

NEWSLETTER

FBA'S ANNUAL "HARD-TO-GET" ON JANUARY 15, 2014

By Keith A. Jones, Esq.

Once again the Foothills Bar Association is offering its Annual Hard-To-Get Seminar providing attendees with one hour of continuing legal education credits for each of the legal ethics, elimination of bias in the legal profession, and substance abuse prevention categories. The live seminar is scheduled for Wednesday, January 15, 2014 at the La Mesa Community Center located at 4975 Memorial Drive in La Mesa.

The FBA is pleased to offer its members an easy and economical opportunity to satisfy some of those 'hard-to-get' requirements. All members will benefit from attending, particularly those attorneys whose names fall into the California State Bar's MCLE compliance Group 3: N - Z with the reporting period ending in February 3, 2014.

The FBA has arranged the following schedule to date:

- 5:00 – 5:30 p.m.: Registration & Dinner (food available during event)
- 5:30 – 6:30 p.m.: To Be Announced – Substance Abuse Prevention
- 6:30 – 6:40 p.m.: Break
- 6:40 – 7:40 p.m.: Dan Eaton, Esq. – Legal Ethics
- 7:40 – 7:50 p.m.: Break
- 7:50 – 8:50 p.m.: Dan Eaton, Esq. - Elimination of Bias

We are very fortunate to have Dan Eaton, Esq., speaking on two topics. He will present an interactive survey of "The Top 10 California Legal Ethics Rulings of 2013" during his legal ethics presentation and will provide ammunition for challenging opposing counsel who break the rules. He and four other attorneys reviewed court decisions impacting ethics in the legal profession at the FBA's fascinating Civil Litigation MCLE seminar in July 2013.

Mr. Eaton has entitled his elimination of bias presentation as

Upcoming Events

November 14

Estate Planning and Probate Section
12:15 – 1:15 p.m.

Law Office of Nancy Kaupp Ewin, Esq.
8166 La Mesa Blvd., La Mesa

Topic: "E-Filing in San Diego Superior Court"

Speaker: One Legal Online Court Services

December 12

Foothills Bar Assn. Holiday Mixer and Toy Drive
5:00 – 7:00 p.m.

Hooley's Irish Pub, Grossmont Center – La Mesa

Please bring an unwrapped toy to benefit the Salvation Army Toy Drive

December 17

Family Law Section
12:00 - 1:15 p.m.

East County Court, Dept. 6, 250 E. Main Street, El Cajon

Annual Holiday Dessert and Cookie Mixer

January 23

Foothills Bar Association's Annual Dinner
6:00 p.m.

La Mesa Community Center

4975 Memorial Drive, La Mesa

“Once Upon a Law Firm . . .” He will describe the facts in a recent case against a Los Angeles law firm, and explore issues of preventing and responding to sexual harassment in the legal workplace.

Keeping with tradition that has continued for more than a decade, dinner is included with the cost. Pre-registration fees are \$65.00 for FBA members and \$80.00 for non-members which will soon be available for processing on the FBA’s website, www.foothillsbar.org. Registration fees increase to \$75.00 for FBA members and \$90.00 for non-members on the day of the event which can be paid by check or cash only at registration. The FBA has selected Italian as the theme for this year’s feast. Coffee, sodas and water will also be available.

Attendees are encouraged to register early so that we arrange delivery of sufficient food and beverages. Please call Keith A. Jones, Esq., at (619)462-6220 if you have any questions. The FBA looks forward to presenting this year’s Hard-To-Get event to its members.

If you still won’t have sufficient MCLE credits for your reporting period, the FBA takes this opportunity to remind you that the FBA has a DVD video library of many past FBA-sponsored MCLE seminars. The videos are accessible to FBA members only for self-study credit in several general areas of the law. Contact the receptionist at the office of past FBA President, Nancy Kaupp Ewin, Esq., at (619)698-1788 for the DVD lending rules and details.

