



FBA Sacramento News & Notes

A periodic publication of the Federal Bar Association, Sacramento Chapter

Fall 2013



Alex Medina, Candice Fields, Bre and Maya Moebius

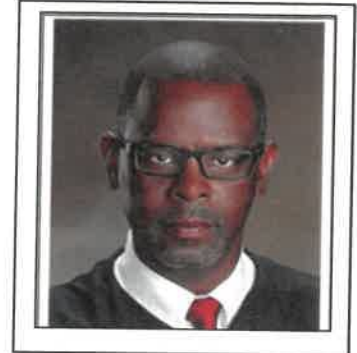
ANNUAL SEERSUCKER THURSDAY ICE CREAM SOCIAL A SUCCESS

Judge Kimberly Mueller and Judge William Shubb hosted Sacramento's Second Annual Seersucker Thursday on August 1, 2013, at Vic's Ice Cream Parlor in Land Park. Well over 50 people attended in a wide variety of seersucker attire – from

"Seersucker" continued on Page 3

EASTERN DISTRICT WELCOMES NEW JUDGE: TROY NUNLEY

On March 25, 2013, Sacramento Superior Court Judge Troy Nunley was confirmed unanimously by the U.S. Senate to join the Eastern District of California bench.



Judge Nunley quickly transitioned from the superior court to the federal bench. Indeed, within weeks of his confirmation, Judge Nunley hired staff, took over nearly 1,100 cases, and began an 11 day jury trial. The transition has been easy in some respects and more difficult in others. Being in court comes naturally to the Judge; managing the caseload is much different. But this was just as Judge Nunley expected. He is mindful of this district's extraordinary caseload, and he is focused on developing a strategy to effectively manage it. It is important to Judge Nunley to deal with the backlog of cases in an efficient manner, and to rely on his team of clerks and staff in doing so – something one of his mentors, Judge Marty Jenkins, taught him.

Judge Nunley appreciates the strong writing component that comes with his new position, allowing him to put his degree in English from Saint Mary's College to good use. He enjoys reading everything in the matters before him and is pleased to see attorneys making the effort to file moving

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COURTHOUSE CONNECTION: HEATHER WILLIAMS, FEDERAL DEFENDER

Newly-appointed Federal Defender, Heather Williams, hails from Arizona and claims to have chlorophyll for blood. Her love of the heat and sunshine translates well to sunny Sacramento, where she oversees both the Sacramento and Fresno offices of the Federal Defender's Office for the Eastern District of California.

Williams takes the helm at a challenging time, as Federal Defenders' offices around the country struggle under the crippling budget cuts caused by the federal sequestration. Offices have been forced to slash their costs by approximately ten percent, which has resulted in office-wide furloughs, lay-offs, and in some cases, the closure of branch offices. This is the reality in the Eastern District, where assistant federal defenders and staff had been forced to take every other Friday for 3 months as a furlough day.

When asked about this dire situation, Williams presents a convincing and impassioned case for fully funding federal defender services. As many federal practitioners and judges can attest, the Assistant Federal Defenders in this district provide consistently excellent representation for their indigent clients and are among some of the best attorneys in the district.

Williams explains that such representation is a bargain for the public, as the costs of appointing panel attorneys is usually much higher than staffing it with the Federal Defenders Office. In fact, Williams notes that this cost-savings is one of the reasons that Federal Defender's Offices were created in the first instance, that is,



to

to provide effective representation to indigent defendants at a very low cost.

Williams explains that budget situation for 2014 appears even grimmer, as further cost reductions are expected. When we spoke in June, she explained that if the expected 23% cut in the budget came to pass, she would have to lay off half of her staff or furlough all employees for the equivalent of three months. "This is unacceptable," she stated with a grave look on her face. Since our interview, the Executive Committee for the Administrative Office of the U.S. Courts decided to fund the Defender Offices at the continued 10% sequestration reduction amounts. But it is not just the attorneys and staff

"Williams" continued on page 4

"Judge Nunley" continued from page 1

papers with good, strong writing. He also enjoys presiding over most matters because he appreciates effective advocacy, saying, "I believe in attorneys, on both sides."

