



San Bernardino County Bar Association

BULLETIN

Vol. 47, No. 9-10

Our 144th Year

July-August 2019

Summer in the Inland Empire

photo by Barbi Lines

SUMMER EVENTS

GENERAL MEMBERSHIP MEETINGS

Tuesday, July 9, 2019

*Cellphone Forensics: Applications in
Discovery and Investigations*
12:00 noon to 1:30p - Dept. S-3
San Bernardino Justice Center

Tuesday, August 13, 2019

Writs & Appeals
12:00 noon to 1:30p - Dept. S-3
San Bernardino Justice Center

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Official Publication of the San Bernardino County Bar Association



INLAND EMPIRE
Latino Lawyers Association, Inc.

DOMESTIC VIOLENCE RESTRAINING ORDERS WITH IMPLICATIONS FOR CUSTODY AND VISITATION

By Aruna P. Rodrigo
Certified Family Law Specialist
State Bar of California Board of Legal
Specialization

Thursday, July 18, 2019
12:00 p.m. to 1:15 p.m.



Location: Victor Miceli Law Library
3989 Lemon Street, Riverside, CA 92501
Live-streamed to Indio and Temecula branches*

Cost: \$25 or FREE for attorneys that pledge to
volunteer at an upcoming IELLA legal aid clinic.

Register by June 16th and view more information:
<https://bit.ly/2WFKpvD>

*choose branch location when registering on Eventbrite.

Riverside County Law Library, a California State Bar-approved
MCLE provider, certifies that this program is approved for 1.0
hour of participatory MCLE Credit. Lunch will be provided.

From the President's Desk

by Eugene Kim



Land of Opportunity

The Fourth of July – also known as Independence Day – is celebrated as the birth of American independence. We all understand the historical significance of this date in 1776; but why is it important to you today? To me, July 4th reminds me of the sacrifice and hard work my parents endured to give me the opportunities I have today.

“I believe in America because we have great dreams, and because we have the opportunity to make those dreams come true.” Wendell Willkie.

But for a compassionate lawyer in Oklahoma that helped my father obtain his citizenship, my parents might not have met, I wouldn't have been born, and I guess the San Bernardino County Bar Association would have a different President.

My father immigrated to the United States from South Korea in 1966. He realized that his future in South Korea was bleak because the entire country was impoverished at the time. After conducting extensive research at the American Embassy in South Korea, my father abandoned his college degree, saved his money, and carefully devised a plan to come to America – chick sexing. Chick sexing is the process of identifying and separating male and female chicks immediately after a chick hatches. When he came to the United States, he went to Tulsa, Oklahoma and then Omaha, Nebraska to work as a chick sexer. Unfortunately, he was not able to find work immediately. Therefore, he tirelessly worked random jobs as a housekeeper, construction worker, and TV repairman. While waiting for his dream job as a chick sexer, he fortuitously met a benevolent lawyer that befriended him and helped him obtain his employment-based green card. Thereafter, my father found employment as a chick sexer in 1971, met my mother in Iowa City, IA in 1972, and eventually obtained his US Citizenship in 1975. Since then, my father has owned and operated over ten businesses throughout the country in various industries ranging from import-export, property management, apparel, jewelry, and retail stores.

Similarly, my mother's journey to America was equally courageous. It was always her dream to come to America ever since she was a little girl. However, she could not speak English well. Nevertheless, she immigrated to the United States immediately after graduating from nursing school. Although she found some temporary work at various hospitals, the language barrier was too difficult to overcome. But then she met my father in 1972 and became a chick sexer, which was perfect because it did not require any customer service or language skills. Eventually, my mother obtained her US citizenship in 1976. Then as my father opened new and different businesses, my mother would always provide administrative support for all their businesses.

As I reflect on their journey to the United States, I am awestruck by their courage, fortitude, and foresight. Despite their humble beginnings, they sacrificed everything they had to give me every opportunity possible. I saw first-hand how America is truly the land of opportunity. Conversely, I am also astonished how one small attorney in Oklahoma could have such a huge impact on my life and my parent's life. Without this attorney, my parents would not have met, I would not be alive, and my children would not be born. So when we look at our profession, think about all the lives we have touched and altered as officers of the court. Attorneys have a profound impact on life, liberty, and the pursuit of happiness.

