

**April
2009**



President's Message

A lot is going on at this time. Our state and federal governments are spending money like there is no tomorrow. This coming Wednesday, April 15th, there are TEA PARTY PROTESTS all over the country. I have heard estimates as high as 2,000 potential tea parties to be held that day.

I would like to encourage everyone to attend one of the local Tea Parties as follows:

Wednesday, April 15th - 5:00-7:00pm - Cesar Chavez Plaza, San Jose

**Wednesday, April 15th - Noon-6:00pm - IRS Building, 55 S. Market Street,
Downtown San Jose**

**Wednesday, April 15th - 1:00-7:00pm - Hillsdale Mall, 31st and El Camino,
San Mateo**

Thomas Jefferson warned us over 200 years ago, "*We must not let our rulers load us with perpetual debt.*" Yet, that is exactly what "our rulers" are doing. These Tea Parties give you an opportunity to say, "*Enough is enough.*"

Also, please mark your calendars for Tuesday, May 5th, for our next Conservative Forum meeting. Our guest speaker will be political activist and former KSFO talk show host, Melanie Morgan. Mark your calendars.

Pericles told us 2,439 years ago, "Just because you do not take an interest in politics does not mean that politics will not take an interest in you." We are witnessing a transformation of the American way of life right before our very eyes. If we do not take a couple of hours to get out of our comfort zones now, we very well could spend the rest of our lives out of our comfort zones.

Richard Geno

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On Barack Obama's Poll Numbers by Sylvia Thompson

Pollsters indicate that Obama's poll numbers are below 60 percent, still somewhat high given the dismal polling for his plans to remake America. Liberals are quick to tout how good his numbers are despite all else. But what's behind these numbers?

When you consider the level of ignorance among the people who voted for Obama, it's understandable that many of those people are as ignorant now of who he is and what he stands for as before he was elected. And I dare say that is exactly what the powerful forces behind his rise to power intended. John Ziegler has developed a masterful DVD surveying the otherwise intelligent people who voted for Obama. They know little or nothing about the current makeup of American leadership, how the government functions, or what Obama believes. (<http://www.mediamalpracticemovie.com/order-media-malpractice.asp>)

It is somewhat understandable why ignorance is the order of the day. The media have done a bang-up job, as Ziegler's movie reveals, of hiding facts about Obama and twisting facts about anybody else who questions his abilities or opposes his left-directed agenda.

The sad fact for me as an American black whose ancestral roots go back a few centuries in America is that Obama will be the historical face of the first black leader of the nation. A pawn of powerful (certainly *not* black) forces whose intentions for this country are in direct opposition to those of the Founders. I think of the number of descendants of American slaves who might have filled that role with far more positive results.

Newt Gingrich, former Speaker of the House, commented recently that you simply cannot believe what Obama says. I offer that it's because whatever he is directed to say, his manipulators know that the people who support him out of general ignorance will be swayed by his smooth talk. Obama delivers insanity

dressed up as rational thinking. Socialized health care and massive spending on liberal long-desired projects, none of which will stimulate the economy, are appealing to those who lack knowledge of what makes this nation function.

It really surprised me how so many white Americans believed Obama during the campaign, including apparently, Gingrich. I had to chuckle, even though the matter is deadly serious. I stopped listening to smooth talking, good looking black men back in my forties. I'm a bit ashamed that it took me so long to wise up, but it's a testament to just how good a smooth-talking black man can be.

I was saddened by an incident in a church that I attended one morning in North Carolina with a high school friend. In line with the subject of his sermon, the Pastor asked the congregation how many would accept being given a salary for no work. In the reasonably large crowd that morning, a majority of hands shot up. Like me, the Pastor was taken aback by the response. He could only comment, "You don't really want to be given something for nothing, do you?" This church was not in a poor community, and the idea that so many people couldn't see the problem with that mentality was a bit scary.

I, like so many Americans, am very concerned about whether the George Soros types will succeed in destroying this nation—compliments of the useful pawn Obama and a compliant, left-winged Congress. Maybe the era of black slavery will no longer be the worse time in our nation's history. Maybe the Godless, socialistic, equally stifling of freedom era, which we are now entering, will be. Only this time, we all will become slaves.

Where do we go for Hope and Change? by Jack Ward

.Let us review the folly that led to the current financial crisis.

Foolish politicians created rules and regulations that allowed the following. Unqualified buyers were allowed to obtain mortgages that they couldn't afford and unscrupulous lenders were allowed to create loans that entrapped these unqualified and uninformed buyers into home they couldn't afford.

Unscrupulous financial institutions were then allowed to break these loans into worthless derivatives like credit default swaps to mitigate investor risk, then bundle these worthless financial instruments with good loans, and sell them to unsuspecting buyers around the world.

Once commingled no one knew which loans were good loans and which ones were toxic. As a result the entire home mortgage market became suspect. But the credit market thought that there was no reason to worry because all these toxic financial instruments were backed by the full faith and credit of the U.S. Treasury and insured – many through AIG.

