

September 2011

Nevada



County

Bar Association Journal

Post Office Box 1473 • Nevada City, CA 95959-1473 • www.nevadacountybar.com

PRESIDENT'S MESSAGE

By Peter Bronson



Summer vacation passed quickly – at least for those of us whose kids have already been back in school for several weeks. With fall close at hand, the Bar Association is in action with a full schedule of events.

On September 28, we will be presenting a noon luncheon program (with 1 hour of MCLE credit) on “Creditors’ Rights in Bankruptcy: 10 Things You Need To Know”. The program will take place at the Northern Queen Inn, and I’ll be the speaker.

On October 21, 22 and 23, the Bar Association will be co-sponsoring the Conflict Resolution Center’s intensive three-day mediation training program. Eight hours of MCLE credit will be offered to attorneys. Details are provided elsewhere in this Newsletter.

Finally, we will hold our annual Law Day Dinner in November, with exact date and venue to be announced soon. As usual, the event will feature the presentation of cash awards (\$1,000, \$500 and \$250 respectively) to the top three entrants in our High School Essay Contest. The National Law Day theme this year involves the legal legacy of John Adams. Essay contest chair Steve Baker has once again come up with a provocative topic, asking students to consider Adams’ representation of unpopular defendants (the British soldiers accused of committing the “Boston Massacre”) in the context of today’s current events.

The contest is open to all public and private high school students in 9th through 12th grades, or the home-schooled equivalent. Full information and a description of the topic and rules are available from the schools, or from Steve (sbaker@diamondbaker.com). Entries are due October 10th.

We hope to see you at these three events.

Do you have an article or news of interest?

Submit to Helen Cavanaugh
Helen.cavanaugh@nevadacountycourts.com



**NCBA
Appreciation BBQ**

**September 15th
4:30pm - 6:30pm**

Pioneer Park

MCLE LUNCHEON

**Creditor's Rights in Bankruptcy
10 things you need to know.**

presenter:

**Peter Bronson, Attorney
and NCBA President**

*Topics include: How to use your website,
Email marketing, The 10 new rules of lawyer
marketing*

**Trolley Junction Restaurant
Nevada City**

Wednesday, September 28, 2011 - Noon

\$26 per person includes lunch
and 1 hour of participatory CLE credit

RSVP - ncbaadm@nevadacountybar.com

Veterans Stand Down on October 7th and/or 8th.

Lunch may be ordered off the menu (most lunches are approx \$12.00) and cost to attend includes lunch, tax, tip, room charge and CLE credits



News Release August 18, 2011

Attorney General Kamala D. Harris Sues Law Firms Engaged in National “Mass Joinder” Mortgage Fraud
SAN FRANCISCO --- Attorney General Kamala D. Harris today announced that the California Department of Justice, in conjunction with the State Bar of California, has sued multiple entities accused of fraudulently taking millions of dollars from thousands of homeowners who were led to believe they would receive relief on their mortgages.

Attorney General Harris sued Philip Kramer, the Law Offices of Kramer & Kaslow, two other law firms, three other lawyers, and 14 other defendants who are accused of working together to defraud homeowners across the country through the deceptive marketing of “mass joinder” lawsuits. “Mass joinder” lawsuits are lawsuits with hundreds, or more, individually named plaintiffs. This is the first consumer action by the Attorney General’s Mortgage Fraud Strike Force.

Kramer’s firm and other defendants were placed into receivership on Monday, Aug. 15. The legal actions were designed to shut down a scheme operated by attorneys and their marketing partners, in which defendants used false and misleading representations to induce thousands of

homeowners into joining the mass joinder lawsuits against their mortgage lenders. Defendants also had their assets seized and were enjoined from continuing their operations. Nineteen DOJ special agents participated as the firms were taken over Wednesday, Aug. 17, along with 42 agents and other personnel from HUD’s Office of Inspector General, the California State Bar, and the Office of Receiver Thomas McNamara at 14 locations in Los Angeles and Orange Counties. Sixteen bank accounts were seized.

“The defendants in this case fraudulently promised to win prompt mortgage relief for millions of vulnerable homeowners across the country,” said Attorney General Harris. “Innocent people, already battered by the housing crisis, were targeted for fraud in their moment of distress.”

“The number of lawyers who have tried to take advantage of distressed homeowners in these tough economic times is nothing short of shocking,” said State Bar President William Hebert. “By taking over the practices of four attorneys accused of fraudulent marketing practices, the State Bar can put a stop to their deplorable conduct as part of our ongoing effort to protect the public.”

