

INLAND EMPIRE BAR REVIEW

Issue 10

INLAND EMPIRE CHAPTER

Summer, 2013

FEDERAL BAR ASSOCIATION

Message from Your Federal Bar Association Chapter President

By: US District Judge Virginia A. Phillips



I am pleased to announce two pieces of good news. Our chapter was awarded a 2013 Chapter Activity Presidential Achievement Award, which recognizes the excellence of our programs and the vitality of our chapter.

We were also awarded a Meritorious Newsletter award, so congratulations and thanks to Kim Connelly for her excellent work as our editor.

We continue with our tradition of programs designed to interest and educate all who work in the federal courts. In July, thanks to John E. Brown, President Elect of our chapter, we presented a program focusing on the developments on the law in the Ninth Circuit regarding "Less Lethal" force in the Ninth Circuit. In June, Frank Adams from Best, Best & Krieger led a presentation on municipal bankruptcy, a topic of special interest because of San Bernardino's recent filing. In May, we enjoyed record attendance at our annual lunch program featuring Dean Erwin Chemerinsky's Supreme Court Round-Up.

The chapter continues to support the efforts of the staff at the Pro Se Clinic, housed in the bankruptcy court, serving those with cases in both the U.S. Bankruptcy Court and the U.S. District Court. Directing Attorney Robert Simmons is developing a training program that will be offered to any attorney who wishes to volunteer and feels he or she needs information or training on the types of matters typically encountered at the Clinic. In 2012, the Clinic assisted over 1,000 persons - an especially

[Cont'd on Page -3-]

CALENDAR OF EVENTS

ON THE PATENTING OF MICE AND MEN: RECENT DEVELOPMENTS IN PATENT LAW

DATE: SEPTEMBER 25, 2013, 2013

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE COURTROOM 3

TIME: 12:00 – 1:15 P.M.

~Featuring: David Jankowski, Ph.D, of Knobbe Martens

BEHIND THE WINDOWS OF THE CLERK'S OFFICE

DATE: OCTOBER 11, 2013

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE CLERK'S OFFICE

TIME: 9:30 A.M. – 11:30 A.M.

~Featuring: Deputy-in-Charge Kiry Gray and others giving an informative tour of the Clerk's Office.

INDIAN LAW AND ITS INTERSECTION W/ FEDERAL LAW

DATE: OCTOBER 21, 2013

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE COURTROOM 3

TIME: 12:00 P.M. – 1:15 P.M.

~Featuring: Chief Judge Anthony Brandenburg of the Intertribal Court of Southern California

REFLECTIONS ON THE CHALLENGES FACING PUBLIC DEFENDER OFFICES

DATE: NOVEMBER 21, 2013

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE COURTROOM 3

TIME: 12:00 P.M. – 1:15 P.M.

~Featuring: Federal Public Defender Sean Kennedy, Riverside County Public Defender Steven Harmon, and San Bernardino County Public Defender Phyllis Morris; Moderator: United States Attorney André Birotte Jr.

IMPORTANT ANNOUNCEMENT

Applications for Positions on the Board of Directors Will Soon be Emailed to All Members.

DEADLINE FOR APPLICATIONS:

OCTOBER 1, 2013

INSIDE THIS ISSUE

- 1 Message from the Inland Empire Chapter President
- 2 Clerk's Update
- 3 Resolution of the Inland Empire Chapter of the Federal Bar Association
- 4 A Judicial Profile – Magistrate Judge Bristow
- 5 Excellent Programs of the Inland Empire Chapter
- 6 Pro Se Corner
- 7 Alternative Dispute Resolution (ADR) Corner
- 8 Central District Update
- 9 Comments on the Funding Crisis

Clerk's Update The Impact of Sequestration U.S. District Court Central District of California



Terry Nafisi | District Executive & Clerk of Court

By: Terry Nafisi

With the sequestration cuts, local court salary allotments were reduced by a total of 14 percent below full-year requirements.

- Most non-salary allotments (operations, information technology, etc.) were reduced by 20 percent.

