

# FBA INLAND EMPIRE BAR REVIEW

Issue 8

INLAND EMPIRE CHAPTER

Winter, 2013

FEDERAL BAR ASSOCIATION

## Message from Your Federal Bar Association Chapter President

By: Magistrate Judge Sheri Pym



This will be my final message as Inland Empire Chapter President. At the Chapter's annual dinner honoring the judges of this district on February 7, 2013, the Honorable Virginia A. Phillips will be sworn in as Chapter

President for 2013. Most of you know Judge Phillips - how could you not, when she has served tirelessly as the only District Judge in Riverside for so many years? - and I'm sure you share my enthusiasm that she will be serving in yet another capacity, as FBA Inland Empire Chapter President this year.

As we begin 2013, the change in FBA Chapter leadership is hardly the biggest change for the Inland Empire federal legal community. The biggest, and best, change is that Judge Phillips is no longer the sole District Judge in Riverside. On January 4, 2013, the Honorable Jesus G. Bernal was sworn in as a District Judge, and he will be sitting in Riverside shortly. I have known and admired Judge Bernal for a number of years, primarily from his work as Directing Attorney of the Federal Public Defender's Riverside Office. He is a fantastic addition to the federal bench, as those of you who practice civil law and do not yet know him will soon learn. He will be introduced at the FBA dinner on February 7th.

That dinner will also highlight yet another change in the district, the change in the District Court's leadership. As previously reported, in September the Honorable George H. King succeeded the Honorable Audrey B. Collins as Chief Judge for the

*[cont'd on Page -2-]*

## CALENDAR OF EVENTS

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

DATE: THURSDAY, FEBRUARY 7, 2013

PLACE: MISSION INN MUSIC ROOM

TIME: 5:00 – 8:30 P.M.

*Featuring: Honorable George H. King, Chief United States District Judge, Central District of California; and Introducing Honorable Jesus G. Bernal, newly appointed United States District Judge ~Please see flier on page 9 for more information~*

### Inland Empire Chapter of the Federal Bar Association 2013 Officers

President: Judge Virginia A. Phillips  
President-Elect: James E. "Jeb" Brown  
Treasurer: Kay K. Otani  
Secretary: Antoine "Tony" F. Raphael  
Chief AUSA, Riverside

*[See Page -3-]*

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# Clerk's Update



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

By: Kiry Gray

## 2013 BUDGET UPDATE:

On January 1, 2013, Congress passed the American Taxpayer Relief Act of 2012, H.R. 8, a bill to avert the so-called "fiscal cliff" and the President has signed the bill into law. The resolution of the January 2<sup>nd</sup> "fiscal cliff" constitutes no reprieve from fiscal worries for the Judiciary. The President is prepared to issue a sequestration order on March 1, 2013, and the Judiciary will undoubtedly follow suit. As a result, the emergency measures approved by the Executive Committee on December 19, 2012, to address sequestration will not be implemented at this time. As you know, sequestration is the complete shutting down of Court operations for a specified period of time. At this time, the Courts and federal defender organizations will continue to operate under the interim fiscal year financial plans currently in place until we are further notified by the Administrative Office. We have been advised that the Criminal Justice Act ("CJA") panel may be affected during this time, so payments to "CJA" attorneys may be late in the coming year. It continues to remain unclear what action Congress will take regarding full-year appropriations for fiscal year 2013 after the current Continuing Resolution ("CR") expires on March 27, 2013. Congress could extend the "CR" for the remainder of the fiscal year or pass a multi-bill omnibus spending measure. The uncertainty relating to both sequestration and fiscal year 2013 funding requires that we continue to emphasize cost containment in all our work.

