

FBA INLAND EMPIRE BAR REVIEW

Issue 16

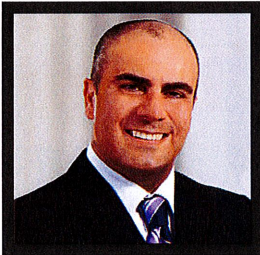
INLAND EMPIRE CHAPTER

SPRING, 2015

FEDERAL BAR ASSOCIATION

Message from Your Federal Bar Association Chapter President

By: *Antoine F. "Tony" Raphael*



As I write my first column as President of this FBA chapter, I reflect on the growth that the Inland Empire continues to experience. This growth is not just in the areas of population and housing; it is also reflected in

the complexity of legal issues that judges and lawyers must tackle. As members of the Inland Empire Chapter of the FBA, we are in a position to be part of and to nurture this growth. Our chapter continues to do that through the programs that we present throughout the year and through our partnership with other bar associations by co-sponsoring other events.

Our chapter kicked off the New Year with a January program on Mediation Ethics and Confidentiality, which was presented by ADR Program Director Gail Killefer of the U.S. District Court and Associate Dean Susan Nauss Exon of the University of La Verne College of Law. In February, we held our annual dinner event honoring the Judges of the Central District of California. Chief Judge George H. King addressed the attendees on the State of the District. Professor Laurie L. Levenson was the keynote speaker and, along with exoneree Obie Anthony, presented an example of the important work that Loyola Law School's Project for the Innocent is doing by endeavoring to exonerate those who are wrongfully convicted.

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CALENDAR OF EVENTS

CALIFORNIA PROPOSITION 47: GAME CHANGER FOR FEDERAL CRIMINAL CASES?

DATE: WEDNESDAY, JUNE 24, 2015

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE

TIME: 12:00 p.m.1:15 p.m.

RANDOM THOUGHTS ON WRITING FOR JUDGES

DATE: MONDAY, JULY 15, 2015

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE

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

Presented By: Magistrate Judge Jean Rosenbluth

SUMMER BLOOD DRIVE

DATE: MONDAY, AUGUST 17, 2015

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE

CIVIL RIGHTS AND POLICE ABUSE

DATE: TBD (FALL)

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE

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

PROSECUTORS' ROUNDTABLE

DATE: TBD (FALL)

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE

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



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Clerk's Update



LISA ADAMS | ASSISTANT DEPUTY-IN-CHARGE
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION
3470 Twelfth Street, Room 134
Riverside, California 92501
Office: (951) 328.4452 Fax: (951) 328.4468
Email: lisa_adams@cacd.uscourts.gov

By: Lisa Adams

Our District Court Executive Terry Nafisi is retiring after 40 years of dedicated court service. She began her career working in the Michigan Supreme Court and ending her term of service with the United States District Court, Central District of California. We would like to get the word out regarding this job opportunity and extend our congratulations to Terry. Please select the link below for further information.

<http://www.cacd.uscourts.gov/employment/clerk-court>

Amended Local Rules Effective June 1, 2015:

The amended Local Civil Rules listed below will become effective June 1, 2015. Redlined versions of these rules, as well as a complete copy of the Local Civil Rules that will be effective June 1, 2015, are available on the Court's website and accompany the electronic version of this notice.

1. 5-4.2(b)(1) [(Documents Excluded from Electronic Filing) Non-paper or Other Unusual Exhibits]
2. 5-4.2(b)(4) [(Documents Excluded from Electronic Filing) Records for Bankruptcy Appeals and Administrative Review Cases]
3. 5-4.3.1 [(Format of Electronically Filed Documents) Technical Requirements (File Format and Size Limitations)]
4. 83-17.3 [(Special Requirements for Habeas Corpus Petitions Involving the Death Penalty) Initial Filings and Petitions]
5. 83-17.7 [(Special Requirements for Habeas Corpus Petitions Involving the Death Penalty) Procedures for Considering the Petition]

All proceedings in cases commenced on or after June 1, 2015, and, insofar as just and practicable, all proceedings then pending will be governed by these new and amended rules.