When loan defaults began to occur and foreclosures escalated, the financial institutions that held these worthless financial instruments began to panic and the credit market froze.

To thaw out the frozen credit market, the Federal Reserve and the U.S. Treasury threw trillions of dollars at the problem. While we choke at the magnitude of these stimulus packages and question their effectiveness, at least the attention was focused on the cause of the problem.

Obama described his budget as "... a budget that leads to broad economic growth by moving from an era of borrow-and-spend to one where we save and invest." But in reality it is just the opposite, Obama's budget is a borrow-and-spend budget. With his budget we will have a deficit of about a trillion dollars a year for at least the next ten years. We have maxed out our credit cards and the U.S. Treasury is having trouble selling bonds.

When questioned about his budget Obama said, "A budget is a snapshot of what we can get done right now, understanding that eight, 10 years from now we will have a whole series of new budgets." In short, Obama says his ten year budget is just a wild guess and worth nothing.

Obama said he was going to be honest with the American people and included the cost of operations in Afghanistan and Iraq in the U.S. budget. That's great, but he didn't include the cost of Social Security, Medicare, Medicaid, and other entitlements. These government off-budget programs dwarf the cost of the wars in Afghanistan and Iraq.

Before Obama took office, David Walker, the former Comptroller of the United States and head of the Government Accountability Office (GAO), has warned us that the current level of federal spending is unsustainable unless some drastic action is taken. Walker has added up all the federal government's income and compared it to all our liabilities and future obligations such as Social Security, Medicare, Medicaid, and other entitlements. Those liabilities and future obligations exceed \$53 trillion. He has concluded that at the current level of spending is unsustainable and the U.S. is headed toward bankruptcy. David Walker said that President Bush was "the most fiscally irresponsible president in American history."

But the dirty little secret is that the non partisan Congressional Budget Office's (CBO) recently released estimates of deficits and debt and informed our Congress Critters that Obama's proposed budget comes up short on its estimates for spending, revenues and deficits. Obama's budget sets proposed spending at record levels and will dwarf the fiscal irresponsibility displayed by Bush. Obama has proposed a budget of almost \$4 trillion and the CBO projects that the national debt will more than double.

When Obama presented his budget plan he said it would "secure and lasting prosperity," and would end the era of "reckless speculation, inflated home prices, and maxed-out credit cards" that created an "illusion of prosperity." This is illusionary poppycock. In reality, the U.S. is deep in debt and you don't get out of debt by borrowing money so you can spend more.

Obama opined that the cause of the financial debacle was "reckless speculation, inflated home prices, and maxed-out credit cards" that created the financial crisis. But President Obama's long range plan to fix this economic problem is to nationalize health care, adopt draconian energy policies, and pour money down the failed government school system. This slight of hand and dismissal of reality rivals any of the performances of the Great Houdini.

Obama proposes Orwellian solutions to real economic problems. Was this the Hope and Change you wanted?

Judicial Independence or Judicial Arrogance? by Anthony F. Earle, Esq.

It's no secret that the Ninth Circuit Court of Appeals is the federal appellate court which has been voted – by the United States Supreme Court – as the circuit most likely to be wrong when deciding appeals.

Imagine, for a moment, that rather than being part of a federal bureaucracy, the Ninth Circuit was one of several working groups in a private sector company and that all such working groups in the company were responsible for following instructions from a board of directors. Although the board of directors requires that all working groups comply with the board's instructions, the board nevertheless gives all working groups broad discretion as to how to perform their work.

Imagine, also, that one of the working groups – Group Nine – is told more frequently by the board of directors than any other group that, for whatever reason, it failed to correctly perform its work.

Imagine further that a minority of Group Nine's members routinely try to persuade that group's majority that the majority is failing to follow the board's instructions. What would be likely to happen? Would it be reasonable for the majority – the majority who are routinely taken to task by the board of directors for failing to follow instructions – to turn inward and reflect upon how they might improve their job performance? Or would it be more reasonable for the errant majority to interpret the minority's attempts at persuasion as “snarky” comments and lash out in an attempt to silence the minority? And if the errant majority still refused to follow instructions, would it not be reasonable to anticipate the termination of the errant majority's employment?

In an article titled *Liberal Wing of 9th Circuit Lashes Out at Snarky Conservative Dissents*, which recently appeared in the legal newspaper *San Francisco Daily Journal*, it was reported that liberal judges on the Ninth Circuit have been taking advantage of a rarely used court rule which allows for the publication of judges' comments in rebuttal to dissents from orders denying review by a full panel of the appellate court.

A little background: intermediate appeals, at the circuit court level, may be taken as a matter of right from any case decided in a federal district (trial) court. Intermediate appeals heard by a circuit court of appeals are randomly assigned, in the first instance, to a three-judge panel. If one of the parties is sufficiently unsatisfied with the decision of the three-judge panel, that party can ask for a discretionary rehearing by a full panel of the circuit court. Discretionary review by the United States Supreme Court can then be sought following a decision of the full panel of the circuit court, or, alternatively, following denial of a request for rehearing by a full circuit court panel.