With this patriotic sentiment in mind, I would like to wish America a happy birthday.



Attorney Wanted

The Superior Court of San Bernardino County, on behalf of the Fourth Appellate District, is seeking interested attorneys to represent indigent persons in death penalty related Writ of Habeas Corpus cases.

For information on applying for an appointment, please use the following links:

[Qualification Criteria for Appointment](#)

[Application for Appointment in a Death Penalty-Related Habeas Corpus Proceeding](#)

Applications should be addressed to the Regional Habeas Corpus Panel Committee:

Email: 4DHabeasCounselApps@jud.ca.gov

Postal Mail to: Fourth Appellate District
750 B Street, Suite 300
San Diego, CA 92101

FROM THE DESK OF THE PRESIDENT OF THE HON. JOSEPH B. CAMPBELL AMERICAN INN OF COURT

By David P. Colella

Our 2018-2019 Inns of Court year came to a conclusion with our end of year program led by the Honorable Manuel Ramirez, Chief Justice of the Court of Appeals, 4th Dist., Div. 2. We were honored to have been invited back to Boys Republic in Chino Hills for our venue.



Our evening included a full tour of the Boys Republic facilities led by Dr. Garry Hodge and several of his dedicated staff.

We began with a walk around the museum housing memorabilia throughout its 100 year plus history. Steve McQueen, one of its most famous alumni, was a lifelong benefactor to Boys Republic and an annual car show in his honor is held every year.



The museum also highlights the Della Robbia wreaths that are known worldwide and provide a source of commitment for the youth at Boys Republic.

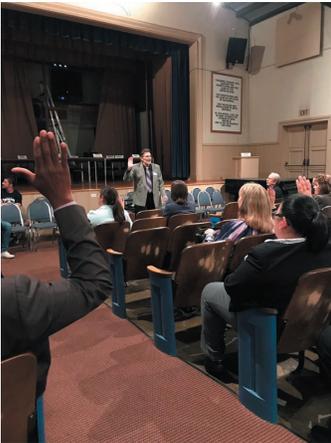
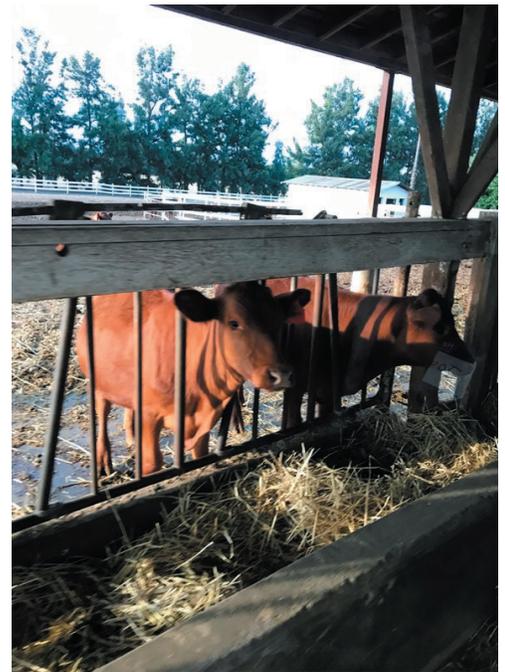
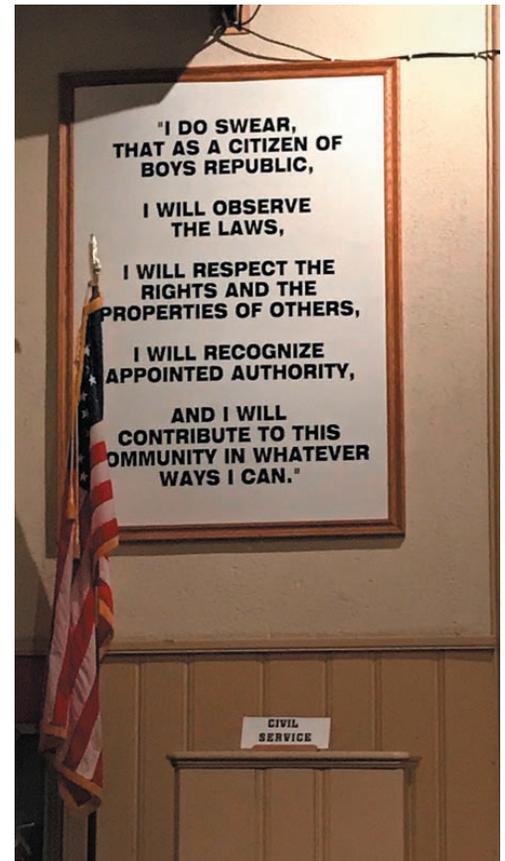
After walking through the museum, we went to the auditorium that serves as the City Hall where the Boys Republic students conduct their own internal governance. There is a formal Council that is elected by the other students with sufficient standing after earning "citizenship" through good acts and compliance with rules. Citizenship can also be lost through negative behavior. Before we left the auditorium, we were administered the Boys Republic oath.

