Join Us for the Foothills Bar Association’s Annual Membership Drive

By Traci Hoppes, CFLS, FBA President

The Foothills Bar Association will host its fun summer tradition, the Annual Membership Drive and Mixer, at Hooleys Irish Pub & Grill in the Grossmont Shopping Center on Thursday, June 29, 2017 starting at 5:00 p.m. This is the perfect occasion to renew your membership for the 2017-18 term and to catch up with friends while enjoying the hosted appetizers and a beverage. For over 53 years, the Foothills Bar Association has been dedicated to fostering a close working relationship between the bench and bar in East County. While our organization is composed primarily of attorneys, judges and other professionals who live or work in East County, we also have many members outside of East County who take advantage of our membership benefits.

Some of the many reasons to join or renew your membership in the Foothills Bar Association include:

- Excellent monthly MCLE programs presented through our various sections, Family, Civil Litigation, Estate Planning/Probate and Criminal law, which are free to members.
- “Hard to Get” Seminar usually presented in January that provides three 1-hour credits in Legal Ethics, Recognition and Elimination of Bias, and Competence Issues for a reasonable fee.
- Subscription to the Foothills Bar Association’s monthly Newsletter, which provides articles on topics of interest, Court news and updates on section MCLE programs and events. Submissions from members are encouraged.
- Networking opportunities, mixers and fun social events.

Upcoming Events Calendar

June 8
Estate Planning and Probate Section
12:15 - 1:15 p.m.
Law Offices of Nancy Kaupp Ewin, Esq.
8166 La Mesa Blvd., La Mesa
Topic: TBA
Speakers: TBA

June 15
FBA Young/New Lawyers’ Committee Mixer
6:00 – 9:00 p.m.
Johnny B’s Burgers, Brew & Spirits
8393 La Mesa Blvd, La Mesa

June 20
Family Law Section
12:00 - 1:15 p.m.
East County Court, Dept. 6
250 E. Main Street, El Cajon
Topic: Attorney Fees – Tips & Best Practices to Get Paid
Speaker: Daniel Horowitz, Esq.

June 29
FBA membership Drive & Mixer
5:00 – 7:00 p.m.
Hooleys Irish Pub & Grill
Grossmont Center, La Mesa

July 11
Civil Litigation Section
12:00 - 1:15 p.m.
BJ’s Restaurant, Grossmont Center, La Mesa
Topic: Warning Signs of Potential Employment Lawsuits
Speaker: Michael Freeland, Esq.
Continued from Page 1…

- Opportunities to expand your recognition in the legal community by writing articles of interest for the monthly newsletter and presenting seminars in your particular field of expertise.
- Opportunities to become active in the Foothills Bar Association, and chair a section committee in your field of expertise, or another area you would like to become more involved with in your practice of law.
- Inclusion in the FBA membership directory (on-line and printed versions).
- Invitation to the Annual Awards Dinner and Installation of the Board.
- Participation in the Annual Toy Drive to support local families.
- It costs only $65 per year.

If you are not currently a member, I encourage you to join to take advantage of these benefits. If you are currently a member, please remember to renew your membership, and consider encouraging your friends from the legal community to also become members and attend our event at Hooley’s on June 29th. If you have any questions regarding membership or about the Foothills Bar Association in general, please visit our website at www.foothillsbar.org or contact me at traci@familylawsandiego.com. See you at Hooleys on June 29 for the Membership Drive and bring a friend!

FBA Civil Litigation Section MCLE Update
By Cheryl L. Stengel, Esq., Co-Chair

The Civil Litigation Section of the Foothills Bar Association will host the MCLE program "Warning Signs of Potential Employment Lawsuits", presented by Michael Freeland, Esq. of Freeland Law, APC on Tuesday, July 11, 2017 from 12:00 to 1:15 p.m. at BJ's Restaurant in Grossmont Center in La Mesa.

Mr. Freeland will discuss tips for attorneys in counseling their employer and employee clients on identifying potential employment law claims and risks.

Mr. Freeland has over 25 years of litigation experience. He has conducted numerous state and federal trials, administrative hearings and arbitrations and appeals. He represents and counsels employers and employees of all types in private sector/government matters such as: wage and hour, wrongful termination, employment discrimination, potential job loss/discipline, sexual harassment, defamation, and claims for unemployment benefits.

This program has been approved for 1.0 hour of MCLE general credit by the State Bar of California. The seminar is free to members of the Foothills Bar Association and only $10.00 for nonmembers. You may order lunch from BJ's menu but do not have to. Walk in registrants will be accommodated as space allows.

Please RSVP to Cheryl Stengel, Esq. at clstengel@outlook.com.
Once Usurious, Almost Always Usurious

By Keith A. Jones, Esq.