The judge devotes a great deal of his spare time to the Sacramento community, and he attributes this commitment to his upbringing. He was always encouraged to give back, and he humbly observes that he is fortunate to have the time and energy to do so. His impact on his community is apparent – over 400 people attended the judge's confirmation to the Eastern District Court, a testament to the positive influence he has had on others throughout his life.

Many may not know that he is a professor at Lincoln Law School, a position he finds very rewarding. Judge Nunley "always had the notion that at some point [he] would teach." He selected Business Organizations, instead of Criminal Law, to stretch and challenge himself, and says, "I enjoy a vibrancy from interacting with the students." As an athlete and avid sports fan, the judge also serves as an umpire and coach for little league baseball and basketball, in addition to participating in his son's soccer team.

Judge Nunley is certainly a welcome addition to the Eastern District bench, and many practitioners have enjoyed appearing before the new federal judge. He is looking forward to becoming more involved in several Sacramento organizations, including the Kennedy Inn of Court, now that the vetting process is over. The Judge is also looking forward to spending more time with his family, and with luck, some time on the golf course. ■

[Thanks to Alexis Klein for writing this article]

"Seersucker" continued from Page 1

traditional blue and white seersucker suits, to an array of pastel seersucker dresses and suits, a smart baseball jacket and a pink and white seersucker baby dress sported by Bre Mobius's baby daughter. A delightful lunch hour was spent by all, enjoying lunch and ice cream delights, at Vic's.

"Seersucker Thursday" was a tradition originally initiated in the Senate by Trent Lott to promote collegiality in the old Southern tradition and to remind the Senators of how they dressed in the summers before the advent of air conditioning. Senator Feinstein increased the participation a few years later by buying seersucker suits for all the women Senators. The Senators would wear seersucker as they shared a dish of ice cream together. In its wisdom, however, in 2012 the Senate saw fit to discontinue Seersucker Thursdays. The judges, in their wisdom, thought this was a bad decision, and demonstrated their disagreement by holding their own version of the event at Vic's Ice Cream Parlor in Sacramento last year. It turned out to be such a success that they decided to repeat it this year.

The announcement that the day would be an annual event sent attorneys into high gear searching for the perfect seersucker item to wear. For men, Brooks Brothers seemed to be the most common place to find a suit, although a visit to a thrift shop netted Walter Dahl his sporty baseball jacket in seersucker. Bre Moebius's daughter Maya was given her dress as a gift and Bre found her's at Macy's. Many others found their seersucker on-line at Dillards or Brook Brothers. We suggest that you start searching for your seersucker clothes early in the spring, so you will be prepared to join the festivities next year. ■

[See Pictures of the day on Pages 12-14]

"Williams" continued from page 2

at the Defender's Office who suffer. Williams notes that the sequestration also affects attorneys on the Criminal Justice Act ("CJA") panel, who face the suspension of voucher payments for two weeks at the end of the fiscal year. In fact, to continue funding the Defender Offices, the Executive Committee decided to defer CJA payments again at fiscal year 2014's end by four weeks and, as an emergency measure for one year beginning September 1, 2013, reduced CJA hourly rates by \$15 dollars. Williams says that she hopes to educate the public and public officials about the serious impacts of the sequestration, not only on her office, but on the indigent public who rely on them. She hopes to make it clear that the criminal justice system must be funded.

In addition to advocating for her office and its clients, Williams oversees two large offices in Sacramento and Fresno, which represent indigent clients in criminal, habeas, and death penalty cases. Prior to her appointment as Federal Defender, Williams was the First Assistant Federal Defender for the Tucson Federal Defender's Office, which was as large as the Sacramento and Fresno combined. In Tucson, she oversaw the Criminal Defense Unit and was responsible for supervising 34 lawyers and 31 office staff, while also assisting with the supervision of staff in district offices in Flagstaff, Phoenix, and Yuma, and an out-of-district office in Salt Lake City, Utah. In addition to her supervisory roles, she continued to represent clients at all stages of criminal proceedings including trial. She loves representing clients and hopes to be able to do so in select cases here.

