This is It!
Hall of Fame Deadline
Aug. 7

By the time you’re reading this, your deadline for nominating a deserving Maricopa County attorney for the Hall of Fame will only be a few days off.
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Honoring the bright lights of the legal profession is an opportunity to remind all legal professionals of the essential work they do. And not just for their clients, but also for the system of justice and the greater good.
Bring these men and women to our attention so they may receive the recognition they deserve. Today.

X-Treme CLE a Hit, More On the Way

Departing from the usual summer movie series, June’s X-treme CLE offered more than 36 hours of CLE ranging in subjects from bankruptcy to eFiling.
Among the highest attended and rated CLEs hosted by the MCBA were the Estate Planning, Probate and Trust Section’s “Drafting for the Arizona Trust Code” and the Paralegal Division’s quarterly CLE, “Attorney-Client Privilege Distinguished from Confidentiality.”
“We chose to do as many live seminars as we could this year for several reasons,” Laurie Williams, MCBA CLE administrator, said. “We feel that live presentations are more interesting and provide a better learning environment, plus it’s a great networking opportunity.”
The month kicked off with “Bankruptcy for Non-Bankruptcy Attorneys,” reflecting the current state of the economy and the need to educate attorneys unfamiliar with bankruptcy law, Williams said.
Several MCBA sections and divisions, including the Environmental Law Section, the Construction Law Section, the Corporate Counsel Division, the Public Lawyers Division, the Employment Law Section, and the Young Lawyers Division, sponsored CLEs.
CLE was not the only thing on the agenda, as some sections and divisions took the opportunity to organize community service drives and events. The Paralegal Division sponsored a dental drive for the John C. Lincoln Dental Clinic and the Public Lawyers Division started a recycling project at the MCBA, collecting cans and other recyclables left after seminars.
“I would like to thank all of the sections, divisions and speakers that helped with the goal of a CLE a day in June and throughout the year,” Williams said. “I know how valuable everyone’s time is and appreciate their willingness to speak to our members.”
Now that X-treme CLE month has concluded, a new year of CLE is just beginning. Numerous seminars, including seminars on sports law tied in with the Arizona Diamondbacks and Phoenix Suns, are scheduled. A seminar on contests and sweepstakes presented by GoDaddy.com representative Linda Jett is also scheduled.
“Throughout the year, we are hoping to offer more of what our members want in CLE seminars and are always interested in hearing from anyone interested in speaking or seminar ideas,” Williams said. “We strive to meet our members’ needs.”
For more information on future CLE seminars, please visit our website at www.maricopabar.org and keep a lookout for future issues of the Maricopa Lawyer and weekly E-News.

2009 Summer Associates Reception

Enjoying the MCBA Diversity Committee’s annual Summer Associates Reception are (from left) Allen W. Kimbrough, MCBA executive director; Melissa Ho, Pohoefer Sheppard, PC attorney and president of the Arizona Asian American Bar Association; and John Barwell and Ed Hopkins, third year students at the University of Arizona James E. Rogers College of Law and summer associates at Mariscal, Weeks, McIntyre & Friedlander, PA. The event was held June 18 at Washington Carver Museum, formerly the only high school for black students in the days before school desegregation in the early 1950s.

MCBA Corporate Partners Add Value to Membership

We’d like to remind you that your MCBA membership includes discounts on or special access to a variety of products and services. Listed here are our current partners, with more to come. Check often at www.maricopabar.org to see what’s new.

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In Buckeye, it's a hundred and two.

If by chance you were a fan of The Dusty Chaps (a country swing band based in Tucson during the late 1970s through the early 1980s, and for some time the house band at Tucson's renowned—or infamous—Stumble Inn), the month of July may have brought to mind these lines from the song "Heatstroke."

An abnormally cool June lulled me into a sense of complacency about Arizona's desert summer. Then the dog-days of July hit like a sledge hammer with a host of 110+ degree days.

Combine the extreme heat with the less than robust economy, and its corresponding temperatures while worrying about the impact of extreme triple digit temps. For Arizona attorneys, the State Bar of Arizona has formed the Lawyers In Transition (LIT) task force, comprised of various representatives of the Arizona legal community, aimed at analyzing and addressing the needs of Arizona attorneys in today's economic environment. The program was introduced to many members at the LIT Pavilion at the recent State Bar Convention.

The website developed by the State Bar for the program (lit.mybaraz.org) offers services to help reduce overhead costs, such as the free research tool, Fastcase; offers programs and seminars to assist business development and stress management; and links to other organizations providing similar resources to attorneys whose careers are changing.

The ABA has also implemented a variety of programs and resources. The ABA link to "Free Articles on How to Survive the Recession" is one such resource. There, numerous articles are presented on a new ABA webpage to help attorneys keep their practices viable during the economic downturn.

Article topics include marketing, management, technology and finance. All are valuable tools for practitioners retooling their or her particular practice and dealing with financial pressures. The information can be found at www.abanet.org/lpm/resources/recession/home.shtml.

And, of course, in these difficult times the value of your MCBA membership continues to be readily apparent—low cost CLE, reduced cost practice management and support services, and other retail discounts continue to assist our members in these difficult times. These services can all be found at www.maricopabar.org.

There are also other things we can do if our work plates are not as full as we would like—we can use this time productively to network and build our practices in other ways. Write that article you have been thinking of, but have been putting off. Call up and reconnect with those friends, colleagues and classmates who you haven't talked to in a few months (or years). Better yet, meet for lunch or a drink. Or, visit a client to check in and see how they and/or their businesses are doing.

All of these are not only professionally fulfilling, the activities just might reap rewards in the future. You never know when that friend from school—the one that pushed you to go on that Spring Break houseboat trip—will send work your way or will be a resource to help you with a matter you are handling.

Let's not forget that mental health days are important too. While easier said than done, it is important to realize that there is life outside of work. Spend some extra time with your kids, spouse, significant other or friends.

Recently, I logged off the computer mid-afternoon, picked up my kids and went to the afternoon showing of the movie Up. I'm not sure who had more fun, my son or daughter … or me. And, movie theatres are particularly cool. Ice Age: Dawn of the Dinosaurs may just get me out of the office sometime soon.

Keep cool, and thank you for your continued support of the MCBA and all of its programs.

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LETTER TO THE EDITOR:

Water Case Not the Gila River General Stream Adjudication

Dear Editor:
The May 2009 edition of the Maricopa Lawyer contains an excellent article by Michael Jeanes, Clerk of the Maricopa County Superior Court, about the 30th anniversary of the Gila River General Stream Adjudication, which the article calls "The Water Case."

However, to many Arizona lawyers, "The Water Case" is not the Gila River General Stream Adjudication but the case known as Globe Equity No. 59, more specifically, The United States of America vs. Gila Valley Irrigation District, et al., in the District Court of the United States for the District of Arizona.