It is believed that at least two million pieces of mail were sent out by defendants to victims in at least 17 states. Defendants’ revenue from this scam is estimated to be in the millions of dollars.

As alleged in the lawsuit, defendants preyed on desperate homeowners facing foreclosure by selling them participation as plaintiffs in mass joinder lawsuits against mortgage lenders. Defendants deceptively led homeowners to believe that by joining these lawsuits, they would stop pending foreclosures, reduce their loan balances or interest rates, obtain money damages, and even receive title to their homes free and clear of their existing mortgage. Defendants charged homeowners retainer fees of up to \$10,000 to join as plaintiffs to a mass joinder lawsuit against their lender or loan servicer.

Consumers who paid to join the mass joinder lawsuits were frequently unable to receive answers to simple questions, such as whether they had been added to the lawsuit, or even to establish contact with defendants. Some consumers lost their homes shortly after paying the retainer fees demanded by defendants.

This mass joinder scam began with deceptive mass mailers, the lawsuit alleges. Some mailers, designed to appear as official settlement notices or government documents, informed homeowners that they were potential plaintiffs in a “national litigation settlement” against their lender. No settlements existed and in many cases no lawsuit had even been filed. Defendants also advertised through their web sites.

When consumers contacted the defendants, they were

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given legal advice by sales agents, not attorneys, who made additional deceptive statements and provided (often inaccurate) legal advice about the supposedly “likely” results of joining the lawsuits. Defendants unlawfully paid commissions to their sales representatives on a per client sign-up basis, a practice known as “running and capping.”

Defendants’ alleged misconduct violates the following laws:

- False advertising, in violation of section 17500 of the Business and Professions Code
- Unfair, fraudulent and unlawful business practices, in violation of section 17200 of the Business and Professions Code
- Unlawful running and capping, in violation of section 6152, subdivision (a) of the Business and Professions Code (i.e., a lawyer unlawfully paying a non-lawyer to solicit or procure business)
- Improper fee splitting (defendants unlawfully splitting legal fees with non-attorneys)
- Failing to register with the Department of Justice as a telephonic seller.

Homeowners who have paid to be added to one of the lawsuits should contact the State Bar if they feel they may

be victims of this scam. They can also contact a HUD-certified housing counselor for general mortgage related assistance.

The Department of Justice has seized the practices of the following non-attorney defendants:

Attorneys Processing Center, LLC; Data Management, LLC; Gary DiGirolamo; Bill Stephenson; Mitigation Professionals, LLC; Glen Reneau; Pate Marier & Associates, Inc.; James Pate; Ryan Marier; Home Retention Division; Michael Tapia; Lewis Marketing Corp.; Clarence Butt; and Thomas Phanco.

The State Bar has seized the practices and attorney accounts of the attorney defendants:

The Law Offices of Kramer & Kaslow; Philip Kramer, Esq; Mitchell J. Stein & Associates; Mitchell Stein, Esq.; Christopher Van Son, Esq.; Mesa Law Group Corp.; and Paul Petersen, Esq.

Attorney General Harris is challenging the defendants’ alleged misconduct in marketing their mass joinder lawsuits; her office takes no position as to the legal merits of any claims asserted in the mass joinder lawsuits filed by defendants.

Victims in the following states are known to have received these mailers, or signed on to join the case. This is a preliminary list that may be updated:

Alaska, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Maryland, Massachusetts, Michigan, Missouri, Nevada, New Jersey, New York, Ohio, Texas, Washington

The complaint, temporary restraining order, examples of marketing documents and photos of the enforcement action are available with the electronic version of this release at <http://oag.ca.gov/news>.

You may view the full account of this posting, including possible attachments, in the News & Alerts section at: <http://ag.ca.gov/newsalerts/release.php?id=2552>

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ADR Section:

Sacramento County Bar Association’s
ADR Section will meet Thursday, Sept.
29, 2011 in the Golden Eagle Room at the
Firehouse Restaurant, 1112 Second Street,
Sacramento, 12-1:30 p.m.

See attached notice for complete details.



**Michael D. Sherman
Private Investigator**

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MikeShermanInvestigations@gmail.com

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Comings and Goings

Steve Kaufman has moved out of Nevada County

Robert Schulman

238 N. Auburn,
Grass Valley
(530) 272-4432 – Welcome Back Rob.

Steve Fry

P.O. Box 1044
Nevada City, CA

Jeffrey P. Guyton

New Address:
305 Railroad Avenue #7
Nevada City, CA 95959
(530) 470-8871
jjpglawyer@sbcglobal.net

Yolo County is amending local
rules of court.