The Supreme Court has almost absolute discretion regarding the cases it chooses to hear. Most cases arrive at the Supreme Court by way of petition for a writ of certiorari, also known as “cert petitions.” The overwhelming majority of cert petitions are denied, which results in the decision of the circuit court of appeals – either the three-judge panel decision or, if reviewed by a full circuit panel, the full panel's decision – becoming the final decision in the case.

Conservative judges on the Ninth Circuit, who are vastly outnumbered by their liberal counterparts, are routinely on the losing end of votes to rehear cases previously decided by three-judge panels. In such cases, some conservative judges have been authoring dissents from the majority's orders denying full circuit court review. These dissents from orders denying review are sometimes referred to as informal Supreme Court “cert petitions”, because they tacitly urge the Supreme Court to take the case, while also providing a “roadmap” for the party seeking Supreme Court review to use when drafting its Supreme Court cert petition.

In spite of the high rate at which the Supreme Court reverses the Ninth Circuit Court of Appeals, liberal judges on the Ninth Circuit, like other liberals, refuse to consider the possibility that they might be wrong, and modify their conduct accordingly. Instead, liberal Ninth Circuit judges have lashed out at conservative judges by claiming in orders denying review that conservative judges, in their dissents from those orders, have misquoted Supreme Court precedent, omitted crucial wording when citing cases, and misunderstood con-

gressional intent when interpreting federal statutes.

However, the facts show that it is the liberal judges who have been getting it wrong.

For example, the Supreme Court reversed liberal Ninth Circuit judges in *Belmontes v. Ayers*, 551 F.3d 864 (2008); *Defenders of Wildlife v. U.S. Environmental Protection Agency*, 450 F.3d 394 (2006); and *Parents Involved in Community Schools v. Seattle School District No. 1*, 426 F.3d 1162 (2005); and has granted review in *Truth v. Kent School District*, 551 F.3d 850 (2009) and *Department of Toxic Substances Control v. Burlington Northern & Santa Fe Railway Co.*, 520 F.3d 918 (2008).

Rather than lashing out at their conservative counterparts, liberal Ninth Circuit judges who have criticized conservative dissents from orders denying review might be better served by turning inward and reevaluating their own – erroneous – positions on these appeals cases. Doing so just might reduce the rate at which the Supreme Court reverses liberal Ninth Circuit judges.

Judges tend to respond to criticism of their judicial work by invoking the well-worn mantra of “judicial independence”, as if their judicial performance is somehow immune from scrutiny – and criticism – by the public. Federal judges remind us that a purpose of their constitutionally authorized life tenure was to insulate the judiciary from political winds.

However, judicial independence, properly understood, refers to the ability of judges to impartially apply the law to cases before them, without fear of retribution for following the law or precedent. Judicial arrogance, on the other hand, refers to judges' disregard or refusal to follow the law or precedent in order to achieve the judges' own personal policy preferences. As reported in the *San Francisco Daily Journal*, liberal Ninth Circuit judges have showcased their judicial arrogance by lashing out at their conservative colleagues in response to those colleagues' legitimate attempts to persuade liberal judges – through dissenting judicial opinions – to follow the law and precedent.

It wasn't too long ago that our current Secretary of State told us that it is patriotic to criticize our government. Our government is not composed of just the executive branch during periods of Republican administrations; our government consists of all presidential administrations, the Congress and, yes, also the judiciary. Thus, according to our Secretary of State, it is not only appropriate to criticize the liberal judiciary, doing so is per se patriotic.

“Originalism” – using original intent – is the intellectually honest method for interpreting the Constitution. Liberals, however, prefer the “Living Constitution” method, which allows courts to disregard original intent in favor of a “modern” interpretation which fits their particular policy goals. Although originalism is the better method for constitutional interpretation, perhaps an exception could be made when interpreting Article III, section 1, of the Constitution, which provides for life tenure of federal judges “during good behaviour”. Just as liberals have redefined the Constitution to mean that which it was never intended to mean, perhaps conservatives could, just this one time, borrow a page from the Liberal Playbook and redefine the “good behaviour” clause to require the following of precedent established by the Supreme Court. Judges who fail or refuse to follow precedent could then be impeached and removed from office.

A nice thought, perhaps, but it will never happen. The board of directors (Supreme Court) of our Group Nine (Ninth Circuit Court of Appeals) does not have the constitutional authority to fire errant judges and the company's shareholders (Congress and the American people) do not have the political will to do so.

So, at least for now, all we can do is to continue being patriotic by publicly criticizing poor job performance by our life-tenured federal judges, while doing our best to prevent more liberal judges from taking the bench and impatiently waiting for the next mid-term elections.