The amended complaint in Globe Equity No. 59 was filed in the U.S. District Court on Dec. 5, 1927. The case resulted in the entry of the Gila Decree on June 29, 1935—that's 74 years ago, over twice the life of the Gila River General Stream Adjudication! Because the court retained jurisdiction over the subject matter and the parties, Globe Equity is, if not the oldest, one of the oldest continuing water cases in the history of the United States.

The case bears its unique sobriquet because when it was filed and the decree entered, the case was assigned to the thendivision of the United States District Court in Globe, Az. (There is, or was the last time I checked, still a courtroom in the federal building in Globe.)

Essentially, the Gila Decree adjudicated the surface water rights on the main stem of the Gila River from its headwaters in New Mexico to its confluence with its tributary, the Salt River. The lawsuit was brought by the United States in its capacity as trustee for Native American Indian Tribes, including the Gila River Indian Community and the San Carlos Apache Tribe.

Generally speaking, water rights which have already been adjudicated in other proceedings cannot be re-adjudicated in state adjudication proceedings such as the Gila River General Stream Adjudication, although state courts can determine the preclusive effect and extent of such other adjudications and decrees.

Thus, the Gila Decree remains extant, and the United States District Court for the District of Arizona remains the forum for interpreting and enforcing the decree.

Globe Equity has seen a number of prestigious presiding justices. The decree was entered on May 31, 1935 by Judge Albert M. Sames. Following him were Arizona District Court Judges James A. Walsh, William C. Frey, Richard Bilby and William D. Browning. Thereafter, for a period of 12 years, Chief Judge John C. Coughenour of the western district of Washington presided until the case was assigned to Judge Susan R. Bolton, the current presiding judge.

When the case was assigned to Judge Bolton, the case was given a new number, but all pleadings in the case recite that it is "a.k.a. Globe Equity No. 59." Even the federal judicial system could not suppress such a historical case number, and lawyers in the case fondly refer to it by that name.

The Gila Decree is administered by the Gila Water Commissioner appointed by the District Court whose office is in Safford, Ariz., but who, with his employees, travels the geographical boundaries of the decree, which encompasses the lands of the Gila River Indian Community, the San Carlos Irrigation and Drainage District, the San Carlos Apache Tribe and lands in the Safford, Duncan and Virden, N.M. valleys.

Virtualy all Arizona water lawyers have at one time or another appeared in the case—including the most preeminent in Arizona's history of water law. Numerous trials and hearings have been held in the case since its inception, and published decisions have been rendered not only by the district court but the Ninth Circuit CA and the U.S. Supreme Court on issues arising in the case.

These decisions, as well as the record in the case, provide a wealth of historical information concerning the history of the use of the waters of the Gila River. In the record, you will find, for example, excerpts from the diary of Father Kino, which established the use of Gila River water by the predecesors of the Gila River Indian Community. One of the important determinations in the Gila Decree is the awarding to the Gila River Indians water-right priority dates of "immortal," meaning that no specific appropriation date could be affixed to the rights but
The Importance of Originals

Since Jan. 1, 2007, the Clerk’s Office has had the authority to shred original documents filed with the office after scanning and a quality control audit confirms that a digital image exists of the filing. By Administrative Order, the digital image is the original court record in the Superior Court in Maricopa County and most paper filings are shredded after imaging.

Original photographs, certificates, diplomas, and awards attached to pleadings are not exceptions and will be shredded. Judicial officers do not see original documents filed with the Clerk prior to their scanning and disposal. Two of the limited exceptions to this process are original wills and paper bonds, which are scanned, but are also maintained on paper.

Not all documents scan the same. Color photographs and color graphics, specifically, can be problematic. The office’s scanners scan to black-and-white, meaning grayscale images, color photographs or color-coded charts become black-and-white images when entered into the court record, often having a negative impact on a filing’s legibility.

Filing parties may file a reproduction of one-of-a-kind documents, keeping the original for the court to mark as an exhibit at a later time. Alternatively, color documents filed electronically will retain the color and legibility with which they are filed.

- Scanning renders color documents into black-and-white images, increases contrast and image detail is lost.
- With the loss of gray-tones and the increase in contrast, the appearance of color documents can be so changed that they no longer provide the visual information originally intended.

More Tips Related to the Filing of Original Documents on Paper
- Photographs, whether originally in color or black-and-white, do not scan well–try creating a legible copy on paper before filing with the Clerk.
- Scanning renders black-and-white photographs in greater contrast, removes gray-tones, and image detail is lost.
- Original photographs and color documents are best used as exhibits, rather than attachments to documents; or the filer may choose to electronically file the documents, which will retain the color and legibility with which they are filed.

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Law firms and corporations use paralegals to provide cost effective and efficient legal services.

A paralegal is able to perform many tasks delegated and supervised by an attorney.

Paralegals have the responsibility to disclose their status as a paralegal at the beginning of the working relationship with clients, potential clients, attorneys, court personnel and others involved with legal matters. Paralegals should always preserve the attorney-client privilege and follow the attorney’s Rules of Professional Responsibility.

Some of the benefits to using a paralegal include: paralegals produce quality, substantive work; paralegal services to clients are cost effective and enable attorneys to increase their case load; associates who utilize paralegals can advance to higher levels of work and new associates have a resource and client services are improved.

Paralegals can perform a variety of tasks under the supervision of an attorney. Common tasks performed by paralegals are: develop and maintain relationships with clients and experts; interview witnesses; conduct legal research for attorney review; draft pleadings and discovery for attorney review; database coordination; prepare documents for production; summarize depositions and hearing/trial testimony; deposition, hearing and trial preparation; and assist at depositions, hearings and trials.

Paralegals should not establish attorney-client relationships; set legal fees; give legal opinions/advice; represent a client before a court unless authorized by the court; or engage in the unauthorized practice of law.

Couple of Notes

Thank you to everyone that contributed to our Dental Drive. We were able to give the John C. Lincoln Health Network’s Desert Mission Children’s Clinic over 335 dental goody bags.

Don’t forget to register for the 10th Annual Paralegal Conference. Registration forms can be found on our website, www.maricopabar.org, and look for the new section on our website, “Updates from Superior Court.”

Starting Over After Losing a Job

By Kelly Gray, CP

Did you ever picture having to start over in a profession you have worked in for over 16 years? Well, neither did I.

Then the unthinkable happened: I was informed that my position had been eliminated. At that point, my self-confidence, self-esteem and self-worth went right out the window. I allowed my job to define who I was and when it was gone, I had no idea what to do. Not to mention, by placing my job first, I

Calendar of Events

AUGUST
4 Tuesday Conference Committee Meeting
10 Monday Board of Directors Meeting
SEPTEMBER
8 Tuesday Conference Committee Meeting
14 Monday Board of Directors Meeting
25 Friday 10th Annual Paralegal Conference
Location: Phoenix Civic Center Registration: 7:30 a.m.

