



# FOR THE DISTRICT OF OREGON

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## PRESIDENT'S MESSAGE

By: Laura Salerno Owens, Markowitz Herbold PC



### Greetings from the Oregon Chapter of the Federal Bar Association and welcome to our first newsletter for 2017!

The FBA is the bridge between the federal bench and the bar in Oregon, and strives to promote professionalism, collegiality, and inclusiveness in the federal legal community. The Oregon chapter, which has nearly 350 members, is one of the largest in the country. Our membership reflects all facets of the federal legal community, and includes judges, academics, and civil and criminal practitioners. I am thrilled and honored to serve as the President of our chapter for the 2016-2017 term. I have been a member of the FBA since my first year of practice, and I am now a shareholder at Markowitz Herbold PC where I focus on employment litigation.

Throughout the year, the Oregon FBA hosts a wide variety of educational programs and social functions to advance federal jurisprudence and provide a networking forum for our membership. We are excited to present a full slate of events in 2017, including the following:

- Monthly lunches the third Thursday of every month at the federal courthouse in Portland:
  - o January 19 (Judge Papak and Judge Jones, tips on evidence)
  - o February 16 (Chief Judge Mosman, State of the Court address)
  - o March 16 (FBI, cyber security directed for civil litigators)
  - o April 20 (Attorney General's office, state/federal conflict with marijuana laws)
  - o May 18 (Judge McShane, cross-examination techniques)
- Bi-monthly lunch programs the fourth Thursday of every month at the federal courthouse in Eugene:
  - o January 26 (kick-off event with other bar associations in Lane County)
  - o March 23 (state versus federal discovery)
  - o May 25 (bankruptcy basics for state court practitioners)

## PRESIDENT'S MESSAGE

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- February 23: "Filling in the Gaps: Moving Beyond 'Dangerous' in Your Knowledge of Bankruptcy Law." This event is directed to non-bankruptcy attorneys who may encounter bankruptcy issues in their practice.
- April 16: Deadline for Ninth Circuit Civics Contest, "Not to be Forgotten: Legal Lessons of the Japanese Internment." An essay and video contest open to high school students in the western United States and Pacific Islands. Entries accepted beginning February 1. Contest rules, entry instructions and more information will be available January 1 at <http://www.ca9.uscourts.gov/civicscontest>

Also, scheduled for Spring 2017 are two CLEs, a sentencing CLE featuring Judges Russo, McShane and Clarke, and a reprisal of our popular 2010 Networking & Career Building CLE.

Other programs our chapter facilitates are the Haggerty Scholars Program, which provides high school students interested in civil rights a year-long opportunity to learn about the federal courts and the practice of law; the Young Lawyers Speakers Forum, which helps younger lawyers gain experience presenting CLEs; and Young Lawyer Brown Bag Lunches, which connects younger lawyers with federal judges in an informal lunch time environment.

These are just a few of the many other events we have lined up—please visit our website at [www.oregonfba.org](http://www.oregonfba.org) to learn more. If you have ideas for events you'd like to see, please do not hesitate to contact me. We welcome your participation and involvement in the Chapter.

***I look forward to seeing you at upcoming events.***

## PERSONAL JURISDICTION DEFENSE IN BANKRUPTCY COURT: NO SUCH THING

By: Conde T. Cox, The Law Office of Conde Cox, Portland, Oregon



Most FBA members are, by accident or by design, only mildly acquainted with the rules and practice of our local bankruptcy court. Many litigators are therefore quite surprised to learn, when they venture into bankruptcy court, that it is well-settled there is no such thing as a lack of jurisdiction over the person defense in that court,

nationwide. This article will address the applicable Rules of Procedure and precedent that have led to this well-settled rule and practice.

Unlike Civil Rule 4(k), which incorporates and relies upon state law long arm statutes to confer personal jurisdiction over Defendants, Bankruptcy Rule 7004, which governs service of process in bankruptcy court, does not incorporate any of the personal jurisdiction limits imposed by Civil Rule 4. Instead, in bankruptcy court, there is "nationwide service of process," per Rule 7004(d), which is accomplished by mail, per Rule 7004(b), and if the Defendant has 'minimum contacts' with the United States, then such service by mail "is effective to establish personal jurisdiction over the person of any Defendant," per Rule 7004(f).