FBA members are also entitled to a 20% discount with Attorney Credits which offers MCLE credits on a wide range of legal topics, including the ‘hard-to-get’ subjects, via on-line streaming video and audio, downloads, and DVDs. FBA members simply set up a secure account and use their bar numbers to automatically receive the discount at checkout. Regardless of where you are, you can go to the Attorney Credits website at www.attorneycredits.com and select your courses to view or listen

Family Pro Tem Schedule

Wed, Nov 6, 2013	Charles Schmidt - Lopez
	Daniel Grunbaum
	Mark Shular
	David Weber
	Garrison Klueck
Wed, Nov 13, 2013	Wells Lyman
	Judi Sanzo
	Gary Glauser
	Steven Merker
	Meredith Levin
Wed, Nov 20, 2013	William Benjamin Case No.: ED87884 KINNINGER
	Garrison Klueck
	Marilyn Bierer
	Cynthia Baker
	Mariann Barth
	Michelle Brown
Wed, Nov 27, 2013	DARK

Your submissions are welcome! Send articles, letters, flyers, and other non-advertising submissions to Cheryl Stengel at clstengel@outlook.com.

Send change of address or telephone number to Lauri Croce, Esq. at lauricrocelaw@gmail.com or 858-720-1590.

at your convenience. Once completed, Attorney Credits issues a Certificate of Completion for printing and saving with your MCLE compliance log.

Garrison “Bud” Klueck Presents Information-Filled Update on Latest Family Law Cases and Statutes in “Bud’s Blockbusters”

By William A. Hannosh

Keeping with yearly tradition, Attorney Garrison “Bud” Klueck, provided his information-filled update to the Foothills Bar Association’s Family Law Section on recent family law cases and statutes. The seasoned certified family law specialist, who has been practicing law since 1987, spoke about numerous state appellate opinions, some of which emanated from our Fourth Appellate District.

Issues covered in Mr. Klueck’s MCLE presentation were grandparent visitation; legal remedies for failure to disclose assets or income; bias of child custody evaluators; the retroactivity of child support; the improper or unlawful release of a parent’s mental health records, and The Hague Convention’s place within wrongful child removals.

In *In Re Marriage of Freitas* (2012) 209 Cal.App. 4th 1059, aside from the fact that a spousal support money judgment is immediately appealable (even if pendent lite), the Fourth Appellate District decided in favor of an abused spouse who had strongly objected to paying any spousal support to her abusive husband. Stating a well-known rationale, it said: “In addition, his interest in continuing to receive support was far outweighed by the Legislature’s strong policy against domestic violence and its mandate that victims should not be required to finance their abusers.”

Where the argument was made that Gruen’s retroactivity rule applied here, the appellate court disagreed, stating that *In Re Marriage of Gruen* (2011) 191 Cal.App.4th 627 did not apply because the parties in this case did not have any expectation of a final order, as in Gruen. Also, Gruen never prohibited a trial court from reserving jurisdiction to make a retroactive modification like the one contemplated in this case. The Fourth Appellate District, in its ruling, made clear that *Freitas* was distinguishable from Gruen.

Mr. Klueck mentioned *Ian J. v. Peter M.* (2013) Cal.App. 4th 189, a case where diary entries had been made by two minor sisters’ deceased mother, revealing how the decedent accused her father (or the girls’ maternal grandfather) of raping her when she was a child, in addition to other inappropriate behavior. The record in this case also showed uncontroverted evidence that the two young girls were also very uncomfortable in the presence of their maternal grandfather, also making specific complaints about inappropriate behavior on his part. The two minors had also voiced opposition to any visitation with the grandfather. In this case, the trial court, which decided to allow unsupervised grandparent visitation anyway (based on a psychosexual evaluation and recommendation), was overruled by the Fourth Appellate District, which cited *Troxel v. Granville* (2000) 530 U.S. 57, 67-72. *Troxel*, decided by the U.S. Supreme Court, definitively outlines the presumption that a parent’s determination as to how his or her children should be raised is given “special weight” against other competing interests when under judicial review. (*Troxel*, at 70).

