

CRIMINAL COURTS BAR ASSOCIATION  
**NEWSLETTER**

PUBLISHED BY THE CRIMINAL COURTS BAR ASSOCIATION

MARCH 2014

**MARCH MEETING**

*The Criminal Courts Bar Association  
cordially invites you to the  
March Dinner Meeting*

*The 2010 President's Award Winner*

HONORABLE

MITCHELL BLOCK

&

JORGE BLANCO AND ADAM GONZALEZ  
FROM DELANCEY STREET FOUNDATION



*"Sentencing Options and Alternatives"*

**TUESDAY, MARCH 11, 2014**

*Cocktails & Appetizers - 6:30 p.m.*

*Dinner Meeting begins promptly at 7:00 p.m.*

*\$40.00 per person*

*LES FRERES TAIX RESTAURANT*

*1911 Sunset Blvd., Los Angeles, CA 90026 (Near Alvarado)*

**1 hour MCLE Pending**

Reservations advised. Call Elizabeth at (626) 577-5005.

## THE ROBERT M. TAKASUGI JUDICIAL EXCELLENCE AWARD

The Criminal Courts Bar Association is pleased to announce that the Judicial Excellence Award will now be named after the Honorable Robert M. Takasugi.

Judge Takasugi was appointed to the Los Angeles Municipal Court in 1973 by then Governor Ronald Reagan. Two years later Governor Jerry Brown elevated him to the Los Angeles Superior Court. In 1976 President Ford named him to the federal bench. He went on senior status in 1996 and continued to hear cases until his passing in August 2009 at the age of 78.

Judge Takasugi handled a number of high profile cases, including the 1980 case that led to a Los Angeles Police Department ban on choke holds and the 1984 cocaine trafficking trial of automaker John Z. DeLorean.

Judge Takasugi was a survivor of a World War II relocation camp of Japanese Americans and he was known for his compassion for victims of injustice and his calm demeanor in the face of sometimes outrageous courtroom antics.

The Criminal Courts Bar Association is pleased to announce that the Judicial Excellence Award will now be named after this great man.

## HOLLYWOOD ROOSEVELT HOTEL

### HISTORY

Bringing glamour back to the Boulevard, Thompson Hotel's Hollywood Roosevelt Hotel reincarnation resonates with the opulence of its fabled past. The Hollywood Roosevelt Hotel has a long history of catering to the show business elite. The hotel was founded in 1927 by a syndicate of Hollywood luminaries (including Mary Pickford, Douglas Fairbanks, Sid Grauman, and Louis B. Mayer) to house east coast movie-makers who were working on the west coast. Hollywood Roosevelt hotel's "Blossom Room" hosted the first-ever Academy Awards ceremony, on May 19, 1929. That was also the shortest Oscar ceremony ever, lasting just five minutes, as Douglas Fairbanks and Al Jolson helped give away 13 statuettes. Marilyn Monroe was a resident at the Hollywood Roosevelt for two years when her modeling career took off. Her first magazine shoot was taken on the diving board on the pool behind the hotel, which was recently removed. The hotel's remodeled pool contains an underwater mural painted by David Hockney.

### OVERVIEW

Bringing glamour back to the Boulevard, Thompson Hotel's Hollywood Roosevelt Hotel reincarnation resonates with the opulence of its fabled past. Located in the heart of Hollywood on the Walk of Fame across from the Grauman's Chinese Theater, The Roosevelt stands out among Hollywood Blvd. hotels, housing some of the hottest drinking and eating venues on the west coast. These include the famous poolside Tropicana Bar, celebrity haunt Teddy's nightclub, The Library Bar, which is acclaimed for its hand crafted cocktails, The Spare Room, a speakeasy gaming lounge featuring vintage bowling lanes and classic cocktails, and vaudeville inspired theater Beacher's Madhouse. Public Kitchen and Bar serves eclectic American fare in a social atmosphere and award winning 24 Hour burger joint 25 Degrees offers a variety of dining options. To top it off, the hotel's heated outdoor swimming pool provides guests the only locale in the world where they can swim in a million dollar work of art painted by acclaimed artist David Hockney. The luxury hotel on Hollywood Boulevard is constantly buzzing with the entertainment industry's glitterati.

