

UPCOMING EVENTS:

- 10th ANNUAL
BANKRUPTCY
ETHICS
SYMPOSIUM
December 13,
2013
- BROWN BAG
LUCH FOR
YOUNG
LAWYERS
January 15, 2014
- TAKING THE
STEP TO
FEDERAL COURT
January 25, 2014
- STATE OF THE
CIRCUIT/
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March 14, 2014

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5 REASONS TO CONSENT TO A MAGISTRATE JUDGE IN FEDERAL COURT

by A. Joel Richlin

Federal courts across the country are increasing programs that allow litigants to consent to a magistrate judge. These programs offer unique advantages to your clients in terms of scheduling flexibility, experienced jurists, and the benefit of one judge for all purposes. Next time you have a case in federal court, check to see what programs are available in your district.

The Central District of California, which serves the largest population of any judicial district in the country, offers two distinct magistrate judge consent programs. Under the first program, known as the Voluntary Consent List, parties have the option of consenting to a magistrate judge after the case has been assigned to a district judge. This program offers the parties the unique ability to choose their judge from a list of ten participating magistrate judges. Biographical information for the participating magistrate judges is available on the Central District's website at

www.cacd.uscourts.gov.

Once the parties select the magistrate judge of their choice, all they need to do is file a simple form (available on the Court's website) which is then approved by the selected magistrate judge and the previously assigned district judge.

Under the second program, known as the Direct Assignment Program, civil cases are randomly assigned to a magistrate judge, with the exception of class actions, death penalty habeas corpus petitions, bankruptcy cases, and cases seeking a temporary restraining order or a preliminary injunction. If a case is randomly selected for participation in this program and directly assigned to a magistrate judge, all parties will receive a notice from the Clerk of Court. If all parties do not consent to the randomly assigned magistrate judge within the deadlines set by the Local Rules, then the case will be randomly reassigned to a district judge. However, if all parties timely consent, then the case will

remain assigned to the magistrate judge for all purposes, including trial, entry of judgment, and all post-trial motions. Additionally, any judgment entered by the magistrate judge is appealable directly to the Ninth Circuit.

Here are just 5 reasons to consent to a magistrate judge the next time you have a case in federal court:

(1) **SCHEDULING** – Magistrate judges have significantly more flexible trial calendars than district judges because magistrate judges do not preside over felony criminal trials. Felony criminal trials must proceed under statutory deadlines and therefore have priority over civil trials, which can be bumped by a felony criminal trial with a pending deadline. Therefore, magistrate judges can offer civil litigants more certainty and flexibility with trial dates and scheduling. If the district judge assigned to your case cannot accommodate your scheduling needs due to their overloaded criminal docket, consider whether consenting to a magistrate

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SCENES FROM RECENT FBA-LA PROGRAMS



(l. to r.) Dean Erwin Chemerinsky, Kathryn Kwok, judicial assistant to Judge Russell, and Bankruptcy Judge Barry Russell at the annual Supreme Court Review/Judge Barry Russell Awards luncheon. Photo courtesy of the United States Bankruptcy Court.



Judge Barry Russell Award winners (l. to r.) Katherine Cheng (UCLA), Nicholas Mitchell (Southwestern), Ashley Kaplan (USC), Bankruptcy Judge Barry Russell, Olga Novak (Loyola), and Kelsey Halverson (Pepperdine). Photo courtesy of the United States Bankruptcy Court.



(l. to r.) District Chief Judge George H. King installing the 2013-2014 FBA-LA chapter officers, Sharon Ben-Shahar, Kenneth Sulzer, and David K. Willingham. Photo courtesy of the United States Bankruptcy Court.



(l. to r.) Christopher T. Sukhaphadhana, Michael G. Freedman, and Ivan Lopez-Ventura at the recent Young Lawyer Division happy hour.



(l. to r.) Jackie Len and Jeffrey Payne at the recent Young Lawyer Division happy hour.



Nancy Clark, on behalf of the FBA-LA Chapter, presents to Bankruptcy Judge Thomas B. Donovan a framed copy of the judicial profile of him she wrote, which was published in the national Federal Lawyer magazine. (l. to r.) Judge Donovan, Candace Croshani, law clerk to Judge Donovan, and Ms. Clark.



(l. to r.) Chapter Past-President Evan A. Jenness, Jonathan T.D. Neil, and Sarah Conley Odenkirk at the Stolen Art & Litigating Holocaust-Era Expropriation Claims program.