OCTOBER
13 Tuesday Board of Directors Meeting
20 Tuesday Quarterly Division Meeting
Time and Topic to be determined

NOVEMBER
9 Monday Board of Directors Meeting
16 Monday Toy Drive Begins

DECEMBER
14 Monday Board of Directors Meeting
15 Tuesday Division End of Year Celebration
Time: 5:30 p.m.
15 Tuesday Toy Drive Ends

Board of Director and Conference Committee meetings are held at 5:30 pm unless otherwise specified. Board of Director, Conference Committee and Quarterly Division Meetings are held at the MCBA office unless otherwise specified.

$10 Off Conference Registration Price

IN HONOR OF OUR 10TH ANNUAL PARALEGAL CONFERENCE
Paralegals: Building our Legacy: A Decade of Growth

Friday, September 25, 2009

at the Phoenix Convention Center

Mail this coupon with your registration and receive $10 off the registration price to: Laurie Williams, MCBA, 2001 N. 3rd Street, Ste 204, Phoenix, AZ 85004.

Register on-line at www.maricopabar.org. We will mail your registration to the address you provided.

See Starting Over After Losing a Job page 15
Upcoming YLD Events Include Town Hall Forum and Race Judicata

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Celebrating our fifteenth year, Keegan, Linscott & Kenon, PC has been serving businesses and individuals in the southwestern US with innovation and insight. Call 520-884-0176 to schedule a meeting. We’ve got specially trained magnets that find needles in haystacks.

Never Again Foundation Helps Families Affected by Domestic Violence

This article is one of a series provided by agencies that received a 2009 Grant from the Maricopa Bar Foundation.

The Never Again Foundation is taking action to prevent yet a second tragedy for families who have lost a loved one to domestic violence, thanks to a grant from the Maricopa County Bar Foundation.

Perhaps the greatest tragedy is learning that a loved one was murdered by domestic violence. Too often, however, these same families are later shocked to learn that the killer was somehow inexplicably allowed to financially profit from the murder.

How? In domestic violence deaths, the killer is usually the spouse, lover or a family member of the victim. As a result, the killer may attempt to profit from the crime. If the killer has already been caught and is in jail, the killer may drain the assets by mail, phone or acquaintances. Once the killer obtains the assets, it is nearly impossible to ever get the assets back, since the killer will usually spend or hide them.

Arizona law states that killers are to be dis-inherited and cannot profit from their crime. However, to many people’s surprise, this is not part of the criminal justice system. Rather, it is part of the civil justice system, and too often the families are not informed until it is too late that they must also enforce the civil law. Once families learn that the killer profited from the death of their loved one, they feel as if a second tragedy and injustice has been suffered at the hands of the killer.

The Never Again Foundation is a nonprofit charity that provides legal assistance to families of victims killed by domestic violence. Its nonprofit mission is to prevent all killers from financially profiting from causing death, and instead fight to have the assets go to the rightful and appropriate family members of the victim. No other governmental or nonprofit agency provides this critical legal service.

It is most important that victim service providers proactively take action to inform victims of the Never Again Foundation’s services, since legal ethics rules prohibit it from directly reaching out to inform victims of their available services. It is recommended that the Never Again Foundation be immediately contacted in every domestic violence death case.

For more information, visit the organization’s website at www.neveragainfoundation.org. You may download free copies of the pamphlet “Will the Killer Financially Profit,” as well as watch online the highly acclaimed “Arizona Crime Victims’ Rights” video.

For requests of the brochure or DVD, please e-mail info@neveragainfoundation.org.
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Legal Writing
Tamara Herrera

The 1…2…3 of Presenting Numbers

In our current economy, everyone is talking numbers. Not everyone understands all the numbers being presented, though (including me).

Readability is the key guideline to presenting numbers. The most common style is to write out numbers one to ten and to use numerals for numbers 11 and above, although some writers prefer writing out numbers one to twenty. Whatever the preferred style, a writer must be consistent throughout a document to ensure readability.

Bryan Garner, in Legal Writing in Plain English, suggests that if a passage contains some numbers that should be written out and some that are presented as numerals, then the writer should use numerals for all numbers that are used in the same manner.

The Company ordered 30 cases to be delivered on 2 flats. (Same usage – adjectives)
The Company ordered 30 cases on a two-month plan. (Different usage)

Easily readable numerals are also preferred when presenting percentages (5 percent) and large dollar amounts ($1 million). The only usage in which always writing out a number is the preferred style is when the number starts the sentence: Four hundred and twenty nine plaintiffs joined the class action.

Perhaps the most curious use of numbers is what Garner calls the “doublet”—using both words and numerals to present a number. Six thousand two hundred and thirty dollars ($6,260)

Proponents of this style argue that this usage avoids mistakes and prevents discrepancies. These arguments make sense when the document is handwritten and easy to alter (like a check) or when legibility is a concern (like when using carbon paper). Because word processors make these concerns obsolete in modern legal drafting, the doublet is an archaic convention that legal writers should avoid.

If a legal writer is worried about a number being mistyped, such as a dollar amount in a contract, the best practice is to have the parties initial by the number to show that they have read and approved it. Multiple eyes are better at discovering discrepancies than multiple doublets.

Now if only the economy were this easy to understand!

Calculating Time Periods to Change

Federal Courts Want More Bankruptcy Judgeships

The federal courts are asking Congress for additional bankruptcy judgeships, as near record case filings crowd bankruptcy court dockets.

In an appearance before the House Judiciary Subcommittee on Commercial and Administrative Law, District Court Judge Barbara Lynn (N.D. Tex.) said that “[o]ur judicial resources are strained, and the cost to society of an overburdened bankruptcy system, especially in this economic climate, is enormous.”

The Federal Judicial Conference is asking for 13 additional permanent judgeships in 10 judicial districts, the conversion of 22 existing temporary bankruptcy judgeships to permanent in 15 judicial districts, and the extension of two existing temporary bankruptcy judgeships for five years.

Calculating Time Periods to Change for Federal Courts

Barring Congressional action, the way in which federal courts calculate time will change on Dec. 1, 2009.

Currently, federal rules provide that weekends and holidays are excluded in some instances and are not excluded in other instances. But come Dec. 1, federal rules will require that weekends and holidays be included in all instances.

To make up for the shortened time periods because weekends and holidays are included, five-day periods currently established in the rules will become seven-day periods, while 10-day periods will become 14-day periods. Because the mandate comes as Arizona’s Judicial Department struggles with budget cuts and looks for ways to offer more efficient service for attorneys and the public.

Calculating Time Periods to Change

Other changes covered by the amended rules that impact federal rule computation include:

■ How to compute backward-counted periods that end on a weekend or holiday.

■ How to compute hourly time periods

■ How to compute a time period when the last day of a time period ends on a weekend or holiday.

■ How to tell when the last day of a time period ends

■ How to compute a time period when the clerk’s office is inaccessible, and

■ How to compute backward-counted periods that end on a weekend or holiday.

The federal court time computation rules amendments can be viewed at: www.uscourts.gov/rules.
INSIDE THE COURTS

Become an Advocate for an Abused Child

By Judge Barbara Rodriguez Mundell

Do you want to do something that is satisfying and of great service to the forgotten children living in your community? Then consider becoming a Court Appointed Special Advocate (CASA) volunteer.

