

# NEWSLETTER

## FBA MEMBERSHIP DRIVE

By Bradley Schuber, President

I am pleased to announce that we will once again be hosting our Annual Membership Drive here in La Mesa at Hooley's in the Grossmont Shopping Center on July 18, 2013 starting at 5:15 p.m. This is the perfect occasion to renew your membership and to catch up with friends.

For those of you who may not know, for more than fifty years now, the Foothills Bar Association has strived to foster a close working relationship between the bench and bar in East County. Our organization is generally composed of Judges, Attorneys, and others who live or work in East County. However, we also have many members outside of East County who take advantage of our membership benefits.

Why join (or renew with) the Foothills Bar Association? Well there are many reasons. First, the Foothills Bar Association offers excellent MCLE programs each month through its various Sections. Many of these programs are free to members without having to travel outside of East County on your lunch break. In addition, once a year, traditionally in January, the Foothills Bar Association sponsors a "Hard to Get" Seminar, which provides members with three 1 hour credits in Legal Ethics, Elimination of Bias in the Profession, and Detection/Prevention of Substance Abuse or Mental Illness.

Outside of the various MCLE programs, members receive a monthly subscription to the Foothills Bar Association Newsletter. The Newsletter keeps its members up to date with matters affecting the East County Court system, different section activities, and provides interesting articles on current legal issues. Members also enjoy a multitude of networking opportunities, inclusion in our membership directory (in print and on the Foothills Bar Association website), invitation to our Annual Awards Dinner, and much more. If you are not currently a member, I would encourage you to join for a year to take advantage of these benefits. If you are currently a member, please consider renewing your membership again for 2013-2014.

If you have any questions regarding membership or about the Foothills Bar Association in general, please feel free to contact me directly at (619) 589-8800, and/or visit our website at [www.foothillsbar.org](http://www.foothillsbar.org). Otherwise, I hope to see you at our upcoming Membership Drive and please feel free to bring a friend.

## Upcoming Events Calendar

### July 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:TBA

### July 16

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

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

Topic "Basic Dos and Don'ts of Representing  
Parties in DV/TRO Proceedings"

Speakers: Hon. Robert Amador, Hon. Steven  
E. Stone and Hon. Darlene A. White

### July 18

Civil Litigation Section  
12:00 - 1:15 p.m.

BJ's Restaurant, Grossmont Center, La Mesa

Topic: "Top 10 California Legal Ethics Rulings  
of 2012"

Speakers: Attorneys Daniel Eaton, David  
Majchrzak, Edward McIntyre, Wendy Patrick,  
and Leah Strickland

### July 18

Foothills Bar Association Membership Drive  
and Mixer

5:15 - 7:00 p.m.

Hooley's Irish Pub and Grill

5500 Grossmont Center Drive, La Mesa

## Newsletter Advertising Rates

Business Card size:

\$25.00 for two months

\$125.00 for twelve months

(Includes publication in annual attorney directory)

# STEPHEN TEMKO PRESENTS “HOW TO PROTECT THE RECORD FOR APPEAL” AT FAMILY LAW SECTION’S JUNE MCLE/BROWN BAG

By William A. Hannosh

Attorney Stephen Temko, (a CFLS, CALS and AAML) has handled approximately 500 appeals in his 38-year career. As an appellate specialist, he can confidently say that he has seen every imaginable trial error by judges and advocates. Mr. Temko presented an information-filled MCLE to a fairly packed room of attorneys on June 18, 2013. Some in attendance were not even family law attorneys, but the appellate issues discussed were, nevertheless, integral to any attorney hoping to on avoid a procedural error that could prove fatal in front of a higher court.

Being the detailed and exacting practitioner he is, Mr. Temko first discussed all the procedural devices the appellate court uses to “weed out” cases that simply should not be on its docket. That list of procedural deficiencies includes incomplete records; lack of jurisdiction; estoppel; waiver; invited or stipulated error; harmless error; failure to brief or properly cite to the record; and failure to brief or properly cite legal authority.