Proposed amendments are effective
January 1, 2012

View @ www.yolo.courts.ca.gov

Placer County has completed proposed
changes to Local Rules of Court

www.placer.courts.ca.gov

SAVE THE DATE!!

- **Sept. 15** - NCBA Appreciation BBQ at Pioneer Park, free fun & fun.
- **Sept. 15-18** - The State Bar of California 84th Annual Meeting in Long Beach.
- **Sept. 28** - MCLE Luncheon, noon at Trolley Junction Restaurant.
- **Oct. 21-23** - Conflict Resolution Center's Mediation Training.
- **Oct. 25** - Specialist Certification Examination

**GOLD COUNTRY ESTATE
PLANNING COUNCIL**

The Gold Country Estate Planning Council meets monthly at 11:45 am – 1:15 pm, every first Wednesday. The luncheon meetings are held at the Trolley Junction Café (at the Northern Queen Inn) in Nevada City. All are welcome! To RSVP for the next meeting, please call Terry Brown at 530-273-1323. Or check out the website: www.estateplanningcouncil.net.



Need a treatise the Law Library
doesn't have locally?

It can be ordered through Sacramento
with a few days wait.



If you are considering becoming a California Bar Certified Appellate Specialist, you have to pass the Certified Appellate Specialist exam, which is given every other year in odd years and will be held this October 25, 2011

If you are taking the exam this year, you don't want to miss this exam prep course. The program is called, "How to Pass the Appellate Specialization Exam," and is offered by Pincus Professional Education in audio CD format. As far as we know, it is the only CA Bar Appellate Specialization Exam prep course of its kind.

"Don't even think about taking the California Bar Exam for Appellate Specialization without first taking the Pincus prep course. A one of a kind presentation by appellate experts who are familiar with the exam and will prepare you for the big test." J. Lewis, Esq.

"I just learned that I passed the Appellate Specialist Exam. I didn't attend your course in person, I had the CD's; but the course really helped me pass the exam. You did a nice job of treating the civil and criminal sides of the

exam, I thought. I found the course very useful and helpful. Thanks to you and the panel who put it on."

Go here for more information about this program, and to order the audio CD set.

With this course you will find out what to expect and how to prepare for the Appellate Specialization exam. We provide sample exam questions. We provide tips on how to take the exam as well as how to study for it. This program will help eliminate some of the stress of studying for the exam by demystifying the process.

"I just finished my second listening to your Pincus program re the appellate specialization exam. I sure do appreciate you putting the program together. It helped shape my study plan and outline and is a great refresher. Thanks for participating in it."

You will learn:

- How the exam is written
- How the exam is graded and on what schedule
- How best to study for the exam, including using old exam questions we provide
- The exam's format and content, including
 - appellate ethics
 - tricky procedural topics
 - pre-briefing issues
 - motions and briefing
 - post-briefing topics
 - writs

The State Bar has set the date and location of the 2011 Annual Meeting for September 15-18, in Long Beach, CA. The Annual Meeting advances the State Bar goals to provide services to meet the membership's professional development, business and personal needs, and to provide low-cost programs and materials by which members may meet their continuing education requirement. Annual Meeting registration fees are used to support the administrative costs of the Annual Meeting, and go to no other entity.



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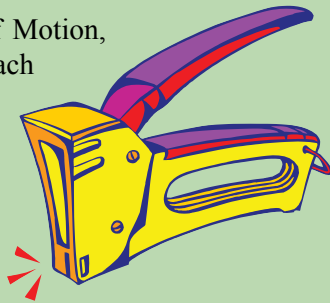
The State Bar of California
84th Annual Meeting
September 15-18, 2011
Queen Mary - Long Beach, California

www.calconference.org



From the Court:

When filing a Notice of Motion, please be sure NOT to attach (staple) the Order to the Notice. The Order must be separate from the Motion or the motion cannot be filed.



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Nevada County Bar Association 2011 Law Day Scholarship Essay Contest

\$1,000 First Prize
\$500 Second Prize
\$250 Third Prize

The Nevada County Bar Association celebrates Law Day, a national recognition of the contributions the rule of law makes to our democracy in concert with the Nevada County Superior Court and the Nevada County schools. This year's national Law Day theme is "The Legacy of John Adams, from Boston to Guantanamo."