CASA is the only volunteer organization that empowers everyday citizens as officers of the court. In an overburdened social welfare system, abused and neglected children often slip through the cracks among hundreds of current cases. CASA volunteers change that.

Appointed by judges, CASA volunteers typically handle just one case at a time and commit to staying on that case until the child is placed in a safe, permanent home. While others may come and go, CASA volunteers provide that one constant that children need in order to succeed.

CASA volunteer is someone who is passionate about protecting the best interests of abused and neglected children. Anyone with this passion can be successful as a volunteer—regardless if you work full-time, part-time or not at all; regardless of your gender, race, religion, culture, sexual orientation or economic status. CASA is willing to train you if you are willing to pursue a child’s case with enthusiasm and persistence.

You don’t need any medical or legal skills; you don’t need a college degree; you don’t even need to know exactly what to say. All you need to do is sign up for our next advocate volunteer training session. After becoming certified, you will be sworn in, appointed on a case by the presiding juvenile court judge and become an actual officer of the court, ready to advocate for your appointed child.

Are you ready to stand up for a child who needs you? Inquire today about the power you have to change a child’s life.

Volunteers must be at least 21 years of age and successfully complete a comprehensive background screening and interview. To receive an application packet or find out more information, please call Justine Grabowsky, CASA program development specialist, at (602) 506-3930 or visit www.maricopacasa.org.

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Five Criminal-Trial Judges Moving to Downtown Phoenix

By Judge Barbara Rodriguez Mundell

In our ongoing effort to improve safety and efficiency, Maricopa County Superior Court is moving five criminal-trial judges from the Southeast Regional Court Center in Mesa to downtown Phoenix.

The first of the five criminal-trial judges moved to the downtown court complex in July. Plans are under way to relocate the four remaining Southeast criminal divisions this winter, most likely in December.

Maricopa County’s master space plan includes a goal to centralize criminal trials near the county jail. Votors have twice endorsed downtown criminal-court consolidation: in 1998 and again in 2002.

One of the authorized uses of the vote-approved jail excise tax, as set out in the Arizona Revised Statutes and the election publicity pamphlets, is “consolidating criminal divisions of the Superior Court in the county to a common location.”

The tough economic times have forced the court to take a hard look at ways to maximize our limited resources to continue to deliver jury trials in a timely manner. Our budget and staff continue to shrink, while caseloads continue to grow. Centralizing criminal trials will make more efficient use of staff to cover court duties without having to pay for outside contractor services.

This move will also benefit victims, police officers, witnesses and juries. If numerous trials are ready to go on the same day, we will have more backup criminal judges to handle overflow cases on the day scheduled for trial. Witnesses and potential jurors will no longer be inconvenienced by having to wait until another date for trial or make wasted trips to the courthouse. These measures are not only a better way of doing business, they will also save tax dollars.

Most of the criminal cases at Southeast will remain there. In fiscal 2008, of the 10,690 new criminal filings at Southeast, only 144 cases, or 1.3 percent, went to trial. In other words, a very low percentage of the cases require police officers and witnesses to travel to court. That same year, 6,801 cases, or 64 percent, were resolved in the Southeast Regional Court Center or Early Disposition Court. These cases will stay at the Southeast complex.

The number of judges and courtrooms in use at the Southeast court will stay the same. We are planning to send five family- and civil-court judges to the Southeast complex. This will enhance the Southeast court’s ability to resolve more child-support issues, divorces and orders of protection to better serve the residents of the East Valley.

Barbara Rodriguez Mundell is presiding judge of the Maricopa County Superior Court

Judges and Court Administrator Appointed to Committees

Arizona Supreme Court Chief Justice Ruth McGregor appointed Criminal Presiding Judge Gary Donahoe, Presiding Family Court Judge Colleen McNally and Court Administrator Marcus Reinkensmeyer to sit on committees.

McNally and Reinkensmeyer have been appointed as members of the Committee on Superior Court. They will serve a three-year term.

As members of the Committee on Superior Court, they will assist the Arizona Judicial Council and the Supreme Court in the development and implementation of policies designed to improve the quality of justice, access to the courts and efficiency in court operations.

Donahoe has been appointed to a three-year term as a member of the Commission on Victims in the Courts.

The Commission on Victims in the Courts is established as a standing committee of the Arizona Judicial Council. The commission is responsible for advising the council on matters affecting victims’ rights and the administration of justice and making recommendations to the AJC that preserve the rights afforded to victims in the Arizona Constitution.

Q and A with Judge James Beene

Q: What has surprised you the most about making the transition from a deputy county attorney to judge? Please explain.
A: I am still surprised (and humbled) that people stand up when I enter the courtroom.

Q: You spent your entire legal career in public service. What made you pursue a legal career in public service?
A: Public service has always been my motivation. I have several examples of career public servants in my family, including my father, John Beene, who served as a civil engineer for the United States Forest Service, and my great uncle, Art Celaya, who has been very active in public service, including serving as superintendent of the Florence Unified School District from 1971 to 1988, and then for two terms in the Arizona House of Representatives from 1989 to 1992.

Consequently, I have always had a love for the workings of government and a desire to be a contributing part of the public forum.

Q: Who has been the biggest inspiration in your legal career?
A: This may seem an odd choice since I’ve spent the bulk of my career as a prosecutor, but I have always admired Chief Justice Earl Warren. Many forget that Chief Justice Warren was also a longtime prosecutor—and a tough, effective one at that.

However, he also proved sensitive to the rights of the accused. I admire that balance.

Q: Do you have a favorite movie or television show in the court or legal genre?
A: One of my favorite legal movies (and books) is To Kill a Mockingbird by Harper Lee. Atticus Finch’s closing argument in the trial of the falsely accused Tom Robinson makes the point that all are equal in a court of law. It inspired me when I was a child when I first read it, and it still inspires me today.

On the lighter side, I like My Cousin Vinny. Perhaps that is mostly because Joe Pesci’s character reminds me of my early days as an attorney. I have had the experience of being excoriated for my courtroom attire, though I have never been as stylish as Vinny.

Q: If you had a day to spend with anyone, who would it be and what would you do?
A: I have always been an avid reader of nonfiction, particularly of American historical and presidential biographies, so it’s hard to choose just one person. I am especially compelled by the quintessential American story of overcoming hardship and rising from humble circumstances to achieve a long held, ambitious goal.

See Q and A with Judge James Beene page 15
Go to www.maricopabar.org and click on the CLE tab for more information or to register.

Maricopa County Bar
Hall of Fame
2009 Nomination Form

Throughout its history, Maricopa County has been blessed with extraordinary lawyers dedicated to the improvement of the legal profession and the lives of its citizens. Many of those attorneys have also served in leadership roles in the Maricopa County Bar Association. The MCBA has created the Maricopa County Bar Hall of Fame to recognize and thank in some small way these true giants of our profession. Thirty-six distinguished attorneys were the first inductees into the Hall of Fame in 2008. This year, we again seek nominations to represent the broad diversity of the legal profession in Maricopa County.

