

INLAND EMPIRE BAR REVIEW

Issue 13

INLAND EMPIRE CHAPTER

Spring, 2014

FEDERAL BAR ASSOCIATION

Message from Your Federal Bar Association Chapter President

By: James E. "Jeb" Brown



Welcome to our Spring Newsletter. We are now at the end of Spring and Summer is around the corner. The Supreme Court is concluding its 2014 term and a number of interesting decisions await. We hope that you were able to join us last month at our annual event with

Dean Erwin Chemerinsky. Dean Chemerinsky shared his thoughts with us regarding the Supreme Court's recent decisions and provided insights on the conclusion of the 2014 term. Most importantly, we awarded the Defender of the Constitution Award to Federal Public Defender Sean Kennedy. Sean has worked tirelessly to defend the rights of the accused. Sean and the Public Defender's Office have faced challenging budgetary issues during the past year. Throughout these trying times, Sean never strayed from his focus of providing an excellent defense for his office's clients and his support of his attorneys. Sean is most deserving of this honor.

I would like you mark July 29 on your calendar. We will be hosting Chief Judge Alex Kozinski for lunch at the Mission Inn where Judge Kozinski will provide us with a "State of the Circuit" address and reflect on his tenure as Chief Judge. This will no doubt be an interesting and thought provoking event and I hope you will be able to join us.

One of the challenges facing the Eastern Division of the Central District is a lack of attorneys on the Attorney Settlement Officer panel. This necessarily means that litigants from the Eastern Division frequently have to travel to Los Angeles or Orange County to participate in mediations.

Service on the panel is quite painless. The Court provides the necessary training and you are then assigned a couple of mediations per year. You volunteer three hours of time as a mediator. Should the mediation go beyond three hours, you may charge the litigants an hourly rate to continue the mediation. In my experience, these mediations usually conclude within the three hour time frame. I encourage all of you to consider volunteering to serve on the panel. ❖

CALENDAR OF EVENTS

FARWELL ADDRESS AS CHIEF JUDGE ON STATE OF THE CIRCUIT

DATE: TUESDAY, JULY 29, 2014

PLACE: MISSION INN RESTAURANT

Time: 12:00 p.m. - 1:15 p.m.

Featuring: Chief Judge Kozinski



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Clerk's Update



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By: Kiry Gray



[L-R: Judge Harvey A. Silberman; Marta Brown; Jackie Carey-Wilson; and Hans Johnson, President of Progressive Victory Turning Data into Power]

The Fourth Annual Reception for the George Brown Legacy Project was held on Sunday, May 18, 2014 in the courtyard of the George E. Brown, Jr. Federal Courthouse. The keynote speakers were Jacqueline Carey-Wilson, Deputy County Counsel at San Bernardino, Harvey A. Silberman, LA County Superior Court Judge and Hans Johnson, President of Progressive Victory Turning Data into Power.

This gala event showcased George Brown's Legacy. During nearly 30 years representing the area in Congress, Brown championed science education and civil rights. Monuments to George Brown's public service include: the federal courthouse in Riverside; the research center of the National Academy of Sciences in Washington, D.C., the George Brown, Jr. Elementary School in San Bernardino and a designated section of the 210 Freeway.

Today, 15 years after Brown's death in 1999, his determination in asking "why not?" to overcome social and scientific challenges is regaining momentum. U.S. senators held an all-night debate on actions needed to avert catastrophic climate change, on which Brown held the first-ever congressional hearing in 1977. From Capitol Hill to Southern California, immigration activists are pressuring House leaders to pass comprehensive immigration legislation, modeled on reforms that Brown pushed through in 1965 and 1986, allowing millions of Americans to legalize their status.

The opening of George Brown, Jr. Elementary School is a reminder that that investing in our youth is the key to our future.

Hans Johnson is the director of the George Brown Legacy Project, which has established the late congressman's archives at UC Riverside. ❖



College of Law
UNIVERSITY OF LA VERNE

Results from February 2014 California State Bar Exam Reveal Impressive First-Time Passage Rate by La Verne Law Graduates

By: Charles Bentley

ONTARIO, Calif. – University of La Verne College of Law Dean Gilbert Holmes was anticipating good news when the Office of Admissions of the State Bar of California released results from the February 2014 State Bar exam. In his own words, what he got was "Phenomenal."

The preliminary data received indicates that La Verne Law's first-time California Bar exam takers recorded an 87.5% success rate, exceeding by more than 18 % the 69% average of all California ABA schools pass rate. "That's how I describe it – phenomenal," said Holmes. "We set high marks in every quartile, and our overall first-time taker result is a direct reflection on the commitment of our students, and our faculty and staff to prepare our graduates to succeed."