As a general rule, the appellate attorney is always “stuck with” the causes of action, defenses or theories offered by the trial attorney such that the former cannot plead anything new that had not been previously plead or argued before. The only exception to this rule is when there is a pure question of law that must be disposed of by the higher court.

Many times, he has been presented with an appellate case where he recognizes that a certain theory, cause or defense would have been appropriately included, or a sine qua non for appellate purposes; however, because the trial attorney never plead it, it could not be argued on appeal.

For litigators (those who litigate regularly and routinely, and those who do not) the need to “let the record reflect” certain things such as points of distance, directional or prepositional statements and marks or indicators on a drawing or scheme is key for appellate issues. Mr. Temko mentioned that this error, pervasive among so many litigators, can cause instructional problems later for cases read on appeal.

Although the recent cut-backs in court budgets have turned the court reporter into a sort of commodity these days, Mr. Temko reiterated his recommendation to pay for a court reporter at your hearing or trial, to later avoid the great financial burden of appealing an issue that could have easily been disposed of by the trial court had a court reporter simply been hired. In the grand scheme, and in most cases, it is actually cheaper to hire a court reporter, he said.

## Family Law Settlement Panel Calendar

Date	Temporary Judge
July 10	Judi Sanzo
	Solveig Duprey - Schotts
	Wells Lyman
	Timothy McDermott
	Nancy Stassinopoulos
July 17	Sandra Mayberry
	Connie Zimmerman
	Christine DeSantis
	Cynthia Baker
	Charles Schmidt
July 24	Meredith Levin
	Alan Clements
	Sheryl Graff
	Linda Cianciolo
July 31	James Scott
	Scott Finkbeiner
	Dennis Kershek

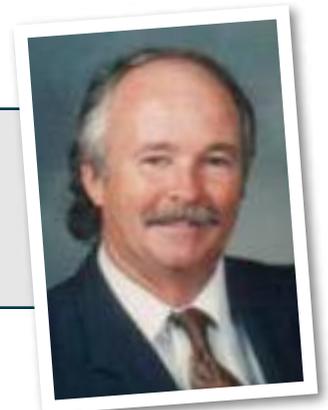
Regardless, when a case is appealed, the appellate court is limited to reviewing only the pleadings and declarations submitted at trial level, aside from transcripts that could be helpful in creating a complete record of the past procedural history.

Mr. Temko also briefly discussed the settled statement as understood in California Rule of Court 8.137. The gist of using a settled statement is that it too, can be a very long, laborious process that can become quite expensive for any litigant.

As to minute orders, attorneys are reminded to remind the court about what exactly was ordered or issued at a certain proceeding before that proceeding is concluded, especially if the matter was discussed only in chambers as opposed to in open court.

As a reminder, settlements and stipulations can never be appealed when a judicial officer did not sign the settlement at issue or in dispute.

The Foothills Bar Association wishes to express its condolences to the family of long-time member, Attorney Daniel Larkin, who passed away recently. A memorial article will be published soon.



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.

## LAW LIBRARY: BY THE NUMBERS

Law Library staff are preparing Fiscal Year End reports. In July we gather our statistics for the previous

	ITEMS USED IN-HOUSE	ITEMS LOANED	GATE COUNT	TOTAL INQUIRIES
EL CAJON	387	149	1,206	750
CHULA VISTA	276	135	1096	822
SAN DIEGO	1809	969	4194	2295
VISTA	974	423	1871	1086

year, meet with the auditor, and create an annual report. Here's a brief snapshot your Law Library for the past 11 months:

There's no question our numbers have decreased with state court cutbacks; there are fewer people coming through our doors (our average gate count in 2012-13 was 1697!). Due to decreased filing fees, our budget and our staffing levels have decreased. This year we operated the El Cajon and Chula Vista branches with only one staff member each, forcing closed lunch hours and early closures on Friday afternoons.

