



# NEWSLETTER

## It's Time for Foothills Bar Association's Annual Dinner!

By Traci Hoppes, Esq., FBA President

The Foothills Bar Association is pleased to announce its Annual Dinner and Installation of Officers and Directors, on Friday, January 26, 2018 from 5:30 to 9:00 p.m. This event will be held at the Babylon Palace Banquet Hall, located at 456 Magnolia Avenue in El Cajon, which is very near to the El Cajon Superior Court.

This will be a meaningful opportunity to allow members and friends of the Foothills Bar, Judicial Officers, and representatives of all of San Diego's bar associations to mix and mingle as we at the Foothills Bar Association fulfill an annual tradition that has lasted for 54 years now. At this special event, we will enjoy entertainment by a local comedian and music from a DJ, as well as a delicious dinner. We will also present several awards and swear in the new board members for 2018. The festivities began at 5:30 pm with cocktails and appetizers.

Space is limited so please RSVP. Pre-event registration may be done on-line at <http://foothillsbar.org> or mail a check payable to "Foothills Bar Association", to P.O. Box 1077, El Cajon, CA 92022. The cost is \$70 per person, which includes drinks and dinner. Please reference the "annual dinner" in the memo portion of your check, indicate your name and how many guests you'll bring. Also, please indicate whether you would like a vegetarian meal. We hope to see you there! If you have any questions, please contact Will Hannosh at [will@familylawsandiego.com](mailto:will@familylawsandiego.com) or Koryn Sheppard at [koryn@familylawsandiego.com](mailto:koryn@familylawsandiego.com).

## Upcoming Events Calendar

**January 11**

**Foothills Bar Association**

**"Hard to Get" MCLE Seminar**

**5:00 – 9:00 p.m.**

Claim Jumper Restaurant (Private Room)

Grossmont Center, La Mesa

**January 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

Speaker: TBA

**January 15**

**Martin Luther King, Jr. Birthday**

**State and Federal Courts Closed**

**January 16**

**Family Law Section**

**12:00 - 1:15 p.m.**

East County Court, Dept. 6

250 E. Main Street, El Cajon

Topic: Effect of the New Tax Legislation on  
Dissolution

Speaker: Tax Attorney from RJS Law

**January 18**

**FBA's Young/New Lawyers Committee**

**Mixer**

**6:00 – 9:00 p.m.**

Coin Haus, 8361 Allison Avenue, La Mesa

**January 26**

**Foothills Bar Association Annual Dinner &**

**Installation of Board of Directors**

**5:30 – 9:00 p.m.**

Babylon Palace Banquet Hall

456 Magnolia Avenue, El Cajon

## Remembering Attorney Jerry Carmody

By William Fishbeck, Esq.

On the San Juan River in New Mexico, Jerry Carmody and his brothers have been known as the fly fishing experts for decades, since long before *A River Runs Through It*. Catch-and-release fishing was almost unknown when they started mining this world class water as teens and Jerry continued to work his magic there until his fateful diagnosis with ALS in late 2015. He would spend ten hours a day standing in the slippery cobble, thigh deep in rushing water and pursue those big, beautiful Rainbows. His tenacity and concentration made him a mentor to my come-lately fly fishing and he amazed a lot of fishing professionals with his skills and knowledge of the waters. His favorite time there was in the first week of November, often as the snow was falling, which just fit him perfectly as adversity made it all the better. But mostly I was awed by his laissez faire time in the rivers of Alaska and BC when he would be devoted to the catch while I would most likely be looking over my shoulder for the next Grizzly coming down the river wanting our Coho, and not liking us too much.

That same guy is the lawyer I have known for 35 years. He was tenacious but never nervy or abrupt with anyone. He would study his quarry carefully and would be willing to throw the fly of settlement as many times as it took. But if that did not work, he would press forward, prepare his case and be willing to spend the 10 hours “in the river” to represent his clients. Those clients most often thought Jerry walked on that water rather than wading through it. When he did set the hook, though, he was always gentle with the prize as in the picture here, where he only kept this beautiful Steelhead out of the water long enough for this picture.



Jerry was a past President and very supportive of FBA. And he was one of those folks that helped make practice in East County the treat it is. He could not walk through the Courthouse without several of our clan wanting to stop and talk with him. Just who he was.

We already miss Jerry at Grossmont, where we have all been for 25 years and he leaves a great family that includes his new grandson. ALS is often called the “cruellest disease” but Jerry was no testament to that...he only lived two years from diagnosis as it took his body, but he never, never complained. “Lou Gehrig’s Disease” has no treatment and no hope of cure at this time. But that does not have to be the future. Please consider helping to find a cure by supporting [alsa.org](http://alsa.org), in Jerry’s name.

I am sure that Jerry is where each day is “FISH ON!”

## Join us for the FBA's Annual "Hard to Get" MCLE Program

By Glen Honig, Esq.