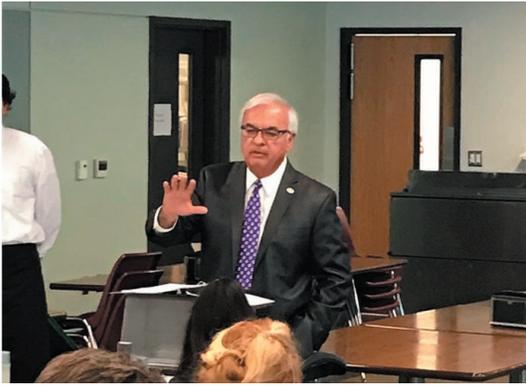
After being sworn in, we were treated to a bus ride over the 200+ acres that includes sports fields, various housing cottages, trade facilities (e.g. woodshop), pastures, and the farm.

Returning to the newly constructed, state-of-the-art teaching kitchen, we enjoyed another stellar meal prepared by the staff at Boys Republic which includes former students who have turned their student experience into a budding career.

The staff and students are truly exceptional as I've had the opportunity to engage with them over this past year. The young men going through the program are given a sense of purpose and direction as they integrate back into the community and have a real plan for their next chapter. Dr. Hodge is perhaps the most enthusiastic supporter of Boys Republic and is a great ambassador of what it stands for and hopes to achieve with its students.

Justice Ramirez then spoke eloquently about "perspective"; sharing stories about how different perspectives can be arrived at and both seem right (at least initially). How do we view others?





Through what lens and filter shape how we see things? Justice Ramirez discussed the story of Virgil D. Hawkins who waged a 28-year battle to practice law in Florida and helped break the color barrier at the University of Florida. Lessons in character, fortitude, unfair obstacles, and recognition of wrongs well after the fact can readily be identified. Again, perspective played a major role in decisions in that matter.

Not to gloss over the financial struggles and lack of resources, Justice Ramirez discussed the challenges facing our local Appellate Court and how we, as officers of the court, can be proactive in trying to bring these issues (many caused by inequitable allocation of resources) to our legislators and enlighten their “perspective” on the impacts these inequities have within our community and access to justice.

As I wrap up this final article of my presidency, I would like to thank those members that have served the Board this past year:

- Joseph B. Widman, President-Elect
- Susan B. Grabarsky, Vice President
- Amar M. Hatti, Secretary
- Stacey Wolcott, Treasurer
- Hon. Cynthia Ludvigsen, Co-Counselor
- Hon. Donna L. Connally, Co-Counselor
- Hon. Christopher B. Marshall, Judicial Liaison
- Hon. Gregory S. Tavid, Outreach Liaison
- Eric D. Anderson, Membership Chair
- Linda A. Lindsey, Co-Program Chair
- Mark H. McGuire, Co-Program Chair / Immed. Past President



I want to give special thanks to Linda Lindsey and Mark McGuire, our co-program chairs, who put in so much effort executing an ambitious Jeopardy-themed program year. They nailed it. They also had assistance from Steve Bell, another Inns member, who provided his technical expertise in setting up and carrying out our monthly programs without fail. They formed quite a team and speaks to the collective strength of our Inn.