Under the judiciary's decentralized management system, each court decides how to implement many of the funding cuts.

On March 22, the District Court announced that all three divisions will be providing only reduced services on seven Fridays between April 26 and August 30 (*i.e.*, April 26, May 24, June 21, July 12, July 26, August 16, and August 30). During furlough -

- The courthouses remained open.
- Courtroom staff was on hand to support the criminal duty calendar, which continued to be held.
- Criminal Intake was staffed as necessary to process new arrests,

bond/detention matters, and all criminal duty (document and in-court) case preparations.

- Civil Intake staff stayed on hand to receive emergency civil filings only.
- CM/ECF remained available for electronic filing on these days.
- All other Clerk's Office staff were absent on furlough, and did not get paid for these days.
 - ✓ Judges and chambers staff are not affected by sequestration or other budget reductions.
 - ✓ Each reduced service day saved the Court approximately \$93,000.
 - ✓ All discretionary annual leave was temporarily suspended.
- The number of furlough days was minimized by drastically reducing the Court's consumable office supplies, space and furniture, travel, training, and Information Technology expenditures.
- The Clerk's Office also suspended all vacancy recruitments, and vacant positions will not be filled, until the budget situation is clearer.

After only two reduced service days (April 6 and May 24), the Court announced the cancellation of the remaining five reduced service days on June 19.

- The Court was able to do so due to the successful implementation of extreme conservation efforts in expenditures and the transfer of funds among court units.
- For the remainder of the year all program initiation requiring funding was tabled. The Court essentially remained at a programmatic standstill.

Outlook for FY 2014:

If a budget for FY 2014 is not enacted prior to October 1, the current continuing resolution funding levels will be extended into the next fiscal year.

The drastic reductions to operations, information technology, space, and other budget categories achieved in FY 2013 cannot be sustained in FY 2014, and will necessitate further payroll reductions. ❖

significant achievement in light of its limited hours – 4 hours on two days per week – and staffing. I encourage any lawyer with federal practice experience, including bankruptcy practice, to volunteer at the Clinic.

I look forward to seeing you at the upcoming September program on new developments in patent law.

❖

Resolution of the Inland Empire Chapter of the Federal Bar Association Urging Congress to Provide Supplemental Emergency Funding to the Federal Judiciary

On July 24, 2013, the Directors of the Inland Empire Chapter adopted the resolution printed below, urging Congress to provide emergency funding for the federal judiciary. The next day, former Chapter President Kendall MacVey sent copies of the resolution to Senators Feinstein and Boxer, and to Representatives Calvert and Takano. In his letters to these representatives on behalf of the Chapter, Mr. MacVey urged them to take immediate action to address "the drastic impacts the budget sequestration is having on the federal courts." MacVey told them:

"It is without a doubt that these impacts jeopardize the administration of justice in the federal court system throughout the country generally and in the Inland Empire in particular."

Resolution of the Inland Empire Chapter of the Federal Bar Association Urging Congress to Provide Supplemental Emergency Funding to the Federal Judiciary:

WHEREAS, budget sequestration under the Budget Control Act of 2011 is now in effect and is reducing funding of the Federal Judiciary by hundreds of millions of dollars;

WHEREAS, for every thousand dollars (\$1000) of federal spending, the Federal Judiciary, as the third branch of government, expends only one dollar and eighty nine cents (\$1.89);

WHEREAS, the Federal Judiciary's budget request for Fiscal Year 2012 reflected its smallest requested increase on record and now the Federal Judiciary instead faces a reduction in funding due to budget sequestration;

WHEREAS, funding for courthouse security has been cut 30% due to budget sequestration;

WHEREAS, funding for court probation and pretrial supervision of a record number of offenders and criminal defendants is being reduced due to budget sequestration;

WHEREAS, the Federal Defenders throughout the country are contemplating staff reductions of up to one third to one half and resources for federal criminal prosecutions also may be reduced due to budget sequestration;