## E-FILING COMPLAINTS:

The Central District of California will begin implementation of civil case opening pilot program this year. Attorneys will be responsible for e-filing their own cases along with attaching the appropriate paperwork in the following types of cases: patent, trademark, copyright, student loans, Social Security Appeal and Notice of Removals. Attorneys will be required to pay the filing fee on-line by credit card. In the beginning this will seem difficult; however, in the long run, it will be a huge step in leading the Court towards

automation. This change is already in place in 44 other district courts, including such large courts as Florida Southern, Ohio Northern, and Illinois Northern.

In summation, the Judiciary in general is undergoing significant changes. The drivers of these changes are the budget, technology, and policy. Be assured that the Clerk's Office staff is extremely dedicated, hard-working, and sensitive to the needs of everyone we serve. We are in a period of tremendous transition from the past and we are counting on your support and patience as we try to figure out and meet this brave new future. ❖

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*[President's Message, cont'd from Page 1]*

Central District of California. Chief Judge King will be speaking to our Chapter for the first time in his new position at the February 7th dinner.

I won't deny that I'm relieved to be ending my term as Chapter President, but I have enjoyed it. I have enjoyed working with so many Chapter members and other impressive legal practitioners to put together a variety of lunchtime programs in 2012; I definitely learned a lot. It has been a real pleasure to get to talk with the attorneys who attend the programs, both for the insights they provide and for the opportunity to chat informally with so many different members of the Inland Empire legal community. It has been a privilege to get a chance to work with people like Diane Roth and Bob Simmons to lend the Chapter's support to the pro se clinic in the Riverside federal courthouse. And I have greatly appreciated the tremendous efforts of all of the Chapter's Directors, without whom the work of the Chapter would be impossible.

Although I will no longer be President, I will continue to serve as an Honorary Director, and look forward to the Chapter's future programs and other activities. I hope to see you there!

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

**PUBLIC NOTICE**

**RE: REVISION OF *COURT MANUAL*  
EFFECTIVE JANUARY 2, 2013**

The Court's *Court Manual* has been updated and the new revisions will become effective in January 2, 2013. Revisions include (but are not limited to) the following:

- Section 2: Document preparation clarified
- Section 3: Bankruptcy Noticing Center (BNC) Updates; Only one preferred mailing address allowed per attorney
- Section 4: Notice of Lodgment procedure (New)
- Appendix F: Judge's copy requirements enhanced
- Appendix I: Judge's copy requirements enhanced

The updated Court Manual is available on the Court's web site at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) under Rules & Procedures. A red-line version will also be available online for your reference for the next 60 days.

Should you have any questions regarding these changes, please contact the Court's ECF Help Desk at (213) 894-2365, or by email at:

[ECF\\_support@cacb.uscourts.gov](mailto:ECF_support@cacb.uscourts.gov).

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CLERK OF COURT**

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**New Chapter Officers  
and Directors  
~2013~**

In October, the Inland Empire Chapter held its first ever contested election for Regular Director positions. John Porter and Joe Widman were elected new Directors effective in January 2013, and John Holcomb and Mark Schnitzer were reelected to Director positions. Richard Scott and Dennis Wagner concluded their tenures on the Board of Directors, which included terms as President by both of them. Their service to the Chapter for many years was invaluable, and our thanks go out to both of them for their time and efforts.

The Officers and Directors for 2013 will be sworn in at the Chapter's annual installation dinner, at which the judges of the Central District of California will also be honored. The dinner will be held on February 7, 2013 at the Mission Inn. Details are provided elsewhere in this newsletter.

The Officers for 2013 are:

President:	Hon. Virginia A. Phillips
President Elect:	James E. "Jeb" Brown
Treasurer:	Kay K. Otani
Secretary:	Antoine F. "Tony" Raphael

The Chapter's Regular Directors for 2013 are Jacqueline Carey-Wilson, Prof. Charles S. Doskow, Stefanie Field, John W. Holcomb, Kendall H. MacVey, Emile M. Mullick, John M. Porter, Daniel S. Roberts, Mark C. Schnitzer, and Joseph B. Widman.

