

FBA INLAND EMPIRE BAR REVIEW

Issue 15

INLAND EMPIRE CHAPTER

WINTER, 2015

FEDERAL BAR ASSOCIATION

Inland Empire Federal Bar Association 2014 Annual Report



By: Kay K. Otani, Treasurer

During 2014 the Chapter continued to present educational programs, support the federal court and its pro bono programs, providing information to the public, and hosting social gatherings for its members and others in the Inland Empire legal community.

On January 29, 2014, we had our 2014 dinner honoring the judges of the Central District of California. The dinner featured the Senior United States Circuit Judge Raymond C. Fisher as keynote speaker, and the State of the District Court by Chief District Court Judge George H. King. We also provided seven additional MCLE programs, including training for the Riverside federal pro se clinic, the Annual Constitutional Law Forum with Dean Erwin Chemerinsky, the State of the Circuit by Chief Circuit Judge Alex Kozinski, as well as programs on the Riverside District Court's CASA diversion program, appellate advocacy, the Voting

[Cont'd on Page -3-]

CALENDAR OF EVENTS

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

DATE: THURSDAY, FEBRUARY 5, 2015

PLACE: MISSION INN MUSIC ROOM

TIME: 5:00 P.M.-8:30 P.M.

Featuring: Remarks by Keynote Speaker Laurie L. Levenson on "Innocence Projects"

U.S. MAGISTRATE JUDGES IN RIVERSIDE

(JOINTLY HOSTED BY THE RCBA AND FBA)

DATE: MONDAY, MARCH 9, 2015

PLACE: RIVERSIDE COUNTY BAR, JOHN GABBERT GALLERY

TIME: 12:00 P.M.1:15 P.M.

FEDERAL CIVIL PRACTICE SEMINAR

DATE: TBA (APRIL)

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE

TIME: 12:00 P.M.1:15 P.M.

Inland Empire Chapter of the Federal Bar Association 2015 Officers

President: Antoine "Tony" F. Raphael

President-Elect: Joseph B. Widman

Treasurer: Kay K. Otani

Secretary: Ruben D. Escalante

[See Page -3-]

INSIDE THIS ISSUE

- 1 2014 Annual Report
- 2 Clerk's Update
- 3 New Chapter Officers and Directors
- 3 Honorable Scott H. Yun, A Judicial Profile
- 4 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@cacd.uscourts.gov

By: Kiry Gray

Information Technology Department – Upcoming Hearing(s)/ Trial Tips:

Please contact the courtroom deputy to schedule a test of any documents, objects, or videos on the Court's equipment one to three weeks in advance of its use, but no later than three days before its use in any court hearing.

Courtroom Technology Reference Guide available at:

[https://www.cacd.uscourts.gov/sites/default/files/Courtroom Technology Reference Guide 0.pdf](https://www.cacd.uscourts.gov/sites/default/files/Courtroom%20Technology%20Reference%20Guide%200.pdf)

Mandatory Attorney Civil Case Opening:

Effective **December 1, 2014**, attorneys must file all new civil actions electronically, unless exempted from electronic filing pursuant to Local Rule 5-4.2. See L.R. 3-2. To file an action electronically, the attorney must use the Court's Case Management/Electronic Case Filing ("CM/ECF") System to open the case and upload the case-initiating document(s).

Please note, however, that certain proceedings that are administrative or otherwise ancillary to civil actions are processed by the Court as "miscellaneous" cases. Case-initiating documents for miscellaneous cases may not be filed electronically, and must continue to be filed in paper format at the Clerk's Office. See the link below for lists of the most common civil and miscellaneous matters.

For more information refer to the [Attorney Case-Opening Manual](#). The current Civil Cover Sheet, [Form CV-71](#) must be used when opening a new civil case in CM/ECF.

To open a case or file a document electronically, an attorney must be a registered CM/ECF user. Registered CM/ECF users are reminded of their obligation to keep their personal contact account information, especially their e-mail addresses, current. See L.R. 5-4.8.1; L.R. 83-2.4.

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

Helpful Tips for e-filing Complaints:

- 1) Double check your cover sheet CV-71 to ensure it is properly filled out.
- 2) Party Text field: Enter any descriptive "Party Text" information appearing in the caption of the case-initiating document (*i.e.*, "individually," "a California corporation," etc.). Add "1 through 10, inclusive" in the "Party Text" field for Doe defendants, if applicable.

