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MAGAZINE

In This Issue:

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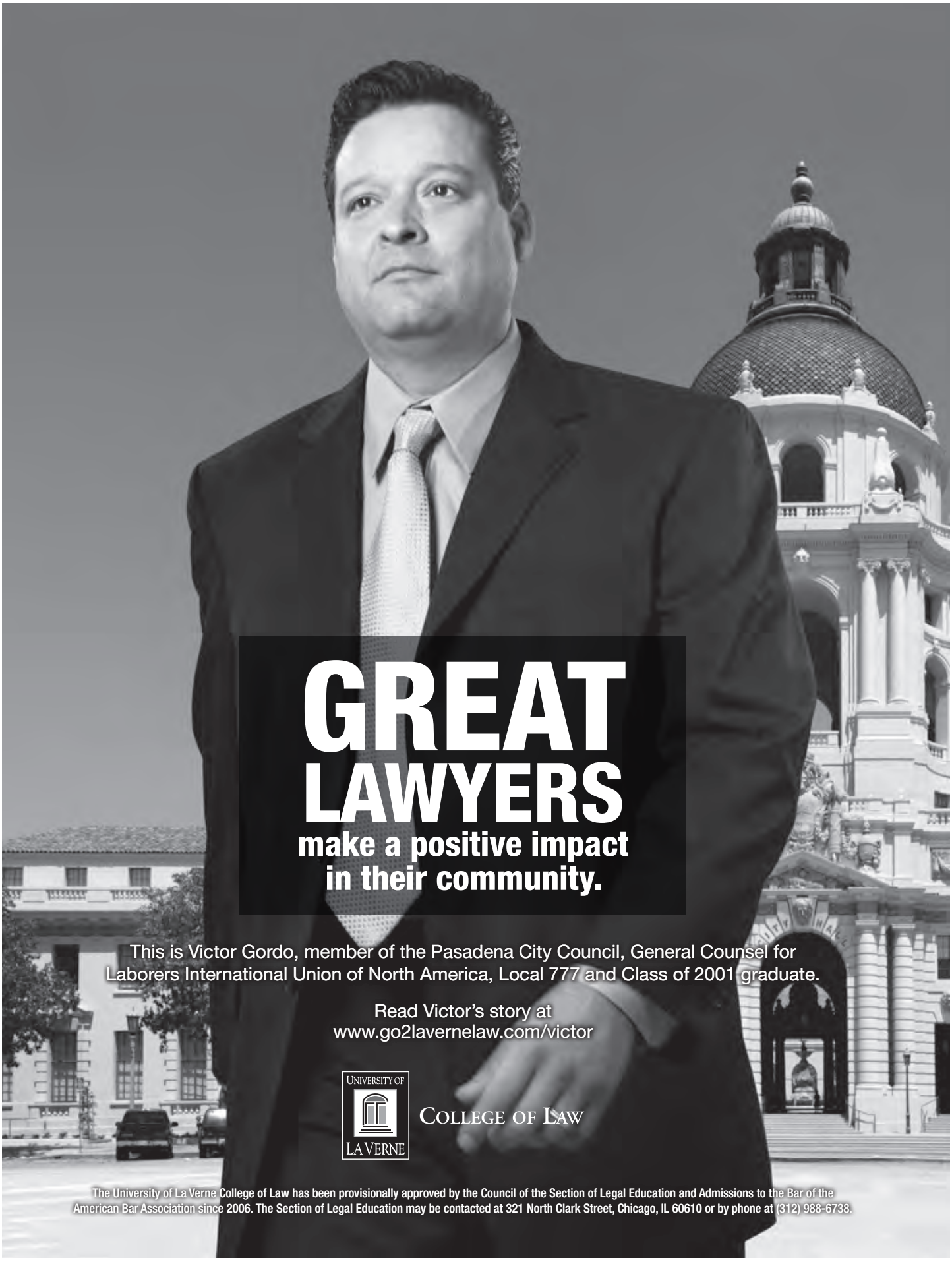
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in their community.
This is Victor Gordo, member of the Pasadena City Council, General Counsel for
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RIVERSIDE LAWYER
MAGAZINE

CONTENTS

Columns:

COVER STORIES:

Features:

Departments:

Mission Statement

Established in 1894

The Riverside County Bar Association, established in 1894 to foster social interaction between the bench and bar, is a professional organization that provides continuing education and offers an arena to resolve various problems that face the justice system and attorneys practicing in Riverside County.

RCBA Mission Statement

The mission of the Riverside County Bar Association is to:

Serve its members, and indirectly their clients, by implementing programs that will enhance the professional capabilities and satisfaction of each of its members.

Serve its community by implementing programs that will provide opportunities for its members to contribute their unique talents to enhance the quality of life in the community.

Serve the legal system by implementing programs that will improve access to legal services and the judicial system, and will promote the fair and efficient administration of justice.

Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Public Service Law Corporation (PSLC), Tel-Law, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Inland Empire Chapter of the Federal Bar Association, Mock Trial, State Bar Conference of Delegates, and Bridging the Gap.

Membership meetings monthly (except July and August) with keynote speakers, and participation in the many committees and sections.

Eleven issues of Riverside Lawyer published each year to update you on State Bar matters, ABA issues, local court rules, open forum for communication and timely business matters.

Social gatherings throughout the year: Installation of RCBA and Barristers Officers dinner, Annual Joint Barristers and Riverside Legal Secretaries dinner, Law Day activities, Good Citizenship Award ceremony for Riverside County high schools, and other special activities.

Continuing Legal Education brown bag lunches and section workshops. RCBA is a certified provider for MCLE programs.

MBNA Platinum Plus MasterCard, and optional insurance programs.

Discounted personal disability income and business overhead protection for the attorney and long-term care coverage for the attorney and his or her family.

Riverside Lawyer is published 11 times per year by the Riverside County Bar Association (RCBA) and is distributed to RCBA members, Riverside County judges and administrative officers of the court, community leaders and others interested in the advancement of law and justice. Advertising and announcements are due by the 6th day of the month preceding publications (e.g., October 6 for the November issue). Articles are due no later than 45 days preceding publication. All articles are subject to editing. RCBA members receive a subscription automatically. Annual subscriptions are $25.00 and single copies are $3.50.

Submission of articles and photographs to Riverside Lawyer will be deemed to be authorization and license by the author to publish the material in Riverside Lawyer.

The material printed in Riverside Lawyer does not necessarily reflect the opinions of the RCBA, the editorial staff, the Publication Committee, or other columnists. Legal issues are not discussed for the purpose of answering specific questions. Independent research of all issues is strongly encouraged.

Calendar

FEBRUARY

18 **Mock Trial – Round 1**
Regional Courts

19–21 **Riverside Superior Court/RCBA**
Dispute Resolution Service presents Straus Institute for Dispute Resolution "Mediating the Litigated Case" Mediation Training
RCBA Bldg., 3rd Floor 8:30 a.m. – 5:00 p.m.
MCLE: 42 Hrs (includes 2 Hrs. Ethics)

21 **Mock Trial – Round 2**
HOJ – 9:00 a.m.

25 **Mock Trial – Round 3**
HOJ – 6:00 p.m.

26 **Appellate Law Section (Brown Bag)**
"Stays, Bonds and Supersedeas: Preserving Judgments Pending Appeal"
RCBA Bldg., 3rd Floor - Noon
MCLE: 1 Hr. General

27 **Judge Michael Rushton Enrobement Ceremony**
Historic Court House – Dept. 1, 4:00 p.m.

28 **Mock Trial – Round 4**
HOJ – 9:00 a.m.

Mock Trial Individual Awards Ceremony
Riverside Convention Center – 1:30 p.m.

MARCH

4 **Bar Publications Committee**
RCBA – Noon

Mock Trial – Round 5 (Elite Eight)
HOJ – 6:00 p.m.

