

Federal Bar Association

Los Angeles Chapter

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Summer 2020

Plans to Reopen the Central District's Courthouses

By Brandon E. Martinez, Esq.

On June 9, 2020, the Hon. Cormac J. Carney and the Hon. Michael W. Fitzgerald, President of the Federal Bar Association's Los Angeles chapter, updated the bar about the District's plans for reopening its courthouses in the COVID-19 era.

Dual Challenges Facing the Central District

The webinar began with a discussion of two simultaneous challenges facing the Central District this summer and fall: security concerns following recent civil unrest in downtown Los Angeles and uncertainty over when the District will be able to resume in-person proceedings and jury trials amidst the ongoing COVID-19 pandemic. Judge Carney emphasized that, with the health and safety of the bar, litigants, and the public as its touchstone, the Central District is well positioned to weather both challenges. He also stated that the District's judges understand and are sensitive to the fact that recent events have been professionally, economically, and personally difficult for members of the bar, their clients, jurors, and the public—particularly for persons and communities

of color—and that a safe and healthy resumption of in-person proceedings is essential to alleviating some of that disruption.

Three-Phase Plan for Safely Reopening

On June 22, the Central District is slated to enter the second phase of its three-phase plan for reopening its courthouses. These phases offer a general framework for the resumption of in-person proceedings, but the decision whether to hold an in-person hearing or trial and the procedures for doing so are up to the judge assigned to the case.

During Phase One, the District's courthouses were closed to the public while its judges and administration focused on establishing reopening procedures, identifying the personnel and resources necessary for in-person proceedings to resume, and readying the courthouse's public spaces to safely accommodate judges, attorneys, litigants, and the public. Magistrate judges have continued to hold initial appearances in criminal cases, often via videoconference.

(Continued on pg. 7)

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A portrait of Michael W. Fitzgerald, a man with a beard and glasses, wearing a black judicial robe over a white shirt and a blue patterned tie. He is standing in front of a bookshelf filled with law books and an American flag to his left.

PRESIDENT'S MESSAGE

Honorable Michael W. Fitzgerald
FBA CHAPTER PRESIDENT

You don't need me to tell you what a difference these last few months have made, but let me offer specifics about our Chapter. In my last President's Message, I mentioned that the national Federal Bar Association would soon celebrate its centennial with elaborate events in mid-March in Washington, including a reception at the Supreme Court and a black-tie gala at the National Portrait Gallery. Cancelled. I invited you to join us at our annual Chapter events in April and May, like the spring luncheon on the State of the District/Circuit and the reception for the federal judiciary. Cancelled. I mentioned the once-and-future fall luncheon featuring the Barry Russell Awards and Dean Chemerinsky's Supreme Court review. Cancelled.

As is true with all of you, we've been forced to adapt. Your Chapter has hosted two webinars on the pandemic policies of the District Court or Bankruptcy Court, both of which were joined by an audience of hundreds. We also hosted a "Pride" webinar featuring LGBT judges in the Ninth Circuit, co-sponsored by our sister Chapters throughout California and Oregon. The Chapter's new Program Committee is planning an ambitious series of webinars about racial justice, the federal courts' involvement with the LAPD, and civil litigation involving police use of force. We will once again offer our annual fall program with Judge Russell and Dean Chemerinsky, not as a luncheon at the Biltmore Hotel but as a webinar.

The national organization remains a resource for practice tips and COVID-19 resources. You can find those and more at www.fedbar.org. And I've directed that the Statement on Equal Justice of the national Board of Trustees be reprinted in this newsletter.

In other words, you still belong to a relevant – indeed thriving – local and national organization. The following paragraph from my last message still remains true:

"It is my honor to serve this year as the President of the Federal Bar Association of Los Angeles (FBA-LA). Since 1937, the FBA-LA has provided a forum for all in the federal legal community – federal judges, civil practitioners, prosecutors, criminal defense attorneys, transactional lawyers, administrative agency lawyers, federal court administrators, and academics with a wide array of interests – to join together to advance the shared mission of strengthening the federal legal system and promoting the administration of justice."

