

# ATTORNEY NOTES . . .

THE NEWSLETTER OF THE ASSOCIATION OF DEPUTY



DISTRICT ATTORNEYS OF LOS ANGELES COUNTY

## IN THIS ISSUE

ADDA PRESIDENT'S MESSAGE 1

DDA CEBALLOS WINS AWARD FROM CCBA 1

MEMORIES OF JEFF SEMOW 1

VACANCY ON ADDA BOARD 1

DDAs OF THE MONTH CAROLINA LUGO (NOV) AND TANNAZ MOKAYEF (DEC) 2

MINUTES OF THE ADDA BOARD OF DIRECTORS MEETING 2

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## THE FIGHT IS HERE! ERCOM HEARING BEGINS WITH SURPRISES.

**The public hearing to decide certification issues began with fireworks. Testimony to resume on Monday, April 16 at 10am.**

The ADDA finally got a hearing on its request before ERCOM to hold an election; the results will determine if DDAs can have their own bargaining unit and can choose the ADDA as a "DDA exclusive" certified bargaining representative. The Employee Relations Commission (ERCOM) of

Los Angeles County is a body established by Ordinance in 1969, to regulate labor relations in Los Angeles County. The Commission focuses on the establishment of bargaining units, elections for certification and decertification of unions, and the investigation and hearing of unfair labor practice charges filed by employees, unions, and departments.

More than a year ago, the ADDA filed signature cards with ERCOM. These blue signature cards registered the desire of the DDAs of the office to be represented by the ADDA in salary and labor discussions in a group exclusively comprised of DDAs. However, opposition was filed by the county demanding that DDAs be forced to include Deputy Public Defenders (DPDs), Deputy Alternate Public Defenders (DAPDs) and Family Support Attorneys.

At the request of representatives of the Chief Administrative Officer (CAO), ERCOM

delayed the matter for more than a year. On March 29, the ADDA's requested hearing began with a series of interesting twists and turns. The ADDA was represented by Helen Schwab and Derald Brenneman of the law firm of Green and Shinee. The opposition was not a rival labor group, but rather a team of representatives sent by the Chief Administrative Officer, consisting of lead representative John Garisi and assisting representatives Maurice Cooper and Marie Pasqual. Robert D. Steinberg presided over the matter as Hearing Officer.

In her opening statement, Ms. Schwab detailed the history of DDA attempts at representation. Originally, DDAs and PDs were represented together by an SEIU affiliate.

*(Continued on page 2)*

### 2ND VACANCY ON ADDA BOARD OF DIRECTORS, DUES DISCOUNT EXTENDED

The ADDA Board of Directors recently welcomed Karen Rizzo to fill an unexpired term on the Board. However, due to an unexpected resignation, yet another vacancy has opened on the Board. Based on ADDA Bylaws, a replacement will be chosen by the Board. All DDAs who are ADDA members are welcomed and encouraged to apply. Applicants will be expected to attend monthly and committee meeting. Applicants should submit their names and contact information to ADDA Sr. VP Frank Tavelman at (213) 974-3943 or Pres. Steve Ipsen cell (213) 220-3336 or email [addaemail@aol.com](mailto:addaemail@aol.com) or [theverdict@sbcglobal.net](mailto:theverdict@sbcglobal.net).

Also the ADDA Board agreed to extend the special discount as to dues. Members who renew their dues before April 30, 2007 may still renew at the discounted rate of two years for \$60.



### REMEMBERING JEFF SEMOW

DDA Jeffrey Semow, a tenacious and well liked prosecutor, died of a brain tumor on Saturday, March 17, 2007. Semow dauntlessly tried a number of difficult and high profile cases during his career. His triumphs were many. More importantly, Jeff shared his vast wealth of knowledge with his fellow

*(Continued on page 5)*

### CEBALLOS WINS SPECIAL AWARD FROM CRIMINAL COURTS BAR ASSOCIATION

Among legal organizations, the Criminal Courts Bar Association (CCBA) seems like it would be a tough customer for a prosecutor to impress. The Board of Directors

*(Continued on page 5)*

**ERCOM** cont.By ADDA NEWSLETTER  
EDITOR Steven Lopez*(Continued from page 1)*

However, the group was constantly bogged down by feuding between PDs and DDAs. The feuding became so great that DDAs and PDs were unable to choose bargaining representatives. The DDAs and PDs finally petitioned ERCOM in July of 1988 for permission to separate from each other. At the same time a number of PDs and DDAs sought to decertify and go forward without any representation. ERCOM postponed the severance petition, and granted the decertification request in February of 1989. In a clever twist, ERCOM declared the request to sever moot.

