Foothills Bar Association’s 2019 Annual Dinner is a Celebration of Achievements and a Special Time for Camaraderie

By Will Hannosh

On February 8, 2019, the Foothills Bar Association held its Annual Dinner and Installation of Board of Directors and Officers at the Babylon Palace and Banquet Hall in El Cajon, California. The Hon. Eddie Sturgeon was given the Lifetime Achievement Award, which is the highest recognition bestowed by the group. George De La Flor, a celebrated labor law attorney known for winning some of the most significant jury verdicts in San Diego’s courts, was honored with the Foothills Bar Association Award. Glen Honig, who has served on the Association’s Board of Directors for many years in one capacity or another, was recognized with the George Alspaugh Award. The 80 or more attendees were treated to a full-course dinner, open bar, wonderful classic jazz provided by The Deborah Wolfe Quartet, and a presentation of word-plays and puns by well-known author, commentator, and wordsmith, Richard Lederer, co-founder of the KPBS radio program, A Way With Words. The event was also attended by a host of judicial officers, who came to show their support for Judge Sturgeon during this milestone achievement.

Upcoming Events Calendar

**March 14 – Criminal Law MCLE**
12:00 – 1:00 p.m.
Drug Court
El Cajon Courthouse, Department 10

**March 19 – Family Law MCLE**
(1 hour Bias CLE credit)
12:00 – 1:15 p.m.
Testo Pepesto, 221 E. Main Street, El Cajon
(see flyer attached)

**March 28 – Civil Litigation MCLE**
12:00 – 1:00 p.m.
BJ’s Restaurant & Brewhouse
Grossmont Center, La Mesa
Continued from Page 1…

Koryn Sheppard, the newly-installed president of the Foothills Bar Association, between Attorney, Wells Lyman, and the Hon. Robert Amador.

Presiding Judge Peter Deddeh seated next to the Hon. Saba Sheibani, who has been assigned to the East County Division’s newest family law department.

Seated from left to right are attorneys, Freddy Garmo, Robert Garmo, and Thomas M. Buchenau, a past President of the association.

Celebrated labor law attorney and recipient of the Foothills Bar Award, George Dela Flor with Rebecca Lack, past president of the Consumer Attorneys of San Diego
Continued from Page 2…

The Hon. Eddie Sturgeon being handed the Lifetime Achievement Award by Attorney and past-president, Garrison “Bud” Klueck.

Community Justice Initiative

By Andrea Schneider, Esq.

We had a great Criminal section training about CJI/Misdemeanor Diversion by DDA Heather Trocha.

East County District Attorney Chief Michele Linley has confirmed with the Supervising Paralegal, Samantha Vasquez, that her office can accept restitution on CJI cases. There are a few caveats: (1) it has to be a cashier’s check or money order made out to the victim; (2) it has to be a lump sum (they are not set up to do the accounting required for payments); and (3) it needs to be delivered to the 5th floor, to either Jennifer Fields-Cesena or Samantha Vasquez and a receipt will be provided.

And the DDA assigned to D-3, who rotates every couple of months, is the contact person for discussing your case.
Broker’s “View” from a Non-Expert’s “View”

By Keith A. Jones, Esq.

Residential real estate brokers and agents have a wide range of duties relative to disclosures to be made when representing a seller. They need to complete a separate Agent's Visual Inspection Disclosure form after conducting an inspection and inquiry into the property, and usually assist the seller in preparing the Real Estate Transfer Disclosure Statement. Sometimes a real estate professional's visual inspection won't reveal an issue, or he or she learns of an issue about a neighboring property during the listing, showing, and marketing process which affects the residence being sold. What's the real estate professional to do?

A recent appellate decision involving a La Jolla residence and the sellers' real estate professionals addressed this question. In that case, the sellers listed the home for sale with a Pacific Sotheby's International Realty company through its broker and agent (collectively "Sotheby's"). An agent hosted an open house at which the neighbor attended. The neighbor advised the agent that he had remodeling plans in place which would move the footprint of his property to within five feet of a common boundary with the residence for sale, and that the remodel would permanently obstruct the westerly view of the sellers' residence. The neighbor also advised the agent that the construction activities would include excavation of several hundred yards of dirt and take up to two years to complete.

