

PRESIDENT'S MESSAGE

by Tammie McQuain



Summer is over; Autumn is here and the holiday season is near. The San Diego Chapter kicks off its holiday spirit a little early with its annual fashion show event held in late September each year.

Couture for a Cause is a great event that is attended by many. This event brings San Diego legal professionals together to benefit children in need. The San Diego Chapter partnered this year with the Filipino American Lawyers of San Diego, the International Legal Technology Association – San Diego, the San Diego Legal Secretaries Association, the San Diego Paralegal Association, the San Diego La Raza Lawyers Association, and the Tom Homann Law Association of San Diego. This event features attorney models throughout the legal community and the Mistress of Ceremonies is Patti Zlacket, Esq. who has been the MC for the past two years. Complimentary hors d'oeuvres, cash bar and a silent auction were all part of the pre-fashion show festivities.

Proceeds from the evening's fashion show will go to two charities, Voices for Children and STAR/PAL. Each charity will be presented with a check at the holiday luncheon in December. What a great way to give back to charities in our community. These students are truly amazing!

Coming up in October will be the Legal Management Conference in Phoenix, Arizona.

We should have a good showing at this conference, including our four scholarship winners.

The Chapter's Managing Partner luncheon is on Tuesday, October 18, 2016 at Morton's Steakhouse and our Fall New Member Social will be on Thursday, October 28, 2016 at the Courtyard Marriott, our In-Kind Hospitality Sponsor.

Happy Halloween!



Got CLM?

If you are interested in becoming a CLM, you may want to consider joining a CLM Study Group, or checking out study materials from our library. Please contact our San Diego Chapter Librarian, [Jennifer Becky](#) for materials. For more information on eligibility and test dates, [click here](#).

ISSUE XLI

Sept/Oct 2016



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"If your actions inspire others to dream more, learn more, do more and become more, you are a leader."

- John Quincy Adams

Take advantage of the resources at
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The ALA Job Bank is a great place to post for talented managers and staff!

For more information and to submit job postings, please contact:

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schaible@higgslaw.com

Or visit the San Diego ALA website to see what's new!

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THE MANDATE



Gain more from your membership and get involved in 2016!

Dear Chapter Members:

Do you want more out of your membership? Would you like to network with like minds? How many times have you been faced with an issue where "no one else understands" and you could use a group of peers to consult?

Then take the opportunity to get involved in the SD Chapter in whatever capacity you are comfortable:

- Are you good behind a camera? Consider taking photos at our meetings and events, or share the fun with another member.
- Do you thrive on community involvement? Look into our Community Connections efforts, Couture for a Cause and Project LEAP, our program for high school students.
- Maybe you have great ideas for increasing membership in the Chapter? Join the Membership Committee and help lead our Peer Connections program.
- Are you organized and task oriented? We need help with CLM materials, Bylaws/Ethics, Historian tasks, as well as the Salary Survey.

The 2016 – 2017 Chapter term starts on April 1, 2016, but planning is paramount. I would love to see more of you involved. I have included a brief description of each committee, and the ALA Membership Handbook has a more detailed one, or just ask me or another current Board member.

Let's work together to make our Chapter the best it can be! Please complete the information below and return it to me at rushworth@higgslaw.com, or give me a call at 619-595-4393.

All my best,

Anna Rushworth
Past President 2016-2017

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Association of Legal Administrators

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THE MANDATE



Gain more from your membership and get involved in 2016!

Name _____ Firm: _____

Phone No. _____ Email _____

I'm interested in volunteering for the following committee(s) (you are not beholden to all you select):