Budget Funding for the Judiciary

by Robert E. Kohn



*Robert E. Kohn,
Kohn Law Group,
Inc.*

Sequestration and the resulting cuts to the budget for court operations simply mean that the federal judiciary cannot adequately perform its responsibilities. That is the message that Chief Judge George H. King and the chief judges of 86 other federal district courts delivered on August 13, 2013 to leaders in Congress. The chief judges all signed a letter to Vice President Biden and Speaker Boehner, explaining that the core constitutional responsibilities of the federal courts is threatened by the possibility that sequester funding cuts may continue.

There is reason for optimism, but no certainty, that funding for the federal courts may be restored to needed levels. The Senate Appropriations Committee recently approved an increase in court funding for FY 2014 of 7 percent over the post-sequestration funding that the judiciary received in FY 2013, which would be enough to fully fund the judiciary's FY 2014 revised estimates of budget needs. The House Appropriations Committee has now approved a smaller increase of roughly 5 percent increase over the FY 2013 post-sequestration funding. (The funding bills are S. 1371 and H.R. 2786.) Action by these committees is welcome news. Passage by the full Congress is now needed.

Nationally, the Federal Litigation Section and the FBA's Government Relations Committee continue to urge sufficient funding of federal judiciary operations. The Ninth Circuit Vice-Presidents of the FBA, West Allen of Las Vegas and Alison Bachus of Phoenix, have both been extremely active in this effort. Mr. Allen recently addressed the Senate Judiciary Committee's Subcommittee on Bankruptcy and the Courts to urge adequate funding; and Ms. Bachus joined with me and other FBA delegates on Capitol Hill for a day of meetings with legislators and their staffs.

Now, I encourage you to share this important concern with your colleagues and clients, and with our own Senators and Representatives in Congress. Thank you.

Robert E. Kohn is the Chair of the FBA's Federal Litigation Section. He can be reached at (310) 917-1011 or rkohn@kohnlawgroup.com, or followed @RobtKohn.

In Memory of Lorraine Loder, Past Chapter President

by Evan A. Jenness



Lorraine Loder,
1953-2013

Lorraine Loder was the FBA-LA President in 2005-06, and was a devoted member of our organization. FBA-LA Past-President, the Hon. Yolanda Orozco, recalls her first year on the FBA-LA Board when she was working with Lorraine while chairing the committee organizing our retirement dinner for District Judge Consuelo B. Marshall: "This was my first event - so to speak - and Lorraine was very helpful, accessible and responsive to my many calls and requests during the planning of the event. She was a great team player and made my first year on the Board a very interesting and fun one." Jeff Westerman also has fond memories of working on the event with Lorraine, describing her as "polite, even tempered and professional." Among Judge Michael Fitzgerald's recollections of Lorraine, two stand out: "After leaving the USAO for Heller Ehrman, Lorraine defended the witness at the first civil deposition I took, which was the second deposition of my life. I took the idea of 'deposition should be like trial' quite literally and was quite over-bearing. Lorraine quietly but firmly defended her client and politely made me realize I had no idea what I was doing." Later, "after taking the bench, there was a loose-end in a *pro bono* case I had that had ended-up in bankruptcy court. Lorraine competently tied-up that loose-end, for which I will always be grateful." Lorraine was our Chapter President during my second year on the Board, and I have always viewed her Board meetings as a model - she communicated clearly, effectively and efficiently. How many lawyers can do that?



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

President's Message

On October 3, I assumed the role of the President of the Los Angeles Chapter of the Federal Bar Association with great honor and excitement. I have very big shoes to fill; our outgoing President Evan Jenness has provided outstanding leadership for our Chapter and set the bar high for future Presidents. The past term has been one of the most productive and successful in recent history thanks to Ms. Jenness' tireless work and endless commitment to our Chapter. It is not surprising that, with Ms. Jenness at the helm, our Chapter was recently awarded the **2013 Chapter Activity Presidential Excellence Award** by the National FBA.

In the past quarter alone, we had numerous programs, many

of which had an emphasis on our younger lawyers. We launched a series of **Happy Hours** that have exceeded all expectations. The inaugural Happy Hour was organized by the Chair of our Younger Lawyer Division, Sandhya Ramadas of Bird, Marella, Boxer, Nessim, Dooks & Lincenberg, with the assistance of FBA member Jeffrey Payne, a judicial clerk for Ninth Circuit Judge Arthur L. Alarcon. It was held on June 13 at the Blue Cow Kitchen & Bar downtown and was attended by over 80 young attorneys, law clerks and summer associates. For the second Happy Hour, Michael Sugarman of the Law Office of Steven Goldsobel joined the organizing team. It took place on September 25 at Pink Taco in Century City and,

like the first, was an outstanding event. Our Happy Hours provide an opportunity for our younger lawyers to network and meet leaders of the FBA-LA's Younger Lawyer Division.

