MILLER STARR REGALIA

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California Lawyers Association (CLA) Interview: Miller & Starr Partner Matthew Henderson: RPLS Ex-Com Advisor and Former Member

Related Lawyers: **Matthew Henderson**

By: John "J.R." Richards // The California Lawyers Association.

So you were asked to and served as our group's first Member of the Board of Representatives with the new California Lawyers Association which came from the California Bar Association. Tell me how it felt to represent all real estate lawyers in the new organization?
Honestly, it was a tremendous honor to be asked to represent RPLS in CLA's inaugural year. There were so many important questions that the Board had to address, from the organization's president and vice-president, its permanent home, its new executive director, budgeting, staffing, etc., and it was a great privilege to be able to weigh in on these issues on behalf of real property lawyers statewide.

What were your responsibilities?
Primarily just being informed on CLA business and being prepared to contribute on the significant issues before the Board. The Board would meet regularly both via conference call and in person, and there were detailed agendas and reports for each meeting. There were also a number of ongoing issues with drafting and implementing policies, getting personalities to mesh, making sure the section had the resources necessary to function during the transition, etc.

What were some of the challenges that you faced with the new group?
The main challenge was the sheer volume of work to be done. Getting a new group the size and scope of CLA off the ground is no small task. Agendas and meetings were packed with substantive issues requiring attention, and not small day-to-day issues but matters that go to the core of CLA and its future mission. One big underlying question that will have to be tackled as the organization progresses is what I call the federal problem. I.e., will the power of the association primarily reside in the individual sections, or will it reside in the umbrella organization? Each approach has its pluses and minuses.

What are your overall impressions with the CLA and what do you think and/or hope they can accomplish?
The CLA is in a really advantageous position as it's starting out at a time when the legal profession and bar associations are undergoing changes in response to technology and the influx of younger attorneys. What is the role of the bar association in the 21st century? It's an open question, and CLA is in a position to not only react to but craft the answer to that question. It's a tremendous opportunity.

And with that in mind I've been very impressed with the hard work put in by CLA management. President Heather Rosing is incredibly dedicated to the organization and so hard working, it's alternatively inspiring and depressing how much she seems to get done. Chair of the Board Jim Hill has done a great work with the cat herding that is an inherent part of that job. I could go on and on; Emilio Varanini, Pam Wilson, Tricia Horan… so many great people doing great (and hard!) work. It's setting things up nicely for our new executive director, Ona Dosunmu, who I am really thrilled about. I think it was a real coup for CLA to land someone of Ona's caliber (especially from an organization like Brookings!), and I'm excited to see what she does with the organization.

So, I think CLA has all the potential in the world to create a thriving 21st century bar association that can be an example not just for the state but nationally and even internationally.

What kind of work do you do and have you done with the Real Property Law Section?
I've done a bit of everything in my time with RPLS. I started out as co-chair of the litigation subsection. Since then I've edited and co-authored some articles for the Journal, which has been tremendously rewarding. For a few years I wrote a (semi) regular column for the e-bulletin called "Matt's Musings," which was kind of fun (especially when folks would email me about it). I've put on a MCLE presentation I was proud of, on extraordinary writs in the courts of appeal. I've served on panels, I got to give the Real Property Person of the Year Award to two of my firm's founders, Ed Regalia and Marv Starr, I've helped plan retreats and events. And then I've also gotten to post on the Section's social media accounts, which is enjoyable.

What has been your favorite or most memorable contribution to the Real Property Section?
Matt's Musings and Twitter for pure fun. Getting to give an award to Ed and Marv was personally very rewarding as they were both titans of California real property law, fantastic attorneys, and men I was lucky enough to call friends and colleagues. Mostly, though, it's been the chance to work with the RPLS volunteers in the ExCom and elsewhere. They're a dedicated, interesting, and talented group of people.

What do you think we can do to improve what our group does for real estate attorneys across California?
Several things. One, being a statewide advocacy group like CLA is huge; as part of the State Bar we weren't really in a position to lobby or advocate for our members with the Legislature or other bodies. Now we are. Two, being a focal point for in-person interactions. Online CLE may be all the rage, but for networking there's no substitute for face-to-face meetups. Three, fostering a sense of pride and community in what we do and who we are. Real property lawyers should be proud of our common profession, no matter which niche we fall into. I coined the hashtag #bestsectionever for our Twitter feed, and it's a sentiment I happen to believe in.

Can we talk you into giving a CLE? What subject would you like to present?
Twist my arm and we'll see. Probably something to do with the future of development, housing prices, infill, and/or CEQA. (You know, the usual panoply of land use stuff.)

