



BAR BULLETIN



REMARKS FROM THE PRESIDENT'S DESK

By: Justin King

I am pleased to announce that the Western San Bernardino County Bar Association and the San Bernardino County Bar Association are teaming up to hold a New Lawyers Academy for those recent law graduates in the Inland Empire who pass the July 2019 Bar Exam.

The date for this event is still under discussion. The event will be a daylong event where we will have panels on multiple topics to provide young lawyers with instruction on things they will face in their first few years of practice. We are hoping that this event will not only be informative, but will serve to welcome these young lawyers to the legal practice in San Bernardino County.

Currently, we are putting the topics together that will make up the day of instruction and are also selecting panelists to discuss these various topics. Many of these young lawyers will likely not already have permanent jobs at the time the results are released. As such, we are also planning to have a panel where folks from the private and public sector will provide advice to these new lawyers on how best to pursue job opportunities that fit each new lawyers' interest.

After the day of learning, we will be hosting a meet and greet near the courthouse so that the current members of the Bar Association have a chance to meet these new lawyers and these new lawyers have a chance to meet their new colleagues and Judges sitting on the San Bernardino County Bench.

More details on this event will be provided shortly. The event will likely take place sometime in late November or early December. If anyone has suggestions regarding appropriate topics and/or panelists, please contact my office. It is my sincere hope that this event will be well attended and that the new lawyers joining our Bar Association will find it professionally rewarding. Further, it is very nice to be working together on an event with the San Bernardino County Bar Association, as we have in the past with Toys-For-Tots and other events. The relationship between both bar associations is mutually beneficial and we share many of the same members. It is my hope that this event, as well as the relationship between the two bars, will continue to flourish and become stronger year after year.

Welcome WSBCBA New Members

Andrea Leslie-Merchain, Law Student

**Oliver Matthew Riley, Esq.
Lewis Riley, LLP.**

**Brian D. Chase, Esq.
Bisnar Chase Personal Injury Attorneys**



Western San Bernardino County Bar Association

cordially invites you to its

2019-2020 Installation of Officers & Awards Ceremony

HONORING:

Legal Assistant
of the Year
Nadya Avakian

Jennifer Brooks
Lawyer of the Year
Bryan Reid, Esq.

Lifetime Achievement
Award
James Banks, Jr., Esq.

Thursday Evening
October 3, 2019

5:00 p.m. - Social Gathering
6:00 - 8:30 p.m. - Dinner & Program

DoubleTree By Hilton
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Ontario, California

Join us as we extend our
sincerest appreciation to
outgoing President
Justin King

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Western San Bernardino County Bar Association 2019-2020 Installation of Officers & Awards Ceremony Sponsorships

Diamond	Platinum	Gold	Silver	Bronze
\$2,000.00	\$1,500.00	\$1,000.00	\$500.00	\$250.00
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Installation of Officers & Awards Ceremony

- \$80.00 Individual
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(Please provide additional names and/or names of table guests below)

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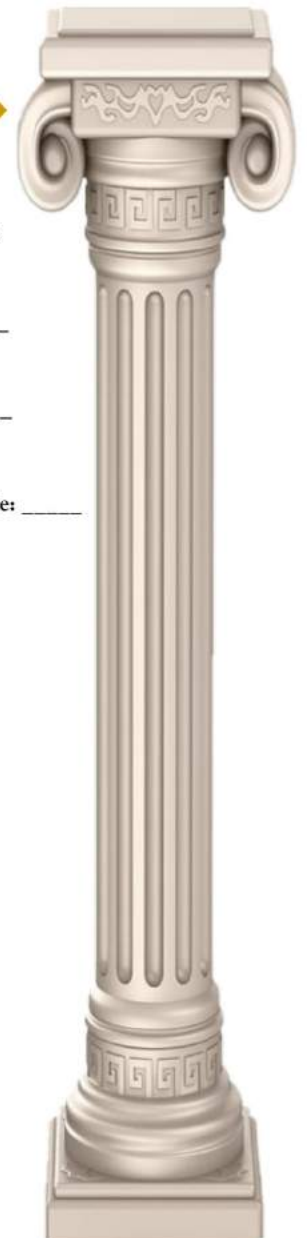
Please Mark Your Meal Selection(s)

