How did a California Supreme Court justice, a former federal judge, and five attorneys find themselves on a Comic Con panel discussing Star Trek in front of hundreds of devotees? The voyage began when I asked then-U.S. Magistrate Judge Paul Grewal if he would like to speak on Star Trek at San Diego Comic Con in July.

Judge Grewal agreed and asked what I thought of inviting California Supreme Court Justice Mariano-Florentino Cuéllar, a huge Star Trek fan, to join us.

My exact reply was, “That would be pretty awesome, Your Honor.”

San Diego Comic Con (SDCC) started in 1970 and has grown to one of the largest celebrations of pop culture. For fans of science fiction, comic books, TV, or movies, this convention is the show of the year.

At last year’s Comic Con, Paul Grewal, Jessica Mederson, and I presented on the legal issues in Star Wars; we wanted to appear again to honor the 50th anniversary of Star Trek.

Justice Cuéllar is a long-time “Trekkie”; he grew up watching Star Trek on his grandmother’s black-and-white TV set in Mexico and remains a huge science fiction devotee. Among his favorites are the Star Wars movies, Dune, the novel by Frank Herbert, the Foundation series by Isaac Asimov — and of course, the Star Trek franchise.

For Cuéllar, science fiction is “more about the present than about the future or the past.” It’s about “the anxieties and concerns and possibilities people see in a given moment in history.”

Our panel was entitled, “Star Trek: Where Lawyers Boldly Go.” In addition to Justice Cuéllar and myself, the panelists included Neel Chatterjee from Orrick (lead trial counsel for Facebook in the lawsuit depicted in the film The Social Network), Jessica Mederson from Hansen Reynolds Dickinson Crueger LLC in Madison, Wisconsin, Christine Peek, from McManis Faulkner, and Megan Hitchcock, from Schaffer, Lax, McNaughton & Chen.

We focused on Star Trek episodes with trials from the five live-action television series. Our panelists prepared material on diversity in the practice of law, civil rights, trial advocacy, and due process.

Attorneys made up about a third of the 400 people who attended the MCLE-eligible panel (almost the crew size of the original USS Enterprise NCC-1701).

The show has long been a natural draw for lawyers because “it’s a lot about legal values,” Cuéllar said. “Some of the hardest questions in law are about how to live up to commitments that are not always spelled out in great detail, for example, constitutional provisions that seem vague and open-ended. There’s certainly some of that in science fiction and in Star Trek.” Moreover, he observed, many of Star Trek’s “iconic” courtroom episodes center on characters that have a “love–hate relationship” with rules.

* Joshua Gilliland is a San Jose attorney whose practice focuses on electronic discovery. He is the author of the eDiscovery blog, BowTieLaw.com, and with Jessica Mederson, created the blog, TheLegalGeeks.com.

continued on page 22
Judge Ogden Hoffman was the first Northern District of California judge, serving from 1851-1891. Judge Hoffman hated his rival and fellow New Yorker, Stephen Field, who served on the California Supreme Court from 1857-1863 (the last four of those years as Chief Justice) and as Associate Justice of the U.S. Supreme Court from 1863-1897. The hatred between the two was mutual, with Justice Field removing Judge Hoffman’s own clerk and forcing him to use a clerk allied with Justice Field, instigating legislation to eliminate Judge Hoffman’s jurisdiction over certain cases, and attempting to abolish the Northern District of California altogether. Yet when Judge Hoffman died in 1891, Justice Field insisted on being a pallbearer at his funeral, after which he went to Judge Hoffman’s house (the Pacific Union Club), threw a party honoring himself and chose the person to replace Judge Hoffman as district judge. And this was before Judge Hoffman was actually buried.

* Richard H. Rahm practices employment law with Littler Mendelson in San Francisco.

The Judge Who Went to Comic Con
continued from page 14

Cuéllar’s comments focused on the implication of the Prime Directive, which explored the implementation of complex laws by organizations rather than courts. Cuéllar and Grewal also debated a legal issue that arose in “Measure of a Man,” an episode from The Next Generation series: should artificial intelligence, in this case Lt. Commander Data, an android, have fundamental rights? “It’s a bold and consequential thing to treat a piece of technology as having agency,” Cuéllar noted.

Justice Cuéllar contrasted the Next Generation episode to the original Star Trek episode “Court Martial,” where the key evidence against Captain Kirk was a computer record. Samuel T. Cogley, Kirk’s lawyer, insisted that the computer should not be treated as a human. “It’s intriguing to see both of these episodes together,” Cuéllar noted.

Wisconsin attorney Jessica Mederson, from The Legal Geeks blog, and Justice Cuéllar analyzed legal issues that arose in the Deep Space Nine episode, “Hard Time.” For instance, would it be constitutional to implant false memories of having served a 20-year prison sentence in an individual instead of an actual prison term?

The panelists set their phasers to stun. Christine Peek analyzed the trial advocacy, evidence, and ethical issues from the Enterprise episode “Judgment.” Ms. Peek explained how she would have cross-examined one of the Klingon Empire’s witnesses, how the prosecutor violated his ethical duties by knowingly allowing a witness lie on the stand, and that the Klingon system did not allow for the right against self-incrimination. Megan Hitchcock compared the number of women lawyers in Star Trek episodes to the number of women actually practicing law between 1967 and 1996, concluding that Star Trek was far more progressive than the profession. In the episode “Court Martial,” for example, a woman attorney prosecuted a court martial at a time when only 3 percent of U.S. attorneys were women.

It was a privilege to moderate our Star Trek Comic Con panel. Justice Cuéllar, Paul, Neel, Christine, Jessica, and Megan all have a deep respect for Star Trek and the law. Their analysis of the many legal issues was inspiring. And as Spock would say, “there are always possibilities” that we will return to San Diego Comic Con.