- ___ **Chapter Audit** – perform audit of Chapter finances once a term.
- ___ **Chapter Library / CLM Materials** – maintain materials to loan to members; organize CLM study program?
- ___ **Bar / Professional Association Liaison** – Chapter's connection to other legal organizations.
- ___ **Bylaws / Ethics** – maintain and update Chapter Bylaws, as necessary.
- ___ **Communications** – provide efficient and effective communication to Chapter members, including the "Month-at-a-Glance."
- ___ **Community Connections / Project LEAP** – charitable Chapter efforts; Couture for a Cause; work with local high schools to create programs promoting opportunities in the legal profession.
- ___ **Diversity Committee** – plan annual diversity presentation; promote diversity within the Chapter.
- ___ **Education** – work with President Elect on planning Chapter education activities/speakers.
- ___ **Handbook** – maintain and update membership handbook.
- ___ **Historian** – maintain Chapter memorabilia.
- ___ **Invitations** – design and create options for invitations for BP luncheon, MP luncheon, Leadership Dinner, and other Chapter events.
- ___ **Legal Resource Fair** – Chapter annual Business Partner resource fair in February.
- ___ **Meetings Coordinator / Hospitality** – assist Meetings Chair to coordinate Chapter meetings.
- Receive RSVP's; maintain name badges; and/or welcome attendees.
- ___ **Membership** – team up with the Vice President/Membership Chair to bring in new members and maintain current membership.
- ___ **The Mandate (Chapter Newsletter)** – with Editor-in-Chief produce bi-monthly newsletter.
- ___ **Photographer** – photograph Chapter meetings, events, and other functions.
- ___ **Public and Media Relations** – represent the Chapter in publicizing and promoting events.
- ___ **Salary Survey** – implement annual Chapter salary survey.
- ___ **Academic Scholarship** – selection process to promote and award an academic scholarship to two deserving students.
- ___ **Social Media** – assist Social Media Chair in promoting Chapter LinkedIn, Facebook, and Twitter pages.
- ___ **Business Partner Relations** – work with Director of BP Relations in promoting, managing and maintaining vendor relations.
- ___ **I'd like to help another way:** _____



NINTH CIRCUIT STRIKES DOWN CLASS ACTION WAIVERS IN EMPLOYMENT ARBITRATION AGREEMENTS

By: Benjamin J. Kim, Esq &
Christine de Bretteville, Esq

On August 22, 2016, the U.S. Court of Appeals for the 9th Circuit (which covers California) struck down a "concerted action waiver" (*i.e.*, a waiver of class, collective or other group actions) in an arbitration agreement. This decision directly conflicts with opinions by other federal appellate courts as well as those of the California State Supreme Court. Accordingly, some employers are considering whether to reassess arbitration agreements that contain such waivers.

In *Morris v. Ernst & Young, LLP*, the Ninth Circuit held that Ernst & Young's mandatory arbitration agreement was invalid because it required that employees bring all claims in arbitration and limited such claims to those brought on an individual (as opposed to a class or collective-wide) basis. Aligning with the view of a recent decision from the Seventh Circuit Court of Appeals, the Ninth Circuit held that an employee's right to bring a "concerted legal claim" regarding wages, hours, and the terms and conditions of employment is a "substantive right" under Sections 7 and 8 of the National Labor Relations Act (the "NLRA"), which cannot be waived. The Ninth Circuit's opinion deepens the split with the bulk of circuits, several of which have upheld the use of such waivers. Thus, many believe that this issue is now ripe for review by the U.S. Supreme Court and expect Ernst & Young to appeal.

A Summary of Morris

As a condition of employment at Ernst & Young, the company required employees to sign an arbitration agreement that included a "concerted action waiver"—meaning that any claims that they brought against the company had to be brought individually—rather than as class or collective actions. Nevertheless, plaintiffs filed a class and collective action in federal court alleging that Ernst & Young had misclassified them and similarly situated employees in violation of the Fair Labor Standards Act ("FLSA") as well as state law. The trial court compelled the case to arbitration on an individual basis, and plaintiffs appealed.

On appeal, the plaintiffs argued that the provision requiring them to bring individual actions only in "separate proceedings" violated their right to engage in "concerted activities for the purpose of collective bargaining and other mutual aid or protection" under the NLRA, the Norris-LaGuardia Act, and the FLSA. Chief Judge Sidney Thomas, writing for the majority, agreed.

