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Promoting the rule of law in El Salvador

Daniel Barton is a partner at Nolan, Armstrong and Barton LLP, a Palo Alto law firm specializing in criminal defense. He recently traveled to El Salvador as part of a Human Rights Delegation organized by the Center for Justice and Accountability.



Dr. Florentín Meléndez is on mission to protect the rule of law in El Salvador. On the Supreme Court of Justice of El Salvador, Justice Meléndez and his four colleagues in the Constitutional Chamber resolve disputes about the authority of public institutions and the meaning of the rights of individuals. But that's not what is remarkable. On

Saturdays, while his colleagues on the court enjoy their weekends, the 63-year-old Salvadoran Supreme Court justice takes his job defending the Salvadoran Constitution on the road.

Meléndez is waging a quiet personal campaign of popular legal education in El Salvador. He is a true believer in the country's Constitution and wants every Salvadoran to know his or her constitutional rights. He travels to the far corners of the country, contacting the poor and the forgotten, to spread the word that the Salvadoran Constitution exists to empower the people. He passes out pocket-sized copies of the Constitution to everyone he meets. He tells people to take an extra copy and give it to a neighbor. With little attention from the Salvadoran press, Meléndez has visited over 200 towns to explain the significance of the Constitution to ordinary citizens.

On Nov. 15, I accompanied Meléndez on a journey to the town of Cacaopera, in the state of Morazan, with a population of about 2,500 people. On the road before six in the morning, we navigated chaotic highways and mountain roads for over three hours. While we drove, Meléndez told me of his efforts in the 1970s to educate the public about constitutional rights. In those days, he explained, educating people about their rights was treated as subversive. "If people were found with a copy of the Constitution, they would be arrested and taken away by the military." My lesson in Salvadoran history and jurisprudence continued until we arrived at a rural school, where 200 plastic chairs awaited the justice's arrival in the courtyard. The mayor and the principal greeted Meléndez warmly, each explaining that no one of the justice's stature had ever come from the capital just to contact the people of Cacaopera.

Slowly the chairs filled up with the residents, some nicely dressed for the special occasion, some sweaty and coming right from the fields, and some with babies in their arms and toddlers in tow. Many were literate but surely some were not. Over 150 people of all ages gathered to hear Meléndez speak about the rule of law and his beloved Constitution.

And speak he did. With no microphone, Meléndez spoke uninterrupted for an hour and 45 minutes, walking up and down the aisles with a copy of the Constitution in his hand. He passionately described the organization of public institutions and gave down-to-earth examples of how those institutions could serve the individuals of Cacaopera.

He proclaimed that the Salvadoran Constitution is based on protecting individuals. He quoted Article 1: "El Salvador recognizes the human being as the beginning and the end of the actions of the State." As the justice spoke, some people clutched their fresh copies of the Constitution in their hands and followed along, looking up the articles of the Constitution as the justice mentioned them. I could see people move their lips as they carefully read the words of the Constitution.

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NEWS RULINGS VERDICTS

Friday, November 21, 2014

California Supreme Court Defendant guilty of murder committed by rival gang member, state high court rules

A man who watched his cousin and his friend shot to death by a rival gang member is guilty of those murders given his involvement in the fight that led to the shootings.

Administrative/Regulatory What's really going on at the bar

I regret to inform the California legal community what has happened at the State Bar. By **Mark Geragos**

Labor/Employment VIDEO: Paid sick leave may be the death knell for paid time off



In 2015, California will become the second state in the nation to require employers to provide paid sick leave. How does paid time off fit in, and does it still make sense to have paid time off? By **Judith Droz Keyes**

Juror contact could add wrinkle to employment verdict against AutoZone

Attorneys for AutoZone Stores Inc. have accused its opponent's counsel of improper contact with a juror, potentially putting the \$185 million in punitive damages awarded against the retailer in jeopardy.

Solo and Small Firms Backlot Bravado

Ramo Law PC is not a typical Beverly Hills entertainment firm. Its founder, Elsa Ramo, just hired her firm's first male attorney after nearly 10 years of operation. And the firm got its start in a trailer on the Universal Studios backlot.

Law Practice

Family law firm opens second Silicon Valley location

Moreno Family Law Firm has opened its second office. The new Palo Alto location will house owner Marilyn Moreno and another attorney. The firm is also hiring two additional lawyers for the new office.

Financial services technology company Loyal3 Holdings hires new GC

Loyal3 Securities brought on Julia Cowles from Davis Polk & Wardwell LLP to lead its legal department.

Vital Therapies brings in new GC

San Diego-based Vital Therapies Inc. announced Thursday the appointment of a new general counsel.