In *Re Marriage of Simmons* (2013) 215 Cal.App. 4th 584, showed that a trial court can and will issue heavy sanctions against a litigant for not disclosing either separate or community property assets and interests. For the husband's failure to properly disclose assets in which he had an interest or owned, the trial court issued monetary sanctions against him under Family Code Sections 1101, 2107, and 271. After reviewing the husband's appeal, the Fourth Appellate District upheld all sanctions issued against him, except for one order which transferred the husband's separate property Wells Fargo savings account (worth just over \$245,000) entirely to the wife. The appellate court agreed with the husband's argument that Family Code Section 1101(h)'s value-of-the-asset sanction applied only to community property assets, and not separate property.

Mr. Klueck also spoke about the sanctity of a patient's consent when it comes to medical or mental health records sought to be released. In *In Re M.L.* (2012) 210 Cal.App.4th 1457, although there was a "disturbing amount of evidence showing mother's mental imbalance," in addition to a child welfare petition filed for the removal of children from their home, the Fourth Appellate District reversed the San Bernardino trial court's ruling to allow for release of the mother, who had pronounced mental health issues. In essence, the trial court was wrong to order the release or disclosure of psychological records without the consent of the patient-mother.

Other key appellate opinions issued this year and discussed in an in-depth and meaningful manner by Mr. Klueck included, but were not limited to: *White v. White* (2013) 718 F.3d 300 (on the issue of The Hague Convention and wrongful child removal); *In Re Marriage of Green* (2013) 56 Cal. 4th 1130 (on the separate property nature of premarital retirement credits and reimbursement rights of the community); *Ceja v. Rudolph & Sletten, Inc.* (2013) 56 Cal. 4th 1113 (on courts' use of the subjective standard in deciding the putative spouse question) and *In Re Marriage of Kahn* (2013) 215 Cal.App. 4th 1113 (on breaches of the fiduciary duty).

Mr. Klueck, whose law offices provide representation for divorce in addition to mediation services, recently obtained his Master's Degree in Counseling (Psychology) from the Southern California Seminary in El Cajon.

Newsletter Advertising Rates

Business Card size:

\$25.00 for two months

\$125.00 for twelve months

(Includes publication in annual attorney directory)

On December 17, the Family Law Section will hold its annual holiday dessert mixer in Department 6 of the East County Courthouse.

If you are interested in contributing or bringing a dessert, cookie or other sweet item, please contact William Hannosh at (619) 244-9835 or Williamthelitigator@gmail.com.

CIVIL LITIGATION SECTION UPDATE

By Cheryl L. Stengel, Esq.

On October 14, 2013, the Civil Litigation Section welcomed speaker Patrick Howe, Esq. to present the MCLE program, “Debt Collection Abuse, a primer on the Fair Debt Collection Practices Act.” Mr. Howe is a civil litigation attorney with more than 20 years of experience whose practice includes representation of consumers in abusive debt collection matters.

Mr. Howe provided an overview of the laws governing collection of consumer debts: the federal statute, the Fair Debt Collection Practices Act (“FDCPA”), and the California statute, the Rosenthal Fair Debt Collection Practices Act. The FDCPA governs the conduct of debt collectors, debt buyers and attorneys; the Rosenthal Act also applies to the original creditor but not to attorneys. In sum, debt collectors are entitled to attempt to collect, but they must do so in a way that is legal, truthful, dignified and respectful. Examples of unlawful conduct include contacting third parties to discuss the debt, contacting the consumer at work if prohibited, continued efforts to contact the consumer after being asked to stop, making repeated and excessive phone calls, misrepresenting the collector’s identity, and calling at unusual times, such as early morning or late evening. A debt collector may not make false statements, such as threats of false credit reporting, jail, immediate garnishment or lien perfection, or threaten other actions which are not allowed or intended. Mr. Howe also provided an overview of issues involved in the litigation of these types of claims, including evidence and damages.

The Civil Litigation Section is looking for speakers for future programs. If you are interested, please contact Mark Raftery at mraftery@epsten.com or 858-527-0111 or Cheryl Stengel at clstengel@outlook.com or 619-296-2126.

Save the Date – The Foothills Bar Association’s Annual Dinner and Installation of Officers and Directors will be Thursday, January 23, 2014 at 6:00 p.m. at the La Mesa Community Center, Arbor View Room.
More information to follow.