WHEREAS, the Administrative Office of the United States Courts is contemplating the suspension of civil jury trials throughout the country for the month of September due to budget sequestration;

WHEREAS, federal courts have had to implement furloughs, staff reductions, and court closures throughout the country due to budget sequestration;

WHEREAS, budget sequestration threatens the administration of the federal criminal and civil court system, thereby posing a danger to public safety and the peaceful resolution of civil disputes;

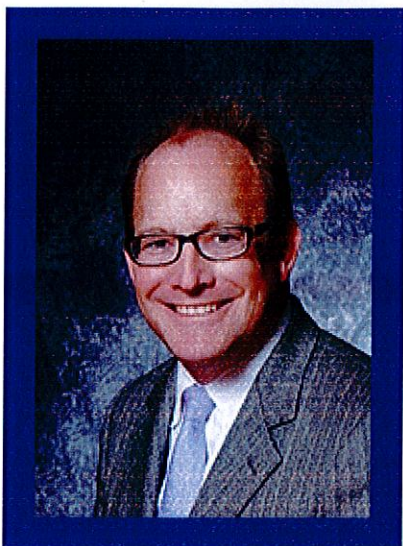
WHEREAS, the integrity of our Constitution rests on the viability of the Federal Judiciary, which is a co-equal branch of the three branches of the U.S. Government,

The Inland Empire Chapter of the Federal Bar Association by this resolution adopted by its board on July 24, 2013, hereby urges Congress to enact without delay proposed emergency supplemental funding for the Federal Judiciary to mitigate the devastating impact of sequestration on the operations of the federal courts.

Signed by: Kendall H. MacVey, former president and current board member of the Inland Empire Chapter of the Federal Bar Association

❖

United States Magistrate Judge David T. Bristow ~A Judicial Profile~



By: Maya Roy

Since June 2009, The Honorable David T. Bristow has served as a United States Magistrate Judge in the Central District of California, sitting in the Eastern Division Courthouse in Riverside. In this capacity, Judge Bristow presides over preliminary proceedings in criminal cases, trials in misdemeanor cases, discovery and various other pretrial hearings in civil cases, trials in civil cases upon consent of the litigants, and other matters. As a jurist, Judge Bristow is known for his fairness, commitment to justice, patience, and his sense of humor. His infectious laughter is a welcome and frequent sound at all Courthouse get togethers.

Judge Bristow comes from a family with a tradition of public service. Both of his parents were in the United States Air Force and met while they were stationed at Andrews Air Force Base. Judge Bristow was born and raised in Riverside and has three sisters and one brother. He lives in Riverside with his wife, an elementary school teacher, and his three daughters, ages six, four, and one month. Judge Bristow is a doting father and husband and, despite being an overworked federal judge, he is always attentive to his family and friends at any time.

He graduated from California State University, San Bernardino, in 1985, with a degree in History and Economics. Despite being the least sports-oriented person in his family, after college, Judge Bristow

worked as a sportswriter with the San Bernardino Sun from 1985 through 1989. He covered all college and professional sports teams in Southern California and reported on San Bernardino's minor league baseball team, the Spirit, and traveled with the team. Although he enjoyed working with his colleagues at the newspaper immensely, after working as a journalist for several years, Judge Bristow decided law school seemed like a plausible alternative. He enrolled in the University of the Pacific, McGeorge School of Law and graduated in 1993.

After graduating from law school, Judge Bristow practiced law as a deputy district attorney and deputy public defender in San Bernardino County. He then worked with the international law firm of Akin, Gump, Strauss, Hauer & Feld. In 2003, Judge Bristow began working at the Riverside law firm of Reid & Hellyer and was its managing partner when he was appointed to the federal bench in 2009. At Reid & Hellyer, Judge Bristow specialized in business litigation, with an emphasis in contract and employment disputes, and represented several local corporations and individuals. He was also known for donning chicken costumes on Halloween.