Meléndez preached that Article 3 guarantees that all people are equal in the eyes of the law. He exhorted the small crowd, "If you feel that you are being treated poorly by a government official because you are poor or indigenous or a farmer or a woman, pull the Constitution out of your purse or your pocket and read them Article 3." "If you are fired from your job as domestic worker because you are pregnant, that's against the Constitution. Article 194 tells you that you should go to the office of the public advocate. They have an office down the road in the town of Gotera. That's my hometown. I grew up there." "If you know someone who has been arrested, you should go to the public advocate's office and they will defend the rights of that person." And a few minutes later he tested them: "Where should you go if you are fired from your job because you are pregnant? That's right. The public advocate's office."

"If you are a victim of a crime, go to the prosecutor's office. That's close by in Gotera, too." And when you go to a government office, the justice admonished, remember that you are not asking for a favor; you are demanding what you are legally entitled to. The official is there to serve you. Forty minutes went by and the justice was not slowing down and the crowd remained attentive and engaged.

And then the justice turned to the individual rights guaranteed by the Salvadoran Constitution, the rights of freedom of expression, freedom of association, freedom of assembly, freedom of religion, the rights to petition the government, to dignity and personal integrity, and to work and a minimum wage, the right to be advised of the reason for an arrest and the right to food and medical care if you are detained. The right not to be tortured. And, being a thorough and precise jurist, Meléndez diligently explained that Salvadorans also have enforceable rights that are not in the Constitution that come from international treaties and conventions.

Acknowledging the palpable gap between the lives of those gathered and the high sounding principles of the Constitution, Meléndez called upon the crowd to move toward greater equality by studying and informing themselves. He quoted Don Quixote: "Liberty, my friend Sancho, is one of the most precious blessings that Heaven has bestowed upon mankind. Not all the treasures concealed in the earth, nor those at the bottom of the sea, can be compared with it."

An hour and 15 minutes into the talk, the crowd still listened patiently. The indefatigable justice did not stop.

He instructed that the Constitution sets forth duties and rights. He quoted Benito Juarez, an indigenous Mexican of humble origin who studied hard and became a lawyer before becoming president of his country, who said that peace is the respect for the rights of others. And Meléndez explained that under Article 73, every adult Salvadoran has a duty to vote. He carefully described exactly what the new ballots would look like and how the voters could now vote for whomever they choose and not have to vote a straight party line. Article 78 guarantees a free, direct, equal and secret vote.

At the end of the talk, after answering a handful of questions, Meléndez shook hands, patted backs and handed out more copies of the Constitution, which the people proudly received. On the way out of town, Meléndez stopped by the outpost of the National Civil Police with a stack of Constitutions, making sure there was a copy of the Constitution for every officer.

We didn't make it back to San Salvador until after dark. One of El Salvador's most powerful and able jurists was content to have spent a 12-hour day addressing a small community of remote farmers about the rule of law and the Salvadoran Constitution.

It is not an easy mission to promote the rule of law in a politically polarized country still marked by the violence of its civil war, but Justice Florentín Meléndez is dedicated to this task on the bench in San Salvador and in as many towns and villages as he can reach on his weekly Saturday lectures.

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Intellectual Property

Patent ruling issued after parties settle

The U.S. Court of Appeals for the Federal Circuit issued a precedent-setting opinion Thursday that clarified when district judges should stay patent infringement lawsuits at the request of defendants.

Litigation

Morgan Lewis helps Wedbush reach settlement with SEC

Wedbush has agreed to pay a \$2.4 million penalty. The brokerage company, which was advised by Morgan Lewis attorney Joseph Floren, admitted to violating the market access rule.

Obituaries

Alan Talkington: 1956-2014

Alan Talkington, former chair of Orrick's corporate department, died Tuesday at the age of 57 after battling a rare neurodegenerative disease. Talkington was a leader in the corporate practice and spent his 30-year career with the firm.

Public Interest

Public Counsel president to step down

Hernan D. Vera will step down from the organization after almost 13 years to become a litigation partner at Bird Marella in Los Angeles.

Alternative Dispute Resolution

Kenneth M. Malovos

Malovos formally ended his advocacy work seven years ago. But he approaches his mediation and arbitration work much the same way he did as a practicing attorney - by digging into the facts, listening carefully, and using his head.

Entertainment & Sports

Midcase appeal denied for Sirius XM in landmark copyright case

The court earlier granted summary judgment for Flo & Eddie, finding that Sirius XM violated state copyright law by playing Turtles sound recordings made prior to 1972 without compensating the artists.

Government

Northern District bench nomination proceeds

The U.S. Senate Judiciary Committee advanced the nomination of San Francisco-based Covington & Burling LLP partner Haywood S. Gilliam to the Northern District of California bench Thursday.

Discipline

Disciplinary Actions

Here are summaries of lawyer disciplinary actions taken recently by the state Supreme Court or the Bar Court, listing attorney by name, age, city of residence and date of the court's action.

Ethics/Professional Responsibility

Sex with clients is flirting with disaster

When it comes to intimate relationships with clients, the risks are just too great. By J.