

UPCOMING EVENTS:

- **BROWN BAG LUNCH FOR YOUNG LAWYERS**
June 6, 2013
- **TAKING THE STEP TO FEDERAL COURT**
July 2013
- **STOLEN ART & LITIGATING HOLOCAUST – ERA EXPROPRIATION CLAIMS**
September 11, 2013
- **FBA ANNUAL CONVENTION (Puerto Rico)**
September 26-28, 2013

FBA - LA OFFICERS

President
Evan Jenness

President-Elect
Sharon Ben-Shahar
Bird Marella

Treasurer
Kenneth Sulzer
Proskauer

Secretary
David K. Willingham
Caldwell Leslie &
Proctor, PC

Visit our website:
www.fbala.org

State of the Circuit/District Program's Message: Challenges in the Next Year

by Kristina Starr Azlin

On March 14, 2013, the FBA-LA Chapter presented its annual "State of the Circuit/District" luncheon at the Doubletree Hotel in Downtown LA. The event featured Senior 9th Circuit Judge A. Wallace Tashima, who was standing in for Chief Circuit Judge Alex Kozinski, Central District's Chief Judge George H. King, Chief Magistrate Judge Suzanne H. Segal, and Chief Bankruptcy Judge Peter H. Carroll. Over 200 judges, attorneys and law clerks attended the event.

During the luncheon, each of the four judges discussed the current state of their respective courts, commenting on issues such as budget concerns, newly appointed judges, new and ongoing programs and strategic plans for the future. The impact of sequestration was discussed by all, and Chief Judge King made an impassioned appeal to attendees to take action to preserve and protect our federal courts.

Ninth Circuit

Judge Tashima began by paying respects to the Ninth Circuit jurists that passed away during the last year – including four of its most tenured judges: Chief Judge Emeritus James R. Browning and Senior Judges Otto R. Skopil, Jr., Robert R. Beezer and Betty Binns Fletcher. Judge Tashima acknowledged these Judges as being responsible for many of the reforms and programs benefiting our courts today.

Judge Tashima noted that the 9th Circuit continues to be the biggest and busiest Circuit in the Country, serving nine western states and two Pacific Island jurisdictions. There were over 14,000 cases pending at the beginning of September 2011, over 12,000 new matters were filed and a comparable number of cases were terminated, leaving roughly the same number pending at the beginning of October 2012. Of the new cases filed, 51% were brought by *pro se* litigants, with the largest single category being

prisoner appeals. The Circuit also continues to see a disproportionately high number of immigration cases, receiving approximately half of all petitions to review decisions of the Board of Immigration Appeals filed in the Country.

With only 29 authorized judgeships, one of which remains vacant, the Court's resources are strained to meet the high demand and will be even more taxed as courts struggle to implement the Budget Control Act (BCA) sequester, a group of cuts to federal spending which took effect on March 1, 2013 and reduced the judiciary's overall funding levels by almost \$350 million (a 5% cut). Sequestration's impact is particularly severe for the Judiciary because its budget is heavily driven by groups that have already been impacted by prior cuts. Consequently, Judge Tashima noted, when sequestration goes into full effect at mid-year, there will be little recourse but to furlough staff although the court hopes to avoid layoffs. Judge Tashima closed his address on a happier
(continued on page 9)

SCENES FROM RECENT FBA-LA PROGRAMS



Ninth Circuit Court of Appeals Senior Judge A. Wallace Tashima delivering his remarks at the State of the Circuit/District program.



Magistrate Court Chief Judge Suzanne H. Segal spoke about the Magistrate Court at the State of the Circuit/District program.



Bankruptcy Judge Sandra R. Klein and Bankruptcy Chief Judge Peter H. Carroll at the State of the Circuit/District program.



District Judge Manuel L. Real and District Chief Judge George H. King at the State of the Circuit/District program.



(l. to r.) Sandhya Ramadas and Benjamin David Lichtman at the "Thinking Liking a New Federal Judge" program.



(l. to r.) Matthew Close, Tara L. Newman, and Sara Ugaz at the "Thinking Liking a New Federal Judge" program. The FBA-LA Chapter thanks Mr. Close and his firm, O'Melveny & Myers, LLP for hosting the evening program.



(l. to r.) District Court Judge Michael W. Fitzgerald, Ninth Circuit Court of Appeals Judge Jacqueline H. Nguyen, and David Willingham at the "Thinking Liking a New Federal Judge" program.

The Central District's Patent Program: A View from the Bench

by Judges S. James Otero, James V. Selna, Andrew J. Guilford, Otis D. Wright II, George H. Wu, and John A. Kronstadt

The Central District of California's Patent Pilot Program (the "Program") is part of a nationwide experiment in the management of patent cases. Public Law No. 111-349 established the National Patent Pilot Program and directed the Administrative Office of the U.S. Courts to designate district courts to participate. The Central District was one of 14 districts selected. The six of us volunteered to be designated as participating judges within the Program, in which we have now accumulated 18 months of experience.

Under the Program, when a patent case is filed it is still initially assigned randomly in the same way that all cases are assigned. But now, all non-Program judges in the district have an option: They may transfer new patent cases to the Program within 30 days of filing. The cases then go on a secondary district-wide assignment wheel for random assignment to one of us, and the transferor judge draws a new case according to the normal assignment procedures. In addition to transfers from other judges, we also receive patent cases through initial random assignment, related case transfers, and as the result of recusals and subsequent reassignments.

From September 2011 through January 2013, 670 patent cases were filed in the Central District. Of those, 308 were assigned to us. Thus, 45% of the District's patent cases filed since September 2011 are before the 16% of the District's judges who are designated to participate in the Program. This is a meaningful caseload concentration. That concentration has allowed us to develop a better understanding of the breadth and nature of patent litigation in the District, and to observe the effects of various case management strategies.

Experimenting with Procedures

We appreciate and seriously consider case-specific case management suggestions from counsel, particularly when counsel for all parties are in agreement as to the proposals. We think that our flexibility in han-

dling patent cases is significant. Even when we employ the Northern District's rules -- at the request of the parties or by standing practice -- we regularly deviate from the schedule that those rules would provide. Judge Guilford currently is working on a set of flexible procedures that can apply by default in patent cases, and we all intend to maintain the flexibility that allows us to manage each case according to its unique features and issues.