Schedule of Fees Form G-72 has been revised.

Please select the link below:

[http://court.cacd.uscourts.gov/CACD/Forms.nsf/0b2b50f03ce1d589882567c80058610a/66cc90529a00dc1688256dcf005f4ac3/\\$FILE/G-72.pdf](http://court.cacd.uscourts.gov/CACD/Forms.nsf/0b2b50f03ce1d589882567c80058610a/66cc90529a00dc1688256dcf005f4ac3/$FILE/G-72.pdf)

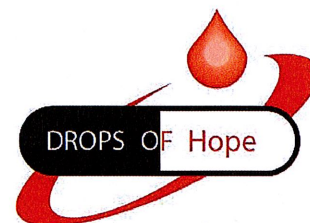


Summer Blood Drive

Lawyers are often asked to donate their money and time to help others, but now you have a chance to donate something else: your blood. The FBA Inland Empire Chapter is sponsoring a summer blood drive at the Riverside federal courthouse on **August 17, 2015**, giving the local legal community a chance to give a little of themselves to save lives. Here are some important facts to keep in mind:

- 🔥 The entire donation process takes only about 75 minutes, and the actual donation time averages only 8-10 minutes.
- 🔥 The pint of blood you give may help up to three people.
- 🔥 About 38% of the population is eligible to donate, but less than 10% of Americans do.
- 🔥 Only a pathetic 3% of Californians give, so California has to import blood from other, more giving states.
- 🔥 A huge portion of donations are made at school blood drives, so the need is particularly great during the summer when schools are not in session.
- 🔥 If saving lives doesn't motivate you, remember: you get free cookies and juice after you give.

With so many good reasons to give, please keep a look out for the flyer announcing the date and location of the blood drive. And if you can't give yourself, think about recruiting others to give. It's a great way feel good about yourself.



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

In March, as part of a program co-sponsored with the Riverside Bar Association, Eastern Division Magistrate Judges David T. Bristow, Kenly Kiya Kato, and Sheri Pym provided an overview of federal practice and the important responsibilities of magistrate judges. In April, Kendall H. MacVey moderated our annual Federal Civil Practice Seminar featuring as speakers U.S. District Judges Virginia A. Phillips and Jesus G. Bernal and Magistrate Judges David T. Bristow and Kenly Kiya Kato. In May, we held our 15th annual Constitutional Law Forum. Terry Bridges, a distinguished trial attorney and now a mediator, received the Erwin Chemerinsky Defender of the Constitution Award. Our chapter also presented our chapter's annual law student scholarship awards to third year law students Marc Tran and Niles A. Pierson. We were of course honored to have Dean Erwin Chemerinsky as our keynote speaker.

We have and had two wonderful events scheduled for June. First, on June 9, we co-sponsored a dinner event in Los Angeles honoring retiring Central District of California Magistrate Judges Stephen J. Hillman, Ralph Zarefsky, Victor B. Kenton, Margaret A. Nagle, Robert N. Block and Carla M. Woehrle. Second, on June 24, U.S. District Judge Jesus G. Bernal is moderating a program titled, "California Proposition 47: Game Changer for Federal Criminal Cases?" The program will feature as speakers U.S. Attorney's Office Criminal Appeals Chief Jean-Claude André, San Bernardino County Supervisory Deputy D.A. Michael Dowd, attorney David J.P. Kaloyanides, and Supervising Deputy Federal Public Defender Liliana Coronado.

Our chapter will continue in its tradition of presenting programs on topics of interest to our membership and the bar in general. But, this is a team effort! I encourage all of you to be active members in our chapter, to spread the word about the work of our chapter, to suggest programs on timely topics, and to be part of those programs as speakers or moderators.

I look forward to seeing you on June 24, and at the other events planned throughout the year. Thank you for your support of our chapter.