7 **Mock Trial – Round 6 (Semi Finals)**
Historic Court House – 9:00 a.m.

Mock Trial – Final Round
Historic Court House – Dept. 1, 1:00 p.m.

Mock Trial – Championship Awards Ceremony
Historic Court House – Dept. 1, 3:30 p.m.

11 **Mock Trial Steering Committee**
RCBA – Noon

President's Message

by E. Aurora Hughes

As this New Year begins, I pause to assess what has been accomplished so far and what remains to be done. January is always the month when people begin to make resolutions. I, too, have made several resolutions in the past. My resolutions have always been selfish. I've always made a resolution to lose weight, exercise more, eat better, and get more sleep. This year, my resolutions take on new meaning, since my diagnosis of amyotrophic lateral sclerosis.

As the progress of my disease seems to be on the fast track, my first resolution is to live one more year. My second resolution is to be at peace with myself and with God. My third resolution is to be good to other people and thankful. My fourth resolution is to be upbeat and to keep my sense of humor and enthusiasm. My fifth resolution is to be healthy enough to complete the goals I have set for myself as president of the bar association.

I want to thank all of the many members, friends and judges who have expressed their support and gratitude as I battle ALS and still seek to achieve my goals as president.

I was hospitalized on Christmas and had a bout of the flu, which started in the hospital and finished over New Year's Eve. I was giving, though, as I gave the flu to Joe, my wonderful husband, who, like the Marine he is, sucked it up and took care of me despite having it worse than me. Every day brings Joe and me something different. Family is so important.

The New Year also brings an opportunity for us to look back. One quarter of my term has already passed. Our board has implemented two fundraisers and has had a reasonably successful beginning. The Elves Program was successful. As I write this message, we do not yet have figures on how successful the Christmas tree fundraiser was, but I hope you considered purchasing a tree. I hope you all had an opportunity to at least take a look at the spa offering that was presented in the December mailings. These are a couple of the ideas the board members came up with to raise funds this year. We hope to have the same programs available next December and perhaps to give the members a little more notice.

The Continuing Legal Education Committee has been working hard to set the noon brown bag programs so members can get those hard-to-get special MCLE units before the cutoff date.

We have had at least one meeting of our version of Riverside's Judiciary Committee and have forwarded our evaluations to Governor Schwarzenegger.

At the joint meeting of the Riverside and San Bernardino Bar Associations, we had the opportunity to hear from Holly Fujie, our State Bar President. Her energy seems boundless. She spoke of several things, but what impressed me the most was her support and encouragement for a mentorship program. San Bernardino has recently set up its own mentorship program for new attorneys. It is my hope that Riverside will also set up a mentoring program. Such a program will provide an opportunity for the mentor to teach and show the mentee just what attorneys should and should not do and how civility works in Riverside.

We have been working on means to address the public concerning the role of the judiciary and hope to have programs in place by February. We have had members of the judiciary offer to assist in the education process.

This month, we honored the Afghanistan delegation of women lawyers and judges with lunch at our general meeting on Thursday, January 23, 2009 and co-sponsored a dinner that same evening for them with the San Bernardino Bar. Many of our members made a concerted effort to join in the discussions and supported their efforts to learn about our system of justice.

This year also brings Charlene Nelson, our new executive director, and a renewed hope that our association will continue to prosper. She is expected to join us in February or March.

We are developing educational programs on the role of the judiciary, the role of the attorney, and the need for additional judges and infrastructure. Our means of delivering that message are still a work in progress. Your suggestions are welcome.

I hope this year will improve the quality of our relationships and our resolve to help others in times of crisis and economic downturn. My thoughts and best wishes, along with my prayers, are with you all. I pray we all have a happy and prosperous new year.

Bad Laws For Bad Times

by Wayne Johnson

Lawyers often hear the expression, "bad facts make for bad law," and experienced litigators regularly witness this phenomenon. It seems that the severe economic troubles facing our country have birthed a similar adage: "bad times make for bad law." Proposed changes to the Bankruptcy Code illustrate this principal.

A growing number of members of Congress seek to amend the Bankruptcy Code to allow bankruptcy judges to rewrite home mortgages in bankruptcy. Although various proposals have been suggested, the essential features are similar. If the amendments are enacted, bankruptcy judges would have the power to reduce the principal balance on loans (and eliminate the remainder), reduce interest rates and change the terms of lending agreements. While the amendments play well to voter constituencies, anyone who appreciates the rule of law and values a functioning economy should be cautious . . . very cautious.

Imagine Congress passed legislation providing that every contract created prior to November of 2008 would be unenforceable. Or suppose Congress enacted a law providing that parties may continue to enter into any form of contract, but neither federal or state courts would be available to enforce them. Can we not all immediately agree that such legislation would fundamentally undermine commercial law and harm our economy?

But the proposed amendments to the Bankruptcy Code achieve nearly the same result. Put simply, if Congress enacts the suggested amendments to the Bankruptcy Code, the terms of agreements between lenders and residential borrowers will cease to have meaningful force. Nearly any borrower who obtained a residential loan from a lender would have the ability to immediately file a Chapter 13 case and obtain new lending terms. Much of the media reports regarding the amendments focus on the major issues: reducing principal amounts of the loans or reducing interest rates. And while creating these considerable powers would substantially harm the economy, even more mischief will be possible.

If bankruptcy judges obtain the power to rewrite lending agreements, the possibilities are nearly endless. For example, what is a reasonable period for a lender to wait to foreclose on collateral when a borrower ceases making payments? Most lenders want the right to foreclose immediately. Some bankruptcy judges, however, could conclude that a 90-day waiting period should exist, or perhaps six months or even a year.

How about penalties for late payments? If a bankruptcy court rewrites a lending agreement, penalties could be eliminated entirely. Likewise, borrowers would benefit greatly if bankruptcy judges simply eliminated the rights of the lenders to recover attorney fees and costs when enforcing lending agreements. Or better yet, how about reversing those pesky attorney fees clause provisions that aggravate borrowers? The new lending agreements imposed by the bankruptcy courts could provide that the borrower now has the right to recover legal fees in any successful litigation with the lender (but not vice versa).

If Congress empowers bankruptcy judges to rewrite all the terms of lending agreements, then, in effect, the agreements created between lenders and borrowers outside of bankruptcy will cease to have meaning. Borrowers and lenders will know that whatever terms they create in a lending agreement will not be enforceable in Chapter 13. No reasonable lender could have confidence that any of the terms of its loan agreement will be enforceable in bankruptcy.

Moreover, lenders will have no certainty of outcome. Bankruptcy judges vary significantly in judicial temperament, experience, disposition and skills. Some judges are sympathetic to lenders, while others often rule in favor of debtors. The former may rewrite lending agreements only slightly, whereas the latter would rewrite the agreements entirely. If Congress passed legislation authorizing the courts to rewrite lending agreements, the possible outcomes are at least as numerous as the number of sitting bankruptcy judges.

The effects of such legislation should be obvious. First, although some people predict such legislation will have little effect on the economy, common sense tells us otherwise. Would you lend money to a residential homeowner knowing that a bankruptcy judge could (at any time) reduce the principal amount of the loan or reduce the interest rate or excise any other term of the agreement?

Second, the suggested fundamental changes to commercial law would substantially worsen (not improve) our ailing credit markets. Economic experts seem to agree (with near unanimity) that the breakdown in the credit markets has dramatically harmed our economy. Therefore, it is self-evident that our government should not take steps to destabilize commercial law and lending transactions. Allowing bankruptcy judges to rewrite home mortgages may provide a windfall for homeowners in the short run, but it will inexorably result in less credit available to the public and on harsher terms.

Congress needs to resist the urge to make bad laws in bad times.