The CAOs Representative, Mr. Garisi, opened by stating the county's policy "against proliferation of bargaining units." Garisi explained that if DDAs are given their own bargaining unit, DPDs, DAPDs and Child Support Attorneys will each want their own units. The effect would be a disaster because the county would have to deal with too many parties. Garisi also noted that the original DDA and PD bargaining group was found by the county to be an appropriate group in 1969. Despite the fact that strife within the group caused it to implode, there was no reason to disturb the county's initial finding that a joint group was appropriate.

Garisi's argument was quickly placed in doubt by the first ADDA witness. Hyatt Seligman, a 28 year veteran of the DAs office, took the witness stand and stated facts that demonstrated the archaic nature of Garisi's argument. Seligman picked up where Schwab left off, detailing his efforts in the early 90s (after the implosion of the first unit) to have DDAs recertify as a bargaining unit, except without PDs. Seligman's efforts gained a great deal of momentum as DDAs recognized that, without the corrosive effect of fighting between DDAs and PDs, this new bargaining group could quickly choose a representative who could deal aggressively with the county over wage and workplace issues. Although many PDs were critical of Seligman's efforts, by 1992 he succeeded in gathering sufficient signature cards to petition ERCOM for a DDA only bargaining group. Seligman appeared before ERCOM and, in a virtually uncontested proceeding, convinced ERCOM that an independent DDA-only group would be an appropriate bargaining unit. ERCOM ruled that DDAs countywide should be permitted to hold an election to decide if this group could represent them.

However, Seligman was soon beseeched with requests from PDs to reconstitute the joint bargaining unit. In a move that he admitted he has come to regret, Seligman withdrew the request for an election for a DDA-only group, and re-

submitted as a request for a joint bargaining unit. However, Seligman soon learned that the vast majority of PDs only wanted a bargaining unit that would align with a large, left leaning national organization like the AFL-CIO or SEIU, not an independent local group. The result was a disaster, PDs swamped the election with "NO" votes and the proposed bargaining unit was "torpedoed."

Walter F. Daugherty then took the witness stand and verified many of the points raised by Seligman. Daugherty testified that he was the Executive Officer of ERCOM from 1979 to 1993. He was the Interim Executive Officer in 2006 when the ADDA's current petition was filed. Daugherty testified that the previous joint DDA and DPD bargaining unit actually came into existence in 1974. In 1988, after years of disension and infighting, the unit came to ERCOM to petition for the severance of DPDs and DDAs. But no hearing took place because soon after the severance was filed, a petition was filed to decertify. ERCOM decided to go forward on the decertification hearing, making the severance motion moot. Daugherty stressed that the standard in ERCOM for certifying a bargaining group is an "appropriate unit," not a "perfect unit."

Bart Deiner from the Service Employees International Union then testified. He described his duties as Special Assistant to the President of Local 721, formerly Local 660. He described his efforts, on behalf of SEIU's leadership, to organize PDs, APDs, DDAs and Child Support Attorneys into one SEIU bargaining group. In a surprising moment that seemed to catch some observers off guard, Deiner somberly noted that although SEIU initially wanted all these attorneys in one SEIU group, SEIU has conclusively found that DDAs and DPDs will never be able to operate together. Said Deiner, "[a] strong majority of DAs" will always want their own unit. "[W]e heard loud and clear from DDAs that their position in the justice system put them at odds with PDs." "Their jobs put them at odds, and this would carry over as to employment issues."

Even more surprising, SEIU tried to address the CAOs concerns about "proliferation of bargaining units," the CAOs practice of limiting the number of bargaining units. SEIU offered to consolidate 2 or three other units that had a commonality of interest but were separate, just so that there wouldn't be an increase in the number of bargaining units countywide because of the addition of DDA and DPD bargaining units (there are currently approximately 50 units countywide). However, the county refused to back away from its opposition to certifying a DDA only bargaining unit, thereby condemning DDAs and DPDs to remain in a dysfunctional and disorganized relationship.

