

September 2017

## Regional Meetings of Diocesan Attorneys

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### Recommended Citation

Joseph J. Brandlin, Esquire (1986) "Regional Meetings of Diocesan Attorneys," *The Catholic Lawyer*. Vol. 30 : No. 3 , Article 9.

Available at: <https://scholarship.law.stjohns.edu/tcl/vol30/iss3/9>

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# REGIONAL MEETINGS OF DIOCESAN ATTORNEYS

JOSEPH J. BRANDLIN, ESQUIRE\*

Wil Caron, through Jerry Lamberti, asked that the report that I give on the California Diocesan Attorneys meetings cover certain specific items. Number one is organization; and I could, of course, make a list of all different kinds of organizations that a group of California lawyers now have expanded somewhat, the type of organizations that we might have chosen. But the answer is that we have no organization, and I think that's part of our success.

There are twelve dioceses in California. In addition, at our meetings, we have represented the diocese of Reno/Las Vegas, Nevada, which covers the entire state of Nevada. We have Tucson represented by the Murphys, and recently Phoenix by Bill Mahoney. Also attending the meetings is the director of the California Catholic Conference and usually the lobbyists who represent the bishops of the State of California.

Our attendance at meetings is very good. There are seldom more than one or two dioceses that are not represented. And frequently dioceses will send two or three representatives. For example, San Diego often sends its controller, and he's here today, mainly to see that Steve Mulligan's expenditures stay in line. My archbishop sends a sister, Sister Judith Murphy, who happens to be a practicing attorney, and her primary role is to see that I do not espouse any heretical views such as those that seem to be very popular in the San Francisco archdiocese.

The second item that I was asked to cover is the matter of the agenda, how we arrive at the agenda. We don't have a prearranged agenda. We don't have a secret agenda. But we do send memorandums to the various attorneys during the course of the period between meetings if we have a special problem that we'd like to have covered at the meeting, and that item does get on an agenda. But normally the agenda is handled in a very simple fashion.

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We go right around a table. We have about fifteen participants representing the dioceses in California, Nevada and Arizona. Each person raises the questions that are presently giving him problems in his locality. He may talk about a matter that he has already handled to obtain any additional ideas as to that particular subject. We have good discussions. We exchange information on new questions. In California, we have a new diocese formed every few years, and this brings about a review of matters that were covered in the past for the benefit of the new diocesan attorney. We have three meetings a year, one in the fall, one in the late winter, and we meet, as most of you know, back here on the first day of this session. We shall have a noon meeting in the hospitality room today.

The last item of business at each diocesan attorneys meeting is to determine where we should meet the next time. When the location is chosen, the diocesan attorney in that area makes the arrangements for the meeting at the hotel selected. We also take care of the arrangements for the Friday night get-together before we go out to dinner. Originally, we had a cocktail party on Friday night and about 8:00 in the evening somebody would say: "Well, I think we better go to dinner. Where shall we go?" It's not very easy to make a reservation at a good restaurant at 8:00 on a Friday night. That system didn't work very well, and that's where the wives come in. We have a committee of wives, and they now make all the arrangements for our Friday night and Saturday night dinners. The result is, of course, that we have improved quality immensely — and also increased our costs.

We convene Saturday morning at about 9:00 o'clock for our business session. We engage a conference room at the hotel where we're staying and work straight through until noon, take a break and come back after lunch and work another hour or two, if that's necessary. However, we are becoming so efficient that now we can usually finish our work by 12:30 or 1:00, have lunch and the rest of the afternoon is free time.

Saturday evening we go through the same routine as Friday evening. Sunday everybody is on his own. I think a key part to the success of our meetings is the fact that we have good attendance, and we get good attendance because we have the meetings in good locations, locations that most of us want to go to. We arrange the whole affair with the idea that people will want to come. Then for the four or five hours that we work, we think that we have a productive session.

For example, this fall we're going to meet in the little town of Sonoma, which is up in the wine country, and we're there the weekend of the wine festival. Last fall we were at the Ahawahnee Hotel in Yosemite, which is where Queen Elizabeth was entertained. We didn't have the Queen making arrangements for us, but Tom Shepherd represented the Ahawahnee Hotel, and he handled the reservations, and it was a very successful meeting in a beautiful location.

We did have one problem. There was a dispute between the diocese of Stockton and the diocese of Fresno as to what diocese the Yosemite National Park was located in. But that was resolved after Dick Andrews' firm agreed to give us a very sumptuous cocktail party on Saturday night. We voted part of the park to the diocese of Fresno.