Wayne Johnson has been practicing bankruptcy law in the Inland Empire for nearly two decades and can be reached at wayne@waynejohnsonlaw.com.

The Bankruptcy Automatic Stay and Domestic Support Obligations

by Lazaro E. Fernandez

One of the broadest exceptions to the bankruptcy automatic stay relates to domestic support obligations and the commencement or continuation of proceedings relating to domestic support obligations.

First, the automatic stay does not prohibit the commencement or continuation of a civil action or proceeding for the establishment of paternity. (11 U.S.C. § 362(b)(2)(A)(i).) It also does not stop any such commencement or continuation to establish or modify a domestic support obligation order. (11 U.S.C. § 362(b)(2)(A)(ii).) This exception also makes the automatic stay inapplicable to any actions or proceedings concerning child custody or child visitation issues. (11 U.S.C. § 362(b)(2)(A)(iii).) Actions or proceedings relating to domestic violence are not stayed. (11 U.S.C. § 362(b)(2)(A)(v).) Lastly, the automatic stay does not stop the commencement or continuation of an action or proceeding for the dissolution of a marriage, except to the extent that any such proceeding seeks to determine the division of bankruptcy estate property. (11 U.S.C. § 362(b)(2)(A)(iv).)

As a general rule, if I have clients who have decided to terminate their marriage and are amicably resolving their separate property issues and child custody and visitation issues, I generally recommend that they file bankruptcy first and then proceed with any marital dissolution action. Not only does this minimize the chance that the family law court will grapple with the bankruptcy filing, but it also sets up the clients to discharge their liabilities in bankruptcy and walk out of family law court without the worry of possible creditor action should the ex-spouse not pay off debts assigned to the other spouse pursuant to a marital property settlement agreement.

The exception found in 11 U.S.C. § 362(b)(2)(B) permits the collection of any domestic support obligation from property that is not property of the estate. For example, in the chapter 7 context, a debtor's earnings for services performed by that debtor after the commencement of the case are not property of the estate. (11 U.S.C. § 541(a)(6).) Therefore, a creditor who is owed a domestic support obligation can commence or continue an action to establish or modify any such domestic support obligation, provided that the debtor's earnings are not property of the estate.

In the chapter 13 context, the exception found in 11 U.S.C. § 362(b)(2)(C) allows for withholding of income that is property of the estate or property of the debtor, provided this is for payment of a domestic support obligation and done pursuant to a judicial or administrative order or statute. In effect, even the debtor's filing of a chapter 13 case will not keep estate property or the debtor's property out of the reach of a domestic support obligation creditor. This is a significant change from the state of the law as it existed prior to the bankruptcy amendments enacted in 2005. With respect to a methodology for collection of domestic support obligations, exceptions exist for: the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license issued under state law, as specified in section 466(a)(16) of the Social Security Act; the reporting of overdue support owed by a parent to any consumer reporting agency, as specified in section 466(a)(7) of the Social Security Act; the interception of a tax refund, as specified in sections 464 and 466 (a)(3) of the Social Security Act or any similar state law; and the enforcement of a medical obligation, as specified under Title IV of the Social Security Act. (11 U.S.C. § 362(b)(2)(D)-(G).)

The rationale for the domestic support obligation exception to the automatic stay is that while these actions may distract the debtor, they do not otherwise affect bankruptcy estate administration or impinge upon the bankruptcy court's authority over estate property. Domestic support obligations, unlike commercial obligations, generally involve individuals who rely on the debtor's income and earnings for maintenance and support. By their nature, domestic support obligations are different from commercial obligations, and there is

no societal benefit in stopping domestic support obligation creditors from seeking collection of any such obligations.

Lazaro E. Fernandez practices in the Inland Empire and specializes in bankruptcy and creditors' rights. Mr. Fernandez represents both secured and unsecured creditors in Chapter 7, 11 and 13 cases, as well as debtors in Chapter 7 and 11 cases. Mr. Fernandez also represents Chapter 7 trustees as general counsel and as special counsel. Mr. Fernandez can be reached at the Law Office of Lazaro E. Fernandez, Inc., (951) 684-4474 and lef17@pacbell.net.

The Judicial Perspective

by Honorable Meredith Jury, United States Bankruptcy Judge

This article expresses the view that it may be wise practice to advise family law clients who are candidates for bankruptcy to file bankruptcy first, then proceed to family law court to dissolve the marriage. Although there may be some merit to assuring each party to the dissolution that all community debts have been discharged, as opposed to divvied up among the parties, with the inherent risk that one spouse will not uphold his or her end of the obligation, leaving the other liable to the creditor, there are some other considerations that should be taken into account.

1. If bankruptcy is filed jointly by the husband and wife, yet a dissolution looms on the horizon, any attorney representing them in the bankruptcy may find himself or herself in a conflict if any issues of separate property/community property or separate debt/community debt arise in the context of the bankruptcy. The upshot of this conflict is that the attorney must withdraw from representing both parties, leaving the parties either unrepresented or incurring an additional cost to bring new counsel into the case.
2. If the property issues in the dissolution have not been resolved prior to bankruptcy, all property of the debtors is property of the bankruptcy estate, subject to liquidation and distribution by the bankruptcy trustee. Although the automatic stay does not apply to domestic support and paternity issues, it does apply to all property issues. Therefore, if the parties had hoped to quickly resolve the property division, this process will be delayed during the term of the bankruptcy, even if most of the property is exempt. The parties would not be free to split the exempt property until the property is either abandoned by motion or the case is discharged and closed. For nonexempt property, the parties will likely have little say over what happens to it, as the trustee will administer it, usually by liquidation. This could have a severe negative consequence if the parties have a home with substantial equity (rare today), which they wish to accord to the custodial spouse until children reach the age of majority. A trustee could seize that property to sell, paying over the exemption to the parties but leaving them without the family home in which to raise the children.
3. Even if property issues are agreed to by the parties prior to filing a bankruptcy proceeding, there may be pitfalls awaiting them if they file separate petitions and any trustee does not believe his or her debtor got fair value in the split. Trustees have strong-arm powers, which allows them to set aside constructive fraudulent transfers, sometimes even years after the transfers have taken place under the lengthy statute of limitations provided by California law. One way to avoid this problem is to have appraisals prepared at the time of transfer, which can be used to demonstrate the equality of the split.
4. Under BAPCPA, effective in October 2005, an "equalizing" obligation that arises from a property settlement agreement no longer may be discharged in bankruptcy. Under former section 523(a)(15), such obligations could be discharged if the debtor could demonstrate an inability to pay and a balancing of the hardships was in his or her favor. That test is gone and all such obligations are now nondischargeable.

Should Bankruptcy Judges Be Able to Modify Home Loans to Help Solve the Foreclosure Crisis?

by Kirsten S. Birkedal

With home foreclosures at record levels, many are wondering what the state and federal governments are planning to do in order to help resolve the crisis. As you may recall, one option promoted this fall by Senator McCain during the presidential campaign was to have the federal government buy back troubled mortgages made by banks and lenders. Around the same time, another option was proposed by Senator Richard J. Durbin (D-Ill.), which would allow bankruptcy judges to approve modifications of home mortgages to prevent foreclosures. Senator Durbin's proposed legislation, however, received little press and was defeated in Congress when several lobbying groups representing banks and lending institutions said such a bill would cause an increase in mortgage rates.[1]

Senator Durbin still advocates for his proposed changes to the Bankruptcy Code. President Obama and his economic team may change course and encourage Congress to pass such legislation as part of his administration's stimulus package. This article therefore summarizes the arguments in support of Senator Durbin's bill, as well as in opposition to it.

In short, Chapter 13 bankruptcy is a method under the Bankruptcy Code for debtors to reorganize their personal debt. A Chapter 13 debtor obtains relief from creditors and is allowed to keep possession of assets, but must abide by a plan to pay the creditors back as much as possible over a period of up to five years. Chapter 13 is an attractive alternative to Chapter 7 liquidation bankruptcy because it allows the debtor to keep his or her assets, including a personal residence.

