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Federal Defender Newsletter

March 2012

CJA PANEL TRAINING

Panel training in Sacramento has moved to the jury assembly room on the fourth floor of the District Courthouse, at 501 I St. It now begins at 5:00 p.m. instead of 5:30 p.m. Please try to arrive on time as the courthouse doors automatically locked shortly after five. If necessary, a court security officer will be able to admit latecomers.

Sacramento CJA panel training will be on Wednesday, March 21, 2012 at 5:00 p.m. AFD Matthew Scoble will be presenting "You Can't Fire Me, I QUIT – The Ethics of Withdrawing from a Case and Defending Against an IAC Claim in Federal Court."

Fresno CJA Panel training will be on Tuesday, March 20, 2012 at 5:30 p.m. at the Downtown Club, 2120 Kern St., Fresno. AFD David Porter will be presenting his annual Supreme Court Update.

2012 CJA PANEL SELECTION

The Sacramento CJA Panel welcomes Kate Johnston, Phil Couzens, Kris Door, and Kristy Kellogg to the federal panel.

The Panel Selection Committee for Fresno is still reviewing applications. After the court's decision is made, all applicants will be contacted by letter.

THE END OF AN ERA

On February 24, 2012, Federal Defender Daniel Broderick announced his plan to retire from the post at the end of 2012. He has been with the office since 1991, and intends to teach, travel, write, and perhaps even coach a high school basketball team. He has announced his retirement nine months early to facilitate the Ninth Circuit's selection process for a new Federal Defender.

MEMORIAL SERVICE FOR PANEL ATTORNEY STEVE BAUER

Longtime CJA panel attorney Steve Bauer passed away on February 29, 2012. Steve had been a mainstay of the Criminal Justice Panel for decades. Steve graduated from UC Davis Law School in 1971 and was one of the original members of the Eastern District CJA panel. Over the years, he represented hundreds of indigent defendants in state and federal court, demonstrating a keen intellect, exceptional ability to work with attorneys from both sides, and a dogged determination to reach the best result for his clients. Regardless of whether it was a panel meeting, holiday celebration, or golf game, Steve's presence and comments were always welcome and enjoyed. He will be missed.

There will be a memorial celebration honoring Steve's life and work next Wednesday, March 7 at 5:00 p.m. in the lobby of 428 J. Street, Sacramento. If you would like to say something, please contact either Dina Santos at (916) 447-0160 or Hayes Gable at (916) 446-3331, as they will be coordinating the event.

ONLINE MATERIALS FOR CJA PANEL TRAINING

The Federal Defender's Office will be distributing panel training materials through our website - www.cae-fpd.org. If a lawyer is not on the panel, but would like the materials, he or she should contact [Lexi Negin@fd.org](mailto:Lexi.Negin@fd.org).

CLIENT CLOTHES CLOSET

If you need clothing for a client going to trial or for a client released from the jail, or are interested in donating clothing to the client clothes closet, please contact Debra Lancaster at 498-5700.

TOPICS FOR FUTURE TRAINING SESSIONS

If you know of a good speaker for the Federal Defender's panel training program, or if you would like the office to address a particular legal topic or practice area, please e-mail your suggestions to Charles Lee (Fresno) at charles_lee@fd.org or Lexi Negin (Sacramento) at lexi_negin@fd.org.

ADDRESS, PHONE OR EMAIL UPDATES

Please help us ensure that you receive this newsletter. If your address, phone number or email address has changed, or if you are having problems with the email version of the newsletter or attachments, please call Kurt Heiser at (916) 498-5700. Also, if you are receiving a hard copy of the newsletter but would prefer to receive the newsletter via email, contact Karen Sanders at the same number.

NOTABLE CASES

United States v. Yeung, No. 10-10381 (2-13-12)(Ikuta with Graber and Quist, D.J.). Courts must explain why they order certain restitution amounts to victims under the Mandatory Victims Restitution Act of 1996. In this case, involving mortgage fraud and "straw purchases" of homes and securities, the court ordered restitution to victim banks without really taking into account loss, or the value of the collateral property once it was recovered. Although the court faced complex issues, it should have justified its decisions as to two of the victims. The matter is remanded for recalculation and explanation.

United States v. Kimsey, No. 10-16800 (2-8-12)(Berzon with Bybee and Graham, D.J.). Starting with the fundamental truth that "our legal system does not punish people simply because they have been proven unscrupulous in the past and are continuing the engage in dubious activities," the Ninth Circuit reverses a criminal contempt conviction for a defendant who "ghostwrote" eight pleadings for a pro se litigant in a civil lawsuit. First, the Ninth Circuit holds that the defendant was entitled to a jury trial on contempt under 18 U.S.C. § 402 and § 3691. The fundamental statutory right to a jury trial was violated even though the charge, which exposed the defendant to less than six months imprisonment, did not entitle the defendant to a jury trial under the Constitution. As an alternate ground for reversal, the Ninth holds that a violation of District Court local rules cannot support conviction for criminal contempt. That is because "rule" under § 402 means a situation-specific directive to a particular individual, not a broad local rule addressed to all litigants. Importantly for anyone practicing in federal court, the Ninth Circuit's analysis means that a district court may not fine or imprison attorneys "for, let's say, failing to conform to local rules specifying the width of margins, appropriate typeface, or kind of paper used for pleadings."