According to the information released by the State Bar, 14 of the 16 La Verne Law graduates who took the California Bar exam for the first time passed. All those in the law school's top three GPA quartiles passed – a first for La Verne Law. And even the lowest quartile recorded a 60% pass rate, the law school's highest first-time pass rate in that group.

In recent years La Verne Law has dedicated time and resources as part of its commitment to expand and enhance bar exam support through its Center for Academic & Bar Readiness (CABR). It has established a customized post-graduation bar review – the Bar Exam Strategic Training (BEST) Program, which is available to La Verne Law students at no additional charge.

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Pro Se Corner



By: Diane Roth

Pro Se Clinic Helps to Recover Part of Fraud Victim's Life Savings:

When she came to the pro se clinic for help with her lawsuit against someone who had defrauded her out of her life savings, she didn't know she would meet Ruben Escalante. Ruben immediately recognized that she had a meritorious case. The defendant refused to negotiate, no doubt banking on the plaintiff's inability to navigate through federal court on her own. The trial was imminent and she was unrepresented. Ruben took on the case *pro bono*, worked it up and proceeded to trial. After Ruben's examination of the first witness, the defendant made his first settlement offer. The case settled; the settlement was paid. Ruben and his client continue to speak with each other. The client got her money. Ruben got a little more trial experience in Federal Court, a lot of personal satisfaction and a new friend.

Ruben came to Riverside Legal Aid in August, 2013. Although he works in Orange County (at *Sheppard Mullin Richter & Hampton, LLC*), he lives in Corona and wanted to give to the community he lives in. In the last five months of 2013 he racked up over 210 volunteer hours in both the pro se clinic and on two pro bono cases. Riverside Legal Aid honored and thanked him at its annual Access to Justice Benefit in April, and thanks him again here.

Bankruptcy Pro Se Clinic Now in the Desert:

Thanks to a grant from the American College of Bankruptcy Foundation and a partnership with the Cathedral City branch of the Riverside County Library System, the Pro Se Clinic is now offering bankruptcy services to the underserved residents of the Coachella Valley. The clinic is held on the fourth Monday of every month at the Cathedral City Library. Our thanks to Attorney Donald McKay, Paralegal Michelle Lara and stalwart volunteer attorney Steven Blake for making this project a success. We are also

offering quarterly public Chapter 7 Bankruptcy workshops on Saturdays at the Cathedral City Library.


Low Income Taxpayer Clinic:

Although not part of the Pro Se Clinic, Riverside Legal Aid is participating in another program in which FBA members can volunteer. In April, RLA partnered with the Legal Aid Society of Orange County ("LASOC") to put on a Low Income Taxpayer Clinic (LITC). LASOC has a successful LITC which is funded by an IRS grant. Riverside County has been identified by the IRS as one of the five most underserved areas in the nation. The LITC provides *pro bono* legal assistance to low-income people with tax controversies. At the first Riverside clinic in April, LASOC attorney Renato Izquieta and volunteer Riverside County tax attorney Orlando Gotay agreed to take on the pro bono representation of all who attended the clinic.

The next clinic will be held in Riverside on Tuesday, July 22, from 10:00 a.m. to 12:00 p.m., at the Riverside County Bar Association, to be followed by a clinic in the Coachella Valley in the fall. If you are a tax attorney and interested in assisting in this project, please contact Riverside Legal Aid:

(droth@riversidelegalaid.org).





RIVERSIDE LEGAL AID
PUBLIC SERVICE LAW CORPORATION
of the Riverside County Bar Association

Our Mission:
To Provide Pro Bono Legal Services, Education, and Counseling
to low-income residents of Riverside County

Free attorney assistance in the areas of

Family Law	Domestic Violence Restraining Orders
Guardianships	Conservatorships
Evictions	Federal Civil Cases
Bankruptcy	Collections cases

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Alternative Dispute Resolution (ADR) Corner



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Early Mediation for “Non-Major” Civil Rights Cases

By: Gail Killefer, ADR Program Director

In a new initiative, the ADR Program is selecting appropriate “non-major” civil rights cases for early mediation. “Major” civil rights cases are defined as those alleging: (1) wrongful death; (2) paralysis to plaintiff; (3) debilitating injury that will result in legitimate lifetime treatment; and (4) false allegations against a citizen such that the citizen is incarcerated for a period of more than one year.

