

INLAND EMPIRE BAR REVIEW

Issue 11

INLAND EMPIRE CHAPTER

Fall, 2013

FEDERAL BAR ASSOCIATION

Message from Your Federal Bar Association Chapter President

By: US District Judge Virginia A. Phillips



Fifty years ago, the United States Supreme Court recognized the right of an indigent person charged in state criminal proceedings to be appointed counsel:

"From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him."

Gideon v. Wainwright, 372 U.S. 335, 334 (1963).

Fifty years on, our chapter listened to Sean Kennedy, Federal Public Defender for the Central District of California, Phyllis Morris, Public Defender for San Bernardino County, and Chad Firetag, Assistant Public Defender for Riverside County, discuss with Andre Birotte, the U.S. Attorney for our district, the challenges facing those who implement the right to counsel announced in *Gideon*. Drastic funding cutbacks, the difficulties imposed by realignment in the state system, and increasing caseloads pose greater challenges than ever for those who work to make real the underlying premise of *Gideon* – that "The right of one charged with a crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours." Despite

[Cont'd on Page -7-]

CALENDAR OF EVENTS

PRO SE CLINIC VOLUNTEER TRAINING

DATE: THURSDAY, JANUARY 16, 2014

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE
COURTROOM 2

TIME: 4:30 P.M.

ANNUAL JUDGES' NIGHT DINNER (HONORING THE JUDICIARY OF THE CENTRAL DISTRICT)

DATE: WEDNESDAY, JANUARY 29, 2014

PLACE: MISSION INN MUSIC ROOM

TIME: 5:00 – 8:30 P.M.

Featuring: Honorable Raymond C. Fisher, Circuit Judge,
Ninth Circuit Court of Appeals



INSIDE THIS ISSUE

- 1 Message from the Inland Empire Chapter President
- 2 Clerk's Update
- 3 Excellent Programs of the Inland Empire Chapter
- 4 Pro Se Clinic Fundraiser
- 5 Pro Se Corner
- 6 Alternative Dispute Resolution (ADR) Corner

Clerk's Update



KIRY K. GRAY | DEPUTY-IN-CHARGE
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION
3470 Twelfth Street, Suite 129
Riverside, California 92501
Office: (951) 328.4451 Fax: (951) 328.4468
Email: kiry_gray@caed.uscourts.gov

By: Kiry Gray

Attorney Civil Case Opening Pilot Project:

On October 7, 2013, attorneys started opening civil cases and filing complaints electronically in *patent, trademark, copyright, Employment Retirement Income Security Act (ERISA), and student loan* cases pursuant to the Court's Attorney Case-Opening Pilot Project. Refer to Amended [General Order 13-01](#) for more information. For a short step-by-step demonstration, view the videos at: www.cacd.uscourts.gov/e-filing/civil-case-opening. An Attorney Case-Opening Pilot Project User Manual is also available. The current Civil Cover Sheet, [Form CV-71\(09/13\)](#), must be used when opening new civil cases in CM/ECF.

In order to become familiar with electronic filing of new civil cases under the pilot project, it is highly recommended that attorneys and/or support staff view the videos and review the Attorney Case-Opening Pilot Project Manual before attempting to open a new civil case. It is essential that attorneys maintain and update their personal contact account information, especially their e-mail addresses, in the Court's CM/ECF System before opening a new case. Have questions or need additional information? Contact:

*The CM/ECF Help Desk
(213) 894-0242*

8:00 a.m. to 5:00 p.m. PST Monday thru Friday

Amended Notice re Changes to the Federal Court Miscellaneous Fee Schedule:

Pursuant to 28 U.S.C. § 1914(b), the Judicial Conference of the United States approved several changes to the federal court miscellaneous fee schedule, effective December 1, 2013:

- Increased the Notice of Appeals fee from \$455 to \$505.

- Increased the record retrieval fee from \$53 to \$64 for the first box requested from the Federal Records Center, and created a new fee of \$39 for each additional box requested.

Amended Local Rules Effective December 1, 2013:

The Local Civil Rules, Local Criminal Rules, and Local Rules Governing Bankruptcy Appeals, Cases, and Proceedings that are listed below have been amended, effective December 1, 2013. The amended rules are available on the Court's website and accompany the electronic version of this notice.

