

PRESIDING OVER A NATURALIZATION CEREMONY BEFORE A LOS ANGELES RAMS GAME AT SOFI STADIUM: A ONCE-IN-A-LIFETIME OPPORTUNITY

By Hon. Sandra R. Klein, U.S. Bankruptcy Judge, C.D. of California

"It was such an honor and privilege to administer the Oath of Allegiance to our newest citizens at SoFi Stadium." – Hon. Sandra Klein

On November 13, 2022, while standing in the end zone of SoFi Stadium in Inglewood, CA, I had the honor of administering the Oath of Allegiance during a naturalization ceremony before a Los Angeles Rams game. With almost 70,000 fans in attendance, I, and 15 candidates for citizenship, walked onto the field as part of the Rams' "Salute to Service Day," during which members of the military and first responders were honored. The naturalization ceremony was the first one ever held at SoFi Stadium and was even more special because it occurred during the Veterans Day weekend.

As we walked onto the field there was an immediate cacophony of sound: the announcer introducing the ceremony was almost drowned out by the fans' cheering and clapping. I was struck by the vastness of the football field – it is so much larger than it looks on TV! And, I imagined what it must have felt like for the citizenship candidates, whose lives would be inextricably changed, upon becoming U.S. citizens.

The 15 candidates for citizenship were

members of the military or first responders. They proudly served our country without being citizens, without being able to fully participate in all the benefits of citizenship, and without being able to have a say in how our country is governed. When they raised their right hands and repeated the Oath, they were each grinning from ear to ear and a few of the candidates' eyes glistened with tears. They had worked hard to achieve this significant milestone in their lives. Unlike those of us who were fortunate to have been citizens since the day that we were born, our newest citizens had to pass background checks, English proficiency tests, a U.S. History and Civics Test, and prove their good moral character. Those of us who were born in this country might take the privilege of citizenship for granted. We did not have to apply for it; we did not have to study for it; and we did not have to take a test to achieve it. Because we have always enjoyed citizenship, we might not fully appreciate and cherish the many freedoms and opportunities that come with being U.S. citizens. I have no doubt that the individuals who participated in the November 13, 2022,

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A FAREWELL MESSAGE FROM THE CLERK OF COURT

Kiry Gray
OUTGOING CLERK OF COURT

After 38 years of service with the court, I have decided to retire at the end of this year. Writing this article has been bittersweet for me. My journey with the court has been nothing but extraordinary, and never in a million years did I think I would be the Clerk of Court for one of the largest district courts in the country. Often times we hear the idiom that people do not see color when it comes to a person's ethnicity. I am so proud to say that the judges in the Central District of California saw me as an African American female, with the qualifications and experience they were looking for. The color of my skin had no impact on the majority of the judges who selected me to become the first African American Clerk of Court in the Central District of California. The only thing the judges cared about was the morale of the clerk's office, which had taken a huge hit due to budget cuts and sequestration over the years.

I must say I have learned so much during my career, but one thing that stuck out to me the most was how much the judges care about court staff, the bench, and the bar. They work long hours, and are methodical in their decision-making. Sometimes we forget that judges are people who bleed, sweat, and cry just like the average person. It took me a long time to understand this concept, but I am glad I had a bird's-eye view, and witnessed this firsthand.

In closing, I leave you with one piece of advice that I have always lived by throughout my life – always do what is right, even if it makes you feel uncomfortable.

I bid you farewell, and I am confident that the next Clerk of Court will be a welcomed addition to the Central District of California.



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naturalization ceremony recognize the significance of being American citizens and they will continue to do so for many years to come.

Two of my grandparents came here from other countries. Like our newest citizens who took the Oath at SoFi Stadium, they studied hard and were so thrilled to become U.S. citizens. And, they were so proud to pledge allegiance to the American flag and everything that it stands for. My grandfather came to the United States as a teenager from Lithuania. He fought in World War I to protect this country, which he loved so much.

My grandmother was a toddler when she left England and came to America. One of my family's most prized possessions is the flag that my grandmother received in 1939, when she became a United States citizen. I have no doubt that the newest citizens felt that same pride holding and waving the flag during the naturalization ceremony.

After the ceremony, we had a perfect vantage point to observe the other pregame festivities honoring the military and first responders: a color guard, a beautiful rendition of the national anthem, the unfurling of a massive flag – the size of the entire football field, and a member of the military rappelling down from the top SoFi Stadium with the game ball!

It was such an honor and privilege to administer the Oath of Allegiance to our newest citizens at SoFi Stadium. They bravely served our country, without any guarantee of becoming a citizen. Now, they can enjoy the inalienable rights and benefits of citizenship. It was undoubtedly a momentous day for the individuals who walked onto the SoFi Stadium field as citizens of nine foreign countries and who walked off the field as citizens of our great nation. And, it was a once-in-a-lifetime opportunity to play a small role in helping them complete their citizenship journey.

All naturalization ceremonies take a tremendous amount of organization and planning. One held before a major sporting event creates many additional layers of complexity. I would be remiss if I did not recognize and thank the Los Angeles Rams, the United States Citizenship and Immigration Services, the United States District Court for the Central District of California, and the United States Marshals Service for making the ceremony possible.



Hon. Sandra R. Klein administers Oath of Allegiance during naturalization ceremony at SoFi Stadium.



Members of the military and first responders participate in naturalization ceremony before a Los Angeles Rams game.

A CONVERSATION WITH THE FOUR NEW U.S. DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA JUDGES

By Agustin D. Orozco and Isabella Ordorica, Crowell & Moring LLP

On November 16, 2022, the Honorable Patricia Donahue led an insightful discussion with the four newly appointed U.S. District Court judges in the Central District of California. The Honorable Maame Ewusi-Mensah Frimpong, Sherilyn Peace Garnett, Fred W. Slaughter, and Sunshine S. Sykes shared tips for success and pitfalls to avoid when appearing in their respective courtrooms. The FBA-LA webinar was broken up into three main topics: (1) case management, (2) motions practice, and (3) trial practice. This article outlines the questions Judge Donahue asked the new judges and summarizes the advice the judges provided to practitioners.