Warmest regards,

Michael W. Fitzgerald
President, Federal Bar Association-Los Angeles



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Message from the Clerk's Office

By Kiry K. Gray, District Court Executive for the United States District Court, Central District of California

When the Federal Bar Association reached out to me to submit an article for their newsletter, I was going to use the opportunity to write about rules, renewal fees, and upcoming events related to the court, but something inside of me could not get my fingers to type such a message.

Today, my heart is heavy with the unprecedented times we are facing. We are in the middle of a pandemic and just when I thought things could not get any worse, racism is at an all-time high in our country. I often think about Thurgood Marshall and many other judges that currently sit on the federal bench who are no strangers to disparity.

I stand on the shoulders of many that have paved the way for me. During my 35 years with the court, I have seen positive changes and I am very proud to be a part of the court family, but we are not immune to the challenges that confront our larger community.

Each of us has the ability to create real change by understanding the need to embrace diversity with an emphasis on making a difference in society and equal justice for all. For me, the change starts in the home. My family continues to have conversations that address race, sexual orientation, religion, and the impact protesting is having on our country. While some of these conversations may not be easy, they are needed to understand the current climate that we are living and breathing. Fortunately, we can no longer turn a blind eye to the disparities occurring around the world. The tasks fall on us as parents, as friends, and as leaders to educate our children and teach them to love all human beings and be a pioneer for positive change.

In closing, we must continue to search our hearts and lead by example. I encourage each of you to build your legacy of having treated people with dignity and respect, even when you are struggling with change. Please have the courage to take a stand even if you have to stand alone. If we don't stand up for what is right, history will repeat itself. We must not let that happen.

The National Federal Bar Association's Statement on Equal Justice

June 9, 2020

The FBA mourns the loss of George Floyd and countless other victims who have suffered the disparate impact of police brutality, hate crimes, and prejudice. Too often and for too long, equality has been denied to people of color.

The arc of the moral universe does not bend toward justice on its own. As attorneys we are duty-bound to support the Constitution of the United States. As members of the association, we are compelled by the organization's mission to strengthen the administration of justice by serving the interests and the needs of every member of the public we serve. We must move with intention and action to end all injustice that degrades the sanctity of our laws and to ensure the promise of equality and justice for all.

We call on ourselves to do better as a profession. We are deeply cognizant that the legal profession remains one of the least diverse professions in the nation. The FBA is dedicated to the full and equal access to, and participation from all individuals in the association, the legal profession, and the justice system regardless of race, gender, ethnicity, national origin, religion, age, sexual orientation, gender identity, disability, or any other unique attribute. We are committed to working to ensure that our entire legal community fully reflects and includes the rich diversity of our nation.

The FBA's Diversity and Inclusion Committee will continue to play a leadership role in our association's renewed dedication to equal justice. We are further committed to working with allied organizations to equip our membership to engage in justice-seeking causes in ways big and small. For those who are looking to assist those in need of legal representation or assistance in the wake of recent events, please visit our resources page.

To the members of the legal profession and beyond who have dedicated their lives to equal justice, we are grateful for your leadership as we forge our path ahead together.

* * *

Board members with judicial and other governmental positions did not participate in the issuance of this statement.

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Plans to Reopen the Central District's Courthouses

(Continued from pg. 1)

In Phase Two, which is anticipated to begin in late June, the Court will focus on alleviating a backlog in the disposition of criminal cases that has developed since the District's courthouses closed in March. To that end, some in-person proceedings will resume in criminal matters but will be limited primarily to changes of plea and sentencing hearings. In-person proceedings may be held in civil cases but will be limited to emergency matters.

In Phase Three, the District will resume holding criminal and civil jury trials with physical-distancing measures. The logistical challenges for doing so are many and complex: Should witnesses and attorneys be required to wear masks while speaking in court? What happens if a prospective juror's mask displays an image or slogan that appears inappropriate for the matter being tried? How can jurors maintain physical distance from witnesses, attorneys, and each other without compromising their ability to assess the credibility of witnesses and counsel—the heart of the jury's function—especially in criminal cases with fourteen-person juries? How will physical distancing be maintained during restroom breaks? If physical-distancing measures require jurors to hear evidence from the courtroom's gallery, how can the Court accommodate members of the press and the public?