Lastly, I am very excited to turn things over to our incoming President, Joseph Widman. Joe has been a member for several years and is great leader within our Inn. Joe is an Assistant U.S. Attorney and currently the Chief of the Riverside Branch office of the U.S. Attorney’s Office for the Central District. We are in good hands moving forward.

I hope you will join us for our next Inns year beginning in October. If you are interested in learning more about the Inns of Court, you can reach out to me (dcolella@flsd.com).



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COST: \$60.00 per member/\$70.00 non-member

**Venue: Home of Greg Flynn and
Angelique Bonanno, Rancho Cucamonga, CA**
Directions provided at RSVP

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Email: mail@wsbcba.org

RSVP Required
Note: A \$60.00/\$70.00 fee will be charged for failure to show or
cancellation of reservation within 24 hours of event.

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8409 Utica Avenue, Rancho Cucamonga, CA 91730 | Tele: (909) 483-0548 • Fax: (909) 483-0553 • Email: mail@wsbcba.org

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

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Additional Attendees:

Name: _____
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Total amount: _____

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SBCBA's UPCOMING GENERAL MEMBERSHIP MEETINGS

— Tuesday, July 9, 2019 —

"Cellphone Forensics: Applications in Discovery and Investigations"

Califorensics - Tom Plunkett, Director of Digital Forensics

12:00 noon to 1:30p - Dept. S-3 San Bernardino Justice Center

See flyer on page 17

— Tuesday, August 13, 2019 —

"Writs & Appeals"

Brian Unitt (Writs) Alexandra Ward (Appeals)

12:00 noon to 1:30p - Dept. S-3 San Bernardino Justice Center

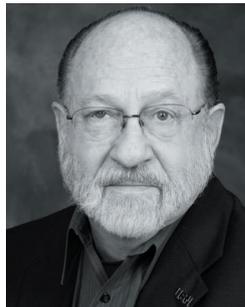
San Bernardino County Bar Association, California State Bar-approved MCLE provider #2813, certifies that EACH activity above is approved for 1-hour of MCLE credit by the California State Bar.

**TO ATTEND EITHER OR BOTH OF THESE PRESENTATIONS, PLEASE
EMAIL US AT RSVP@SBCBA.ORG OR CALL 909.885.1986**

These are brown-bag events, so please plan accordingly!



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A BOOK REVIEW **by: Theresa Han Savage**

“Justice in Plain Sight: How a Small-Town Newspaper and Its Unlikely Lawyer Opened America’s Courtrooms” by Dan Bernstein

In *Justice in Plain Sight*, author Dan Bernstein, a former columnist for the Press-Enterprise, shares how Riverside’s hometown lawyer, Justice James Ward (ret.), successfully argued before the United State Supreme Court in two landmark First Amendment cases in the 1980s. The book weaves a compelling story about the hard-fought legal battle to open up the courts in capital cases, but you do not need to be a lawyer to enjoy it. The book transports the reader back in time to Riverside and the legal community in the 1980s, and makes you feel like we were “in the room where it happened.”

The book begins by summarizing three heinous crimes that pushed the Press-Enterprise to seek access to pre-trial proceedings in capital cases. The cases included a bank robbery gone awry in Norco, involving the death of a deputy sheriff in 1980; the rape and murder of a white high school student involving a black male defendant, Albert Brown, in 1980; and multiple deaths in a nursing facility where a nurse, Robert Diaz, was charged in 1981.