At the start of the subprime mortgage meltdown, on October 3, 2007, Senator Durbin first proposed his legislation, which was called the "Helping Families Save Their Homes Act." In essence, Senator Durbin's bill would have eliminated a provision of the bankruptcy law that prohibits modification to mortgage loans on the debtor's primary residence.[2] This prohibition was created in the 1970s, when most mortgages were fixed-rate and long-term agreements between local banks and their customers. Therefore, under current bankruptcy law, a judge can modify the amount owed on a debtor's vacation home and family farm, but as a matter of law, cannot modify the amount owed on a debtor's primary residence.

The bill would allow bankruptcy judges for the first time to modify single-family home mortgages when the appraised value of the home has fallen below the principal balance of the loan. The excess principal would be declared an unsecured debt. The remaining balance could then be modified by a judge's order, so as to give the homeowner a chance of making the payments on the loan according to his or her Chapter 13 plan.[3]

Supporters of Senator Durbin's legislation argue that this bill would allow families to file for Chapter 13 bankruptcy and work with a judge and the lender to modify the mortgage so they can make affordable payments and keep their homes.[4]

According to Professor Adam J. Levitin of Georgetown Law Center, a supporter of the bill, "At no time since the Great Depression have so many Americans been in jeopardy of losing their homes."[5] Professor Levitin testified in front of Congress in support of the bill this past November. Professor Levitin testified that over a million foreclosures have occurred in 2007 and another one to two million are expected at the end of 2008.

Banks and lenders have opposed Senator Durbin's legislation, the loudest critics being the Mortgage Bankers Association and the American Bankers Association. Their opposition to Senator Durbin's bill is in line with their advocacy of the revision to the Bankruptcy Code in 2005 that made it more difficult for debtors to file for personal bankruptcy – the Bankruptcy Abuse Prevention and Consumer Protection Act ("BAPCPA"). Opponents argue that the judicial write-down of mortgages by bankruptcy judges will increase the risks of mortgage lending and thereby tighten

1 Hiltzik, Lenders derail home relief plan, Los Angeles Times (Apr. 22, 2008) http://articles.latimes.com/2008/apr/22/business/fi-bankrupt22; Hamburger and Savage, No bankruptcy aid for homeowners, Los Angeles Times (Sept. 29, 2008) http://articles.latimes.com/2008/sep/29/business/fi-scrub29.

2 The prohibition against principal residence loan modification is provided in 11 U.S.C. § 1322(b)(2).

3 "Durbin Holds Hearing on Looming Foreclosure Crisis in Illinois and Nationwide," December 4, 2008, available at http://durbin.senate.gov/showRelease.cfm?releaseId=305471.

4 See "Testimony of Michael D. Calhoun" (Nov. 19, 2008), available at http://judiciary.senate.gov/hearings/testimony.cfm?id=3598&wit_id=7540.

5 "Testimony of Adam J. Levitin" (Nov. 19, 2008), available at http://judiciary.senate.gov/hearings/testimony.cfm?id=3598&wit_id=7542.

the credit market even further. The new power given to judges would undermine lenders' confidence in the reliability of the loans they issue and consequently cause interest rates on personal residences to increase.

To date, the banks and lenders have persuaded Congress not to enact Senator Durbin's bill. To counteract their argument, supporters of the bill have said they will tailor it to restrict it to existing mortgages only. Moreover, they argue that the interest rates on mortgages for vacation homes are no different than those for single-family residences. In addition, Professor Levitin conducted a study that found that mortgage rates would not rise as a result of the modification of personal home loans. In fact, Levitin argues that lenders suffer more harm when they let the homes go into foreclosure.[6]

If this bill or a version of it passes the House and Senate, bankruptcy filings in Riverside County may increase dramatically. Riverside County has already been hard-hit by the foreclosure crisis, and this option may be the best solution to cure the crisis without the cost of bailing out banks and lenders even further for the bad loans they have made in the past.

Kirsten S. Birkedal is an attorney with the law firm of Thompson & Colegate LLP in Riverside, California. Ms. Birkedal practices civil litigation, which includes commercial and bankruptcy law. Ms. Birkedal can be reached at kbirkedal@tclaw.net.

6 Levitin & Goodman, The Effect of Bankruptcy Strip-Down on Mortgage Markets (Feb. 6, 2008) Georgetown Law and Economics Research Paper No. 1087816, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1087816.

The Judicial Perspective

by Honorable Meredith Jury, United States Bankruptcy Judge

Speaking personally, as a bankruptcy judge, I can see many benefits from having the bankruptcy courts play a role in loan modifications. First, American citizens already have a body of 300 experienced judicial officers with considerable expertise in valuing property and applying prevailing interest rates at their disposal in the bankruptcy courts. Except for mortgages on a primary residence, the bankruptcy code already gives the court the power to adjust principal balances on undersecured loans and to apply prevailing interest rates to future payments. To do so on primary residences would merely be an expansion of familiar powers that are already exercised by the courts.

Second, the court system offers a uniformity of law and procedure that seems to be missing from the proceedings, both voluntary and involuntary (via settlements with state attorneys-general), that Congress and other voices are urging should occur. Although at first the task might seem overwhelming, time-consuming, and expensive, bankruptcy courts have often been charged with creating efficient methods for resolving massive consumer issues. It is reasonable to expect that the courts could quickly craft local rules that would allow for expedited proceedings, expert testimony by declaration, stipulated appraisals, and other methods that would accord due process without slowing the process to a halt. Certainly, the court oversight of such proceedings would assure that every homeowner with a troubled loan would at least have a fair opportunity to deal with his or her creditor, rather than the random opportunities that seem to exist today. Most bankruptcy practitioners, but perhaps not other counsel, are aware that a totally unsecured second or third trust deed can already be "stripped" from property in a chapter 13, leaving the obligation as an unsecured debt. Once case law made it clear that such lien-stripping was allowed, most courts devised an effi-

cient and cost-friendly method for making these rulings promptly so that chapter 13 plans could be confirmed.

Although there are a myriad of other benefits from a uniform law that provide debtors with relief, I might also mention that servicers and assignees of secured debt might also glean some protection from the proposed legislation. There already exist some legal challenges to voluntary loan modifications, filed by the securitized investors who are the real "lenders" in today's market. These lawsuits challenge the right of the servicers to modify the loan instruments without consensus from the fractionalized holders of the underlying securities. If the bankruptcy law were amended to compel such modifications, it should take the wind out of these lawsuits, because the modifications would be compelled by law rather than voluntary workouts.

To Guarantee or Not to Guarantee?:
Bankruptcy Considerations for Owners of a Struggling Business

by Michael C. Thomas

In the current economic environment, business clients may see a decrease in revenue and in the fair market value of assets. Under such conditions, the lenders who lend money to the business and take a security interest in those assets often seek a personal guarantee on the debt from an owner. In deciding whether to risk personal assets, an owner should consider whether a potential business bankruptcy will increase the owner's risk of loss. Likewise, a lender will want to know what risks it incurs when an owner guarantees debt.

I. Preference Payments Under the Bankruptcy Laws

The federal bankruptcy code is designed to treat similar creditors equally. To that end, a bankruptcy court generally may reverse payments made to (or for the benefit of) creditors within a certain period of time before the debtor filed for bankruptcy.[1] These payments, known as "preferences," have the potential to benefit a favored creditor to the detriment of other creditors. Normally, the look-back period for preference payments is 90 days before the bankruptcy petition is filed. When the creditor is an insider of the debtor, this period extends to one year before the bankruptcy filing.