A Central District working group and a national working group assembled by Chief Justice John Roberts are continuing to study and propose solutions to these logistical issues and a litany of others. Given this enormous complexity and current physical-distancing guidelines, Judge Carney doubts that the Central District will hold any jury trials in June or July but hopes that it will be able to safely resume doing so in August, September, or October.

Key Reopening Takeaways for the Central District

As Central District courthouses reopen, practitioners should keep several considerations in mind:

- Expect temperature checks, new signage, and physical-distancing requirements when entering and moving around the courthouse, and build in time for resulting delays. Before visitors undergo the usual security screening, court personnel will take their temperatures and ask whether they have had contact with anyone who has tested

positive for COVID-19 and whether they are experiencing any of the disease's symptoms. After visitors clear security, new signage will direct them to open courtrooms. Court security officers will ensure that no more than two people occupy an elevator at a time. And all persons in the courthouse must maintain appropriate physical distance at all times, with CSOs monitoring compliance.

- Except for visitors under two years or with medical conditions that make mask-wearing difficult, visitors must wear face masks at all times when entering and moving about the courthouse. Each judge may set rules for mask-wearing inside his or her courtroom. If a visitor does not have a mask, court staff will provide one. Judge Carney noted that opinions on mask-wearing vary amongst the District's judges: some judges are likely to require that all persons inside their courtrooms wear masks at all times, while others may require CSOs, jurors, and observers to wear masks but instruct witnesses, litigants, or attorneys to take them off while addressing the Court.
- Expect modifications to courtrooms to promote physical distancing. Plexiglas will be installed in some (and, perhaps, eventually all) courtrooms to physically separate judges, witnesses, and parties from one another.
- Judges will be encouraged to limit the number of people in their courtrooms to permit physical distancing. Overflow rooms with live audiovisual feeds will be used to accommodate members of the press and public who, due to physical-distancing measures, cannot be accommodated in the courtroom, particularly during jury trials; high-profile changes of plea; or criminal sentencings that are high-profile or at which more than a few victims are expected to testify. Judges will also be encouraged to avoid "cattle call" style hearing calendars, which require many attorneys to gather in and immediately outside the courtroom, and instead to stagger proceedings to minimize crowding.

(Continued on pg. 9)

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Plans to Reopen the Central District's Courthouses

(Continued from pg. 7)

- Especially in Phase Two but also in Phase Three, in-person criminal proceedings generally will take priority over in-person civil proceedings to ensure compliance with Speedy Trial Act and constitutional requirements. Many judges are likely to be amenable to defendant requests to hold criminal proceedings by videoconference—particularly if doing so will avoid a two-week quarantine period for incarcerated defendants returning to the MDC—but also to defendant requests to appear in person for weightier proceedings, like changes of plea or sentencings. Equipment limitations may constrain the Court's ability to order remote criminal proceedings.
- During Phase Two, judges who elect to hold civil proceedings are likely to do so either telephonically or by videoconference, but some may be open to in-person appearances if the matter is sufficiently urgent and if proceedings can be held safely for all involved. On the one hand, judges may find it difficult to assess witness credibility (such as during a bench trial) telephonically or via videoconference. Some judges may also be concerned about delays due to unanticipated technical issues, and still others may not feel comfortable holding sealed or otherwise sensitive proceedings via potentially unsecure videoconferencing technology. On the other hand, a judge may be unwilling to order an in-person proceeding if personal circumstances make doing so difficult or potentially dangerous for a party, witness, or attorney.
- If you or your assigned judge wishes to hold a jury trial, understand that the Clerk's Office will need to send out jury summonses especially for your case and that those summonses must be sent at least a few weeks before voir dire begins. Historically, the Central District has sent jury summonses six weeks before trial is scheduled to begin, with reminder notices sent to prospective jurors every two weeks. The amount of lead time required during Phases Two and Three will vary based on current administrative capacity and the urgency of the trial, but account for substantial lead time—at least two or three weeks, and as long as six weeks—when requesting a trial date. By early July, the District will likely be able to provide further clarity on the timeline for summoning jurors.
- Given the unique strain that holding a trial during a pandemic may pose on parties, attorneys, witnesses, and jurors, and because physical-distancing requirements may complicate both the completion of discovery and the conduct of trial itself, judges are likely to be receptive to stipulations to continue trial dates, especially during Phase Two.
- For the same reasons, when setting initial case-management plans, judges may be somewhat more indulgent of requests to set longer discovery schedules, with trial dates pushed farther out as a result.
- Given the administrative and logistical complexities of holding jury trials during Phases Two or Three, it may make sense to stipulate to a bench trial, particularly if the nature and circumstances of your case (e.g., witness availability) make having a firm trial date especially important. Bench trials may stand a better chance than jury trials of going forward sooner.
- Judges may be flexible about extending discovery to permit in-person depositions. Keep in mind that, although resolving discovery disputes (including over the propriety of remote depositions) is ordinarily the responsibility of the assigned magistrate judge, the decision whether to move your discovery deadline and trial date is for the district judge. The nature or circumstances of some cases may make remote depositions inequitable or a poor substitute for in-person testimony. But in a civil case that has lingered on the docket for some time, a district judge may be unlikely to accept COVID-19 as a reason for continuing discovery to allow for an in-person deposition.