When we are trying to manage matters on a case-by-case basis, we find that Joint 26(f) reports in which one side says "we should use the Northern District's rules" and the other side summarily replies that "no special procedures are needed" are not helpful. What is helpful is when counsel specifically explain to the Court what procedures would be helpful *given the facts and circumstances of that particular matter*. Details matter because they inform us about what kind of management is appropriate for the case. Often some structured disclosure of contentions can help move the case along and avoid disputes.

We are particularly interested in early tutorials, potentially through the submission of a video presentation that we can review as needed during the case. We encourage counsel to propose ways to inform us in an efficient and timely way about the substance of your cases.

We are Still a Generalist Court - Streamline Your Presentations

All of us are committed to increasing our expertise in patent law matters. But, our dockets will not reach the level of specialization of the Federal Circuit. That is not surprising given the nature of our caseload. Remember that each of us has approximately 300 other cases; these include many complex civil and criminal matters. Given our varied dockets, we will continue to rely on counsel to present patent issues in a coherent and logical fashion.

(continued on page 10)

President's Message



*Evan Jenness
FBA Chapter
President*

This past quarter has been a challenging one for our federal courts and the future remains uncertain. The sequester has hit, and its devastating effects will continue pending a legislative resolution. As Chief Judge George H. King urged at our annual **State of the Circuit/District Luncheon** on March 14, 2013, federal practitioners should contact our Congressional representatives and participate in efforts to support adequate funding for our courts. The FBA has heeded the call. Our Chapter previously wrote to our legislators, and on April 25, 2013, FBA leaders from across the country met with members of

Congress to advocate for adequate federal court funding, filling judicial vacancies, and sufficient judgeships to enable our courts to render justice.

On the lighter side, FBA-LA's Board members and others have been busy preparing for recent programs and our roster of upcoming events. On April 18, 2013, **Thinking Like a New Federal Judge**, a panel discussion amongst five of our courts' newest appointees led by Professor Laurie Levenson, was hosted by O'Melveny & Myers. The speakers each shared their unique perspectives with a large and varied audience of

federal practitioners.

On May 2, 2013, we hosted a **Tribute to the Honorable A. Howard Matz**, on the occasion of his retirement from the U.S. District Court. The response to this event was so overwhelming that we re-booked the event for a larger ballroom soon after registration opened.

On May 16, 2013 we hosted our annual **Reception Honoring the Federal Judiciary** in the panoramic Tom Bradley room atop City Hall, and later in the Spring we will be hosting a **Federal Appellate Advocacy** program.

(continued on page 9)

Mentorship Program

by Sharon Ben-Shahar

Much of the professional practice of law involves learning skills that are not found in law books or taught in law schools. That is one reason why mentorship is so valuable in the legal profession. For the past several years, FBA-LA has been offering a mentorship program, designed to assist law students and newer lawyers as they begin their legal careers. The program is tailored to members who have been practicing for 5 years or less. Newer lawyers are matched one-on-one with experienced lawyers or jurists based on their area of interest, type of practice, career goals and other criteria, and enjoy the opportunity to network and benefit from the experience of seasoned lawyers.

One of the goals of our program is to provide guidance to young members regarding career plans and goals. While many firms provide in-house mentoring, participants in FBA-LA's mentorship program have the added benefit of wholly independent guidance. Also, in today's market, some of our students and newer lawyers are struggling to get jobs, and mentorship provides an opportunity to meet new people and open potential doors to employment. For mentors, the mentorship program is a rewarding experience and an opportunity to give back to the community. Mentors are asked to set up one in-person meeting with their assigned mentee and to make themselves available for subsequent phone calls or meetings with their mentees as issues come up. They are encouraged to continue the relationship, to invite their mentees to join them at FBA and other events and to introduce them to friends and colleagues.

If you are interested in joining our program, please visit our website at <http://www.fbala.org/Events.php> and fill out the short application form. A representative of our Board of Directors will contact you promptly.



*Sharon Ben-Shahar
FBA President-Elect
Bird Marella Boxer
Wolpert Dooks Nessim &
Lincenberg PC*

How the Central District Stacks Up: By the Numbers by Matthew D. Taggart

"The United States District Court for the Central District of California is among the largest and most important district courts in the nation," local litigators are fond of saying. This article analyzes the government data that supports that claim.

The United States Administrative Office of the Court recently released its annual statistics of the federal judiciary for fiscal year ending September 30, 2012 (<http://www.uscourts.gov/Statistics/JudicialBusiness/2012.aspx>) ("Annual Report"). As a whole, the statistics underline the importance of the Central District to our third coequal branch of government. It is the national center of civil litigation, and plays an important role in the war on crime.

The 2012 statistics invite interpretation and analysis. The data also tells us a great deal about our local bench and bar. The figures remind us of the diligence and skill of our judges, and the great energy and focus they bring to their work.

Still the Biggest and the Busiest

The Central District is the largest of the 94 federal judicial districts, by several different measures. It has long been the most populous district in the nation. According to the most recent census data, half the State of California, just under 19 million people, live here. The District spans seven different counties and includes Los Angeles, the second largest city in the nation. One in every sixteen Americans lives here. Los Angeles County is the most populous county, with just under 10 million people. Orange County has more than 3 million people. Riverside and San Bernardino Counties both have over 2 million people. Ventura, San Luis Obispo, and Santa Barbara add in about 1.5 million more people.

Civil Litigation

More private civil cases are filed in the Central District than in any other district. In 2012, the Central District accounted for an impressive 15,739 civil filings (5.6% of the total civil cases filed in this country). Nationally, civil filings declined by 4%.

By contrast, in the Central District they increased by 3.2%. This significant increase in filings was offset by a commensurate increase in terminations, up by 3.6% from 15,106 to 15,653. In the aggregate, the number of cases pending before Central District courts increased by just under one percent, from 10,642 to 10,728.