Upon commencement of a bankruptcy case, by the filing of a voluntary or involuntary petition, the Clerk of the Bankruptcy Court sends by mail to all creditors listed in the bankruptcy petition a form Notice of Commencement of Case, which sets forth the Chapter under which relief the petition was filed (i.e., Chapter 7, 11, 12, or 13), provides the date for the meeting of creditors, and the date by which creditors must file claims. Thereafter, parties may seek by motion, by complaint, or by other form of pleading, any traditional form of judicial relief against any individual, business entity, or government, any and all of which may be served nationwide by mail to establish personal jurisdiction.

As in any other court, when a party, including the Debtor, a creditor, a trustee, or other interested party, seeks a judgment or an order from the bankruptcy court, the relief is requested by filing a motion in the case originally commenced by the filing of the bankruptcy petition. Such relief by motion creates what is known in bankruptcy court as a 'contested matter,' and service of the motion is governed by

Bankruptcy Rule 9014(b), which incorporates the requirements of Bankruptcy Rule 7004. When a party seeks a judgment for damages or an injunction or a determination of the invalidity of a lien or a declaration that a debt is not dischargeable, or any one of the other ten types of relief listed in Bankruptcy Rule 7001, then the relief cannot be sought by motion and must be sought by the filing and service of a Complaint and summons. The filing of a Complaint initiates what is known as an ‘adversary proceeding.’ All adversary proceedings, unlike contested matters, are assigned a separate adversary proceeding case number, just as is the practice for a normal federal district court lawsuit. The service of a Complaint and Summons in an adversary proceeding, as well as the service of a motion initiating a mere contested matter, are both governed by Bankruptcy Rule 7004.

By far the most commonly requested relief sought in bankruptcy court by way of a contested matter is the ubiquitous ‘motion for relief from stay,’ whereby a creditor or litigant enjoined by the automatic stay of Bankruptcy Code Section 362 seeks an order from the court lifting or conditioning the continuation of the stay. Other examples of relief sought under a contested matter include motions to reject leases and other executory contracts, motions to use cash collateral, motions to approve sales of estate assets, motions to incur secured debt, and other administrative matters typical of bankruptcy estate administration.

Typical relief sought in bankruptcy court adversary proceedings include a request for a money judgment or for the recovery of damages, under bankruptcy law or applicable non-bankruptcy law, as well as requests for invalidation of liens, recovery of fraudulent transfers, and supplemental “section 105” injunctions to protect insider principals of companies restructuring under Chapter 11. Adversary proceedings are viewed generally by bankruptcy practitioners as constituting a separate “lawsuit within the bankruptcy case,” and they are governed by Part VII of the Bankruptcy Rules (Rule 7001, et. seq.), which incorporate the virtual entirety of the Federal Rules of Civil Procedure. Hence, by way of examples, Bankruptcy Rule 7003 fully incorporates Civil Rule 3, Bankruptcy Rule 7026 incorporates verbatim Civil Rule 26 regarding discovery, and Bankruptcy Rule 7013 incorporates Civil Rule 13 regarding counterclaims, except that compulsory counterclaims are more narrowly defined.

Bankruptcy Rule 7004 is something of an exception to the wholesale incorporation of the Civil Rules onto Part VII of the Bankruptcy Rules. There is no equivalent in Rule 7004 to Civil Rule 4(k)’s “Territorial Limits of Effective Service,” which “establishes personal jurisdiction over a Defendant who is subject to the jurisdiction of a court of general jurisdiction in the state

where the district court is located.” Civil Rule 4(k) therefore establishes that only a Defendant subject to personal jurisdiction by his minimum contacts with the forum state may be haled under state long-arm statutes into federal district court. Bankruptcy Rule 7004 incorporates no such restriction and does not contain any language requiring that bankruptcy courts follow territorial personal jurisdiction limits that otherwise are imposed by the constitutional limits inherent under state long arm statutes. Such constitutional limits of course are well known and have been developed under a long line of venerable United States Supreme Court cases, including *International Shoe*, *Burger King*, and, more recently, *Walden v Fiore*.