Judge Bristow is an active member of the Inland Empire legal profession, serving as the President of the Riverside County Bar Association from 2006 - 2007, and holding every office in that organization prior to his presidency. His other professional affiliations included the American Inn of Court, Leo A. Deegan Chapter (Member, 1997-present); Volunteers in Parole/VIP Mentors (Attorney Volunteer, 2003-2005); United States Ninth Circuit Judicial Conference (Lawyer Representative, 2006-2009); United States District Court, Central District of Los Angeles, Attorney Admissions Fund (Member, 2006-2009); U.S. State Department Public-Private Partnership for Justice Reform in Afghanistan (Member, Organizing Committee, 2008-2009); and the Riverside County Superior Court, Court Congestion Committee (Member, 2005-2008).

In addition to his professional endeavors, Judge Bristow is an active member of the Riverside community and served on numerous local boards and committees including: Riverside Hospice (Board Member, 1996-2006; President 1999-2000, 2004-2006); Riverside Metropolitan Museum (Board Member, 1998-2006; President 2004-2006); Riverside Art Museum (Board Member, 2005-2007); Riverside Chamber of Commerce, Leadership Riverside Steering Committee (Member, 2001-

[Cont'd on Page -5-]

2007); and Riverside Community College Foundation Board (Board Member, 2007-2009). He was also appointed by Mayor Ronald Loveridge to the City of Riverside's Blue Ribbon Task Force to recommend development and expansion of the downtown library and Metropolitan Museum. ❖

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

By: District Judge Virginia A. Phillips

On May 15, 2013, the Inland Empire Chapter of the Federal Bar Association hosted Dean Erwin Chemerinsky's annual "Supreme Court Round-Up" lecture at the Mission Inn. For a sold-out audience of practitioners and judges, Dean Chemerinsky examined the impact of many Supreme Court Fourth Amendment decisions and provided, in characteristic detail, his invaluable insight into the potential impact of the Supreme Court's decisions on California's Proposition 8, affirmative action in college admissions, the Defense of Marriage Act, and the Voting Rights Act. As always, his critical perspective was highly informative, engaging, and tremendously valuable to legal practitioners and judicial officers alike.

During this event, on behalf of the chapter, U.S. District Judge Jesus Bernal proudly presented the Erwin Chemerinsky "Defender of the Constitution" Award to the Honorable Terry J. Hatter, Senior United States District Judge and Chief Judge Emeritus. Judge Hatter received the award in recognition of his extensive contributions to the legal community as both an attorney and a judge.



[District Judge Jesus G. Bernal presenting the Defender of the Constitution award to District Judge Terry J. Hatter, Jr.]

Judge Hatter received his bachelor's degree from Wesleyan University in 1954 and, upon receiving his J.D. from the University of Chicago in 1960, became a third-generation lawyer in his family. In the years following, he laid the foundations for what would become a robust and diverse legal career. Initially, he worked simultaneously in private practice and as an Assistant Public Defender in Illinois. Later, he became both an Assistant United States Attorney for the Northern District of California and a Special Assistant United States Attorney for the Eastern District, positions that he held until 1966. Judge Hatter has served as a law professor at USC's Gould School of Law and Loyola Law School, Chief Counsel of the San Francisco Neighborhood Legal Assistance Foundation, and the Executive Director of the Western Center on Law and Poverty in Los Angeles. He also lent his expertise to the city of Los Angeles as a Special Assistant to Mayor Tom Bradley, as the Director of Criminal Justice Planning from 1974 to 1975, and as the Director of Urban Development from 1975 to 1977.



[L-R: Chief District Judge George H. King; District Judge Phillip S. Gutierrez; Senior District Judge Terry J. Hatter; District Judge Audrey B. Collins; District Judge Gary A. Fees]



[L-R: District Judge Virginia Phillips; Dean Erwin Chemerinsky; District Judge Terry J. Hatter]

In 1979, after two years as a judge on the Los Angeles Superior Court, Judge Hatter was appointed as a United States District Judge for the Central District of California by President Jimmy Carter. He served as Chief Judge of the Central District from 1998 to 2001 and assumed senior status in 2005.