(Continued on pg. 10)

Our Paths to the Bench: A Conversation with LGBT + Judges

By Rami Bachour, Esq.

On June 15, 2020, the U.S. Supreme Court ruled that lesbian, gay, bisexual, transgender, and queer+ (LGBTQ+) employees were protected from workplace discrimination under Title VII of the Civil Rights Act of 1964. *Bostock v. Clayton Cty., Georgia*, No. 17-1618, 2020 WL 3146686 (U.S. June 15, 2020). The 6-3 decision, written by Justice Gorsuch and released in the middle of pride month, highlighted how far the LGBTQ+ rights movement has come in the last several decades. After all, it was not that long ago that the Supreme Court held, in another 6-3 opinion, that homosexuals could be excluded under U.S. immigration laws because of their “psychopathic personality.” *Boutilier v. Immigration & Naturalization Serv.*, 387 U.S. 118 (1967).

Against this backdrop, on July 2, 2020, the Los Angeles Federal Bar Association, along with several co-sponsors, held an online webinar with a panel of LGBTQ+ judges discussing their respective paths to the bench. Over 160 attorneys, law students, and FBA members streamed live as Moez M. Kaba, partner at Hueston Hennigan LLP, moderated a discussion with a panel of four esteemed judges—the Honorable Patrick J. Bumatay (9th Cir.), the Honorable Michael W. Fitzgerald (C.D. Cal.), the Honorable Michael J. McShane (D. Ore.), and the Honorable Maureen A. Tighe (Bankr. C.D. Cal.).

(Continued on pg. 12)

Plans to Reopen the Central District’s Courthouses

(Continued from pg. 9)

The District-wide requirement for courtesy copies is expected to be suspended through Phase Three. But if a judge orders courtesy copies by standing order or in a particular case, the parties must comply with that requirement.

Above all, keep in mind that the decision whether to hold proceedings and the authority to establish procedures for doing so rest ultimately with the judge assigned to your case. The Chief Judge and District administration will establish policies for shared public spaces in the courthouses and default rules for proceedings, but individual judges will set policies for their own dockets and courtrooms and can deviate from any default rule by standing order or on a case-by-case basis. Check your judge’s page on the Central District’s website or with his or her chambers to ensure you comply with the judge’s preferences.



Brandon E. Martinez, Esq., is an attorney with Munger, Tolles & Olson LLP. After graduating from Stanford Law School, he clerked for the Honorable John B. Owens of the U.S. Court of Appeals for the Ninth Circuit and the Honorable Valerie E. Caproni of the U.S. District Court for the Southern District of New York.

The views expressed in this article are exclusively those of the author and do not necessarily reflect those of Munger, Tolles & Olson LLP or its partners. This article has been prepared for informational purposes only and does not constitute legal advice. This information is not intended to create, and receipt of it does not constitute, a lawyer-client relationship. Readers should not act upon this without seeking advice from professional advisers.