The Court held that the NLRA explicitly grants to employees the right to seek improvement in their

working conditions through judicial and administrative forums, which includes a "lawsuit filed in good faith by a group of employees." This right, together with the right to engage in concerted activities for their mutual aid and protection, "establish the right of employees to pursue work-related legal claims, and to do so together." As such, the Court held that the ban on concerted legal action itself was an unfair labor practice under the NLRA and that requiring employees to sign such a contract constituted a second violation.

The Court dismissed Ernst & Young's argument that the Court's ruling was in tension with its rights under the Federal Arbitration Act ("FAA"). The Court held that the illegality of the requirement that employees bring separate, individual proceedings in arbitration had nothing to do with arbitration as a forum. Rather, the problem with the contract was that it "defeats a substantive federal right to pursue work-related legal claims."

Based on the central premise that the right to engage in collective legal action is a substantive, rather than a procedural, right, the Court concluded that the FAA does not and cannot mandate the enforcement of a contract that alleges its waiver.

What Should California Employers Do In Response, If Anything?

Given the split among the circuits on this issue, an appeal to the United States Supreme Court seems likely. If there is further appeal or review, the *Morris* decision will not have precedential effect until that appeal is resolved. If there is no appeal (or if no review is granted), then *Morris* could affect the enforceability of class or collective action waivers in arbitration agreements, particularly in federal courts. In the meantime, the California Supreme Court's holdings in *Iskanian v. CLS Transportation Los Angeles, LLC*, that: (1) the FAA preempts any state law rule that restricts enforcement of terms in an arbitration agreement; and (2) the NLRA does not prevent the enforcement of a class action waiver in an arbitration agreement remain the controlling law in the state, particularly for state law claims. Employers should monitor *Morris* and other potential developments in this area of the law and make informed decisions regarding whether to review or revise existing arbitration agreements with similar waivers.

For more information or a consultation, please contact the Allen Matkins authors at:

bikim@allenmatkins.com;

cdebretteville@allenmatkins.com

TAKE A BREAK FROM COFFEE – TRY SOME WATER

Did you know water is the second most consumed beverage behind soft drinks? But why not make it number one? According to WebMD, these are just a few reasons to swap out the coffee for a nice cup of H₂O:

1. Water helps control calories. Substituting water for beverages higher in calories keeps your body sated so you do not end up overeating.
2. Water helps energize muscles. When your cells do not maintain their fluid balance they shrivel, resulting in muscle fatigue. Energized muscles will make you more alert throughout the day.
3. Water keeps your skin looking good. While over-hydration won't erase wrinkles, proper hydration will keep your skin from looking dry, or dehydrated.



MEMBERSHIP REPORT SEPTEMBER 2016

By Karen Lemmon

MEMBERSHIP NEWS

New Members

Robert Santos

Director of Administration
Manning & Kass Ellrod, Ramirez, Trester LLP

Prospective Members Cont.

Kimberly Pimley

Office & HR Manager
Tyson & Mendes LLP

Jazmin J. Torres

Office Administrator
Shustak Reynolds & Partners, PC

Dorinda Miller

Father Joe's Village

Current National Members: 105

Current Chapter Members: 98



Know someone who should be a member of ALA? Refer them to Karen and earn points toward great prizes!

For more information and to participate in the program, please contact:
KAREN LEMMON

(619) 255-6450
klemmon@eps-law.com

Or visit the San Diego ALA website to see what's new!

<http://www.sandiegoala.org/>

Sign with the Winning Team

And Get All This:

Enriching education sessions
Peer networking
Keep up with legal trends
Professional growth
Business Partner connections
New friends & FUN!



Get in the game and join us for an exciting year ahead!