- _____ Sliced Tenderloin _____ Pan Seared Chicken Breast
 _____ Grilled Vegetable Brochettes (Vegetarian/Gluten Free)

Attendee Names and Food choices:

Please return this RSVP no later than September 30, 2019 to
the Western San Bernardino County Bar Association by mail, email, or fax:
WSBCBA P.O. Box 624 Rancho Cucamonga, CA 91729
Tel.: (909) 483-0548 Fax: (909) 483-0553 E-Mail: mail@wsbcba.org

*Due to catering deadlines, a \$50.00/\$80.00 fee will be charged for failure to show or
cancellation of reservation within 48 hours of event. Thank you for understanding.*





Meet and Confer: The Good Faith Conundrum

By Candice A. Garcia-Rodrigo

Over the past several years, the legislature adopted statutes requiring a good faith meet and confer between parties and/or their attorneys prior to resorting to the court system. This indicates a growing trend toward promoting cooperation and settlement over litigation.

For example, effective January 1, 2018, parties are required to “meet and confer,” in person or by telephone, “in good faith” prior to filing a motion to strike or motion for judgment on the pleadings. CCP §§ 435.5 and 439. As another example, beginning January 1, 2013, prior to a hearing on Family Law Requests for Orders (the equivalent of a civil motion), parties are required to meet and confer in person or over the telephone and exchange all documents related to the Request for Order. Cal. Rules of Ct., Rules 5.12 and 5.98. The rule directs parties to make a “good faith attempt to settle” the pending issues.

Similarly, the California Civil Discovery Act requires a good faith meet and confer prior to filing certain discovery motions. The legislature mandates the court to consider if the parties met and conferred in good faith prior to granting the motion. In fact, failing to meet and confer is in and of itself a “misuse” of the discovery process. CCP §2023.010.

Before enactment of these statutes, the law did not require parties to meet and confer prior to filing most motions, though that may have been the “best practice” to keep litigation costs reasonable and under control. But what does “meet and confer in good faith” mean?

Black’s Law Dictionary (2019) defines “good faith” as “a state of mind consisting in (1) honesty in belief or purpose, (2) faithfulness to one’s duty or obligation, (3) observance of reasonable

commercial standards of fair dealing in a given trade or business, or (4) absence of intent to defraud or to seek unconscionable advantage.”

Discovery and civil cases interpreting such broad language may also guide litigants on fulfilling their duty. The *Obregon v. Superior Court* (1998) 67 Cal. App. 4th 424, court listed some of the following relevant factors for consideration when reviewing “good faith” efforts to informally resolve a discovery dispute:

1. History of the case and the past conduct of counsel as it reflects upon the bona fides of their efforts;
2. The nature and extent of the actual efforts expended;
3. The size and complexity of the case;
4. The nature of the discovery requested [or in a broader sense, the motion itself];
5. The effect of expense upon litigation of the case and whether unfeasible levels of expense might force resolution on a basis other than the merit;
6. The margin by which the moving party deviated from a reasonable and good faith effort at informal resolution under the circumstances;
7. The predictability that an effort of the type made would be found wanting;
8. Such other factors as are relevant under all the circumstances presented. *Id.* at 434.

In other civil cases, courts have interpreted “good faith” as a “subjective attitude” coupled with “a genuine desire to reach agreement.” *Vernon Fire Fighters v. City of Vernon* (1980) 107 Cal.App.3d 802, 823, n. 20. While meeting and conferring, “the parties must make a serious attempt to resolve differences and reach a common ground.” *Id.*

Generally, courts posit that a meet and confer must be a meaningful and reasonable effort at informal resolution. The meet and confer process is more than “bickering” with the opposing counsel or showing the opposing side the “error of his [or her] ways.” *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431, 1435-1438. It “requires a serious effort at negotiation and informal resolution.” *Id.* at 1438. The law requires that counsel or litigants “attempt to talk the matter over, compare their views, consult, and deliberate.” *Id.* at 1439.

(Continued on page 14)

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Thursday, September 12, 2019

12:00 noon - 1:30 p.m.