That doesn't mean there are fewer legal questions out there, or that our resources are any less important. We are counting on you, our friends in the legal community, to help us keep getting the word out. Most of what is accessed in the library is NOT on the internet; we provide services to large and small firms and solo attorneys, including free electronic access to materials that would otherwise cost thousands of dollars. We assist pro pers in accessing justice when they can't afford attorneys, and we alleviate traffic in the courthouse by helping people find and print the forms they need, instead of waiting hours in line.

Keep an eye out in the coming weeks for our complete 2012-13 statistics on the Annual Report page of our website.

Kim Laru  
 Librarian, El Cajon Branch  
 619-441-4451

## UPCOMING EVENTS (check our EventBrite page to register & for updates):

### **E-Filing & E-Service in San Diego Superior**

**Court** – MCLE (free) Downtown San Diego, Tuesday, July 9, 2013 from 12:00 PM to 1:00 PM (PDT) FREE

**Karin Slaughter** - "Unseen" – (FREE) author discussion by Warwick's and the San Diego Law Library (at La Jolla Public Library), Wednesday, July 10, 2013 from 7:00 PM to 9:00 PM

### **Managing An Electronic vs. Traditional Law**

**Practice** – MCLE (\$10) by the San Diego Law Library - Chula Vista, Monday, July 15, 2013 from 12:00 PM to 1:00 PM

### **E-Filing and E-Service in San Diego Superior**

**Court** - MCLE (free) - Vista, Wednesday, July 17, 2013 from 12:00 PM to 1:00 PM

### **E-Filing and E-Service in San Diego Superior**

**Court** - MCLE (free) – El Cajon, Wednesday, July 17, 2013 from 12:00 PM to 1:00 PM

### **Mediation: Now more than ever** – (free) Vista,

Thursday, July 25, 2013 from 12:00 PM to 1:00 PM

### **Emerging Issues for LGBT Immigrants** – MCLE

(\$10) - Downtown San Diego, Thursday, July 25, 2013 from 12:00 PM to 1:00 PM

### **Legal Research Using Free Websites** - MCLE (\$10)

by the San Diego Law Library - Downtown

Tuesday, July 30, 2013 from 12:00 PM to 1:00 PM

**Taking Out of State Depositions** – MCLE (\$10) by the San Diego Law Library - Downtown San Diego, Thursday, August 1, 2013 from 12:00 PM to 1:00 PM

### [Lindley Lecture on Law & Comics 2013: Censorship: From 1950s Superheroes to Today's Manga](#)

Tuesday, July 16, 2013  
 from 12:00 PM to 1:00 PM  
 Downtown San Diego

With **moral panic** on the rise, the history of how comics have been censored is more important than ever. Join us for this shocking tale, starting from the public book burnings and Senate hearings that led to the Comics Code Authority in the early 1950s, through the attacks on retailers in the 1970s and 80s, on artists in the 1990s, and on readers today. Learn about the latest developments affecting the freedom to read comics, including the details of recent prosecutions against comics readers in the United States and abroad. The first 40 people to arrive to the event will receive a free gift.

All attendees will be entered into a drawing for other prizes, including a copy of *Comic-Con: 40 Years of Artists, Writers, Fans & Friends*.



**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 July 18, 2013 at 4:45 at Hooley's, prior to the mixer, and August 20 at the office of Clayton Anderson & Associates at 8220 University Avenue, 2nd Floor, La Mesa, CA 91942. 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,

## CIVIL LITIGATION SECTION MCLE UPDATE

By Cheryl L. Stengel, Esq.

On June 11, 2013, the Civil Litigation Section welcomed speaker, Marjorie Smith, structured settlement consultant with Millennium Settlement Consulting. Ms. Smith discussed Medicare's role in liability settlements and considerations in a client's future medical needs, including Medicare Set Aside (MSA), and how to fund and administer an MSA. Ms. Smith also explained options for attorney fee structures, particularly with contingency fee awards. Those considerations can assist an attorney in effectively managing his or her income stream and in taking advantage of tax strategies by deferring compensation.