Many lenders (e.g. banks, credit card companies, etc.) are exempt from the California Constitution's interest rate cap which is the higher of: a) 10% or b) 5% plus the applicable rate for the Federal Reserve Bank of San Francisco. When a creditor charges usurious interest, it is not entitled to any payment of any interest because the usurious interest rate provision is rendered void.

The borrower receives an additional benefit upon proving payment of usurious interest in that the interest payments are credited against the principal balance. A borrower's protection against usurious interest practically takes on a life of its own as demonstrated in a recent decision.

The California appellate court considered a case in which the borrower had obtained several loans (with some amended to extend payment dates) from the creditor over the course of ten years, most at a 12% annual interest rate and others at 11%. Many of the loans required interest-only monthly installments with a final balloon payment. The borrower provided deeds of trust for several of his properties as security for the loans.

In 2009 and 2010, the creditor and borrower combined the various loans as amended into two final loans which included past due principal, unpaid usurious interest and late fees for the earlier loans. The parties also signed a "Forbearance Agreement" in which the borrower released the creditor from past and future claims, and waived any claims, demands, defenses, causes of action and rights, including known and unknown claims, in an effort to waive the protections of Civil Code Section 1542.

The borrower filed suit in 2013 to stop the creditor's non-judicial foreclosures, to recover damages for usurious interest, and to obtain declaratory relief. The creditor responded with his cross-complaint seeking damages and judicial foreclosure among other claims. At trial, the creditor argued that the borrower had waived any claims to assert usury under the terms of the Forbearance Agreement. The creditor alternatively contended that the statute of limitations barred the borrower's claims for any usurious interest paid except for any paid during the two years prior to filing suit.

The trial court rejected the creditor's arguments, finding the borrower had paid over $1.55 million on the various notes, none of which had been applied to the principal of any of the loans. Also, the borrower paid over $225,000 in interest during the two year statute of limitations period on the combined two loans which had a total principal balances of over $1.46 million.

The judgment ultimately confirmed that the borrower had paid the loans off interest-free after applying the usurious interest paid, even though a majority of his interest payments had been made beyond the statute of limitations period. The trial court further awarded the borrower over $225,000 representing a refund of the usurious interest paid in the two years before filing the lawsuit.

The appellate court affirmed, holding that California law provides important protections in prohibiting usurious interest which cannot be waived, even when the payments are voluntarily negotiated and made. Non-exempt lenders don't have any loopholes, and all borrowers, except the fraudulent ones, cannot be compelled to pay usurious interest. The appellate court treated the Forbearance Agreement as unenforceable under the Civil Code since it directly or indirectly exempted the creditor from his own violation of law irrespective of whether he did so willfully or negligently.
The statute of limitations defense also proved unsuccessful notwithstanding that the borrower had paid usurious interest on the older loans, the oldest from 1999 with a 2004 maturity date. The appellate court agreed with the trial court's analysis in that California law requires the interest provisions be deemed void so that all payments are applied solely to principal. Moreover, California law provides "that in an action to collect a usurious debt, the usurious payments are not barred by the statute of limitations so long as the usurious loan remains unpaid."

The interest payments did not lose their usury status notwithstanding the two year statute of limitations since the underlying loans had not been paid. The appellate court also affirmed the trial court's award of over $225,000 to the borrower representing a refund of the usurious interest paid in the two years before filing the lawsuit.

The borrower in essence recovered usurious interest payments on loans, including loans with maturity dates from 2001 to 2009, even though he didn't file his lawsuit until 2013. Despite this passage of time, and coupled with the rollover of the earlier loans into the last two loans, his interest payments, some more than a decade after they were paid, maintained their usurious characterization for purpose of calculating his recovery.

The Foothills Bar Association is pleased to announce the inaugural event of the Young/New Lawyers’ Committee! Please join us on Thursday, June 15 for a Happy Hour mixer at Johnny B's Burgers, Brew & Spirits, located at 8393 La Mesa Blvd, La Mesa, beginning at 6:00 p.m. All are welcome. For additional information, contact Will Hannosh, Esq. at 619-244-9835 or 619-448-6500.
PUBLIC NOTICE

CLOSURE OF COURTHOUSE BUILDINGS ("OLD" CENTRAL COURTHOUSE)/TRANSFER OF OPERATIONS

Pursuant to Government Code § 68106 and Rule 10.620 of the California Rules of Court, the Superior Court of California, County of San Diego, is providing over 60 days' notice that it will be closing the old Central Courthouse at 220 W. Broadway, San Diego, CA 92101, with various courtrooms and associated staff moving out of that facility between July 20, 2017 and August 20, 2017.

All of the courtrooms that are moving out of the old Central Courthouse will reopen in the new San Diego Central Courthouse at 1100 Union Street, San Diego, CA 92101 (the "new Central Courthouse") with new department numbers, with the exception of the current Department 7 (unlawful detainers) and 22 (small claims). Departments 7 and 22 will move to the Hall of Justice at 330 W. Broadway, San Diego, and become Departments 60 and 61 respectively.