## 2014 CRIMINAL COURTS BAR ASSOCIATION AWARD WINNERS

*The Criminal Courts Bar Association is pleased to announce that the 61<sup>st</sup> Annual Awards Dinner will be held on Saturday, April 26, 2014, at the prestigious Hollywood Roosevelt Hotel.*

*The Criminal Courts Bar Association is pleased to announce for the first time the award winners for 2014:*

**JERRY GIESLER MEMORIAL AWARD**  
*CHRISTOPHER CHANEY*

**JOSEPH M. ROSEN JUSTICE AWARD**  
*JAY JAFFE*


**JOURNALISM EXCELLENCE AWARD**  
*TBD*

**ROBERT M. TAKASUGI  
JUDICIAL EXCELLENCE AWARD**  
*HONORABLE LANCE ITO*

**MORT HERBERT SERVICE AWARD**  
*JOHN YZURDIAGA  
& PAUL HORGAN*

**JOHNNIE COCHRAN AWARD**  
*VERNA WEFALD*

**PRESIDENT'S AWARD**  
*MIMI SILBERT,  
DELANCEY STREET FOUNDATION*



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# CCBA NEWSLETTER CASE DIGEST

By Gary Mandinach

*People v. Sanchez* (2014) \_\_ Cal.App.4th \_\_, reported on January 22, 2014, in 2014 Los Angeles Daily Journal 663, the Fourth Appellate District, Division 3 held that, pursuant to *People v. Rodriguez* (2012) 55 Cal.4th 1125, the defendant cannot be convicted of the offense of actively participating in a street gang (§ 186.22, subd. (a)), as such a conviction requires more than a lone actor. However, there is nothing in section 186.22, subdivision (b)(1), the gang enhancement, that precludes the finding of that enhancement true, when the defendant acts alone for the benefit of a street gang. It was not error for the court to allow an expert's testimony which provided substantial evidence for the gang enhancement where opinion was supported by facts admitted into evidence, not speculative inferences based on defendant's record of prior offenses and past gang activities alone. (See *People v. Martinez* (2004) 116 Cal.App.4th 753, 762.) The admission of statements that were recorded by police officers, who did not testify, did not violate Sixth Amendment where evidence (*People v. Gardeley* (1996) 14 Cal.4th 605, 618; see also *Crawford v. California* (2004) 541 U.S. 36, 60, 63, 68), was admitted as basis for gang expert's opinion. (See *People v. Fields* (1990) 51 Cal.3d 1063, 1070.)

*People v. Sy* (2014) \_\_ Cal.App.4th \_\_, reported on January 22, 2014, in 2014 Los Angeles Daily Journal 680, the Fourth Appellate District, Division 1, held that the evidence was sufficient to sustain the convictions for selling or possessing counterfeit marks pursuant to section 350, subdivision (a) (2), in this case counterfeit handbags and jewelry. The evidence showed they were selling identical marks without the prosecution establishing the labeled items were confusingly similar to genuine registered marks or the defendants had the intent to defraud customers. The Court of Appeal found that there was sufficient evidence of this offense, even if the customer knew that the merchandise was not authentic. An intent to defraud is not an element of the offense. (See *People v. Dieguez* (2001) 89 Cal.App.4th 266, 279-280.) The Court of Appeal also rejected appellant's claim that the statute is unconstitutionally vague, wherein they claimed that the statute does not require an intent to defraud or a likelihood the use of the mark created confusion, mistake or deception about the origin of the product. (See *Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1106-1107 [a statute should be sufficiently certain so that a person may know what is prohibited, but it cannot be held void for uncertainty if any reasonable and practical construction can be given to its language.]) Additionally, section 350 is not unconstitutionally vague for lack of requiring an intent to defraud or likelihood of creating confusion about a product, since the statute gives adequate notice of the prohibited conduct where it limits its application to willful, knowing, or intentional dealings with counterfeit marks that are used or intended to be used as a registered mark. The trial court also did not err by imposing victim restitution to may of the trademark holders pursuant to section 1202.4, subdivision (k)(2), a direct victim against whom the defendant committed the crime. (*People v. Anderson* (2010) 50 Cal.4th 19, 28.) Additionally, the Court of Appeal upheld the trademark holders investigative costs for assisting in the investigation and prosecution as they are economic losses that were incurred as a result of the defendant's conduct. (See *People v. Ortiz* (1997) 53 Cal.App.4th 791, 797-798; see also *People v. Chappelone* (2010) 183 Cal.App.4th 1159, 1182-1183.)