In the Eastern Division, we have a particularly strong sense of gratitude for Judge Hatter's dedication to his judicial office and to the federal courts. In addition to his contributions from the bench, he was fundamental in establishing our division, has attended and participated in many events in the Riverside and San Bernardino legal communities, and voluntarily takes case assignments from the Eastern Division on a regular basis.

The title "Defender of the Constitution" is one befitting Judge Hatter. Few have accomplished so

[Cont'd on Page -9-]

Pro Se Corner



Riverside Joint Federal Pro Se Clinic and YOU

By: Robert Simmons*

The Riverside Joint Federal Pro Se Clinic operates in the Riverside Bankruptcy Court clerk's office on the first floor of the court house. It is open on Tuesdays and Thursdays from 10:00 am to 2:00pm. The clinic advises persons on both Bankruptcy Court and District Court matters, on all stages of litigation, from pre-filing through final judgment and, rarely, appeal. We are currently on pace to meet or exceed the 1826 persons helped in our first year of operation. The Central District has agreed to fund the clinic through September 2014.

In bankruptcy, the clinic helps persons at all stage of the proceedings, from pre-filing through final discharge and beyond. Bankruptcy Court rules are strict and debtors have a greater chance of success if they visit the clinic frequently, starting with a pre-filing visit.

District Court is an even bigger hurdle than Bankruptcy Court for pro se litigants. All of us have heard the statement that pro se litigants are held to the same standard as attorneys. We all also know that a pro se litigant can rarely meet the same standard as an attorney. This is why we need volunteer attorneys – to help level the playing field.

In past newsletters, we have pointed out some of the successes that some of the clinic's clients have had. This is where YOU come in. YOU can be part of someone's success story in either the Bankruptcy Court or District Court. This month a new volunteer in the clinic, Attorney Ruben Escalante, agreed to represent a clinic client pro bono in Adversary Proceedings in Bankruptcy Court. (These are the equivalent of civil litigation in District Court but with faster deadlines.) The litigant has missed some court deadlines, but with the attorney's help, the litigant's

chances of success have greatly improved. YOU can help the clinic have even more success stories. The clinic will be glad to give YOU some training and to guide YOU through the advising process. Contact me, Robert Simmons, the managing attorney, at: rlsimmons@riversidelegalaid.org and I will be glad to arrange for YOU to volunteer and be a part of our success stories.

"YOU are going to like the way you feel -- we guarantee it!"

**Robert Simmons is the Managing Attorney of the Joint Federal Pro Se Clinic*

Pro Se Clinic Welcomes A New Partner

New volunteer attorney, Ruben Escalante, practices with Sheppard Mullin Richter & Hampton, LLP, in Orange County and Los Angeles. He has chosen to volunteer in our clinic because this is his hometown. Sheppard Mullin has a long tradition of providing high-caliber pro bono legal services to people who could otherwise not afford access to legal representation. We thank the firm for encouraging its attorneys to perform pro bono work and for agreeing to take on pro bono direct representation of some of our Inland Empire clients.

❖

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

New Panel Mediators Available to Mediate in Inland Empire

The Central District appointed 33 new Panel Mediators this summer, many of whom are available to mediate in Riverside and San Bernardino counties.

The mediators available to mediate in both counties include: Richard T. Copeland of Conflict Solution Services in Pasadena; Douglas B. Davidson of Balmages & Davidson/OC Mediation in Tustin; Jad Davis of Kutak Rock LLP in Irvine; Charles A. Ferguson of Energy Dispute Solutions, LLC, in San Francisco; Miles Kavaller, a solo practitioner in Woodland Hills; Patrick Quinlivan of Quinlivan Mediation Services, LLC, in Irvine; Michael Shimokaji of Spectrum Dispute Resolution Services in Irvine; and Rande Sotomayor of Sotomayor Law in La Canada. In addition, Laura Fleming of Payne & Fears LLP in Irvine is available to mediate in Riverside County, and Brian D. Center of The Oxbridge Law Group in Los Angeles is available to mediate in San Bernardino County.