The Central District dwarfed California's other three districts. The next busiest, the Northern District, had less than half as many filings, 7,145, an 8.4% increase from the year before. The Eastern District had roughly a third as many at 5,403, down 3.5% and the Southern District had 3,481, up 7.0%.

Compared to some other busy districts, the Central District experienced relatively slow growth. For example, the Southern District of New York experienced a 10.2% increase in filings, from 9,601 to 10,581; the Northern District of Illinois increased 13.1%, from 9,417 to 10,654; the District of New Jersey 9%, from 7,879 to 8,585; and in the Northern District of Ohio, 53.8%, from 5,198 to 7,993.

(continued on page 12)

FBA Mid-Year Meeting

On April 6, 2013, Nicole Duckett Fricke, a member of our Board of Directors, represented FBA-LA at the National Mid-Year Meeting in Arlington, Virginia. Delegates and Chapter Leaders met extensively together, with the Circuit Vice-Presidents, and FBA staff. Delegates had opportunities to learn more about the FBA Foundation and the research and fundraising it encompasses, and about FBA National, as well as learn about events across the country in other FBA chapters. Delegates were treated to the FBA sponsored national Moot Court Competition Final Round and Reception held at the U.S. Court of Appeals for the Armed Forces, in Washington, D.C. Other highlights included a luncheon keynoted with Brigadier General Kyle Goerke, and the National Council Meeting. The conference ended with Dine Around Arlington restaurants, where attendees were encouraged to network, while exploring local restaurants.



*Nicole Duckett Fricke,
Milberg, LLP*

Thinking Like A New Federal Judge

by Hilary Potashner



Hilary Potashner,
Office of the
Federal Defender

The Los Angeles Chapter of the FBA wishes to thank O'Melveny & Myers LLP for hosting this event and board member Matthew Close for making the event a success

On April 18, 2013, the FBA-LA Chapter held its newest program featuring four newly appointed federal judges. The program was hosted by O'Melveny & Myers and moderated by Loyola Law Professor **Laurie Levenson**, and included Ninth Circuit Judge **Jacqueline H. Nguyen**, District Judge **Michael W. Fitzgerald**, Magistrate Judge **Michael R. Wilner**, and Bankruptcy Judge **Sandra R. Klein**, all of whom shared their experiences and gave tips about successful advocacy in their respective courts.

Judge Nguyen, the first Vietnamese-American woman appointed to the federal bench, began in civil litigation, served in the US Attorney's Office, and was appointed to the LASC and then to the District Court, before being appointed to the Court of Appeals. She talked about federal judges' high workloads, sharing that a fellow judge compared serving on the federal bench as "drinking from a fire hose." She emphasized how privileged she feels to serve the court, and greatly appreciates the "freedom in not being an advocate, but instead coming to the best decision that I can." Judge Nguyen prizes good oral advocacy in addition to careful case preparation.

Judge Fitzgerald served as a federal prosecutor and then was a private practitioner for many years before being appointed to the federal bench in 2012. As a judge, he enjoys the mix of criminal and civil work, and has already presided in approximately twelve jury trials to date. When asked what surprised him most about service on the court, he commented on the substantial amount of committee work needed to support our large district. He also noted that the late Judge Pamela Rymer was a "fantastic role model" for him in transitioning to the bench.

Judge Wilner applied to the bench because he wanted to do even more to serve the community after serving as a federal prosecutor for 11 years. He shared the lengthy process for applying to be a magistrate judge, and also echoed Judge Nguyen's comments about the volume of work handled by federal judges, noting in particular the large volume of *pro se* prisoner litigation. He expressed a commitment to supporting

the court's mission, and shared his current mantra of "open mind, open mind, open mind, and decide," which guides him throughout his workday.

Judge Klein related the process of being selected as a bankruptcy judge, describing the merit screening committee process and her interview by four circuit judges and one chief bankruptcy judge from a different district, before her selection. She highlighted some of the particular challenges of bankruptcy court, citing as one example the lack of court-provided interpreters. Patience is critical in her position, especially when interfacing with *pro se* litigants. She usually issues tentative rulings the night before hearings, and permits oral argument although it is often waived.

After fielding **Professor Levenson's** questions, the panel responded to questions from attendees. One question dealt with whether motions for reconsideration were worth filing. The judges advised taking the local rules seriously, pinpointing the issue at hand, and keeping briefing "short and sweet."

Loyola Law Professor Laurie Levenson (l) moderated a panel of distinguished jurists (l to r) United States District Judge Michael W. Fitzgerald, United States Circuit Judge Jacqueline H. Nguyen, United States Bankruptcy Judge Sandra R. Klein, and United States Magistrate Judge Michael R. Wilner.



paid advertisement

Trusted resources, proven results.

RUST CONSULTING IS HONORED TO SUPPORT THE QUARTERLY NEWSLETTER OF THE LOS ANGELES CHAPTER OF THE FEDERAL BAR ASSOCIATION.

Rust Consulting's unmatched subject matter experience covers class action settlement, mass tort, public sector, and business project administration. Rust's proactive processes combine the best expertise and technologies to create dedicated client service teams that deliver unmatched excellence in data management, notification, contact center, claims processing and award distribution. Rust has provided administration services for over 4,000 projects and distributed billions of dollars in assets. Rust has clients in law firms, corporate counsel offices, and government agencies engaged in complex litigation, settlements, compliance, and business issues. Rust's capacities and scalability allow for the ability to assist clients with their small projects as well as their very large and complex matters.

Security and confidentiality are of the utmost importance to Rust. We adhere to a unified compliance posture, including a system Certification & Accreditation under the Federal Information Security Management Act (FISMA and NIST), adherence to Safe Harbor principals, annual SSAE 16 SOC 1 Type II audits, and compliance with other applicable laws and the private sector's strict security standards.

LEARN MORE ABOUT HOW RUST CAN HELP YOU.