Note: Do not enter any alias, corporate parent, or other affiliate information in this field.

- 3) Uploading of case initiating document(s): (e.g., a Complaint or a Notice of Removal) as your "Main Document," and upload any exhibits to that document as "Attachments" to the Main Document. Then separately file and upload, using the appropriate events, the following documents:

- Civil Cover Sheet (Form CV-71)
- Summons (if applicable)
- Notice of Interested Parties (*see* Local Rule 7.1-1)



New Chapter Officers and Directors ~2015~

The Officers for 2015 are:

President:	Antoine "Tony" F. Raphael
President-Elect:	Joseph B. Widman
Treasurer:	Kay K. Otani
Secretary:	Ruben D. Escalante

The other directors are Charles S. Doskow, James E. "Jeb" Brown, Stefanie Field, John W. Holcomb, John Porter, Daniel S. Roberts, Mark C. Schnitzer, and Ami Sheth. Honorary board members are the Honorable Virginia A. Phillips, the Honorable Jesus G. Bernal, the Honorable David T. Bristow, the Honorable Sheri Pym, the Honorable Kenly Kiya Kato, the Honorable Mark Houle, Jeffrey Aaron, and Kiry Gray. The record of names and addresses of the current members is maintained by the National Office of the Federal Bar Association, 1220 North Fillmore Street, Suite 444, Arlington, VA 22201. ❖

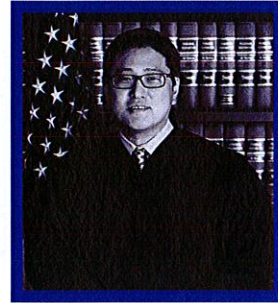
[Annual Report cont'd from Page -1-]

Rights Act, and white collar criminal defense. We sponsored a swearing-in ceremony to admit new attorneys to practice in the Central District.

We reached out to the Inland Empire legal community by presenting a scholarship to law student Mickey Donovan-Kaloust, and the Erwin Chemerinsky Defender of the Constitution Award to Federal Public Defender Sean Kennedy. Both Ms. Donovan-Kaloust and Mr. Kennedy have strong ties to the Inland Empire, and their awards recognized those ties as well as their personal achievements. We also supported the federal pro se clinic at the Riverside courthouse through direct donations. Finally, we supported the publishing of a book on the history of desegregation in the Inland Empire through a contribution to the Inlandia Institute.

Our Board obtained recognition of its tax exempt status from the IRS in 2014. With the recognition of its tax exempt status, the question of the Chapter's contingent liabilities appears to be resolved at this point in time. The Chapter began its 2014 fiscal year on October 1, 2013 with \$20,470.67 in funds, and concluded the year on September 30, 2014 with \$20,747.64 in funds. Gross revenue for the year totaled \$23,100.00, and total expenditures were \$22,823.03. The Chapter remains in sound financial condition. ❖

Honorable Scott H. Yun ~A Judicial Profile~



By: Ruben D. Escalante

Before actually sitting down and having a conversation with him, I had the privilege of sitting through a full calendar of Judge Scott Yun. As he presided over the cases of various litigants, I was struck by his respect for all those who came before him to seek justice, whether they were represented or not. He treated everyone like equals before the law. After speaking with him, the reasons for this became clear.

Judge Yun was born in Seoul, South Korea. He immigrated to the United States at the age of nine. His family set up roots in Southern California, where he has lived for his entire life. He graduated cum laude from the University of California, Los Angeles, in 1993. He then graduated from the University of Southern California, Gould School of Law, in 1996. He roots for UCLA.

While in law school, he initially thought he would pursue a career as a prosecutor. However, after taking and succeeding in classes like Tax, Property, and Bankruptcy, he began to realize that he had a knack for working more in the corporate world of law. Also, while in law school, he externed for the Honorable Barry Russell, the longest serving bankruptcy judge in history, which continued to solidify his interest in Bankruptcy law. After law school, he clerked for the Honorable Ernest Robles and his career as a Bankruptcy lawyer was set.

Judge Yun worked as an associate with the law firm Robinson, Diamant & Brill from 1998 to 2000. He learned a lot there about the nuts and bolts of

[Cont'd on Page -5-]

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@caod.uscourts.gov

By: Gail Killefer, ADR Program Director

Professor Susan Exon Speaks On Mediation Ethics and Confidentiality to FBA Members



On January 21, 2015, Susan Nauss Exon, Associate Dean for Faculty Development and Prof. of Law at the University of La Verne College of Law, gave a presentation on *Mediation Ethics and Confidentiality* to members of the Inland Empire FBA.