Case Management Issues

Important Practice Pointers

To kick off the discussion, each judge addressed their top practice pointer. Several themes emerged in their answers. The judges expressed that they expected litigants to be prepared and courteous. Judge Frimpong also advised litigants to carefully review the court's standing order. Judge Slaughter advised litigants to be responsive to the court's questions and to communicate with opposing counsel.

Approach to Scheduling Case Deadlines and Granting Requests for Continuances

The judges were asked about their approach to scheduling case deadlines and responding to requests for continuances. Judges Garnett and Sykes have worksheets available on the Court's website that attorneys are instructed to submit and use the information in the worksheet when deciding to issue an order. Judge Slaughter, who also relies on a worksheet, commented that scheduling issues and continuances depend on the information that the parties provide the court. He added that to grant a continuance, attorneys must present the "why." Judge Slaughter also asked that attorneys be thorough in preparing the accompanying declaration. Judge Frimpong noted that she is more likely to grant a continuance and preferred scheduling order if the parties have previously met and conferred, and agreed on the new dates.

In-person versus Remote Hearings

The judges were asked how they handle in-person versus remote appearances. Attorneys appearing in Judge Frimpong's courtroom should meet and confer with opposing counsel and file a request for a remote appearance the Friday before the hearing. Judge Slaughter generally holds motions by Zoom and also expects attorneys to meet and confer. In Judge Sykes's courtroom, scheduling and status conferences for civil hearings are conducted over Zoom by default. Parties must request an in-person civil hearing seven days in advance of the hearing. The opposite is true for criminal hearings, which are in-person by default.

Ex Parte Applications

Next, the judges discussed their approach in reviewing *ex parte* applications. In determining whether to grant the request, Judge Sykes considers whether there is exigency, the issue was created by the attorney, and the issue could have been anticipated by the party filing the application. Judge Frimpong likewise cautioned attorneys away from filing an *ex parte* application to remedy poor planning.

The judges also urged litigants to address the applicable rules when filing an *ex parte* application. Judge Sykes mentioned that attorneys should address the *ex parte* standard. Judge Garnett commented that attorneys must be certain that they meet the requirements for moving *ex parte* and the relief they are requesting. She added that temporary restraining orders and preliminary injunctions are extraordinary relief that causes the court to prioritize the request.



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Standing Orders

The judges were asked whether they wished to highlight certain aspects of their standing orders. Noting that everything in the standing order is important, Judge Frimpong emphasized the section in the order that addresses motions for summary judgment. She added that attorneys should not email the courtroom deputy clerk with questions about the standing order. Judge Garnett advised attorneys to check the standing order before each filing, as it changes periodically. She also underscored the section on motions for summary judgment, as it requires that the parties meet and confer as well as file a joint brief. The Court will reject the filing if parties do not comply. Judge Slaughter framed the standing order as a helpful instruction manual that should be referenced often.

Motions Practice Issues

Persuasive Writing

Judge Donahue moved on to issues involving motions practice and asked the judges what they consider persuasive in motions. All of the judges stressed the need for attorneys to file concise and accurate work product. Judge Garnett recommended that attorneys lay out upfront what they are requesting of the Court. Attorneys should provide binding legal authority and only seek relief within the Court's authority. Submissions should be correct, honest, and filled with citations, which includes acknowledging harmful case law. Judge Frimpong added that briefs should be well organized, tell a clear story, include accurate and detailed citations to the record, and address opposing arguments. Judge Garnett also recommended omitting sections that amount to bickering with opposing counsel. Judge Slaughter added that attorneys should be responsive to the Court's questions at oral argument.

Holding Oral Argument on Motions

Next the judges discussed when their respective courtrooms hold oral argument on motions or take the issue under submission. The default in Judge Slaughter's court is to take oral argument remotely. Several days before the hearing, Judge Slaughter indicates if oral argument will be taken under submission or remain on calendar. Judge Sykes said the court would issue a notice on the docket if oral argument is appropriate for resolution without a hearing. If the notice is not issued by the Tuesday before the hearing, oral argument will stay on calendar and take place over Zoom, unless all parties stipulate to an in-person hearing. For the most part, however, hearings are vacated and oral argument is taken under submission. In Judge Frimpong's courtroom, the default for a hearing is in-person. Attorneys must request a virtual hearing the Friday before the hearing is scheduled to take place. When Judge Garnett has questions, the default is an in-person hearing. Otherwise, Judge Garnett will take the hearing off calendar.

Tentative Rulings

The judges also discussed their views on tentative rulings. Judge Garnett, Judge Slaughter, and Judge Sykes do not issue tentative rulings. Judge Garnett added that she will look at the brief, do her own research, and decide if she has questions in order to determine whether oral argument is needed. She recommended that parties ask at oral argument if there is anything they should address from their briefs. If there is a serious question that Judge Sykes would like addressed as oral argument, she will issue a text entry notifying the parties. Judge Slaughter added that his "mind is open" until the final opinion is filed. Judge Sykes also noted that she is open to having argument on an issue if there is a need for more information. Judge Frimpong was the lone judge that noted that she had begun issuing tentative rulings. In those instances, she added that she keeps an open mind, but has found it helpful to focus the parties on the arguments that are particularly strong. Even when there is no tentative ruling, she has a detailed outline of questions for the parties and requests that the parties be responsive.

A CONVERSATION WITH THE FOUR NEW U.S. DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA JUDGES

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Requests to File Oversized Briefs and Sur-replies

The judges next addressed their approaches on requests to file oversized briefs and sur-replies. Judge Garnett emphasized quality over quantity, adding that there is rarely a need for an oversized brief and, thus, generally does not grant them. Judge Slaughter requires that parties show their justification for the request to file an oversized brief.

