By Laura Swendsen

For anyone starting out in a profession or on a new career path, there is much to learn and exciting opportunities to uncover. However, sometimes the beginning of the journey can feel overwhelming and almost insurmountable – unless a team of specialists is on hand to offer sound advice and encouragement along the way.

On March 25 and 26, the MCBA delivered just that through more than 20 legal professionals who provided practical, real-world advice and information to law students, recent graduates and practicing attorneys.

Speakers included lawyers from large and small firms in a variety of practice areas.

Age Dispute Concludes in Reversal for Assault Case

‘Your Life in the Law’ Teaches Real Life Lessons

By Laura Swendsen

On March 25 and 26, the MCBA delivered just that through more than 20 legal professionals who provided practical, real-world advice and information to law students, recent graduates and practicing attorneys.

Speakers included lawyers from large and small firms in a variety of practice areas as

See ‘Your Life in the Law’ page 19

June CLE Deadline Looms—MCBA to the Rescue

As is longstanding tradition, your bar association will be packing the month of June with CLE programs, all the better to make sure you have plenty of opportunity to earn the required credit hours by the end of the month.

MCBA will be combining new, live CLE with videotapes of its most popular programs. That means you’ll have plenty of options to choose from throughout the month.

Snacks and beverages will be provided and wifi is available. You’ll be able to earn your hours in the comfort of MCBA’s newly enlarged and renovated seminar space, large-screen TV included.

Be sure to check the MCBA website at www.maricopabar.org and your inbox for programs as they become available. Meanwhile find programs on page 14 and 15 and highlights of programs to come on page 10.
We’ll Miss Dan’s Laugh the Most

Last week I had the honor of attending the memorial for Dan McAuliffe at the Phoenix Art Museum. There were funny moments, lump-in-your-throat moments and all kinds of touching moments — but the beauty of his memorial service is that the speakers revealed the essence of the New Yorker-turned-legal-giant beloved by his colleagues and friends. Snell is lucky to have landed the fiery, toothpick-in-mouth, lawyer's lawyer that was Dan McAuliffe. So are we.

Dan was loyal. Dan’s beloved firm, Snell & Wilmer, his work home for 35 years, hosted his memorial service. I ran into a good friend of mine who is a partner at Snell. “I will miss his laugh,” she said. “I was on his floor for eight years.” She told a funny story about how many laptops and briefcases he had in his office but also that he always made time for the younger lawyers. She said he would be busy with his own projects but always made time to edit her work. He would return edits to her by e-mail, sometimes after 10 p.m., and this was his practice. He wanted the firm’s work product to be outstanding but also wanted to help the newer lawyers. “But his laugh…that big, booming laugh. You knew when he was on the floor.”

Dan was Regis. We also go to know Dan, the Regis student-athlete. Regis High School in New York City is a rigorous and competitive Jesuit school for academically gifted high school boys seeking a Catholic education. His classmate, now a doctor, spoke at the service about their class that included a shocking number of National Merit Finalists and Truman Scholars. You could hear the pride in his voice when he spoke of their classmates, especially Dan. Dan was his class president, which surprised no one. It also surprised no one that: Dan was certainly his own brand of class president, just like he was always his own authentic, unique self. (This class president would later organize an anti-war protest as a new lawyer at the Department of Justice.)

Dan was part of the soul of our Inn. Dan represents the very best of us, the very best of our profession. His commitment to learning, teaching, and writing

See We’ll Miss Dan’s Laugh page 16

MCBA Successful in Rule Change Petition Regarding Lawyer Referral Service

On April 6, the Arizona Supreme Court granted, on an emergency basis, a rule change petition filed by the Maricopa County Bar Association that would expressly permit the payment of Lawyer Referral Service panel members of additional fees based on a percentage of legal fees earned on cases referred by the Service.

The petition was filed on the MCBA’s behalf by Mark Harrison and James Rogers of Osborn Maledon and was in response to a proposed Ethics Opinion promulgated by the State Bar of Arizona in January that would make the payment of such percentage fees unethical based on the Ethics Committee’s interpretation of the current Arizona Rules of Professional Conduct.

The “percentage fees” are used by the LRS to enhance and expand its efforts to market the Service as a means for the public to find qualified and affordable legal representation. Twenty-five percent of the fees collected go directly to support the work of the Volunteer Lawyers Program, a joint venture of the MCBA and Community Legal Services.

The Supreme Court has requested that comments on the rule change petition be submitted by June 1 (No. R-10-0023). After that time the Court will make a final ruling on the petition.

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**OPINION**

**Andrew Thomas and Dark Places**

By Tom Galbraith

Opinions expressed by contributors to the Maricopa Lawyer are not necessarily those of its officers, members or staff. For policies regarding letters to the editors and opinion pieces, please see p. 2.

The darkest places in hell are reserved for those who maintain their neutrality in times of moral crisis. — Dante Alighieri

This scared me. If my place in the afterlife turns out to be toasty, I at least want it to be brightly lit. That’s why I decided to write about Andrew Thomas, the former county attorney who says that judges who rule against him are criminals.

Well, okay, at first my motivation was envy. I can’t be the only lawyer who has ever protested that rulings by a judge who didn’t see things my way were “criminal.” The difference is that Andrew Thomas did something about it. As Maricopa County attorney, he filed a federal racketeering case accusing judges Mundell, Baca, Fields, and Donahoe of making rulings that are inconsistent with Thomas’s idea of justice.

