

FBA INLAND EMPIRE BAR REVIEW

Issue 7

INLAND EMPIRE CHAPTER

Fall, 2012

FEDERAL BAR ASSOCIATION

Message from Your Federal Bar Association Chapter President

By: Magistrate Judge Sheri Pym



When you join the Federal Bar Association you become not only a member of your local chapter but also of the national entity. Perhaps you have wondered what FBA National does for you apart from

sending you *The Federal Lawyer* every month or so. Having recently attended a national meeting, I can give you some insight and information about what FBA National does for you.

The FBA held its Annual Meeting and Convention in San Diego on September 20-22, 2012. The first two days included a number of MCLE programs that looked extremely interesting, and terrific social events such as an evening on the USS Midway. Unfortunately, I was unable to attend those days. Instead, I skipped down the 15 freeway Saturday morning to attend the final day, which included three items that may be of interest to readers here.

First, after a morning meeting of chapter leaders, I attended the Awards Luncheon. The Inland Empire Chapter was honored with two awards. For our programs and other activity throughout the year, we received a Presidential Achievement Award. And for our quarterly newsletter, we received a Meritorious Newsletter Recognition Award.

Second, after lunch I attended the National Council Meeting that lasted a mind-numbing three hours. Apart from a very nice tribute to an FBA leader who recently passed away, this meeting consisted largely of a series of reports on the state of the FBA. But there was one diverting incident, when I

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CALENDAR OF EVENTS

TRENDS AND DEVELOPMENTS IN CRIMINAL LAW 2012: THIS IS NOT YOUR GRANDFATHER'S INLAND EMPIRE ANY MORE

DATE: WEDNESDAY, NOVEMBER 7, 2012

PLACE: UNITED STATES DISTRICT COURT
3470 TWELFTH STREET, COURTROOM 3
RIVERSIDE, CALIFORNIA 92501

TIME: 12:00 – 1:15 P.M.

FEATURING PANEL MEMBERS: U.S. Attorney Andre Birotte; San Bernardino District Attorney Michael Ramos; and Riverside Assistant District Attorney Jeffrey Van Wagenen; Moderator: Federal Public Defender Sean Kennedy

HOLIDAY MIXER FOR THE INLAND EMPIRE LEGAL COMMUNITY

DATE: THURSDAY, NOVEMBER 29, 2012

PLACE: LAW OFFICES OF HEITING AND IRWIN
5885 BROCKTON AVENUE
RIVERSIDE, CALIFORNIA 92506

TIME: 5:30 – 8:00 P.M.

The event is free; accepting donations for local charities aiding families in need during the Holiday Season.

VOTING DEADLINE FOR BOARD OF DIRECTORS Ballots postmarked by: October 31, 2012

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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@cacd.uscourts.gov

By: *Kiry Gray*

New Chief Judge George H. King

District Judge George H. King began his term as Chief Judge of the United States District Court for the Central District of California on September 17th. He succeeds District Judge Audrey B. Collins, who served as Chief Judge since January 5, 2009. Chief Judge King, the first Asian American to serve as Chief Judge of the United States District Court for the Central District of California. He will hold court in the Western Division in downtown Los Angeles, and will continue to hear and receive cases.

Chief Judge King was nominated as a United States District Judge by President William J. Clinton, and received his commission on June 30, 1995. Prior to his appointment as a district judge, he served as a magistrate judge for the Central District of California. From 1979 to 1987, Chief Judge King was in private practice, first as a senior associate at Lillick McHose & Charles from 1979 to 1980; then for a year at his own firm, King & Chen; then as a sole practitioner from 1981 to 1987. He also served as a hearing examiner for the Los Angeles Police Commission from 1980 to 1982. From 1975 to 1979, he served as an Assistant U.S. Attorney in the U.S. Attorney's Office for the Central District of California, and prior to that was as an associate at Mitchell Silberberg & Knupp LLP.

Chief Judge King received his undergraduate degree from the University of California, Los Angeles in 1971, and his law degree from the University of Southern California Gould School of Law in 1974.

On-Line Payment of Attorney Admission Fees

The Clerk's Office is proud to announce that Attorney Admission fees can now be paid on-line. Applications for admission will be available on the Court's Internet website, and payment will be accomplished in an easy, two-step process through pay.gov. With this enhancement, the Central District of California joins numerous other courts in offering an easier, faster, and more efficient method of admission and payment.

Friendly Reminder Local Rule 3-2, E-mailing of conformed new civil actions.

