



FBA Sacramento News & Notes

A periodic publication of the Federal Bar Association, Sacramento Chapter

June 2010

New Federal Judges Profiled Inside



U.S. Magistrate Judge Kendall J. Newman



U.S. Bankruptcy Judge Ronald H. Sargis

President's Message

By Stephen Lau

Mennemeier, Glassman & Stroud LLP

Greetings! We hope that you are enjoying this issue of *FBA Sacramento News & Notes*.



2010 has been, and will continue to be, an eventful year for the federal bench and bar in Sacramento. In March, Kendall Newman was formally invested as a U.S. Magistrate Judge of the Eastern District of California. Judge Newman was kind enough to invite FBA-Sacramento's entire membership to his investiture, and those in attendance witnessed a joyous and memorable event. Also in March, President Obama nominated U.S. Magistrate Judge Kimberly Mueller to serve as a U.S. District Judge. I confess that I took a few minutes away from billable work to watch her confirmation hearing on C-SPAN. As expected, Judge Mueller took on all questions graciously and brilliantly. I hope (and anticipate) that FBA-Sacramento will be lending a hand with her investiture very soon.

As talented and capable as Sacramento's federal judges are, it is no secret that they are severely overworked. For years now, the weighted caseload average for federal judges in Sacramento and Fresno has been higher than anywhere else in the country. For that reason, I urge our members to support legislation pending before Congress to establish additional judgeships. If enacted, the Federal Judgeship Act of 2009 would give the Eastern District of California four additional permanent district judge positions and one additional temporary position. These additional judgeships are necessary to preserve the efficient and effective administration of justice in our community. If you would like to learn more about this pending

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10 THINGS YOU MAY NOT KNOW ABOUT U.S. MAGISTRATE JUDGE KENDALL J. NEWMAN

It's fairly common knowledge that Kendall J. Newman is the newest United States Magistrate Judge on the Sacramento bench, having been sworn in on February 5, 2010, after his tenure at the United States Attorney's Office as the Chief of its Affirmative Civil Enforcement Unit. Here are a few things you may not know:



1. Judge Newman's family is rife with published authors. His father, Donald J. Newman, was the Dean of the School of Criminal Justice at the State University of New York, Albany, and published multiple textbooks. His mother, Evelyn S. Newman, was the Assistant Director of the Institute of Gerontology at the same institution, with numerous publications of her own. Judge Newman's wife, Patricia, is a published children's author, whose books are prominently displayed in his chambers. His brother, Richard, is a lawyer in Connecticut, whose treatise, *Tort Remedies in Connecticut*, is a common reference. Judge Newman has no desire to join the ranks of authors, but reviews all of Patricia's books during the writing and publishing process.
2. Judge Newman's father appeared on *60 Minutes* in the era when a visit from Mike Wallace was every wrong-doer's biggest fear. But Donald Newman was on *60 Minutes* when it covered his collaboration with his wife on a book titled *Elderly Criminals*. In 1984, the focus was more on the criminals who preyed upon the elderly, so their book – a combination of their two fields of expertise that they embarked upon for the fun of working together – got a lot of attention. Dean Newman was quoted in newspaper articles and *Time* magazine on the same subject.
3. Judge Newman married his college sweetheart, and their appreciation for their college has spread to their children. Their daughter, Elise, is a junior at Cornell, and their son, Scott, will be starting there in the fall.
4. In 1988, he and his wife thoroughly enjoyed a three-week photo safari in Kenya. The painting of giraffes in his office was a post-trip purchase to commemorate not just the trip, but also his unexpected appreciation of animals other than the large predators. Giraffes and the spectacular birds made a big impression.
5. Judge Newman is a "mediocre" athlete, but has been a gym rat his whole life. He's tried almost all sports and uses a general strategy of getting on teams where his teammates excel at the sport. His strategy has paid off; when he won his club tennis tournament in the doubles division, his partner had played at Stanford. While he's tried pretty much all sports, he does not like to run. He ran every day for a year and can clearly recall only two days that he enjoyed the run.
6. Do not play poker with him – at least not for money. He was a poker shark in college and slayed his classmates at cribbage and spades in law school. He claims to have mellowed, now hosting congenial dessert and game nights at his home. None of his guests, however, would talk about his game-night temperament on the record.