A complete list of the courtrooms and business offices that are closing, the dates and times of closing, and the new courtroom assignments in the new Central Courthouse will be posted on the Court's website, www.sdcourt.ca.gov, as the move proceeds.

Starting July 31, 2017, all criminal case filings and all filings in appeals must be made in the new Central Courthouse at 1100 Union Street. Small claims case filings will continue to be made in the Hall of Justice at 330 W. Broadway.

These actions are due to the completion of the building project to construct the new Central Courthouse.

The Court is inviting public comment on this change prior to implementation. To ensure prompt review and consideration, comments should be submitted electronically through the Court's website at www.sdcourt.ca.gov (click on "Invitation to Comment"). For those without easy internet access, comments may be mailed to: Superior Court of California, County of San Diego, 220 W. Broadway, Executive Office, San Diego, CA 92101, attention Michael Roddy, Court Executive Officer.

MICHAEL M. RODDY
Executive Officer
PUBLIC NOTICE

CLOSURE OF COURTHOUSE BUILDINGS (FAMILY COURT AND MADGE BRADLEY)/TRANSFER OF OPERATIONS

Pursuant to Government Code § 68106 and Rule 10.620 of the California Rules of Court, the Superior Court of California, County of San Diego, is providing over 60 days’ notice that it will be closing the Family Court Building at 1555 Sixth Avenue, San Diego, CA 92101 and the Madge Bradley building at 1409 Fourth Avenue, San Diego, CA 92101 (including both business operations and courtrooms), and transferring the operations therein to the new San Diego Central Courthouse at 1100 Union Street, San Diego, CA 92101 (the “Central Courthouse”). The Family Court Building, which currently houses courtrooms F-1 to F-6, will close at 3:30 p.m. on July 12, 2017. The Madge Bradley building, which currently houses courtrooms F-8, F-9 and PC-1, PC-2, and PC-3 will close at 5:00 p.m. on July 12, 2017.

Family and Probate court operations and hearings in Family and Probate cases will resume on July 17, 2017 in the new Central Courthouse at 1100 Union Street. Effective that same date, all probate case filings, and filings for family cases pending in the Central venue district, must be made in the new Central Courthouse.

Also moving from the Family Court and Madge Bradley Buildings and reopening in the new Central Courthouse at 1100 Union Street beginning July 17, 2017 will be Family Court services, Family Law Facilitator services, the Domestic Violence Restraining Orders clinic operated by the Legal Aid Society of San Diego, and the Children’s Waiting Room.

These actions are due to the completion of the building project to construct the new Central Courthouse.

The Court is inviting public comment on this change prior to implementation. To ensure prompt review and consideration, comments should be submitted electronically through the Court’s website at www.sdcourts.ca.gov (click on “Invitation to Comment”). For those without easy internet access, comments may be mailed to: Superior Court of California, County of San Diego, 220 W. Broadway, Executive Office, San Diego, CA 92101, attention Michael Roddy, Court Executive Officer.

MICHAEL M. RODDY
Executive Officer
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 Mark Raftery at mark@markrafterylaw.com or Cheryl Stengel clstengel@outlook.com.

Foothills Bar Association Notice of Board Meeting:

The Foothills Bar Association Board of Directors generally meets on the third Tuesday of each month. The next meeting will be on June 20, 2017 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 events 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.
FOOTHILLS BAR ASSOCIATION
FAMILY LAW SECTION MEETING

Tuesday, June 20, 2017
12:00 pm – 1:15 pm

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

TOPIC:
ATTORNEY FEES & LIENS:
TIPS AND BEST PRACTICES FOR GETTING PAID

* Retainer Agreement Options
* Monitoring account receivables
  * Liens and FLARPLs
  * Fee collection process

SPEAKER:
Daniel Horwitz, Esq.
Fee Agreements/Collections Specialist for over 15 years

This event is free for members of the Foothills Bar Association

This presentation qualifies for one unit (1.0 credit hour) toward California Minimum Continuing Legal Education (MCLE)

For questions, please contact Traci Hoppes at (619) 448-6500 or tracihoppes@yahoo.com
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Dan Cohen  cohencohenlaw@gmail.com  619-697-0333
Garrison Klueck  Garrison@FamilyLawSanDiego.com  619-448-6500
Mark R. Raftery  mark@markrafterylaw.com  858-527-0111
Andrea Schneider  andreaattorney@gmail.com  619-518-0476
Bradley Schuber  bschuber@krigerlawfirm.com  619-589-8800

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Garrison “Bud” Klueck, SDCBA, East County Representative, Board of Directors  Garrison@FamilyLawSanDiego.com  619-588-2064

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

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

Foothills Bar Association
P.O. Box 1077
El Cajon, CA 92022

Addressee Name
4321 First Street
Anytown, State 54321