ERIC BISHOP
625 MARQUETTE AVENUE, SUITE 880
MINNEAPOLIS, MN 55402
D 612.359.2988
E EBISHOP@RUSTCONSULTING.COM



The Los Angeles Chapter of the Federal Bar Association thanks Rust Consulting for its support of our programs through its advertising in our newsletter

Reflections on Judge Matz's Retirement

by Sandhya Ramadas



Sandhya Ramadas,
YLD Chair,
Bird Marella Boxer
Wolpert Dooks
Nessim &
Lincenberg PC

The following reflections were made at the dinner and reception held on May 2, 2013, honoring District Court Judge A. Howard Matz upon his retirement by Sandhya Ramadas, his former law clerk. Ms. Ramadas was one of the selected speakers at the event.

"I am honored to have been chosen to speak on behalf of Judge Matz's law clerks today. In addition to being Judge's former law clerk, I am a proud associate at his former firm of Bird Marella.

One of the best aspects of being a law clerk is that you are witness to all sides of a federal judge: from his rulings from the bench, to ordinary events that give you a glimpse of his character.

I was lucky enough to see one of those events because I functioned in two roles in Judge Matz's chambers. I was not only his law clerk, but I was his dogsitter. If you know me at all, and my love for dogs, you'll know that being Judge's law clerk was a huge honor, but getting to dogsit Judge's dog Django, that was a pretty close second.

One Saturday, I got a call from Judge Matz: Judge needed me to dogsit in a pinch. His son Jeremy was getting married, and Judge's dog needed special care - she had been attacked in Runyon Canyon. What Judge didn't tell me, and what I didn't find out until later, is that Judge's dog had been chased by a pitbull, and with the pitbull's jaws around her, had run all the way down the steep side of the canyon. And what did Judge do? He followed her. Without a sec-

ond thought, he chased her into the ravine, pried that pitbull's jaws off of her, and brought her to safety.

There's a lot to take away from that story about the Judge. It shows he's a fighter. It shows how he is willing to put himself on the line for those in need, regardless of species. But I think what Judge's dog Django would say is that Judge Matz went out of his way for the underdog. He went out of his way for justice.

I remember walking into Judge's chambers for my interview, and the first thing I noticed was a sign: it read "Tzedek Tzedek Tirdof" - Hebrew for "Justice Justice Shall you Pursue." I saw that sign every day, and every day, I saw Judge Matz live out that mantra. Judge Matz's commitment to justice was apparent.

To his law clerks, it was apparent in the way he mentored us. He taught us that fastidiousness is synonymous with justice, and how important it was to consider every argument, and to explain the Court's reasoning with clarity, especially when it came to *pro se* litigants.

Judge Matz's commitment to justice was apparent, by example, in his reminder to all of his law clerks of the importance of public

service. If you talk to any of Judge's law clerks, you'll see his legacy in our commitment to serving our communities - we are the heads of major legal services organizations, assistant United States attorneys, federal public defenders, and attorneys with active pro bono practices.

Finally, to his law clerks, Judge Matz's commitment to justice was apparent in the way he selected us. After speaking with many of Judge's law clerks in preparation for these remarks, I came to realize that he chose many of us who were first or second generation immigrants, whose families, like his own family, had been shaped by their journey to the United States. This was probably the most poignant memory from my clerkship: seeing Judge Matz on stage at a naturalization ceremony at the L.A. convention center, administering the oath to hundreds of new immigrants, and then holding up his father's citizenship certificate, and sharing with the crowd his father's story of his journey to this country.

Judge Matz, thank you for your commitment to justice. Thank you for your inspiration. Thank you for your example. We are forever grateful for your guidance and for your continued mentorship. As a token of our gratitude, we, your law clerks, have written you letters, expressing our best wishes on your retirement."

State of the Circuit/District (cont. from page 1)

note, warmly congratulating and welcoming newly-appointed Ninth Circuit Judges Morgan Christen, Andrew D. Hurwitz, Jacqueline H. Nguyen and Paul J. Watford.

District Court

Chief District Judge George H. King spoke next. Judge King assumed the position of Chief on September 14, 2012, succeeding the Honorable Audrey B. Collins, who had served as Chief Judge since January 5, 2009. Judge King expressed sadness at the recent passing of some of our judges, including the 2012 passing of Senior District Judge Robert J. Kelleher, who was 99 and the oldest-serving federal judge in the nation at the time of his death. Judge King encouraged attendees to see the exhibit honoring Judge Kelleher on the Second Floor of the Spring Street Courthouse.

Judge King next welcomed the Central District's newest judges, the Hon. Jesus G. Bernal and the Hon. Fernando

M. Olguin. Judge Bernal, who worked in the Central District's Federal Public Defender's Office since 1996, was confirmed by the Senate in December. He will preside in Riverside, in the Court's Eastern Division--a position that has been empty for three years. Judge Olguin, who had served a magistrate judge for the Central District of California since July 2001, was also confirmed by the Senate in December. He will preside in the Western Division, and fills the vacancy created by former District Judge Jacqueline H. Nguyen's elevation to the 9th Circuit in May 2012.

The Central District continues to have one vacant judgeship. In November, President Obama nominated LASC Judge Beverly Reid O'Connell to fill that vacancy. Judge King also noted the pending retirement of Senior District Judge A. Howard Matz, who served on the Court for nearly 15 years. Judge

Matz's legacy includes his leading role in the establishment of the *Pro Se* Clinic, located in the Spring Street Courthouse. As stated by Chief Judge King, "we will miss Judge Matz's wisdom, guidance and collegiality."

Chief Judge King then addressed challenges facing the court. He described in detail, to a rapt audience, the impact of budget cuts on the Courts' ability to preserve and protect the rule of law, and the world that could lie ahead if action is not taken to adequately fund our courts. Although the Central District's courts will continue to strive to do more with less, the sequester has and will continue have a very real and adverse impact on the Courts' ability to provide services. In order to adjust to the sequester cuts in the Court's budget, the Central District will furlough staff and reduce Court services on
(continued on page 13)

President's Message (cont. from page 4)

On September 11, 2013 we will be presenting a new program hosted by Latham & Watkins, **Stolen Art & Litigating Holocaust-Era Expropriation Claims**. Finally, mark your calendar for October 3, 2013 to join our next **Annual Supreme Court Review** with Dean Erwin Chemerinsky.