The new panel members offer diverse areas of subject matter expertise. For example, as a transportation lawyer, Miles Kavaller has represented and continues to represent transportation companies in Riverside and San Bernardino counties. He is happy to share his expertise in transportation law with the local transportation community in order to help resolve disputes.

Michael Shimokaji, who has over 30 years of practice in patent, trademark, copyright, and trade secret matters, sees an increasing need for IP mediators in the Inland Empire. He looks forward to mediating cases in the Inland Empire and hopes to build a following there.

Rick Copeland has enjoyed his experience litigating matters in Riverside and San Bernardino Counties

for the past 13 years. He now looks forward to serving as a neutral to assist attorneys and their clients in resolving civil rights, personal injury, products liability and ERISA matters throughout the Inland Empire.

Rande Sotomayor is available to mediate cases involving business/commercial, ERISA benefits, insurance bad faith, employment, real estate/construction, personal injury, professional negligence, and civil rights issues, among others. She explains that offering to mediate in the Inland Empire “provides [her] with a wider variety of cases while concurrently allowing [her] to provide an important service to the Court and litigants.”

Doug Davidson says that he has been lucky to practice law for 40 years in a number of firm and corporate environments and feels “an obligation to give something back to the system of justice that means so much to our society and that has provided [him] with a very comfortable life.” He mediates cases in all business and commercial matters with a particular expertise in the hotel and restaurant industries, as he has been a businessman in both.

Brian Center is enthusiastic about the opportunity to mediate in the Inland Empire. “I am just a big believer in the idea of helping the Courts resolve disputes in an efficient way. It is the ideal for promoting justice. The benefits to me far outweigh the downside of some drive time.”

There are 53 Panel Mediators listed on the Court website as available to mediate cases in Riverside County and 39 Panel Mediators are listed as available to mediate cases in San Bernardino County. The profiles of all Panel Mediators are available on the Court website and can be sorted by county and subject matter expertise.



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

❖

Central District Update



By: Chief Judge George H. King

As Chief Judge of the Central District of California, one of my responsibilities is to inform the public and the bar about the challenges and opportunities currently facing the federal judiciary. Unfortunately, at the moment, the challenges we face are quite significant.

In March, President Obama signed the appropriations bill that provides funding for the federal government, including the judiciary, for Fiscal Year (FY) 2013. That bill left in place the government-wide sequestration cuts that were mandated by the Budget Control Act of 2011 – cuts that reduced the federal judiciary's FY 2013 funding by nearly \$350 million below FY 2012. This is an unprecedented challenge to the administration of justice in the federal courts.

While the federal judiciary's leadership, including the Judicial Conference of the United States, is doing all it can to meet this challenge, the dramatic reduction in funding is compounded by two factors that are particular to the federal judiciary. First, the judiciary has no control over its workload. It must respond to the cases it receives from the Executive Branch and private litigants. Not surprisingly, that caseload is not declining. Second, unlike most Executive Branch entities, the judiciary has very little flexibility to move funds between appropriations accounts in order to lessen the effects of sequestration. It has no "lower-priority programs" from which to transfer funds to other accounts.

How is this situation affecting the federal court system? To mitigate sequestration's impact on court staffing in the current fiscal year, courts have cut their non-salary budgets (including training, information technology, supplies, and equipment) to an extent not sustainable into future years. Even with these reductions, however, up to 1,000 court employees across the country could be laid off, or thousands of

employees could be furloughed, before the end of the year. Those staffing losses will add to the nearly 2,200 probation officers and clerk's office staff already lost since July 2011. Needless to say, such cuts in staffing will result in significantly slower processing of civil and bankruptcy cases – delays that will harm individuals, small businesses, and corporations. Criminal justice will also suffer, as sequestration has reduced funding for probation and pretrial officer staffing throughout the courts. This will mean less deterrence, less detection, and less response to possible resumed criminal activity by federal defendants and offenders in the community.