*People v. Casica* (2014) \_\_ Cal.App.4th \_\_, reported on January 27, 2014, in 2014 Los Angeles Daily Journal 952, the Fourth Appellate District, Division 3 held that the trial court erred when it imposed concurrent sentences for forgery and burglary rather than staying, pursuant to section 654, the forgery (§ 470) counts, when it imposed the commercial burglary counts, that arose from the same single objective without evidence of separate intent, even if the cashing of checks took place at different time periods.

## ☞ DINNER MENU ☞

Appetizer:

### Country Platter

Salami, Cold Cuts, Ham and Smoked Meats



The main entrees will be:

### Pot Roast of Beef

Lean pot roast served with Bordelaise sauce

### Filet of Sole

Entrees include relish trays, soup du jour, fresh sourdough bread, garden salad with house vinaigrette dressing, fresh vegetable, rice or potato, sherbet and coffee or tea.

*People v. Falls* (2014) \_\_ Cal.App.4th \_\_, reported on January 29, 2014, in 2014 Los Angeles Daily Journal 1101, the Fourth Appellate District, Division 1 held that the trial court did not err in failing to hold a *Faretta* hearing, since he did not make a *Faretta* motion because he did not "unequivocally" communicate his intention to represent himself. (See *People v. Skaggs* (1996) 44 Cal.App.4th 1, 5-8.) The mere fact that the defendant's expressed dissatisfaction with his lawyer during a Marsden hearing, saying he'd like to go pro per if he could, was an explanation as to why his motion to substitute counsel should be granted and not a clear statement of intent to exercise his right under *Faretta*. Secondly, the defendant was properly convicted under two forgery statutes, section 476, when he attempted to pass a check that was not his, and section 475, subdivision (c), by possessing the check. Both convictions were upheld since convictions for violating separate statutes are proper, even if the statutes constitute "different statements of the same offense."

*People v. Superior Court (Sanchez)* (2014) \_\_ Cal.App.4th \_\_, reported on January 30, 2014, in 2014 Los Angeles Daily Journal 1198, the Third Appellate District held that a plea agreement is like a contract which is to be enforced by the court so that each side gets the benefit of its bargain. (See *People v. Segura* (2008) 44 Cal.4th 921, 930 [acceptance of the agreement binds the court to the agreement]; *People v. Shelton* (2006) 37 Cal.4th 759, 767 [a plea agreement is like a contract].) The plea agreement would have required the trial court to impose an unauthorized sentence (life with a minimum term of 7 years pursuant to section 3046 for attempted murder, rather than the bargained for sentence of 25-Life). The 7 to Life term was invalid and could not be enforced to the detriment of the prosecution, and at the same time the court could not impose an unauthorized sentence; furthermore the court could not, over prosecution's objection, substitute a legally authorized sentence for the one agreed to.

*In re Lira* (2014) \_\_ Cal.4th \_\_, reported on February 4, 2014, in 2014 Los Angeles Daily Journal 1396, the California Supreme Court held that, the parole board's first suitability finding was overturned by the governor, but its second such finding was not and the petitioner was released. The Court of Appeal found that where the petitioner's writ petition challenging the governor's first decision was still pending at the time of his release and the court eventually found the first denial unsupported by evidence, he was not entitled to credit against his parole term for the time he spent in prison between the erroneous reversal and his eventual release.



## CRIMINAL COURTS BAR ASSOCIATION

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### QUOTATIONS ABOUT JUSTICE

A jury consists of twelve persons chosen to decide who has the better lawyer. ~Robert Frost

When you go into court you are putting your fate into the hands of twelve people who weren't smart enough to get out of jury duty.  
~Norm Crosby

### SAVE THE DATE

- *CCBA Dinner Meeting will be held on Tuesday, March 11, 2014, at Taix Restaurant. Guest speakers will be Hon. Mitchell Block and Jorge Blanco and Adam Gonzalez representatives from Delancey Street Foundation, "Sentencing Options and Alternatives."*
- *CCBA Annual Awards Dinner will be held on Saturday, April 26, 2014 at the Hollywood Roosevelt Hotel.*
- *NO DINNER MEETING IN APRIL.*
- *CCBA Dinner Meeting will be held on Tuesday, May 13, 2014. Award winning documentary will be presented. Location to be announced.*

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