

NEWSLETTER

DELETING THE END OF THE WORLD

By Keith A. Jones, Esq.

We're still here. All the hype over the end of world tied to the Mayan calendar amounted to just that – hype. So now, as an attorney championing the commercial landlords' cause, I find myself updating my lease forms to delete the "End of the World" clause.

Perhaps you've seen similar provisions in other contracts as well. They read something like this:

Par. 47. End of World. Upon the occurrence of the end of the world before termination of this Lease and the performance by Tenant of all of Tenant's obligations, the Tenant's obligations, at Landlord's sole option and discretion, shall become immediately due and payable in full and may be enforced by Landlord against Tenant by any available procedure, including self-help without the requirement to resort to legal process should the legal process no longer exist or otherwise be accessible. For remedial purposes, Landlord shall be deemed aligned with the forces of good and light, and Tenant with forces of evil and dark, regardless of actual ultimate designations (and/or heavenly or other-worldly destinations) of any particular party or attorney of any party, unless and until Landlord, at Landlord's sole option and discretion, elects otherwise in writing.

As far as I know, no tenant has successfully challenged this clause. Perhaps tenants fear that good will ultimately triumph over evil in the 'afterlife' courts. Or more likely in this economic climate, they will have no forum because the court system will fail to allot funds for an appropriate tribunal.

Now that the world has not ended, you have no excuse not to attend the Foothills Bar Association's 50th Anniversary Celebration Dinner on January 23, 2013 starting at 5:00 p.m. in the Arbor Room of the La Mesa Community Center. There is still time to RSVP. You can register and pay through the Foothills Bar Association website at: <http://foothillsbar.org>.

Upcoming Events Calendar

January 23

Foothills Bar Association
Annual Dinner/50th Anniversary
Celebration
5:00 p.m.

La Mesa Community Center, Arbor Room
4975 Memorial Drive, La Mesa

Foothills Bar Association Notice of Board Meeting:

The Foothills Bar Association Board of Directors meets on the third Tuesday of each month. The next meetings will be January 15 and February 19, 2013 in the 2nd floor conference room at 7777 Alvarado Road, La Mesa (Allied Plaza Building). Meetings begin at 4:45 p.m. and continue until business is completed. If you want your voice to be heard in policy discussion and upcoming events planning or would simply like to learn more about the organization, your attendance is welcome.

MEMORANDUM

To: Foothills Bar Association/East County Family Law Lawyers
From: Maureen F. Hallahan, Supervising Family Law Judge
Subject: Mandatory Settlement Conferences
Date: January 17, 2013

Effective January 2, 2013, the East County Family Law Division will be modifying its policies and procedures regarding mandatory settlement conferences (MSCs) to comply with the California Rules of Court and the San Diego County Local Rules. Please review the applicable rules and in particular California Rule of Court 5.394 and San Diego Local Rule 5.2.5. The Local Rule provides:

Rule 5.2.5

Mandatory Settlement Conference (MSC)

A. Settlement Brief. As part of a Case Resolution Plan and/or FRC order, the court may order an MSC. Unless otherwise ordered by the court, a settlement conference brief is mandatory. The contents of the settlement brief must include all the information required for a trial brief as set forth in California Rules of Court, rule 5.394. Parties may use the optional local settlement brief form SDSC D-241 available online or in the family court business office. The brief and all attachments must be exchanged between the parties and served on the settlement conference attorney in a manner that ensures they are received no later than 4:00 p.m., 3 court days before the MSC, unless otherwise ordered by the court.

B. MSC Confirmation. No later than 10 calendar days before the scheduled MSC, parties must call the court to confirm that the MSC will go forward and to receive the name and address of the settlement conference attorney.

C. Continuances. An MSC may be continued only by court order. No continuance will be granted within 3 court days of the scheduled date for the MSC. (Emphasis added.)

The new procedure will be as follows:

All MSC's will be set in Department 7 on Wednesdays at 8:30 a.m.

All cases will be pre-assigned a settlement conference judge.

All 2013 local rules will be followed in preparation of the MSC. This includes the following (see Local Rule 5.2.5, revised 1/1/13):

The court will no longer grant any continuances on MSC dates absent court order. The request must be made directly to the judicial officer to whom the case is assigned on an ex parte application or motion. Neither the independent calendar clerk nor courtroom clerk will accept requests to continue via telephone.

Up to 14 calendar days, but no later than 10 calendar days, before the scheduled MSC, the parties must call the court (Kelly Fabros, Judicial Secretary, 619-456-4065) to confirm the MSC is going forward.

The San Diego Law Library, East County Branch, frequently sponsors lunch time MCLE programs. Upcoming program topics are: "California Employment Laws and the Federal Enclave Defense" on January 9; "The Current State of Residential Foreclosures" on January 17; and "Substance Abuse" on January 24. See attached program flyers for details.

