



NEWS RELEASE

Release Number: 37

Release Date: July 8, 2009

JUDICIAL COUNCIL OF
CALIFORNIA
ADMINISTRATIVE OFFICE
OF THE COURTS
Public Information Office
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courtinfo.ca.gov

415-865-7740

Lynn Holton
Public Information Officer

Fourth Appellate District to Launch Lecture Series on Historic Cases

Japanese-American Internment Case To Be Argued by Constitutional Law Scholars

Riverside—To celebrate the 80th anniversary of the creation of the Court of Appeal, Fourth Appellate District, in 1929 and to honor of the 100th birthday of retired Associate Justice John G. Gabbert, Presiding Justice Manuel A. Ramirez and the associate justices of Division Two today announced the first of the Justice John G. Gabbert Historic Oral Argument and Lecture Series, a series of reenactments of historic oral arguments of cases that shaped and defined the country.

The inaugural program will be held at 3:00 p.m. on Thursday, August 13, 2009, at the Court of Appeal, 3389 Twelfth Street, Riverside. A discussion, reception, and open house will follow.

To honor the courage and patriotism of the Japanese-American internees at Manzanar War Relocation Center—now a national historic site in Inyo County, which is within the boundaries of Division Two—the oral argument in *Korematsu v. United States* (1944) 323 U.S. 214, 65 S.Ct. 193, 89 L.Ed. 194, will be re-created 55 years after the decision in that case was issued.

“Revisiting the oral argument in *Korematsu* is a sensitive undertaking, but one with an important purpose,” stated Presiding Justice Ramirez. “In the history of this country, there have been a number of major court decisions that set into motion events that would change the face of the nation. Many of them have been good, even great, decisions, progressively realizing the founding fathers’ ideals of due process, equal protection, and liberty. But there have also been bad decisions, decisions that in retrospect represent retreats in the overall advance toward these goals. *Dred Scott v. Sanford* (1857) 60 U.S. (19 How.) 393, 15 L.Ed.

691, was one. Korematsu was another. We remind ourselves of these decisions in the spirit of ‘recovering history and recovering from history’ in the words of Karen L. Ishizuka’s book ‘Lost and Found’ about the Japanese American incarceration.”

The argument in *Korematsu* will be presented by two constitutional scholars, Erwin Chemerinsky, dean of the University of California, Irvine School of Law, and Dr. John C. Eastman, dean of the Chapman University School of Law. The justices of Division Two sitting en banc will hear the oral argument, joined by retired Justice John G. Gabbert. After oral argument, Deans Chemerinsky and Eastman will discuss the case and the War Powers Act.

Following oral argument and the discussion, special guests Karen Korematsu-Haigh, daughter of plaintiff Fred Korematsu, and retired Judge Ben T. Kayashima, of the Superior Court of San Bernardino County, will each share thoughts and memories. Judge Kayashima was interned at Camp Two, Poston, Arizona (near Parker), in 1942.

During the open house, tours will be available for visitors to view the gallery of art celebrating the patriotism and courage of the Manzanar detainees. The artwork is on loan from Inyo County regional and historical artist, Mr. Edward Murdy. The artwork depicts detainees during their captivity.

Presiding Justice Ramirez also stated: “Just as the decisions that propelled our country forward toward ‘liberty and justice for all’ should be celebrated, the decisions that fell short should not be forgotten, so that by remembering the errors of the past they may better be avoided in the future. While giving full weight to the opinion’s fallacies, the complete lesson cannot be learned without understanding the wartime context and separation-of-powers rationale that seemed to justify the decision at the time. (See, e.g., *Hamdi v. Rumsfeld* (2004) 542 U.S. 507, 535–536 [citing Justice Murphy’s dissent in *Korematsu* on the need for judicial reconciliation of conflicts between military and other interests].)

“While the *Korematsu* decision is to be remembered rather than celebrated, the patriotism and courage of the Japanese-American internees *is* cause for celebration. While Japanese-Americans were herded into detention facilities and stripped of their liberty and property even as their sons, grandsons, and brothers fought in Europe, the internees faced the challenges imposed on them with courage, grace, and dignity. The *Korematsu* oral argument re-creation and subsequent discussion, as well as the art display, will appropriately and soberly memorialize the Japanese-American internments while celebrating Japanese-American loyalty to and sacrifice for the United States of America.”

Events are open to the public, bench, and bar. Participating lawyers will receive MCLE credit. For more information or to make a reservation for this event, please contact Paula Garcia, Assistant Clerk/Administrator, at 951-248-0212.