Last year, an extern to the ADR Program reviewed 135 civil rights cases brought against governmental entities for police misconduct which were filed in 2011 and resolved by March 1, 2013. He also interviewed a number of the lawyers involved in these cases. His review found that that attorneys frequently involved in civil rights litigation are: (1) agreeable to participating in an early mediation program in non-major cases; and (2) open to a more evaluative form of mediation at an early stage of the litigation.

As a result of the extern’s review, the ADR Program selected a small sample of “non-major” civil rights cases for early mediation in the first four months of this year. These cases were assigned to judges on the ADR Committee who agreed to the early referrals.

After identifying cases as “non-major” and appropriate for early mediation at around the time of the Rule 26 Scheduling Conference, the ADR Program contacted counsel to gauge their interest in early mediation. If counsel were amenable to early mediation, the case was assigned to one of four panel mediators with civil rights expertise.

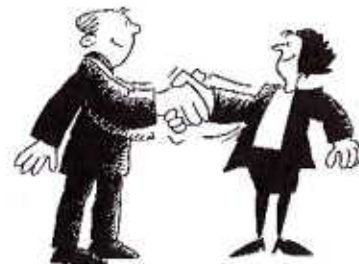
Counsel were assured that if the early mediation was not successful, the parties were not precluded from mediating again with a panel mediator or private mediator or attending a settlement conference with a Magistrate Judge.

In this small sample, the litigants and the Court benefited from early mediation. A majority of the cases mediated settled and all the settlements occurred within thirty days (either before or after) the Rule 26 Scheduling Conference. The mediators reported that generally the parties and counsel were well prepared and ready to negotiate in good faith.

Counsel reported that even if the case did not settle, the early mediation session was productive in that the session: (1) started the parties talking about the case at an early stage of the litigation; and (2) helped focus the issues in the case. In several instances, counsel suggested other “non-major” civil rights cases that they also thought would benefit from early mediation.

As a result of the success of these early mediations, additional district judges have indicated their interest in referring “non-major” civil rights cases to early mediation. The ADR Program will screen civil rights cases assigned to participating judges to identify cases appropriate for early mediation.

If you have a case that may benefit from an early mediation, please contact the ADR Program Director, Gail Killefer, at the email address above.



14th Annual Constitutional Law Forum

*Federal Public Defender Sean K. Kennedy Honored
Dean Erwin Chemerinsky Discusses
Supreme Court Term*

On May 13, 2014, our FBA chapter held the 14th annual Constitutional Law Forum at the Hilton, San Bernardino. The event was attended by federal practitioners from throughout the Inland Empire as well as several state and federal judges, including both of the Eastern Division's federal district judges, the Honorable Virginia A. Phillips and the Honorable Jesus G. Bernal.



*[Federal Public Defender Sean Kennedy,
recipient of the Erwin Chemerinsky
Defender of the Constitution Award]*



*[L-R: Federal Public Defender Sean Kennedy
and Dean Erwin Chemerinsky]*

After introductory comments by the president of our chapter, James "Jeb" Brown, attention turned to the presentation of the Erin Chemerinsky Defender of the Constitution Award. This year the FBA saw fit to honor Sean K. Kennedy, the outgoing Federal Public Defender for the Central District of California, a post he has held since 2006. In that capacity, Kennedy

oversees approximately 100 deputy federal public defenders, who handle capital and noncapital trials and post-conviction cases.



*[L-R: Angela Viramontes, Kenly Kiyu Kato, Callie
Glanton Steele, Sean Kennedy, Joan Politeo,
Jeffrey Aaron, and Kay Otani]*

Jeffrey A. Aaron, Directing Attorney for the Federal Public Defender's Riverside office, introduced Kennedy. Aaron lauded Kennedy for his efforts to draw public attention to the financial challenges facing federal public defenders' offices across the nation. Kennedy's efforts throughout 2013 came in for special commendation by Aaron. During 2013, the so-called "sequester" reduced federal funding for the federal courts system, of which the federal public defenders' offices are a part.

Kennedy accepted the award with a mix of self-deprecating humor and earnest gratitude. He accepted the honor on behalf of the scores of deputy federal public defenders who he has led, stating that it was *their* zealous and principled advocacy that truly defended the constitution in cases across the district. Kennedy reflected on his service over the past 8 years, and for 11 years before that as a deputy federal public defender. He called for greater independence for federal public defenders' offices, pointing out that federal public defenders' offices receive their funding through the court system. As Kennedy descended the speaker's platform, those assembled rose to honor his considerable accomplishments with a standing ovation.