The parties will be given the name and contact information of their assigned settlement conference judge, including their preferred method of service of the settlement conference brief, no later than five court days before the scheduled MSC.

A settlement brief is required, and must be exchanged between the parties and served on the settlement conference judge in a manner that ensures service no later than three court days (in most cases the Friday before the MSC) by 4:00 p.m., unless otherwise ordered. The settlement conference judge will advise how he or she would prefer service of the settlement briefs. See Local Form D-241 (optional); content of brief mandatory CRC 5.394.

Failure to comply with the above procedures will result in the MSC going off calendar and/or a waiver of a court scheduled MSC or monetary sanctions.

Thank you for your cooperation.

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Business Card size: \$25.00 for one month, \$125.00 for six months, \$250.00 for one year
(Includes publication in annual attorney directory)

Issue Sponsorship: Half Page ad \$250.00 per issue
(Checks must accompany ad request)

CIVIL LITIGATION SECTION MCLE UPDATE

By Cheryl Stengel, Esq.

On November 28, 2012, the Civil Litigation and Family Law Sections hosted a joint MCLE program regarding business valuation evidence and use in litigation, with speakers Richard Holstrom and Henry Kahrs of RGL Forensics. Mr. Holstrom and Mr. Kahrs provided a basic overview of business valuation techniques and utilization in civil litigation and family court matters. Topics discussed included business valuation methods in marital, corporate and partnership dissolution disputes, forensic accounting, measurement of damages, necessary documents and supporting evidence and recent case law developments. Next, on February 22, 2013, Joel Bryant, Esq. will speak on elder abuse litigation.

Family Law Settlement Panel

Date	Temporary Judge
Wed, Jan 2, 2013	David Pomeranz
	Sandra Mayberry
	JR Givens
	Daniel Grunbaum
Wed, Jan 9, 2013	Tony Starks
	Gary Glauser
	Wells Lyman
	Timothy McDermott
Wed, Jan 16, 2013	Marilyn Bierer
	Judi Sanzo
	Marc Shular
	Cheryl Graf
Wed, Jan 23, 2013	Scott Finkbeiner
	Connie Zimmerman
	Judy Marolt
	Richard Renkin
Wed, Jan 30, 2013	Charles Schmidt
	Shawn Weber
	Wells Lyman
	David Wilkinson
Wed, Jan 30, 2013	Robert Lesh
	Robert Garland
	Dennis Kershek
	Daniel Martin
Wed, Jan 30, 2013	Thomas Marshall

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.

The San Diego Law Library *presents*

The Current State of Residential Foreclosures

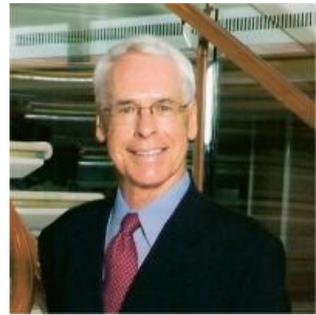
Thurs, Jan. 17th 2013

12 – 1 p.m.

East County Branch

250 E. Main Street

El Cajon, CA 92020



This program gives attorneys and others a primer on the current state of the housing market and how to deal with issues such as foreclosures, loan mods. and negotiations with first and second lien holders, bankruptcy, refinancing, litigation between borrowers and lenders, short sales, deficiency judgments, tax implications, and government assistance programs.

1 hour MCLE credit, General Participatory

Sign up online at: <http://housingcrisis2013jan17.eventbrite.com/>

Cost: \$10 or purchase MCLE Crunch Card to attend all classes in December and January – ask staff for more details



The San Diego Law Library *presents*

Substance Abuse: Recognition, Understanding, and Intervention

Thurs, Jan. 24th 2013

12 – 1 p.m.

East County Branch

250 E. Main Street, 1st Fl.,

El Cajon, CA 92020



Mick Meagher, Esq

This workshop covers the following topics: warning signs of substance abuse, the impact of substance abuse on personal and professional life, who is the best person to intervene, how to intervene, and the appropriate response whether the abuser accepts intervention or not.

1 hour MCLE credit, Substance Abuse

Sign up online at: <http://substanceabuse2013jan24.eventbrite.com/>

Cost: \$10 or purchase MCLE Crunch Card to attend all classes in December and January – ask staff for more details

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Stanley Bacinett	sjb@bacinettlaw.com	619-667-4000
Nancy Ewin	nancy@nkewinlaw.com	619-698-1788
William Hannosh	whannosh@gmail.com	619-579-4200
Mark R. Raftery	mraftery@epsten.com	858-527-0111
Kim Marie Staron	kstaron@lawinsandiego.com	619-574-8000

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Judy M. Marolt, Lawyers Club	619-442-1857

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SUBMISSIONS

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

ADDRESS CHANGES

Send change of address or telephone number to Bradley Schuber at 619-589-8800.

Foothills Bar Association

P.O. Box 1077
El Cajon, CA 92022

Addressee Name
4321 First Street
Anytown, State 54321