Amended Local Civil Rules:

- 3-2 [Filing of Initiating Documents]
- 5-4.3.3 [Hyperlinks]
- 5.2-1 [Redaction]
- 6-1 [Notice and Service of Motion]
- 11-3 [Documents Presented to the Court – Form and Format]
- 32-1 [Use (of Depositions) at Trial or on a Motion]
- 83-2.1.1.1 [Who May Appear]

Amended Local Criminal Rules:

- 49.1-1 [Redaction]

Amended Local Rules Governing Bankruptcy Appeals, Cases, and Proceedings:

- 4.1 (8009-4.1) [Time for Filing, Form and Number of Briefs]

In addition to the foregoing substantive amendments, the following local rules have been amended to correct citations, cross-references, and minor clerical errors:

- L.R. 5-4.2(b)(4) [Records for Bankruptcy Appeals and Administrative Review Cases]
- L.R. 5-4.2(b)(5) [Other Exceptions]
- L.R. 5-4.5 [Mandatory Chambers Copies]
- L.R. 5-4.7.2 [Certification of Electronic Documents]
- L.R. 5-4.8.2 [Obligation to Maintain Electronic Post Office Box]

[Cont'd on page -7-]

Excellent Programs of the Inland Empire Chapter of the Federal Bar Association

By: Joseph B. Widman

On November 21st, the Inland Empire chapter held a lunchtime panel discussion entitled, "Reflections on the Challenges Facing Public Defenders' Offices" at the federal courthouse in Riverside. The panel brought together representatives of the federal and state public defenders offices in the Inland region, namely, Federal Public Defender Sean K. Kennedy, San Bernardino Public Defender Phyllis K. Morris, and Riverside County Assistant Public Defender Chad W. Firetag. The moderator of the event was the top federal prosecutor in the region, André Birotte Jr., the United States Attorney for the Central District of California, who served as a deputy public defender earlier in his career. In attendance were all of the federal judges in the Central District's Eastern Division, including U.S. District Judge Virginia A. Phillips, who also is President of the Inland Empire's chapter, as well as U.S. District Judge Jesus G. Bernal.

Moderator



[André Birotte Jr.]

Panel Members



[Sean K. Kennedy]



[Phyllis K. Morris]



[Chad W. Firetag]

After brief introductory comments by U.S. Attorney Birotte regarding the importance of quality public defenders' offices to our justice system, the panelists discussed the largely dim financial outlook of their respective offices in the coming year. The panelists talked about how funding levels for public defenders' offices impact their representation of indigent criminal defendants, including those facing capital crimes. The

impacts can be felt not only in staffing levels and attorneys' caseloads, but also in access to investigators and other investigation-related activities, like retention of expert witnesses. Funding levels across governmental agencies, and other factors, like, for example, attrition by retiring baby-boomer-era attorneys in the San Bernardino Public Defender's Office, also impact the work of public defenders. The public defender panelists compared how their respective offices organize themselves, including attorney staffing during the progress of a case and whether and to what extent attorney supervisors carry their own individual caseloads.

The panel also addressed common misperceptions of public defenders in the community at large, and how public defenders handle the attitude among defendants and their families that "you get what you pay for" when it comes to public defenders. The public defenders described how they sometimes ask prospective clients to allow the public defender to demonstrate the quality of the representation before deciding whether to seek another attorney. The panelists reflected on how some judges' treatment of and attitude toward public defenders in the presence of their clients can affect the public defenders' relationship with their clients. On a related note, the public defenders stressed the importance of maintaining independence from both the judiciary and the prosecution. The independence issue is particularly delicate at the federal level due to the fact that the federal public defenders' offices are organized under and receive funding from the federal courts' system but are not supervised by the courts and must independently manage their offices and caseloads.

The final topic was how criminal law practice in the Inland Empire differs from elsewhere in Southern California. The group recognized the collegial tenor of the criminal bar in the region, the remarkable size (in population and land area) of Riverside and San Bernardino Counties, and the breadth and sophistication of the case work.