II. Impact on the Lender

Previously, the lender with an insider guarantor was at risk for payments made not only during the 90-day look-back window, but also during the one-year period applicable to insiders. About 20 years ago, federal courts began to uphold the so-called Deprizio doctrine. As explained in the related Ninth Circuit case, these cases considered the following situation:

"[T]he debtor transfers an interest in property to a non-insider creditor within one year – but not within ninety days – of bankruptcy. The trustee, representing the unsecured creditors of the debtor, seeks to avoid the transfer… and to recover from the non-insider . . . on the theory that the transfer benefited the insider guarantor by reducing the guarantor's exposure on the debtor's obligation."[2]

In other words, the loan payments from the business to the lender benefit the owner because the owner's liability under the personal guarantee decreases. Courts found this to be a preferential payment for the benefit of an inside creditor and allowed the bankruptcy trustee to avoid such payments and recover them from the lender.

However, the lending community voiced its concerns to Congress, and Congress amended section 550 of the bankruptcy code to include the following language:

"If a transfer made between 90 days and one year before the filing of the petition is avoided . . . and was made for the benefit of a creditor that at the time of such transfer was an insider; the trustee may not recover . . . from a transferee that is not an insider."[3]

Furthermore, as part of the 2005 Bankruptcy Abuse Prevention and Consumer Protection Act, Congress added the following language to the bankruptcy code:

"If the [bankruptcy] trustee avoids . . . a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider."[4]

Due to these legislative changes, lenders need not wonder whether loan payments before the 90-day preference period for non-insiders will be avoided by the bankruptcy court.

III. Impact on the Owner-Guarantor

Under the bankruptcy code, a payment is not preferential unless it enables a creditor to receive more then the creditor would have received under a Chapter 7 liquidation.[5] Since secured creditors receive the value of their security interest under liquidation, a lender who is secured by property with a value that meets or exceeds the outstanding loan balance will not have loan payments treated as a preference. The guarantor of such a loan also escapes preference treatment because a Chapter 7 liquidation would give the guarantor the same result.[6] What happens, though, when the property securing the loan is worth less than the outstanding debt balance?

1 11 U.S.C. § 547.

2 Official Unsecured Creditors Comm. v. United States Nat'l Bank (In re Suffola, Inc.) (9th Cir. 1993) 2 F.3d 977, 979.

3 11 U.S.C. § 550(c).

4 11 U.S.C. § 547(i).

5 11 U.S.C. § 547(b)(5).

6 See In re Suffola, Inc., supra, at p. 985 (citing Miller v. Rausch-Alan, Inc. (In re Gamest, Inc.) (Bankr. D. Minn. 1991) 129 Bankr. 179).

In that case, the lender's claim under a Chapter 7 liquidation would be bifurcated into a secured claim equal to the value of the collateral securing the debt and an unsecured claim for the balance of the outstanding debt amount. Any payments to the lender that reduced the principal balance of the loan during the one-year preference period would also have reduced the guarantor's exposure to the unsecured portion of the loan. In the Ninth Circuit, case law indicates that payments on a loan that is "undersecured" at the time of filing a bankruptcy petition are preference payments with respect to the insider guarantor, even if the loan was fully secured at the time of the payments.[7] In such a situation, the bankruptcy court could require the insider to refund those loan payments, even though it was the lender who received the payments.

Consider the following hypothetical. Due to a change in economic conditions, Business experiences a significant drop in revenues. To meet its current cash needs, Business seeks a loan from Lender. Lender lends Business $100,000 and takes a security interest in property with a current value of $120,000. Lender also requires Owner to personally guarantee the debt. Owner guarantees $100,000 of fully secured debt.

A year later, the value of the security property has fallen to $90,000. Loan payments totaling $10,000, which consisted of $5,000 in principal payments and $5,000 in interest payments, have reduced the debt balance to $95,000. Business declares bankruptcy. Since Owner's liability as guarantor has decreased by $10,000 due to the loan principal and interest payments, a bankruptcy court may allow the recovery of those payments from Owner as a preference item. In addition, Lender may seek to collect the remaining $95,000 of outstanding debt from Owner as guarantor.

Owner may have to pay a total of $105,000 in this scenario; $5,000 more than the amount Owner agreed to guarantee. The $10,000 of preference payments only reduced the outstanding loan balance by $5,000. The interest amount is paid twice – once by Business to Lender, and once by Owner to the bankruptcy trustee. In that sense, Owner will be doubly liable for the loan payments to the extent such payments did not reduce the principal balance of the guaranteed loan.

In conclusion, business owners will consider many factors when deciding whether to personally guarantee a business loan. When making that decision, they should understand that they may be doubly liable for a portion of loan payments if the business subsequently declares bankruptcy.

Michael C. Thomas is an associate in the Business Planning and Transactions Group of Best Best & Krieger LLP.

7 See Loo v. Martinson (In re Skywalkers, Inc.) (9th Cir. 1995) 49 F.3d 546, 548.

Retirement of the Honorable David N. Naugle, United States Bankruptcy Judge

by Judge Meredith Jury, Penny Alexander-Kelley, and Wayne Johnson

On August 28, 2008, federal district court judges, magistrate judges, bankruptcy judges and the local legal community gathered in Courtroom 304 of the Bankruptcy Court in Riverside to honor retiring Judge David N. Naugle. In the words of Bankruptcy Judge Meredith Jury, "Judge David Naugle's retirement marks the end of an era, the passing of an icon."

Judge David Naugle

Judge Naugle was first appointed to the bankruptcy bench on March 1, 1976, and so his service spans 32 years.[1] During this time, Judge Naugle served on the Long Range/ Strategic Planning Committee, the Space and Security Committee, and the Alternative Dispute Resolution (ADR) Task Force. He was also a designee to the Bankruptcy Appellate Panel (BAP). Judge Naugle was always available for assignments above and beyond the call of duty. He sat anywhere (from Reno to Alaska) at any time. During his tenure as a bankruptcy judge, he taught numerous seminars at the Inland Empire Bankruptcy Forum, including the annual consumer law update. At the retirement ceremony, Judge Jury reminded everyone of Judge Naugle's penchant to start the morning on the bench reading from the Daily Journal in order to "teach us as lawyers."

Judge Naugle presided over some of the Inland Empire's highest profile cases, including Sun World, Inc., Vista Medical, Transcon Lines, and Parkview Community Hospital. Judge Naugle is a graduate of Stanford Law School and Stanford University.

Chief Judge Alicemarie H. Stotler, U.S. District Court, Central District of California, and Chief Judge Vincent P. Zurzolo, U.S. Bankruptcy Court, Central District of California, presided over the retirement ceremony, in which numerous speakers shared stories about and applause for Judge Naugle's long service on the bankruptcy bench.

Judge Jury, once a bankruptcy practitioner herself, said that she ran her courtroom just as Judge Naugle ran his, because it was the right way to run a courtroom and it was efficient. Retired Bankruptcy Court Judge Mitchel R. Goldberg, who served with Judge Naugle for many years, described Judge Naugle as a "curmudgeon." Judge Goldberg then defined a curmudgeon as one who is "crusty, full of stubborn ideas, sensitive but hides vulnerability under a crust." Judge Goldberg noted that he and Judge Naugle were the "yin and yang," but still described his colleague as the role model for what a judge should be.

On the bench, Judge Naugle ruled with decisiveness and intelligence. Always ready to give any litigant an "appealable order," Judge Naugle did not hesitate to resolve disputes and issue rulings. Justice flowed quickly and fairly in his courtroom.

Judge Naugle also displayed a rare degree of judicial consistency. Given any particular set of facts and law, practitioners could predict with a very high degree of certainty the likely ruling by Judge Naugle in a dispute. Few could ever argue with his cogent rulings and rigorous application of the Bankruptcy Code. And even those practitioners whose clients bore the brunt of the negative consequences of rulings have regularly praised Judge Naugle's consistent judicial demeanor.