FBA-LA's **Young Lawyers Division** is presenting a **Brown Bag Lunch** with Judge Patrick Fitzgerald and Magistrate Judge Jacqueline Chooljian on June 6, 2013, and registration remains open as of this writing. On June 13, 2013, the YLD will be presenting the first in a series of **YLD Happy Hours**. The YLD is actively recruiting newer lawyers to join the FBA and become involved in our programs. Anyone interested should contact YLD Chair Sandhya Ramadas.

Our **Federal Mentorship Program** also continues to be a popular. Interested FBA members with under 5 years of experience can register to join on our website. We are also looking for a small number of experienced federal practitioners to serve as mentors. Any interested FBA members should contact our President-Elect, Sharon Ben-Shahar.

As always, feel free to contact me or any of FBA-LA's other officers – President-Elect Sharon Ben-Shahar, Treasurer Ken Sulzer, and Secretary Dave Willingham – if you have suggestions for programs or other ways to enhance FBA membership. Finally, if you would like to submit an item for potential publication in the next edition of this newsletter, please contact our administrator, Janine Nichols (jnichols@emaoffice.com), for further details. I look forward to continuing to see all of you at our upcoming events!

Patent Program (cont. from page 3)

We hold the patent bar in high regard, and know that you can be our partners in this program. We expect, and depend on, counsel to work collaboratively in litigating patent cases. Providing each other reasonable accommodations and working cooperatively to move the case forward without our involvement are significant examples of such collaboration. In general, by working together, you can eliminate the need to present peripheral or procedural disputes to the Court. This saves money for your clients and conserves judicial resources.

How to be an effective advocate? Filter. Think carefully about what issues are critical, and focus on developing them. One strong, well-developed argument will ordinarily have significantly more force than two tangential ones. Given our large case loads, your filtering permits us to have enough time to address the key issues in your cases in a thorough and comprehensive manner.

Another way to be effective, for the Moneyball fans: Get on base and then move to the next one. We see counsel swinging mightily as they present arguments at the *Markman* hearing that are more appropriately presented at a later phase. Presenting issues prematurely is not helpful or efficient. It is more effective for you to go from base to base in progressively narrowing the issues. The same rule applies to damages reports. Those that are unreason-

able are not effective. Some courts have allowed second chances after striking overreaching damages reports, but whether that is appropriate must be determined on a case-by-case basis. We suggest that it is better if the initial reports are focused and reasonable.

We Are Resource-Constrained

As you know, when the pilot statute was first introduced, it included a modest sum for additional law clerks to assist the participating judges. Due to budgetary constraints, that provision did not make it into the bill as enacted. Members of the patent litigation bar, in consultation with your clients, might consider whether it would be appropriate to urge Congress to provide funding for patent pilot programs so that additional staff can be retained by each program. We know that this would enhance the effectiveness of our program. Plainly, additional resources will assist us in maintaining a fast, high-quality process that serves you and your clients. Members of the patent litigation bar and your clients are likely in the best position to assess whether the allocation of such modest, additional resources, would improve the process in a way that would boost the economy.

We look forward to our continued work with you and to the success of the Program.

“Plainly, additional resources will assist us in maintaining a fast, high quality process that serves you and your clients.”



*Hon. Andrew J. Guilford
United States District
Court*



*Hon. James V. Selna
United States District
Court*



*Hon. Otis D. Wright II
United States District
Court*



*Hon. S. James Otero
United States District
Court*



*Hon. John A. Kronstadt
United States District
Court*

MORE SCENES FROM RECENT FBA-LA PROGRAMS



(l. to r.) Molly White, Courtney Gould, and Mike Emmick at the “Thinking Liking a New Federal Judge” program.



(l. to r.) FBA-LA Chapter President Evan Jenness and Chapter Board Member Hilary Potashner at the “Thinking Liking a New Federal Judge” program.



“Thinking Liking a New Federal Judge” panelist Magistrate Judge Michael R. Wilner responding to a question.



(l. To r.) Christopher Montes de Oca, Summer Shelton, Kelly B. Hanker, and Elizabeth Horowitz at the “Thinking Liking a New Federal Judge” program.



(l. to r.) Christie Cronenweth, on behalf of the FBA-LA Chapter, presents to Bankruptcy Chief Judge Peter H. Carroll a framed copy of the judicial profile of him she wrote, which was published in the national Federal Lawyer magazine. Photo courtesy of United States Bankruptcy Court.

FBA’s Capitol Hill Day - Supporting Our Courts

by Robert E. Kohn

On April 25, 2013, I represented the FBA-LA as a delegate to visit with congressional judiciary staff as part of the FBA’s participation in Capitol Hill Day. The FBA’s Government Relations Committee organized a day-long concerted series of meetings with the staff members of individual senators and representatives, as well as a meeting with the majority staff of the Senate Judiciary Committee. In Washington, I teamed-up with a

San Diego Chapter delegate and spoke with staff members in the offices of Sen. Diane Feinstein, Sen. Barbara Boxer and Rep. Henry Waxman (among others) about our Federal courts’ needs.

Most urgently, the FBA supports approval of the judiciary’s emergency supplemental funding request to deal with the effects of the sequester on our courts. The Administrative Office is expected to ob-

tain OMB approval to seek \$50 to \$100 million in emergency funding.

Congress needs to hear from us about concrete examples of specific hardships, delays, added expense, and injustices that the sequester cuts may have caused. Please let me know of your experiences, which I will share with the FBA’s legislative team in D.C. You can reach me at rkohn@kohnlawgroup.com or (310) 917-1011.



Robert E. Kohn, Kohn Law Group, Inc.