Pro Se Corner



Pro Se Clinic Helps WWII Veteran and Family Avoid Eviction

By: Diane Roth

A World War II veteran, his wife, and 15-year old dependent granddaughter can stay in their home thanks to our Pro Se Clinic volunteers.

WWII veteran Mr. A of Hesperia called PSLC for help when he received a foreclosure notice from his bank. He had gotten behind on his payments and was days away from losing his home. He and his wife were disabled and physically unable to make it to the court or the clinic in Riverside. We thought we would be unable to help until volunteer attorneys Manfred Schroer of Grand Terrace and Dwight Kealy of Temecula stepped up and worked out a cooperative arrangement to help the veteran obtain Chapter 13 bankruptcy protection.

"You think you know everything about a person when you've collected the information necessary to file a chapter 13 bankruptcy," Mr. Kealy said. "This is what I thought until a 15-year-old young woman came in, hugged the old veteran, and said, 'Hi Dad.' When she left the room, I looked up from the documents that I thought contained all of the veteran's information, and asked, 'So, you have a dependent?' It turns out that the girl is their granddaughter who has lived with them since she was 14 months old."

The morning 341(a) Creditor Meeting consisted of a conference call with Mr. Schroer and the trustee's attorney in Riverside and Mr. Kealy at the veteran's house with the clients and a notary. Mr. Kealy then collected the notarized documents and delivered them to the trustee's attorney prior to the

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15th Annual Constitutional Law Forum

Mediator Terry Bridges Honored Dean Erwin Chemerinsky Discusses Supreme Court Term

By: Joseph B. Widman

On May 6, 2015, our FBA chapter held the 15th annual Constitutional Law Forum at the Riverside Convention Center, the first time the event was held at this venue. The forum was well-attended by scores of federal practitioners from throughout the Inland Empire as well as several judicial officers.

After introductory comments by the president of our chapter, Antoine "Tony" Raphael, Ruben Escalante, an officer and board member of the local FBA chapter, highlighted the work of the district court's *pro se* clinic. Escalante, a Riverside native in private practice, has volunteered extensively at the *pro se* clinic in recent years. He encouraged the assembled to join him in volunteering at the *pro se* clinic, to give back to our community and facilitate the efficient and effective administration of justice in the Inland Empire's federal court. Escalante's presentation and heartfelt message were met with rapt attention and hearty applause.

Next chapter board members Daniel Roberts and Ami Sheth recognized the recipients of the annual Inland Empire Federal Bar Association Law Student Scholarship. This year's recipients were Niles A. Pierson and Marc "M.C." Tran, both third year law students, selected for their scholastic excellence, connection to the Inland Empire, and outstanding personal qualities. Pierson and Tran were all smiles.



*[L-R: Niles Pierson, Dan Roberts;
Ami Sheth; and Marc "M.C." Tran]*

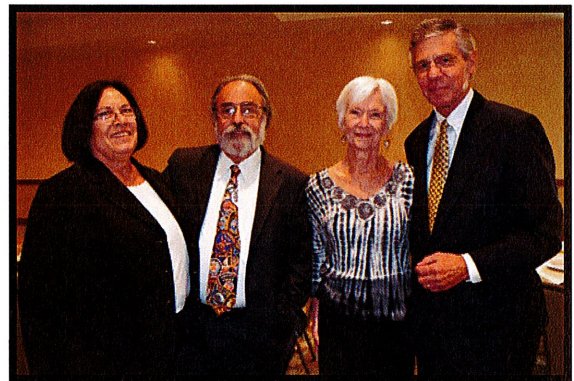
Attention then turned to the presentation of the Erin Chemerinsky Defender of the Constitution Award. This year the FBA chose to honor Terry Bridges, a Riverside native and distinguished trial attorney who now serves as a mediator full-time.