Trial Practice

Pretrial Conference and Motions in Limine

Judge Donahue then asked about trial practice and the judges' expectations for the pretrial conference and motions in limine. Judge Frimpong expressed that attorneys should be prepared, agree where they can, and be mindful of the number of motions in limine they file, adding that parties should not need more than five motions in limine. Judge Slaughter expressed that he expects attorneys to be ready for trial at the pretrial conference. In Judge Sykes's courtroom, attorneys should be prepared to answer several questions about their case, including the amount of time anticipated for direct and cross-examination. Judge Sykes caps motions in limine at five motions and ten pages per motion. Judge Garnett reviews witness lists, evidence, logistics, and scheduling at the pre-trial conference. She also limits civil motions in limine to five and noted that motions in limine should be used to narrow the issues.

Speaking Objections, Submission of Exhibits, and Decorum

The judges were asked for their tips regarding speaking objections, submission of exhibits, and decorum. All of the judges agreed that attorneys should be respectful of the jury's time and address any issues outside of the presence of the jury, where possible. Judge Slaughter added that he generally does not allow speaking objections. He expects litigants to discuss demonstrative evidence and make objections ahead of time.

Pet Peeves

Finally, the judges were asked whether they had any pet peeves. In response, Judge Frimpong asked that attorneys check the hearing dates before filing a motion. Furthermore, she asked attorneys to be mindful of the courtroom deputy's time. Every motion and stipulation should have a proposed order, using the Court's template. Judge Sykes noted that she appreciates when attorneys use the font and size specified in the standing order.

Conclusion

FBA-LA's webinar demonstrated that the Central District of California has a new crop of energetic and engaged judges. All of the judges expressed their excitement to work with the attorneys that appear before them, hear cases, and serve the community. They each viewed their new responsibility as a privilege and will serve the Central District with integrity. Parties would be fortunate to find themselves in their courtrooms.

JUDICIAL INSIGHTS INTO PATENT LITIGATION IN THE CENTRAL DISTRICT OF CALIFORNIA

By Yuri Mikulka and Ty Thomas

What do you need to know when litigating a patent infringement case in the Central District of California? As we discussed during a recent Federal Bar Association program, judges on the Central District's Patent Program handle approximately 70% of the patent cases filed in this district, so learning about their practice and procedures can be an important step when preparing your case.

On January 31, 2023, Federal Bar Association, LA Chapter, featured a webinar with five distinguished Patent Program judges discussing how the program works, and sharing their approaches to presiding over patent cases from early motions through discovery, and trial. FBA Board members and patent litigators Yuri Mikulka of Alston & Bird and Ellisen Turner of Kirkland & Ellis moderated the panel, which featured District Court Judges John Holcomb, John Kronstadt, James Selna, George Wu, and Magistrate Judge Michael Wilner. Below are some highlights from the program.

Background of the Patent Program

The Central District of California is one of the top five venues where patent infringement cases are most frequently filed nationwide. Other popular venues include the Northern District of California, the Eastern District of Texas, the Western District of Texas, and the District of Delaware.

The Central District has a Patent Program in which certain judges are designated to oversee the patent cases filed in this district. This program was developed twelve years ago as part of a national patent pilot program established under Pub L. No. 111-349 Stat. 3674. In June 2021, when the national patent pilot program expired, the judges in the Central District of California decided to continue it. The final study of the national patent pilot program listed over 20,000 nationwide patent cases; 73% of those cases were before designated patent pilot program judges, and on average, they are more experienced with patent litigation. See Federal Judicial Conference, Patent Pilot Program: Final Report (April 2021), p.36, <https://images.law.com/contrib/content/uploads/documents/401/69217/Patent-Pilot-Program-Administrative-Office-report.pdf>. This is consistent with the Central District's recent statistic showing that 70% of the patent cases filed in this district are overseen by Patent Program judges.



Yuri Mikulka is a partner at Alston & Bird and leads the firm's Consumer Technology Patent Litigation Team. Yuri served as the President of Federal Bar Association Los Angeles during the 2021-2022 year.



Tyler Thomas is an associate in Alston & Bird's Intellectual Property Litigation Group.

JUDICIAL INSIGHTS INTO PATENT LITIGATION IN THE CENTRAL DISTRICT OF CALIFORNIA

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The Patent Program allows judges interested in patent law to adjudicate patent cases, which can be highly technical and complex. According to Central District's General Order No. 21-11, if a newly filed patent case is assigned to a judge who is not participating in the program, that judge may transfer the case to the Patent Program for reassignment within thirty days. Once the case is transferred, it is randomly reassigned to a program judge, and designated as a Patent Program case. The program judge must then accept the case, unless the judge is recused or is a senior judge.

Six district judges and eight magistrate judges currently participate in the program. Beyond the panelists, the other two program judges are Judge André Birotte, Jr. and Judge Mark Scarsi, as well as six other magistrate judges: Judge Maria Audero, Judge Patricia Donohue, Judge Shashi Kewalramani, Judge Douglas McCormick, Judge Rozella Oliver, and Judge Karen Scott.

The Central District also offers a salaried law clerk position for lawyers who have experience with patent law. Currently, the Patent Program judges receive assistance from two such clerks.

Tips for Litigating Patent Cases in Central District of California

To assist litigators who practice patent law in the Central District, the webinar featured Patent Program judges sharing information about, among other things, the rules applicable to patent litigation, their practice in staying cases pending an inter partes review (IPR), whether a litigant can turn around a tentative ruling, and what the judges find effective during Markman hearings and at trial.

Local rules. First, litigators should familiarize themselves with the applicable local rules in the Central District. The Central District does not have special patent rules, but judges will choose to apply select local patent rules. For example, Judge Selna and Judge Wu typically use the Northern District of California local patent rules, while Judge Kronstadt uses his own set of local rules. Judge Holcomb and Judge Wilner will allow the parties to propose the rules that they would like to use.

Staying cases. Patent infringement cases are often stayed pending an IPR on the same patent(s) before the Patent Trial and Appeal Board. The panelists stated that they typically grant a stay when the IPR is instituted, but when an IPR has not yet been instituted, they likely will not stay a case.

Voluntary Consent to Magistrate Program. Magistrate Judge Wilner discussed the Central District's Voluntary Consent to Magistrate Judge Program, which allows parties to consent to a magistrate judge handling all aspects of the case, including trial. See General Order No. 18-11. This will typically reduce the time to trial, allow parties some flexibility in the case schedule, and allow the parties to select which magistrate judge is assigned to the case. Some may consider it a benefit to have their case overseen by a magistrate judge with more flexibility in their schedule, and with more experience and interest in patent litigation.