Central District Numbers (cont. from page 5)

**Table 1 – Civil Cases Filed, Terminated & Pending 2008-2012:
National v. Central District**

Year	Filings	Terminations	Pending	C.D. Cal. Filings	C.D. Cal Terminations	C.D. Cal. Pending	C.D. Cal as Percentage of Total
2008	267,257	234,571	294,122	12,130	n/a	n/a	4.5%
2009	276,397	263,703	306,816	13,607	n/a	n/a	4.9%
2010	282,895	309,759	284,489	13,850	n/a	n/a	4.9%
2011	289,252	303,158	267,495	15,257	15,106	10,642	5.2%
2012	278,442	271,572	274,365	15,739	15,653	10,728	5.6%
Change 2011-12	-3.7%	-10.4%	2.6%	3.2%	3.6%	.8%	

Criminal Prosecutions

Nationally, criminal filings for defendant declined 8.6%, from last year’s all-time high of 102,931 defendants to 94,121 in 2012.

The Central District accounted for a comparatively low percentage of the total criminal prosecutions,

Since 2008, the Office of the Courts noted that there has been a steady increase in cases involving civil rights, real property, consumer credit, social security, labor laws and intellectual property. On the other hand, there has been a similar decline in personal injury, contract and prisoner petitions.

The 3.7% national decline in civil filings was driven by a few discrete trends. There was a 15% reduction in diversity cases attributable to a 60% drop in MDL asbestos cases (down by 22,561). Nearly all this change took place in the Eastern District of Pennsylvania, which had 22,490 fewer asbestos filings in 2012. Civil filings by the United States as a plaintiff fell 18% based on a 39% drop in student loan default cases, which had previously soared 58% in 2011. Civil prison petitions consisting of motions to vacate sentences grew by 36% in response to *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011) (en banc). *Simmons* reversed a previous decision considering a prior state conviction a “felony drug offense” for purposes of imposing an enhanced sentence under federal law.

only 2,028, or 2%. This represents a small, but significant 1.9% decline in Central District prosecutions from the year before (2,068). The Northern and Southern Districts, by contrast, had 7,694 and 6,318 felony cases commenced in 2012. As a whole, the Ninth Circuit accounted for a full quarter of the total cases brought: 22,816 (24.2%). The percentage is the same for felony cases. Of 84,036 felony cases initiated, 20,609, are in the Ninth Circuit’s jurisdiction (24.5%).

The United States Attorney’s Office for the Central District, the second largest in the nation, has 264 AUSAs divided into three divisions: civil, criminal, and tax. It handles all federal prosecutions in the Central District. Just up the street, the Federal Defender’s Office is the largest in the country with 92 attorneys and represents more than 60% of all persons charged with federal offenses in the Central District. The Federal Defender has two units: a trial unit that represents indigent defendants and a habeas unit that represents persons who have been sentenced to death by state court juries, exhausted state court appeals and allege federal constitutional violations.

**Table 2 – Criminal Defendants Filed, Terminated & Pending 2011-2012:
National v. Central District**

Year	Filings	Terminations	Pending	C.D. Cal. Filings	C.D. Cal Terminations	C.D. Cal. Pending	C.D. Cal as Percentage of Total
2011	102,931	101,454	111,968	2,068	2,128	3,491	2.0%
2012	94,121	97,728	107,703	2,028	2,032	3,527	2.2%
Change 2011-12	-8.6%	-3.7%	-3.8%	-1.9%	-4.5%	1.0%	

In the remaining 40% of cases, Defendants are represented by the CJA Trial Attorney Panel, represent themselves or hire criminal defense counsel.

(continued on page 16)



Matthew D. Taggart,
Venable LLP

State of the Circuit/District (cont from page 9)



*Kristina Starr Azlin,
Holland & Knight*

specific Fridays between April 26 through the end of August 2013 in all three of its divisions – Western (Los Angeles), Southern (Santa Ana), and Eastern (Riverside). If the sequester continues, we can expect long-term adverse effects such as delayed IT upgrades and reduced IT programs, reduced resources for pretrial and probation programs, reduced staffing in many departments, continued staff furloughs, and longer delays in processing and adjudicating cases. Judge King concluded his remarks by urging members of the bar to take appropriate action to protect our courts, including by contacting legislators and urging a rational allocation of resources rather than blind cuts that interfere with the Court's constitutional duty to provide justice.

Magistrate Court

Chief Magistrate Judge Suzanne H. Segal spoke next. She focused on staffing and caseload changes implemented in the last year and those that are expected. She reported that the Central District has 24 authorized full-time and one part-time Magistrate Judge positions, but that 25% of the magistrate bench is currently eligible for retirement. Replacement of these positions will likely be a challenge in light of the current budget crisis. The Magistrate Judges continue to handle large case loads and perform an array of critical duties, including presiding over preliminary proceedings in criminal cases, the trial and disposition of misdemeanor cases, adjudicating discovery disputes and conducting settlement conferences and various other pretrial hearings in civil cases. The Magistrate Judges also initially handle all *habeas corpus* petitions -- the single largest type of case filed in the Central District.

The Central District continues two programs that involve consents to Magistrate Judges in civil cases, the Direct Assignment Program and the Voluntary Consent Program. Under the Direct Assignment Program, a percentage of all civil cases are randomly assigned to a Magistrate Judge for all purposes. The parties must then consent within a specific deadline. If the parties do not consent by the deadlines, the case will be randomly reassigned to a District and Magistrate Judge. Additionally, under the Voluntary Consent Program, the parties may consent to one of ten judges who participate in that program, even after a case has begun before a different District and Magistrate Judge. The Voluntary Consent

Program does require the previously assigned District and Magistrate Judge to approve the transfer of the case to the new judge.

Bankruptcy Court

Chief Bankruptcy Judge Peter H. Carroll then reported on the state of the Bankruptcy Court. He noted that the Central District continues to lead the nation in bankruptcy filings, despite a 30% drop from last year. No new Bankruptcy Judges have been added since February 2012, despite the fact that each Judge continues to handle about 1700 cases -- 200 more than the national average. With the drop in filings and sequestration, the Bankruptcy Court's funding has taken a hit, losing about \$2.6 million since October 1, 2012. So far, the Court has dealt with the cuts by streamlining procedures, laying off temporary employees and offering early retirements to other employees. Given these changes, Chief Judge Carroll does not anticipate any further furloughs or layoffs in 2013. However, 2014 is likely to be a difficult year for the Court. Moving forward, Judge Carroll's focus is on developing the Court's long-term strategic plan to meet the environment expected over the next decade. The task is especially important given the challenges posed by the present economy. The Court has drafted a written Strategic Plan to define its direction for the next 7-10 years, which is available for review on the Court's website at <http://www.cacb.uscourts.gov/news/comment-period-court-s-proposed-strategic-plan>. The Strategic Plan identifies long-term issues facing the Court, together with the goals and strategies to address each of these issues. The Court seeks comments and suggestions from the public on the Strategic Plan. The initial public comment period on this draft runs until May 15, 2013. Chief Judge Carroll urged members of the bar to review the Strategic Plan and offer comments.