We also held two remarkable **Brown Bag Lunches**. The first was on June 6, with U.S. District Judge Michael Fitzgerald and Magistrate Judge Jacqueline Chooljian. The second was held on October 22, with recently appointed U.S. District Judge Fernando Olguin and Magistrate Judge Paul Abrams. Both programs were organized by Ms. Ramadas and received very high marks from participants.

On August 1, the FBA-LA, together with the District Court, presented the program
(continued on page 13)

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, the 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 the 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. The required time commitment is not substantial. 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 mentorship 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.

Supreme Court Review/Judge Barry Russell Awards by Jeffrey M. Chemerinsky

What is the extent of the President's recess appointment power? Can a state initiative effectively prohibit the use of affirmative action? Can a town board begin its regular meetings with a religious prayer?

These are just three of the many questions the Supreme Court will tackle in its October 2013 term. They were also just a few of the many issues covered at the Federal Bar Association Los Angeles Chapter's "Supreme Court Review and Judge Barry Russell Scholarship Awards" luncheon, held on October 3, 2013 at the Biltmore Hotel in downtown Los Angeles.

Each year, the FBA hosts this popular lunch event to honor students from local law schools who excelled in their school's course devoted to federal courts and practice, and to present Dean Erwin Chemerinsky's annual summary of the last term's Supreme Court decisions and a preview of the coming

year's cases. This year, over 200 judges, attorneys, and law clerks attended the event.

The event started with the swearing in the new officers of the FBA-LA chapter: Sharon Ben-Shahar, as the new President of the Chapter; Kenneth Sulzer, as the new President-Elect; David K. Willingham, as the new Treasurer; and Matthew Close, as the new Secretary. The Honorable George H. King, Chief Judge of the United States District Court for the Central District of California, administered the oath to the new officers and the new board.

Judge Russell then presented the Annual Judge Barry Russell Scholarship Awards to five students from Los Angeles's ABA accredited law schools. The five recipients this year were: Katherine Cheng, UCLA Law School; Nicholas Mitchell, Southwestern Law School; Ashley Kaplan, USC Law School; Olga Novak, Loyola Law School; and Kelsey Halverson, Pepperdine Law School. Each of the five received an individualized plaque that commemorated the honor, a \$500 check, and the latest

edition of Judge Russell's Bankruptcy Evidence Manual.

After an introduction by Ms. Ben-Shahar, Dean Chemerinsky then presented his overview and summary of the last term of the Supreme Court. He explained that several trends and themes dominated last year's term.

First, the Court remained the "Justice Kennedy Court." Dean Chemerinsky explained that in this past term, just as in the terms for the last several years, Justice Kennedy again provided the deciding vote in many of the Court's more politicized cases and was most frequently in the majority of the Court's 5-4 decisions. For example, in *Shelby v. Holder*, the Court decided five to four, with Justice Kennedy in the majority, to strike down Section 4 of the Voting Rights Act. The Court ruled that Section 4(b) of the Voting Rights Act is unconstitutional and its formula can no longer be used as a basis for subjecting jurisdictions to preclearance.

Second, the term was defined in
(continued on page 10)

New Magistrate Judges Appointed (cont. from page 12)

The Magistrate Judge position requires a minimum of five years as a member in good standing of the bar of the highest court of a state, and at least five years of active practice of law. The rigorous selection process, which is governed by statute and by regulations adopted by the Judicial Conference of the United States, includes detailed background reviews and interviews before a Merit Selection Panel consisting of attorneys and non-attorney public representatives. The Panel refers candidates to the District Court, where interviews are conducted by the District Court's Magistrate Judges Committee. The top candidates are then referred to the full Court for review, selection, and appointment.

The Central District of California is comprised of the counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura, Santa Barbara, and San Luis Obispo, and serves approximately 18.7 million people – nearly half the population of the state of California. In 2012, more than 17,000 cases were filed in the District.

FBA-LA Hosts Event on Litigating Claims of Nazi-Looted Art

by Aaron M. May



Aaron M. May,
Assistant United
States Attorney

Disclaimer:
This article was written by Mr. May in his private capacity and not as an employee of the United States government. All statements reflect only the author's own views and opinions and not those of the United States government or the United States Department of Justice.