Earn Game Points by attending events and referring new members. Every point is worth one ticket that will be entered into several drawings for fabulous prizes on the following dates:

TWO Fall Conference Scholarships w/stipend – drawing on 7/19/16

Game Points will accumulate from April 1 to June 30 (must be present to win)

Tablet and other prizes – drawing at the Holiday Luncheon, 12/6/16

Game Points will accumulate from April 1 to November 30

ACTIVITIES TO EARN POINTS	GAME POINTS EARNED
Renew Your Membership	2
Join as a New Member	3
Refer a New Member	3
Attend a Regular Monthly Membership Meeting	1
Attend a Monthly Board Meeting	2
Attend the Diversity Meeting	2
Attend the Annual Conference	3
Attend Cocktails and Connections	3
Attend the Business Partner Appreciation Luncheon	2
Attend Couture for a Cause Event	2
Attend the Managing Partner Luncheon	1
Bring your Managing Partner to MP Luncheon	1
Attend a Chapter Social	1
Sign up with the Peer Connection Program	2
Attend the Business of Law Conference in the Fall	3
Volunteer on a Committee	2
Participate in the 5K Run	2

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ALA SAN DIEGO 2016/2017 CALENDAR

MARCH 22	LEADERSHIP DINNER The Prado in Balboa Park
APRIL 12	LEADERSHIP RETREAT Morton's Steakhouse <i>Sponsored by Morton's</i>
APRIL 19	MEMBERSHIP MEETING The Westgate Hotel <i>Sponsored by Officia Imaging</i>
MAY 17	MEMBERSHIP MEETING Doubletree Mission Valley <i>Sponsored by Adams & Martin</i>
MAY 22-25	ALA NATIONAL CONFERENCE Los Angeles, CA
JUNE 21	DIVERSITY EVENT The Westgate Hotel <i>Sponsored by Eastridge</i>
JULY 19	MEMBERSHIP MEETING The Westgate Hotel <i>Sponsored by First Legal Network</i>
JULY 28	COCKTAILS & CONNECTIONS Allen Matkins Conference Center
AUGUST 16	MEMBERSHIP MEETING The Westgate Hotel <i>Sponsored by DTI</i>
AUGUST 24	MEMBER SOCIAL AT THE PADRES GAME Petco Park <i>Sponsored by Nationwide & Ricoh</i>
SEPT 20	BUSINESS PARTNER APPRECIATION LUNCHEON The Doubletree Mission Valley
SEPT 29	COUTURE FOR A CAUSE San Diego Hall of Champions
OCTOBER 6-8	BUSINESS OF LAW CONFERENCE Phoenix, AZ
OCTOBER 18	MANAGING PARTNER LUNCHEON Morton's Steakhouse <i>Sponsored by Eastridge</i>
OCTOBER 27	MEMBER SOCIAL Courtyard Marriott <i>Sponsored by Courtyard Marriott</i>
NOVEMBER 15	MEMBERSHIP MEETING The Westgate Hotel <i>Sponsored by Legal Staff</i>
DECEMBER 6	HOLIDAY LUNCHEON The Westgate Hotel <i>Sponsored by Knox Attorney Services</i>
JANUARY 24	MEMBERSHIP MEETING The Westgate Hotel <i>Sponsored by Robert Half Legal</i>
JANUARY 19	MEMBER SOCIAL Morton's Steakhouse <i>Sponsored by Morton's</i>
FEBRUARY 14	LABOR LAW UPDATE / LEGAL RESOURCE FAIR The Doubletree Mission Valley
MARCH 21	LEADERSHIP DINNER Location TBD
BOARD MEETINGS	4/12/16; 5/10/16; 6/14/16; 7/12/16; 8/9/16; 9/13/16; 10/11/16; 11/8/16; 1/10/17; 2/7/17; 3/14/17. Locations TBD

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ASSOCIATION OF LEGAL
ADMINISTRATORS
SAN DIEGO CHAPTER
SAVE THE DATES

Upcoming Monthly Membership Meetings
RSVP: Kathy Culver at kculver@ssvwlaw.com

September 2016

September 20 **Business Partner Appreciation Luncheon**
Topic: *"The Phil & Bill Tech Trunk Show 2016"*
Speaker: Phil & Bill (Phillip Hampton & William Ramsey)
Time: 11:45 a.m. to 1:15p.m.
Location: Doubletree by Hilton (MV)

October 2016

October 18 **Managing Partner Luncheon**
Topic: *"Crisis 101: What to do When the Unexpected Happens"*
Speaker: Corey Saban
Time: 11:30 to 1:30 p.m.
Location: Morton's Restaurant Downtown