In each of these cases, the prosecution sought the death penalty. The Press-Enterprise intended to cover the entire course of each trial. However, three months after the Norco bank robbery, the California Supreme Court handed down the Hovey ruling “that many California trial judges would interpret as a green light to close their courtrooms during jury selection in death penalty cases.” (pp. 6-7.) In essence, the Hovey court stated that in future death penalty cases, voir dire of prospective jurors “should be done individually and in sequestration.” (p. 7) With this green light by the Supreme Court, Riverside judges closed the public and the Press-Enterprise’s access to pre-trial proceedings in all three of the cases. In fact, “[b]etween June 1981 and January 1982 alone, five Riverside County judges banned the public and the press from all or part of voir dire in death penalty trials, denying the pleas of Press-Enterprise lawyers to keep their courtrooms open.” (p. 8.).

The two men who ran the paper during the 1980s, Normal Cherniss, the executive director, and Tim Hays, the editor, believed that the public had a right to open court proceedings. The managing editor, Mel Opotowsky, had a personal interest in the Norco robbery case because he was a friend of the deputy sheriff who was killed. When the judge in the Norco robbery case closed the voir dire proceedings to the press, Cherniss contacted Ward and asked, “They can’t do that, can they?” (p. 7) Bernstein frankly states “Ward didn’t have a clue. He was bright; there was no doubt about that. And conversant in a kaleidoscope of subjects. He was also a networker well before the word ever networked its way into the lexicon.” (p. 8.) Anyone who knows Ward would nod and agree with Bernstein’s description of Ward. Ward, as any business lawyer asked about the First Amendment would do, responded that he would look up the answer. Many questioned the paper’s decision to let Ward lead its First Amendment battle since he was not a constitutional scholar or well known outside of California. Many tried to convince the paper to hire attorneys with more experience in First Amendment cases. However, Cherniss and Hays refused. They saw something in Ward. At the end, their faith in Ward paid off.

The paper’s first attempt to have the Norco robbery case heard by the United States Supreme Court was unsuccessful. “At least four Supreme Court justices must vote to hear a case, but the newspapers only got three[.]” (p. 24). Then, the very next day, a Riverside judge “permanently sealed the jury selection transcript in the Albert Brown death penalty case[.]” (p. 41). Instead of feeling discouraged, Ward and the paper believed they could convince the United States Supreme Court to grant review and eventually rule in the paper’s favor. The book carefully and entertainingly summarizes the steps Cherniss, Hays, Opotowsky, and Ward successfully took in s-Enterprise I to open up voir dire in the Brown case, and later, where the court opened up preliminary hearings in the Diaz case in Press-Enterprise II, all the way to the United States Supreme Court.

Aside from the necessary legal research to be conducted, in both Press-Enterprise I and Press-Enterprise II, Cherniss and Ward recognized that they needed powerful allies to file amicus briefs to be successful in the Supreme Court. “[Ward] and Cherniss worked the phones and wrote letters enlisting newspaper editors and lawyers to submit briefs on behalf of the Press-Enterprise. ‘The more high-powered, the better,’ thought Ward. [fn.] Prominent newspapers and reputable First Amendment lawyers would complement the less prominent Riverside paper and its virtually unknown attorney.” (pp. 76-77.) Bernstein frankly gives credit where it is due, often mentioning the associates who assisted Ward with drafting the briefs and fine-tuning the legal issues, John Boyd and Judge Sharon Waters (ret). Judge Waters was later appointed to the Riverside County Superior Court in 1998 and was presiding judge in 2005 and 2006.

In addition to the legal strategies involved in both the Brown and Diaz cases, Bernstein’s summary of Ward’s two trips to the United States Supreme Court for oral argument makes you feel like you are in the courtroom. The questioning by the justices and Ward’s responses were at times interesting and intense and at other times comical. I could feel my muscles tense up when difficult questions were posed by the justices and smile when Ward tried to crack jokes with the justices or gave an inspiring response. I savored reading Ward’s last words to the court in Press-Enterprise II: “Three times this Court has called for openness of various judicial proceedings, at least three times. Twice the California Supreme Court since 1982 [voir dire and preliminary hearings] has not heeded that admonition at all but has instead found for closure of proceedings and provided an easy standard for closure which we believe will result in a denial of the rights of the citizens of the State of California. . .” (p. 184)

For everyone who thinks practicing law is glamorous and the battle is in the courtroom, the book gives a glimpse into the real lives of lawyers – spending endless hours doing research in a library to find a “needle in a haystack,” and writing and re-writing briefs to craft the perfect argument. Most civil lawyers would agree that hours spent researching and writing far exceed the hours that litigators spend in the courtroom. For non-lawyers reading the book, the non-glamorous aspect of practicing law may come as a surprise.