On September 11, 2013, the FBA-LA Chapter held an intriguing panel discussion on "Stolen Art & Litigating Holocaust-Era Expropriation Claims" in downtown Los Angeles. The panel, moderated by attorney Raymond Dowd, included the Honorable Alex Kozinski, Chief Judge of the Ninth Circuit Court of Appeals, Professor Jonathan Petropoulos, and attorneys John "Skip" Byrne and Simon Frankel, all of whom had practical experience in litigating claims of art allegedly stolen by Nazi Germany. The event was well attended and included several federal jurists in the audience who weighed in with their own professional experiences and questions on the subject.

Professor Petropoulos, a world-renowned expert on Nazi-looted art who is on the faculty at Claremont McKenna College, helped place the discussion in its historical context. He stated that the Nazis were the "greatest thieves in history," stealing over 600,000 cultural objects. The professor explained that at first the Nazis used coercion to obtain these works of art and then, as was the case with most of what they did, turned to brute force.

The discussion then transitioned to the legal efforts to

return the stolen art works to its rightful owners and their heirs. Skip Byrne of the Washington, D.C. firm Byrne Goldenberg & Hamilton LLP shared his experiences of representing families whose art collections were taken by the Nazis. In particular, he talked about how "technical defenses," such as statute of limitations and laches, have been used by those who currently possess the art to defeat claims of wrongful possession.

Simon Frankel of Covington & Burling LLP helped provide the perspective of defendants in these lawsuits, given his experience representing a museum in a lawsuit involving allegedly stolen art. He stated that many museums have taken voluntary steps to return stolen art to its rightful owners without legal compulsion. He defended the use by museums of "technical defenses," stating they were often barometers of the strength of the underlying claims.

Chief Judge Kozinski stated

that he was constrained by what he could publicly say, noting that there are cases currently pending before the Ninth Circuit involving Nazi-looted art. Nonetheless, he asked several thought-provoking questions to the panelists. Judge Kozinski was one of two dissenters on the *en banc* panel that heard *Casisirer v. Kingdom of Spain*, a case involving a valuable Pissaro painting confiscated by the Gestapo during World War II. Also in attendance at the event was the Honorable Gary Feess, who was the judge who tried the *Cassirer* case in District Court.

Moderator Ray Dowd of Dunnington Bartholow & Miller LLP in New York noted the FBA's national organization has also recently urged for the creation of a Nazi-Looted Art Commission. Concerned that litigation has been time-consuming, expensive, and largely unfruitful, the FBA is asking Congress to establish a federal commission to hear claims of Nazi-taken art as several European nations have done.

(l. to r.) United States Circuit Chief Judge Alex Kozinski, FBA-LA Chapter Past-President Evan Jenness, Simon J. Frankel, Professor Jonathan Petropoulos, Raymond Dowd, and John J. "Skip" Byrne at the Stolen Art & Litigating Holocaust-Era Expropriation Claims program.



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Magistrate Judge Consent (cont. from page 1)



*A. Joel Richlin,
Foley & Lardner
LLP*

judge might provide the perfect solution.

(2) **EXPERIENCE** – By statute, magistrate judges are rigorously screened through a competitive merit-selection process in which only the most experienced and well-respected attorneys are chosen. These appointments are made without regard to political affiliation and must be confirmed by the district judges of the Court. Magistrate judges typically have at least fifteen years of federal litigation experience and come from the highest caliber law firms and government agencies. For example, magistrate judges in the Central District are former partners at highly respected law firms, as well as former supervisors in the U.S. Attorney's Office (civil and criminal divisions) and the Office of the Federal Public Defender. Moreover, the magistrate judges in the Central District have subject-matter expertise in areas ranging from intellectual property to employment, real estate, securities, antitrust, environmental, products liability, and civil rights (amongst many others).

(3) **CHOOSE YOUR JUDGE** – Programs such as the Voluntary Consent List in the Central District allow litigants to literally choose their judge from a list of available judges. The parties can select the magistrate judge best suited for their case based on the magistrate judge's prior background and experience.

(4) **ONE JUDGE FOR ALL PURPOSES** – Consenting to a magistrate judge early in a case allows

the magistrate judge to develop greater familiarity with your case than if you had proceeded before a magistrate judge only for discovery issues and then moved on before a district judge for trial.

(5) **HELP YOUR COURT** – Courts across the country are being forced to reduce services and furlough or lay off staff due to budget cuts. Magistrate judge consent programs help to redistribute the pressing civil caseload for the Court. By consenting, you help the Court further its efforts to utilize judicial resources as efficiently as possible.