Please forward your e-mail with attachments to the civil intake box where the District Judge holds court, as follows:

CivilIntakeCourtDocs-LA@cacd.uscourts.gov - for Los Angeles assigned District Judges
CivilIntakeCourtDocs-RS@cacd.uscourts.gov - for Riverside assigned District Judges
CivilIntakeCourtDocs-SA@cacd.uscourts.gov - for Santa Ana assigned District Judges

The new and amended rules are available on the Court's website at www.cacd.uscourts.gov. ❖

BOARD OF DIRECTORS ELECTION

Inland Empire Chapter
of the
Federal Bar Association

Nominees:

Richard Scott

Mark Schnitzer

Joseph Widman

John Holcomb

John Porter

Tristan Pelayes

**VOTING DEADLINE: Ballots must
be postmarked by October 31, 2012**

An Interview with the new Chief Judge

JUDGE GEORGE H. KING



[Chief Judge George H. King]

By: Dennis E. Wagner, Esq.

Q: How long is your tenure as Chief Judge?

A: The statute prescribes that the most senior active judge, who has not yet reached the age of 65, shall accept a term of office for seven years. The Central District has adopted a local rule to limit the Chief Judge position to four years. This was done because of the size of the District and the quality of the judges within the District to be able to serve in that capacity.

Q: What are the duties of the Chief Judge for the Central District?

A: The Chief Judge position for the Central District is much different than the Presiding Judge of the Superior Court. The Chief Judge is in a position to sway, but does not have a position of power concerning other judges who are equal. The Chief Judge is the point person for the Court and I interface with a number of committees within the District and other Court Units, such as bankruptcy judges, the clerk's office, probation department and others. The Chief Judge has some specific duties regarding the empaneling of grand juries and some other miscellaneous functions.

Q: What is the status of judicial vacancies within the Central District and is there any hope for 2012?

A: Judicial vacancies have always been a high priority within the Central District. Our District needs to be fully staffed with all of the assigned judges that the District is entitled to. Currently, there are three openings. The Riverside area, or Eastern Division, has had a vacancy for three years since the departure of Judge Stephen Larson. Out of the three positions, two of the

candidates have made it through committee, but given the upcoming election and the fact that congress is not in session, nothing will happen before the election. Depending on the results of the election, there may be a different timetable for the filling of vacancies. There are a number of judges who have attained senior status but have deferred taking senior status to help with the pressing caseloads of the Central District.

Q: Is there any type of strategy change within the District to try and resolve the vacancy issue?

A: There really isn't any change in strategy as the judges have limited options available to them. The District always tries to make its case regarding our need for judges based upon the caseloads the judges have. This is an area where our Bar Associations can help and have provided assistance over the years in taking measures to bring these issues to the attention of the public and to help influence those that have the power to move these judicial positions forward within the political sector. Our senators from the State of California have been very responsive to the needs of the Central District.

Q: What do the judges think or how do the judges respond to our FBA chapters within the Central District?

A: Most, if not all of the Federal Judges are fully supportive of the chapters within the Central District. Many of the Judges from the Central District are involved in local FBA chapters and participate in the events that chapters put on for their members. In the Central District, a number of our judges serve as directors on the Board of the local FBA chapter. The judges rely upon the FBA local and national organizations to provide outreach and support for issues such as judicial vacancies. I believe our judges appreciate the Federal Bar Association chapters for all that they do in promoting federal issues that are beneficial for the attorneys within the District.

Q: Is there any discussion about a federal bar exam for attorneys to pass before practicing in the Central District?

A: There are no current discussions on that issue.

[Cont'd on next page]

Q: Do you see any change in the quality of lawyering based upon your years on the bench?

A: The quality of lawyering over the years is a mixed bag. Many attorneys are very professional, write their motions, and present their arguments in a way that the issues are clearly set forth and argued in a professional manner with the intent to thoroughly inform the Court on all issues. There is a segment of the bar that either, through inability or lack of interest, or simply through treating the practice of law as a business as opposed to a profession, pay little attention to the cases before them. They seem to act by default as opposed to acting based upon an informed judgment. They treat the Federal Rules of Civil Procedure as if it is a menu of something to pick from. A 12(b)(6) motion is filed, but is it really needed? Does it help the client's case? If a 12(b)(6) motion is filed then the motion should be drafted appropriately and not just consist of a "cut and paste" from other motions thrown together which are not on point. These attorneys lack the ability to provide appropriate analytical rigor which is required for the complex issues that our judges deal with. One of my biggest pet peeves is having poorly drafted documents so that my staff and I have to determine the legal issue and then research it to be able to make the correct ruling. This means the attorneys have done such a poor job of putting the issues together to decide the issue that the Court and its staff must perform their work. The judges always want to get it right to see that justice is done. There is very little that can be done for bad lawyering other than pointing it out. Rule 11 sanctions are not available for bad lawyering. Rule 11 sanctions are always available for clear and egregious violations of the rules.

