

**MINUTES OF THE MEETING OF THE APPELLATE COURTS SECTION
OF THE LOS ANGELES COUNTY BAR ASSOCIATION**

Thursday, February 16, 2017, 4:30 p.m. to 6:00 p.m.

Court of Appeal, Second District, Courtroom

300 S. Spring Street, Los Angeles, California 90013

**“The Argument Clinic: Learn Oral Argument Strategies from Justices and
Former Justices”**

Moderator:

Tyna Orren, Esq., Orren & Orren

Arguing Counsel:

The Hon. Margaret M. Grignon (Ret.)

The Hon. Miriam A. Vogel (Ret.)

Judicial Panelists:

The Hon. Brian M. Hoffstadt, Associate Justice, Court of Appeal, 2nd. Dist., Div. 2

The Hon. Jeffrey W. Johnson, Associate Justice, Court of Appeal, 2nd Dist., Div. 1

The Hon. Patti Kitching (Ret.)

Attendees:

George Abele

Sarvenaz Bahar

Daniel Barer

Heather Beatty

Lisa Berger

Anna Birenbaum

Blithe Bock

Marina Bogorad

Holly Boyer

Stephen Caine

Frances Campbell

David Carico

Gretchen Carpenter

Douglas Collodel

Amy Cooper

Thomas Dunlap

Gregory Ellis

Stuart Esner

Dennis Fischer

Anne Grignon

Ricia Hager

Bassil Hamideh

Jennifer Hashmall

Rachel Hobbs

Edward Hoffman

Anne Huarte

Vikki Hufnagel

Mark Irvine

Shaun Jacobs

Zareh Jaltorossian

Laurence Jay

John Jensen

Thomas Joadines

Kyle Jones

Rene Judkiewicz

Jeralyn Keller

Patti Kitching

Jens Koepke

Paul Kuwahara

Matthew Levinson

Zi Lin

Joanna McCallum

Robert Moss

Yao Mou

Richard Nakamura

Lowell Orren

Brad Pauley

Kenneth Pedroza

Joseph Persoff

Norman Pine

Andrew Pruitt

Zee Rodriguez

James Ryan

Mark Schaeffer

Marcia Scully
Stephen Smith
Scott Tillett
Michael Walsh
Leslie Werlin

Julia Shear Kushner
MiRi Song
Yen-Shyang Tseng
Shirley Wang
Barry Wolf

Jack Sholkoff
Sherry Swieca
Cheryl Turner
Roy Weatherup
James Zapp

Counsel presented a mock oral argument to the judicial panel in the courtroom in the already decided Supreme Court case, *Loeffler v. Target Corporation*. Justice Grignon represented the plaintiffs, and Justice Vogel represented the defendants. Counsel and the panel engaged in a spirited oral argument. Then, both counsel and the panelists entertained questions from the moderator and the audience concerning the oral argument.

Highlights Of Answers By Panelists and Counsel: (1) Rebuttal by appellant's counsel should be limited to four or five points; (2) Humor can be a good idea, but only if the context of the case makes it appropriate and it is not a substitute for competence; (3) Don't worry about reading what the intent of the judge's questions is, just answer it forthrightly; (4) Supplemental briefing is rare but possible, more often resolved by Government Code letter; (5) Common and sometimes fatal oral argument negatives include failure of counsel to respond to a question, misrepresenting the record and mischaracterizing the law; (6) A tentative bench opinion is rarely reversed after argument but sometimes (10%); (7) if you have a cold bench, just make your key points and sit down; and (8) Collegiality is important, so avoid facial grimaces and show respect for opposing counsel and trial judge.

Approved on April 3, 2017

/s/

Jens B. Koepke, Secretary, Appellate Courts Section