Claim construction. In patent cases, claim construction is crucial for defining the meaning of certain words and phrases in a patent claim. Judge Selna, Judge Kronstadt, and Judge Wu commonly require parties to limit claim construction to ten terms. Judge Wu requires a technology tutorial usually seven to ten days before the Markman hearing. Judge Wu and Judge Kronstadt commented that slides used at the hearing should be short, and to the point. Judge Wu said that slides should include page numbers, and only those slides that are used should be submitted.

Presentation. The panelists acknowledged that patent lawyers are smart and well-prepared, but they do not always present in a way that recognizes that judges and juries typically do not have technical backgrounds. The most effective patent lawyers can clearly explain the essence of the invention and technology in a way that laypeople can understand. Judge Wu noted that, at a Markman hearing, lawyers should always be ready to explain what exactly is the invention. It's an obvious issue that is often overlooked.

JUDICIAL INSIGHTS INTO PATENT LITIGATION IN THE CENTRAL DISTRICT OF CALIFORNIA

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contrary to common belief, lawyers can, and do, change the Court's mind on tentative rulings. In fact, some judges revise their tentative rulings about one-third of the time. To increase the odds of doing so, lawyers should use the tentative ruling as a roadmap to understand what the judge is thinking, and based on that perspective, strategically and clearly argue their case at the hearing.

Trial schedule. Some of the panelists set the trial at the scheduling conference, while others do not. Judge Selna and Judge Holcomb usually set the trial schedule at the outset, with Judge Holcomb setting the trial about 18 months from the scheduling conference. Judge Kronstadt sets the trial when discovery has been completed, and a dispositive motion is being considered. Judge Wu sets the trial date at the time of the Markman hearing, and will generally agree to the schedule proposed by the parties. Judge Selna is strict about allowing continuances, while Judge Wu is more flexible if the parties can come to an agreement. The main procedures practiced in the Central District of California can be found here: <https://www.cacd.uscourts.gov/judges-schedules-procedures>.

The Central District's Patent Program is a benefit when litigating patent cases in southern California, because judges who are more experienced and interested in patent cases handle the majority of the patent cases in the district. We are grateful to District Judges John Holcomb, John Kronstadt, James Selna, George Wu, and Magistrate Judge Michael Wilner for sharing their insights about the Patent Program, and would also like to thank the other judges on the Patent Program for volunteering their time on the Patent Program.



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INTERVIEW OF MAYA ROY, CHIEF DEPUTY OF OPERATIONS

By Agustin D. Orozco and Mariam Sarwar, Crowell & Moring LLP

“In our Court, each of us, from intake clerk to our Judges, has an important role in the system of administering justice. Each one of us has the opportunity to see, hear, and help people, addressing their complaints honestly, thoughtfully, and with respect, and truly giving them their day in court.” - Maya Roy



Maya Roy is the Director of Operations at the United States District Court for the Central District of California.

In January 2023, Maya Roy stepped into the important role of Chief Deputy of Operations at the United States District Court for the Central District of California. Helming court operations in the country’s biggest federal judicial district is no small task, and Agustin Orozco and Mariam Sarwar recently interviewed Ms. Roy to learn more about her path to this position, her day-to-day routine (or lack thereof!), and what advice she can give to federal practitioners.

Everyone in the district would like to get to know you. Can you tell us where you grew up and how your experiences helped guide you to a career in the legal field?

I was born and raised locally in Pasadena, California. I didn’t always want to be a lawyer or have a career in the legal field. I actually wanted to be a visual artist as a kid and was serious about it even in high school. There came a moment during my senior year, however, when I realized I wasn’t as talented as some of my friends. So, I decided to pivot. I always loved history, in particular learning about social justice movements, and politics, so that’s eventually what moved me toward the law.

I decided to try politics first, but after two summer internships in Washington, D.C., at the White House and with a member of Congress, I realized it was not for me.

As an undergraduate at Emory University in Atlanta, I did an internship with a civil rights organization and it finally clicked that a career in the law was a good fit for my interests and skills.

Prior to your current position, you clerked for several judges in the district. Can you tell us which judges you worked with and the biggest lessons you learned while serving as a judicial law clerk?

I clerked for Judge Virginia A. Phillips and Judge George H. King during their terms as Chief Judge and for Judge Phillips in a few other capacities. The biggest lessons I learned as a judicial law clerk were: (1) be and stay curious; (2) volunteer for extra work (it may be painful now but you won’t regret having taken the opportunity to learn more); (3) check the Rutter Guide before asking the judge any questions; (4) make sure you have a good grasp of the facts and the law before discussing any case-related matter with the judge; and (5) anticipate needs, especially when the judge is in trial. I also learned an incredible amount by watching really good (and sometimes poor) lawyering in the courtroom.

INTERVIEW OF MAYA ROY, CHIEF DEPUTY OF OPERATIONS

By Agustin D. Orozco and Mariam Sarwar, Crowell & Moring LLP

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How did your experience as a judicial law clerk prepare you for your current role?

Understanding the work of the Court from the perspective of working in judges' chambers has been invaluable in informing the work involved in my current role. Being familiar with procedures and governing authorities has also helped me in this transition.

Now we want to talk about your current role. What are your primary responsibilities as the Chief Deputy of Operations for the Central District of California?

I report directly to the Clerk of Court/District Court Executive and am responsible for day-to-day management of the Court's operational functions. I provide primary oversight of the managers and supervisors and over 100 staff serving in the following areas: attorney admissions; appeals; civil/criminal intake; docketing; data quality; records; statistics; district and magistrate judge courtroom deputy clerks; jury; naturalization; legal services including ADR; and CJA. The deputies in charge of the Riverside and Santa Ana divisions also report to me. In this role, I help develop organizational goals and objectives, priorities, and deadlines, help effectuate the policies and priorities of the office as established by the Court and the Clerk of Court/District Court Executive, make recommendations to improve existing policies and procedures, and advise the Clerk of Court/District Court Executive on policy matters.