On **Thursday, January 11, 2018**, the Foothills Bar Association will present its annual "Hard-To-Get" MCLE Seminar in the private room at the Claim Jumper Restaurant in Grossmont Center, La Mesa. Registration will open at 5:00 p.m., with the program beginning at 5:30 and concluding at approximately 9:00. Dinner and beverages are included with your registration fee.

We have lined up an excellent panel of speakers: Ed McIntyre, Esq. for legal ethics; Chris Hulburt, Esq. for elimination of bias in the legal profession; and Jennifer Gerstenzang, Esq. for substance abuse/competence issues.

Pre-registration fees are \$70 for FBA members and \$80 for non-FBA members, with each category of fees increasing by \$10 on the day of the event. You may register and pay through the FBA's website, [www.foothillsbar.org](http://www.foothillsbar.org), or by mailing your check to the FBA at P.O. Box 1077, El Cajon, CA 92022. Be sure to indicate on the check that it is for the "Hard To Get" seminar and the name of the attendee. If you have any questions, please contact Glen Honig at [Glen@FamilyLawSanDiego.com](mailto:Glen@FamilyLawSanDiego.com) or 619-448-6500.

## Illegal Rental Units Equals Legal Defense

By Keith Jones, Esq.

Landlords usually pursue evicting tenants by first serving a three day notice to pay rent or quit. If the tenant doesn't timely cure the default, the landlord then files its unlawful detainer complaint and pursues full steam ahead to quickly regain possession of the premises. Since landlords are entitled expedited court procedures to regain possession, the courts strictly construe the eviction statutes in favor of the tenants.

A recent appellate decision demonstrates how a landlord found itself between a rock and a hard place when it tried to evict a non-paying tenant. In an unlawful detainer action filed in late 2014, a residential landlord claimed that the tenant didn't timely cure a default based on a three day notice to pay rent or quit. The parties had an oral month-to-month tenancy for a unit which was subject to the Los Angeles Rent Stabilization Ordinance (LASRO).

In unusual procedural developments for unlawful detainer lawsuits, the tenant filed two motions for summary judgment. The court denied the first summary judgment motion which related to past due amounts and alleged rent increases that exceeded increases permitted by the LASRO. The tenant filed his second motion for summary judgment in April 2015 which derailed the landlord's efforts to request a trial within twenty days after the tenant filed his answer. In his second motion, the tenant argued that no rent was due because the unit was an illegal unit since it lacked a permit and a certificate of occupancy.

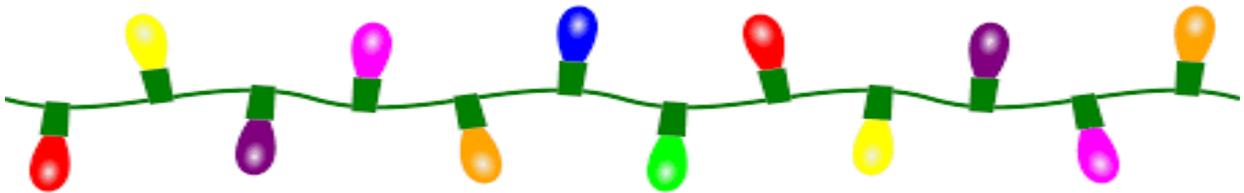
The landlord acknowledged in its pleadings that the unit was illegal, rendering the rent agreement void and unenforceable. The trial court granted the summary judgment motion in favor of the tenant based in part on a January 2015 notice of abatement which directed the landlord to either demolish the unpermitted unit or obtain appropriate permits. The trial court rejected the landlord's contention that the lack of legal agreement only prevented it from recovering past due rent but not from recovering possession of the premises.

The appellate court focused on the rationale that a landlord must strictly follow the statutory procedure to evict a tenant, stating that a landlord's lawsuit is not for unlawful detainer if he or she doesn't comply with the statutes. A landlord could not collect rent on the lease that had been rendered void by the premises being illegal. Consequently, a notice demanding any rent whatsoever overstated the amount due and didn't strictly comply with the statutes. Thus, the defective notice could not support the landlord's unlawful detainer action to evict the tenant.

## Continued from Page 4...

The landlord cited an earlier appellate opinion in which a landlord prevailed for possession and money damages even though the lease was illegal and void. Rather than reverse the lower court's judgment in that case, the appellate court modified the lower court's decision to delete the monetary award while allowing the landlord to retain its judgment for possession. The appellate court in the most recent case declined to follow the earlier case since the notice issue had not been squarely addressed in the earlier appellate decision.

I have witnessed several unlawful detainer trials, even default judgment prove-ups, in my practice while waiting for my clients' cases to be called, in which the landlords lose for overstating the rent due in their notices or for trying to collect rent on illegal units. Those default judgment cases served as stark reminders that even non-appearing tenants receive the benefits when courts strictly enforce the statutory requirements.