Professor Exon began her presentation by discussing four “hot topics” in mediation today: 1) the quagmire of dispute resolution – and the definition of mediation; 2) a Federal Circuit case before the U.S. Supreme Court addressing a mediator’s disclosure obligations; 3) Social Media; and 4) Mediation Preparation.

She went on to discuss confidentiality under California Evidence Code § 1119 and the Central District’s Local Rule 16-15.8. She concluded by posing scenarios of mediations with ethical dilemmas and solicited responses from the audience.

Starting with the four hot topics, Professor Exon began with the “quagmire” of mediation – the problem created when distinctions between the mediation process and other dispute resolution processes, such as settlement conferences, are blurred.

According to Exon, professionals who participate in the process should know the distinctions so everyone is using the same terminology, thus reducing the potential for confusion.

Her second hot topic was a case recently appealed to the U.S. Supreme Court, *Ceats, Inc. v. Continental Airlines, Inc.*, 755 F.3d 1356 (Fed.Cir. 2014), in which the Federal Circuit found that a mediator violated a duty of disclosure, but held that relief from judgment under Fed.R.Civ.P. 60(b) was not warranted.

This case is notable because it highlights a mediator’s disclosure obligations and the lack of clarity regarding the relief available when a mediator fails to meet those obligations.

Social media was Professor Exon’s third hot topic. Although her research found no cases addressing a mediator’s use of social media, Professor Exon discussed how different state laws treat judges’ use of social media.

She suggested, to be safe, that mediators “unfriend” those participating in a mediation they are conducting until after the mediation, and disclose the relationship (and the “unfriending”) to mediation participants before the mediation session.

Professor Exon’s fourth key subject was mediation preparation. She noted that the Central District’s Local Rule 16-15.5(d) requires each party to have made a “thorough analysis of the case” prior to mediation and to be “fully prepared to discuss all economic and non-economic factors relevant to a full and final settlement of the case.”

To facilitate this preparation process, Professor Exon included in a handout, *Mediation Preparation Checklist*, from her new book, *Advanced Guide for Mediators*, published last year. Advocates would be smart to review this handy checklist before every mediation.



[L-R: Susan Exon; Tony Raphael and Gail Killefer]



[Ruben Escalante and Susan Exon]

Professor Exon next compared the Central District’s Local Rule on mediation confidentiality, Civil L.R. 16-15.8, with California Evidence Code § 1119, noting that the California statute was expressly limited to admissibility in a court proceeding.

[Cont’d on Page -5-]

Bankruptcy law. He gained invaluable experience in litigation and transactional work. He then joined the law firm Stutman, Treister & Glatt in 2000 and became a shareholder in 2003. At Stutman, he had the opportunity to work on bigger cases for bigger clients. He initially enjoyed working on larger cases that had a national impact but missed working with smaller companies and debtors who had more direct stakes in the outcome of cases.

On a humorous note, Judge Yun shared what he characterized as his “biggest accomplishment” to the Bankruptcy world. When he was an associate at Stutman, like many bankruptcy associates, he was often given the tedious task of preparing draft disclosure statements and chapter 11 plans to submit to the court. In his young career, he had seen these plans and disclosure statements explode in length; 100, 200, 300 pages. The “Defined Terms” section started to take up to 100 to 150 pages alone. Well, as a practical joke, on an assignment for a particularly demanding partner, a young Scott Yun decided to define a term intended to reflect the absurdity of the length of and some of the terms included in the list. The term he included was “Defined Terms,” and he defined it as “All terms defined herein in the Defined Terms section.” He was expecting the partner to catch it and write it off as the musings of a “smart aleck” associate. To his surprise, however, the partner accepted it. Now, the inclusion of the “Defined Terms” definition is slowly becoming the operating standard, as other unknowing associates, partners, and firms continue to “dupe and revise” it into their own submissions. Recently, he read with amusement the inclusion of “Defined Terms” in Jefferson County’s Chapter 9 Plan of Adjustment, which, before the City of Detroit, was the largest municipal bankruptcy case ever filed.