As long as I can remember, Miller, Starr & Regalia has been the preeminent real estate law firm in the State of California. What's it like on a day-to-day basis to carry that banner? Do you feel pressure to walk in their footsteps?
It's a blessing and a responsibility. I hope that we continue to have the credibility with courts, counsel, and clients that our founders worked so hard to earn. It's something we're very mindful of and don't take for granted. Our advocacy is always rooted in good faith interpretations and applications of the law; we wouldn't want to do anything to jeopardize the positive reputation that we've enjoyed for so long. So, we all strive to practice law at a high level with a high level of courtesy and ethics and, dare I say it, humanity. I never knew Harry Miller, but Marv Starr and Ed Regalia certainly took that approach, and it's worked for them and for those of us who have followed in their footsteps.

When did you start working there? Can you share some insights to what it was like to start working at Miller & Starr?
I am the rare home-grown attorney who has spent his whole career with one firm. I was a summer associate back in 2002 and started full time with the firm in the fall of 2003. The firm was going great guns in those first few years in the run-up to the Great Recession. But unlike a lot of other firms we didn't expand for the sake of expansion, or merge with another firm even though we had some suitors and it seemed like everyone else was doing it. I think the firm culture – valuing hard work and lawyering of the highest caliber, along with genuinely enjoying the people you work with and appreciating having a life outside the law – served us well then, and does so now. Lawyering is hard enough without having to turn it into a grind that only focuses on the bottom line. I count myself lucky that I landed at a firm that combines the best of clients and matters with a culture that values me as a person and not just a generator of bills.

Which of the partners at your firm have been or were the most influential to you?
I started out working for Rich Carlston, who was making his reputation as one of the leading title and escrow attorneys in the country at that time. We had a ton of that work, and much of it was high-stakes, high-profile litigation. It was fun and very educational. Rich was also involved in RPLS and was on the ExCom, so it was through him and Bill Shiber that I first got involved. (So, letters of complaint should be directed to them.)

I also got to work with Ed Regalia as a junior associate, and that was really rewarding. Ed was a fabulous attorney with an outstanding reputation, but he had almost zero pretense or ego involvement. He treated everyone as a peer, which was really leading by example, and didn't take himself too seriously. Marv Starr was mostly doing work as an expert witness, so I didn't get to work with him directly, but like Ed he was always down to earth and approachable. If you've ever met Marv you'd remember – he has a real charisma and way with people, and a great sense of humor. The character of the firm today is still in large part due to their influence.

Have you always been a part of the appellate advocacy group? What kinds of projects have you done at Miller & Starr.
I helped found the appellate practice group a few years ago as it made no sense to me that we hadn't institutionalized the extensive appellate knowledge and experience at the firm. I know I'm biased, but as the authors of Miller & Starr, and having the reputation in the field of real property law that we do, if someone has a real property case on appeal, especially one with the potential for setting a significant precedent, they should absolutely be looking to us for guidance and help, even if we're not lead appellate counsel.

Who's your favorite attorney in your firm? Just kidding, what do you like about your firm's size and the people who work there?
The firm has waxed and waned over the years but never gotten too big or too small in the time I've been here. Again, we haven't grown for the sake of growth or just to chase more dollars. It's no good hiring a bunch of folks and then having big layoffs when a downturn hits. At the risk of sounding like a broken record, the lawyers who work here value professional merit and success, and having a life outside the law. That means seeing each other as people and not just billers. Coming into the office is much easier if you actually enjoy the company of your peers. That extends to staff, too; a high percentage of our staff have been here for decades. It's a nice place to work, I recommend it.

What is your favorite area of real property law?
Land use litigation, and appellate work generally. Little to no discovery and you get to focus on interesting legal issues that have real impact on real projects.

Are there any parts of your business you are trying to grow?
We're pretty busy right now, so growth seems organic. Hopefully that continues for the future.

Tell me about your favorite case of all time and what happened that made it so interesting.
Ah, that's a hard one. Also, "favorite" to a lawyer is a loaded word. One trial I had in Solano County seemed to take years off my life at the time, but because we won I look back on it fondly. In retrospect it was great because we prevailed in spite of having the deck stacked against us; we had gotten into the case only after it had already been up on appeal and remanded, with a published opinion that was very adverse to us. The trial court allowed almost no additional discovery, and the documents we did wind up finding that should have won the case for us were excluded as being late produced. So, winning that one was particularly sweet. The side effect of that case is that to this day I am a little overeager to explain to people how assessor's parcels exist for taxation and not for the purpose of legally describing or conveying real property. (Take a look at Revenue & Taxation Code section 327 if you're curious.)