See the attached flyer for more details.

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NEVADA COUNTY BAR ASSOCIATION
MINUTES OF MEETING OF THE EXECUTIVE
BOARD
on July 28, 2011

Present: Peter Bronson, Victoria Smart, Michael Cobden, Valerie Logsdon, Thomas Norton, Steve Baker, Jennifer Walters, Nancy Christie

On motions made, seconded and adopted by majority vote of the Association's (NCBA) Executive Board, it was resolved as follows:

1. Preparations for the Law Day contest and dinner were discussed such as the theme for this year will be writing on the achievements of John Adams, etc. Steve Baker will chair handling the essay contest with Michael Cobden to assist; Nancy Christie will chair handling conduct of the dinner with assistance of Victoria Smart; and, all with consultation and advice and consent of the Executive Board through the Board's President.

2. For a continuing education event to be co-sponsored by the NCBA with another organization, said event shall be reviewed, researched, coorganized planned in advance by NCBA and with all NCBA members invited to attend the event. Further, Steve Baker gave an informational report on the current status and information on the Courthouse site search, with no resolution of the Board made on this subject.

The remaining issues from today's Agenda will be discussed at the next Executive Board meeting, on a date to be later determined.

July 28, 2011
Secretary



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Also growing are Internet and State bar website referrals. Check out our website at www.norcallawyer.org which is continually updated for SEO ("search engine optimization").

LRS has received referral requests for: Family Law Mediation, Appellate Law, and Veteran's Benefits Law. If you provide legal services in these areas, please contact us.

So far in 2011, the LRS has made over 220 referrals, which have generated over \$100,000 in revenue to our Panel Attorneys (based on Forwarding Fees paid to LRS).

Answering 300 calls each month, LRS staff and volunteers are a vital pipeline of legal information in the 19 communities where we operate.

For more information or to join any of our panels, call 530-272-5962 or send an email via our website.

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NCBA Contact Information

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- Peter C. Bronson** - President
(530) 432-0851, pbronson@pbronsonlaw.com
- Jennifer Walters** - Vice President
(530) 265-2274, jwalters@virxpress.com
- Tom Norton** - Secretary
(530) 265-0404
- Valerie Logsdon** - Treasurer
(530) 272-7207
- David Finch** - Past President
(530) 477-6400, drfinch@mediationserv.com

MEMBERS AT LARGE

- Michael Cobden**
cobdenlaw@gmail.com
- Nancy Christie**
(530) 913-1845, nancychristie@gmail.com

SECTION & COMMITTEE CHAIRS

- Rosemary Metrailler** - ADR Section Chair
(530) 265-3062, rmetrailler@metrailler.com
- Jennifer Granger** - Criminal Law Section Chair
(530) 470-0328
- Susan Corcoran** - Family Law Section Chair
(530) 264-7014, scorcoran@scorcoranlaw.com
- Andy Harris** - Fee Arbitration Program Admin.
(530) 272-4250, andy@scottbrowne.com

Judicial Officers Nevada City Branch

- Department I: Judge Heidelberg
- Department II: Judge Thomsen
- Department III: Judge McManus
- Department IV: Presiding Judge Anderson
- Department V: Commissioner Y. Durant
- Department VI: Judge Dowling


Truckee Branch

- Dept. A (Truckee Branch) Judge Tamietti
- Dept. B (Truckee Branch) Commissioner

Newsletter

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helen.cavanaugh@nevadacountycourts.com
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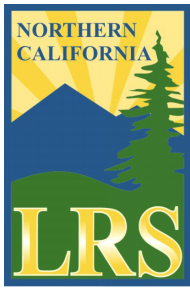
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Northern California Service Area

LRS currently serves the following counties:

Butte, Colusa, Del Norte, El Dorado (pending), Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, and Yuba.

We have signed a Memorandum of Understanding to include El Dorado County, which is pending the final State Bar certification approval.

We ask all of our Panel Attorneys to email nclawyeraccess@gmail.com with the counties from which you would like to receive client referrals, including the addition of El Dorado County. Please also indicate your willingness to accept pro bono cases.

LRS has received referral requests for: **Family Law Mediation, Appellate Law, and Veteran's Benefits Law**. If you provide legal services in any of those areas, please email us at nclawyeraccess@gmail.com.

Your participation in serving LRS clients is greatly appreciated.