What does a typical workday look like as Chief Deputy of Operations?

I'm not sure I've had one of those since I started. The work can be unpredictable on any given day, but there are cyclical projects that are regular. I typically help put out fires, work to provide timely, specific direction to operations staff as needed, answer questions from Judges, and problem-solve when systems-related matters arise.

What made you interested in working in court operations?

You know, I never would have thought of working in this role if I hadn't received a tap on the shoulder several years ago from some amazingly talented women who asked me to consider it, given my skillset. I was then a career law clerk and completely satisfied with my work. Ever since I had that conversation though, I kept thinking about the dynamic work of the Clerk's Office and how it would be such a challenge to take on a job that's completely different than the work of a law clerk. Instead of working on cases, I'd be dealing with all the people behind the scenes and the mechanics of how the Court functions. When this position was posted last year, I decided to put my name in the hat and I am so happy I did.

For others interested in a similar position, how did you get into this line of work?

This answer is a little long, but please bear with me and come with me on a little journey.

When I decided to go to law school, I wanted to use my degree to help make the world a better place. After law school, I was very lucky Judge Phillips hired me to clerk for her. I loved my term year and working in the Riverside courthouse. I found it incredibly challenging because of the steep learning curve, but tried to take advantage of every opportunity to be in the courtroom and watch civil and criminal matters. I found it all fascinating (and still do).

I then worked as a "real lawyer" as my family would say, for about four years working on public interest and civil rights matters. First, I worked as a staff attorney and Race Equity Project Coordinator with Legal Services of Northern California. There, I assisted clients with housing and public benefits issues and worked on some impact litigation matters, as I helped coordinate their Race Equity Project. I loved it there because they gave young attorneys ownership and control over their cases from start to finish and senior folks never swooped in to take.

INTERVIEW OF MAYA ROY, CHIEF DEPUTY OF OPERATIONS

By Agustin D. Orozco and Mariam Sarwar, Crowell & Moring LLP

(Continued from page 14)

paralegal staff all the way through senior management. After nearly two years there, however, my stepdad got really sick, so I moved back home to help support my mom and be closer to my family. Back in Los Angeles, I joined Asian Americans Advancing Justice as a staff attorney, representing clients in workers' rights and employment discrimination cases in state and federal court.

As a practicing lawyer, I was motivated by and committed to the work of helping my clients find justice. The fight along the way, however, took its toll. I am not someone who enjoys conflict or thrives in an adversarial dynamic. I'm the middle child in my family and prefer the role of a peacekeeper. The discovery fights, seemingly endless meet and confers with opposing counsel, and mudslinging started to weigh on me and I started reevaluating my line of work. I reflected back on all the legal jobs I had as a law student and lawyer, and my clerkship with Judge Phillips stood out as a job I absolutely loved. I reached out to Judge Phillips and I was lucky enough she took me back as a career law clerk and have not looked back.

Now working in the Clerk's Office as the Chief Deputy of Operations, some may say, hey, what happened to helping people through the law and making the world a better place? I'm happy to report the social justice-motivated person inside me is satisfied with this work. I do not advocate for clients anymore, but in my position, I am able to help do what is right. In our Court, each of us, from intake clerk to our Judges, has an important role in the system of administering justice. Each one of us has the opportunity to see, hear, and help people, addressing their complaints honestly, thoughtfully, and with respect, and truly giving them their day in court.

Coming into your current role, what issues did you see in the Central District and how do you plan to address those issues as Chief Deputy of Operations?

Honestly coming into my current role, I have tried to come in with humility because there is so much for me to learn. I did not come into this position with an agenda or a punch list. Instead, I have tried to watch and listen and learn as quickly as I can. I am fortunate to work with incredibly smart, dedicated, experienced people and they are patient with me as I am learning the role and constantly asking questions.

The Central District of California is the biggest, busiest, and best district court in the country. I am focused on supporting my Operations team to ensure we are good stewards of our scarce federal resources, streamlining procedures and improving efficiency wherever we can, all the while implementing our Clerk's mission of providing excellent customer service.

Central District Annual Bar Membership Renewal Fee

On May 28, 2020, the United States District Court for the Central District of California issued General Order No. 20-07, which instituted an annual renewal fee of \$25 for all members of this Court's Bar. See General Order No. 20-07, available at www.cacd.uscourts.gov/court-procedures/general-orders. You can pay your fee online at: <https://apps.cacd.uscourts.gov/registration/Home/BarRenewal>

INTERVIEW OF MAYA ROY, CHIEF DEPUTY OF OPERATIONS

By Agustin D. Orozco and Mariam Sarwar, Crowell & Moring LLP

(Continued from page 15)

Do you have any tips or recommendations for federal practitioners?

I have two important practice pointers for federal practitioners. First, please be sure when you change firms or organizations to update your contact information in CM/ECF. We receive thousands of bounced emails a year when notices of electronic filings are transmitted and returned as undeliverable because they are sent to email addresses that are no longer active. This requires the Clerk's Office to expend considerable staff time to investigate and update email addresses when possible, as CM/ECF is the system through which we largely serve documents on the parties. If you all could help us validate the accuracy of your email addresses, that would be much appreciated.

Second, if having issues when or questions about e-filing, please check our website (<https://www.cacd.uscourts.gov/e-filing>) for helpful information and tutorials before calling our public helpdesk. Our staff fielded nearly 22,000 calls just last year, which as you can imagine is an incredible investment of staff time.

When you are not working, what do you like to do in your free time?

I would have had a very different answer to this question had you asked me about four years ago. Now, my "free time" is dominated by my loving family, including my husband, three-year-old daughter, and eight-month-old son. They mean the world to me and there is never a dull moment in my house. I rarely have a say in how I spend my non-work time these days as my husband and I often are focused on whatever the kids want or need at any given moment.

Do you have a favorite legal movie or book? If so, what is it and why is it your favorite?