Steve Ipsen, President of the ADDA, then took the witness stand. At this point, the hearing took even more surprising turns. Most participants in the hearing, including representatives of the CAO, had assumed that DDAs were, like APDs and DPDs, classified as "salaried and exempt employees." This is a class of employees ineligible to receive overtime, but not required to account for all workweek hours on an hour-for-hour basis. During his testimony, Ipsen referred to the District Attorneys Personnel Policies Manual. In particular, Mr. Ipsen pointed out Chapter 5, which classifies DDAs as "non-salaried and exempt." This classification alone would appear to place DDAs in a compensatory scheme separate and distinct from DPDs and APDs, and therefore would seem to conclusively demonstrate a need for a separate DDA bargaining unit to deal with separate issues under that scheme.

Ipsen also detailed the recent rocky relationship between the ADDA and SEIU. This rocky relationship culminated in the hotly contested 2005 ADDA Officer Elections. A slate of candidates, lead by Ipsen, ran for reelection to ADDA Officer and Board of Directors positions. Ipsen's slate favored an independent DDA bargaining group loosely aligned with ALADS (the Association of Los Angeles Deputy Sheriffs). This slate was opposed by a slate of candidates who favored working PDs and APDs in a joint bargaining unit affiliated with SEIU. The Ipsen slate won by a ten to one margin.

Additionally, Ipsen noted that the ADDA membership greatly favored the Association's involvement in "tools of the trade" issues. This included the ADDA's successful leadership of the opposition to Proposition 66 in 2004 and the ADDA's advocacy of tougher criminal laws.

On cross exam, Garisi quizzed Ipsen about where he worked. Ipsen acknowledged he worked in the Antelope Valley Courthouse. Garisi then asked Ipsen if PDs and APDs also worked in the same building. Ipsen agreed. Garisi then challenged Ipsen, asserting that PDs and APDs worked in the same building; therefore they are similar in their classes of employment. Ipsen replied "yeah, the PDs and APDs work in the courthouse too . . . so do court clerks, deputy sheriffs, probation officers and judges."

**The hearing will resume with witnesses called by the CAO on April 16, @10am, at the ERCOM hearing room, Room 374, 3<sup>rd</sup> floor, Board of Supervisor's Building.**

## ADDA BOARD OF DIRECTORS MEETING FOR FEB. 2007 BRINGS MEETING WITH ADMINISTRATION

Attending the meeting were ADDA Board Members (Brd. Mmbr) Ipsen, Yochelson, Boyadjian, Dodd, Shirley, Naiman, Jordan, Nison, Kahana, Tavelman, Lopez, Lasicka, Bozajian, Grace, Moll and Debbaudt. From the Administration Assistant District Attorneys (ADA) Jackie Lacey and Sharon Matsumoto attended, as well as Director (Dir.)Lynn Vaden.

Brd. Mmbr. Naimen queried ADA Matsumoto and Dir. Vaden on the closure of certain downtown parking lots and DDA compensation for parking. They responded that Lot 11 will not close until July of 2009. Long-term plans call for a letter to be sent by the DA asking for an adjustment of the parking allowance to account for cost of living and higher parking costs. Brd. Mmbr. Tavelman described the rising cost of parking and stated that the issue needs to be addressed soon. Dir. Vaden stated that the administration would begin a review of lists for requests for specific lots and try to update those lists. Brd. Mmbr. Naiman further stated that the office/county has not dealt with the economic inequities endemic to those deputies who park in the civic center.

ADA Matsumoto stated that the county never

intended to reimburse the deputies for the full costs of parking. The administration will press the county for a cost of living adjustment in the county traffic mitigation plan to reflect the additional costs to DDAs.

ADA Matsumoto then reported that the office is hiring approximately 78 new deputies in three classes. The office has an attrition rate of three to four deputies a month.

ADA Matsumoto then responded to inquiries about the new performance evaluation. Dir. Pam Booth is assigned to developing the new PE. ADA Lacey responded that Dir. Booth will attend future meetings to discuss the new PE.