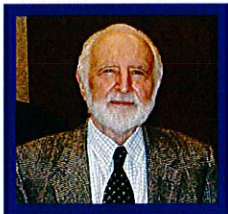
❖

Pro Se Corner



By: Diane Roth

On November 21, the Bankruptcy Court for the Central District held its 2013 William J. Lasarow Awards Ceremony, an annual awards presentation to recognize the outstanding contributions of bankruptcy *pro bono* volunteers. This prestigious award is named for Judge William J. Lasarow, (Retired). Judge Lasarow sat as Chief Judge of the Los Angeles Bankruptcy Court for many years. He is revered as an outstanding jurist, and for his fairness, knowledge and compassion. Judge Vincent P. Zurzolo presented Scott Talkov, of Reid & Hellyer, with the Lasarow Award for the Eastern Division. Scott joins last year's distinguished recipients Mark Schnitzer, also of Reid & Hellyer, and Manfred Schroer, for the many hours and excellent legal work he put in on cross motions for summary judgment and eventual settlement in a difficult adversarial proceeding.



Judge William J.
Lasarow



[L-R: Bob Simmons, Scott Talkov,
Judge Vincent P. Zurzolo,
and Diane Roth

The Bankruptcy Court has also recognized the contributions of the following attorneys by posting their names on its 2013 Honor Roll which can be seen on the Court's website. These attorneys serve an area of extreme need, providing vital services, advice, and in some cases legal representation for unrepresented individuals through the Riverside Pro Se Clinic. The service provided by these volunteers greatly benefits the Court and all of its litigants.

- Ryan S. Carrigan (*Smith & Carrigan*)
- Ruben Escalante (*Sheppard Mullin Richter & Hampton, LLC*)
- Amelie A. Kamau
- Dwight M. Kealy
- Scott Talkov (*Reid & Hellyer*)
- Mark Schnitzer (*Reid & Hellyer*)
- Manfred Schroer
- Andrea Darrow Smith (*Smith & Carrigan*)
- Eric Tweten
- Sherwin Nam (*Student; UC Santa Barbara*)

Thank you to all the 2013 volunteers. And thank you to the FBA and RCBA Barristers for a successful fundraiser for the pro se clinic. We look forward to a successful 2014.

COMING SOON!! Bankruptcy Self-Help Services in the Coachella Valley!!

Beginning in early 2014, the Pro Se Clinic will begin offering a pro se self-help bankruptcy clinic one day each month and quarterly Chapter 7 public workshops in the Coachella Valley. This has been made possible by a grant from the American College of Bankruptcy and the American College of Bankruptcy Foundation.

If you are a bankruptcy attorney practicing in the Desert, please come out and volunteer with us. If six attorneys will volunteer twice in 2014, along with our staff, we will be able to give close to 200 pro se bankruptcy litigants in the Desert the same services they can now get only in Riverside.



Alternative Dispute Resolution (ADR) Corner



GAIL KILLEFER | ADR PROGRAM DIRECTOR
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LEGAL SERVICES UNIT
ALTERNATIVE DISPUTE RESOLUTION PROGRAM
312 North Spring Street, Suite 909
Los Angeles, California 90012
Office: (213) 894.2993 Fax: (213) 894.5084
gail_killefer@cacd.uscourts.gov

An Interview with Panel Mediator Randall Sunshine

Panel Mediator Randall Sunshine, a partner with Liner Grode Stein Yankelvitze Sunshine Regenstreif & Taylor LLP in Los Angeles, recently mediated and settled an employment case pending in the Eastern Division. In February 2013, the Court referred the case to the Mediation Panel with a mediation deadline of mid-December.

Mr. Sunshine joined the Central District's Mediation Panel in 2011. In this interview, Mr. Sunshine discusses his preparation and approach to this successful mediation.

Q: How did you prepare for this mediation?

A: I carefully read the mediation briefs of each party, highlighted portions that I primarily wanted to ask or press the other side about (and some to ask the author about). I also researched the lawyers, the plaintiff, and the corporation just to get a feel for the players.

Q: Was there anything that counsel did to prepare for the mediation that particularly impressed you?

A: Counsel knew the case cold - both facts and law - which helped to make the mediation go smoothly. Further, plaintiff's counsel brought a favorable unsigned declaration from a third party with assurances that he was getting it signed, which actually proved fairly effective.

Q: What about your technique or style was especially effective in this mediation?