Q: What are your goals for your tenure as Chief Judge?

A: Since I have only been Chief Judge for a month or so, my goals are more immediate than long term. The first goal is to ensure that the Central District is able to obtain the resources that it needs for court operations and to make sure that within the Central District our staffing and support staffing and resources are available for our District to function. The second is to ensure as best we can that our judicial vacancies are filled. The third goal is to work with Senator Feinstein to continue our one temporary judgeship position continuing by either extending it, or converting it to a regular

position. This temporary judgeship is set to expire in October, 2013.

Comments: Judge King was most pleasant and gracious in discussing these issues with me over the telephone. Judge King indicates that he and his colleagues within the Western Division are more than willing to assist our FBA chapter in any way. Judge King looks forward to serving as Chief Judge and visiting our Division as often as he can. Judge King plans on being in attendance at our upcoming Judge's Night in January/February, 2013. ❖

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

and other chapter delegates were asked to vote to elect the new directors of the Federal Bar Building Corporation. We were told only that the candidates were all past national presidents, and that they would not be making statements. Some chapter delegates objected to this process, and moved that the candidates make statements so we would have some way to distinguish between them. When that motion was ruled out of order, there was a minor uproar among the delegates. While this political theater was entertaining, it also drove home an important point. Namely, the members who are involved at the national leadership level take their work seriously, and we can rest assured that they are doing their best on behalf of all FBA members.

Third, at both the morning meeting and during the National Council Meeting, there were reports from the Government Relations Committee, which directs the FBA's government relations program that is aimed at advancing the federal judicial system and promoting effective legal practice before the federal courts and federal agencies. The GRC reported on a number of developments concerning such matters as judicial vacancies, and the expected effect on the federal courts and administration of justice if budget sequestration takes effect. You can find a complete Government Relations Update and other information from the GRC posted on the FBA website, www.fedbar.org.

The 2013 Annual Meeting and Convention will be held September 26-28, 2013 in San Juan, Puerto Rico. If you are interested, I encourage you to look into attending and see some more of what FBA National has to offer you. ❖



TERRY NAFISI
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

WESTERN DIVISION
312 N. SPRING ST., SUIT EG-8
LOS ANGELES, CA 90012

SOUTHERN DIVISION
411 W. FOURTH ST., SUITE 1053
SANTA ANA, CA 92701

EASTERN DIVISION
3470 TWELFTH ST., SUITE 134
RIVERSIDE, CA 92501

CAREER OPPORTUNITY

UNITED STATES DISTRICT CENTRAL DISTRICT OF CALIFORNIA

Position: United States Magistrate Judge

Salary Range: \$160,080 Annually
Opening Date: September 17, 2012
Closing Date: November 16, 2012
Number of Positions: 1 or more
Vacancy Number: 12 - 21

POSITION OVERVIEW:

The United States Judicial Conference has authorized the appointment of one or more full-time United States Magistrate Judges for the Central District of California. One Magistrate Judge will sit in the Southern Division in Santa Ana while additional magistrate judges may sit in the Western Division in Los Angeles. The United States District Court for the Central District of California is authorized to hold court in Los Angeles, Riverside and Santa Ana. The District Court may assign a Magistrate Judge to hold court in any of these locations and may reassign a Magistrate Judge from one location in the District to another as workload may require. Applicants may indicate their preference of location or state that they have no preference on the application form. It is anticipated that the individual selected to fill the position in Santa Ana will assume office between May and July of 2013.

A Merit Selection Panel comprised of attorneys and other members of community will review all applications and recommend to the District Judges, in confidence, those persons it considers best qualified. All applications are kept confidential, unless the applicant consents to disclosure, and all applications are examined only by members of the Merit Selection Panel and Judges of the District Court. The Panel's deliberations remain confidential. Appointments are subject to District Court review and approval of FBI full-field investigation and IRS tax checks.

The current annual Magistrate Judge salary is \$160,080. A full range of benefits is offered including, but not limited to: retirement, health, life, disability, and long-term care insurance. The term of office is eight years. Magistrate Judges may be reappointed to subsequent eight-year terms.

Duties of the position are demanding and wide-ranging. Magistrate Judges in the Central District conduct a wide variety of pretrial proceedings in civil and criminal cases, including settlement conferences, law and motion matters, initial appearances, and bail hearings; preside over trial and disposition of misdemeanor cases; and, with the consent of the parties, preside over jury and court trials in civil cases. These duties are set forth in central District General Orders 05-07 and 06-01, available on the Court's website at: www.cacd.uscourts.gov. Basic jurisdiction of United States Magistrate Judges is specified in 28 U.S.C. § 646.