Whether you are a lawyer or a history buff, you will enjoy reading about how an unlikely small-town Riverside newspaper and lawyers successfully fought to open public access to criminal proceedings in the United States.

University of La Verne College of Law

University Of La Verne College Of Law invites you to judge our **summer Advanced Appellate Advocacy 2019 Moot Court Honors Competition.**

We would be honored to have you join us as a judge. This year’s schedule will be from 9:00 a.m. to 5:00 p.m. (the rounds could start up to 20 minutes early, based on how the preliminary rounds go). We also encourage you to stay for the final competition round, which will take place from approximately 4:00 p.m. to 5:00 p.m. and the awards ceremony, which will follow immediately after. The competition is scheduled for **Saturday, July 20, 2019**

These are not only exciting events for our students, but more importantly, a substantial learning experience for them. The students are working hard to prepare for their oral arguments, and they are anxious to test their oral advocacy skills in a courtroom environment. Additionally, the Moot Court Honors competition prepares our students for Moot Court traveling team competitions, where we have had great success.

We know your time is valuable, but your participation is essential to the success of the program. Your time and participation is highly appreciated by La Verne Law, and as such, lunch will be provided for all judges and students from 12:30 p.m. to 1:30 p.m.

We hope you can join us!

If you are available to assist us in one (or more) of the time slots, please contact Evelyn De Anda at (909) 460-2060 or edeanda@laverne.edu.

NOTICE

If you wish to have an article, notice, or advertisement published in the Bulletin, please submit to the bar office by the 15th of the month prior to publication month.

Camera-ready ads must be reserved by the 10th of the month prior, ad copy submitted by the 15th. (Items submitted will be accepted depending on available space.)



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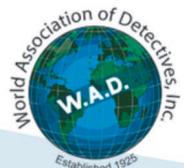
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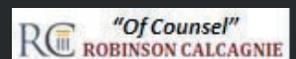
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6th Annual

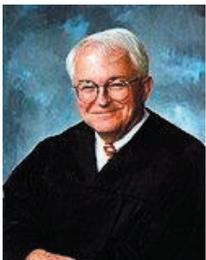
ACCESS TO JUSTICE AWARDS DINNER

DATE: SEPTEMBER 26, 2019

TIME: 6:00 PM

LOCATION: ARROWHEAD COUNTRY CLUB

Keynote Speakers:

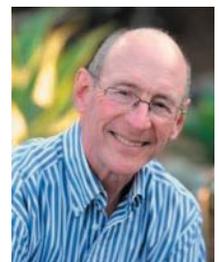


James Ward

Retired Associate Justice, California State Appeals Court 4th District, 2nd Division & former Legal Counsel for the Riverside Press Enterprise

Dan Bernstein

Retired Riverside Press Enterprise Columnist & Author of "Justice in Plain Sight: How a Small-Town Newspaper and Its Unlikely Lawyer Opened America's Courtrooms"



Master of Ceremonies:



Manny Medrano, Esq.