A Message from the National Younger Lawyer's Division

Our country and world have suffered yet another loss. On Memorial Day, May 25, 2020, in Minneapolis, Minnesota, George Floyd was brutally killed by a police officer as three other officers stood by and did nothing to stop him. His death was then broadcasted for the entire world to see. On behalf of the Federal Bar Association's Younger Lawyers Division, I write not only to send our deepest condolences to Mr. Floyd's family and loved ones (may he continue to rest in peace). But also, I write to speak truth to power. As a division of the FBA, the YLD supports the equal and equitable administration of justice for all, regardless of race, ethnicity, national origin, gender, gender identity, sexual orientation, religion, disability, age, socio-economic status, or any other unique attribute. We join our community and stand in solidarity with our sister affinity bar associations, especially the National Bar Association and Hispanic National Bar Association, to honor the lives of Mr. Floyd and the countless others taken too soon, to hold our government officials, law enforcement, police, and other institutions accountable, and to encourage those institutions to combat the systemic disparities and criminal injustice present in our respective states and nation.

While we grieve the losses, we witness communities in Minneapolis and around the world coming together to heal, support one another, and rebuild safer, stronger, better-connected communities. The YLD wants to be a part of this healing process and continued change for the better. To that end, for those of you who want to learn more about some of the systemic injustices that precipitated the current state of affairs, volunteer or donate to nonprofits who serve those who were already displaced and those who may have become displaced because of the recent riots, and most importantly, become proactive during this time to influence positive change, the YLD is providing a non-exhaustive list of resources that can be found on the FBA website to assist in this important work. Further, we are providing a list of resources to help attorneys and their families cope and grieve, because many of us are. Our hope is that the list of resources will be updated periodically.

In addition, given the challenges presented by the coronavirus pandemic and the increased urgency to address the necessary improvements needed to our criminal justice system and to remove systemic racial and socio-economic disparities, pro bono work is needed now more than ever. I am challenging our YLD members to complete at least 50 hours of pro bono related to these issues between May 1, 2020, and September 30, 2020, as part of our StepUp Challenge. The YLD will give special recognition on our webpage to members who complete the challenge. Of course, pro bono work should not begin and end with this challenge. It is our expectation that the pro bono work will be ongoing, as that is what is expected of us, and it is simply the right thing to do.

All individuals deserve to be treated equally and equitably. We look forward to a better tomorrow. With your help and the help of so many others, we are hopeful we will get there.

In continued partnership,
Adine S. Momoh, Esq.
Chair, FBA Younger Lawyers Division

The Younger Lawyers Division of the Federal Bar Association has issued this statement in its name only and not necessarily that of the national Federal Bar Association. The position does not necessarily reflect the views of members of the association who are judicial officers or occupy government positions whose identification with the position would conflict with their official responsibilities. Board members of the division affiliated with the judicial and other governmental positions did not participate in the issuance of this statement.

Our Paths to the Bench: A Conversation with LGBT + Judges

(Continued from pg. 10)

Mr. Kaba began by noting that despite the speed with which the LGBTQ+ movement has gained mainstream acceptance, representation on the bench has not caught up. In fact, one cannot accurately measure the LGBTQ+ diversity of the courts because the Federal Judicial Center does not compile that statistic like it does with age, gender, and race. To better understand why LGBTQ+ representation has trailed the movement and why it is important, Mr. Kaba asked the panel to describe their path to the bench and how, if at all, their sexual orientation impacted that journey.

Judge Bumatay, the first openly gay judge on the Ninth Circuit, and only the second openly gay federal circuit court judge, described his path as “unexpected.” He revealed that while he aspired to have a career in public service, a judgeship was not something in his sights. But after a series of “lucky” events, including time in D.C. at the Department of Justice, he was asked to interview for a judicial opening on the Ninth Circuit—a request he obliged. Judge Bumatay speculated that while being openly gay may have set him apart from his peers, he did not believe that it affected his confirmation. He also stressed the importance of aspiring judges to take opportunities to demonstrate their commitment to public service.

For his path, Judge McShane discussed the challenges he faced on his way to the bench. He described his story as having been given “two passports” in life: a privileged passport (as a white man) and a disadvantaged one (as a gay man). He confessed that he began a career in public service in a way to survive in a profession that was openly and legally hostile to the LGBTQ+ community. As Judge McShane recalled it, the gay community had few friends in the 1980s—the Supreme Court had just ruled that States could outlaw homosexuality in *Bowers v. Hardwick*, 478 US 186 (1986), and neither the Department of Justice nor the courts nor private practice wanted to hire a gay attorney. So when he was offered a job as a public defender, with the promise that his orientation would not disadvantage him, he gladly accepted.