The Chapter's Honorary Directors are Hon. Jesus G. Bernal, Hon. David T. Bristow, Hon. Meredith A. Jury, Hon. Oswald Parada, Hon. Sheri Pym, Hon. Robert J. Timlin, Hon. John C. Toobin, Jeffrey A. Aaron, and Kiry K. Gray.



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

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The last several months of 2012 featured a bumper crop of interesting programs and events hosted by the FBA's Inland Empire Chapter. Here's a reminder for those of you who were there. And if you weren't there, check out what you missed.

### The Affordable Care Act Decision:

After having just addressed the Chapter in May with his annual Supreme Court Review, on August 6th Dean Erwin Chemerinsky of UC Irvine Law School generously returned to the Inland Empire to speak to our Chapter once again. This time his talk focused on the Supreme Court's blockbuster decision on the Affordable Care Act, *National Federation of Independent Business v. Sebelius*, 132 S. Ct. 2566 (2012). Although most of the attorneys who attended the program had read plenty of articles about the decision, and some had even read the decision itself, none had heard anyone explain and analyze the decision as clearly and insightfully as Dean Chemerinsky.

### The Psychology of Judging:

Magistrate Judge Andrew J. Wistrich presides over a full slate of cases, and also manages to research and write on the side about a particular topic of interest to him: the psychology of how judges and juries decide cases and how lawyers litigate cases. On October 3rd he came out from Los Angeles to give our Chapter a fascinating presentation of some of what he has learned in his research. Attorneys who attended doubtless left with some intriguing new ideas of ways to try to persuade judges and jurors to rule or find their way.



*[L-R: United States Magistrate Judge Sheri Pym; United States Magistrate Judge David T. Bristow; United States Magistrate Judge Andrew J. Wistrich; and United States Magistrate Judge Oswald Parada]*

### Estate and Gift Planning:

On October 24th, Jonathan C. Lurie of McDermott Will & Emery LLP gave our Chapter a thorough tutorial on current issues confronting those who do estate and gift planning. This is a hyper-technical area, and the current challenges are formidable, but Mr. Lurie – a terrifically entertaining speaker – broke down the issues and engaged the attendees in finding ways to understand and deal with the challenges.

### Trends and Developments in Criminal Law:

Top federal and state prosecutors in the Inland Empire – United States Attorney André Birotte Jr., San Bernardino District Attorney Michael A. Ramos, and Riverside Assistant District Attorney Jeffrey A. Van Wagenen – gathered on November 7th to discuss recent trends and developments in criminal law. To spice up the discussion, this year they were questioned by the Federal Public Defender for the Central District of California, Sean K. Kennedy. Mr. Kennedy posed some tough but good-natured questions, and the prosecutors gamely responded.

### Holiday Mixer:

On November 29th the FBA's Inland Empire Chapter joined with the Riverside and San Bernardino County Bar Associations to jointly host a holiday mixer for the Inland Empire legal community.



*(L-R: Christopher Harmon, President of the RCBA; Judge Sheri Pym, President of the FBA; and Kevin Bevins, President of the SCBA)*

*[Cont'd on next page]*

*[Excellent Programs cont'd from Page -4-]*

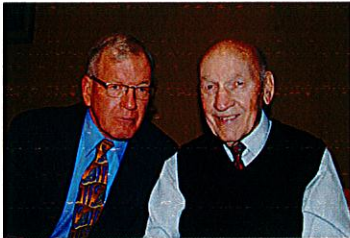
The event was held at the Mexicali Bar and Grill in Riverside, and gave attendees a chance to mix and mingle in an informal setting. There was a nice turnout, and a few dollars were raised to help those in need.



*[Scott Talkov and Jean – Simon Serrano]*



*[Andrea and Scott Van Soye]*



*[Steven Rich and Judge Elwood "Woody" Rich]*

#### **Federal Attorney Admission Ceremony:**

On December 6th the Chapter hosted its semi-annual admission ceremony, in which new (or not yet admitted) attorneys are admitted to practice before the United States District Court for the Central District of California. This is always an enjoyable event, featuring the admission of the new attorneys followed by a reception that gives the new attorneys a chance to speak with the judges and FBA members who attend.