Sequestration has also severely affected the federal courts' Defender Services program, presenting it with a \$51 million shortfall below minimum funding requirements. The Defender Services program has no flexibility to absorb such large cuts, since its expenditures are limited almost exclusively to compensation to federal defenders, rent, case-related expenses (e.g., for expert witnesses or interpreters), and payment to private panel attorneys. The only way to absorb the \$51 million shortfall is to reduce staffing or defer payments to private panel attorneys. Faced with these difficult choices, the Executive Committee of the Judicial Conference has approved a spending plan for the Defender Services program that will result in federal defender offices across the country having to cut staff and furlough employees an average of approximately 15 days. The plan would also halt payments to private panel attorneys for the last 15 days of FY 2013, shifting those expenses to FY 2014 and adding to the judiciary's FY 2014 appropriation requirements.

In an attempt to mitigate sequestration's devastating effect on defender services, probation and pretrial services offices, court staffing, court security, and related areas, the judiciary has presented Congress and the Office of Management and Budget with an FY 2013 emergency supplemental request of \$72.9 million. At present, the fate of that request is uncertain.

Meanwhile, the Central District of California has already had to implement unprecedented measures to meet the challenges of sequestration. Earlier this year, the court approved seven reduced-service days, to be scheduled between April and the end of August. On those days, most employees are furloughed

[Cont'd on Page -9-]

much in city, state, and federal positions or have demonstrated such a steadfast commitment to the work of the courts and the integrity of the justice system. We feel very fortunate to have benefited so greatly from his principled judicial career, engagement with the community, and deeply held sense of responsibility. We congratulate Judge Hatter on receiving the Erwin Chemerinsky Defender of the Constitution Award for 2013.

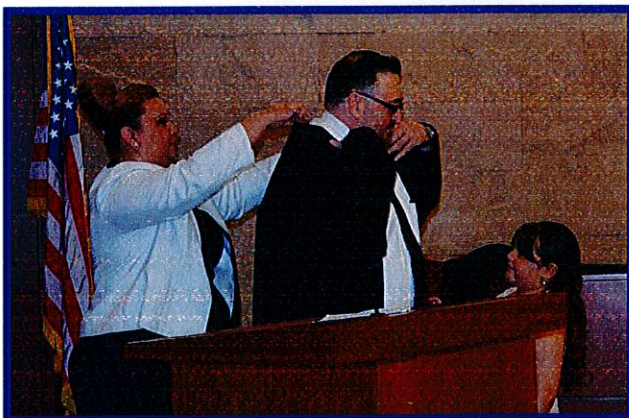
Investiture of United States District Court Judge Jesus G. Bernal May 3, 2013



[Judge Virginia A. Phillips giving the oath of office to Judge Jesus G. Bernal on May 3, 2013 during his Investiture]



[L-R: U.S. Attorney André Birotte Jr.; Judge Sheri Pym; Assistant U.S. Attorney Dorothy Kim; and Assistant U.S. Attorney Denise Willett]



[Judge Jesus Bernal being assisted with his enrobing by his wife and daughter]

** Photos taken by Jacqueline Carey-Wilson

and court services are narrowly limited, essentially to criminal filings and emergency civil filings. (Additional information is available on the court's website.) As a result of the court's continuing efforts to reduce or suspend expenses in every area possible, however, three of these reduced-service days have been canceled. Currently, two reduced-service days remain scheduled in August.

Unfortunately, after several years of cost-cutting in the Central District, those programs that were susceptible to reduction have already been reduced. There simply is not much left to cut that will not impact essential court operations. Thus, while there may only be two reduced-service days left this year, everyone anticipates that FY 2014 will be at least as difficult as the current fiscal year. The public may therefore soon begin to see other effects of the funding crisis, such as calendar delays or long lines to enter courthouses insufficiently staffed with security officers.

However, one small consolation in the midst of such depressing news is the interest and support demonstrated by members of the bar who are active in federal court. To those of you who have so often stepped up to help the court, I thank you for your past efforts – and for the assistance I have no doubt you will provide when we call on you again in the future.