QUALIFICATIONS:

To be qualified for appointment, an applicant must:

1) Be, and have been for at least five years, a member in good standing of the bar of the highest court of state, District of Columbia, Commonwealth of Puerto Rico or Northern Mariana Islands, Territory of Guam, or Virgin Islands of the United States, and have been engaged in active law practice for at least five years. The Court may consider, as substitute experience for the active practice of law, any combination of the following: state judicial officer; federal judicial officer; attorney for federal or state agencies; law clerk to any judicial officer (limited to two years); and other legal experience considered suitable by a majority of the court;

[Cont'd on next page]

2) Be competent to perform all duties of the office; of good moral character; emotionally stable and mature; committed to equal justice under law; in good health; patient; courteous; and capable of deliberation and decisiveness;

3) Be less than seventy years old;

4) Not be related to a District Judge of the appointing court at time of initial appointment, as specified in 18 U.S.C. § 458; and

5) Be a U.S. citizen or a lawful permanent resident of the United States currently seeking citizenship or intending to become a citizen immediately following meeting the eligibility requirements.

HOW TO APPLY:

Electronic versions of the application form are available on the U.S. District Court Web Site: www.cacd.uscourts.gov. Hard copy application forms may be obtained from the Human Resources Department, United States District Court, 312 N. Spring Street, Room 535, Los Angeles, CA 90012. Phone (213) 894-2012. An original and thirty (30) hard copies of the Court's application form must be received by the Human Resources Department by 4:30 noon PDT October 17, 2012. Postmark will not be accepted in lieu of actual receipt of the application

Applicants are advised that Magistrate Judge Application Form has been revised effective March 2010. Previous application forms are void. Previous application forms should not be submitted and will not be considered.

OUR MISSION

Committed to providing support to the judges and equal access to the judicial process with fairness, impartiality, and personal integrity by providing service to all.

OUR VISION

Leading the nation in service to justice

The United States District Court is an equal opportunity employer

Pro Se Corner



By: Diane Roth, Program Director

Thank you and congratulations to Manfred Schroer Ryan Carrigan and Tonya Rodriguez, all of whom received Wiley Manuel Awards from the State Bar for exceptional pro bono service. This honor is bestowed upon attorneys who have donated a minimum of 50 hours over the past year. These lawyers have exceeded that by more than double: Mr. Carrigan and Ms. Rodriguez each donated over 100 hours and Mr. Schroer donated more than 200 hours in our clinic advising *pro se* bankruptcy litigants since the clinic's inception less than a year ago. All of our volunteers have contributed to the success of our clinic, but we owe a special debt of gratitude to Mr. Schroer, Mr. Carrigan and Ms. Rodriguez.

Also a thank you to the Inland Empire Chapter of the FBA, for the \$1,000 donation in memory of Aurora Hughes and John Rayburn. They would have been proud to have this donation made in their name.

Riverside's Joint Federal Pro Se Clinic is happy to report that our grant request for 2012/2013 has been approved by the Attorney Admission Fund Board in the entire amount requested. In our first eleven months, we have provided advice and counseling to more than 1,800 *pro se* litigants in Riverside – many more than the Los Angeles and Santa Ana clinics combined – and we did it on a shoestring budget. Our increased grant will enable us to provide better and more efficient service to our clients and the Court in the coming year.

We don't measure our success purely by numbers, but also by client and court feedback, like the client who wrote, "Ryan Carrigan is an angel from god." We cannot achieve this kind of success without the dedication of our volunteers. In an hour or two attorneys can help

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

PUBLIC NOTICE

**RE: COURT LAUNCH REDESIGNED
WEBSITE ON OCTOBER 25, 2012**

The Court is pleased to announce the launch of its newly redesigned website at www.cacb.uscourts.gov on Thursday, October 25, 2012. The Court's new website features a user-friendly look and feel that will enable the Court to deliver well-organized information to the public, allow for easier navigation across the site, and provide quick access to a wide variety of resources and information about the Court. For the first time, the Court's website will be searchable and offer a read-aloud service (called BrowseAloud).

The Court's new website was developed exclusively for the Central District and is designed to serve the unique needs of our users. It was also built on a judiciary-wide template now used in over thirty Federal courts, making it easier for users who conduct business in multiple districts to locate items of interest more quickly. The website redesign was based on a comprehensive assessment of our current website, and included extensive input and feedback from attorneys, trustees, judges, Court staff, and the public.