Reflecting on the changing ideological tides, Judge McShane explained that the same “disadvantaged” passport that led him to become a public defender would evolve to become a key strength when applying to the judiciary in 2012, as the Obama administration strove to diversify the bench.

Judge Fitzgerald also acknowledged that his identity helped shape his career as a litigator. He mused about a time in 1986 when he was studying for the bar when a classmate came up to him and told him about the just-released decision of *Bowers v. Hardwick*. He then contrasted that memory with the pro bono work he did in *Buttino v. FBI*, 801 F. Supp. 298 (N.D. Cal. 1992), a case that led to the FBI’s renunciation of its prior practice of disqualifying openly LGBT applicants. Judge Fitzgerald explained that the shifting acceptance of the LGBTQ+ communities paralleled his growing desire to serve the public, eventually leading to his 2012 confirmation to the bench.

Chief Judge Tighe described the effect of her LGBTQ+ identity as both a benefit and a drawback. It was a benefit during her time in private practice, where she took on LGBTQ+ pro bono cases that gave her trial experiences that she would not have otherwise received elsewhere (e.g., one of her first cases was suing a lesbian bar that discriminated against Black women through a pretextual dress code policy). It was not until Chief Judge Tighe entered the public sector that she realized how her lesbian identity could be a “liability.” She recounted times when her security clearance was held up despite her qualifications, simply for being gay. At one point, she had to prove that her daughter’s adoption was legally valid. But these hurdles only made Chief Judge Tighe want to thrive and let her merits shine through.

Mr. Kaba also asked the judges to explain why representation on the bench matters. Judge Fitzgerald and Chief Judge Tighe noted that it is imperative that the bench consist of people who are sensitive to the particular issues of their community.

(Continued on pg. 14)

JUDICATE WEST IS HONORED TO WELCOME HON. ANDREW J. GUILFORD, RET. TO OUR EXCLUSIVE ROSTER OF NEUTRALS



We congratulate Judge Guilford on his retirement from the U.S. District Court after nearly 14 years of distinguished service. He sat by designation with the Ninth and Federal Circuit Courts of Appeal. He also served on the Multidistrict Litigation Panel and was a Patent Pilot Program Judge.

Before his appointment to the bench, he spent more than 31 years as a trial lawyer litigating a wide variety of cases including intellectual property, unfair competition, finance, and professional liability. In a testament to his early trial activity, in 1992, at the age of 42, he was one of the youngest to be elected to the American College of Trial Lawyers.

He is available to serve as a neutral nationwide.

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Our Paths to the Bench: A Conversation with LGBT + Judges

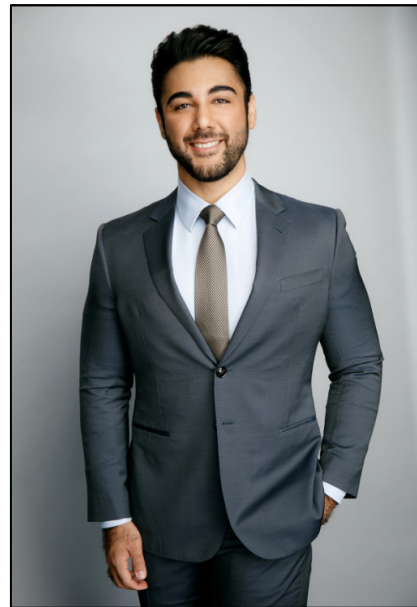
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Moreover, a bench that reflects the demographic of the people it serves fosters a sense belonging and understanding. And finally, having a diverse bench would give underrepresented communities role models to look up to. In the words of Judge Fitzgerald, the reason he never considered becoming a federal judge was that in the 1980s, there were no openly gay federal judges and therefore the idea did not seem realistic. This sentiment was echoed by Judge McShane. Chief Judge Tighe similarly agreed and recounted how inspired she was when she saw strong women judges join the bench, as it proved that such a position was not just for the privileged few.

Mr. Kaba asked the distinguished group to end by offering practical advice to the listeners and identifying what advocacy skills they believed were most effective. Judge Bumatay stressed that oral arguments can change a judge's mind. And to that end, a great advocate should know what points to concede and be ready to explain why the court should nonetheless adopt their position. Judge Fitzgerald agreed, and added that advocates should never turn to ad hominem attacks because it discredits everyone involved.