Next, on Thursday, July 18, the Civil Litigation Section will present "The Top 10 California Legal Ethics Rulings of 2012," by attorneys Daniel Eaton, David Majchrzak, Edward McIntyre, Wendy Patrick, and Leah Strickland. The program will be from 12:00 noon to 1:15 p.m. at BJ's Restaurant in Grossmont Center in La Mesa. The speakers are five of San Diego County's most distinguished attorneys on the subject of legal ethics and all are serving, or have recently served, on the San Diego County Bar Association's Legal Ethics Committee. They will present the cases in a lively and informal manner highlighting what careful attorneys should do to avoid ethical pitfalls.

### Sublease opportunity in an established law firm.

Single private office, not a cubicle or "executive suite", a REAL office. Office is approximately 13x13 SF.

Office comes with Wi-Fi, use of full sized conference room/law library, storage room, parking, legal secretary reception (legal secretarial service available at an additional cost). The location is approximately 150 yards from the El Cajon Courthouse and El Cajon administrative buildings as well as 2 blocks from the County Recorder/Assessor's Offices. Downtown San Diego courts are 20 minutes away with easy freeway access.

High capacity copier, multi line telephone/fax service is also available on an "as used" monthly cost basis. Additional secretarial space is also available if you have a personal secretary. This space will be an additional cost.

\$500 for the first 3 months. \$750 for the balance of the lease. 6 month lease minimum. Includes SDG&E expenses.

Office available late June.

Contact: Jim Miller. 619-590-0383 office.

**Foothills Bar Association  
Of San Diego County**

P.O. Box 1077  
El Cajon, CA 92020

**Membership Application**

The FBA Membership year is July 1 – June 30

**\*\*Dues are waived for first-time applicants who have been a member  
of the CA State Bar for less than one (1) year\*\***

***Please Print or Type:***

*Required fields \*\**

New    Renew with changes as noted    Renew with No changes

**\*\* Name:** \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Office Address: \_\_\_\_\_

Office Phone: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

*(I understand that by providing my fax number and email address, I hereby consent to receive faxes and email messages by  
or on behalf of the Foothills Bar Association)*

I agree that my professional contact information may be published on the Foothills Bar Association website  
and in the annual Foothills Bar Association Attorney Directory.

If you DO NOT want your professional information published in the directory or on the website, please initial  
here: \_\_\_\_\_

Foreign Languages Spoken: \_\_\_\_\_

I am a member in good standing of the State Bar(s) of: \_\_\_\_\_

CA Bar #: \_\_\_\_\_ Year admitted to Practice: \_\_\_\_\_

Are you interested in becoming actively involved? *(please check one)*

Yes, I would like to become actively involved, and have time to devote.

Yes, I would like to become actively involved, but have limited time to devote.

No, I do not wish to be actively involved, but do wish to take advantage of FBA  
membership benefits.

If you would like to be actively involved and have time to devote would you like to hold a  
position? *(Please circle one)*    yes or    No

If you answered yes, what committee and/or position are you interested in?

\_\_\_\_\_  
Please choose a section:    Family Law    Estate Planning    Civil Litigation    Criminal

Please choose a committee: Advertising Annual Dinner Golf Tournament  
Hard-to-Get Seminar Law Day MCLE Membership Monthly Newsletter Website

\*\* Date: \_\_\_\_\_ \*\*Applicant Signature: \_\_\_\_\_

*Please return the completed Membership Application, together with your check for \$65.00 or with a check made payable to: **Foothills Bar Association** and mail to:*

*Foothills Bar Association*

*P.O. Box 1077*

*El Cajon, CA 92020*

[www.foothillsbar.org](http://www.foothillsbar.org)