Off the bench, Judge Naugle not only led the Riverside Division of the Bankruptcy Court for decades as its most senior judge, he took special pride in insuring the court operated smoothly. After resolving his caseload on any given day in an efficient manner, he and his chambers staff frequently assisted other departments of the court in routine matters such as closing case files, moving boxes of closed case files, organizing a paper recycling drive or any other tasks needed to keep the entire organization operating at maximum efficiency. Indeed, many years ago, when the court had a file room visible to the public, local practitioners regularly saw Judge Naugle moving case files from one shelf to another in the never-ending process of (as he

1 The RCBA acknowledges that many of the facts concerning Judge Naugle's background were found in the Court News, September-October issue, and are incorporated here with permission.

called it) "snugging" the files. To Judge Naugle, no task was too important or too mundane in the administration of justice and the operation of the court. More than one practitioner over time was surprised and perhaps embarrassed to learn that the "janitor" or "clerk" that they had just been chatting with in the clerk's hallway was the judge, when he appeared in robes a short time later in Judge Naugle's courtroom.

Over and over again, the speakers at Judge Naugle's retirement ceremony praised his judicial demeanor, his work ethic, and his years of service. For the bankruptcy court in Riverside, it truly is the end of an era.

Photographs courtesy of Jacqueline Carey-Wilson

Naugle Family (Picture courtesy of Leslie Ryan): Back row: James C. Carreon, Christine Carreon (David's eldest child), Lacey Ryan, Alexandra Carreon, Nancy Jordan (David's sister) Leslie Ryan, Lance Ryan; Front row: Jake Carreon, Virginia Naugle (David's mother), David Naugle, Lindsey Ryan, Lexie Ryan and Sharon Naugle (David's middle child). Missing from the picture: James Naugle, son of David who is in the U.S. Air Force.

Judge Naugle's mother, Virginia Naugle (age 91)

Judge Mitchel Goldberg and Judge Naugle

Judge Stephen Larson and Judge Craig Riemer

(L-R) Judge Samuel Bufford, Diane Weifenbach, Judge Meredith Jury, and William Windham

Dan Hantman and Judith Runyon

Judge Vic Miceli (Ret.) and Judge Virginia Phillips

18th Annual Red Mass

by Jacqueline Carey-Wilson

More than 150 members of the legal community and their families gathered at the 18th Annual Red Mass on May 6, 2008. The Red Mass is celebrated to invoke God's blessing and guidance in the administration of justice. The mass was held at Saint Francis de Sales Catholic Church in Riverside. Judges, lawyers, and public officials of several faiths participated. A banner depicting the Holy Spirit, the Scales of Justice, and the Ten Commandments was placed on the altar at the beginning of the mass to symbolize the impartiality of justice and how all must work toward the fair and equal administration of the law, without corruption, avarice, prejudice, or favor. The mass was dedicated to those who serve us in the armed services, especially in Iraq, Afghanistan, and other places where they are in harm's way.

(Top row L-R): Sandra Grajeda, Melissa Ladenson, Mary Jo Carlos, Mark Strain, Chris Marshall, Scott Runyan; (Bottom row L-R): Joanne Fenton, Michelle Blakemore, Fiona Luke, Ruth Stringer, Jacqueline Carey-Wilson

The chief celebrant was the Most Reverend Rutilio del Riego, the Auxiliary Bishop of the Diocese of San Bernardino. Abbot Francis Benedict, O.S.B., of St. Andrew's Abbey in Valyermo, gave the homily. Rabbi Hillel Cohn, Rabbi Emeritus of Congregation Emanu El in San Bernardino, read a passage from the Old Testament. Pastor Bob Pope, Associate Pastor of the Grove Community Church in Riverside, read a passage from the New Testament. Bishop del Riego, Rabbi Cohn, and Pastor Pope each gave a blessing to those present at the end of the mass. Judge Cynthia Ludvigsen offered the Prayers of the Faithful to honor members of the Inland Empire legal community who passed away during the previous year.

Abbot Francis reminded us in his homily to remain humble in our profession. He stated that humility is not a quality prized in our society because it connotes that a person lacks self-worth. Humility can sometimes be construed as implying that a person who possesses that attribute is spineless or simply does not know who he or she is. Abbot Francis strongly disagreed with such assumptions. According to Abbot Francis, humility means being grounded, being down to earth, being rooted in life as it is, and knowing who you are, where you came from, and what you are all about. Humility is being honest to God and to self and not being more or less than what you are. He explained that part of being humble is being able to recognize your obligations as a person, as a professional, as a servant of the people, as a promoter of the common good, as a defender of justice, and as a person who lives what you believe to the best of your ability. Being humble is also a recognition that you are not above others, no matter what your position or authority, since we are all creatures made in God's image. Abbot Francis concluded by stating, "Humility defends the truth, promotes the truth of individual and inalienable rights. Humility loves the wisdom of truth and sees God's purpose and will in every eventuality. Humility is not self-aggrandizing and ambitious. Humility is ultimately charitable . . . . As ministers of peace, justice, and order, we must temper judgment with mercy for the sake of others and for the sake of our own salvation as well . . . . Let us beseech the Holy Spirit to promote the highest and best within each of us public servants and within those under our authority, care, or governance."

At the reception immediately following the mass, two individuals were honored with the Saint Thomas More Award. The Saint Thomas More Award is given to an attorney or a judge whose conduct in his or her profession is an extension of his or her faith, who has filled the lives of the faithful with hope by being a legal advocate for those in need, who has shown kindness and generosity of spirit, and who is overall an exemplary human being. When speaking about Saint Thomas More, Pope John Paul II stated that "this English statesman placed his own public activity at the service of the person, especially if that person was weak or poor; he dealt with social controversies

with a superb sense of fairness; he was vigorously committed to favoring and defending the family . . . ."

The first Saint Thomas More Award was presented to the family of the late Joseph Canty. Joseph Canty – Joe to his friends, and Papa Joe to his family – was a longtime member of Our Lady of the Assumption parish in Claremont. He was also a lawyer who took on the most difficult cases. Joe served as a deputy district attorney in San Bernardino County for 14 years. He prosecuted numerous murder cases, including the high-profile 1972 slaying of a correctional officer. After a brief time in private practice, he returned to work for the county as a public defender in 1990. He served as the lead attorney in the public defender's Homicide Defense Unit. Joe was passionate about his job and was always willing to assist his colleagues. He loved working for this county so much that he convinced his son, Geoffrey, to leave another county to work with him as a public defender for the County of San Bernardino.

In May of 2007, the San Bernardino County Board of Supervisors honored Joe with an Award of Excellence for his dedication to his job and the county. Joe's dedication extended to his church and his family. He served his parish in a number of ways, including as a Eucharistic Minister. He was known to attend two weekend masses – one to serve as a Eucharistic Minister, and then a second so he could be present at mass with his family. His home, affectionately nicknamed "Cantyville," was often the site where masses were celebrated with family and friends. Joe passed away suddenly on June 9, 2007, after suffering a heart attack. He was 65 years old. Joe left behind many loved ones, including his wife Elaine, nine grown children – Dennis, Geoffrey, Lisa, Cristina, David, Kevin, Gaetana, Meghan, and Matthew – and twelve grandchildren. Joe will always be remembered for his kindness, compassion, and humility.

The second Saint Thomas More Award was presented to Fiona G. Luke. Fiona has served as deputy county counsel for the County of San Bernardino since 1998. Fiona is also very involved with missionary activities in her church. She is a member of the Grove Community Church, where she serves on the Missions Board, is a leader for the Missionary Care Group, and volunteers as a hospital chaplain. Fiona was a member of the Ministry Leadership Team of Prison Fellowship, and continues to participate in the Angel Tree Christmas and Camping ministries. Angel Tree is a ministry designed to restore relationships between inmates and their children. Fiona also lead a bible study at the Heman G. Stark Youth Training School and has mentored several women at California Institute for Women through A.S.K. Mentoring Outreach.