Judge McShane concurred, explaining that judges value kindness over personal attacks, and small acts that appear innocuous, like granting opposing counsel an extension, go a long way with the bench.

Mr. Kaba concluded the webinar by thanking the panelists for their inspirational and candid words, and for being role models for future attorneys.



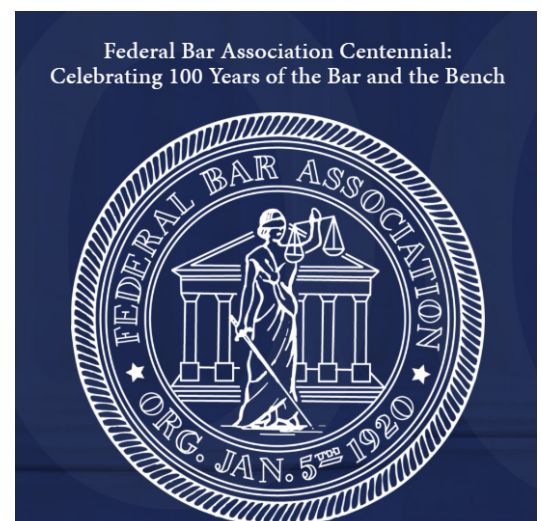
Rami Bachour is an associate with Hueston Hennigan LLP.

Resources for Being Proactive to Influence Positive Change and Advance Racial Justice

The Federal Bar Association has assembled a non-exhaustive list of potential resources. The list includes:

- Pro bono and legal resources
- Resources for learning
- Resources for coping and healing
- Resources for volunteering and donating, and
- Additional resources for being proactive to influence positive change

Find out more at [www. https://www.fedbar.org/resources-for-being-proactive-to-influence-positive-change/](https://www.fedbar.org/resources-for-being-proactive-to-influence-positive-change/)



Consenting to Magistrate Judges in Federal Civil Actions

By Hon. Michael R. Wilner, U.S. Magistrate Judge

Reprinted from Advocate Magazine, Consumer Attorneys Assoc. of Los Angeles, March 2020

When litigants file most civil actions in the United States District Court for the Central District of California, they have the opportunity to participate in programs that allow them to consent to have magistrate judges handle the cases. Under these programs, the selected magistrate judge becomes the assigned judge for all purposes in the district court. The Ninth Circuit reviews final judgments from consent cases in the same manner as any other appeal from the district court.

This article briefly describes the Central District's two consent programs, their procedures, and further resources available for practitioners to review.

Traditional case assignment

Most civil cases in this district are randomly assigned to a district judge and a magistrate judge. The district judge sets the schedule for the action, rules on dispositive motions, and conducts the trial in the case. The assigned magistrate judge typically resolves discovery motions and can handle settlement conferences and other litigation issues at the district judge's direction.

Voluntary Consent List

At any time before trial, litigants may consent to transfer the case to the initially assigned magistrate judge or any magistrate judge listed on the Court's Voluntary Consent List. The parties jointly fill out a short consent form (CV-11D), file it with the assigned district judge for consideration, and then the clerk's office presents the form to the magistrate judge.

Note that the parties may request a transfer to any magistrate judge on the Voluntary Consent List, not just the originally assigned magistrate judge. Also, parties are encouraged to jointly contact the magistrate judges or their courtroom deputy clerks before making a transfer request – they are often available to speak with the parties to discuss potential trial dates and other case-specific scheduling issues early in the transfer process. Attorneys may find that this accessibility and interaction (not available in a typical judicial assignment scenario) to be valuable in deciding whether to consent to a magistrate judge.

After a case is transferred to a magistrate judge, that judge has authority to set all dates (discovery,

pretrial, trial, etc.) in the action. Additionally, the magistrate judge will rule on all issues, including discovery disputes, dispositive motions, and motions in limine, and will preside over any jury or bench trial in the case. If appropriate, the assigned magistrate judge may ask another magistrate judge to hold a settlement conference in the reassigned matter.