Hall of Fame Criteria

The Maricopa County Bar Hall of Fame will recognize Maricopa County attorneys who have practiced for at least 10 years and who have:
1. Played prominent and important roles that have had an impact on the history and development of our local bar and the legal profession;
2. Made significant or unique contributions to the law or the administration of justice; or
3. Demonstrated significant leadership, advocacy and accomplishments in service to the community or the profession.

Full name of nominee:

Please attach a detailed biographical description of nominee.

Brief statement of nominee’s significant qualifications and achievements:

Nomination submitted by:
Name:
Firm:
Address:
City, State, Zip:
Telephone:
Email:

Deadline for submission is August 7, 2009

Nominations may be made by mail or e-mail. Go to www.maricopabar.org for electronic forms and more information. Submit nomination form to Allen W. Kimbrough, Executive Director, Maricopa County Bar Association, 2001 N. 3rd Street, Suite 204, Phoenix, AZ 85004-1439; Phone: (602) 227-4200; akimbrough@maricopabar.org.

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www.qdrotrack.net

† Author of Qualified Domestic Relations Orders: Strategy and Liability for the Family Law Attorney (2008 © LexisNexis)

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Maricopa Lawyer
2009 Summer Associates Reception

continued from page 1

Several MCBA leaders also attended the reception. From left are: T.J. Ryan, Frazer Ryan Goldberg & Arnold, LLP; and Jenny Wikler, Rybly Carlock & Applewhite, both MCBA Board of Directors members; Rod Galarza, Kudlan, Simonds, Riley & Vaughan, LLP; and Maricopa County Bar Foundation president; and Holly Davies, Lorber, Greenfield and Polito, LLP; also a Board member.

Guests at the MCBA Diversity Committee’s annual Summer Associates Reception enjoy a generous bounty at the buffet table at the Washington Carver Museum in Phoenix.

Patience Huntwork, staff attorney and intern supervisor with the Arizona Supreme Court, is flanked by Sarah Siddiqui, a third year student at the UofA’s James E. Rogers College of Law and a summer associate at Mariculal, Weeks, McIntyre & Friedlander, PA; and Natalya Ter-Grigoryan, a second year student at ASU’s Sandra Day O’Connor College of Law and interning with the Attorney General’s office.

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2009 Summer Associates Reception

continued from page 1

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VLP ATTORNEY OF THE MONTH

Pro Bono Not A One-Way Path for Olabisi Onisile

By Peggi Cornelius

In the experience of solo practitioner Olabisi Onisile, the pro bono path “...isn’t a one way street.” For her outstanding commitment to the Family Lawyers Assistance Project (FLAP) at the Superior Court of Maricopa County, Onisile is receiving recognition as the Volunteer Lawyers Program Attorney of the Month.

Olabisi Onisile

Olabisi and her family emigrated from Nigeria when she was 12 years old, and she later attended George Mason University for her undergraduate degree. Influenced by the help attorneys had given her family during their immigration to the US, Onisile wanted to attend law school, but felt the cost would be prohibitive.

Now licensed to practice law in Arizona, Maryland and the District of Columbia, she commented, “Due to the generosity of others and hard work on my part, I was able to realize my dream. I attended Cleveland State University, Cleveland-Marshall College of Law.”

Not surprisingly, Onisile found time to participate in pro bono activities while attending law school. She shadowed attorneys and earned awards for her contributions to labor and employment law clinics. On graduation, she became an associate in the Washington DC office of Porter, Wright, Morris & Arthur, where she provided pro bono representation for the organization. Partnership for Animal Welfare, in a breach of contract action.

“My client was emotionally distraught and didn’t speak English well, so representing herself without a home, a vehicle, nor any financial support. “My client was emotionally distraught and didn’t speak English well, so representing herself without a home, a vehicle, nor any financial support.”

“...isn’t a one way street.”

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“My client was emotionally distraught and didn’t speak English well, so representing herself without a home, a vehicle, nor any financial support.”

“The experience I gained there, gave me confidence to open my own law firm,” she said.

At Onisile Law Firm, PLLC, Onisile’s work encompasses business, employment and family law. Of her work at FLAP Program Coordinator Karen Jackman said, “Bisi, as she enjoys being called, is very respectful and extremely helpful to clients, often staying later than scheduled to help victims of domestic violence or to deal with emergency situations. I can’t say enough good things about her.”

“When I volunteered my legal skills and time to help people who cannot afford a lawyer,” Onisile said, “they receive legal assistance and I receive opportunities to research and learn new aspects of the law.”

For further information about pro bono opportunities through the Volunteer Lawyers Program, contact Director Patricia Gerrich at (602) 258-4714 or pgerrich@claz.org.

Volunteer Lawyers Program Thanks Attorneys

The Volunteer Lawyers Program thanks the following attorneys and firms for accepting 40 cases during the past month:

VLP supports pro bono service of attorneys by screening for financial need and legal merit and provides primary malpractice coverage, donated services from support professionals, training, materials, mentors, and consultants. Each attorney receives a certificate from MCBA for a CLE discount.

For information about cases and other ways to help, please contact Pat Gerrich at VLP at (602) 254-4714 or pgerrich@claz.org.
On Therapists, Lawyers, Marriage Counseling and Mediation

By Elliot Talenfeld

As a young clinical professor at Loyola Law School, I disparaged open-ended questions. “You are lawyers, not therapists,” I chided my students. “Your job is to anticipate and shape what the witness is about to say. To the extent possible, a good cross-examination question should all but guarantee an answer that furthers your client’s cause.”

I imagine those students would have loved to have watched me squirm, years later, as I trained to become a therapist. ASU’s counseling faculty dissected my fumbling interventions with no more empathy than I had shown my law students.

“This is not a deposition,” they admonished. “You must learn to love the open-ended question. In fact, a better interjection, just there, would have been, ‘Tell me more about that.’”

Thus have I come to realize that counseling is a very different enterprise than, say, the mediation of a legal dispute. I remember marveling at the perverse effectiveness of one such lawyer/mediator as he shuttled back and forth between the parties.

To us (the defense), he bemoaned the greedy over-reaching of the plaintiffs—whose mone
tary demand he was nevertheless constrained, as mediator, to pass along. No doubt he then characterized our counteroffer to them as totally
tary demand he was nevertheless constrained, as mediator, to pass along. No doubt he then characterized our counteroffer to them as totally

This brings to mind an early encounter in

The counseling process that follows will likely entail more than a behavioral compromise of the presenting conflict. For the presumptive goal of counseling is to reinvigorate the relation

In my view, getting down to the feelings and unconscious agendas that set the conflict in motion trumps learning how to wage it more
civilly. Resolution, as distinguished from settle

This begins with a kind of emotional issue

But to equip the parties to deal more effectively

Thus, even in an age of “solution-focused ther

The counseling process that follows will likely entail more than a behavioral compromise of the presenting conflict. For the presumptive goal of counseling is to reinvigorate the relation

This begins with a kind of emotional issue-

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Stay Cool and See the Grand Canyon by Rail

Looking for a summer get-away without the hassle? The Grand Canyon Railway is offering MCBA members the corporate discount of 20 percent off train travel and 10 percent off already discounted packages. For example, you can combine train travel, accommodations in Williams and in Grand Canyon National Park. Visit our website to download an informational flyer, or call 1 (866) GCBYRAIL (422-9724). Ask for the Southwest Corporate Discount.
Preventing Medical Experts for Deposition and Trial: Preparing the Medical Expert to Testify, Part Two

By James C. Goodwin and Emily Vatz

Testimony on Three Fronts

In medical malpractice litigation, the medical expert's testimony at trial is generally going to relate to one or more of three basic areas—(1) the standard of care, (2) causation, and (3) damages. Accordingly, relying on counsel’s line of questioning in the deposition will often consist of questions regarding one or all of these areas.