**Western San Bernardino County Bar
Association's
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8409 Utica Avenue
Rancho Cucamonga, CA 91730**

Name: _____
Phone: _____
Email: _____

RSVP to lindsay@wsbcbca.org or call (909) 483-0548

NOTE: A \$40.00/\$60.00 fee will be charged for failure to show or cancellation of reservation within 24 hours of event. The WSBCBA certifies that this activity has been approved for a total of 1.0 General MCLE Credit by the State Bar of California.

**WESTERN SAN BERNARDINO COUNTY BAR ASSOCIATION
8409 Utica Avenue, Rancho Cucamonga, CA 91730
Tel.: (909) 483-0548 - Fax: (909) 483-0553 E-mail: mail@wsbcbca.org**



29th Annual Red Mass
Tuesday, October 1, 2019, at 6:00 p.m.

Sacred Heart Catholic Church
12704 Foothill Blvd., Rancho Cucamonga, California 91739

The entire legal community and persons of all faiths are invited to attend the 29th Annual Red Mass on Tuesday, October 1, 2019, at 6:00 p.m. The mass will be held at Sacred Heart Catholic Church, which is located at 12704 Foothill Boulevard in Rancho Cucamonga. We are pleased to announce that the chief celebrant will be the Most Reverend Gerald Barnes, who serves as the Bishop of the Diocese of San Bernardino. A dinner reception in the parish hall hosted by the Red Mass Steering Committee will follow the mass.

The Red Mass is a religious celebration in which members of the legal community of all faiths invoke God's blessing and guidance in the administration of justice. All who are involved in the judicial system, including lawyers, judges, legal assistants, court personnel, court reporters, court security officers, and peace officers, are encouraged to attend the Red Mass with their families.

***The Honorable Irma Poole Asberry will be presented with the
Saint Thomas More Award***
&
***The Most Reverend Gerald Barnes will be presented with the
Saint Mother Teresa of Calcutta Award***

At the complimentary dinner following the mass, the Red Mass Steering Committee will present the Saint Thomas More Award to the Honorable Irma Poole Asberry and the Saint Mother Teresa of Calcutta Award to the Most Reverend Gerald Barnes. The Saint Thomas More Award is given to a lawyer or judge who gives hope to those in need, is kind and generous in spirit, and is an overall exemplary human being. The Saint Mother Teresa of Calcutta Award is given to anyone with those attributes who is a member of the legal community or who has made contributions to the legal community. For further information about this event, please contact Jacqueline Carey-Wilson at (909) 387-4334 or Mitchell Norton at (909) 387-5444.

Western San Bernardino County Bar Association's 21st Annual Bench Bar Gathering

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Directions provided at RSVP

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RSVP Required

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RANCHO CUCAMONGA LAW FIRM: Looking for a paralegal with 3+ years of litigation and pre-litigation experience, preferably in personal injury work. Strong writing skills, capable of working independently and able to work with clients and dealing with medical records, demands, discovery, pleadings, etc. This is a full time position available. Please email resumes to conniem@ricksassociates.com.

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The WSBCBA offers free classified advertising to our members! (Up to 25 words.) Contact Lindsay at (909) 483-0548 or lindsay@wsbcba.org if you would like to place an ad.

Western San Bernardino County Bar Association Mediation Program

The WSBCBA is now offering an affordable mediation program for civil matters in San Bernardino County. The fees are as low as \$75 per side and up to \$150 per side depending on the case type and size.

If you are interested in being a mediator or using the program please call (909) 483-0548 or email mail@wsbcba.org for more information.

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CONFERENCE ROOMS FOR RENT in the Western Inland Empire Community

The Western San Bernardino County Bar Association has conference rooms for rent in the Western Inland Empire community. We have three individual conference rooms which can be joined together to fit up to 40 people.

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All other members receive a 20% discount.

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- * Failure to show or cancel reservation within 24 hour (business day) will result in a \$50.00 failure to show/cancel fee



Hon. Joseph B. Campbell
American Inns of Court

By: Joseph B. Widman, President

First, allow me to introduce myself. I'm the new President of the Honorable Joseph B. Campbell Inn of Court of San Bernardino County, succeeding David Colella of Fullerton, Lemann, Schaefer & Dominick. Hats off to David for leading our Inn to achieve special recognition from our national parent organization, the American Inns of Court. The recognition, called "Achieving Excellence," is what it sounds like. We achieved excellence (to the "Platinum" degree, no less) and that is a credit to David, our board, and our entire Inn.