There are currently 16 magistrate judges in the Court's three divisions who are on the Voluntary Consent List. For more information, please visit the Court's website at cacd.uscourts.gov, click on the Judges' Requirements tab, and navigate to the Court Programs section, where there is a tab on the left for the "Voluntary Consent List of Civil Cases to Magistrate Judges Program."

The full Voluntary Consent List, a link to Form CV-11D, the Court's most recent General Order regarding the Consent Program, and brief biographies of the magistrate judges are also available there.

Direct Assignment Program

The Court also directly assigns certain civil actions to magistrate judges without designating any district judge. To encourage consents under the Direct Assignment Program, these cases typically involve a single plaintiff and single defendant, and do not include class actions.

In Direct Assignment actions, the parties generally have 42 days from service of process (or in cases originally filed in state court, 14 days from removal to federal court) to jointly consent to the assigned magistrate judge. If the parties consent to magistrate judge jurisdiction, the case will remain with the assigned magistrate judge from start to finish. As with the Voluntary Consent program, the magistrate judge in a Direct Assignment case will handle all motions, scheduling issues, and the trial in the case. Litigants are free to withhold consent without adverse consequences.

If the parties do not timely consent to the Direct Assignment magistrate judge (or decline magistrate judge jurisdiction), the case will be randomly reassigned to a district judge and a magistrate judge as if it was a newly filed case.

(Continued on pg. 16)

Consenting to Magistrate Judges in Federal Civil Actions

(Continued from pg. 15)

More information about the Direct Assignment Program is available at the Court Programs section of the website (<http://www.cacd.uscourts.gov/judges-requirements/court-programs>) at the Direct Assignment link.

About the magistrate judges

U.S. magistrate judges are selected to renewable eight-year terms in a local, nonpolitical, merit-based process. As a result, there are generally no long-term vacancies on the magistrate judges' bench.

Our district's magistrate judges are experienced trial and appellate court litigators. The magistrate judges have developed considerable familiarity with our Court's expanding caseload of ADA, civil rights, state lemon law, and other consumer law-oriented actions.

Additionally, magistrate judges regularly preside over a substantial number of tort, injury, and employment actions, whether removed from state court or involving a federal defendant. Many also have substantial expertise – whether in prejudicial practice or through their extensive judicial service – in areas such as intellectual property, antitrust, and commercial law.

The Central District's magistrate judges are eager to bring their decades of experience to these consent cases. The magistrate judges volunteer for consent cases in addition to their other responsibilities in administering the Court's civil and criminal caseload. The magistrate judges have considerable flexibility in managing consent cases.

Many of the magistrate judges use e-mail and video- and audio-conferencing to resolve disputes quickly. Magistrate judges do not hear felony criminal trials, so civil consent actions generally receive priority when setting firm trial and pretrial dates. Additionally, many magistrate judges start jury and bench trials on Mondays, which can often lead to trials that conclude within a single week. We are proud to work on these cases and bring them to trial as fairly and efficiently as possible.

More information

For more information about the Central District's magistrate judges and these consent programs, lawyers should consult the Judges' Procedures and Schedules section of the Court's website. Many of the magistrate judges post specific information about their pretrial and trial procedures. You may also contact the Court's Consent Case Coordinator, Joe Roper, at 213-894-1871.

Michael R. Wilner was appointed as a United States Magistrate Judge in 2011. Prior to his appointment, he served as an Assistant U.S. Attorney and a Deputy Chief in the Major Frauds Section of the United States Attorney's Office in Los Angeles. Before joining the U.S. Attorney's Office in 2000, he served as a civil enforcement attorney with the Securities and Exchange Commission in Los Angeles and was appointed as a Special Assistant U.S. Attorney. Prior to entering federal service, he was a litigation associate at Proskauer Rose LLP in Century City.

United States District Court, Central District of California — Notice Regarding Annual Renewal Fee and *Pro Hac Vice* Fee Increase

On May 28, 2020, the United States District Court for the Central District of California issued General Order No. 20-07, which instituted an annual renewal fee of \$25 for every attorney who has been a member of the Bar of the Central District of California for at least one year and increased the *pro hac vice* fee to \$500. The annual renewal fee is due on September 1.

Pay online at: <http://www.cacd.uscourts.gov/attorneys/annual-bar-membership-renewal-fee>