Standard of Care

The “standard of care” means what a reasonable and prudent healthcare provider, in the same class, would do under the same or similar circumstances.

The key part of this definition is the word “reasonable,” so the expert should try to consistently use the word “reasonable” in his answers to qualify them. Moreover, although something may be “consistent” with “good medical practice” or with “good medicine,” this does not mean it is required by the standard of care, and just because something is “possible,” and maybe also “consistent with good medicine,” does not mean it is required by the standard of care (or even always reasonable).

The expert should also remember that he gets to use his “professional judgment” when making certain medical decisions. Just because he used his “professional judgment” to choose one course of action does not mean he fell below the standard of care, even if someone else may have done things differently. Instead, both ways may be perfectly reasonable.

The expert should not refer to “guidelines” as being “standards,” unless they are actually referred to as such. For example, a facility may have policies and procedures, but they may be outdated. Contrary to being a “standard,” policies and procedures are a “tool” or a “resource.” And the expert should not speak of his “standard of care” because there is no such thing. The independent practice of one medical provider does not define the “standard of care.”

When opposing counsel references literature, the expert should ask to read the literature before he is going to be asked questions about it. The expert should not just agree that he finds a source “reasonably reliable and authoritative.” This is because the writing may be reasonably reliable and authoritative in some ways, but not others.

Additionally, if the expert is asked whether he agrees with a statement taken from a piece of writing, the expert should say he would agree with it as a general proposition (if he does), but cannot assess its applicability to the case at hand without knowing more about the context in which the statement was used. The expert should also take the time to read the entire article or text before answering completely—or at least ask for the opportunity to do so.

Finally, a medical expert should never claim “ultimate responsibility” pursuant to “Captain of the Ship” or otherwise. The “Captain of the Ship” doctrine originated out of Pennsylvania and was formulated to circumvent charitable immunity for hospitals. In its purest form, the doctrine imposes vicarious liability on an operating surgeon for the negligence of any person assisting in the operation. Nevertheless, “the majority of the courts shun this rigid doctrine.” And Arizona, specifically, has never recognized the Captain of the Ship doctrine.

Causation

A key principle in proving any case is whether a deviation from the standard of care “caused” any harm.

In reality, not all medical negligence actually causes the injury being sued for. Moreover, in medical malpractice suites, causation must almost always be proven “to a reasonable degree of medical probability.” This being the reality, the expert should always make it clear through his testimony that, in medicine at least, “possible” does not equal “probable.”

Damages

Usually, testimony about damages will come from specialized experts. Since juries are asked to award the plaintiff money, some cases will require economists, life care planners, or vocational rehabilitation experts.

While it is somewhat uncommon to elicit pure “damages” testimony from a medical expert, if the injury concerns a medical issue within your expert’s realm of expertise, you should keep in mind that he will still need to testify “to a reasonable degree of medical probability.” This typically emerges through medical testimony concerning life expectancy.

Memory Issues in Answering Deposition Questions

The final point of preparation of the expert for deposition should be about questions that deal with memory. You should remind your expert that it is not always true that memory at an earlier point in time is better than at a later point in time, because memories can be refreshed by reviewing materials at a later time. It is for that reason that we have an evidence rule about memory refreshed.

The expert must understand that a deposition is not a memory test. Instead, he should be sure to ask to review available documents and records if doing so would be helpful and would make his testimony more reliable.

What the expert can “remember” is broader than what he can actually mentally envision, and includes that which has been refreshed by reference to documentation or verbal communication.

Therefore, the question: “Did you have the patient’s chart with you when you saw the patient?” should not be simply answered by “I do not recall.” If the expert has some basis for “knowing specifically” that he did have the chart (i.e., he must have had it because he recorded vitals on it, or he always has it pursuant to his custom and practice), the answer should be “Yes.”

You should also remind your client or medical expert that what he “knows” is broader than what he “remembers,” and often includes hearsay. For example, how would you “know” John Wilkes Booth killed Abraham Lincoln if not for hearsay? Experts and clients often struggle in deposition because they may “know” something, but may not quite remember how they gained the knowledge.

The rules of evidence do not turn all testimony into a memory test. It is sufficient for your expert or client to be prepared to explain the opinions they hold, and the foundation for those opinions, in sufficient detail to ensure those opinions are reasonable and reliable.

Making your witness comfortable answering questions about subjects they no longer have an independent memory of often hinges on helping your client or expert understand that he is permitted to testify about matters he “knows” based upon her “habit and custom.” The rules of evidence reflect an understanding that some things are just so routine that they are a “given.” The expert’s job is simply to indicate to the questioning attorney when he is talking about “habit and custom,” versus when he is speaking from memory.

Conclusion

Understanding the complexity of the communication process, and particularly how unique the process of testifying at deposition or trial truly is, is the first step towards the proper preparation of your medical expert or client.

You medical expert or client will not be able to successfully teach the jurors about the scientific, technical or other specialized concepts at issue in the case unless that expert is able to focus on all of the potential pitfalls at play in deposition or trial.

Few communicational situations are as important or as structured, yet as unpredictable and varied from occasion to occasion, as depositions and trials. Every deposition is similar, but the topics of discussion are never the same, nor are the persons or technology involved.

The expert you hire, or the client you represent, may have testified a hundred times before, but he or she has never testified about opinions in this case, on this day, in response to these questions, from this attorney, judge, or juror, and she has likely never encountered all of the enumerable elements of interference that will undoubtedly emerge during the course of testimony.

Good witnesses can adapt to the situation. Great witnesses are not only able to adapt to the situation, but they understand the situation.

Good attorneys hire or represent good witnesses. Great attorneys help good witnesses understand the situation so that they can be great witnesses.

This is the fourth and final article in a series of articles from the authors on preparing medical experts for deposition and trial. Goodwin may be reached at James.Goodwin@SandersParks.com and Vatz may be reached at ejvatz@gmail.com

Upcoming YLD Events

continued from page 5

present their viewpoints. Their presentation will be followed by a Q&A discussion. We invite all lawyers, YLD and non-YLD members to join us.