On a more serious note, Judge Yun shared how he became a judge and how he perceives his role. Because Judge Yun had always been impressed by the Judges for whom he externed and clerked, he always suspected he would be a judge someday. At the encouragement of the Honorable Scott Clarkson, Judge Yun applied for and was appointed to the vacant position in the Riverside Division. Judge Yun sees his role as a judge as one to administer justice and follow the law. He prides himself on being a “rule follower,” even in those tough cases where the law produces an inequitable result. He said, “If I don’t follow the law, then I can’t expect the parties who come before me to follow the law. Judges need to set an example, and the best way we can do that is to follow the law when we enforce it.”

On a personal note, he used to ski and run. However, as a father, he finds his spare time being spent with his family at baton competitions and Tae Kwon Do lessons.

❖

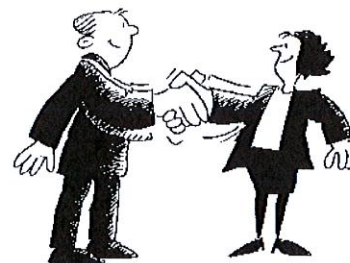
[ADR Corner cont'd from Page -4-]

The Local Rule is not so restrictive and more broadly prohibits the disclosure of confidential information, said Exon. The Local Rule mandates that “confidential information” – which includes “anything that happened or was said relating to the subject matter of the case in mediation” – shall not be disclosed to anyone not involved in the litigation or to the assigned judge or be “used for any purpose, including impeachment, in any pending or future proceeding in this Court or any other forum.”

Exon ended the session by posing ethical dilemmas to the members of the audience and soliciting their responses. For more information about the types of ethical dilemmas mediators face, mediators are invited to refer to Exon’s book referenced above, *Advanced Guide for Mediators*.

In one chapter, Professor Exon describes a series of vignettes that pose tactical dilemmas many seasoned mediators have experienced. Each vignette is followed by commentary from an experienced practicing mediator and another from a dispute resolution scholar. Panel Mediator Terry Bridges was one of the experienced mediators invited to comment on an ethical dilemma.

Professor Exon’s informative presentation highlighted some of the ethical concerns mediators and advocates in mediation may confront. Forewarned is forearmed!



❖



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

PUBLIC NOTICE

RE: 2015 FEDERAL HOLIDAYS

The Court will be closed on the following federal holidays during 2015. Unless otherwise announced, electronic systems (CM/ECF, VCIS, LOU, and PACER) will continue to operate during Court closures. Additional Court closures may be announced in subsequent Public Notices.

Day/Date of Court Closure	Holiday
Monday, January 19, 2015	Martin Luther King, Jr. Day
Monday, February 16, 2015	President's Day
Monday, May 25, 2015	Memorial Day
Friday, July 3, 2015	Independence Day
Monday, September 7, 2015	Labor Day
Monday, October 12, 2015	Columbus Day
Wednesday, November 11, 2015	Veterans Day
Thursday, November 26, 2015	Thanksgiving Day
Friday, December 25, 2015	Christmas Day
Friday, January 1, 2016	New Year's Day

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

15-001 (01/05/15)

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



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

PUBLIC NOTICE

**RE: Hearings On Cases Assigned To Judge
Ahart Cases Following His Retirement
In January 2015**

Upon the retirement of Judge Ahart on January 2, 2015, bankruptcy cases and related adversary proceedings will continue to be assigned to Judge Ahart until the newly selected bankruptcy judge takes the bench at the San Fernando Valley Division in early 2015.

Beginning on January 1, 2015, hearings for Judge Ahart's bankruptcy cases and related adversary proceedings will be heard by Judge Kaufman, Judge Mund, and Judge Tighe, as follows:

Judge Ahart's bankruptcy cases filed <i>on or prior to</i> December 31, 2014 , and related adversary proceedings	
Last Digit of Bankruptcy Case No.:	Will be Heard By:
1, 3, 5, 7, 9	Judge Kaufman
2, 4, 6, 8, 0	Judge Tighe

Judge Ahart's bankruptcy cases filed *on or after*
January 1, 2015, and related adversary proceedings will be
heard by **Judge Mund**

To schedule a hearing in 2015, for a bankruptcy case or related adversary proceeding assigned to Judge Ahart, please consult the [self-calendaring page](#) for Judge Ahart. Chapter 13 motions may be noticed according to the self-calendaring instructions. Should you have any questions, please contact Judge Ahart's courtroom deputy at 818-587-2853.

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

14-019 (12/11/14)

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