Williams describes the hectic docket she managed at the Tucson Office. She explains that there were several different criminal calendars every day, and that on the "streamlined" calendar involving border offenses, they would often arraign around seventy clients each day. She notes that the Eastern District

Offices do not have the same kind of docket, but that they are just as busy in different ways. She comments that there may be less volume overall, but there is a larger variety of cases and that many of them are more involved and just as occupying of attorney time.

Prior to working at the Tucson Federal Defenders Office, Williams worked at the Pima County Public Defender's Office in Arizona, where she first became friends with Sacramento Federal Defender stalwart, Linda Harter. Williams also has experience in private practice, working in the Law Offices of Michael Meaney in San Diego, where she had a general practice, including defending clients against serious felony charges.

Apart from representing clients, another passion of Williams is teaching. In Tucson, she taught Ethics for Criminal Defense Attorneys at the University of Arizona College of Law. She also has been an instructor for several years at the National Criminal Defense College in Macon, Georgia, and she plans to continue to teach there as time allows. In addition to these teaching duties, Williams has developed a seminar in which she delves into the stories behind some of the most famous and familiar-sounding cases to those practicing criminal law. In the seminar, she tells the story of the defendants and defense attorneys in cases such as Miranda, Jencks, Allen, and Anders, including what happened to these people after the cases concluded. Williams brings these stories to life, reminding people that these aren't just case names, but real events that happened to real people.

Although Williams's current position and teaching obligations keep her extremely busy, she also makes time for family and recreation.

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"Williams" continued from page 4

Her husband is retired from the U.S. Army, where he worked at the Military Interrogation School. She jokes that between them, their four children stood little chance of getting away with much. She enjoys biking, and she expresses appreciation for the American River Bike Trail. Williams also plays cello, which she learned at a young age and pursued through college. (Williams holds a General Studies degree with an emphasis in cello performance from Pittsburgh State University in Kansas.)

Williams appears to relish her new position and the opportunities it gives her to fight for indigent representation. She explains that her substantial experience as a federal defender has prepared her for the long budget fights ahead, joking that the definition of a federal defender is someone who is "hoping for the best, but expecting the worst." Despite the grim outlook, her resolve is firm and she holds onto hope, showing that she is the kind of fighter that anyone would like to have in his or her corner. ■

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I wholeheartedly recommend both the truck and the restaurant. The restaurant is open Monday- Wednesday 7:00 a.m. to 7:00 p.m., Thursday 7:00 a.m. to 8:00 p.m., Friday 7:00 a.m. to 9:00 p.m., and Saturday 11 a.m. to 9:00 p.m. ■

MAGISTRATE MOULDS LEAVES THE BENCH

"Greetings everyone. It is with mixed emotions that I inform you that Magistrate Judge John Moulds has announced he will retire as of November 1, 2013", began the email from Chief Judge Morrison England to the court family. After serving as Magistrate for 30 years, Judge Moulds decided that he wanted to spend more time with his wife Betty, their two sons, their two daughters-in-law and their two grand-children.

Judge Moulds has an impressive background, as he attended Stanford University and CSUS Sacramento as an undergraduate and the University of California, Boalt Hall School of Law. Judge Moulds began his professional career in 1960 working for the California State Senate and then State Senator Albert Rodda. He began practice as an attorney in 1966 and continued in private practice until 1986 when he became a full time magistrate judge for the Eastern District of California. (Judge Moulds was a part-time magistrate judge from 1983 to 1986.) Judge Moulds began his "second career" as a recalled magistrate Judge in 2003.

As a magistrate judge, Judge Moulds was active in national matters including serving on the Board of Directors for the Federal Magistrate Judges Association from 1988 to 1992 and as the organization's President from 1992 to 1993. During his tenure Judge Moulds made enormous contributions to the administration of justice in the Eastern District of California and across the nation. Everyone will miss Judge Moulds and his wonderful smile. ■

KRUSH BURGER: NOT JUST A FOOD TRUCK

By: Janine Fletcher

The Krush Burger food truck is one of the most popular food trucks in the Sacramento area. However, few people realize that there is also a Krush Burger restaurant located at 700 North 10th St., off of Richards Blvd. on the campus of the California Lottery Headquarters. It serves the same delicious menu and offers a number of beers including several local brews.