Emmy Award-winning Broadcast Journalist and Experienced Trial Attorney

MARK YOUR CALENDAR

Inland Counties Legal Services, Inc. is a 501(c)3 nonprofit organization (EIN 95-6124556) providing legal services to low-income persons residing in Riverside and San Bernardino Counties. ICLS targets its services to seniors in the greatest social or economic need. Legal services are provided by attorneys, or paralegals under the direct supervision of an attorney. Services include advice and counsel, limited action (includes negotiations and preparation of legal documents), as well as direct representation before administrative law and civil courts. Legal assistance is provided in areas including housing, family, consumer/civil, public benefits, elder abuse, citizenship clinics, bankruptcies (selected), healthcare access, and domestic violence. ICLS is funded by the Legal Services Corporation (LSC); the State Bar of California Legal Services Trust Fund Program IOLTA (Interest on Lawyers' Trust Account); Equal Access Fund Partnership Grant; State of California Equal Access Funds and voluntary "Justice Gap" bar dues; Riverside County Office on Aging (OoA); San Bernardino County Department of Aging and Adult Services (DAAS); the Legal Aid Society of San Diego (with state and federal funds for healthcare reform education and advocacy; the Department of Justice Bank Settlement Funds; Internal Revenue Service Low Income Taxpayer Clinic; and the US Veterans Initiative. Senior Services are targeted for persons age 60 and older in the "greatest social and economic need."

ICLS does not use your donated funds for any purposes prohibited or limited by, or contrary to any of the provisions of the LSC Act or Public Law 113-76, including sections 501, 502, 503, 504, 505 and 506 (128 Stat 5-2014).

Califorensics
a division of Capitol Digital

Cellphone Forensics: Applications in Discovery and Investigations

MCLE: 1 hour
TUESDAY, July 9, 2019 from 12:00 noon to 1:30p
Held at the San Bernardino Justice Center, Dept. S-3
Presented by:
Tom Plunkett, Director of Digital Forensics

Cellphones represent one of the fastest-changing areas of legal practice. Mobile device evidence is more important than ever, thanks to the rapid evolution of the technology and the way this evidence is treated by the courts. Touching on important recent cases, technology developments, and Califorensics' direct experience advising attorneys, this presentation provides up-to-date guidance on the application of cellphone and smart device forensics in litigation, investigations, and other legal matters. This activity is approved by the State Bar for 1 hour of credit towards the Minimum Continuing Legal Education requirements.

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Neutrals Like No Others



Hon. Joseph R. Brisco (Ret.)

Judge Brisco presided over the mandatory settlement conference department during 21 years on the San Bernardino County Superior Court. He is regarded as a prompt and thoroughly prepared mediator and arbitrator who is firm but fair.



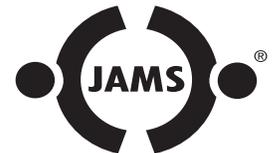
Hon. Jeffrey King (Ret.)

Justice King served on the California Court of Appeal, Fourth District, and handled civil and probate cases on the San Bernardino County Superior Court. As a mediator, arbitrator, special master and referee, he is adept at keeping cases on track.



Hon. LeRoy A. Simmons (Ret.)

Judge Simmons has extensive ADR expertise as a full-time mediator, arbitrator and special master since 2004 as well as three decades of service on the San Bernardino County Superior Court. He handles complex civil, family and probate disputes.



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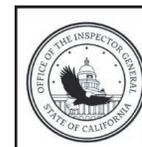
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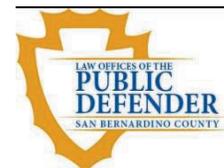
- Provides an alternative to suspension, expulsion and police citation
- Builds on a student's strengths and increase student competency
- Gives students an opportunity for community service, leadership and career development
- Creates student awareness of the impact of their actions on others in their school and community
- Utilizes district and community resources to build student capacity rather than punishment

WHO CAN VOLUNTEER TO BE A JUDGE: Adults with experience in the judicial/legal system

WHEN: 7/29/19 at 3:30p.m.

WHERE: San Bernardino Inland Career Center (Adult Ed)
1200 North E Street, San Bernardino, CA 92405

RSVP required by July 24, 2019: Call Elba Alvarez @909-880-6812 or email Elba.Alvarez@sbcusd.k12.ca.us



BULLETIN

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The Bulletin of the San Bernardino County Bar Association is published 11 times a year. Our circulation is approximately 1,000, including: our bar membership of 800, 100 state and federal judges, state & local bar leaders, legislators, media, and businesses interested in the advancement of our mission.

Articles, advertisements and notices should be received by the bar office no later than the fifteenth of the month prior to the month of publication. For current advertising rates, please call the number listed above. Please direct all correspondence to the above address.

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July-August 2019

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