*or fax the application with your credit card information to 619-667-4580*

Credit Card Number: \_\_\_\_\_ Security Code: \_\_\_\_\_

Type of Card (i.e. MasterCard, VISA, American Express): \_\_\_\_\_

Name on Credit Card: \_\_\_\_\_

Expiration month/year: \_\_\_\_\_

**Check all areas of practice to be included in the Foothills Bar Association Telephone Directory  
and on the Foothills Bar Website:**

Administrative	Internal Revenue Service/ Tax
Adoptions	Insurance
Appellate	Intellectual Properties
Aviation	Juvenile
Banking	Landlord/ Tenant
Bankruptcy	Legal Malpractice
Business/ Corporate	Mechanic's Liens
Civil Litigation	Medi-Cal
Collections/ Consumer	Mediation
Commercial/ Construction	Medical Malpractice
Conservatorship	Military
Criminal	Municipal
Dental malpractice	Personal Injury
Elder	Probate
Eminent Domain	Public Defender
Employment	Real Estate/ Land Use/ Environment
Estate Planning/ Wills/ Trusts	School
Family/ Domestic	Securities
General	Sports/ Entertainment
Guardianship	Social Security
Home Owners Association	Worker's Compensation

**List all areas of Certified Specialization:**

# 2013 FBA OFFICERS, DIRECTORS, SECTION CHAIRS & COMMITTEES

## OFFICERS

President	Bradley Schuber	BSchuber@a-khoa.com	619-589-8800
Vice President	Keith Jones	kjones9001@gmail.com	619-462-6220
Treasurer	Mark R. Raftery	mraftery@epsten.com	858-527-0111
Secretary	Cheryl L. Stengel	cs@debtsd.com	619-233-1727
Immediate Past President	Carolyn R. Brock	carolyn@crbrocklaw.com	619-741-0233

## DIRECTORS

Lauri Croce	lauricrocelaw@gmail.com	619-589-8800
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

## REPRESENTATIVES

Sheryl S. Graf, SDCBA	619-440-5716
Judy M. Marolt, Lawyers Club	619-442-1857

## SECTION CHAIRS/MEMBERS

FAMILY LAW:	Will Hannosh
CIVIL LITIGATION:	Cheryl Stengel, Mark R. Raftery
ESTATE PLANNING:	Nancy Kaupp Ewin, Carolyn R. Brock

## COMMITTEES

ADVERTISING	Chair: Nancy Kaupp Ewin
LAW DAY	Chair: Carolyn R. Brock
HARD-TO-GET CREDITS SEMINAR	Chair: Keith Jones
MEMBERSHIP	Chair: Lauri Croce
ADDRESS CHANGES	Chair: Lauri Croce

THE CIVIL LITIGATION SECTION OF  
THE FOOTHILLS BAR ASSOCIATION PRESENTS:

**“The Top 10 California Legal Ethics Rulings of 2012”**

**Speakers:**

**Daniel Eaton, David Majchrzak, Edward McIntyre, Wendy  
Patrick, and Leah Strickland**

1.01MCLE CREDIT (ETHICS)

**Thursday, July 18, 2013 – Noon to 1:15 p.m.  
BJ’s Restaurant, Grossmont Center, La Mesa**

You may order lunch if you want. The seminar is free for members of  
FBA and only \$10.00 for non-members. Walk in registrants will be  
accommodated as space allows.