The brick and mortar store is located near downtown. It's only a 5 minute drive from the federal courthouse. My experience started off great because there was tons of free parking near the restaurant. It's located in the industrial part of town, and inside the décor plays off that vibe while still looking clean and modern. There are several large, flat-screen TVs which were all playing ESPN when I was there.

Krush Burger serves mini-burgers. Usually, I prefer a classic burger to sliders because often sliders are kitschy and overly dry. Krush Burger is the exception to the rule. Its burgers are juicy and cooked medium-rare to medium. I visited the restaurant around 5 p.m. and was surprised to learn that it was offering its Happy Hour special. Krush Burger offers its Happy Hour Monday through Friday from 3 to 6 p.m. It includes: \$2 domestic beers; \$3 microbrews; and \$2.50 mini burgers with the purchase of alcohol.

My dining partner and I ordered: one Cowbell (Certified Angus Beef, Smoked Gouda Cheese, Crispy Onions, Crisp Applewood Smoked Bacon + BBQ Sauce); one Philly (Certified Angus Beef, Grilled Crimini Mushrooms, Grilled Onions, Aged Provolone Cheese + Roasted Red Pepper Aioli); one Ninja (Certified Angus Beef Marinated, Thin Sliced & Grilled Korean Short Ribs, Asian Slaw, Pea Shoots, Crispy Scallions + Sriracha Aioli); one Buffalo Chicken (Fried Buffalo Chicken, Slaw + Blue Cheese Sauce); and an order of sweet potato tots.

I tried a bite of everything, and liked everything but the Ninja. The meat in the Ninja was tough like a skirt steak instead of moist like the Korean short ribs I am used to eating. The Buffalo Chicken had juicy, moist chicken and a great balance of flavor with the blue cheese sauce and slaw. It's tasty, but you're at a burger bar and you should order a burger. However, your friends who don't eat red meat will be very satisfied and willing to join you at a burger bar since this sandwich is a delicious option.

The Cowbell was my favorite! It's a classic flavor combination elevated with smoked Gouda cheese. The Philly is delicious and my next-favorite burger. The roasted red pepper aioli is creamy and makes the Philly feel like a more decadent option. The person who created this menu makes great sauces. The tots come with an ancho honey sauce which is the perfect blend of sweet and spicy. My only complaint is they give you a thimble size container. Save yourself the hassle and ask for an extra container of sauce when you order.

"Krush" continued on Page 5

OPERATION PROTECT AND DEFEND: THE LEGAL COMMUNITY'S 11-YEAR EFFORT TO EDUCATE YOUTH ABOUT THE CONSTITUTION

On May 1, 2013, the Federal Bar Association teamed with Operation Protect and Defend ("OPD") and the Sacramento County Bar Association to host the annual Law Day Celebration Dinner. This event, held annually since 2002, honors high school students from eight schools located throughout the Sacramento area participating in the OPD "Story of America" essay contest and "Modern Masters of America" art contest.

Each year, judges and attorneys throughout the Sacramento legal community generously volunteer their time to go into local high schools and teach a curriculum developed by OPD to improve students' understanding of civic and legal matters. This year, the curriculum focused on the question of whether undocumented immigrants are entitled to equal educational opportunities in American public schools. After engaging these questions in the classroom, participating high school students were encouraged to write essays or create artwork relevant to this topic. The students submitted hundreds of essays and art pieces, which were then evaluated by OPD volunteer judges and attorneys to discern the most original, creative, and thoughtful pieces. Nineteen essayists and eight artists were selected to receive awards ranging from \$200 to \$1,500. These awards were presented at the Law Day Celebration Dinner to the talented student recipients.

This year, Judge Kimberly Mueller served as Mistress of Ceremonies for the Law Day

Celebration Dinner event, and Justice Jacqueline Hong-Ngoc Nguyen of the Ninth Circuit Court of Appeals delivered the keynote speech. The Luther Burbank Navy Junior Reserve Training Corps volunteered to perform the Presentation of Colors, and Tatiana Santiago of Natomas Pacific Pathways Prep High School sang the national anthem and led attendees in reciting the pledge of allegiance. Welcome speeches were delivered by Meghan Baker, President of the Federal Bar Association's Sacramento Chapter; Bruce Timm, President of the Sacramento County Bar Association; and Judge Teri Block, who served as this year's Executive Chair for OPD.