A: I think I gained everyone's respect early on that I had read the briefs, pretty accurately picked up on the strengths and weaknesses of each side, I was honest and direct with them about their positions and the likely outcome if they didn't settle, and particularly with the plaintiff that I was neither

judging her nor siding with the company. Also, early on I got each side's authority to tell the other side everything I learned from the other, which established a free flow of all pertinent information.

Q: What can you tell us about the timing of the mediation -- and whether the timing helped the parties reach a settlement?

A: Defendant was about to file their MSJ, so they had analyzed the case thoroughly, and the unsigned declaration from plaintiff gave everyone enough information to make intelligent decisions about the value of the case.

Q: To what do you attribute the fact that the parties and counsel worked so well together to resolve this case?

A: Keeping the parties apart the entire time (plaintiff had been terminated after many years at the company), reasonable, prepared counsel, and a real desire by both parties to get it done now before spending more money and emotions associated with the next phases of the case (including of course trial).

Editor's Note: Counsel in the mediation were very satisfied with the mediation process and the mediation outcome. They appreciated Mr. Sunshine's ability to read the parties and the case dynamics. One counsel remarked that the parties probably would not have mediated but for the Court's directive!



For more information about the Court's ADR Program visit the "ADR" page of the Court website, www.cacd.uscourts.gov.

❖

[Clerk's Update cont'd from page -2-]

- L.R. 11-5.1 [Non-Paper Physical Exhibits]
- L.R. 11-5.4 [Size of Paper]
- L.R. 15-3 [Date of Service]
- L.R. 16-4.4 [Jury Trial]
- L.R. 23-3 [Certification]
- L.R. 53-2 [Fees and Expenses]
- L.R. 79-5.1 [Filing Under Seal or In Camera – Procedures]
- L.R. 83-3.2.5 [Discipline by Agencies]
- L.R. 83-8.4 [Reference to State Statute]
- L.Cr.R. 32-3.2 [Presentence Investigation Reports]
- L.Cr.R. 49-1.2(b)(5) [Other Exceptions]
- L.Cr.R. 49-1-2 [Exceptions]

All proceedings in cases commenced on or after December 1, 2013, and, insofar as just and practicable, all proceedings then pending will be governed by these amended rules.

❖

[President's Message cont'd from Page -1-]

the challenges, the dedication of all three defenders was evident as they described their chosen vocation with passion and pride.

Although there is no right to appointed counsel in most civil proceedings, the needs of indigent civil litigants are pressing as well. The court's pro se civil clinic, serving clients in both the bankruptcy and district court, remains extremely busy.

Last year the clinic situated on the bankruptcy side of the federal court complex served over 1500 clients, operating only limited hours during two days of the week. Credit for this goes to Robert Simmons, the directing attorney of the clinic, Diane Roth, Executive Director of Public Service Law Corporation/Riverside Legal Aid, and the many attorney volunteers. In particular, Manfred Schroer merits special recognition for his steadfast service volunteering at the clinic during the past year.

It has been a privilege for me to serve as chapter president over the past year. Thanks once again to Kim Connelly for her work producing this newsletter, to the other members of the Board of Directors for their help in putting on our programs, and to my assistant Julie Cicero for all her work, above and beyond the call of duty.

❖



**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
OFFICE OF THE CLERK**

PUBLIC NOTICE

**RE: REVISED OFFICIAL BANKRUPTCY FORMS
EFFECTIVE DECEMBER 1, 2013**

The following Official Bankruptcy Forms have been revised and will take effect on December 1, 2013. Also on that date, the forms will be available on the Court's website www.cacb.uscourts.gov for free. Printed copies can be purchased for a fee from the Intake windows at all Court divisions.

Form #	Form Title
B 3A	Application for Individuals to Pay the Filing Fee in Installments
B 3B	Application to Have the Chapter 7 Filing Fee Waived
B 6I	Schedule I: Your Income
B6J	Schedule J: Your Expenses
B 6	Summary of Schedules
B 23	Debtor's Certificate of Completion of Instructional Course Concerning Financial Management
B 27	Reaffirmation Agreement Cover Sheet

Committee notes and other information regarding the forms revisions are available on the U.S. Court's website at www.uscourts.gov or by clicking [here](#).

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

13-019 (11/08/13)

Edward R. Roybal Federal Building and Courthouse • 255 East Temple Street
• Suite 1260 • Los Angeles, California 90012
www.cacb.uscourts.gov

❖