Comments On The Funding Crisis

By: Emile Mullick

The post sequestration funding deficiencies are still largely in place, furloughs loom as a distinct possibility for Central District, and we are urged to continue our efforts to make lawmakers aware of the severe impact on the federal courts. I suggest that perhaps we can do more.

Official statistics for the 9TH Circuit for the 12 months ending 12/31/12 reveal the workload per judge is 664 total filings, of which 570 are civil, 509 pending cases, 13 trials completed, and median time to disposition of civil cases is 5.2 months and 19 months to trial. We don't have to do the math to see that a very small percentage of cases go to trial, and we sense that very few cases are

[Cont'd on Page -10-]

dismissed out of the starting gate. That means that the great bulk of cases are litigated and disposed of by motions and settlement, or ordered dismissal. Hence the importance of briefs in litigation and the need to reduce unnecessary demands on the Court by drafting briefs that are well organized, clear, and concise.

All of us have heard the admonition that brief's should be brief. From law school to practice guides, to books about legal writing, and in seminars, the message is repeated: clear and concise prose in a well-organized brief will win the day. One of the best books on the subject is "Making Your Case" by Justice Scalia and Bryan Garner. We all know that wordy and unorganized briefs are a burden on opposing counsel and the Court, but there is a great, perhaps irresistible, temptation to include all the arguments and authority that we believe might influence the Court.

The magic of "copy and paste" makes it easy to incorporate our own prior writing and the writing of others if we think it will help. Drafts will always contain repetitive, unnecessary and perhaps inappropriate argument. It has been said that it takes longer to write a ten page brief than it does to write a thirty page brief. A thirty page brief is an unfinished ten page brief. And when we are up against a deadline to file a brief, the painstaking re-reading and revision process might be neglected. Opposing counsel will have to do the review and organizing that is lacking, and then identify and write to the issues and arguments contained in the brief.

The Court has two options for reviewing wordy and unorganized briefs: take the time to sort it out, or scan for a general impression and hope that the opposing brief clarifies the issues and arguments. If the reader is a Judge with hundreds of pending cases, wordy and unorganized briefs will create a burden that is exacerbated by the funding crisis.

Sometimes a brief might be judged too brief. A few years ago I defended against a motion for summary judgment and after oral argument the Judge opined that my brief was sufficient, but no more. By her tone of voice I was not sure, but I believe I detected disapproval. But the motion was denied and I took that as a win.

The combination of today's political impasse and the funding crisis from sequestration mean that the fiscal pressures on the Court are unlikely to abate. Our efforts to increase funding must continue, and we must do our part to make the best use of the Judicial resources we have.

❖



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

PUBLIC NOTICE

**RE: REQUEST FOR PUBLIC COMMENT ON
PROPOSED NATIONAL RULES AND
FORMS AMENDMENTS**

The Judicial Conference Advisory Committees on Bankruptcy and Civil Rules have proposed amendments to their respective rules and forms, and requested that the proposals be circulated to the bench, bar, and public for comment. The public comment period ends February 15, 2014.

To view the proposed revisions, reports explaining the proposed changes, as well as information about submitting written comments or testimony at public hearings, please visit the Rules Policies webpage on the U.S. Courts website at:

www.uscourts.gov/RulesAndPolicies/rules/proposed-amendments.aspx

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

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: REQUEST FOR COMMENTS ON PROPOSED
LOCAL BANKRUPTCY RULES
AMENDMENTS**

The United States Bankruptcy Court, Central District of California, has proposed amendments to its Local Bankruptcy Rules and is circulating the proposals to the bar and public for comment. A redline of the proposed amendments are available on the Court's website: www.cacb.uscourts.gov under *Rules*.

All comments on these proposed amendments will be carefully considered by the Court. Please provide any comments on the proposed amendments as soon as possible but no later than October 7, 2013.

Comments concerning the proposed amendments must be submitted by email to: bkcomments@cacb.uscourts.gov and include the name, email address, and phone number of the person submitting the comment.

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

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