See page 7 – "Newman"



Mortgage Meltdown

Federal Bar Association members attended "Meltdown 101: Lessons Learned from the Great Recession."

On March 17, 2010, St. Patrick's Day, the FBA hosted a lunch panel discussion, "Meltdown 101: Lessons Learned from the Great Recession," at Downey Brand LLP. The distinguished panelists were Kevin Baker, Supervisory Special Agent, White



Collar Crime Unit, Federal Bureau of Investigation; Matthew Stegman, Assistant United States Attorney, White Collar Unit and Mortgage Fraud Task Force Coordinator; and Dr. Michael P. Malloy of Pacific McGeorge School of Law.

"Mortgage" continued from page 3.

Baker began the discussion with an overview of the changes in the loan industry since the early 2000's. Baker touched on the significant increase in sub-prime lending between 2004 and 2006 and explained how this trend prompted vast decreases in property values and foreclosures across the nation, particularly in California. In fact, Baker reported that seven cities in the Central Valley are among the top twenty worst cities affected by the mortgage crisis in the United States.

Matthew Stegman then discussed the collaborative efforts taken by the U.S. Attorney's Office, Eastern District, with the FBI and state agencies through the Mortgage Fraud Task Force, as well as the recent AUSA hires specifically for mortgage fraud prosecution. Stegman also discussed the federal jurisdictional basis for mortgage fraud cases, which is triggered predominantly by wire fraud, mail fraud, and bank fraud statutes.

Dr. Malloy concluded the panel by discussing the systemic problem that caused the Great Recession, which essentially began with loan churning and continued with international securitization, both of which escaped the hands of regulators domestically and abroad. Malloy explained the recent legislation that has been passed in hopes to address the problems, but articulated, in a highly enjoyable way, that the legislation of late has yet to set forth adequate consumer protection mechanisms or regulations with enough teeth to effectively monitor securitized instruments to prevent yet another financial meltdown. Although we have yet to see a sufficient regulatory solution to the systemic cause of the Great Recession, Malloy praised the efforts of the U.S. Attorney's Office and the FBI in deterring further mortgage fraud. ■

"President's Message" continued from page 1.

legislation, or about what you can do to show your support, please contact me at slau@mgslaw.com.

On another note, I want to thank all of our members who have turned out for FBA-Sacramento's programs this year. In May, U.S. Attorney Benjamin Wagner was the Guest of Honor at our popular Spring Mixer at the House Kitchen and Bar. Photographs from that event can be found in this issue. In March, FBA-Sacramento presented a unique educational program about the mortgage crisis called "Meltdown 101: Lessons Learned from the Great Recession." All credit goes to our speakers – FBA Special Agent Kevin Baker, Assistant U.S. Attorney Matthew Stegman, and McGeorge Professor Michael P. Malloy – and to Ashley Joyce for organizing the event.

FBA-Sacramento has more exciting events in store for the months ahead. On July 29, we will host a special evening edition of the Supreme Court Year-in-Review. This year marks the 20th, and final, edition of the Supreme Court Year-in-Review with Professor Alan Brownstein (of King Hall) and Professor J. Clark Kelso (of Pacific McGeorge). Please join us to thank the Professors for their remarkable twenty-year run, and to enjoy their commentary one more time. After an eventful 2009-10 Supreme Court Term, the resignation of Justice John Paul Stevens, and the nomination of Solicitor General Elena Kagan as his successor, the Professors are sure to have plenty to say.

In conclusion, thank you again for being part of the Sacramento Chapter of the Federal Bar Association. We take seriously our responsibility to create an organization that is educational, fun, and most of all, community-building. See you at our next event! ■

What Programs Do You Want?

