



# NEWSLETTER

## Celebrating Law Week 2018

By Cheryl Stengel, Esq., CLS-B

The San Diego Law Library (“SDLL”) joined county law and public libraries throughout the country in celebrating Law Week, during April 28 - May 4. Established in 1958 by President Dwight Eisenhower, Law Day is a day of national dedication to the principles of government under law. It is meant as a time to reflect on the role of law in the foundation of the country and to recognize its importance for society. Congress officially declared May 1 as Law Day in 1961. Law Week is an extended celebration of Law Day. In honor of Law Week, SDLL hosted a series of events designed to increase access to justice, including legal clinics throughout the county. The theme for Law Day 2018 was “Separation of Powers: Framework for Freedom.” The U.S. Constitution sets out a system of government with distinct and independent branches—Congress, the Presidency, and a Supreme Court. It also defines legislative, executive, and judicial powers and outlines how they interact. These three separate branches share power, and each branch serves as a check on the power of the others. The Law Day 2018 theme enables us to reflect on the separation of powers as fundamental to our constitutional purpose and to consider how our governmental system is working for ourselves and our posterity.

The Foothills Bar Association has a long tradition of community service and pro bono representation to assist those in need of counsel. For example, FBA members have regularly volunteered at the El Cajon Library’s weekly Legal Clinic. We appreciate the time and dedication of our members.

### Upcoming Events Calendar

**May 10**

**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

**May 15**

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

East County Court, Dept. 5  
250 E. Main Street, El Cajon  
Topic: Domestic Violence: A Law  
Enforcement Perspective  
Speaker: TBA

**May 17**

**Criminal Law Section**  
**12:00 - 1:10 p.m.**

East County Court, Dept. 5  
250 E. Main Street, El Cajon  
Topic: Civility In and Out of the  
Courtroom  
Speaker: Hon. Tilisha T. Martin

**May 28 – Memorial Day**

State and Federal Courts Closed

## Volunteer Opportunities at the El Cajon Legal Clinic

By Hiba Benny, Esq.

The El Cajon Legal clinic is a project with the Thomas Jefferson School of Law Center for Solo Practitioners. The clinic meets every Wednesday from 1:00 p.m. to 3:00 p.m. at the El Cajon Branch Library, located at 201 East Douglas Avenue, El Cajon, CA 92020.

The clinic needs attorneys to volunteer their time and provide access to justice for individuals needing legal advice who simply cannot afford to hire an attorney. It is a great way for newer attorneys to get experience in the legal field on a wide range of issues, such as family law, landlord-tenant law, immigration law, personal injury law. This clinic is becoming more worthwhile and valuable to individuals needing legal advice, due to the increased cost of living in the San Diego area. Many of the clientele who attend this legal clinic are seeking bilingual attorneys who speak Arabic or Spanish.

Many of these clients simply need help in translating legal documents, filling out paperwork, and advice on their legal issues and the legal options available to them for relief.

If anyone is interested in volunteering their time, please contact Lilys McCoy, the director of the Center for Solo Practitioners and Solo Practice Concentration at Thomas Jefferson School of Law.

### *Save the Date!*

*On June 28, 2018, the Foothills Bar Association will hold its annual Membership Drive and Mixer beginning at approximately 4:30 p.m. in the Guinness Room at Hooley's Irish Pub in Grossmont Center, La Mesa.*

*More information to follow...*

## Landlord Not Obligated to Furnish a Lifesaver

By Keith Jones, Esq.

In California, the Health & Safety Code requires health studios to acquire and maintain an automated external defibrillator ("AED"). Health studios include facilities that permit the use of their premises and equipment for physical exercise, body building, fitness training and similar purposes on a membership basis.

The California appellate court recently faced the question as to whether a landlord who leased premises to a health studio is also obligated to acquire and maintain an AED since it in essence permitted its premises to be used as a health studio. A surviving spouse sued both the boxing club and the landlord after her husband suffered a fatal heart attack while working with a trainer in the club. Her claims were based in part on the failure of the defendants to maintain an AED on the premises.