For example, John Burton of the Law Offices of John Burton has been consenting to magistrate judges in Section 1983 jury trials for well over a decade. In fact, Burton recalls consenting to a jury trial before then-Magistrate Judge George H. King, now the Chief District Judge. In recent years, Burton has litigated three jury trials before Magistrate Judge Patrick J. Walsh and currently has consent cases pending before several other magistrate judges. Burton likes the greater flexibility magistrate judges have in trial scheduling and their ability to provide informal resolution of issues that may arise such as holding a telephonic conference in the middle of a deposition. Burton also likes the efficiency of one judge for both pretrial motions and trial because the magistrate judge is already

familiar with the case from ruling on the discovery motions. Burton said: "There is no magistrate judge I would not consent to. I'm a huge fan of the consent programs."

Similarly, David L. Hagan of the Law Offices of David L. Hagan recently consented to a jury trial before Magistrate Judge Carla M. Woehrle in a race discrimination case. Hagan had not previously consented to a magistrate judge, but the case was initially assigned to Judge Woehrle through the Direct Assignment Program and both parties consented. Hagan had recently attended a panel program discussing magistrate judge consent programs and liked the fact that "magistrate judges are approved by the district judges, so they are really vetted." Hagan is not sure he would have tried a consent program if not for the Direct Assignment Program, but he is really glad he did. Hagan said, "Judge Woehrle was really great. Her demeanor was professional, she was easy to communicate with, and made clear rulings. This was a difficult trial and Judge Woehrle was absolutely imperturbable. I would gladly consent again."

In sum, consenting to a magistrate judge offers many benefits to your client from scheduling and efficiency to choice of judicial officer. The next time you have a case in federal court, check to see what options are available to consent to a magistrate judge.

UPCOMING FBA-LA PROGRAM



LOS ANGELES
Federal Bar Association
Presents...

10TH ANNUAL BANKRUPTCY ETHICS SYMPOSIUM

Hon. Ernest M. Robles, United States Bankruptcy Court
Hon. Deborah J. Saltzman, United States Bankruptcy Court
Gillian N. Brown, Esq., Pachulski Stang Ziehl & Jones LLP
J. Scott Bovitz, Esq., Bovitz & Spitzer
M. Erik Clark, Esq., Borowitz & Clark, LLP

SPEAKERS:
Christie L. Cronenweth, Esq., Law Offices of Christie Cronenweth
Evan A. Jenness, Esq., Law Offices of Evan A. Jenness
Stella A. Havkin, Esq., Havkin & Shrago
David W. Meadows, Esq., Law Offices of David W. Meadows
David A. Tilem, Esq., Law Offices of David A. Tilem

TOPICS:

- Pre-Bankruptcy Planning: 20 Shades of Gray
- Technology Tips and Trap Doors
- An Ethics Conversation with Evan Jenness

FRIDAY, DECEMBER 13, 2013

8:30 A.M. - REGISTRATION 9:00 A.M. - 12:45 P.M. - PRESENTATION

ROYBAL FEDERAL BUILDING, CONFERENCE ROOM 283
255 E. TEMPLE ST, LOS ANGELES, CA 90017



(l. to r.) Summer Shelton and Elizabeth Horowitz at the annual Supreme Court Review/Judge Barry Russell Awards luncheon.



(l. to r.) Professor Jonathan Petropoulos, Bankruptcy Judge Maureen A. Tighe, and Holly Korbanski at the Stolen Art & Litigating Holocaust-Era Expropriation Claims program.

Young Lawyers Division

by Sandhya Ramadas

In the past year, the Younger Lawyers Division of the Federal Bar Association of Los Angeles has made great strides in the number and quality of events it has hosted.

We organized the Behind the Windows of the Clerk's Office program in November 2012, which gave younger lawyers a behind-the-scenes look at the workings of the Clerk's Office of the Central District.

We continued our Brown Bag Lunch program, where host small groups of younger lawyers gather in a federal judge's courtroom for an intimate conversation with a federal judge about courtroom etiquette, effective advocacy, and his or her background and biography. In the past year, FBA-LA YLD has been fortunate to host lunches with the Honorable Dolly Gee, the Honorable Carla Woehrle, the Honorable Michael Fitzgerald, the Honorable Jacqueline Chooljian, the Honorable Fernando Olguin, and the Honorable Paul Abrams. We will be hosting our next lunch in January with the Honorable Beverly Reid O'Connell

and the Honorable Michael R. Wilner.

This year, the Younger Lawyers Division also launched a brand new happy hour series. We hosted our first happy hour in June 2013, and our second in September 2013.

Both were extremely well-attended. If you are interested in organizing a happy hour, or if your firm is interested in sponsoring one, please contact Sandhya at sr@birdmarella.com.