Rule 7004 thus allows service to become effective in all bankruptcy court contested matters and adversary proceedings by the mailing of the applicable motion or complaint upon any entity against whom relief is requested.

“Although Rule 7004(b) has been attacked as violative of procedural due process, its validity consistently has been sustained,” *Colliers on Bankruptcy* ¶7004.03 (16th ed.2014). *Colliers*, which has for over a century been viewed as the single most respected treatise on bankruptcy law, (originally cited by the U.S. Supreme Court in 1905), goes further at ¶7004.06, to observe that “the cases consistently hold that all that is required is that defendants have minimum contacts with the United States.”

Among the leading reported cases on point is *In Re Federal Fountain, Inc.*, 165 F.3d 600 (8th Cir. 1999), in which the court relied upon the nationwide service of process provisions found in Bankruptcy Rule 7004(d), in reaching its conclusion that “minimum contacts with the United States” is sufficient to establish personal jurisdiction over a party in bankruptcy court. The well-known case of *In Re Enron Corp.*, 316 B.R. 434 (Bankr.S.D.N.Y. 2004), involved an adversary proceedings filed in New York against Texas residents who were former Enron employees; the New York bankruptcy court ruled, consistent with every reported case on this issue, that there is no state-based minimum contact requirement for the exercise of personal jurisdiction in bankruptcy court. In the well-known and even notorious bankruptcy case of *Bernie Madoff, In Re Bernard L. Madoff Investment Securities, LLC*, 525 B.R. 871 (Bankr.S.D.N.Y. 2015), the bankruptcy court rejected a personal jurisdiction defense in an adversary proceeding initiated against three residents of France, on the ground that they had sufficient minimum contacts with the United States.

One of the very rare cases in which a personal jurisdiction defense was successful in bankruptcy court involved HSBC bank, based in Hong Kong. *In*

## PERSONAL JURISDICTION DEFENSE IN BANKRUPTCY COURT: NO SUCH THING

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*Re Hackman*, 534 B.R. 867 (Bankr.E.D.Va. 2015). In that case, well known international bank HSBC was a named Defendant in an adversary proceeding, although HSBC's wholly-owned U.S. subsidiary was not named as a party. The court concluded that insufficient contacts with the United States for the foreign Hong Kong bank were alleged in the Complaint, and therefore the foreign bank entity was successful in its assertion of a personal jurisdiction defense.

Although one would expect the lack of availability of a personal jurisdiction defense in bankruptcy court might lead to calls for an amendment to bring Bankruptcy Rule 7004 into conformity with Civil Rule 4(k), the opposite has occurred, with calls for reform apparently limited to proposed expansion of Bankruptcy Rule 7004 to *worldwide* service of process, in order to avoid results similar to those seen in the above-cited Hackman case involving a foreign bank. See Edward Adams & Rachel Iverson, *Personal Jurisdiction in the Bankruptcy Context: A Need For Reform*, 44 Catholic Univ. Law Review 1081 (1995). It is beyond the scope of this article to review all issues affecting the service of process on foreign parties in bankruptcy court, other than to observe that new Chapter 15 of the Code, (enacted in 2005), which governs international bankruptcy cases, includes section 1510, which provides that an appearance by a foreign entity in a Chapter 15 bankruptcy case does not waive such entity's right to assert a personal jurisdiction defense in any United States federal court.

The policy reasons that support Bankruptcy Rule 7004 and its dearth of territorial limits on the service of process on United States residents and on foreigners with minimum contacts with our country and not just with the state where the federal court is located, are evident to bankruptcy practitioners: cases which involve fights over who gets the crumbs of a shrunken pie (i.e., bankruptcy cases), should not be weighed down by the severe costs of multiple forum litigation. Creditors affected by the bankruptcy of a party in a different state, or investors similarly affected, must bear the small cost of appearing in a forum that may not be local, but at least is American. The apparent desire of some jurisdictions, such as Delaware, to garner a disproportionate number of our country's major corporate bankruptcy filings has been facilitated by the lack of a personal jurisdiction

defense in bankruptcy and by loose national venue rules applicable to Chapter 11 cases. See Dan Klerman & Greg Reilly, *Forum Selling*, 89 Southern California Law Review 241 (2016).