The agent did not amend any written disclosures or otherwise advise the sellers or the prospective purchasers of the neighbor's plans. Sotheby's received nearly $100,000 as a commission for the sale of the residence. The purchasers learned of the neighbor's extensive remodeling plans the day after the escrow closed. Understandably, they requested that the sellers rescind the transaction and offered to return the $3.86 million purchase price.

When the sellers refused, the purchasers demanded arbitration and, after intense litigation and discovery, the arbitrator ordered rescission which required the sellers to refund the purchase price and to pay in excess of $1 million for damages, interest, costs and attorneys' fees.

Not surprisingly, the sellers sued Sotheby's in superior court for negligence, breach of fiduciary duty and other claims premised on professional negligence. Sotheby's succeeded in a summary judgment motion in part based on the sellers' failure to offer expert testimony or opinion in support of their professional negligence allegations.
The sellers had argued collateral estoppel in the trial court because the standard of care issue had been determined by the arbitrator who found that the sellers' agent's failure to disclose the neighbor's plans was a material breach of duty and fell below the standard of care. Sotheby's countered that it had not been a party to the arbitration and thus was not bound by the arbitrator's findings. Absent expert testimony from the sellers, Sotheby's maintained on appeal that the trial court properly entered summary judgment in Sotheby's favor.

The appellate court found that Sotheby's needed to explain why an expert witness' opinion was necessary to support the sellers' claims under the facts as alleged. In this respect, the appellate court relied on the rule in professional malpractice cases that expert opinion is necessary "'except in cases where the negligence is obvious to laymen.'"

In the appeal, Sotheby's also argued that the real estate disclosure duties are limited to the investigation and disclosure of the property being sold, and did not expand to the condition of neighboring properties. The appellate rejected this argument, finding that the sellers' claims were based on Sotheby's failure to disclose material information about the neighboring property that adversely affected the property being sold. In further support of reversing the summary judgment, the appellate court reasoned that Sotheby's didn't need to conduct an investigation of the neighboring property to learn the information since the neighbor presented it. In short, laymen would expect their real estate brokers and sales agents to disclose the extensive remodeling planned by the neighbor to the sellers and any prospective purchasers, particularly since La Jolla properties are well known for their location and, for many, their views.

Real estate brokers and salespersons need to be mindful that their view of information obtained when representing sellers needs to be disclosed with an eye to what laymen would consider material, and not just what expert witnesses may opine would be material. At least, that's the view from the recent appellate decision.
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 Chair Steven Banks at: sbanks@krigerlawfirm.com or 619-589-8800.

Foothills Bar Association Notice of Board Meeting:

The Foothills Bar Association Board of Directors generally meets on the second Tuesday of each month. The next meeting will be on March 12, 2019 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.
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Vice President     Andrea Schneider     andreaattorney@gmail.com            619-518-0476
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Immediate Past President      Will Hannosh     will@familylawsandiego.com            619-448-6500

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(Alternate Director)   George de la Flor   gdelaflor@cs.com            619-246-9544

REPRESENTATIVES

Garrison “Bud” Klueck Garrison@familylawsandiego.com 619-588-2064
SDCBA, East County Liaison, San Diego County Bar Association

SECTIONS

FAMILY LAW          Co-Chairs: Amy West & Traci Hoppes
CIVIL LITIGATION   Chair: Steven Banks
CRIMINAL LAW       Co-Chairs: Andrea Schneider & Daniel Cohen
ESTATE PLANNING    Co-Chairs: Janice Miller & Julia Perkins