The new website represents a major step forward in the Court's effort to improve customer service and provide a rewarding online experience for our visitors. If you have questions or comments on the new site, please send an email to:

cacbwebmaster@cacb.uscourts.gov, or call Sandi Brask at 213-894-3127.

**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: COURT CLOSURES DURING
THANKSGIVING THROUGH NEW YEAR'S
HOLIDAYS**

The Bankruptcy Court for the Central District of California will be closed on the following holidays:

| | |
|-------------------|---------------------|
| November 22, 2012 | Thanksgiving |
| November 23, 2012 | State of California |
| December 25, 2012 | Christmas |
| January 1, 2013 | New Year's Day |

Emergency Matters Only

**Will Be Handled by the Clerk's Office on:
Monday, December 24, 2012
Monday, December 31, 2012**

All electronic systems will be in operation, unless otherwise noticed in advance, including CM/ECF, LOU, PACER and VCIS. If you have an emergency bankruptcy petition or subsequent document that can only be filed in person, please call the applicable division in advance to make arrangements:

| 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 |

On December 24, 2012 and December 31, 2012, some judges may have court calendars. Please contact chambers if you are uncertain about scheduled hearings.

**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



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) 894.2983 Fax: (213) 894.5084
gail_killefer@caod.uscourts.gov

By: Gail Killefer, ADR Program Director

The Central District offers civil litigants three alternative dispute resolution (ADR) procedures: a settlement conference with a magistrate judge, the Court Mediation Panel, and private mediation. Generally, all civil cases must participate in an ADR procedure no later than forty-five (45) days before the final pretrial conference.

One of the magistrate judges available for settlement conferences in Riverside is the Honorable David T. Bristow. Judge Bristow was appointed a Magistrate Judge in 2009 after serving as the managing shareholder in a prominent litigation firm in the Inland Empire. This article introduces Judge Bristow and his approach to settlement conferences.

Q: First, the nuts and bolts of assignments: how are cases referred to you for settlement conferences?

A: The vast majority of my settlement conferences are on cases where I am initially assigned as the "x" Magistrate Judge (usually upon initial filing of the complaint). Occasionally I take one upon the joint request of the parties with the consent of the assigned judges.

Q: Once a case is referred to you for a settlement conference, how do counsel go about scheduling the settlement conference?

A: The District Judge's scheduling order usually sets a date by which settlement conference must occur, and counsel coordinate with my clerk to set the date for a settlement conference.

Q: Before taking the bench, what was your experience with settlement conferences?

A: I was primarily a civil litigator, focusing on commercial and real estate disputes, so I participated in scores of settlement conferences as counsel for a party. Otherwise I had no experience to speak of as a settlement officer.

Q: What types of cases do you most enjoy trying to settle?

A: All types. Settling a case is gratifying for me, because it's gratifying for the parties. The harder the issues, the greater the gratification when it settles.

Q: What is your technique or style in a settlement conference?

A: I listen and try to pinpoint the issues of greatest import - which may or may not include the merits of the case. I then try to bring the parties towards some common goals and create a framework for settlement. What I don't do is hit the parties over the head to try and force a settlement.

Q: What is on your list of "Do's" and "Don'ts" for counsel appearing before you in settlement conferences?

A: Do be prepared; know your case, read your papers, and for goodness sake, read the Court's order re: settlement conferences. Make sure you file your briefs sufficiently in advance of the conference to allow me to read and digest the issues, both legal and factual. Candor goes a long way, and the more information I have, the better. Don't posture for the benefit of your client, and don't be afraid to be candid with your client - and me - regarding the weaknesses of your case.

Q: Is there anything else we should know?

A: As available resources for the judicial branch diminish, settling cases becomes all the more crucial.



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clients navigate through what to us are everyday forms, but to them are insurmountable obstacles. When you meet with them, and see what's on the horizon for them – perhaps losing their home due to medical debt – you realize that “access to justice” is not just a slogan or a concept; it has serious, life-changing consequences. And, volunteering gives you great personal satisfaction.

Our clients welcome any time you can give; even an hour once a month can make a big difference. Or, volunteer to take on one adversary hearing.

To get involved you can;

E-mail me at: droth@riversidelegalaid.org; or

The Clinic Manager Bob Simmons at:
rsimmons@riversidelegalaid.org

Or, just drop by the clinic in the Bankruptcy Clerk's office on a Tuesday or Thursday, even if it's just for an hour between hearings. We also need money, and will gladly accept your tax-deductible donation. You can help keep the courthouse doors open and ease the burden pro se litigation puts on the court.



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