Mark Raftery and Cheryl Stengel, Co-Chairs

The Foothills Bar Association certifies that this activity has been approved for MCLE credit  
by the State Bar of California\*

---

**Registration for the Seminar on July 18, 2013**

Name \_\_\_\_\_ Persons Attending \_\_\_\_\_

Telephone \_\_\_\_\_

Fax registration to Mark Raftery at (858) 527-1531 or email to  
[mraftery@epsten.com](mailto:mraftery@epsten.com) by July 16, 2013

\*Application for MCLE Approval Pending

THE FAMILY LAW SECTION OF  
THE FOOTHILLS BAR ASSOCIATION PRESENTS

**“Basic Dos and Don'ts of Representing Parties  
in DVTRO Proceedings”**

**\*\*1.0 hour of MCLE Credit.**

**SPEAKERS:**

Hon. Robert Amador  
Hon. Steven E. Stone  
Hon. Darlene A. White

**TIME:**

**July 16, 2013  
12:00 pm – 1:15 pm**

**LOCATION:**

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

**COSTS:**

- \*Free for Members of Foothills Bar Association
- \*\$10.00 for Non-Members or Guests.

**\*\*The Foothills Bar Association has submitted its application for renewal of provider status to the State Bar of California and expects this program will be approved for 1.0 hour of MCLE general credit by the State Bar of California.**

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

## **E-FILING & E-SERVICE IN SAN DIEGO SUPERIOR COURT**

**DATE**  
July 18, 2013

**TIME**  
1-2 pm

**LOCATION**  
El Cajon  
Branch  
250 E Main St.  
(Courthouse,  
1st floor)

**COST**  
Free

### **About the Program:**

This session walks you through all the steps necessary to eFile your documents in the San Diego (CA) Superior Court.

You will learn:

- How to register a new user to your account.
- How to place a San Diego electronic court filing order for a new or an existing case.
- How court filing fees are paid.
- How to set up and effect eService (time permitting).

After you have attended this course, you'll be able to submit your eFilings more quickly and efficiently



### **Speaker info:**

Brooke Greene is the Northern California Product Training & Research Coordinator for One Legal. Her areas of training expertise include eFiling, court filing, process serving, and One Legal products and services.

**MCLE:** 1 hour General Participatory MCLE credit available

### **More Information and Registration:**

<http://efiling2013july18.eventbrite.com> or call (619) 441-4451



# LINDLEY LECTURE ON LAW & COMICS



## LAW & COMICS 2013

### CENSORSHIP:

### From 1950's Superheroes

### to Today's Manga

**DATE**  
July 16, 2013

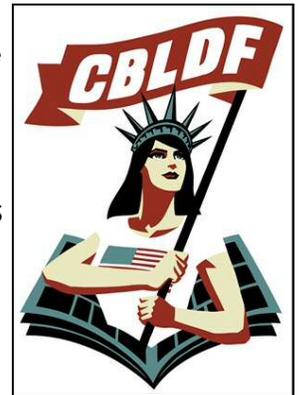
**TIME**  
12:00—1:00 pm

**LOCATION**  
Downtown  
1105 Front St  
San Diego, CA  
92101

**COST**  
\$10

#### **About the Program:**

With moral panic on the rise, the history of how comics have been censored is more important than ever. Join us for this shocking tale, starting from the public book burnings and Senate hearings that led to the Comics Code Authority in the 1950s, through the attacks on retailers in the 1980s, artists in the 1990s, and readers today. Learn about the latest developments affecting the freedom to read comics, including the details of recent prosecutions against comics readers in the United States and abroad.



#### **Speaker:**

Charles Brownstein has served as the Executive Director of the Comic Book Legal Defense Fund since 2002. In that time, CBLDF has managed notable victories in both criminal defense cases and challenges to unconstitutional litigation involving First Amendment rights. Brownstein speaks extensively on comics and law at venues all over the world, and his books on comics have earned prestigious awards within the field.

**MCLE:** 1 hour General Participatory MCLE credit available

**Registration:** insert eventbrite link, call 619-531-3900, or scan



### SUBMISSIONS

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

### ADDRESS CHANGES

Send change of address or telephone number to Lauri Croce, Esq. at [Lcroce@a-khoa.com](mailto:Lcroce@a-khoa.com) or 619-589-8800, Extension 301.

---

**Foothills Bar Association**

P.O. Box 1077  
El Cajon, CA 92022

Addressee Name  
4321 First Street  
Anytown, State 54321