Among the awards given this year was the Jean McEvoy Memorial Scholarship Award, which was presented to Daniel Hernandez of Sacramento High School for his essay. Additionally, the Frank C. Damrell, Jr. Lawyer's Choice Awards were awarded to TrulyAmazing Polite of Grant Union High School and Toulee Vue of Luther Burbank High School. The top prize for artwork was awarded to Sobia Arshad of Natomas Pacific Pathways Prep High School for her piece entitled "Web of Immigration and Education."

In the spring, OPD 2014 will start up. Watch for an invitation to add your skills to this important program. You can serve as a classroom discussion, help develop this year's curriculum, evaluate essays, assist with planning events, or just attend the 2014 Law Day Dinner■.

SUPREME COURT YEAR IN REVIEW

On August 6, 2013, the Federal Bar Association, Sacramento Chapter, held its annual Supreme Court Year in Review in the ballroom of the Sterling Hotel in downtown Sacramento. A catered lunch was provided by Tuli Restaurant Group. This year's Supreme Court Year in Review event was attended by over seventy members of our legal community, including members of the Eastern District of California federal bench.

We were very fortunate to welcome back Professor Leslie Gielow Jacobs of the University of Pacific McGeorge School of Law as a speaker for our event. Professor Jacobs is an expert in constitutional law and a former law clerk to Supreme Court Justice Lewis F. Powell, Jr. Professor Jacobs presented a summary of the highest profile civil cases of the 2012-2013 Supreme Court term, including the same sex marriage cases (*United States v. Windsor* and *Hollingsworth v. Perry*), voting rights cases (*Shelby County v. Holder* and *Arizona v. Inter Tribal Council of Arizona*), and affirmative action (*Fisher v. University of Texas at Austin*). Professor Jacobs also discussed *Clapper v. Amnesty International USA*, a case concerning the tension between privacy rights and national security interests that was ultimately decided on Article III standing grounds.

In addition, Professor Emily Garcia Uhrig, also of the University of Pacific McGeorge School of Law, summarized the key criminal cases reviewed by the Supreme Court over the last term. Professor Uhrig is a former attorney-advsior for the U.S. Department of Justice, worked as a staff attorney with the Ninth Circuit specializing in Habeas Corpus, and served as a Deputy Public Defender in Los Angeles, handling both trial and appellate matters. Professor Uhrig covered several important Fourth Amendment cases, as well as multiple Habeas Corpus cases. Our speakers concluded by fielding questions from the audience, and providing a quick preview of what they anticipate will be the biggest cases reviewed by the Supreme Court in the upcoming term. ■



SCYIR Speakers
Professor Emily
Garcia- Uhrig (left)
and Professor Leslie
Gielow Jacobs
(right), both from the
faculty of The
University of the
Pacific, McGeorge
School of Law



Oral History of U.S. v Lynette Alice Fromme: a Unique Reunion

A "reunion" usually brings to mind a gathering of family or classmates, to play games, eat food, reminisce about past times and get caught up. And while there was no potato salad or three legged races, on September 24, 2013, the Eastern District Historical Society and the Sacramento Chapter of the FBA sponsored a program that became a reunion of many of the people who played prominent roles in the prosecution of Lynette "Squeaky" Fromme. Ms. Fromme, a follower of infamous cult leader and murderer Charles Manson, pointed a gun at then President Gerald Ford, in the State Capital gardens and attempted to shoot him on September 5, 1975. She was wrestled to the ground by secret service agents, quickly arrested, detained and then tried for the attempted murder of the President.

A panel, composed of head of the President's Secret Service detail, Doug Duncan; the prosecutors, former US Attorney, Hon. Dwayne Keyes and former AUSA Donald Heller; the defense attorney, John E. Virga; and author of "Squeaky: The Life and Times of Lynette Alice Fromme", Jess Bravin, was moderated by Senior District Judge William Shubb. Each speaker described the events from their perspective, added personal insights and anecdotes, and provided the context of the legal case. The case was

unique because it's the only time a sitting President has ever testified in a criminal matter – even though he did it by video deposition. That deposition was unsealed by a Freedom of Information request just days before the program – and it was shown during the program during the reception which followed the program. Judge Keyes and John Virga talked about flying to Washington DC to take the President's deposition – although their experiences were very different. Judge Keyes got to meet with the President in the oval office to prepare him for the deposition. However, Mr. Virga did not get to go to the White House, as it was felt the Executive Office building would be more suited to conduct the deposition.