Oregon Bankruptcy Judges have imposed strict standards for the actual service of process in both contested matters and adversary proceedings, perhaps in part for the reason that there is no personal jurisdiction defense available in bankruptcy court. See *In Re Monk*, 2013 WL 4051864 (Bankr.D.Ore. 2013)(Frank Alley, B.J.)(dismissing contested matter/objection to claim, on grounds of insufficiency of process, even though service on out-of-state creditor was made upon the individual at an address shown on creditor's filed proof of claim, because Rule 7004(b) (3) requires service on an officer or registered agent for service, not on the individual and address shown in creditor's filed claim)

Of course, personal jurisdiction issues are distinct from the topic of bankruptcy court subject matter jurisdiction. That separate but related and fascinating topic, directly impacted by the recent U. S. Supreme Court case of *Wellness International Network v. Sharif*, 135 U.S. 1932 (2015) will be addressed in a subsequent article to appear in these pages.

## OREGON FBA MEMBERS ATTEND 2016 ANNUAL MEETING AND CONVENTION IN CLEVELAND

By Jack Scholz



Last September Oregon FBA board members Laura Salerno Owens, Susan Pitchford, and Jack Scholz joined lawyers and federal judges from all across the country at the FBA's 2016 Annual Meeting and Convention in Cleveland, Ohio. The five-day event was hosted by the Dayton and Northern District of Ohio Chapters of the FBA. Attendees participated in CLE sessions on multiple topics of law, attended networking receptions at various locations in downtown Cleveland including the Rock and Roll Hall of Fame, and listened to insightful speeches at luncheon events. Notable speakers at the convention included Dean Erwin Chemerinsky (UC Irvine School

of Law), Paul S. Grewal (Facebook Vice President and Deputy General Counsel for Worldwide Litigation), Ovie Carroll (Director, U.S. Department of Justice Cybercrime Lab), and U.S. Senator Sherrod Brown (D-Ohio).

On the final day of the convention, the FBA held its Awards Luncheon where it recognized the outstanding service and contributions of its members, sections, divisions, and chapters. Oregon and several other chapters received the Chapter Activity Presidential Achievement Award which recognizes the work and accomplishments of a chapter throughout the previous year. The convention concluded with its black-tie Presidential Installation Dinner and Banquet. At the banquet the FBA presented its highest awards including the Elaine "Boots" Fisher Award, the Hon. Sarah T. Hughes Civil Rights Award, and the Earl W. Kintner Award for Distinguished Service. Outgoing FBA President Mark Vincent and a number of federal judges also gave remarks reflecting on the accomplishments of the FBA over the prior year.

The keynote speaker at the banquet was U.S. Senator Rob Portman (R-Ohio) who praised new programs in the federal courts including reentry courts and veteran's courts. Senator Portman also administered the oath of office to incoming FBA President Hon. Michael J. Newman, Magistrate Judge for the U.S. District Court for the Southern District of Ohio. Judge Newman spoke about the FBA's plans for this year, in particular the FBA's civics education initiative, a program the FBA is undertaking in conjunction with the Administrative Office of the U.S. Courts. The goal of the civics education initiative is to encourage federal judges to meet with middle and high school students and talk with them about the role of the courts, how civil and criminal cases are decided, and what judges do every day. The Oregon Chapter has done this in the past with our Behind the Robes event where high school students tour the federal courthouse, observe a court proceeding, and meet a judge along with representatives from the U.S. Marshals Service, U.S. Probation and Pretrial Services, the U.S. Attorney's Office, and the Office of the Federal Public Defender. The Oregon Chapter is planning to hold another Behind the Robes event this spring.