San Diego Law Library Upcoming Classes

Reducing Discovery Costs and Risks through Litigation Readiness

Wednesday, November 6, 2013 from 12:00 PM to 1:00 PM

San Diego Law Library – Downtown Location

Register at: <http://sandiegolawlibrary.org/calendar/>

The Federal Rules of Civil Procedure require that companies be prepared to discuss the location and accessibility of potentially relevant information shortly after litigation begins. Discovery rules and recent case law require the quick and effective imposition of a litigation hold once a triggering event

occurs. This session will address how to reduce discovery costs and risks through litigation readiness, including the development of an effective litigation discovery response plan, the creation of a targeted data map, and a review of email and records retention policies (in and out of the cloud), schedules and backups.

Jeff Jacobs is the General Counsel and Senior Consultant for DTI, where for the past five years he has advised clients on litigation readiness, email and records retention, and the planning and execution of electronic discovery matters.

Sponsored by DTI. 1 hour General Participatory MCLE credit available, \$10.

This class is available for remote viewing from home/office. Special instructions for remote viewing will be emailed a few days before the class.

Covered California

Wednesday, November 13, 2013 from 12:00 PM to 1:00 PM
San Diego Law Library - Downtown Location
Register at: <http://sandiegolawlibrary.org/calendar/>

Suzanna Choi is a certified outreach educator by the State of California's Covered California and will talk about how the Patient Protection & Affordable Care Act could benefit you. If you are unable to attend a session but would like more information about Covered California, visit www.coveredca.com.

Suzanna Choi is a certified educator and grantee with Covered California. She is also the owner and president of Tashiro Choi & Associates, a multicultural outreach and public affairs firm. Suzanna is currently working with the California Asian Pacific Chamber of Commerce on the Covered California program.

This is a FREE 1hour MCLE event.

What Employers Should Know About Visas When Hiring Foreign Professionals

Wednesday, November 20, 2013 from 12:00 PM to 1:00 PM
San Diego Law Library – Downtown Location
Register at: <http://sandiegolawlibrary.org/calendar/>

The Family Court needs settlement conference judges. Please volunteer and share your expertise. Contact Kelly Fabros at 619-456-4065 or kelly.fabros@SDCourt.CA.Gov.

Foothills Bar Assn. Notice of Board Meeting:
Next board meetings will be November 19 and December 17 at the Kriger Law Firm at 8220 University Avenue, 2nd floor conference room, La Mesa, CA 91942.

This session will present an overview of the most practical visa solutions for employers seeking to hire foreign nationals. The session is geared to help San Diego employers, employees and non-immigration lawyers alike identify the most common issues and pitfalls of employment-based visa sponsorship under the federal immigration law. Topics to be covered will include: employer's responsibilities, length of work visas, compliance with wage laws, education and experience requirements, and options for family member dependents.

Vidal Cordova is a San Diego immigration lawyer with expertise in advising employers, professional athletes, artists and families on U.S. immigration law matters.

1 hour MCLE General Participatory credit available, \$10

For more information, please contact:

Isabel Eustaquio, Esq. | Librarian, San Diego Law Library
1105 Front St., San Diego, CA 92101
Phone: (619) 531-3900 E-mail: ieustaquio@sdlawlibrary.org



**FOOTHILLS BAR ASSOCIATION
OF SAN DIEGO COUNTY**
Service, Professionalism, Collegiality

FOOTHILLS BAR ASSOCIATION FAMILY LAW SECTION MEETING

DATE/TIME

**Tuesday, December 17, 2013
12:00 pm – 1:15 pm**

LOCATION:

**East County Court House – Department 6
250 East Main Street, El Cajon, CA 92020**

EVENT

***Annual Holiday Dessert
and Cookie Mixer***

PURPOSE

To allow local family law practitioners, members of the bench, court staff and others to socialize, have some camaraderie and enjoy a dessert . . . or two.

For questions, please contact Will Hannosh at (619) 244-9835 or
Williamthelitigator@gmail.com

2013 FBA OFFICERS, DIRECTORS, SECTION CHAIRS & COMMITTEES

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Estate Planning:	Nancy Kaupp Ewin, Carolyn R. Brock

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