It's hard to pick a favorite legal book, but my most recent favorite has been Bryan Stevenson's Just Mercy. It's been out for a long time and was made into a movie, but it's the last book I read before my daughter was born and I haven't had much time to read complete books since. I mention this one because the book lays out the work Bryan Stevenson does, which is incredible, and provides a shining example of one way to use the law to help make the world a better place.



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THE NUTS AND BOLTS OF FEDERAL CIVIL PRACTICE: HOW TO ARGUE DISCOVERY AND PRETRIAL CONFERENCE HEARINGS



HON. JAY C. GANDHI
UNITED STATES
MAGISTRATE JUDGE (RET.)



HON. MARIA A. AUDERO
UNITED STATES
MAGISTRATE JUDGE

Panelists:



LAUREN M. BLAS,
GIBSON, DUNN &
CRUTCHER LLP



ZACHARY M. BRIERS,
MUNGER, TOLLES &
OLSON LLP



KIM K. CHERMERINSKY,
ALSTON & BIRD LLP



JEANNE A. FUGATE,
KING & SPALDING LLP

This “nuts and bolts” program is designed to aid both new admittees and attorneys with limited experience in Federal Court in the practical aspects of civil litigation in Federal Court.

Introductory Remarks

Hon. Jay Gandhi, Jeanne Fugate, and Lauren Blas - Mock Rule 16 Conference
Hon. Maria Audero, Zachary Briers, and Kim Chemerinsky - Mock Motion to Compel

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KNOWING WHAT'S AHEAD: DISPUTE RESOLUTION PLANNING FOR STARTUPS IN THE NEW AGE OF GENERATIVE AI

Perspectives from JAMS neutral Hon. Jackson Lucky (Ret.) and JAMS Diversity Fellow Erica Bristol

At the time of this writing, generative artificial intelligence (AI) is taking the world by storm, and legal issues abound. Artists are [suing AI art-generating companies](#) for copyright infringement. [Getty Images is suing](#) for misuse of its images. Software developers are [suing Microsoft and OpenAI](#) for breach of contract, copyright infringement and other statutory claims. Technologists are [testing patent and copyright laws in multiple countries](#) to gain intellectual property (IP) protection for AI-generated work with no human author or inventor. On the other hand, artists are learning [how much human contribution is necessary](#) before a work is copyrightable under United States law.

These legal issues may temper some startups' enthusiasm for the use of AI. Legal disputes can arise at any point along the way, and many startups haven't planned for AI issues that can lead to claims and litigation. This article will examine emerging issues leading to disputes that startups and their legal counsel should be aware of, and why alternative dispute resolution (ADR) may be especially important in these unpredictable times.

Three Emerging Issues

There are three emerging issues in the AI space that may affect startups: lawsuits against generative AI services for copyright infringement, issues regarding IP with no human author or inventor, and the protection of AI-generated work with human modification. These may or may not affect how a startup uses generative AI.

Suing AI Services

Lawsuits against providers like GitHub and Stability AI allege that their AI-generative services misused copyrighted works to generate code and art. The GitHub complaint alleges that GitHub's product, Copilot, sometimes reproduces copyrighted code verbatim, without attribution or copyright notices. Similarly, Getty Images alleges that Stability AI has infringed on its trademarks by reproducing its watermark on some images that Stability AI generated.



Hon. Jackson Lucky (Ret.) joined JAMS in 2021 following 13 years as a judge with the Riverside County Superior Court.



Ms. Bristol is an intellectual property attorney and commercial mediator, specializing in intellectual property-related disputes.

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(Continued from page 18)

It may be years before the law decides whether seeding AI-generated art and code with copyrightable works is fair use. The implications for a startup are clear: If AI can reproduce copyrighted works or company trademarks, a startup must have controls in place to avoid infringement. Although current litigation targets large entities like Microsoft, nothing prevents copyright holders from enforcing their rights against startups and small companies as well.

Protecting AI-Generated Works

Other litigation concerns whether AI-generated works are patentable or copyrightable. Both the U.S. Copyright Office (USCO) and U.S. Patent and Trademark Office (USPTO) have released guidance on AI-generated work. Both have concluded that a human being must author or invent the work to be protected. In *Thaler v. Vidal*, the Federal Circuit Court of Appeals has sided with the USPTO, finding that only human beings can seek patents as “inventors.” The United States Supreme Court recently denied certiorari. Internationally, *Thaler* and the Artificial Inventor Project (AIP) are testing this issue in 18 jurisdictions. South Africa has granted such a patent. The U.K. Supreme Court just heard oral argument.

For many startups, the issues at stake in the AIP cases may be less profound. The AIP is specifically testing patent law to protect works without a human inventor. In the commercial world, many startups will take the practical step of listing a human inventor, even if AI generated much of the work.

Human Enough?

That brings us to the last issue: How much human work is required before IP becomes copyrightable or patentable? There seems to be no current litigation on this issue, but that could change. Recently, an artist named Kristina Kashtanova applied for a copyright for her comic book, “Zarya of the Dawn.” After granting a copyright, the USCO discovered that Kashtanova created the comic’s artwork with Midjourney, an AI art generator. Based on this new information, the USCO concluded that Kashtanova was the author of the text and layout of the comic book, but not the images. Consequently, the USCO denied Kashtanova’s copyright as to the images, finding that Kashtanova had not modified the AI artwork enough to make it her own.

The line between generated IP that cannot (currently) be copyrighted or patented and human-modified IP that merits U.S. copyright or patent protection has yet to be drawn. But startups should be aware and have mechanisms in place to ensure that there is enough human work to argue for protection.

Founder Matters

Founder agreements should address the use of generative AI by the founders themselves in creating company IP, as well as its effect on ownership and enforcement of intellectual property rights. Founders should not overestimate the impact of *Thaler* on their works. *Thaler* is testing the law, asserting that an AI-generated work *without a human inventor* deserves patent protection. Based on that decision, it’s clear that founders may need to build protocols to ensure human authorship.

Kashtanova’s situation raises greater concerns. If the USCO denied a copyright for insufficient human contribution, founders must develop protocols to require and document the human contribution to their IP. Founder agreements may require written approval by some or all founders for AI-assisted development of products and services. Founders may want to consider disclosure of which generative AI tools they use and develop written protocols to document the human contribution for invention and creation of company IP.