The FBA will hold the 2017 Annual Meeting and Convention in Atlanta, Georgia from September 14 to 16. Will we see you there? Registration information is available on the national FBA website [www.fedbar.org](http://www.fedbar.org).

## JUDICIAL SPOTLIGHT: THE HONORABLE JUDGE STACIE F. BECKERMAN



As President Laura Salerno Owens mentioned in this newsletter's president's message, the FBA is the bridge between the federal bench and the bar in Oregon. In that spirit, this newsletter presents a spotlight on the Honorable Judge Stacie F. Bekerman. The FBA will attempt to spotlight different members of our bench in upcoming newsletters.

### *What is your background?*

I grew up on Hollywood Blvd., but in Cedar Rapids, Iowa. I graduated from the University of Iowa in 1995 (Go Hawks!), and Harvard Law School in 1998 (Go Crimson?).

### *When did you realize you were attracted to the legal field and what prompted that realization?*

My dad, who is my hero, was a lawyer. I watched him argue a pro bono case in front of the Iowa Supreme Court during high school, which made me not want to be a lawyer because I was terrified of public speaking. During my freshman year of college, I was a biochemistry major with dreams of medical school, until I worked as a nursing assistant at the University of Iowa Hospitals and Clinics which convinced me that working in a hospital was not the best fit for me. I did some soul searching, and realized I wanted to serve my community in the same way I watched my dad serve, and that prompted me to divert my path to law school.

### *In your opinion, what do you think differentiates a good lawyer from a great lawyer?*

Attention to detail and clear, persuasive writing.

### *What characterizes your approach to being a judge?*

I try to be careful, conscientious, and fair.

### *Who has influenced you the most during your legal career? Who are your role models?*

Above and beyond anyone else: my dad. He taught me that being a lawyer is about more than representing your clients, as he took on many pro bono clients and served on a wide variety of community boards.

## JUDICIAL SPOTLIGHT: THE HONORABLE JUDGE STACIE F. BECKERMAN

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Here in the District of Oregon: (i) Hon. Anna J. Brown, for being commanding in the courtroom and so incredibly kind outside the courtroom; (ii) Hon. Karin Immergut, for being strong and professional (and for taking a chance on me); (iii) Hon. Youlee You and Hon. Jolie Russo, for being authentic and warm and terrific allies; (iv) Hon. Susan Graber, for being a trailblazer and an amazing writer; (v) Hon. Erin Lagesen, for her brain power, work ethic, and speedy 10K times; (vi) Hon. Ann Aiken, Hon. Adrienne Nelson, and Hon. Darleen Ortega, for their passionate commitment to mentor our next generation of lawyers; (vii) AUSAs Michelle Kerin and Hannah Horsley, for their strength, resilience, and humor; and (viii) FPD Lisa Hay, for being scary smart and a tireless fighter.

***For attorneys appearing before you for the first time, do you have any advice?***

Be prepared, be honest, be yourself.

***So far, what do you consider to be the most rewarding part of being a judge?***

Reaching the right result for the right reasons.

***What is the most challenging part of being a judge?***

Making the decision to send a criminal defendant to prison pending trial, and not being able to do more to help those in the justice system who are struggling.

***Trailblazers or Timbers?***

Tie! We attend more Timbers games, but I'm all about Lillard Time.

***How do you like to spend your free time?***

Traveling or pursuing outdoor adventures with my husband, Jamie, and our two boys (now 9 and 11), although most weekends find me driving the boys to soccer games, chess tournaments, and their friends' houses.

## WHO WAS WALLACE MCCAMANT?: JUDGE O'SCANNLAIN, THE HISTORIAN

BY: Kristen Tranetzki, Angeli Law Group, LLC

On Thursday, October 13, 2016, the Honorable Diarmuid F. O'Scannlain presented at the Federal Bar Association's Monthly Luncheon in Portland on the remarkable story of how one individual, one speech and one moment in time truly transformed American history. Lawyers, other Judges, and clerks crowded into the jury assembly room at the Mark O. Hatfield Courthouse to listen to Judge O'Scannlain's remarks.