In addition, Fiona has served in the mission field in Mexico with Hands of Mercy and Baja Christian. On these trips, she has built houses and worked with the local

churches on community development projects. Fiona has also participated twice with Set Free Prison Ministry in Kazakhstan. This ministry supported missionaries stationed in Kazakhstan by ministering in the women's and boys' prisons, providing bedding and playground equipment for children in an orphanage, and mentoring young women who have been released from prison into the care of Set Free Prison Ministry.

In April 2008, Fiona applied to the International Justice Mission for service in one of their overseas offices in Asia or Africa. Once she is accepted, her initial assignment will be from 12 to 18 months. According to Fiona, "I hope this will be the start of the rest of my life in service." Fiona exemplifies the ideals of Saint Thomas More: She lives her faith daily, is kind and generous of heart, and works to give hope to those in need.

The Red Mass Steering Committee was pleased to recognize Joseph Canty and Fiona Luke for their extraordinary service and devotion to church, community, and justice.

The Red Mass Committee is accepting nominations for the 2009 Saint Thomas More Award. The award will be given at the reception following next year's Red Mass, which will be held in May 2009. If you have any questions or would like to be involved in the planning of next year's Red Mass, please call Jacqueline Carey-Wilson at (909) 387-4334 or Mitchell Norton at (909) 387-5444.

Jacqueline Carey-Wilson is deputy county counsel for San Bernardino County, President-Elect of the Federal Bar Association, Inland Empire Chapter, Director-at-Large for the RCBA, Editor of the Riverside Lawyer, and Co-Chair of the Red Mass Steering Committee.

Photographs courtesy of Jacqueline Carey-Wilson

Mark Strain and Abbot Francis Benedict, O.S.B

Rev. Leo Baysinger presenting the Saint Thomas More Award to Geoffrey Canty on behalf of the family of the late Joseph Canty.

Bishop Rutilio del Riego and Rabbi Hillel Cohn

Rev. Leo Baysinger and Mrs. Elaine Canty

Joe Canty

Fiona Luke with her sister Melissa Garcia, brother-in-law, Alex Garcia, and brother, Justin Luke

New Civil Fee and Traffic Fine Structure to Take Effect – Revenue Will Help Improve Courthouses

Riverside County: A new fee structure will go into effect starting January 1, 2009, for civil filings, as well as increased penalties and new assessments for traffic tickets and all other criminal convictions as a result of legislation approved by the Legislature and signed into law by the Governor earlier this year.

Under the new fee structure, the filing fee for "unlimited" civil cases (more than $25,000 at issue) will go to $365 from $335, while the typical cost of traffic tickets will increase by $35. An additional $30 will be due upon conviction of any misdemeanor or felony.

The increases were authorized as part of Senate Bill (SB) 1407, which authorizes a $5 billion capital outlay program to fund repairs, renovations, and replacement of court facilities in order to make them safer and more secure. As under current law, adjustments can be made to fees and fines to accommodate hardship cases and to guarantee access to justice. In addition, in certain criminal cases, the fees, penalties, and assessments can be converted to community service upon a showing that the total fine would impose a hardship on a defendant or his or her family.

"Enactment of this bill demonstrates the commitment by the Legislature and the Governor to ensuring that the judicial branch has the tools and resources to address one of the judicial branch's key priorities: repairing and rebuilding our crumbling courthouse infrastructure," said William C. Vickrey, Administrative Director of the Courts. The Judicial Council has identified 69 courthouse projects in "immediate and critical need" and voted in October to recommend funding for 41 of those projects through SB 1407, he said. Presiding Judge Richard T. Fields noted that Riverside County would directly benefit, with a new juvenile and family courthouse in Indio and an addition to the Hemet Courthouse.

In addition to the $30 fee increase for unlimited civil case filings, the filing fee for limited civil cases will increase by $25 where the amount at issue is $10,000 to $25,000 and by $20 where the amount at issue is $10,000 or less.

Traffic tickets paid on or after January 1 will carry an additional $35 assessment and an increased court construction penalty. The fee to process a request to attend traffic school and keep the ticket off the driver's record will be $54 beginning January 1, up from $29. The fee for proof-of-correction citations, or "fix-it" tickets, will go from $10 per citation to $25 per violation. Fines imposed upon convictions of misdemeanors or felonies on or after January 1 will result in an additional $30 assessment.

In California, 90 percent of court facilities need improvement, 78 percent are not fully accessible to disabled persons, and 68 percent lack security adequate for the design of the facility. The increased fees, penalties, and assessments authorized by SB 1407 will generate an estimated $280 million annually to support court facility improvements.

Governance of local courthouses shifted from the counties to the state with the Trial Court Facilities Act of 2002. As a result of the Act, the state, through the Judicial Council and the Administrative Office of the Courts' (AOC's) Office of Court Construction and Management, began assuming responsibility for the operation, maintenance, renovation, and construction of local court facilities.

The fee schedule that took effect January 1, 2009, can be accessed at the court's website at http://riverside.courts.ca.gov and will also be available at the court's various clerk's offices. A schedule of the criminal and traffic fees, assessments, and penalties can also be obtained at the clerk's office.

Desert Region Probate Hearings Moving from Indio to Palm Springs

Effective Monday, January 5, 2009, Desert Region probate hearings will move from Department 1B at the Larson Justice Center

Annex in Indio to the Palm Springs Court.

All probate hearings will be set at 8:45 a.m. in Department PS1 in the Palm Springs courthouse at 3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262. Hearings will be held Monday through Friday. Family law cases assigned to Judge James Cox will be heard at 10 a.m., Monday through Friday, in Department PS1, as well.

The probate clerk's office will remain in its current location in Indio. Due to continued remodeling, the Palm Springs clerk's office will be open only for limited business operations. Probate filings should continue to be submitted in Indio for processing.

Any questions should be directed to the probate clerk's office at (760) 863-8207.

Your Help Needed to Bridge the Justice Gap

by Holly Fujie, 2008-2009 State Bar President

California is a land of plenty – plenty of poor people with legal needs. The wealth of this state is balanced – or overbalanced – by families in need, veterans cut adrift, a graying population with increasing needs for support and protection, and children at risk of falling through the cracks of a system pushed to the breaking point.

Holly Fujie

Last year, for the first time, thousands of lawyers and judges across the state came together to expand legal assistance to families like these by contributing $100 each to the new Justice Gap Fund – raising more than $1 million. Today, the need is even greater. We hope that you will join your colleagues in supporting the Justice Gap Fund this year. The opportunity to do so is included in your State Bar fee statement and is also available online at http://calbar.org/justicegapfund.

Government Recognizes the Importance of Legal Aid

In 1981, the Legislature responded to the growing legal needs of low-income Californians by creating the Legal Services Trust Fund Program. This division of the State Bar administers a grant-making program that supports non-profit legal aid organizations serving all 58 counties. This initial funding source is generated through interest on lawyers' trust accounts ("IOLTA").

As economic tides turned in the 1990s and interest rates dropped, the need for legal services overwhelmed the funding available through IOLTA. In response, the Legislature created the Equal Access Fund ("EAF"), administered jointly by the Judicial Council and the State Bar. The Fund has been included in the state budget ever since, and has been augmented over the years by a share of civil filing fee receipts and modest cost-of-living increases. Today, between IOLTA and the EAF, the State Bar's Trust Fund Program is distributing more than $30 million in grants to nearly 100 non-profit legal aid organizations serving low-income Californians.

