It’s Happening!! – FBA is Going to a Padres Game 8/11
By Garrison “Bud” Klueck, CFLS

In many past years, members of the Foothills Bar Association, and judicial officers and court personnel, have attended together multiple San Diego Padres games. That tradition, unfortunately, has been interrupted recently and FBA has not attended Padres games for several years. That is now going to change!

The Special Events Committee of your Foothills Bar Association is organizing an outing to a Padre game. The game selected is against the Cincinnati Reds on Tuesday evening, August 11.

After several off-season acquisitions, the Padres appear to be doing better this year (kind of). Meanwhile, the Reds appear to be one of the weaker teams in the National League. Using our lawyerly deductive reasoning, we can conclude that the Padres may have a pretty good chance of winning on 8/11.

Padre night games start at 7:05 PM–so there is time to complete a late afternoon calendar and still make it to Petco Park on time. There is lots of food and drink at the ballpark and we can all get a great dinner there!

In order for FBA to qualify for a group rate break on the tickets we had to commit to having 20 people going to the game. These are terrific tickets with a good discount. The tickets are in sections 111-119 on the Field level. The tickets normally sell for $54.50 and the discounted group rate is just $42 a ticket–a 23 % discount! Such a sweet deal! And it will be kind of good, if not sweet, to see the lawyers and judges associated with the Foothills Bar enjoying themselves at a ball game. (Even better, the FBA will totally get our name on the Petco Park scoreboard!!)

If you want to take yourself and a significant other out to the “ol’ ball park,” please contact the Foothills Bar Special Events Chairperson, Bud Klueck. Bud’s email address is Garrison@FamilyLawSanDiego.com and the law firm’s telephone number is 619-448-6500. Please contact “Jodi” at the Klueck law firm to add your name to the list of attendees.
Living in an Immaterial World

By Keith Jones, Esq.

Insurance is a necessary part of our lives, whether it be auto insurance, health insurance, or homeowner's insurance, to name a few. Laws mandate what we must have is some instances, while lenders and others require us to have coverage as part of the contractual relationships.

I have reviewed many commercial loans and leases over the years in my practice. Insurance provisions may take several pages, detailing insurance obligations for the lender and borrower, or the landlord and tenant, for a variety of coverages: general liability, fire, personal property, hazardous substances, workers' compensation, loss of business income, theft, and, where applicable, liability relating to the sale of alcoholic beverages. Such insurance sections usually include clauses requiring the parties to provide proof of insurance, to name additional insureds, and to compel a borrower or tenant to pay for forced insurance if the lender or landlord purchases insurance for the party who fails to do so.

A landlord can seek to evict a tenant who fails to maintain the insurance coverages required by the lease, usually starting with service of a notice to perform or quit. But we know as lawyers, there are exceptions to the rules as a residential landlord discovered when it tried to evict a tenant for failing to maintain insurance.

The landlord in NIVO 1 LLC v. Antunez (2013) 217 Cal.App.4th Supp 1, had a written lease which required the tenant to maintain insurance to cover losses of the tenant's personal property or vehicle. The landlord issued a subsequent notice to change the terms of the tenancy which stated that any breach of the lease was "a material breach." The landlord served the tenant with a notice to perform covenant or quit when the tenant failed to have insurance, and then filed an unlawful detainer action to evict the tenant when she didn't comply.

The trial court found that the tenant's failure to maintain insurance was not a material breach, and thus could not support a forfeiture of the lease leading to the tenant's eviction. The appellate court agreed, relying on the trial court's findings that the tenant didn't have anything worth insuring and that the provision benefited the tenant not the landlord. Thus, the tenant's lack of insurance was a "trivial breach" which would not support an eviction.

The appellate court in NIVO 1 LLC focused on the distinction between material and inconsequential breaches. In making that determination, the courts "must weigh the purpose to be served, the desire to be gratified, the excuse or deviation from the letter, the cruelty of enforced adherence . . ."

Compounding the landlord's problem, the trial court found that the landlord's notice to change the terms of the tenancy did not comply with the municipal code. As such, the terms in the notice were invalid. So whether the tenant's action constituted a trivial breach, or the landlord's unsuccessfully changed the tenancy with an invalid term, the tenant continued to reside in her immaterial-insurance-clause world.
REMINDER:

It’s time to renew your Foothills Bar Association membership for the 2015-2016 year. Membership renewal for existing members or sign up for new members may be done on-line at:

http://foothillsbar.org/membership/.

The membership application is also provided with the newsletter.

Foothills Bar Association Notice of Board Meeting:
The Foothills Bar Association Board of Directors meets on the third Tuesday of each month. The next meeting will be on July 21, 2015 at the Kriger Law Firm, 8220 University Avenue, 2nd Floor conference room, La Mesa, CA 91942. The meeting will begin 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.

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 mraftery@epsten.com or Elizabeth Smith-Chavez at liz@smithchavezlaw.com.

The Foothills Bar Association seeks a chairperson for the criminal law section. Responsibilities will involve scheduling speakers for lunch time MCLE programs on topics of interest and providing Section meeting status reports to the Foothills Board of Directors. Interested attorneys should contact Glen Honig at honigesq@gmail.com or (619) 315-9962.

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

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

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El Cajon, CA 92022

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P.O. Box 1077
El Cajon, CA 92020

Membership Application
The FBA Membership year is July 1 – June 30
$65.00 Membership Fee

**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

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  
- Immigration  

List all areas of Certified Specialization:

** Date: ____________  
** Applicant Signature: __________________________________

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

Foothills Bar Association  
P.O. Box 1077  
El Cajon, CA 92020  
www.foothillsbar.org

If you wish to pay the membership fee by credit card, please complete the credit card information on the following page. Your credit card information will be not be retained after processing.
For payments by credit card:

Name: ____________________________________________________________________________________

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Credit Card Number: ______________________________________________ Security Code: ______________

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

Name on Credit Card: ________________________________________________________________________

Expiration month/year: _____________________________

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