Judge O'Scannlain, a self-professed "history buff," as well as chair of the Pioneer Courthouse Committee of the United States Court of Appeals for the Ninth Circuit and proud member of the Pioneer Courthouse Historical Society, chose as subject for his presentation Wallace McCamant, an Oregonian political leader and legal scholar who is little remembered even in his home state of Oregon, despite the fundamental impact he had on American history.

Judge McCamant, as the crowd would soon learn, was a "faithless elector" who helped shaped the American presidency; he was also the only United States Circuit Judge in history to fail to be confirmed after a recess appointment.

Judge McCamant was born in 1867, and was bright, ambitious, and a top orator. His diverse career including serving as the president of the Oregon State Bar and a brief stint on the Oregon Supreme Court. What sealed his fate, however, was his role as delegate to the Republican National Convention in 1920, where he made a bold decision not to support the winner of the Oregon primary, Hiram Johnson, which helped lead to Warren Harding's compromise nomination. He then zealously advocated for Calvin Coolidge's nomination as vice president. (Irvine Lenroot became the forgotten vice presidential nominee.) Harding's death in 1923 led to Coolidge's presidency, and a grateful President Coolidge gave McCamant a recess judicial appointment to Judge O'Scannlain's own court, the United States District Court of Appeals for the Ninth Circuit. His confirmation should have been routine, but Hiram Johnson, the same person who McCamant refused to support for president, was on the Senate Judiciary Committee and thwarted McCamant's appointment. Judge McCamant served out his eleven months under his recess appointment, before returning to private practice in Portland.

Visitors to the Pioneer Courthouse will notice that all the justices have oil portraits, except Judge McCamant, who is commemorated only by a black and white photograph on the second floor of the courthouse.

The full text of Judge O'Scannlain's speech is located on the FBA website.

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## FBA COMMITTEE UPDATES

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**Pro Bono Scholarship Program Committee:** The Pro Bono Committee is pleased to announce that the 2016 recipients of the FBA Pro Bono Scholarship are Laura Franzen and Thomas Chow. Pro Bono Scholarship recipients pledge to devote at least 30 hours of service through the District of Oregon's Pro Bono program.

**District Court Conference Committee:** The District Court Conference committee asks that members save the date, October 6, 2017, for the next Oregon District Court Conference, which will be held at OMSI. A full day of CLEs are under development, and more details will follow in the coming months. For sponsorship opportunities, please contact Christopher Pallanch at christopher.pallanch@tonkon.com.

**Monthly Luncheon Committee:** See list of upcoming events.

**Young Lawyers' Division Committee:** The Young Lawyers Division closed out 2016 with two events for young lawyers. First, on November 29th the YLD held a brown bag lunch discussion for young lawyers with the Honorable Youlee Yim You. Judge You took the time to meet each young lawyer and learn about where they work and what type of law they practice. Judge You then provided invaluable advice including the importance of professionalism, common mistakes attorneys make in her courtroom, tips for trials, and differences between state and federal court. The conversation concluded with a Q&A where the young lawyers could ask Judge You any question. Second, the YLD joined the entire FBA in hosting the annual holiday celebration welcoming new admittees to the Oregon bar. Be on the lookout for similar YLD events in 2017.

The FBA Young Lawyers Division holds the brown bag lunch series as a way for young lawyers to meet the federal judiciary in a casual setting and obtain valuable information to help them in their profession. The Young Lawyers Division brown bag lunches are held in the Mark O. Hatfield Courthouse Law Library and are limited to twelve attorneys each lunch. FBA law student members are also invited to attend. To attend an upcoming lunch, watch for upcoming announcements or contact Jack Scholz at jackscholz@gmail.com, and see the list of upcoming events in this newsletter for pending YLD brown bag lunches.