For lawyers who are thirty-six or younger, membership in the FBA includes membership in the Younger Lawyers Division. It grants you access to our programs, including our mentorship program, where we pair you with an experienced lawyer in federal practice. Please consider joining the FBA – your membership sustains our events. If you have any suggestions for future events you would like to see, please do not hesitate to contact us. See you at one of our events!



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

Supreme Court Review (cont. from page 5)



Jeffrey M. Chemerinsky,
Caldwell Leslie &
Proctor, PC

“Dean Chemerinsky opined that the Court’s term was overwhelmingly pro-business.”

part by the importance of the standing doctrine. For example, in *Hollingsworth v. Perry*, the Court held that the official sponsors of Proposition 8, the California ballot initiative prohibiting same-sex marriage, did not have standing to appeal an adverse federal court ruling. Dean Chemerinsky explained that the Court’s ruling avoided a decision on the merits and instead provided another instance of the increasing trend of the Court’s willingness to invoke the standing doctrine as a way of deciding, or not deciding, cases before it.

Third, Dean Chemerinsky opined that the Court’s term was overwhelmingly pro-business. For example, in *Mutual Pharmaceutical Company v. Bartlett*, the Court held that makers of generic drugs could not be sued for defects in product design. The case involved a woman who was horribly disfigured after taking a generic pain medication. The Court held that federal law pre-empted any recovery under state law for failure to warn of the defects. Dean Chemerinsky drew a connection between that case and the Court’s decision in *American Express v. Italian Colors Restaurant*, another pro-business decision. In *American Express*, several businesses had brought a class-action accusing American Express of violating antitrust law by imposing excessive fees on merchants. The individual plaintiffs could have each recovered just \$38,000 under the antitrust statute, and proving an antitrust violation would have cost exponentially more than they could have hoped to individually recover. Nonetheless, the Court ruled that the plaintiffs could not bring their case as a class action because of an arbitration clause in their American Express agreements. Dean Chemerinsky explained that these cases continued an increasingly evident trend: this is a very pro-business Court.

Dean Chemerinsky then turned to a preview of the upcoming term’s key cases. Although the Court does not yet have a full docket for the coming year, it is already clear

that the coming year will have a number of blockbuster cases.

First, in *Schuette v. Coalition to Defend Affirmative Action*, the Court will determine whether a state ballot initiative intended to eliminate the use of affirmative action by prohibiting discrimination or preferences based on race or gender actually violates equal protection. The Sixth Circuit held that the statute violated the Equal Protection Clause. This case will frame the affirmative action issue differently from what the Court has seen in the past: the issue is not whether an affirmative action program is constitutional, but whether a state can prohibit its use.

Second, in *McCutcheon v. Federal Election Commission*, the Court will decide whether limitations on campaign contributions to non-candidate committees are constitutional. Since *Buckley v. Valeo* was decided almost forty years ago, the Court has distinguished between campaign contributions, which may be constitutionally restricted, and expenditures, which may not be. *McCutcheon* presents the Court with an opportunity to reconsider this distinction and potentially change the landscape of campaign finance law.

Finally, Dean Chemerinsky highlighted and discussed a case that he will be arguing before the Court in December, *United States v. Apel*. This case, arising out of California’s Central District and the Ninth Circuit, involves the application of First Amendment rights to speech outside of military bases, but on land that is owned by the federal government.

The review of the Court’s past term, and preview of coming cases, made for a lively and informative lunch. This will be a fascinating term of the Court. We can look forward to hearing about it at next fall’s luncheon.

MORE SCENES FROM RECENT FBA-LA PROGRAMS



(l. to r.) Christina Goebelsmann and Christopher J. Wu at recent Young Lawyer Division happy hour.



(l. to r.) District Chief Judge George H. King and David K. Willingham at the annual Supreme Court Review/Judge Barry Russell Awards luncheon.



(l. to r.) Manny Abascal and Rane A. Katzenstein at recent event.



(l. to r.) Dean Erwin Chemerinsky and Jeffrey M. Chemerinsky at the annual Supreme Court Review/Judge Barry Russell Awards luncheon.



(l. to r.) Carolyn Afari, Roksana Moradi, and Jonathan M. Hayes at the annual Supreme Court Review/Judge Barry Russell Awards luncheon.



(l. to r.) Stephanie Ames and Jennifer Uyeda at the annual Supreme Court Review/Judge Barry Russell Awards luncheon.