*[Judge David Bristow
presenting the Defender
of the Constitution Award
to Terry Bridges]*

*[L-R: Terry Bridges and
Dean Erwin Chemerinsky]*

Magistrate Judge David T. Bristow introduced Bridges and explained his central role in establishing the federal court's establishment of an Inland Empire division. Judge Bristow drew upon his longtime friendship with Bridges to reflect on Bridges' exemplary character and sterling reputation among attorneys and judges alike, with the trial skills to match. Bridges accepted the award earnestly and with his characteristic humility, graciousness, and eloquence.



*[L-R: Diane Roth; Andy Roth;
Sharon Bridges; and Terry Bridges]*

The next speaker was Erwin Chemerinsky, dean of the University of California, Irvine School of Law and noted legal commentator, who was introduced by Judge Bristow.

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Alternative Dispute Resolution (ADR) Corner



GAIL KILLEFER | ADR PROGRAM DIRECTOR
UNITED STATES DISTRICT COURT
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LEGAL SERVICES UNIT
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Panel Mediators: *Why Are We Doing This?*

By: Gail Killefer, ADR Program Director

On April 30, 2015, the U.S. District Court for the Central District of California hosted an advanced mediation training for members of the Court's Mediation Panel. The Court offers advanced mediation training to members of the Mediation Panel in appreciation for their work and to enhance the quality of their services.

This year, the training was presented by two experts with national and international reputations as innovators and leaders in the field of ADR: the Honorable Wayne D. Brazil (Ret.), now a full-time neutral at JAMS, and Professor Carrie Menkel-Meadow, Chancellor's Professor of Law and Political Science at the University of California Irvine Law School. Both Judge Brazil and Professor Menkel-Meadow have studied and promoted ADR in the courts for decades.

Judge Brazil spent 25 years as a magistrate judge in the U.S. District Court for the Northern District of California. He led the teams that designed and implemented that court's multi-faceted ADR program, then served as that court's first ADR Magistrate Judge, a position he held for more than 15 years.

Professor Carrie Menkel-Meadow came to UCI from Georgetown University Law Center, where she was the Professor of Dispute Resolution and Civil Procedure and Director of the Georgetown-Hewlett Program in Conflict Resolution and Legal Problem Solving. From 1976 to 1996, she was a law professor at UCLA.

Judge Brazil began the training day with an inspirational and aspirational talk about the value of court mediation panels, titled *Why Are We Doing This?* He emphasized that every member of the Court's Mediation Panel works as "an agent of the

Court" and as an ambassador for the system of civil justice – a fact that has implications for how panel mediators perform their role.

He suggested that a Panel Mediator's principal goal is to do everything possible to assure that all participants emerge from the mediation with a stronger sense of respect for the Court and its core values. A Panel Mediator's primary responsibility is to earn respect for the integrity of the process he or she hosts – and thus for the integrity of the Court.

Having earned that respect, ADR can complement and improve litigation – and the parties' experience of litigation and the court system. A good mediator can enhance the quality of justice by helping the lay persons and their counsel better understand the issues and the system, and make sure they are given an opportunity to participate directly and meaningfully.

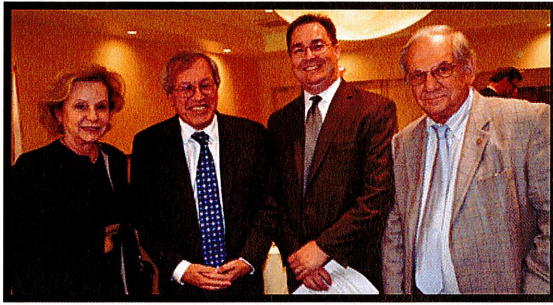
Panel Mediators deliver a service that the court alone cannot deliver: judges simply do not have the time to meet the negotiation needs of every case. Panel Mediators help to meet those needs by scheduling a mediation, which pushes both counsel and the parties to prepare and analyze their case, communicate with each other and the opposing side, and realistically assess the pros and cons of the different paths forward.