After the Administration representatives departed, minutes from the prior meeting were amended to reflect change in the amount of dues for 60 dollars for 2 years and 50 dollars for one year.

ADDA President Ipsen went to the Governor's Inauguration and met with the Governor's Chief of Staff, Susan Kennedy. She encourages DDAs to apply for judgeships. A motion was made and passed to create a committee to explore endorsement of Keith Faulder for

Mendocino County DA and endorse if worthy. Brd. Mmbrs. Ipsen, Tavelman, and Boyadjian to staff the committee.

Brd. Mmbr. Bozajian was directed to draft a letter correcting Asst. Dist. Atty Lacey's letter to the Board describing past efforts to have Admin reps at ADDA meetings.

A motion was made and passed to offer Baker to Vegas and the Golf Tournament a five-dollar donation for every ADDA dues they collect. There was also a brief discussion about a suggestion from ALADs for having fees automatically deducted.

A motion was then made and passed to support Victim's Rights Week and Coin Event for Justice for Homicide Victims and to donate 100 dollars to JHV.

A motion was also made and passed to co-sponsor a bill by legislators George and Sharon Runner Bill to lengthen parole eligibility term from 2 years to 5 years.. Upon conclusion of debate the meeting was adjourned

*The editor thanks ADDA Secretary Bobby Grace for the text and content of this article.*

### PRESIDENT'S MESSAGE *(Continued from page 3)*

If we had been a bargaining unit the cancellation of 9/80, and other changes in working conditions could not have been implemented. They are protected rights subject to negotiation.

**#2-Courthouse Security:** If the ADDA had been a certified employee group with bargaining powers, we could have fought to stop the imposition of **metal detectors** by filing a lawsuit against the Superior Court, just like the Deputy Attorney General's Association ( a certified bargaining group) did when the Court of Appeals installed metal detectors. Facing a lawsuit, the Court's changed the policy and allowed DAGs to by-pass. Why? Putting metal detectors in are a material change in working conditions, and was subject to collective bargaining.

**#3-CDAA Membership:** If the ADDA had been a bargaining unit, our

### WANT MORE INFO?

\$100 dues reimbursement for CDAA Dues would have been a protected right, not a casualty of a feud with the CDAA. Mr. Cooley could not take away our right to attend or teach CDAA classes on county time, as these rights would be recognized as subject to bargaining, and therefore protected.

**#4-Transfers and Promotions:** As a bargaining unit, we are in a position to address the issue of punitive and last minute **transfers** that create hardship and hurt morale. We can address the burdensome and time-consuming **promotional exam process** that forces DDAs to use valuable vacation time studying for an exam.

**#5-Performance Evaluations:** Now the administration plans to change the **Performance Evaluation** process. This will not only be pointless and bad for morale, but subject disfavored DDAs to the threat of termination. By establishing a system where findings of "needs improvement" are common place, under county rules, the office will be in a position to seek to fire DDAs with 2 or more "needs improvement."

### REMEMBERING SEMOW

*(Continued from page 1)*

prosecutors. Always quick with a quip and never at a loss for words, Jeff was the colleague you turned to when you needed both good advice and a good joke. Jeff also had an encyclopedic knowledge of classical music and he was an avid mountain biker who knew every trail in Santa Monica Mountains. He was a good person, a brilliant prosecutor and a good friend. He will be missed. Jeff's fellow deputies at Central Trials are organizing a gathering in his honor on April 12, 2007, at 5pm at The Royal Claytons, 1855 Industrial St., LA.

### DDA CEBALLOS WINS AWARD

*(Continued from page 1)*

and Officers are mainly criminal defense attorneys and some of its major supporters are bail bond companies. However, the courage and professional integrity shown by DDA Richard Ceballos has earned him the CCBA Special Award for 2007. Ceballos received the Award for crusading for prosecutorial ethics as the plaintiff in *Garcetti, et al., v. Ceballos* (2006) 126 S. Ct. 1951. For more information about this case, and Ceballos's testimony before Congress about it, please check out the July 2006, edition of ATTORNEY NOTES, available online at [deputyda.com](http://deputyda.com). Ceballos also received the

ADDA Pursuit of Justice Award for his efforts.