The Justice Gap Fund: Making Inroads Toward Filling the Legal Need

Seeing the seriousness of the gap between the amount of legal services available in California and the amount that Californians really need, the legislature recently authorized an additional source of support for legal services for the poor: the Justice Gap Fund. This Fund is supported by individuals like you, who care about the welfare of those who have no way to help themselves out of legal difficulties.

Under AB 2301 (2006), private, tax-deductible contributions can be made to the Justice Gap Fund as part of your annual payment of State Bar dues. Contributions can also be made online at http://calbar.org/justicegapfund. Last year, the Justice Gap Fund raised more than $1 million in gifts from attorneys, judges, and other concerned individuals and corporations. Every dollar was passed on to legal services providers from San Diego to Susanville, serving communities from the L.A.'s teeming Skid Row to the farms of Watsonville to the mountainous reaches of the Trinity Alps and the Sierras.

Your Help is Needed

As you are well aware, world financial markets collapsed this fall in the wake of unprecedented mortgage defaults and nose-diving consumer confidence. Continuing repercussions include increased homelessness, poverty, and financial abuse of the elderly and others unable to defend themselves. Local legal services providers, already operating at full capacity, now must juggle to take on the new cases of those impacted by the meltdown. But just when more people are asking for more help, less funding is available to serve them. Interest rate deflation has reduced IOLTA income and the ongoing state budget challenges have made it difficult to increase the Equal Access Fund. This is why it is particularly important this year that you consider helping to bridge the Justice Gap, with a contribution to the Justice Gap Fund.

Whether you renew your State Bar membership on-line, or by mailing back the bill you receive in your mailbox, please think about making a gift to the Justice Gap Fund. There are millions of Californians in need, who will thank you from the bottom of their hearts for bringing justice and liberty within their grasp.

Classified Ads

Executive Suites Moreno Valley
Executive suites available in new building on Sunnymead Blvd. in Moreno Valley. Includes voice mail, direct phone number, fax number, access to T-1 high speed internet, access to conference room and more. Contact Leah at 951-571-9411 or leah@gsflaw.com. All second floor offices.

Office Space – Riverside
Office space available in the Tower Professional Building located on the corner of 13th and Lime Street in downtown Riverside. We are within walking distance to all courts. All day parking is available. Building has receptionist. Please call Rochelle @ 951 686-3547 or email towerpm@sbcglobal.net. Residential services available also.

Offices - Riverside
Class A and Garden Offices available ranging from 636 SF to 11,864 SF. Offices located at Central Avenue and Arlington Avenue at the 91 Freeway exits. Affordable pricing, free parking, close to Riverside Plaza, easy freeway access to downtown courts. Please call Evie at 951-788-9887 or evie@jacobsdevco.com.

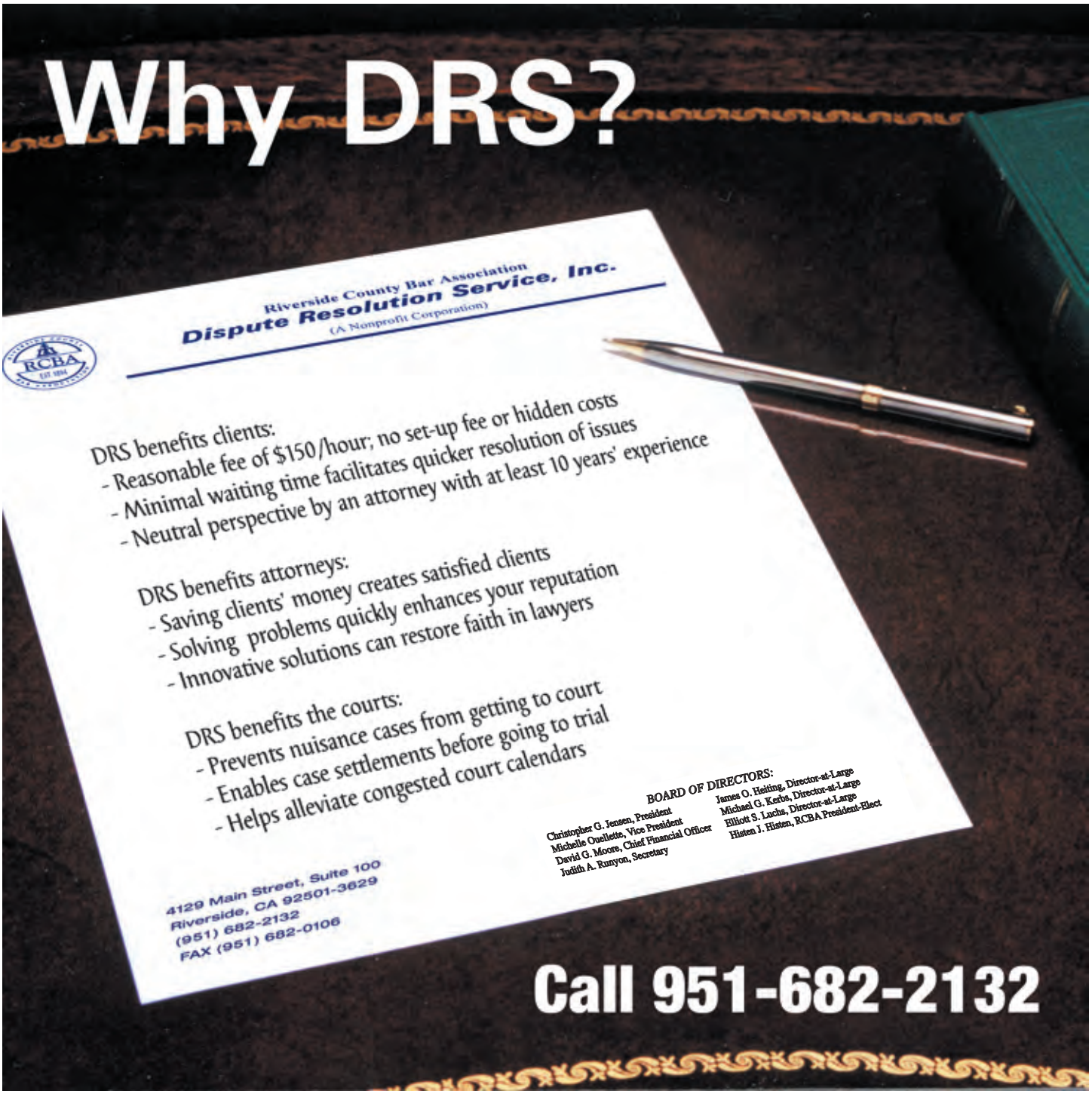
Office Space – Downtown Riverside
Centrally located within walking distance of courts and county offices. Beautiful 5-year old building. Includes receptionist and conference room. Copier and scanning services available. Visit www.3941brocton.com or call 951-712-0032 for more information.

Professional Office Space
4446 Central Avenue in Riverside. Building currently offers 3 offices, optional conference room, reception area, and a bullpen area excellent for several workstations and/or filing. Also includes kitchen, 1 bathroom and a detached garage excellent for storage. Call Marilyn at (951) 689-7053 to schedule appointment.

Professional Office Space
2305 Chicago Avenue, Suite B, Riverside. Includes 2 executive offices, 1 large conference room, large bullpen area to accommodate 4 to 5 workstations, filing or storage room and/or secretarial workspace. Please call Debbi to schedule an appointment at (951) 240-6283.

Law Office for Rent - Riverside
3 story red brick Victorian building. 2 conference rooms/library, elevator, copy machine, receptionist area for meet and greet, 2 blocks from the court, plenty street and lot parking, kitchen. Call Judie (714) 547-1234.

Conference Rooms Available
Conference rooms, small offices and the third floor meeting room at the RCBA building are available for rent on a half-day or full-day basis. Please call for pricing information, and reserve rooms in advance, by contacting Charlotte at the RCBA, (951) 682-1015 or charlotte@riversidecountybar.com.



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