Judge Brazil also spoke about the value of the mediation process as an alternative to conventional adjudicatory processes. For example, mediation can accommodate a party's need to express emotion and can create opportunities to communicate respect for others. The formalities of litigation do not offer either such accommodation or opportunity.

Finally, to encourage the Panel Mediators to appreciate how significant their work for the Court can be, Judge Brazil offered an ambitious concept: that Panel Mediators contribute to the democratization of our system of civil justice – by providing, pro bono, a valuable service that litigants otherwise would not receive.

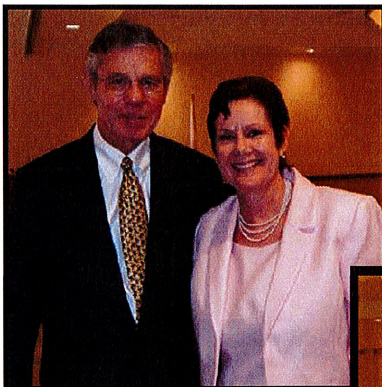
This service enables more litigants – who either cannot afford litigation or whose dispute does not justify paying for a full litigation ride -- to get more help from our judicial system. The work of the Panel Mediators thus allows more people to participate meaningfully in the system – which improves access to justice.

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[L-R: Donna Carlson, Dean Erwin Chemerinsky, Dan Roberts, and Prof. Charles Doskow]

Chemerinsky discussed developments from the Supreme Court's current term, scheduled to conclude in June, including cases which have been accepted for decision as well as some opinions issued late last term and this term thus far. With the precision of a true lawyer's lawyer and a seemingly preternatural command of detail, as well as a few well-timed one-liners, Chemerinsky addressed a diverse range of legal topics, including a couple widely-discussed criminal cases involving the Fourth Amendment's prohibition on unreasonable searches and seizures. Picking up where his talk at last year's forum left off, Chemerinsky explained the high court's decision in *Riley v. California* that a cell phone cannot be searched as part of a search incident to arrest absent exigent circumstances, which reversed the previous rule applicable under California state law. He also discussed *Rodriguez v. United States*, which limited the ability of law enforcement to extend an already completed traffic stop for further investigation absent reasonable suspicion or some other lawful justification.

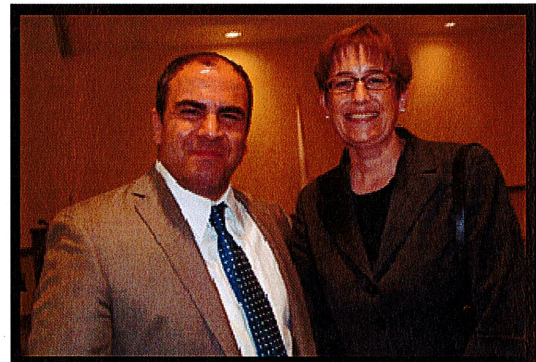


[L-R: Terry Bridges and Jacqueline Carey-Wilson]



[L-R: Chad Firetag and Eric Keen]

Chemerinsky's next series of topics dealt with civil cases and law, including one decision and one pending cases on the authority of federal bankruptcy judges, which may have implications for the authority of all non-Article III federal judges. Chemerinsky discussed several high-profile First Amendment cases dealing with, among other things, whether a Massachusetts law prohibiting assembly near the entrances or exits of "reproductive health care facilities" violates the First Amendment, and the constitutionality of a rule prohibiting candidates for judicial office from personally soliciting campaign funds. Chemerinsky explained the potential implications of the Court's ruling in *Burwell v. Hobby Lobby* that the free exercise clause is violated by a requirement that closely-held, for-profit corporations must provide health insurance to employees which includes contraceptive coverage for women. Chemerinsky's final topic was a preview of decisions likely to be issued near the end of this term, including *King v. Burwell*, which has major implications for the continuing viability of President Barack Obama's health care reform law, the Affordable Care Act.