The landlord succeeded at the trial court via a summary judgment motion, claiming that it did not owe a statutory duty to provide an AED because the definition for "*health studio*" did not include property owners or landlords. The landlord also argued that it did not have a legal duty to inspect the property to be sure that its tenant was in compliance with the AED requirement.

The appellate court addressed both the statutory and common law duties applicable to property owners. Under the statute, the appellate court held that the landlord could not be held liable for failing to provide an AED because it did not permit members to use the facilities and equipment on a membership basis. Moreover, the landlord didn't offer anyone the use of any equipment and was not in control of the premises such as to be able to meet other statutory requirements, e.g. testing and maintaining records for an AED, ensuring proper training and implementation of emergency procedures, and satisfying reporting requirements. As such, the landlord fell outside the definition of a health studio and was not required by statute to provide an AED.

Much of the appellate court's analysis concerned common law duty. In this respect, the surviving spouse argued that the landlord had a duty to provide an AED when it leased the premises to the boxing club, or alternatively to require the boxing club to have an AED as a condition of the lease. Recognizing that property owners have a duty to maintain their properties in a reasonably safe condition, the reasonable care standard requires only that landlords make sure their premises are safe at the beginning of the tenancy and to repair hazards that the landlords learn about at a later time.

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The rationale for the standard applicable to the landlord is that once leased, the landlord no longer exercises possession and control of the premises. For a landlord to be liable, the injured party would need to establish that the landlord had both actual knowledge of a dangerous condition coupled with the right and ability to repair the condition.

The appellate court also relied on a California Supreme Court decision which ruled that a Target store was not required to provide an AED as a precautionary step after addressing several considerations such as the degree of foreseeability and the burden of providing the safety device. The burden of providing an AED was not limited to the cost of the device, but included training employees, maintaining the device, staffing qualified personnel during business hours, and complying with reporting requirements. These obligations, when combined, required *"more than a minor or minimum burden."*

The appellate court upheld the summary judgment for the landlord after considering that the risk of injury was less for Target patrons as compared to members of a boxing club. It reasoned that the landlord's lack of control over the premises since it no longer had possession or owned the equipment, and over the tenant's business activities, would not support finding that a landlord owed a common law duty to have an AED or to be sure that its tenant have and maintain an AED. Next time you're feeling dangerously exhausted at your fitness club, don't look to the club's landlord for a lifesaver.

# 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](mailto:sbanks@krigerlawfirm.com) or 619-589-8800, or Christopher Hayes at [cjhayes@cox.net](mailto: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 third Tuesday of each month. The next meeting will be on May 15, 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](mailto:Kelly.Fabros@SDCourt.CA.Gov).



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

**FOOTHILLS BAR ASSOCIATION  
FAMILY LAW SECTION MEETING**

**Tuesday, May 15, 2018  
12:00 pm – 1:15 pm**

**LOCATION:**

**East County Court House – Department 5  
250 East Main Street, El Cajon, CA 92020**

**TOPIC:**

**“Domestic Violence: A Law  
Enforcement Perspective”**

- Enforcement and Trial Tips for Attorneys in  
DVPA Cases**

**THIS EVENT IS FREE FOR MEMBERS OF THE FOOTHILLS BAR ASSOCIATION**

**\*\*Civil and Criminal Law practitioners are also welcome  
to attend this Family Law Section MCLE\*\***

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

**For questions, please contact Amy E. West, CFLS at  
(619) 448-6500 or [Amy@familylawsandiego.com](mailto:Amy@familylawsandiego.com)**

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<b>George de la Flor</b> (Alternate Director)	<a href="mailto:gldelaflor@cs.com">gldelaflor@cs.com</a>	619-246-9544

### REPRESENTATIVES

**Garrison "Bud" Klueck, SDCBA, East County Liaison, San Diego County Bar Association**  
[Garrison@FamilyLawSanDiego.com](mailto:Garrison@FamilyLawSanDiego.com)      619-588-2064

### SECTIONS

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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.](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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