**Haggerty Scholars Committee:** The 2016-2017 session of the Haggerty Scholars Program is well underway, with the Scholars having attended the FBA's Annual Dinner in May, spent a week at local law offices and courts, and interacted with each other and their mentors at small gatherings. This year, we welcomed five scholars to the program: Marley Kinser from Wilson High School; Taylor Lewis from Cleveland High School; Jane Robinson from West Linn High School; and Serenity Wade from Lincoln High School. In August, several legal offices were kind enough to host our Scholars and give them some idea of what work is like in our field. We can't thank enough our Multnomah County judges, and the fine people at Markowitz Herbold, the U.S. Attorney's Office, the Federal Public Defender, and the Oregon Law Center. In addition, our Scholars are benefitting from the mentorship of several folks who are giving their valuable time to speak with the Scholars about legal work, and help them with college admissions essays, including Cozette Tran-Caffee of Lane Powell; Colin Hunter of the Angeli Law Group; Courtney Peck of Perkins Coie; and Sam Sondag of Stoel Rives. We continue to seek out interesting activities for our Scholars related to the area of law and civil rights, and are just beginning the planning process for the group of students who will join us in 2017 and 2018.

## UPCOMING EVENTS

Here is a list of upcoming events. These events are subject to change. The best place to find the most up-to-date list of upcoming events is always the Oregon Chapter's website at: <https://oregonfba.org/>, or through twitter, <https://twitter.com/fbaoregon>, or Facebook, <https://www.facebook.com/oregonfedbar/>.

**January 19, 2017:** FBA Monthly Lunch in Portland, where Judge Papak and Judge Jones present regarding evidence.

**January 26, 2017:** FBA Monthly Lunch in Eugene. This is the kick-off of a new series of lunch, CLE, and social events that will normally be in Eugene on the fourth Thursday of every other month. Please RSVP at [eugenefba@gmail.com](mailto:eugenefba@gmail.com). An RSVP is not required, but will help us make sure the right amount of food is ordered for lunch. This event is sponsored by the Lane County Circuit Court, Oregon Federal District Court, Oregon Chapter of the Federal Bar Association, UO School of Law, LCBA Federal Court and Debtor/Creditor committees, and the Lane County Women Lawyers.

**January 31, 2017:** YLD Brown Bag Lunch with Judge Beckerman at the Hatfield Courthouse Law Library.

**February 16, 2017:** FBA Monthly Lunch in Portland. Judge Mosman's State of the Court Address.

**February 21, 2017:** YLD Brown Bag Lunch with Judge Jones at the Hatfield Courthouse.

**February 23, 2017:** Bankruptcy Law Event.

**March 16, 2017:** FBA Monthly Lunch in Portland. Cyber (IT) security presentation.

**March 23, 2017:** FBA Monthly Lunch in Eugene. State v. Federal discovery shoot out – Lane County and Oregon federal judges will discuss and answer questions about the differences between state and federal discovery.

**April 7, 2017:** Sentencing Practices and Preferences CLE in Eugene. Judge McShane and Judge Clarke will be speaking and Judge Aiken has been invited to speak.

**April 20, 2017:** FBA Monthly Lunch in Portland.

**May 18, 2017:** FBA Monthly Lunch in Portland. Judge McShane presents regarding cross examination.

**May 25, 2017:** FBA Monthly Lunch in Eugene. Bankruptcy basics for state court practitioners. A

bankruptcy filing can have a significant impact on state court proceedings involving the bankruptcy petitioner. Even if you never intend to step into bankruptcy court, you'll want to know how a bankruptcy petition can affect your client's rights in other proceedings.

**May 25, 2017:** Tentative date for FBA Annual Dinner.

**June 15, 2017:** FBA Monthly Lunch in Portland. Elections.

**July 27, 2017:** FBA Monthly Lunch in Eugene. The interplay between state and federal marijuana laws in the federal court system. Oregon says it is okay for your client to use marijuana. Federal law says it is not. Learn about how federal courts are handling these conflicting views and the impact it may have on your client.

**September 28, 2017:** FBA Monthly Lunch in Eugene. Federal practice primer. Find out about the numerous resources available to introduce and guide you through the basics of federal court practice and procedures, both civil and criminal.

