains.

Mr. McClain lives in Colfax, California with his wife and has one daughter (late).



MICHAEL E. VINDING is a founding partner of Brady & Vinding. Prior to founding his own firm, Mr. Vinding was a partner with Scharff, Brady & Vinding as well as Diepenbrock Harrison. Mr. Vinding's practice emphasizes litigation, including natural resources law, land use, land permitting, construction, water rights, water quality, Indian gaming/environmental law, mining law, NEPA/CEQA, and general civil litigation. He has represented governmental entities, private entities, landowners, and insurance companies in all manners of complex litigation.

Mr. Vinding serves as a judge pro tem for the Sacramento Superior Court, El Dorado Superior Court, San Joaquin Superior Court, and Placer Superior Court. He also serves as the secretary for the Eastern District Historical Society, as the Chair of the Eastern District Judicial Advisory Committee, and on the State Bar Federal Courts Committee. Mr. Vinding is a member of the State Bar of California and State Bar of Oregon.

Mr. Vinding received a Bachelor's Degree in Political Science from the University of California, at Davis, in 1990 and his J.D. from the University of the Pacific, McGeorge School of Law in 1995. Mr. Vinding lives in Sacramento with his wife and four children and enjoys fishing, golfing, hunting, and sports of all kinds.



The Sacramento Chapter of the Federal Bar Association serves federal practitioners in the twenty-three northern counties that make up the Sacramento Division of the Eastern District of California. Each year, our Chapter hosts a variety of networking and educational events. To learn more or to become a member, please visit www.fedbar.org/Chapters/Sacramento-Chapter.aspx or email Chapter President Landon Bailey at LBailey@hansonbridgett.com.



The Historical Society for the United States District Court for the Eastern District of California is a non-profit public corporation formed for the purpose of preserving the history of the Court. To learn more or to become a member, please visit www.courthistory.org or email Society President Mac Goldsberry at mgoldsberry@somachlaw.com.