KNOWING WHAT'S AHEAD: DISPUTE RESOLUTION PLANNING FOR STARTUPS IN THE NEW AGE OF GENERATIVE AI

Perspectives from JAMS neutral Hon. Jackson Lucky (Ret.) and JAMS Diversity Fellow Erica Bristol

(Continued from page 19)

Startups should also address the emerging issue of use of AI by employees. Current employment contracts probably protect the trade secret aspects of AI-generated work. Nevertheless, in this age of AI uncertainty, startups should regularly consult legal counsel to determine who owns (or co-owns) intellectual property and related rights. Although an AI-generated secret is probably still a trade secret, this assumption has yet to be tested. Startups will want to know who, if anyone, owns the IP and if an employee could use that IP post-employment.

Moreover, employee conduct may bring a startup face to face with the uncertainties of AI-related infringement litigation. Startups should have robust protocols to minimize the chance unintentional or inadvertent infringement. Additionally, inadequately trained employees may neglect to document their human contributions, which might prevent copyright or patent protection for company works.

Benefits of ADR

The pace of development for AI-generated work is breathtaking. The law, as usual with tech matters, plays the tortoise to tech's hare. These uncertain times highlight the benefits of ADR for startups. While the law is uncertain, startups may benefit from using hand-picked neutrals with relevant skills to mediate or arbitrate their disputes. Moreover, private mediation and arbitration can mitigate the development of bad case law. Lastly, the confidential nature of ADR can help protect a company's reputation and the privacy of its trade secrets.

Hon. Jackson Lucky (Ret.) joined JAMS in 2021 following 13 years as a judge with the Riverside County Superior Court. Judge Lucky is a passionate technologist who has built and programmed computers for decades. His contributions to the computer programming website Stack Overflow put him in the top 11% of over 14 million worldwide users in 2021. He is sought after to teach lawyers and judges throughout the state of California due to his ability to explain complex legal and technical topics in plain language.

Erica Bristol (Los Angeles): Ms. Bristol is an intellectual property attorney and commercial mediator, specializing in intellectual property-related disputes. She is the principal of EB Mediate, a mediation service provider in Encino, California. She received her J.D. from the UCLA School of Law in 1999. She served as in-house counsel for a corporation and its technology affiliates for over 11 years, and she has been a commercial mediator since 2006. Ms. Bristol currently serves as a panel mediator for the United States District Court for the Central District of California and the Santa Barbara County Superior Court.

FBA-LA EVENTS RECAP: THE EXCITING WORLD OF FEDERAL PRACTICE

Since the publication of our last newsletter, the Los Angeles Chapter of the Federal Bar Association (“FBA-LA”) has organized a number of successful events. This article highlights five of these events: the Annual Bankruptcy Ethics Symposium, the State of the Circuit/District, a panel on careers in federal practice, and a question-and-answer session with Martin Estrada, the U.S. Attorney for the Central District of California. FBA-LA would like to thank all of the federal practitioners that organized and participated in its events.

19th Annual Bankruptcy Ethics Symposium

By Joseph Boufadel, Salvato Boufadel LLP

On November 18, 2022, FBA-LA held its 19th Annual Bankruptcy Ethics Symposium. The symposium consisted for three programs: Common Ethical Issues for Bankruptcy Lawyers; Lawyer Louses: The Bad and “Baddest” Moments from 2022, and Attorney Ethics; and Electronically Stored Information and Admissibility and Use of Digital Evidence at Trial.



First Program: “Common Ethical Issues for Bankruptcy Lawyers.” Ron Maroko, Trial Attorney with the Department of Justice, Office of the United States Trustee (left) and David M. Goodrich, Golden Goodrich LLP, and member of the Chapter 7 Bankruptcy Panel of Trustees (right) discuss the common issues they see with retainer agreements and disclosures in bankruptcy cases.

FBA-LA EVENTS RECAP: THE EXCITING WORLD OF FEDERAL PRACTICE

(Continued from page 21)



Program 3: “Attorney Ethics and Electronically Stored Information and Admissibility and Use of Digital Evidence at Trial.” Thomas Plunkett, Managing Director of Digital Forensics at Archer Hall, presents on the availability of forensic digital evidence on particular data storage devices relevant in discovery.

FBA-LA EVENTS RECAP: THE EXCITING WORLD OF FEDERAL PRACTICE

(Continued from page 22)

State of the Circuit/District

On March 9, 2023, FBA-LA held its annual State of the Circuit/District. The event included remarks from FBA-LA President Sandhya Ramadas Kogge and featured Judge Kim McLane Wardlaw, Judge Dolly M. Gee, Chief Magistrate Judge Karen L. Stevenson, and Judge Sheri Bluebond. The event was highlighted by Judge Conseulo B. Marshall's tribute to Judge Terry J. Hatter Jr. Pictures below.



Top row: Honorable Kenly Kiya Kato (left) and Kiry K. Gray, Clerk of Court for the Central District of California (right). Bottom row: Honorable Consuelo B. Marshall (left) and Jonathan Eisenman, Deputy City Attorney for the City of Los Angeles (right).

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THE NUTS AND BOLTS OF MEDIATION

Panelists:



HON. SUZANNE H. SEGAL
U.S. MAGISTRATE JUDGE
(RET.)



HON. PATRICK J. WALSH
U.S. MAGISTRATE JUDGE
(RET.)



MATTHEW W. CLOSE
O'MELVENY & MYERS LLP



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This “nuts and bolts” program offers practical advice on preparing for mediation—and effectively advocating for clients in mediation—for attorneys newer to federal civil practice. Join two former United States Magistrate Judges, along with experienced plaintiff- and defense-side practitioners, in this panel discussion. Participants can attend in-person or remotely. The event will be hosted by Signature Resolution at its offices in downtown Los Angeles. Food and drinks will be provided to those attending in-person, with a reception to follow the discussion.