Race Judicata Around the Corner

Remember to start your training for the Fifth Annual Race Judicata 5K/1mile, which will take place at Kiwanis Park on Sunday, Sept. 27. I am literally just starting to train, so theoretically, if you trained harder than and started now, you might actually BEAT LASHAWN (the undefeated Fastest Lawyer of Race Judicata). Unless I’m on injured reserve, the YLD will treat any MCBA member that beats my time in the 5K to a free lunch at the restaurant of your choice. (. . . that has items on the menu no higher than Subway’s $5 footlongs -- kidding).

The YLD believes there’s a faster lawyer out there somewhere (so bring it on, and while you’re at it, also gather a team of ten that can beat my team, Team Slowpokes, if you dare)!
How to Build Your Practice with Dignity

By Trey Ryder

Many lawyers spend thousands of dollars on complex marketing plans. But then, often, other priorities seize their attention and their marketing plans gather dust. Here’s the marketing plan I use for my clients.

Identify the Services You Want to Market and the Niche You Want to Fill

When prospects hear your name, you want them to associate you with a specific type of services. For example, John Wilbanks is an estate planning attorney. Karen Ambrose is a tax lawyer. Mark O’Connor is a corporate lawyer.

Identify the Clients You Want to Attract

If you expect to hit your target, you must know where to aim. Identify your prospects by:

- Demographics: These are characteristics that identify individuals by who they are (including gender, age, marital and family status, and occupation) and what they have (including education, income, car and home).
- Psychographics: These are characteristics that identify individuals by what they like and how they live, such as hobbies, interests, and leisure activities—anything that will connect you with the audience you want to reach.
- Geographics: These are characteristics that identify individuals by where they live, where they work, and where you can find your prospective clients.

Identify What You Can Add to Your Services So Prospects Consistently Choose You Over Other Lawyers

Ask yourself how you can provide services more efficiently, effectively, completely, or faster—with your client benefiting from less risk and more value.

I had a problem with the dealership that serviced my car. I lost one hour in the morning taking the car for service, and another hour in the afternoon retrieving the car. So I explained my situation to the service manager. He said, "No problem, I’ll send someone to pick up the car and return it when we’re done.”

In just one sentence, he added tremendous value to his services, at a cost of almost nothing. And I added two billable hours to my day!

Identify How You and Your Services Differ from Those of Your Competitors

Positive differences are your competitive advantages. Negative differences are your competitive disadvantages. Identify both so you’ll know your strengths and weaknesses.

Competitive advantages can include (1) your education, background and experience, (2) the results you achieve for clients, (3) how well you serve and meet clients’ needs, and (4) the physical environment in which you serve clients. As a rule, the deeper your knowledge, skill and experience, the higher the fees you can charge.

Everywhere you deliver your marketing message—in written materials, at seminars, during interviews, on your website—clearly spell out your competitive advantages.

Learn How to Establish Your Credibility and Interact with Prospects Without Selling

Today’s clients want confidence in your abilities, personal attention, and value for their money.

When you interview your prospect, (1) ask what problem he wants to solve or goal he wants to achieve, (2) listen carefully so you know which points he considers most important, (3) offer information about your prospect’s problem and the solution you recommend, (4) provide facts about your background and qualifications, (5) explain how you’ve helped other clients in similar situations, and (6) allow your prospect to make his own decision without pressure from you.

Compile and Keep on Computer a Comprehensive Mailing List

Your mailing list is your most important business asset. Whether your list contains 20 names or 2,000 names, these people are the core around which you build a successful firm.

Your mailing list should include (1) past and present clients, (2) prospects, (3) referral sources, and (4) editors and producers at media outlets that reach your target audience. Code your mailing list so you can call up whatever names you need.

The critical element in your marketing program is your ability to add prospect’s names to your mailing list at whatever rate will bring you the number of new clients you want.

If you know the names of specific people or companies you would like to have as clients, add them to your firm mailing list. Most rules of professional conduct either prohibit or limit how and when you can approach consumers who have an immediate need for legal services.

But time and again, I’ve heard bar counsel tell lawyers that they are permitted to add prospects’ names to their mailing lists if those prospects might need legal services at some time in the future. This opens the door so prospects can receive your educational materials, newsletters and invitations to seminars. If you have questions about this in your jurisdiction, check your rules of professional conduct or talk with your bar counsel.

Make Sure Prospects and Clients Can Reach You Easily Without Hassle

If prospects have a hard time contacting you, they will often call another lawyer.

Menu of Options: Consider a voice mail menu to route calls quickly: “If you’d like to receive our new Consumer’s Guide for Accident Victims, press one now. If you’d like to speak with Mr. Jones, press two now.”

If your menu is long, you might tell callers they can skip the menu and make their selection at any time.

Direct-Dial Numbers: If you want prospects and clients to call you without going through your switchboard, offer your direct dial number so they can reach you immediately.

Toll-Free Numbers: If you are marketing to prospects who are a toll call from your office, install a toll-free number because, in many cases, prospects won’t pay to call you.

Never-Buy Fax Numbers: Most phone companies offer a fax backup service. It detects when your fax line is busy and reroutes an incoming fax into its computer. When your fax line is free, the backup service sends the fax to your fax machine.

Voice Mail: Set up a voice mail system so you can answer calls 24 hours a day and assure that no one gets a busy signal. During one series of radio commercials, one of my clients received 80 calls per commercial. (Do not use answering services with live operators because often, during peak hours, callers get busy signals or no one answers.)

Pager Notification: If you want to be notified when you have messages after business hours, you can add a pager to your system and it will page you, according to your instructions.

E-mail: Prospects often want to send you a note, but don’t need to talk with you. Make sure you accept e-mail messages and check your mailbox often.

Recently a lawyer contacted me by e-mail to set up a phone appointment. I asked why he didn’t call instead. He said he always makes his initial contacts by e-mail. Invite prospects to contact you by e-mail. You’ll probably find, as other lawyers have, that prospects who first reach you by e-mail are more affluent and educated than prospects who reach you in other ways.

Compile Your Information and Advice into Your Own Unique Educational Message

Title your message so you attract the prospects you want—and so they realize that your materials will help them solve a problem or achieve a goal.

A personal injury attorney might offer “five steps to getting a fair settlement for your injuries.” A domestic relations attorney might offer “nine ways to reduce the pain and expense of divorce.” A business lawyer might offer “six ways to reduce liability exposure and cut insurance costs.”

On a sheet of paper, list each point along with your materials.

See How to Build Your Practice with Dignity page 14

EPA Awards $3.2 Million in Recovery Act Funds to Clean Up Underground Petroleum Leaks

The Environmental Protection Agency announced the distribution of $3,219,000 million to Arizona under the American Recovery and Reinvestment Act of 2009 to assess and clean up underground storage tank petroleum leaks.

The greatest potential hazard from a leaking underground storage tank is that the petroleum or other hazardous substances can seep into the soil and contaminate groundwater, the source of drinking water for nearly one-third of all Americans, the EPA said.

“We’re providing immediate growth opportunities for communities across the nation, as well as long-term protection from dangerous pollution in the land and water,” said EPA Administrator Lisa P. Jackson. “EPA is putting people to work by serving our core mission of protecting human health and the environment.”