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

**PUBLIC NOTICE**

**RE: COURT'S CALL CENTER  
IMPLEMENTED**

In a continuing effort to better serve the public, the Court has established a Call Center that can be reached at the toll free telephone number (855) 460-9641. The Call Center handles calls from the public for the Court's Los Angeles, Riverside, Santa Ana, Northern, and San Fernando Valley divisions.

The new Call Center provides automated access to commonly requested information such as how to obtain free or low cost legal assistance, Court locations, attorney information, credit reporting and fraud, fee and check acceptance policy. The automated service is available 24 hours a day, 7 days a week. Call Center operators are available from 9:00 am to 4:00 pm, Monday through Friday, excluding federal holidays and other published Court closures.

Callers are also encouraged to continue using the Court's Voice Case Information System (VCIS) at (866) 222-8029 to obtain free information and status of a bankruptcy case. This automated service is also available 24 hours a day, 7 days a week.

The Call Center represents another step forward in the Court's effort to improve customer service.

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90012

[www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)

## Pro Se Corner



By: Diane Roth, Program Director

Client is over 70 years old, runs a small business out of her home, and has been coming to the *pro se* clinic since June for help with her lawsuit against her mortgage company ("Lender") who had been scamming her. Lender's representative had shown up at Client's home and assured her not to worry; they were not going to foreclose. Of course, Lender then turned around and foreclosed.

With the help of a friend, Client sued Lender in the District Court and managed to get her case past the pleading stage. Client came into our *pro se* clinic often over the next few months for help with discovery, pre-trial motions and preparation for a settlement conference. She attended a settlement conference with a magistrate judge, and was finally able to settle the case. Thanks to a few hours of help from our clinic, she will be able to remain in her home and continue running her business.

There can be a lot of frustration in dealing with *pro se* litigants, but once in a while you have success, and that really feels good. The *pro se* clinic can use your help – both on Bankruptcy and District Court cases – even if it's just for a few hours a month. In addition to fun and personal satisfaction, there are tangible benefits, such as free MCLE for our volunteers. Also, you will be covered under Public Service Law Corporation's malpractice insurance. So come on down, check us out, and stay for a while!



## Public Service Law Corporation Now Hiring

### Part-Time Bankruptcy Attorney

PSLC is now accepting resumes for a part-staff attorney position to advise *pro se* litigants in self-help clinic 8-10 hours/week. Qualified candidates must be admitted to Central District Bankruptcy Court, have a minimum of 2 years experience in Chapters 7 & 13 Bankruptcy Law and familiarity with adversary proceedings. Salary: \$1,500/mo.



Please email resume, cover letter, and writing sample to [publaw@sbcglobal.net](mailto:publaw@sbcglobal.net).

Public Service Law Corporation  
Diane Roth, Esq.  
Program Director



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

### PUBLIC NOTICE

#### RE: NEW PROCEDURE FOR LODGING ORDERS

Effective January 2, 2013, with the revision of LBR 9021-1(b)(3)(A), *Service of Proposed Order on Contesting Party*, and Court Manual, section 4.2, the Court will implement a new procedure that affects all orders submitted to the Court. Under this change, the lodging party files a Notice of Lodgment form with the proposed order (which includes a proof of service) in lieu of attaching the proof of service to the lodged order prior to submission.

[Cont'd on Page -10-]



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



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

**PUBLIC NOTICE**

**RE: THE UNITED STATES BANKRUPTCY COURT WILL BE CLOSED ON THE FOLLOWING HOLIDAYS:**

February 18, 2013	President's Day
May 27, 2013	Memorial Day
July 4, 2013	Independence Day
September 2, 2013	Labor Day
October 14, 2013	Columbus Day
November 11, 2013	Veterans Day
November 28, 2013	Thanksgiving Day
December 25, 2013	Christmas Day
January 1, 2014	New Years' Day

Additional Court closures (emergency or administrative) may be announced in the future.