The Sacramento Chapter of the FBA intends to continue its tradition of offering quality educational programs for its members. What types of programs and events would benefit your practice? Please submit your ideas to our Programs Co-Chairs, Dan Croxall at dc@sojllp.com or Bre Moebius at bmoebius@caed.uscourts.gov. We also welcome suggestions for new places to hold mixers or other member events. ■

10 THINGS YOU MAY NOT KNOW ABOUT U.S. BANKRUPTCY JUDGE RONALD H. SARGIS

By Antonia G. Darling

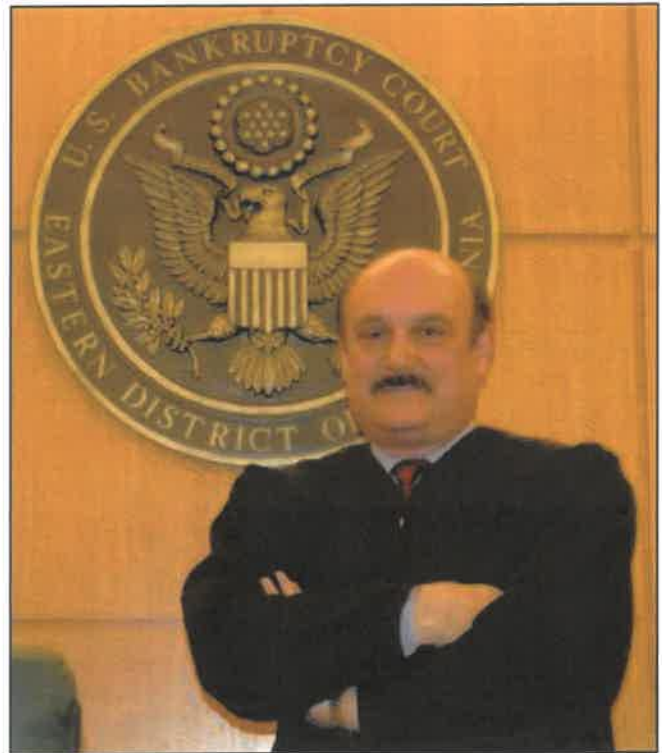
On January 14, 2010, Ronald H. Sargis was appointed to the bankruptcy bench for the Eastern District of California to cover cases in both Modesto and Sacramento. After a term of clerking for the late Bankruptcy Judge Loren Dahl, and twenty-six years in private practice with the Sacramento firm of Hefner, Stark and Marois, Judge Sargis left his successful practice to take the bench and to see bankruptcy from a new perspective. At his investiture and in several articles already written about Judge Sargis, lawyers in the area learned about his childhood in the Central Valley town of Merced, his being raised by his amazing mother, his academic successes at Stanford University (the only school his father had even considered as an option for Ron) and Pacific McGeorge School of Law, and his career successes. But we didn't get all the facts - until now. Here then, are ten things you probably don't know about the Judge:

1. YOU WON'T FIND STACKS OF FILES IN HIS OFFICE.

Nope - this is a Judge committed to going as paperless as possible. He has already streamlined his tentative and final ruling process (don't wait until the day before a hearing - he may have posted the tentative days before!), and he has learned all the extra things the PACER system is set up to do for the Judges. That includes being able to pull all documents related to a Docket Control Number ("DCN") and putting them in one place to review. By the way, if you don't use a DCN or put the wrong one on your response - there is a very good chance the Judge will never see your brilliant pleading. That would be your fault, not an error of the court. 'Nuff said?

2. YOU WILL FIND NO COMPROMISING PICTURES OF JUDGE SARGIS - EVEN FROM HIS COLLEGE DAYS.

That's not because he didn't do some typical college type tom-foolery. It's because he was always the guy BEHIND the camera! Great tip to pass on to



your college-aged kids. He does admit to being a bit conservative in his adventures however. In fact it was remarked that it was as if he had lived his entire life knowing one day he'd be considered for a Judgeship, and everything he'd ever done would be looked at. Talk about planning.

3. YOU WILL FIND SURPRISES IN HIS DECISIONS.

Although he will probably not pen any decisions in verse or set them to familiar tunes, the Judge is a big fan of Monty Python, the Three Stooges and Andy Griffith - so look for references to them in his decisions. The Judge does have a very good sense of humor.

4. JUDGE SARGIS WOULD LIKE TO BE THE FLASH.

Given any superhero's powers, Judge Sargis would like to have the Flash's powers - to be able to move so quickly that he could go anywhere easily, and to be able to even "walk" over water. That would save on airfare, slow TSA screeners, and allow him to

appear in Modesto and Sacramento without driving like a maniac during his lunch break. Even the wish to walk on water sounds vaguely Judge-like, doesn't it?