PCBA Seminar – 1.5 hours MCLE Indian Law and Jurisdiction – A Legal Primer

- Speaker: Jack Duran, Jack Duran Law Office
- Wednesday, Sept. 14 from 4:00 – 5:30 PM
- Strikes Family Entertainment Center
5681 Lonetree Blvd., Rocklin
- Appetizers/water/coffee provided
- PCBA members free; \$25 non-members
- R.S.V.P. required: sgazzani@placer.ca.gov

Forwarding Fees

The LRS Staff has recently clarified for several of our Panel Attorneys the policy around payment of Forwarding Fees. Your agreement with LRS provides as follows:

I agree to report monthly the status of open cases to LRS or which were referred to me by LRS; to remit any forwarding fees due to LRS in the amount of 10% of fees received in excess of \$300.00 within thirty (30) days of receipt of funds from the referred client; and to provide LRS a copy of my accounting to any referred client, if requested by LRS. I further agree that I will keep accurate records of all cases sent from the LRS to me and promptly respond to inquiries by the LRS office, written or oral, regarding any referrals sent to me. I agree that I will promptly remit all consultation fees and percentage fees to the LRS. I understand that failure to remit fees to LRS may result, at the option of LRS, in legal action or alternative dispute resolution, as set forth below. I acknowledge that this is a contractual agreement that can be enforced by any legal means available.

So far in 2011, the LRS has made over 220 referrals, which have generated over \$100,000 in revenue to our Panel Attorneys (based on Forwarding Fees paid to LRS).

Office Hours

The LRS office is staffed **Monday – Friday, 10:00 AM – 2:00 PM**. Please try to call during these hours, especially when responding to a referral call from LRS staff and volunteers.

NEVADA COUNTY BAR ASSOCIATION
2011 LAW DAY SCHOLARSHIP ESSAY CONTEST

\$1,000 First Prize
\$500 Second Prize
\$250 Third Prize

The Nevada County Bar Association celebrates Law Day, a national recognition of the contributions the rule of law makes to our democracy in concert with the Nevada County Superior Court and the Nevada County schools. This year's national Law Day theme is "The Legacy of John Adams, from Boston to Guantanamo."

The criteria for this scholarship are:

- It is open to all public, private and home-schooled high school students in Nevada County, who are in grades 9 to 12 as of August 17, 2011, or the home-schooled equivalent.
- Essay required on the following question:

Five years before the Revolutionary War, a young John Adams successfully defended seven British soldiers who were placed on trial for killing five Americans in what was called "The Boston Massacre." Adams was an active leader in the American resistance to British rule, yet he was willing to represent clients other attorneys in Boston would not defend. In today's American justice system, can, or should, attorneys zealously and competently represent suspected foreign-born terrorists? Does the presence of pervasive media and the internet affect your answer?

- The essay must be the applicant's original work, no more than 500 words in length, typewritten or computer-generated with double-spacing and 1-inch margins on all sides. The applicant's name must not be included in or on the essay.
- The application form must be completed and returned to the address below with the essay by October 10, 2011. Essays received after this date will not be accepted.
- The criteria for evaluating essays will emphasize: a well-reasoned, well-stated argument. The position taken in the essay is immaterial. What is essential is that the argument be well-reasoned and supported by evidence, arguments, or other rhetorical means of persuasion. Grammar, spelling, punctuation and clarity of thought and expression are the remaining criteria.
- No affiliation with the Nevada County Bar Association or its members is required for entry, but no person related to an entrant may participate in judging entries.

**ENTRIES MUST BE MAILED, FAXED OR E-MAILED AND RECEIVED ON OR BEFORE
OCTOBER 10, 2011 AT:**

NEVADA COUNTY BAR ASSOCIATION
c/o Stephen C. Baker
Diamond Baker Mitchell, LLP
P.O. Box 1147
Cedar Ridge, CA 95924
(530) 272-8463 (fax); sbaker@diamondbaker.com (e-mail)

NEVADA COUNTY BAR ASSOCIATION
2011 LAW DAY SCHOLARSHIP ESSAY CONTEST
APPLICATION FORM

Date: _____ Nevada County High School: _____

Name: _____
Last First Middle Initial

Address: _____

City: _____ State: _____ ZIP: _____

Phone Number: _____ E-mail: _____

ENTRIES, INCLUDING ESSAY AND THIS FORM, MUST BE MAILED, FAXED OR E-MAILED AND RECEIVED ON OR BEFORE OCTOBER 10, 2011 AT:

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