DIVISION	PHONE NUMBER
Los Angeles	(213) 894-8401
Riverside	(951) 774-1102
Santa Ana	(714) 338-5330
Northern	(805) 884-4875
San Fernando Valley	(818) 587-2860

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**PUBLIC NOTICE**

**RE: REVISED LBR FORMS EFFECTIVE DECEMBER 2012**

By December 14, 2012, the Court will post 80 revised LBR forms (Revised Forms) on its website, which include a new *Proof of Service of Document* as well as other non-substantive changes. The Revised Forms will become effective once posted. Prior versions of these forms, however, will be accepted for filing through December 31, 2012. A list of the Revised Forms is attached.

In addition to the new *Proof of Service of Document* that has been updated, the Revised Forms have also been modified as follows:

- Reformatted for better compatibility with the Court's CM/ECF system;
- Non-substantive text revisions were made for improved consistency;
- The Revised Forms are fillable and may be saved using a PDF reader; and
- Many of the names of the Revised Forms have been changed to make them easier to identify. For example, F 1007-4 is now F 1007-4.CORP.OWNERSHIP.STMT.

The attached list of Revised Forms includes both the new and old LBR form numbers. For your convenience, you may input the old LBR form number in the search box on the Court's website to find the applicable Revised Form.

The Revised Forms will be available on the Court's website [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) under the Forms tab, or for a fee at the Intake Section of all five of the Court's divisions.

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# Alternative Dispute Resolution (ADR) Corner

[www.cacd.uscourts.gov](http://www.cacd.uscourts.gov)



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

By: Gail Killefer, ADR Program Director

The Honorable Virginia A. Phillips hosted an Appreciation Reception for panel mediators in the Court's Eastern Division on November 5, 2012. Magistrate Judges David Bristow, Oswald Parada and Sheri Pym also attended. Judge Phillips thanked the panel mediators for their service and asked for their insights on improving the ADR Program.

Panel mediators were busy with cases filed in the Eastern Division in 2012. The panel mediated 37 and settled, or partially settled, 20 cases. (A 54% settlement rate!)

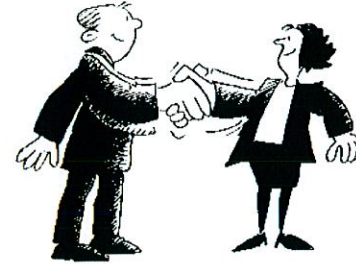
At the end of 2012, the Mediation Panel consisted of 195 attorneys available to mediate cases in the Central District. 45 panel mediators volunteer to mediate federal cases in Riverside County; 38 panel mediators are available to mediate cases in San Bernardino County. Their profiles are available on the "ADR" page of the Court website and may be searched alphabetically, by county, and by area of legal specialization.

For those interested in applying for appointment to the Court Mediation Panel, all applications must be received by the ADR Program Office by April 30, 2013. The Court appointments are for a two-year term, beginning July 1, and may be renewed.

Panel mediators meet strict qualification standards: they must have at least ten years of legal practice experience, substantial experience with or knowledge of civil litigation in federal court, and significant expertise in one or more designated areas of law. A panel member must also complete a court-conducted or court-approved training course in mediation.

Panel mediators generously volunteer their preparation time and the first three hours of a mediation session. If the parties choose to continue the mediating beyond three hours, the panel mediators may request their market rate.

For more information about the Court's ADR Program and for an Application for the Mediation Panel, visit the "ADR" page of the Court website,



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## Member Viewpoint\*

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By: Emile Mullick

We have all been reminded of the challenges facing the Federal Judiciary and the role we can play in the funding battles in Congress. The "Fiscal Cliff" fight has been resolved, somewhat, but the sequestration issues are still alive, and Congress is bracing for a battle on the Debt Ceiling issue. Funding for the Federal Court's is still under pressure, along with many other programs and services. Congress is deeply divided and both sides appear rigid on fiscal issues, and as voters we are urged to voice our opinions to legislators.