The money is part of $197 million appropriated under the Recovery Act to address shovel-ready sites nationwide contaminated by petroleum from leaking underground storage tanks.

The funds will be used for overseeing assessment and cleanup of leaks from underground storage tanks or directly paying for assessment and cleanup of leaks from federally regulated tanks where the responsible party is unknown, unwilling or unable to finance, or the cleanup is an emergency response.

The EPA regional underground storage tank program is entering into a cooperative agreement with the Arizona Department of Environmental Quality. The cooperative agreement will include more detailed descriptions of state spending plans.

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THE BULLETIN BOARD

News from the legal community

The Maricopa Lawyer invites members to send news of moves, promotions, honors and special events to post in this space. Photos welcome. Send your news via e-mail to maricopalawyer@maricopabar.org.

Moves and New Hires

Ballard Spahr Andrews & Ingersoll, LLP, announced the addition of seven new attorneys to the firm’s partnership, including Michele L. Bax, a member of the Public Finance Department. Bax is resident in the firm’s Phoenix office, and her practice focuses on representing governments and public agencies in various bond transactions.

Jennings, Haug & Cunningham is pleased to announce that three attorneys have joined the firm: Joseph Brophy, Christopher Stovall and Travis Pacheco.

Brophy will practice in the areas of business litigation, bankruptcy and personal property leasing. Stovall is a litigator with a focus in construction law, surety & fidelity, and business litigation. Pacheco concentrates his legal practice in business litigation, construction and employment law.

Honors, Awards and Certifications

Jennings, Haug & Cunningham is pleased to announce that Boy Scout Troop 329 in North Central Phoenix, led by Troop Leader Chad Schexnayder, who is a senior partner with the law firm, recently received the Share the Excellence Award from the Madison School District for the troop’s contributions to schools and students throughout the district.

Schexnayder, who has been involved with Boy Scouts since his childhood, has served in a leadership role with the troop since 1998 and received the award on behalf of the troop with the troop’s boy leaders from the District’s Governing Board.

How to Build Your Practice with Dignity

continued from page 13

with your suggestions in plain English. Often, after doing nothing more than reading your materials, prospects will hire you because they trust you and believe that you know how to achieve the result they want.

To increase the persuasive power of your materials, include more than one list. Start with an umbrella title, such as “Guide.” For example, you might offer a Consumer’s Guide to Child Custody. Then you could offer a number of tips, secrets, mistakes to avoid, misconceptions, and more.

To be effective, your educational message should (1) identify and explain your prospect’s problem, (2) prove the problem exists, (3) identify the solution, (4) prove the solution works, and (5) build you into the solution so your prospect hires you. Make sure your marketing message explains the benefits of acting now—and what your prospects stand to lose or risk if they delay.

Educate Your Audience with Written Information and Advice

Write your message in a form that you can send to anyone who calls your office. Then, by offering to mail copies without charge, you attract calls from genuine prospects. When prospects call, they give you their names and addresses, which you add to your mailing list.

Important: The longer your materials, the better. The longer you keep your prospect’s attention—and the more information you provide—the more likely he is to hire your services. Not all prospects will read everything you send. But many will, provided your materials are well written and relevant to the person’s problem. If your prospect is willing to give you his time and attention, you’re in a strong marketing position when you have answered his questions and explained the many ways he benefits from hiring your services.

Educate Your Audience Through Articles and Interviews

Media publicity provides you the opportunity to educate prospects, offer your written materials, and invite prospects to seminars. When you become the center of media attention, you establish a high level of credibility and—when your program is properly designed—you attract calls from prospects. A news release I wrote landed one of my clients on the CNN Headline News. Another client received 426 requests for his written materials after offering them on a radio talk show.

Educate Your Audience Through Paid Advertising

To assure that your message appears at the times and places you desire, buy advertising time on the broadcast media and space in the print media.

Your ad’s focus should be to offer prospects more information by (1) inviting prospects to call for your free written materials, (2) inviting prospects to call for a free phone or in-person consultation, (3) inviting prospects to attend your free seminar, or (4) inviting prospects to visit your website.

Educate Your Audience Through Free Seminars and Roundtables

Seminars save time because they allow you to present information to many prospects at once. Also, seminars enhance your credibility and allow you to talk with qualified prospects in a non-threatening educational setting. Plus, seminars give prospects the opportunity to ask questions, discuss problems and make an appointment to meet with you.

Educate Your Audience Through Direct Mail

Direct mail gives you the opportunity to educate prospects, offer your written materials, invite prospects to seminars, and invite prospects to visit your website. You can use direct mail to communicate with prospects already on your list, or to reach new prospects if you can identify prospects by their names and mailing addresses.

Make sure you review your local bar’s ethical rules about mailing information to non-clients. Usually, these rules relate to targeted direct mailings to persons known to need legal services, such as accident victims, and do not apply to prospects who may someday need your help.

Educate Your Audience Through a Printed Newsletter or E-Mail Alert

Send your newsletter to prospects, clients and referral sources. Your newsletter reinforces your marketing message, continues to educate your prospects, and serves as an ongoing contact. It adds value to the services you provide and acts as a tangible tool to increase referrals.

Your newsletter can be as short as a one-page letter—or as long as you want. Frequency is more important than length. Mail your newsletter at least monthly. If you send an e-mail alert, consider sending it every week.

Educate Your Audience with Recorded Messages

If you want to reach people who cannot attend your seminars, record your seminar onto CDs. This helps busy people who can listen whenever they have a break or when they are in their car on the way to work.

Educate Your Audience Through a Website

When you put your educational information on your website, it’s there 24 hours a day, whenever your prospect wants to read it. Include your biography, articles, checklists and recommendations. The more you educate your prospect, the more he trusts you and the more he values your knowledge. Try to answer every question your prospect might ask. The more information you provide, the more you help your prospect qualify or disqualify himself as a candidate for your services.

When you use different educational methods together, they reinforce and clarify your message. This brings you more new clients than if you were to use any one method by itself.

These 16 steps attract new clients, increase referrals, strengthen client loyalty and build your image as an authority without selling. What’s more, this plan gives you complete control over your marketing future.
Water Case Not the Gila River General Stream Adjudication continued from page 2

that they predate all other rights to the waters of the Gila River.

2009 marks my 42nd year as one of the attorneys for Gila Property Co., Ltd. It has been a remarkable experience.

Although, many of the issues in the case have been resolved through litigation and settlement, the case continues to be an important part of Arizona’s on-going judicial history.

With all due respect to the Gila River General Stream Adjudication proceedings, Glencor Equity will always be, to me, The Water Case.

Sincerely,
Brent F. Moody
Phoenix

Postscript: Mr. Moody eloquently reviews another longstanding Arizona water rights case. The Clerk, the Special Master, and others refer to the Gila River General Stream Adjudication as the Water Case for simplicity, although the adjudication affects many lands and water users than Globo Equity No. 59.
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