



NEWSLETTER

Along Came A Spider

By Keith A. Jones, Esq.

Perhaps you've been to downtown Riverside's renovated Superior Court building with its long hallway lined with fluted columns, and domes as focal points in both the lobby and Department 1. Maybe during one of your trips to Riverside you've ventured a few blocks from the courthouse to the Mission Inn Hotel and Spa with its historic architecture, expansive courtyard, luxurious lobby, balconies and corridors, and other ornate features.

But patrons may feel as if they have entered Little Miss Muffet's world, at least according to a lawsuit filed by a patron who had enjoyed a lunch in May 2013 at one of the Mission Inn's patio restaurants. While dining, she initially draped her over-blouse on an empty chair or concrete wall but later put it on. She immediately felt a sharp pain in her shoulder and told her lunch companion that something had bitten her. Spasms coursed through her shoulder.

By the next morning, the patron felt numb all over and couldn't move her arms or legs. Paralysis had consumed her so much that she had to use her nose to dial for emergency assistance and was hospitalized for six days. The doctors concluded that the spider venom had entered her spinal fluid leaving permanent damage that inhibited full function of her left hand and leg. Her wound appeared similar to the photographs posted as black widow spider bites on the Center for Disease Control's website. She sued Mission Inn for negligence and premises liability.

Upcoming Events Calendar

September 15

**Foothills Bar Association
Courtroom Fundamentals (and
Refreshers) for All Attorneys
9:00 a.m. – 3:00 p.m.**

University of San Diego School of Law,
Warren Hall

5998 Alcala Park, San Diego

See enclosed flyer with details

Family Law Section will not have an
MCLE program this month due to
member attendance at the September
15 MCLE event.

October 11

**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: Probate Inventory and
Appraisal Issues

Speaker: Joseph Lantagne, Probate
Referee

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Mission Inn filed a summary judgment motion contending that its duty to protect its customers from foreseeable harm didn't include protecting them from the spider bite. It based its assertion in part that there was no evidence of prior black widow spider incidents on the patio, and thus the type of injury wasn't foreseeable. The trial court agreed with Mission Inn that the patron didn't meet her burden to establish the existence of a duty to protect against a potential spider bite.

The appellate court focused on the foreseeability aspect of determining the extent of duty that a business may owe to its patrons. It noted that the general character of the potential harm, as opposed to the precise nature or manner of occurrence, must be analyzed. Finding that black widow spiders are found inside and outside of buildings in Southern California is common experience and knowledge, it reasoned that a restaurant owner could foresee a risk that a patron could be bitten by a spider if it didn't take precautions even if a patron had not been bitten in the past. The appellate court cited the California Retail Food Code which requires that restaurants control both living and dead insect populations as further support in ascertaining the nature and extent of Mission Inn's duty in protecting its patrons.

Mission Inn acknowledged that black widow spiders had been found on its grounds in the year before the plaintiff's incident but claimed that its pest control program satisfied its duty to protect its patrons. However, the appellate court focused on the pest control receipts which referenced services for cockroaches, rats and mice only.

Under these circumstances, the evidence didn't demonstrate what Mission Inn did specifically to control black widow spiders or whether it took other precautions such as posting warnings. Consequently, the appellate court reversed the trial court's granting of Mission Inn's summary judgment so that the trier of fact could decide the nature and extent of Mission Inn's duty to protect the plaintiff from black widow spiders, whether Mission Inn breached its duty, and if so, whether the breach caused the plaintiff's injury.

Patrons may, like Miss Muffet, be frightened away upon reading a restaurant's warning about black widow spiders as they sit to enjoy their curds and whey or other meal. On the other hand, being warned about possible spider bites is better than the potential pain and suffering.

East County Superior Court Update

By Koryn K. Sheppard, CFLS

The East County Superior Court's Family Law departments have begun to limit the number of ex partes they will hear to five per day. This is related to the high volume of cases and ex partes that the Court were trying to balance with their already impacted morning calendars. A word to the wise: call early so you don't miss out on being one of five to be heard.

In related news, to deal with the dilemma of increasingly impacted calendars, East County is going to be opening another Family Law Independent Calendar department. The hope is that this will help to decrease congestion and the wait time for long cause hearings. There is no word yet on who will be assigned to this department or when it will open.

NOTICE TO MEMBERS

If you have not renewed your membership for the 2018 – 2019 year, the time is now! Please do so at: <http://foothillsbar.org/membership>. The cost is only \$65. Your valuable membership benefits include excellent MCLE programs, subscription to the monthly newsletter, networking opportunities, inclusion in the FBA membership directory (on-line and printed versions) fun social events and more.



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



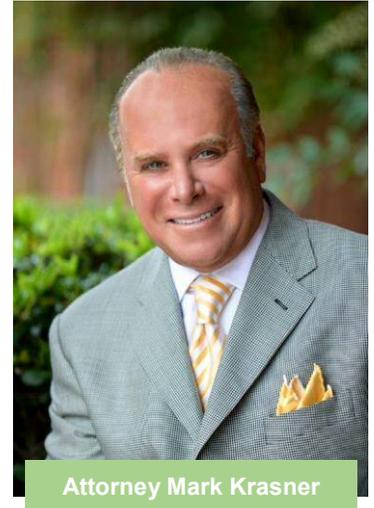
Hon. Eddie C. Sturgeon



Hon. Tilisha T. Martin



Hon. William Howatt (Ret.)



Attorney Mark Krasner

Courtroom Fundamentals (and Refreshers) for All Attorneys

- Motion Practice/Fast Track • Civility in the Courtroom
- Evidentiary Objections • What They Didn't Teach You in Law School

University of San Diego School of Law, Warren Hall
5998 Alcala Park, San Diego, CA 92110

September 15, 2018 - 9 a.m. to 3 p.m.

(Doors will open at 8:30 a.m.)

SEMINAR TICKET PRICES

\$35 - Law Students (open to all local law schools)

\$40 - "Newbie" Attorneys (practicing for 2 years or less)

\$75 - Attorneys (practicing for 2 years or more)

A catered lunch will be provided during the *networking hour*. Attorneys from all experience levels are strongly encouraged to attend.

Tickets may be purchased online at: foothillsbar.org

RSVP Deadline: September 7, 2018

This MCLE event is for 4 hours of general credit. For questions, e-mail: whannosh@gmail.com

Notices

Looking for Speakers for Future FBA Civil Litigation Section Meetings:

If you have a litigation topic you would like to present at an upcoming Civil Litigation Section MCLE meeting, please contact Section Co-Chairs Steven Banks at: sbanks@krigerlawfirm.com or 619-589-8800, or Christopher Hayes at cjhayes@cox.net or 619-846-0183.

Foothills Bar Association Notice of Board Meeting:

The Foothills Bar Association Board of Directors generally meets on the second Tuesday of each month. The next meeting will be on September 11, 2018 at the Law & Mediation Firm of Klueck & Hoppes, APC., 7777 Alvarado Road, Suite 413, La Mesa, CA 91942 beginning at 4:45 p.m. If you want your voice to be heard in policy discussion and upcoming event planning or would simply like to learn more about the organization, your attendance is welcome.

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.

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

ADDRESS CHANGES

Send change of address or telephone number to Bradley Schuber at bschuber@krigerlawfirm.com

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