As the CCBA summarized it, "Mr. Ceballos testified in Washington before the House Committee on Governmental Reform, where he received universal support and helped spark a movement to amend federal whistle-blower laws. . . Columnist David Feige wrote that 'Prosecutors have a special duty to seek justice rather than convictions.' They are sworn not only to uphold the criminal law but to enforce the constitutional protections that every criminal defendant is entitled to. . . Mr. Ceballos did precisely what we want prosecutors to do: he valued the integrity of the process above a particular prosecution."

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



**The Association  
by and for the  
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of Los Angeles  
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## ATTORNEY NOTES . . .

### SAVE THE DATE

#### APRIL

April 12-Gathering in honor of DDA Jeffrey Semow. 5pm. "The Royal Claytons," 1855 Industrial St., Los Angeles.

April 16 to 20-**National Homicide Symposium XVI**, Sponsored by the Cal. Dist. Atty's Ass'n (Contact: Suzanne Hunter, [shunter@cdaa.org](mailto:shunter@cdaa.org)). Phone: (916) 443-2017. The Westin Hotel 333 East Ocean Boulevard, Long Beach, CA

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

April 19-20-Narcotics Seminar, Sponsored by the Cal. Dist. Atty's Ass'n (Contact: Jill Brusco, [jbrusco@cdaa.org](mailto:jbrusco@cdaa.org)). Phone: (916) 443-2017. The CDAA Training Center, Sacramento CA.

April 21-Saturday Seminar, 8:30am to 12:30 p.m., Board of Supervisors Hearing Room, Kenneth Hahn Hall of Administration, 500 W. Temple St., LA

April 21- Baker to Vegas Challenge Cup Relay! Las Vegas, Nevada. For further information please contact Michael Yglesias at (213) 974-3707 .

Sunday, April 22, 2006 @11:00am. **HOMICIDE VICTIMS MEMORIAL**, Rose Hills Memorial Park & Mortuary. 4940 South Workman Mill Rd. Gate 19. Whittier, CA. 90601

April 23-24-Search Warrants Seminar, Sponsored by the Cal. Dist. Atty's Ass'n (Contact: Lindsay Shoemaker, [lshoemaker@cdaa.org](mailto:lshoemaker@cdaa.org)). (916) 443-2017. Grover Trask Training Center/Mission Inn, Riverside , CA

#### May

May 2-4-Consumer Protection Prosecution Conference, Sponsored by the Cal. Dist. Atty's Ass'n (Contact: Jill Brusco, [jbrusco@cdaa.org](mailto:jbrusco@cdaa.org)). (916) 443-2017. Hyatt Regency, Newport Beach CA.

May 15-ADDA Board of Directors Meeting. 5pm, Younger Conference Room, 18th floor, CSFCJC

May 19-Saturday Seminar, 8:30am to 12:30 p.m., Board of Supervisors Hearing Room, Kenneth Hahn Hall of Administration, 500 W. Temple St.,

May 21-23-Evidence Seminar (South), Sponsored by the Cal. Dist. Atty's Ass'n (Contact: Pam Matalucci, [pmatalucci@cdaa.org](mailto:pmatalucci@cdaa.org)). (916) 443-2017. The Hotel Del Mar, Santa Barbara CA.

#### June

June 4-7-Trial Advocacy Skills Workshop (North), Sponsored by the Cal. Dist. Atty's Ass'n (Contact: Suzanne Hunter, [shunter@cdaa.org](mailto:shunter@cdaa.org)). (916) 443-2017. Monterrey Marriot, Monterrey CA.

June 8-Advanced Trial Topics Workshop, Sponsored by the Cal. Dist. Atty's Ass'n (Contact: Lindsay Shoemaker, [lshoemaker@cdaa.org](mailto:lshoemaker@cdaa.org)). (916) 443-2017. DoubleTree Hotel Sonoma Wine Country, Rohnert Park, CA.

June 11-13-Advanced Gang Prosecution Seminar, Sponsored by the California Dist. Attorneys Association (Contact: Pam Matalucci, [pmatalucci@cdaa.org](mailto:pmatalucci@cdaa.org)). (916) 443-2017. Sheraton Fisherman's Wharf, San Francisco CA.

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., LA.

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