Attorney Case-Opening Pilot Project

District Court News Announcement:

The Court has established a pilot project which allows for the electronic filing of new civil cases. Beginning October 7, 2013, attorneys may open new civil cases in the CM/ECF System and file both new and amended complaints electronically in the following kinds of cases only: student loan cases (filed pursuant to 20 U.S.C. § 1080, et seq.); patent, trademark, and copyright

cases; and Employee Retirement Income Security Act ("ERISA") cases (filed pursuant to 29 U.S.C. § 1001, et seq.).

For more detailed information about the Attorney Case-Opening Pilot Project, refer to the Court's Amended General Order No. 13-01. For instructions on filing new civil cases electronically, refer to the Attorney Case-Opening Pilot Project User Manual. Both documents are available on the Court's website at

www.cacd.uscourts.gov/e-filing/civil-case-opening, as are step-by-step training videos demonstrating the electronic case-opening process.

The Pilot Project shall be in effect from October 7, 2013, to December 1, 2014. The Court anticipates that the electronic filing of case-initiating documents will eventually become mandatory in the Central District of California.

Alka Sagar and Douglas F. McCormick Selected as United States Magistrate Judges

From the
Clerk of the
District
Court



*Terry Nafisi,
District Court
Executive and
Clerk of Court,
United States
District Court,
Central District of
California*

(as reported in an undated press release)

The United States District Court for the Central District of California announces the selection of Alka Sagar and Douglas F. McCormick as United States Magistrate Judges. Judge Sagar, who became the first Indian-American female federal judge in the nation when she was sworn in on August 21, will sit in Los Angeles in the Court's Western Division, filling the position vacated by former Magistrate Judge Fernando M. Olguin when he was appointed as a District Judge in January 2013. Judge McCormick, who was sworn in on August 23, will sit in Santa Ana in the Court's Southern Division, filling the position vacated by former Magistrate Judge Marc L. Goldman, who retired in April 2013.

Prior to her selection as a Magistrate Judge, Judge Sagar had served as an Assistant U.S. Attorney in the United States Attorney's Office in Los Angeles since 1987, serving as a Deputy Chief in the former Major Crimes Section since 1991 and as a Deputy Chief in the office's Major Frauds Section since 2001. As an Assistant U.S. Attorney, Judge Sagar handled and supervised complex fraud, money laundering, and criminal tax matters from investigation through prosecution and appellate review, and was the recipient of an Attorney General's Award for Distinguished Service for her prosecution of over 70 lawyers and doctors involved in a kickback scheme. From 2004 to 2006, she also served as a judge *pro tem* for the Los Angeles County Superior Court. Before joining the U.S. Attorney's Office, Judge Sagar was an associate at two law firms in Los Angeles. She received her B.A. from the University of California, Los Angeles (UCLA) in 1981, graduating summa cum laude and Phi Beta Kappa, and her J.D. from the UCLA School of Law in 1984.

Prior to his selection as a Magistrate Judge, Judge McCormick had served as an Assistant U.S. Attorney in the United States

Attorney's Office in Santa Ana since 2001, and as a Deputy Chief of that office since 2007. As an Assistant U.S. Attorney, Judge McCormick handled criminal cases at all stages from investigation through trial and appellate review, including the successful prosecution of seven corporate executives under the Foreign Corrupt Practices Act and the prosecution of 29 defendants related to the Mexican Mafia's control of gang activity on the streets and in the jails of Orange County. In 2008, Judge McCormick received an Attorney General's Award for Distinguished Service for his work on a domestic terrorism case against four members of a prison-based group plotting to attack military recruiting centers and synagogues. Before joining the U.S. Attorney's Office, he worked at Latham & Watkins in Orange County. Judge McCormick served as a law clerk to the Honorable Charles E. Wiggins of the U.S. Court of Appeals for the Ninth Circuit from 1996 to 1997 and to the Honorable Gary L. Taylor of the U.S. District Court for the Central District of California from 1995 to 1996. He received his B.A. in 1991 from the University of California, Irvine, graduating magna cum laude and Phi Beta Kappa, and his J.D. in 1995 from the UCLA School of Law, where he was a member of the *Order of the Coif*.

Including the positions now occupied by Judge Sagar and Judge McCormick, the Central District of California has 24 authorized full-time and one part-time Magistrate Judge positions. The duties of Magistrate Judges include conducting preliminary proceedings in criminal cases, the trial and disposition of misdemeanor cases, conducting discovery and various other pretrial hearings in civil cases, the trial and disposition of civil cases upon consent of the litigants, and other matters as may be assigned. Magistrate Judges are appointed for a term of eight years, and can be reappointed to additional terms.