Next Erwin Chemerinsky, dean of the University of California, Irvine School of Law and noted legal commentator, provided an overview of developments from the Supreme Court's current term, which is scheduled to conclude at the end of June. With his characteristic lucidity and precision, Chemerinsky addressed a diverse range of legal topics, including search and seizure law. This term the high court is poised to

decide cases addressing, among other things, whether the police can search the cell phone of a lawfully-arrested person without first obtaining a search warrant, and whether taking arrestees' DNA samples as part of routine booking is reasonable under the Fourth Amendment. While stopping short of making predictions, Chemerinsky provided context and analysis that put a fine point on the potential implications of the court's decisions in these cases.



[L-R: U.S. Magistrate Judge David T. Bristow; and U.S. Magistrate Judge John E. McDermott

Chemerinsky next turned to several areas of interest to civil practitioners, including employment discrimination, bankruptcy, and products liability. Chemerinsky provided a primer on several high-profile First Amendment cases dealing with, among other things, whether a private business has a constitutional right to freely exercise religion, and whether President Barack Obama's health care reform law, the Affordable Care Act, violates that right. Finally, Chemerinsky summarized several cases on the high court's docket concerning constitutional equality, in the areas of race and sexual orientation.

Brown, the FBA chapter president, concluded the proceedings by thanking Chemerinsky for his continued and longstanding support of the Inland Empire federal legal community, and again recognized Kennedy for his accomplishments.



[University of LaVerne cont'd from page -2-]

All of the first-time takers who passed the February 2014 exam maintained a strong and consistent level of participation in the BEST Program throughout the duration of the bar review period.



Assistant Dean of CABR Jendayi Saada said:

"We are extremely proud of the hard work and commitment our students demonstrated in their preparation for the bar exam. The Center's staff and the faculty at La Verne Law provided invaluable support during the bar review period. Everyone from University President Devorah Lieberman and Dean Holmes to all support staff and many alums come together as a team to ensure our students are in the best position to succeed. This is just one example of the La Verne Law Experience."

While the number of students taking the February 2014 Bar exam is too few to extrapolate a sound empirical study, Dean Holmes believes the first-time bar pass rate, when combined with the July 2013 California Bar exam results (68% first-time taker pass rate, a 13% improvement from July 2012) reflect strong positive developments are occurring at La Verne Law.

"I believe we are seeing the leading edge of a sustainable trend in bar passage," said Dean Holmes. "Our La Verne Law Model of Legal Education – which hinges on a curriculum that combines legal theory, lawyering skills and ethics and is rooted in experiential learning and bar readiness – and our commitment to affordability and accessibility through our True Tuition Model, shows we are an institution that is developing and implementing innovative and effective ways to educate and train the lawyers and leaders of the future."





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

PUBLIC NOTICE

**RE: REVISED RELIEF FROM STAY FORMS
EFFECTIVE JUNE 30, 2014**

The Court approved revisions to 10 Local Bankruptcy Rules (LBR) forms regarding Relief From Stay (RFS) that become effective on June 30, 2014.

As the revisions to the RFS forms are substantial, a preview set of the forms is available for reference on the Court's website at www.cacb.uscourts.gov under the Forms tab. The preview set of RFS forms is clearly marked to indicate that they are not to be used for filing.

On June 30, 2014, a subsequent Public Notice will be issued to announce the posting of the final version of the RFS forms. Also on June 30, 2014, the Extraordinary Relief Attachment forms for RFS motions and orders will be retired as many of the elements in these forms were incorporated into the revised RFS forms.

The revised RFS forms were developed with extensive assistance from the Bar Rules Advisory Group, a working group of attorneys from throughout the district that collectively represented debtors, creditors, individuals, businesses, and in matters involving real property and personal property.

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

14-006 (5/29/14)

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www.cacb.uscourts.gov



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

PUBLIC NOTICE

**RE: CHANGES TO FEDERAL COURT
MISCELLANEOUS FEE SCHEDULE
EFFECTIVE JUNE 1, 2014**

The Judicial Conference of the United States approved several changes to the federal court miscellaneous fee schedules that relate to bankruptcy courts and become effective June 1, 2014:

Filing Type	Fee Amount Effective June 1, 2014
Chapter 7 Petition	\$335.00
Chapter 9 Petition	\$1,717.00
Chapter 11 Petition	\$1,717.00
Chapter 12 Petition	\$275.00
Chapter 13 Petition	\$310.00
Chapter 15 Petition	\$1,717.00
Complaint (Adversary Proceeding)	\$350.00

As of June 1, 2014, the Court's *Abbreviated Fee Schedule* and *Court Manual Section 1.1* will be updated to reflect the new fees.

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

14-004 (5/25/14)

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