Notwithstanding the gravity of remarks about the sequester, the luncheon ended on a positive note. Chief Judge Carroll was presented with a framed copy of his judicial profile, which was recently published in the National FBA Magazine, *The Federal Lawyer*. FBA-LA President Evan Jenness concluded the event by thanking the speakers, and many judges and other attendees, for their participation.

SCENES FROM THE JUDGE MATZ TRIBUTE



Event Co-Chairs (l. to r.) Evan A. Jenness, Holly R. Lake, and Sharon Ben-Shahar. Sandhya Ramadas (not pictured) was also an event co-chair.



District Judge (ret.) A. Howard Matz being introduced.



(l. to r.) Lisa Paez, Ninth Circuit Court of Appeals Judge Richard A. Paez, and Melinda Gordon.



(l. to r.) District Judge (ret.) Lourdes Baird and Vincent J. Marella.



(l. to r.) Dr. Jane Matz and District Judge (ret.) A. Howard Matz



Judge Matz and his former clerks. Top row (l. to r.) Gus May, Ian Slotin, Sandhya Ramadas, District Judge (ret.) A. Howard Matz, Kuruvilla Olasa, Eric Vandavelde, Ezra Ross, Craig Bessenger. Bottom Row (l. to r.) Lauren Teukolsky, Claire Prestel, Naeun Rim, and Rachel Mehlsak.



(l. to r.) Nimrod Aviad, Janet Levine, Mary Linda Vandavelde, and John D. Vandavelde.

Photos on pages 14 and 15 by William Kidston Photography.

The Federal Bar Association—Los Angeles Chapter wishes to thank its co-sponsors, honorary event co-chairs, and honorary dinner committee of the May 2, 2013 Tribute to the Honorable A. Howard Matz on the Occasion of His Retirement

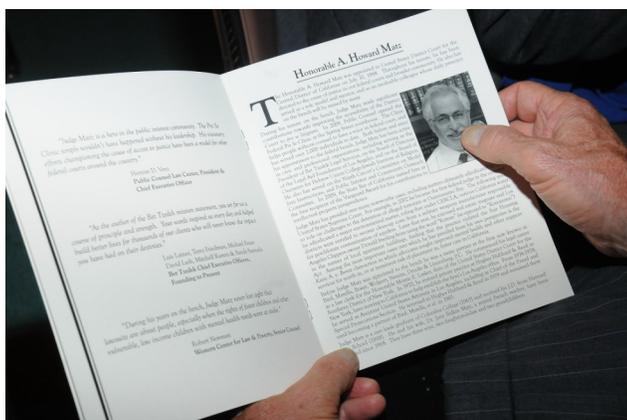
Honorary Event Co-Chairs: **David A. Lash** of O’Melveny & Myers, LLP, **Vincent J. Marella** of Bird, Marella, Boxer, Wolpert, Nessim, Dooks & Lincenberg, P.C., and **John D. Vandeveld** of Crowell & Moring, LLP.

FBA-LA also extends special thanks to our co-sponsors: Association of Business Trial Lawyers, Los Angeles; Bet Tzedek Legal Services; Beverly Hills Bar Association; Federal Bar Association, Orange County Chapter; Los Angeles County Bar Association, Litigation Section; and Public Counsel Law Center. Photographs of the event are thanks to the generosity of Caldwell Leslie & Proctor, PC; David A. Lash & Beth Becker; and Westmount Asset Management, LLC.



The Federal Bar Association wishes to thank the Honorary Dinner Committee Members for their support and sponsorship

- Joshua E. Anderson
- Mary Carter Andrues
- Elena R. Baca
- Terree A. Bowers
- Joel E. Boxer
- Matthew W. Close
- Steve Cochran
- Mark T. Dooks
- Kimberly A. Dunne
- Scott A. Edelman
- Mary Fulginiti
- John W. Holcomb
- Stephen G. Larson
- Daniel B. Levin
- Gary S. Lincenberg
- Ronald J. Nessim
- Robert C. O’Brien
- Michael J. Proctor
- Fred A. Rowley, Jr.
- Jeffrey H. Rutherford
- John A. Schulman
- Marc M. Seltzer
- Sheila Swaroop
- Gail Migdal Title
- David M. Walsh
- David K. Willingham
- Dorothy Wolpert
- Sidley Austin LLP
- Arent Fox
- Paul Hastings LLP
- Arent Fox
- Bird, Marella, Boxer, Wolpert, Nessim, Dooks & Lincenberg, P.C.
- O’Melveny & Myers
- Katten Muchin Rosenman LLP
- Bird, Marella, Boxer, Wolpert, Nessim, Dooks & Lincenberg, P.C.
- Sidley Austin LLP
- Gibson, Dunn & Crutcher LLP
- Kroll Advisory Solutions
- Knobbe Martens
- Arent Fox
- Munger, Tolles & Olson, LLP
- Bird, Marella, Boxer, Wolpert, Nessim, Dooks & Lincenberg, P.C.
- Bird, Marella, Boxer, Wolpert, Nessim, Dooks & Lincenberg, P.C.
- Arent Fox
- Caldwell Leslie & Proctor, PC
- Munger, Tolles & Olson, LLP
- Crowell & Moring LLP
- Mitchell Silberberg & Knupp LLP
- Susman, Godfrey LLP
- Knobbe Martens
- Katten Muchin Rosenman LLP
- Morrison & Foerster
- Caldwell Leslie & Proctor, PC
- Bird, Marella, Boxer, Wolpert, Nessim, Dooks & Lincenberg, P.C.