Undergrad or Law School, which is better?
Undergrad.
Why?
I preferred reading novels and poetry to cases and statutes. Plus, no grading on a fixed curve.
M.A. in Humanities? Why?
I originally fancied myself an academic and thought about getting a Ph.D. in English. The MA program at Chicago was a way to test that idea without committing to the decade or so it would take to get the doctorate. Grad school had its moments but ultimately the academy wasn't for me.

University of Chicago. Isn't that a great books school, where they teach from the actual original texts? Tell me about the unique education you received at University of Chicago?
Chicago has a certain reputation as a school for serious students (when I was there you could buy t-shirts that read "University of Chicago: Where Fun Goes to Die," and I'd be surprised if they weren't still for sale), and I think that's more or less true. I really liked the atmosphere of scholarship and learning, but it does come with a certain amount of stress. I got a chance to study with some leading scholars, including the poet Mark Strand, Ted Cohen, and Martha Nussbaum. She taught a course called "Anger and Hatred in the Western Philosophical Tradition." It was co-offered through the law school and philosophy department, so I guess technically it was the first legal class I ever took (though it didn't resemble any of the coursework I later did at UCLA law; my main paper was on anger and stoicism in Moby Dick). I wrote my master's thesis on Geoffrey Hill's poems on the Holocaust, which is a bit abstruse. It was different, interesting, and challenging work. I also rowed on the crew team when I was there, which was a great way to meet people and constructively blow off some steam. (I've never been in as good shape since.)

Other than what you do now, what's the most interesting or unique job you've ever had? Why?
Probably managing the student café my senior year of college. Nothing like handling a crowd of hungry college students at one in the morning on a Saturday, or trying to balance hiring, training, and scheduling people to work while also making time for classes and the occasional beer.

What do you do to help balance your life with work?
Spend time with my wife and kids. They don't treat me nearly as seriously as I tend to treat myself when I'm at the office, which is the perfect reminder that (1) I'm not as important as I may think I am, and (2) that to the extent I am important, it's mostly in my role as husband and father.

I also like to go fly fishing for wild steelhead when I have the chance, which isn't as often as I'd like. But to me it's the perfect antidote to the stresses of life as an attorney.

What areas of real estate law interest you the most?
As someone with an academic bent, I love appellate issues, both procedural and substantive. And the ins and outs of land use law are always fascinating given the potential for multiple and overlapping local, state, and federal issues to crop up. Plus this area directly impacts (if you'll pardon the phrase, CEQA lawyers) how actual land is actually used. In some ways it's the point of the spear for real property law as a whole.

Who are the five best speakers you have heard at CLE's?
Ed Regalia. Andrew Sabey. Grant Nelson. Art Coon. Phil Tate.

I'd like to find a resource at your firm to do a history or Miller & Starr piece. With whom should I speak?
The firm historian is Karl Geier. As the current editor of the Miller & Starr treatise he's also kind of an expert on almost anything to do with California real property law.

Last question…Seven Samurai, Yojimbo and Sanjuro. Which one and why?
As for the Kurosawa films… man, that's a toughie. Any answer I give is going to make me sound like a pretentious undergrad film major (as if there's any other kind). But given my love for Kurosawa, I'll play along. *Seven Samurai* should win for pure artistry and storytelling (and for inspiring Pixar's *A Bug's Life*, which I prefer to *The Magnificent Seven*), but I'll go with *Yojimbo* . It's just a very well made film in all respects, from acting to story to cinematography to soundtrack. Toshiro Mifune was at the height of his powers in the role, and his less-well-known counterpart Tatsuya Nakadai (a fantastic actor in his own right; see him as Hidetora in the incomparable *Ran* and you'll see one of the greatest performances of the King Lear character, ever) is the perfect foil (so much so that Kurosawa also cast him as the bad guy in the *Yojimbo* sequel *Sanjuro*). It has genuine moments of comic relief, and the supporting cast is great.

Yojimbo also perfectly encapsulates the influence of westerns on Kurosawa, and vice versa. You can practically hear the jingle of spurs when Mifune strolls into town, with wind swirling dust through the empty streets. The fact that *A Fistful of Dollars* is virtually a shot-for-shot remake of *Yojimbo* tells you all you need to know (and how much of a debt Clint Eastwood owes to Kurosawa and Mifune). Like *Ran* and *Throne of Blood, Yojimbo* really embodies the synergies between Japanese and western cultures. I give it four stars and two thumbs up.

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