On December 21, FBA members celebrated the season with the FBA's Annual Toy Drive and Holiday Mixer at Hooley's Irish Pub in Grossmont Center. Through member donations, the FBA collected numerous toys for the Salvation Army to distribute to local families in need. This was a fun evening, full of good food, camaraderie and holiday spirit. Thank you to all who attended and made this event a success.





## **FOOTHILLS BAR ASSOCIATION OF SAN DIEGO COUNTY**

**Service, Professionalism, Collegiality**

### **Foothills Bar Hard to Get MCLE Seminar**

#### **Just in time to get those last few hard to get credits!**

**When:** January 11, 2018, 5 to 9 p.m.

**Where:** The Claim Jumper restaurant in Grossmont Center (Private Room).

**Buffet dinner included.**

#### **Speakers and Topics:**

**Ed McIntyre, Esq.:** (1 hr) Ethics

**Chris Hulburt, Esq.:** (1 hr) Recognition and Elimination of Bias

**Jennifer Gerstenzang, Esq.:** (1 hr) Substance Abuse / Competence (Practicing Under the Influence. The problem, prevention and treatment)

**Price:** \$70.00 for members of the Foothills Bar Association.

\$80.00 for non-members

**Registration may be done on-line at <http://foothillsbar.org> (after 12-27-2017)**

Or, mail a check payable to "Foothills Bar Association", to P.O. Box 1077, El Cajon, CA 92022.

Please reference the Hard to Get Seminar in the memo portion of your check.

WE HOPE TO SEE YOU THERE! If you have any questions, please contact Glen Honig at [Glen@FamilyLawSanDiego.com](mailto:Glen@FamilyLawSanDiego.com) or 619-448-6500.



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

**FOOTHILLS BAR ASSOCIATION  
FAMILY LAW SECTION MEETING**

**Tuesday, January 16, 2018  
12:00 pm – 1:15 pm**

**LOCATION:**

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

**TOPIC:**

**The Effect of the New Tax  
Legislation on Dissolutions**

**SPEAKER:**

**Tax Attorney at  
RJS LAW**

**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 Amy West at  
(619) 448-6500 or [amy@familylawsandiego.com](mailto:amy@familylawsandiego.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 Mark Raftery at [mark@thelawcorp.com](mailto:mark@thelawcorp.com) or Cheryl Stengel [clstengel@outlook.com](mailto: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 January 16, 2018 at the Law & Mediation Firm of Klueck & Hoppes, APC, 7777 Alvarado Road, Suite 413, La Mesa, CA 91942 beginning at approximately 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](mailto:Kelly.Fabros@SDCourt.CA.Gov).

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<b>Secretary</b>	<b>Koryn Sheppard</b>	<a href="mailto:koryn@FamilyLawSanDiego.com">koryn@FamilyLawSanDiego.com</a>	<b>619-448-6500</b>
 <b>Immediate Past President: Glen Honig</b>			 <b>619-315-9962</b>
		<a href="mailto:glen@FamilyLawSanDiego.com">glen@FamilyLawSanDiego.com</a>	

### DIRECTORS

<b>Cheryl Stengel</b>	<a href="mailto:clstengel@outlook.com">clstengel@outlook.com</a>	<b>619-269-2126</b>
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<b>Andrea Schneider</b>	<a href="mailto:andreaattorney@gmail.com">andreaattorney@gmail.com</a>	<b>619-518-0476</b>
<b>Bradley Schuber</b>	<a href="mailto:bschuber@krigerlawfirm.com">bschuber@krigerlawfirm.com</a>	<b>619-589-8800</b>

### REPRESENTATIVES

**Garrison "Bud" Klueck, SDCBA, East County Representative, Board of Directors**  
[Garrison@FamilyLawSanDiego.com](mailto:Garrison@FamilyLawSanDiego.com)      **619-588-2064**

### SECTIONS

<b>FAMILY LAW:</b>	<b>Chair: Traci Hoppes</b>
<b>CIVIL LITIGATION:</b>	<b>Chairs: Cheryl Stengel &amp; Mark R. Raftery</b>
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<b>HARD-TO-GET</b>	<b>Chair: Glen Honig</b>
<b>CREDITS SEMINAR</b>	
<b>MEMBERSHIP</b>	<b>Chair: Bradley Schuber &amp; George de la Flor</b>
<b>ADDRESS CHANGES</b>	<b>Chair: Bradley Schuber</b>
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<b>NEWSLETTER</b>	<b>Chair: Cheryl Stengel</b>
<b>YOUNG &amp; NEW LAWYERS</b>	<b>Chairs: William Hannosh &amp; Koryn Sheppard</b>

**SUBMISSIONS**

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](mailto:bschuber@krigerlawfirm.com)

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

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