COMMITTEES

ANNUAL DINNER      Co-Chairs: Will Hannosh & Koryn Sheppard
BENCH/BAR LIAISON  Chair: Garrison Klueck
HARD-TO-GET SEMINAR Co-Chairs: Glen Honig & Traci Hoppes
MCLE               Chair: Glen Honig
MEMBERSHIP         Chair: Will Hannosh
PUBLICATIONS/NEWSLETTER Chair: Will Hannosh
YOUNG/NEW LAWYERS  Chair: Will Hannosh
SUBMISSIONS
Your submissions are welcome! Send articles, letters, flyers, and other non-advertising submissions to Cheryl Stengel at cistengel@outook.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
Community Justice Initiative
SAY San Diego CBT Enrollment and Group Schedule

East County

**Enrollment Day and Times:**

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<th>Day</th>
<th>Time</th>
<th>Location</th>
<th>Zip Code</th>
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<tr>
<td>Mondays</td>
<td>5:00pm*</td>
<td>Located at 270 E. Douglas Ave., El Cajon, 92020</td>
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<tr>
<td></td>
<td>(English and Spanish)</td>
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<tr>
<td>Wednesdays</td>
<td>5:00pm</td>
<td>Located at 1252 Broadway, El Cajon, 92021</td>
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*Clients must enroll before attending a group.* If the above times do not work or if you have any questions, please contact Erica Brousseau, Clinician I, at (619) 608-4099 or Laura Soto, Senior Program Director, at (619) 285-4456 ext. 374. Any Spanish-speaking clients may contact Cathy Ramirez, Bi-Lingual Clinical Intern, directly at (619) 283-9624 ext. 371 for any questions.
FOOTHILLS BAR ASSOCIATION’S
Family Law Section
presents
Becoming More Familiar with Different
People Groups and the Languages
They Speak
By William A. Hannosh
Attorney

Understanding Family Court’s Role in
a Special Immigrant Juvenile Status Petition
By Raul “Eddie” Maravilla
Attorney

Tuesday, March 19, 2019
12:00 p.m. to 1:00 p.m.
Testo Pepesto Italian Restaurant (in downtown El Cajon)
221 E. Main Street, El Cajon, California 92020

The cost of this MCLE is $10.00 for non-members. Foothills Bar Association members may attend free-of-charge. This seminar qualifies for a half-unit of Elimination of Bias and a half-unit of general credit.

Note: Lunch is not included or provided as part of this MCLE presentation. Attendees may, however, individually order/purchase food from the restaurant, if they so choose.
San Diego Superior Court
Judge Charles R. Gill Retires

Judge Charles R. Gill, a judge known for his insightful legal acumen and ability to meticulously handle complex criminal cases, will retire on February 28, 2019. Appointed by Governor Wilson in 1997 to the Municipal Court, Judge Gill was elevated to the Superior Court in 1998. Judge Gill is known within San Diego’s legal community for his keen insight and ability to resolve complex criminal cases.

Judge Gill earned a Bachelor of Science degree at San Diego State University, with majors in Biology and Political Science. He received his Juris Doctorate at the University of San Diego School of Law.

Judge Gill worked his way through law school at the San Diego County Planning Department. Upon graduation, he was hired by the Office of the San Diego County Counsel and primarily represented public school districts. In 1983 he was appointed Assistant City Attorney of Chula Vista where he was involved with land development issues, including the master-planned communities of Rancho Del Rey and Eastlake.

Judge Gill spent the bulk of his career as an attorney (1986 -1997) working with his mentor and friend, Alex C. McDonald, focusing on planning, land use, and environmental law. Justice McDonald was appointed to the Fourth District Court of Appeal in 1995.

(MORE)
Presiding Judge Peter C. Deddeh describes him this way: “Judge Charles Gill brought a detail-oriented focus to our bench. Judge Gill was a master at bringing strident adversaries together to facilitate agreement. His strong work ethic, calm demeanor, and nimble legal mind will be missed by our Court.”

Judge Gill recently stated, “I never imagined a judicial career in criminal law, but the unique issues presented in each case and the expertise of the lawyers has been deeply interesting. Ending my judicial career as the Presiding Judge of the Court’s Appellate Panel added a fresh perspective on the Rule of Law and judicial independence that has had a profound impact on my understanding of our three branches of government.”

Judge Gill’s retirement plans include spending more time with family, travel and skiing.

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