5. HIS IDEA OF A PERFECT VACATION IS A CARIBBEAN CRUISE.

Sitting by the pool, reading a book, with a cold drink in hand – what's not to like? Judge Sargis says he likes seeing a variety of places, without having to pack and unpack. This is much like being a Judge - where he gets to see many more legal issues than he ever did as a practitioner, just sitting at his desk. While he is normally a queasy guy on smaller vessels, a cruise ship hasn't seemed to affect his stomach. On one cruise however, his wife Janeece contracted the norovirus and was laid low for a few days, but Judge Sargis was unaffected by the illness. He did find it weird that crew members in hazmat suits cleaned their state room from top to bottom while he was with his wife in the infirmary. His daughter, who was on the cruise with them, heard the team arrive - looked out, saw the suits, and decided she just didn't want to know what was going on. Don't count on the Judge exercising such benign neglect in the courtroom. He wants lawyers to do their best to persuade him of the merits of their case - but to do so civilly! Mom always said, "Remember your Pleases and Thank-yous."

6. JUDGE SARGIS HAS THE STATE FAIR IN HIS BLOOD.

For two summers before law school, Judge Sargis worked at the California State Fair, first as a ticket seller on the midway, then running the cashiers office at the east gate, where all the midway operators would come in every day to cash in the tickets they collected from riders. He got to know all the carneys, and later when he would go to the fair he would often be greeted by old "friends." This, of course, fully prepared him to serve as the Ring Master in a courtroom.

7. THE CHRISTMAS HOLIDAYS ARE A GOOD TIME TO BE JOLLY

Judge Sargis loves all holidays, but is especially fond of the ones that fall around Christmas. While his family celebrates Christmas, he remarks that all the winter holidays share the same sense of celebrating

and setting aside time with family and friends. He used to look forward to taking the week between Christmas and New Years off, as it was a traditionally slow time. Recently however, it seems as busy as any other time. Want to make him happy? Set your motions for some other week! And try to carry the spirit of Christmas with you throughout the year.

8. JUDGE SARGIS ENJOYS READING ADVENTURE AND MYSTERY BOOKS

Reading for pleasure, something besides motions and briefs, I'd guess, is a way the Judge likes to relax. Particularly mysteries based upon historical fact, such as those written by Tom Clancy or Clive Cussler, and probably on that cruise he was talking about.

9. HIS GUILTY PLEASURE IS PLAYING VIDEO GAMES

The Judge is no effete snob in his choice of entertainment. War type video games, like Medal of Honor, or ones based on World War II are his mindless pastimes of choice. He especially enjoys the parts where he gets to blow things up. While his high school senior son certainly understands the passion, he says his wife doesn't quite get it.

10. JUDGE SARGIS LOVES HIS VIEW OF THE TRAIN YARD

As many of you know, Judge Sargis was raised by his very dynamic mother. You may not know however, that his mom worked for the Southern Pacific Railroad for six or seven years in the 1950's - not a time known for its progressivism for women in careers. He had other relatives who worked in the train business, and he has enjoyed trains ever since. He loves looking at the trains rumbling under his window, and he feels like a little kid at a Tonka truck exhibition when earth movers are out in the rail yard scurrying around like ants. He just hopes that if a stadium gets built out there, it won't be over four stories high, so he can still see over it. ■

"Newman" continued from page 2.