Central District Numbers (cont from page 12)

Drug crimes made up the overwhelming majority of prosecutions in 2012, accounting for 31% of total defendant filings. By the same token, 2012 saw a significant decline in drug prosecutions. Marijuana-related prosecutions declined by 13% to 7,430. Prosecutions for non-marijuana offenses fell 6% to 22,101. Defendant filings involving the sale, distribution, or dispensing of drugs other than marijuana dropped 7% to 19,271 (down by 1,496 filings).

Immigration offenses, which account for 27% of prosecutions, also decreased 10% to 25,328. Aliens accused of illegal reentry (83 percent of all immigration defendant filings) fell 10 percent to 21,091. Filings in the five southwestern border districts accounted for 74 percent of the nation’s immigration defendant filings. The Southern District of California, San Diego, saw an 8% drop in immigrant defendant filings.

Central District Prosecutions

Of the 2,023 criminal prosecutions in the Central District initiated in 2012, most involved either illegal immigration or drugs, each of which accounted for a quarter of cases (25.7% and 24.6%, respectively). The third most prosecuted offense was fraud, which accounted for another third of prosecutions (456 cases or 22.5%). Marijuana offenses accounted for another 126 cases, or 6%. As reflected in Table 3, these percentages closely tracked with national prosecutions. *(Editors note: Table 3 is derived from Annual Report Table D-3; it does not reflect the 5 transfer cases found in Annual Report Table D-1).*

The numbers reveal that very few federal criminal cases go to trial. In the Central District, the overwhelming majority result in a guilty plea (90%) or are dismissed before trial (7.6%). Only 2.6% of federal criminal cases are tried to verdict. Of the relative handful of cases that go to trial, the vast majority result in a conviction (78.5%).

Central District Judges: Doing More With Less

The latest statistics also reaffirm the heavy burden on our district court judges, and the tremendous energy and skill they devote to their craft. There are 677 authorized district court judgeships in the United States, meaning that there are 411 civil cases per approved judgeship, roughly the same as four years ago in 2009. Of course, these figures are just averages, and do not account for the reality that judges in the busier districts, while more numerous, have many more cases than their peers in less populated districts.

There are 28 active judges in the Central District. In terms of un-weighted filings - simply divide the number of cases by the number of filings - thus, each judge has an average of 540 civil and 72 criminal cases. Weighted, each Central District judge has 626 civil and 60 criminal cases, above the combined national average. Weighting takes into account the amount of time to resolve various

Table 3 –Criminal Defendant Prosecutions by Type of Offense – 2012

Offense	National	Central District
Homicide	153	1
Robbery	837	13
Assault	914	7
Other Violent Offenses	848	5
Burglary, Larceny & Theft	2,685	61
Embezzlement	500	6
Fraud	11,022	456
Forgery & Counterfeiting	903	39
Other Pty Offenses	154	1
Marijuana	7340	126
Other Drugs	22,203	497
Firearms & Explosives	8,873	82
Sex Offenses	3,258	56
Justice Offenses	914	11
Illegal Entry by Alien	21,091	484
Immigration - Other	4,237	35
General Offenses	2,304	44
Regulatory Offenses	2,087	98
Traffic	3,495	1
TOTAL	93,818	2,023

Table 4 – Civil and Criminal Trials Completed – Comparison of California District Courts

	Total All Trials	Civil Total	Civil (Bench)	Civil (Jury)	Criminal Total	Criminal (Bench)	Criminal (Jury)
TOTAL	13,446	5,478	3,342	2,136	7,968	5,410	2,558
C.D. Cal.	365	200	100	100	165	98	67
N.D. Cal.	224	84	45	39	140	95	45
S.D. Cal.	217	49	24	25	168	75	93
E.D. Cal.	80	37	5	32	43	18	25

types of cases. Greater weights are assessed for more complex and time-consuming cases (e.g., 12.89 for death penalty habeas case) Less complex cases receive little weight (e.g., .1 for student loan default cases). The weighted statistics underline that the Central District needs more resources.

Despite their enormous caseloads, **the Central District has the shortest interval from filing to disposition of civil cases of all the district courts in the Ninth Circuit: a median time of 5.2 months!** The national average from filing to disposition for 2012 was 7.8 months. The median time to get to trial in the Central District in a civil case – 18.6 months – also figures very favorably to other district courts nationally, which average 23.5 months.

The Central District is also among the busiest judicial districts in the country in terms of the number of cases that go to trial, as reflected in Table 4. The 2012 statistics show the tremendous amount of work that our federal district court judges perform each year. As lawyers and officers of the court, we can help them do their jobs better by doing ours better by coming to court prepared, cooperating with each other, and reducing unnecessary filings and motions.

FEDERAL BAR ASSOCIATION

Los Angeles Chapter

210 N. Glenoaks Boulevard, Suite C
Burbank, CA 91502

Phone: 818-843-1020

E-mail: fbala@emaoffice.com

website: fbala.org

About Us

Federal Bar Association Mission Statement

The mission of the Association is to strengthen the federal legal system and administration of justice by serving the interests and the needs of the federal practitioner, both public and private, the federal judiciary and the public they serve.

The Federal Bar Association

The FBA represents the Federal legal profession. We consist of more than 15,000 federal lawyers, including 1,200 federal judges, who work together to promote the sound administration of justice and integrity, quality and independence of the judiciary. The FBA also provides opportunities for scholarship and for judges and lawyers to professionally and socially interact.

“The premiere bar association serving the federal practitioner and judiciary.”

The Los Angeles Chapter

The Los Angeles Chapter is one of the oldest chapters of the FBA. Originally chartered in 1937, the Los Angeles Chapter covers the Los Angeles Division of the Central District of California.

With 400 members, the Los Angeles Chapter is the largest in the Ninth Circuit. Members come from private practice, government agencies, military branches, law schools and the bench.

The Los Angeles Chapter is committed to meeting the needs of the federal practitioner through educational seminars, training programs and social functions. To join FBA-LA, log onto our website: www.fbala.org.