With that hat tip ("I also would also like to thank my agent") out of the way, let me get on to the point of this column: Please consider joining us. Being a lawyer or bench officer can be a lonely and at times dispiriting pursuit. Shortstop for the Los Angeles Dodgers or forward for the U.S. women's national soccer team may have been nicer, but, hey, at least we get the consolation of being able to work indoors when it's 100 degrees outside.

So, as the summer comes to a close and the only-slightly-less-warm breezes of fall blow in, we encourage you think about one surefire way you can improve the quality of your life as a lawyer or bench officer, and that is to join your colleagues for fellowship (and CLE!) as part of the Campbell Inn of Court. We get together once per month, from October through June, enjoy dinner and maybe a drink together, have a few laughs, and explore timely legal and ethical issues.

As in years past, generally our meetings are on the second Wednesday of each month, beginning in October 2019 and running through June 2020. That said, this year our first meeting will be one week later than usual, on Wednesday, October 16, 2019, at 5:30 p.m. This year, starting with our first meeting in October, we will be meeting at our former home, Arrowhead Country Club, 3433 Parkside Drive, San Bernardino. Our former venue,

the Castaway, has undergone a change in ownership and currently does not have a public-facing restaurant. For this reason, we are returning with pride to our former home, Arrowhead Country Club.

Our Inn has been working hard to develop an interesting slate of programs for this Inn year. This year's program lineup, developed by our new Program Chair, Derek Raynes of Raynes Erickson, is entitled *The Future Is Here: Practicing Law in the 21st Century*. The focus will be on recent developments in law practice and how they impact practitioners and judges, seen in part through the prism of a single fictional litigation. Topics will include effective and ethical use of social media to accomplish professional goals (including client development strategies), client intake practices, courtroom technology and etiquette, and communications with jurors. Continuing our recent practice, we will be establishing pupillage teams each assigned to conduct and participate in one program. We are tentatively planning a couple off-site meetings this year, including to the Ontario campus of the University of La Verne College of Law, the only ABA-accredited law school in the Inland Empire; this program will explore generational differences within the legal community and what recently-graduated lawyers expect when they arrive in the legal workforce. We also tentatively plan to return for our June program to Boys Republic, the private, nonprofit school and treatment community for troubled youngsters, as part of our outreach and mentoring mission. As in previous years, membership includes admission and dinner to the monthly meetings, our annual field trip, the Joint Inns dinner, and MCLE program materials.

Please consider becoming a member of the Campbell Inn this year. Camaraderie, new relationships, and professional and ethical development. That is what you can expect. If you have any questions regarding membership, please contact Jesse Male, Membership Chair, at JMale@sb-court.org. I hope to see you at our first meeting on October 16.

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- *Prosecutor's Roundtable*
- *ADA Litigation MCLE Program*
- *Writing Seminar taught by Magistrate Judge Hon. Jean P. Rosenbluth*
- *Information about other local bar events*
- *Periodic Newsletter*
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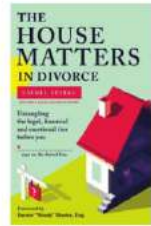
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(Continued from page 4)

While the *Townsend* court stated its interpretation in the context of discovery proceedings, its underlying principle should be equally applicable to all statutes requiring a “meet and confer in good faith.” The rule is designed “to encourage the parties to work out their differences informally so as to avoid the necessity for a formal order” thereby decreasing burdens on the court and costs to litigants. *Id.* at 1435.

The essence of “justice” is to ensure fairness in the process and the result. Participating in a reasonable, honest attempt to informally resolve disputes and exchange documents achieves substantial justice.



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Pictured above: Brian Brandt, Past President, Western San Bernardino County Bar Association

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NEWS BULLETIN

Save the Dates

Settlement Planning MCLE with Kaas Settlement Consulting
WSBCBA Conference Room
Thursday, September 12, 2019

Installation Awards Ceremony & Dinner
DoubleTree by Hilton in Ontario
Thursday, October 3, 2019

Bench Bar Gathering
Bonanno-Flynn Home in Rancho Cucamonga
Friday, November 8, 2019

Promoting Success in the Inland Empire