7. Before he went to law school, Judge Newman held some interesting jobs. He was a process server and also bartended at a bar next to a bus station. The bar, called the Plaza Grill, had 60-cent draughts, but many of the patrons would ask for half-draughts because they couldn't afford the full payment. One reviewer had the following to say of the Grill by the time Judge Newman worked there: "Undoubtedly lovely in its heyday in the 1930's, now not for the queasy or faint of heart." He also had a stint as the driver for the Majority Leader of the New York State Senate, where he learned a lot about New York politics. The Majority Leader had the power to put a hold on any bill, so the conventional wisdom about him was: "One man, one vote – he was the one man, and his was the one vote."
8. The Newman family's artistic pursuits are not limited to the pen. He and his parents, siblings, children, and nephews all play instruments. Judge Newman plays the trombone, and other family instruments include the trumpet, saxophone, jazz guitar, flute, and clarinet. There is no jamming at family reunions, perhaps because all of his nephews play the drums.
9. Judge Newman is a traveling man. He and his family have traveled the country extensively on vacations, focusing on national parks and occasionally branching out into Canada. Favorites include Yellowstone, the Grand Canyon, Glacier National Park, and the Grand Tetons. The music connection also generated a lot of travel – he and his wife have chaperoned every high school band trip imaginable with both of their children. While not all of the trips were to enviable destinations, highlights included Disneyland (almost every year), Hawaii, and the Caribbean.
10. With most of his childhood, college, and law school spent on the east coast, his presence on the west coast is a bit of a non-sequitur. But

Gibson, Dunn & Crutcher was willing to fly him to San Diego for an interview, and after one look at the water and sailboats, he was sold. After five years in private practice with Gibson, and after listening to Inn of Court colleagues who were current or former members of the United States Attorney's Office ("USAO") singing its praises, he made the jump. The move to Sacramento and the Eastern District of California USAO in 1995 was an economic decision – with two kids to send to Cornell in the future, money stretched further in Sacramento than in San Diego. ■

FBA Members Will Be Invited to the 2010 Eastern District Conference

The planning committee for the Eastern District Conference has been working hard to develop what we hope will be an informative and interesting Conference. This year's Conference will be held at the five-star Ritz Carlton Highlands Hotel at Northstar in Truckee from November 5-7. Invitations and details about the Conference will be sent out in the fall and all active Federal Bar Association members will be invited. We look forward to seeing you at the 2010 Conference!

Melissa Jones, Co-Chair, Eastern District
Conference Planning Committee. ■

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Courthouse Connection: **Information Overload**

Thoughts on the Digital Age from our Ninth Circuit Branch Librarian

The "Courthouse Connection" section of *FBA Sacramento News & Notes* offers a series of articles designed to provide useful information about litigating effectively in the Eastern District of California.

Our digital era allows us the freedom to share and communicate like never before. But few of us consider where all of that information goes. Or more importantly, how it's stored and by who.

How Tweet it is.

Twitter, the social web site that allows users to keep in touch via short updates, is to become part of our nations' archives. The Library of Congress will be maintaining a digital archive of every Tweet since its beginnings in 2006. That's right, every Tweet you've ever twitted about what you had for lunch that day or your mood at work is all to be recorded. This new media has also claimed a place at historic moments in our history. One example, President Obama's tweet about winning the 2008 election.

For the complete article visit:

<http://blogs.loc.gov/loc/2010/04/how-tweet-it-is-library-acquires-entire-twitter-archive/>.

Before you make that next photocopy, think about this . . .

According to a recent article from the CBS website, almost all digital photocopiers since 2002 contain a hard drive. And this hard drive could contain a lot of your personal information. Scanned personnel forms containing your name, social security number, and birth date are just one concern. Also found on sold machines were medical records, criminal records, and copies of checks. No longer does a potential identity thief have to go through your trash looking for documents, or even hack into your wireless connection to track your bank records. For \$300 and a truck to haul it away, they can purchase a goldmine of potential information from just one used copy machine.

For the complete article visit:

<http://www.cbsnews.com/stories/2010/04/19/eveningnews/main6412439.shtml?tag=stack>.

So why bother with security?

Well, it may not be worth the effort according to one research study done at Microsoft. While many may believe that computer users are just too lazy to use strong passwords and follow security protocols as laid out for us – a valid belief considering that a recent analysis of 32 million breached passwords found the most common to be, "123456" (visit: <http://www.net-security.org/secworld.php?id=8742>). The author of this research, Cormac Herley, argues that the effort to constantly change and remember our new changed passwords is simply not worth the possible cost of a security breach.

For the complete article visit:

<http://research.microsoft.com/en-us/um/people/cormac/papers/2009/SoLongAndNoThanks.pdf>.