But we have a greater role to play. Legislators need input from their constituents so they can effectively represent them, but legislators are also leaders of their community and for that they need guidance based upon informed analysis of competing ideas and opinions. FBA members, lawyers and judges, are uniquely trained and experienced to analyze issues and opposing arguments, and reach reasoned conclusions.

We have been asked to contact newspapers and legislators to inform them of the devastating impact that budget sequestration will have on the federal courts, we have even been provided with sample letters. The Federal Bar and its members can do better, we are not a trade or business group, we should consider interests wider than our own. We should provide counsel rather than just opinion. ❖

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\* FBA members are encouraged to submit pieces reflecting their views for publication in this newsletter. The pieces published do not necessarily reflect the views of the Federal Bar Association or the Inland Empire Chapter.

*The Inland Empire Chapter of the  
Federal Bar Association*

*Cordially Invites You to Attend a Dinner  
Honoring the Judges of the Central District of California*

*Featuring:*

***Honorable George H. King***

*Chief United States District Judge  
Central District of California  
"The State of the District Court"*

*And Introducing*

***Honorable Jesus G. Bernal***

*Newly Appointed United States District Judge*

*Thursday, February 7, 2013*

*The Mission Inn*

*3649 Mission Inn Avenue  
Riverside, California 92501*

*Social Hour at 5:00 p.m.  
in the Glenwood Tavern*

*Dinner at 6:00 p.m.  
in the Music Room*

*\$70.00 FBA Members*

*\$75.00 RCBA/SBCBA Members*

*\$85.00 Non-Members*

*\$60.00 Government Employees*

*\$50.00 Law Students/Judicial Law Clerks*

*1/2 hour of MCLE credit will be provided*

*To reserve a seat for this special night, please call Julius Nam at  
951-328-2245 or email [julius\\_nam@cacd.uscourts.gov](mailto:julius_nam@cacd.uscourts.gov) by January 31, 2013*

*Send payment to:*

*"IEFBA"*

*P.O. Box 42*

*Riverside, CA 92502*

This new procedure has a number of advantages as: (1) parties can use CM/ECF to accomplish service of the proposed form of order on all parties who are on the electronic list; (2) other parties in interest that are on the electronic list will receive electronic notice of a proposed order instead of by U.S. mail; and (3) it accurately preserves a record of the form of the proposed order that was served on parties.

Two new LBR forms for the Notice of Lodgment procedure are available on the Court's website under *Forms/Local Bankruptcy Rules Forms*. The steps for filing the Notice of Lodgment are as follows:

**Step 1:** Prepare proposed order **WITHOUT** a Proof of Service of Document, LBR form F 9013-3.1.PROOF.SERVICE.

**Step 2:** Lodge proposed order **WITH** a Notice of Entered Order and Service List, LBR form F 9021-1.1.NOTICE.ENTERED.ORDER.

**Step 3:** Prepare Notice of Lodgment that includes and is in the following order:

- a. Use either LBR form F 9021.2. BK. NOTICE.LODGMENT for a bankruptcy case, *or* LBR form F 9021-1.2.ADV. NOTICE.LODGMENT for an adversary proceeding
- b. Separator page – indicate “Exhibit A” at the bottom of the page
- c. Proposed Order (no Proof of Service or Notice of Entered Order)
- d. Proof of Service page for Notice of Lodgment.

**Step 4:** File the Notice of Lodgment and relate it to same docket entry used when uploading order via Lodged Order Upload (LOU). This step is critical, as it enables Court staff to locate the notice of lodgment and confirm that a proposed form of order was served.

Should you have any questions, please contact the ECF Help Desk at (213) 894-2365, or by email at: [ECF\\_support@uscourts.gov](mailto:ECF_support@uscourts.gov).

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