Many interesting facts which had either slipped from most people's memories or were unknown to the public, were also discussed. Information such as Ms. Fromme's belligerent attitude, which caused the late Judge Thomas McBride to exclude her from the courtroom to watch the proceedings on TV. Or that Ms. Fromme wanted to call Charles Manson as a character witness (her request was denied), and that she threw an apple and hit Mr. Keyes in his face while he was giving his closing argument.

"Fromme" continued on page 10

"Fromme" continued from page 9

The program was well balanced, interesting and at times quite humorous. And 38 years later, it was clear that reasonable minds can still differ on whether Ms. Fromme really intended to shoot the President or what her motivation was in confronting President Ford.

The Program was followed by a reception held in the Anthony M. Kennedy Library and Learning Center. A display of physical evidence from the trial, transcripts and pleadings, as well as the video tape of President Ford's testimony were on display.

Based on the success of the program, the historical Society and the FBA are looking at presenting another oral history program about a significant case in the Eastern District. Popular speculation suggests the topic might be the Unabomber case. ■



ABOVE- Robbie Waters (retired Sacramento Sheriff and City Councilman), Doug Duncan, ; Andrew "Andy" Adelman, Secret Service Special Agent (SA), San Francisco Field Office and Secret Service Special Agent (SA) Tracy "Ken" Baldwin, Sacramento Resident Office.

BELOW- Back Row: John Virga; Doug Duncan
Front Row: Judge Shubb, Program moderator;
Dwayne Keyes and Jess Bravin.



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PHOTOS FROM “SEERSUCKER” THURSDAY 2014



Seersucker Group gets to eat lunch in the not yet opened coffee bar at Vic's Ice Cream



Walter Dahl shows off his very unique Seersucker baseball jacket with embroidered back detail.



Judge Shubb and Jay Allen-Eisen share a beverage



Everyone Gathered Outside Vic's Ice Cream Parlor for a Group Picture



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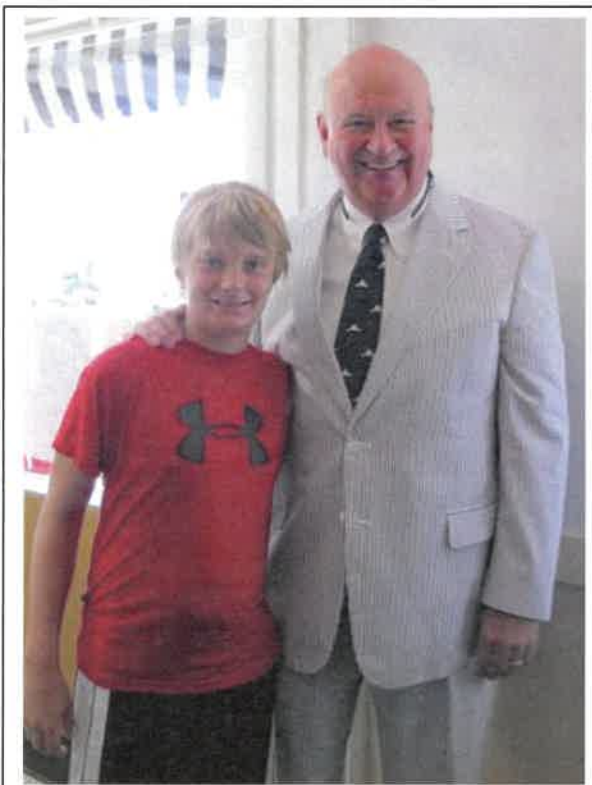
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Hon. Robert Twiss and his son Kevin



**Ken Whittal-Scherfee & Walter Dahl show that
Straw Hats Complete the Ensemble**



Tonie Darling, Ken Whittal-Scherfee, Judge Shubb and Judge Mueller show the many colors of seersucker

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