In the winter, we meet in Palm Springs, and in the fall in Monterey, Carmel, or one of those areas. There are a couple of places we haven't gone to, and it is intentional. I hate to say it, but Sacramento is one of them. Just the thought of Lou Desmond as the chairman of the meeting is intolerable to most of us. So we've stayed away from Sacramento, and the chairman, I might add, is always the diocesan attorney where we're meeting. The other place that we don't go to is Oakland. Nobody goes to Oakland voluntarily. Even the Raiders left Oakland, as you know.

With respect to the subjects that we discuss, and this is really the most important thing that I can contribute to this meeting because, despite of all the enjoyment that we have, we do have a good business session. I'll give you an idea of the different subjects that have been covered in the last two or three meetings.

-At one of the last meetings, the question was raised as to whether our cemeteries should be separately incorporated as nonprofit corporations or whether they should be a part of the Roman Catholic Bishop corporation sole of a particular diocese. The reason for the subject coming up is that California has some rather strict rules on maintaining funds for perpetual care and perpetual operation of cemeteries. There is an exemption in favor of church cemeteries. So the question was raised as to whether we were better off putting our cemeteries in the corporation sole or, as some dioceses did, keeping the cemeteries in the RCA.

-Another question raised was how we handle the letter of representation that the attorneys write the auditors at the time of the annual audit with respect to the possible liability of the diocese for damages arising out of the use of asbestos in the schools of the dioceses.

-Another question was regarding recent statutes passed in California limiting the questions that can be asked on employee applications. Those questions are limited with respect to private, for-profit corporations as opposed to public benefit corporations. The question was whether those limitations on the employer's inquiry would apply to religious corporations and corporations sole.

-Another point was the form of letter that was issued by the Ordinary of the diocese as to the faculties that are granted to priests, particularly the extern priests. How broad is the letter granting faculties? And that, of course, is material in litigation involving *respondeat superior*.

-Questions regarding conciliation and arbitration under the new canon law provisions were discussed.

-The rules that apply to the termination of employees, in the light of

cases that have been decided more recently which seem to give, to a certain extent, a right of an employee to his job.

-The need for separate insurance for the California Catholic Conference, or whether it should be "piggybacked" on the Sacramento diocese or whether the conference itself should carry its own insurance.

-The need for a separate incorporation of the California Catholic Conference.

-An analysis of the Voucher Plan Initiative. California has been trying to start an initiative for a voucher plan which would provide aid to nonpublic schools in a form that was thought to be constitutional.

-The question of reporting priests' compensation — whether it's on a 1099 or on a W2.

-The practice of priests in reporting their stipends for weddings, masses, baptisms.

-Regulations requiring schools to test for asbestos and report to the parents (back to the asbestos cases).

-Political activity. How far we can go in supporting a voucher plan or some other plan for aid to our schools, and the substantiality test.

-Permitting our convents to be occupied to a certain extent by other than sisters.

-Assessing rectory furnishings.

-Social Security tax, whether it is supposed to include the value of the room and board supplied by rectory employees.

That will give you an idea of the breadth of the subjects that are covered at meetings. As I say, they're raised by each of the lawyers as we go around the table.

In addition, and I think almost as important because we know each other well and we have established some very strong friendships and working relationships, between meetings it is customary, when you have a new problem, that you write or telephone one of the other lawyers for assistance on the particular subject, and we exchange documents. Particularly when a new diocese is formed, the new diocesan lawyer can use the forms already in use by the others. For example, drafts of grievance procedures at our schools are kicked back and forth, and we revise them and update them. With so much litigation, research is exchanged.

I don't think there is any question that, in addition to enjoying the meetings, we do a lot of good for our bishops. We are, I think, able to give better advice to our clients. Equally important, we can do it in less time and at less expense to the bishop. We have been having these meetings for fifteen years or more, gradually expanding from California and to and including Arizona and Nevada. I think it has been very beneficial, and we would certainly recommend it to the rest of you as a way to assist you in your practice and possibly improve the performance that you can give your bishop. Thank you very much.

MODERATOR: Thank you, Joe. I think probably the few California lawyers here are going to want equal time. Other than that, I think it's very interesting. I don't think we could follow the format through in Virginia because we wouldn't have enough diocesan attorneys to have a four-some. So we couldn't have that kind of meeting.