Wondering what kind of information is floating around out there about you? Start by "googling" your name. Just enter it right in the search bar with quotes around it, for example, "Jane Smith." See what comes up and discover what kind of digital foot print you're leaving. You might be surprised at what can be found without any passwords at all.

The Ninth Circuit Library is open to attorneys who have a case pending in the building. Its hours are from 9 – 12 noon and 1 - 4:30 p.m, Monday through Friday.

Jana Maginness

Branch Librarian, Ninth Circuit Library

Robert T. Matsui U.S. Courthouse

Phone: (916) 930-4155 ■

FBA Spring Mixer

In May, FBA members gathered at the House Kitchen & Bar for their annual Spring Mixer and honored Ben Wagner, our new United States Attorney for the Eastern District of California.



Steve Lau, Ben Wagner, Judges Edmund Brennan and William Shubb, and Bre Moebius



Jeff Galvin, Melissa Jones, Jean Hobler, Lori Gualco, Ben Wagner, and Magistrate Judge Edmund Brennan



Jean Hobler and Ben Wagner



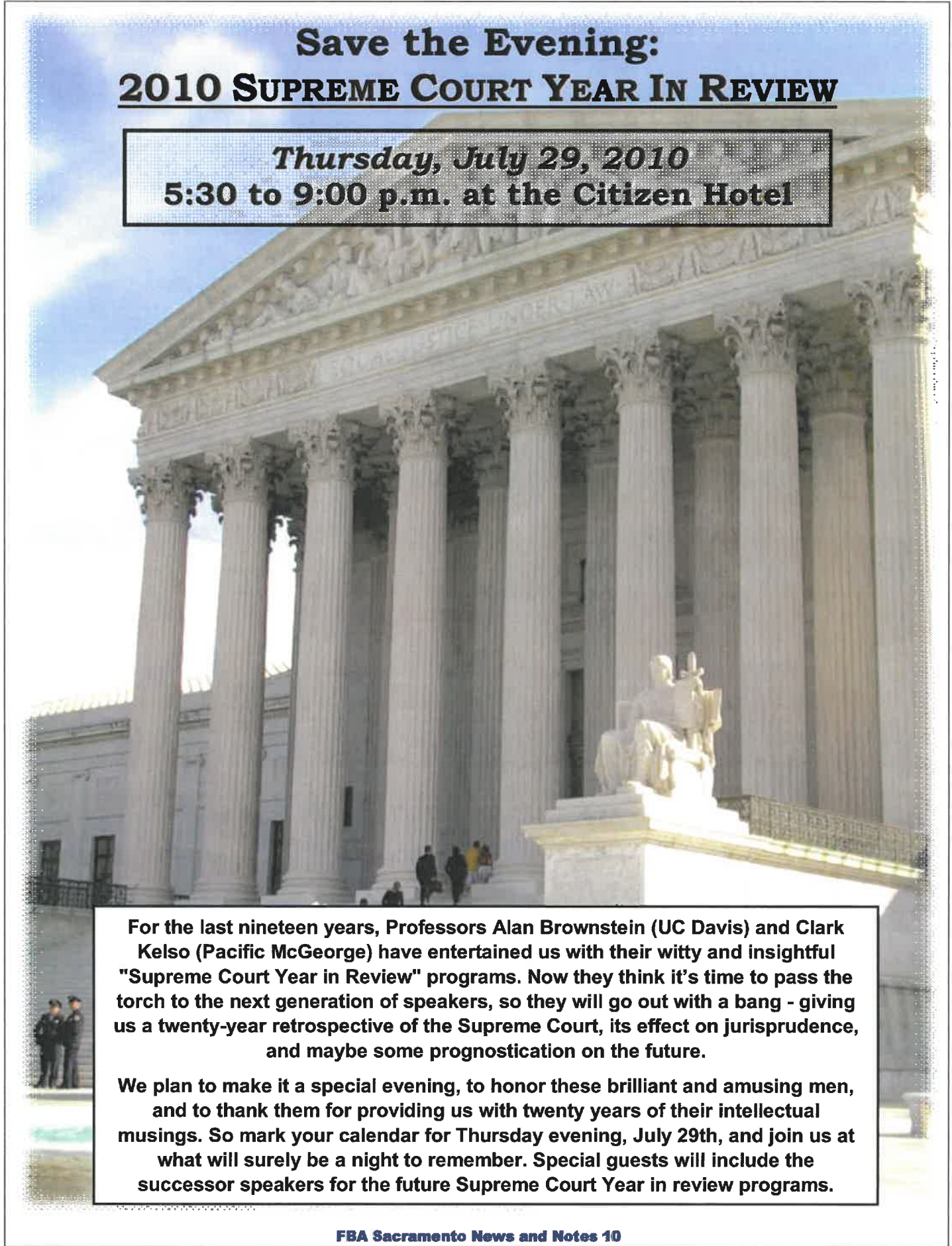
Philip Ferrari and Melissa Jones



Dan Croxall, Bhavani Murugesean, Steve Lau, and Adriana Cervantes



Alex Medina, Jean Hobler, Matt Jacobs, and Walter Dahl



Save the Evening: 2010 SUPREME COURT YEAR IN REVIEW

Thursday, July 29, 2010
5:30 to 9:00 p.m. at the Citizen Hotel

For the last nineteen years, Professors Alan Brownstein (UC Davis) and Clark Kelso (Pacific McGeorge) have entertained us with their witty and insightful "Supreme Court Year in Review" programs. Now they think it's time to pass the torch to the next generation of speakers, so they will go out with a bang - giving us a twenty-year retrospective of the Supreme Court, its effect on jurisprudence, and maybe some prognostication on the future.

We plan to make it a special evening, to honor these brilliant and amusing men, and to thank them for providing us with twenty years of their intellectual musings. So mark your calendar for Thursday evening, July 29th, and join us at what will surely be a night to remember. Special guests will include the successor speakers for the future Supreme Court Year in review programs.

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***TOP TEN (10) REASONS