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President's Message (cont from page 9)

Hyperlinking – How to Improve Your Pleadings & Impress the Judge. U.S. District Court Judge Dean Pregerson and Magistrate Judge Cheryl Zwart of the District of Nebraska explained the benefits and the mechanics of Hyperlinking, which will allow judges with the click of a mouse to view a pertinent case, declaration, exhibit or other part of the record. The program was organized by Judges Pregerson and Zwart, and was coordinated by our past-President Evan Jenness and FBA member Kimberly Dunne of Sidley Austin.

On September 11, we held the program **Stolen Art & Litigating Holocaust-Era Expropriation Claims**. Raymond ("Ray") Dowd of Dunnington Bartholow & Miller moderated the distinguished panel of Chief Ninth Circuit Judge Alex Kozinski, John J. ("Skip") Byrne of Byrne Goldenberg & Hamilton LLP, Simon J. Frankel of Covington & Burling LLP, and Prof. Jonathan Petropoulos of the Claremont McKenna College. Attendees were treated to a fascinating discussion regarding claims to Nazi-looted artworks, the legal and practical obstacles facing claimants of property stolen by the Nazis and the moral and other issues confronting institutions possessing property against which claims have been made.

Finally, on October 3, our new Board and slate of officers were sworn-in during our ever-popular **Annual Supreme Court Review and Judge Barry Russell Law School Scholarship Awards**. As always, Dean Erwin Chemerinsky's presentation regarding the past term of the Supreme Court was insightful, thought-provoking, and entertaining. This program was organized by the Honorable Barry Russell, a long-standing FBA-LA Board member and past-President of the National FBA, together with Board member Hillary Potashner of the Federal Public Defender.

During the past quarter, our Chapter also was awarded the **2013 Outstanding Newsletter Award**. We thank our Newsletter editor Ron Maroko of the U.S. Trustee's Office for his hard work that results in a fabulous Newsletter each quarter and has earned us this great honor.

During its most recent meeting, the Board of FBA-LA welcomed to its ranks two new members -- the Hon. Audrey B. Collins and Kristina Azlin of Holland & Knight. We are thrilled to have Judge Collins and Ms. Azlin join our board and look forward to working with them.

In the coming year, the Chapter remains committed to serving its membership by presenting engaging educational programs and social events, bolstering our mentorship program and maintaining close ties to the U.S. District Court. Our goals

for the upcoming term including strengthen our ties to other bar organizations and to local law schools. These goals are particularly appropriate this year, when Board member Jeff Westerman of Westerman Law Corp. is serving as Chair of the Litigation of the Los Angeles County Bar Association and chapter member Robert Kohn of Kohn Law group is serving as Chair of the Federal Litigation Section of the FBA. In addition, FBA member Stevan Sable initiated the first student chapter of the FBA -LA at UCLA. We hope to open similar chapters at other local law schools.

We look forward to our award-winning **Annual Bankruptcy Ethics Symposium** on December 13. Board member Ron Maroko chairs this popular program, which as always, will feature an impressive slate of speakers on the latest issues relating to ethics in bankruptcy practice.

We are also excited about our upcoming **Brown Bag Lunch** on January 15, 2014, organized by FBA member Jeffrey Chemerinsky of Caldwell Leslie. Newly appointed U.S. District Court Judge Beverly R. O'Connell and Magistrate Judge Michael R. Wilner will be our hosts.

On January 25, we will hold our popular **Taking the Step to Federal Court**. This "nuts and bolts" program is designed to aid both new admittees and attorneys with limited experience in federal court in the practical aspects of civil federal litigation. It is organized by Board members David Willingham of Caldwell Leslie and Joshua Hamilton of Paul Hastings.

Board members John Carson of Foley & Lardner LLP and David Willingham of Caldwell Leslie are spearheading this year's **State of the Circuit/District** luncheon program, which will be held on March 14 at the Doubletree Hotel. Attendees will hear the insights of Ninth Circuit Judge Paul J. Watford, Chief District Court Judge George H. King, Chief Magistrate Judge Suzanne H. Segal and Chief Bankruptcy Judge Peter H. Carroll.

I, along with President-Elect Ken Sulzer of Proskauer Rose, Treasurer Dave Willingham of Caldwell Leslie and Secretary Matthew Close of O'Melveny & Myers, look forward to serving FBA-LA's membership in the coming term. We welcome suggestions for enhancing the experience of our existing membership, and attracting new members. Please visit our website at www.fbala.org to register for events, join the FBA, or find out more about our Chapter.

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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 judges and lawyers to professionally and socially interact. and extends student scholarships.

**“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 approximately 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.