November 2016

November 15 **Monthly Luncheon**
Topic: *Active Shooter Defense – exact title TBD*
Speaker: Stephen Laskowski, FBI San Diego
Time: 11:30 to 1:30 p.m.
Location: The Westgate Hotel

December 2016

December 6 **Annual Holiday Luncheon**
Topic: *Mirth and Merriment*
Time: 11:30 to 1:30 p.m.
Location: The Westgate Hotel

BOARD & MEMBERSHIP

OCTOBER BOARD MEETING . . . OCTOBER 11, 2016
12:00 – 1:30 HIGGS FLETCHER & MACK

OCTOBER MEMBERSHIP MEETING . . . OCTOBER 18, 2016
11:45 – 1:15 MORTON'S STEAK HOUSE DOWNTOWN

NEW MEMBER FALL SOCIAL . . . OCTOBER 27, 2016
5:00 – 7:00 COURTYARD MARRIOTT DOWNTOWN SAN DIEGO

A SPECIAL THANKS TO OUR BUSINESS PARTNERS!



THE MANDATE

Please congratulate our
2016/2017 BOARD OF DIRECTORS!



President	Tammie McQuain	619/819-2433
President Elect - Education Chair	Shaila Schaible	619/236-1551
Vice President - Membership Chair	Karen Lemmon	619/255-6450
Treasurer	Cynthia Barron	619/241-4814
Secretary	Stephen Williamson	858/451-9390
Director - Business Partner Relations	Wendy Connor	619/525-1300
Director - Bank Statement Auditor	Carrie Merzbacher	619/942-2897
Director at Large	Katya Adams	858/535-1511
Past President	Anna Rushworth	619/236-1551

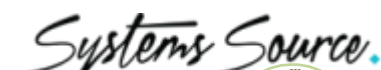
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And our

2016/2017 COMMITTEE CHAIRS/MEMBERS

Academic Scholarship Chair	Carrie Merzbacher	858/942-2897
Business Partner Relation Chair	Wendy Connor	619/525-1300
Bylaws/Historian Chair	Patti Groff	619/233-4777
Chapter Audit Chair	Liz Whitten	619/238-1811
Chapter Awards/LRF/Prof. Association Liaison	Anna Rushworth	619/236-1551
Chapter Library/CLM Materials Chair	Jennifer Beckey	619/765-6613
Communications Chair (MyEmma/MAAG)	Carol McCabe	619/209-3000
Community Connections Chair (C4C)	Henry Angelino	619/696-1410
	Angela Landeros	619/699-8338
	Tammie McQuain	619/819-2433
	Monica Menzer	619/233-1155
Diversity Chair	Michael Steiner	619/819-1324
Education Chair	Tammie McQuain	619/819-2433
Employment Job Bank	Shaila Schaible	619/236-1551
Meeting Coordinator	Monica Menzer	619/233-1155
Hospitality Chair	Stephanie Villa	619/241-2541
	Lauren Bloodworth	619/744-0864
	Wendy Connor	619/525-1300
Invitations Chair	Wendy Connor	619/525-1300
Membership Chair	Karen Lemmon	619/255-6450
Peer Connections Chair	Karen Lemmon	619/255-6450
Newsletter Editor	Stephen Williamson	858/451-9390
RSVP's	Kathy Culver	619/239-7200
Project LEAP Chair	Ginger Boss	619/234-1776
Media and Public Relations Chair	Carol McCabe	619/209-3000
Salary Survey Chair	Shaila Schaible	858/755-8500
Social Media/Photographer	Cirilia Walker	858/345-5079
WebMaster	Matt Chaffee	619/232-0441
5K 4 Kids Chair	Stephen Williamson	858/451-9390
	Carol McCabe	619/209-3000
	Wendy Connor	619/525-1300



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Please check the Chapter's Business Partner Directory *first* when you're shopping for a product or service for your firm. Not only are our Business Partners committed to delivering the highest quality products and services, they are also committed to furthering the goals of ALA San Diego by providing the funding we need for the outstanding educational and networking events and scholarship opportunities we value as members.

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