FOR YOU TO JOIN THE
FEDERAL BAR ASSOCIATION***

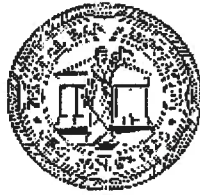


10. **NETWORKING:** With an active Sacramento Chapter as well as Chapters in all fifty states, the FBA gives you networking opportunities locally and nationwide.
9. **BE HEARD IN WASHINGTON:** The FBA is the foremost organization advocating for the interests of federal practitioners and the federal court system.
8. **PRACTICE-SPECIFIC SECTIONS:** With twenty-three sections and divisions, you will find educational and networking opportunities tailored to your area of practice.
7. **PUBLICATIONS:** Membership in the FBA includes a subscription to the *Federal Lawyer* magazine as well as the award-winning *Sacramento News and Notes* newsletter.
6. **LIVE MCLE PROGRAMS:** FBA members receive discounted rates to high-quality, live MCLE programs, including the popular Supreme Court Year-in-Review.
5. **SOCIAL MIXERS:** Connect with old friends and meet new ones at hot spots around Sacramento.
4. **LEADERSHIP OPPORTUNITIES:** The FBA offers leadership positions to lawyers of every level.
3. **EASTERN DISTRICT CONFERENCE:** All members of the Sacramento Chapter of the FBA receive an invitation to the Eastern District Conference.
2. **MEET FEDERAL JUDGES:** Become a familiar face to the many District Court, Magistrate, and Bankruptcy Judges who frequent FBA events.
1. **COMMUNITY:** By becoming active in the FBA, you will help promote collegiality between federal practitioners and between bench and bar.



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- **STILL NOT SURE? TO LEARN MORE, SEND AN E-MAIL TO CHAPTER PRESIDENT STEPHEN LAU AT slau@mgslaw.com or MEMBERSHIP CHAIR MICHAEL WILCOX AT michael.wilcox@bullivant.com.**

Inside: The June 2010 Issue of *FBA Sacramento News & Notes*



Please Keep in Touch!

The FBA Sacramento communicates with its members primarily through email. If you have not been receiving emails from the FBA, check your spam filter and send an email to FBA Sacramento Membership Chair Michael Wilcox michael.wilcox@bullivant.com. Additionally, if you have recently changed your address, phone number, or other contact information, please let Michael know so that we can update our records.

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