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FBA-LA EVENTS RECAP: THE EXCITING WORLD OF FEDERAL PRACTICE

(Continued from page 23)



Top row: Honorable Dolly M. Gee (left) and Kiry K. Gray, Clerk of Court for the Central District of California (right). Bottom row: Honorable Terry J. Hatter Jr. (left) and Honorable Karen L. Stevenson (right).

Careers in Federal Practice Event at Loyola Law School

By Allison Westfahl-Kong, Federal Prosecutor in Los Angeles

As part of its law school outreach efforts, on April 11, 2023, the FBA-LA's Mentorship Committee headed to Loyola Law School for a panel discussion on careers in federal practice. Erin Murphy, a Deputy Federal Public Defender and Secretary of FBA-LA's Board of Directors, served as the moderator, and the panelists included FBA-LA Board members Sepehr Daghighian (Partner, California Consumer Attorneys P.C.), Patricia Kinaga (Counsel, Davis Wright Tremaine LLP), and Agustin Orozco (Partner, Crowell & Moring LLP).

FBA-LA EVENTS RECAP: THE EXCITING WORLD OF FEDERAL PRACTICE

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The panelists first discussed their career trajectories, noting that opportunities can arise unexpectedly and career paths can change, so law students should be open to different careers than they contemplate in law school. Agustin Orozco noted that before his current position in private practice, he served as an Assistant United States Attorney at the U.S. Attorney's Office for the Central District of California even though he initially thought of himself as more of a public defender. He found his experience as an AUSA to be very rewarding as he gained insight into the criminal justice system and was able to prosecute cases he was passionate about, including public corruption and civil rights cases. Erin Murphy addressed how even if you ultimately want a government job, it can be helpful to first go into private practice, explaining that while she happily ended up at Federal Public Defender's Office, she really benefited from initially working at a law firm and gaining valuable experience and skills that have allowed her to succeed as a public defender. Patricia Kinaga described her varied career of the past 30 years, which took her from the Los Angeles City Attorney's Office where she first-chaired numerous jury trials to private practice at several different firms, including Jones Day and Davis Wright Tremaine.

In addition to discussing their career trajectories, the panelists addressed some of features of federal practice and how it compares to state practice. The panelists noted that federal court is much more formal and that litigants must be extremely well prepared and able to answer very specific questions from the court. Federal practice also tends to be more focused on writing, with motions often decided on the briefs rather than addressed orally.

Panelists next addressed the importance of mentors in building your career as a lawyer. Mentor relationships can be developed in a variety of ways. For example, Patricia Kinaga noted that she met some of her mentors at bar association events and others through her courtroom work, including Judge Hatter (who she tried a case before). Agustin Orozco discussed the importance of maintaining the mentor relationship after the initial meeting and encouraged mentees to stay in touch and regularly follow up with mentors to keep the relationship going. Erin Murphy noted that the FBA-LA is a great way to meet potential mentors and touted the FBA-LA's mentor program, which pairs up newer lawyers and law students with more experienced attorneys in their practice areas of interest. In addition to discussing the importance of developing mentor relationships with experienced lawyers, many panelists noted the value of forming relationships with law school classmates. Sepehr Daghighian noted that while no one will remember what your grades or exam scores are, people will remember whether you are nice and reliable and if so, will refer business to you.

Finally, the panelists offered advice to law students as they prepare for careers in federal practice. Patricia Kinaga emphasized how important your reputation is and how it is hard to build and can be easy to lose. To maintain your reputation, she advised the students to make sure they are always prepared for hearings and know the rules, including the specific judge's individual rules of practice. Sepehr Daghighian discussed the importance of attention to detail and recounted how the band Van Halen used to include a provision in its touring contract that no brown-colored M&Ms were allowed backstage at their concerts. As Daghighian explained, the reason for this bizarre clause had nothing to do with brown M&Ms and everything to do with making sure the promoters carefully read the contract and paid attention to detail. The event was well received by the students and faculty members in attendance and the Mentorship Committee is excited to do similar events in the future both at Loyola and at other Los Angeles law schools.

FBA-LA EVENTS RECAP: THE EXCITING WORLD OF FEDERAL PRACTICE

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Q&A with U.S. Attorney Martin Estrada

By Lauren Border, Hueston Hennigan

On May 11, 2023, several law clerks, externs, and younger lawyers gathered in the ceremonial courtroom of the First Street Courthouse for a question-and-answer session with U.S. Attorney Martin Estrada, who explained the important work the U.S. Attorney's Office does on behalf of the United States in both the criminal and civil arenas.

Mr. Estrada emphasized the importance of mentors and friendships within the legal community, explaining he first joined the U.S. Attorney's Office as a summer extern after hearing about a friend's experience. There, he met several colleagues who remain within his social and professional network today. He also enrolled in the prosecution clinic as a student at Stanford Law School, where he appeared in court on behalf of the Santa Clara District Attorney's Office. He was guided by the mentorship of the clinic coordinator, Professor George Fisher, who encouraged thoughtful discussions on the role of the prosecutor—and inspired Mr. Estrada to become one in the process.

Part of what drew Mr. Estrada to his current role, he explained, is the power of prosecutorial discretion. Since his confirmation as U.S. Attorney, Mr. Estrada said he has largely declined to prosecute mail theft and illegal reentry cases under 8 U.S.C. § 1326, which allows him to divert resources to prosecuting other crimes such as sex trafficking and murder. Assistant United States Attorneys are also encouraged to engage in discussions about prosecutorial discretion, much as Mr. Estrada was at Stanford Law School.

Mr. Estrada explained one of his priorities as U.S. Attorney is connecting with communities of color and rebuilding trust with law enforcement. He elaborated on the Office's work to combat "redlining"—an illegal practice in which lenders avoid providing credit services to individuals living in communities of color—and the Office's recent \$31 million settlement with City National Bank.

When asked how younger attorneys can gain valuable experience in the courtroom, Mr. Estrada advised to be willing to jump into last-minute opportunities that may arise. This hunger to develop as an attorney, he said, is an attribute he looks for in his Assistant United States Attorneys, along with a record of dedication to the Office's mission and a commitment to serving the local community.

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