**October 6, 2017:** District of Oregon Annual Conference.



# 2017 NINTH CIRCUIT CIVICS CONTEST



An essay and video contest open to high school students in the western United States and Pacific Islands. Entries accepted beginning February 1, 2017. Deadline for entries is **April 16, 2017**.

Contest rules, entry instructions and more information will be available January 1, 2017, at

<http://www.ca9.uscourts.gov/civicscontest>

CASH PRIZES for Essay and Video Contests

1<sup>st</sup> place: \$2,000\* 2<sup>nd</sup> place: \$1,000 3<sup>rd</sup> place: \$500

\*Plus! Travel and Accommodations to attend the 2017 Ninth Circuit Judicial Conference in San Francisco, California

## 2017 NINTH CIRCUIT CIVICS CONTEST

*Not to be Forgotten: Legal Lessons of the Japanese Internment*

To combat terrorism, some have called upon our government to turn away immigrants and visitors who come from particular countries or are followers of certain religious faiths. Others have urged imposing restrictions on such persons already in this country. To students of history, this approach is reminiscent of what occurred 75 years ago as the United States entered into World War II following the Japanese attack on Pearl Harbor. Presidential directives issued in February 1942 led to a curfew for people of Japanese descent followed by the forcible relocation of more than 100,000 people of Japanese descent from the West Coast to internment camps in remote areas of California, Idaho and Arizona.

Two young Japanese American men who defied the curfew and relocation policies were criminally prosecuted. In those cases – Hirabayashi v. United States, 1943, and Korematsu v. United States, 1944 – the U.S. Supreme Court upheld their convictions and the underlying government actions. The decisions in these cases, which required the court to weigh national security against individual rights, were difficult ones and there was strong disagreement at the time over the outcomes. In a third case, Ex parte Mitsuye Endo, also decided in 1944, the court ruled that “citizens who are concededly loyal” could not be held in internment camps. The decision resulted in the immediate release of an interned Japanese American woman and led eventually to the closure of the internment camps.

The topic for the Ninth Circuit Civics Contest is as follows:  
Consider and describe the relevance of the Japanese internment today as our nation combats terrorism.

The contest has two components: 1) Individual students can express their thoughts and ideas in an essay of between 500 and 1,000 words; and 2) Individuals and teams of up to three students can produce a 3-5 minute video on the theme. A student may submit both an essay and video. A student may submit only one essay and be involved in the production of only one video.

Your essay or video should: 1) Demonstrate an understanding of the history of the internment and its aftermath; 2) Explain what constitutional powers and rights were brought into conflict by the Hirabayashi, Korematsu and Endo cases; and 3) Discuss the important role of the Judicial Branch – then and now – in resolving constitutional conflicts involving national security and individual rights.

The Ninth Circuit Civics Contest is open to high school students at all grade levels and to home-schooled students of equivalent grade status. Students from public, private, parochial and charter schools may enter. The contest is organized by the Ninth Circuit Courts and Community Committee and cosponsored by the federal courts within the Ninth Circuit. Circuit contest winners will be announced in June. Cash prizes will be awarded to the top three finishers in both the essay and video competitions.

For more information, contact the Ninth Circuit Office of the Circuit Executive, (415) 355-8973 / [civicscontest@ce9.uscourts.gov](mailto:civicscontest@ce9.uscourts.gov).



*USS Shaw exploding during the Japanese raid on Pearl Harbor on December 7, 1941.*



*A grocery store owned by a Japanese American in Oakland, California. Photographed by Dorothea Lange in March, 1942.*

*Front image: Manzanar War Relocation Center in California photographed by Dorothea Lange on July 3, 1942.*

For more about past Ninth Circuit Civics Contests visit

<http://www.ca9.uscourts.gov/civicscontest>

## 2016-2017 FBA OREGON CHAPTER OFFICERS AND DIRECTORS

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*For the District of Oregon* welcomes submissions from everyone as well as our regular contributors. The deadlines are March 31, 2017, June 30, 2017 and September 30, 2017. We ask only that you inform us in advance if you are preparing a submission. Please direct inquiries to **Chris Roy** at [chris@roylawpdx.com](mailto:chris@roylawpdx.com).