[L-R: Tony Raphael and Magistrate Judge Sheri Pym]

Tony Raphael, the FBA chapter president, concluded the proceedings by thanking Chemerinsky for his continued and longstanding support of the Inland Empire federal legal community, congratulating the scholarship recipients, and again recognizing Bridges for the enormous respect he has earned during his years as a stalwart of the local bar and model of ethics and professional collegiality.



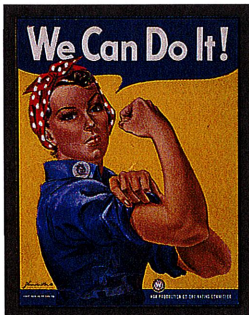
[confirmation hearing. The plan is unusual and creative; the trustee's attorney said it was the first time she had recommended confirmation in a situation like this. But the plan was confirmed.

"I know they don't make TV shows about bankruptcy court," Mr. Kealy said. "But 'plan confirmed' to a new bankruptcy attorney sounds like 'not guilty' to a defense attorney. It meant that the veteran, his wife, and 15-year-old granddaughter would be able to continue living in their house together."

This was Dwight's first bankruptcy case and his first court appearance, having been sworn in this year. Manfred is a seasoned bankruptcy attorney who's our most dependable and big-hearted volunteer (more than 200 hours donated to the clinic in 2012). They are now a mutual admiration society. As Dwight says:

"Most of you might think that the actual practice of law is not all that exciting, but it can be. Volunteering with PLSC in the past months has given me the opportunity to save a WWII veteran and his family from eviction, help a mother get custody of her children, and help others start a new life after a difficult marriage. Volunteering at PLSC also gives you the opportunity to surround yourself with people who want to help other people. As a new attorney, I am grateful for the opportunity to work with experienced volunteer attorneys like Manfred Schroer who are willing both to help me learn the practice of law and to give me examples of using the law to help others."

This is not the usual case, as we don't ordinarily make house calls. But your contribution of just a few hours in the clinic can help keep a couple in their 80s from becoming homeless or help a disabled person get social security benefits. We are most in need of volunteers on the District Court side, primarily to advise litigants on procedural matters. No formal sign-up procedure. Just stop by after your court appearance for an hour or two.



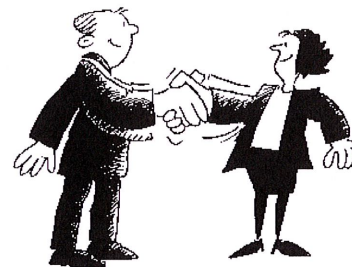
Thank you to the IE FBA for sponsoring PSLC's annual Wine & Culinary Benefit and for your continued support of our clinic. And thank you to the District Court for agreeing to fund us again for fiscal year 2013-14.

Following Judge Brazil's talk, Professor Menkel-Meadow joined him for a panel discussion on skills and practice issues. The two speakers offered different perspectives on topics such as joint sessions, caucusing, and the parties' exchange of mediation statements.

In the afternoon session, Professor Menkel-Meadow gave an engaging and insightful talk titled "*The Challenges of Mediation: Impasses -- Merits, Psychological, Interpersonal, and Monetary.*" She discussed barriers to reaching agreements, including social and cognitive issues in negotiation, such as reactive devaluation (when a party devalues a proposal if the proposal is offered by an adversary) and loss aversion (studies suggest that people strongly prefer avoiding losses to acquiring gains).

Professor Menkel-Meadow often returned to the theme of procedural justice in mediation: a good mediator offers a process that affords each party an opportunity to be meaningfully heard and treats each party with dignity and respect.

The training was well-received by the audience, who appreciated the speakers' experience and their thought-provoking message. One Panel Mediator wrote of the two speakers: "They are inspiring, enlightening, provocative, balanced and heartfelt in their comments and approach." Another attendee commented that the philosophical nature of the topics was interesting and important – and perhaps the most valuable topic addressed in any mediation training.



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