Later when Judge Donahoe refused to disqualify himself from another Thomas case, Thomas filed felony charges against him. It worked. Donahoe recused himself.

And I turned green. Uncooperative judges and pesky paperwork have been the greatest irritants of my professional life.

Then suddenly Thomas dismissed his RICO complaint. Could this be? Just before argument on motions to dismiss—at high noon—Thomas threw down his gun and quit. At his press conference Thomas claimed that the U. S. Justice Department had agreed to take over the case. The next day, Mr. Husler, head of Justice’s Public Integrity Section exposed that whopper. Like any citizen, Husler said, Thomas is free to submit claims of public corruption to the department for review, but Thomas had not even filled out the requisite form.

How could this all have happened? I looked to Thomas’s RICO complaint for answers. It names other defendants—mostly county supervisors and lawyers—but because I’ve never encountered financial corruption by a judge during 40 years of Arizona law practice, what it says about

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See Andrew Thomas and Dark Places page 12

*Please watch your MCBA E-News for updated information about meetings and events.*
I’ve Been Appointed Arbitrator…Now What?

Several of my friends recently have been appointed to serve as arbitrator through the Maricopa County Superior Court arbitration program. Most are young attorneys and some without any significant litigation experience. After four years of practice, most lawyers in this jurisdiction are eligible to serve in the program and may be appointed at random.

It occurred to me that many attorneys, particularly those whose practices take them nowhere near a courtroom, may be caught off-guard by such an appointment. And a busy calendar or lack of familiarity with the Arizona Rules of Civil Procedure is not an excuse sufficient to excuse oneself from this obligation. Fortunately, the Civil Department of the Superior Court offers support and various materials to guide attorneys through the process, and the experience can be a rewarding and interesting one.

Arbitration is a mandatory program in Maricopa County for actions involving disputes under $50,000. The program is intended to lower the costs of litigation and ensure more effective and efficient use of judicial resources. Although many attorneys participate in the arbitration program voluntarily, local rules place all residents in the county who have been active members of the bar for at least four years on the list for random appointment.

In an action designated for arbitration, the Court will appoint an arbitrator upon the filing of an answer to the complaint. Once you are appointed arbitrator, both sides will have 10 days to file a Notice to Strike Arbitrator. You also will have an opportunity to raise any potential conflict of interest or some other personal reason why you cannot remain on the case. The Court will issue a ruling either denying or granting your request.

If you’ve made it past the initial stage, you have 120 days in which to complete an arbitration hearing. Read Section IX, Compulsory Arbitration, of the Arizona Rules of Civil Procedure. Send the parties a letter requesting a stipulated series of dates on which they are available for arbitration, and indicate when you are available. Most arbitration hearings, of course, can be completed in two hours with each side taking no longer than one hour. You may hold the hearing at your private office, if appropriate, or you may use the Arizona Bar Center. Once you have set the date for arbitration, file a notice of hearing with the Arbitration Clerk, with copies mailed to the parties.

As arbitrator, you may hear discovery motions and other requests related to the arbitration, including dispositive motions – assuming they do not dispose of an entire case as to any party. The parties should provide you with a copy of all exhibits at least two days before the hearing, along with a brief memo outlining their position. When you hold the arbitration, you will follow the Arizona Rules of Civil Procedure, Section IX, as it relates to use of witnesses and documentary evidence at the hearing. Although the Arizona Rules of Evidence apply to arbitration hearings, some standards are relaxed. Witnesses generally are held to a minimum.

You must reach a decision following the hearing (you need not announce it verbally to the parties at the hearing). Within 10 days you will file a Notice of Decision with the Clerk of the Court. Within 10 days after your notice of decision is filed, the prevailing party must submit to you an arbitration award and statement of costs for your signature, after which you will file the award with the clerk. If a party chooses to appeal your determination, the case will return to the assigned judge for a new trial. Oh – and Rule 76(f) provides for compensation of arbitrators for time spent ($75 per day). Or you may choose to donate your payment to the Maricopa County Bar Association.

Although your assignment as arbitrator may pose some challenges to an already demanding schedule, participating in the justice system in this impartial judicial capacity—we will rarely encounter, even as a juror—is why many of us went to law school in the first place. If you are appointed arbitrator, the Maricopa County Arbitration Guide will steer you through the process. Just enjoy the experience.

ABA Decrees Proposal to Withhold Clinic Funding

A proposal has been brought before the Maryland Legislature that, if signed into law, would force law students bound by attorney-client privilege mandates to divulge information involving their clients and court cases or face withholding of funding for student programs.

Those programs include clinical law programs that students at the University of Maryland School of Law utilize to learn valuable skills for their careers by helping real clients confront real problems.

While operating under the direction of licensed lawyers, students learn to navigate the court systems, gain a better understanding of how the law works to meet clients’ needs and about lawyers’ fundamental professional responsibility to advocate for clients who are unable to advocate for themselves. As in the real world, the students and the clinical programs are held under the same ethical restraints that govern lawyers—an allegiance to the interests of the client ahead of all others, whether any competing interests flow from third parties or the lawyer herself; protection of client confidences; and exercising independent professional judgment on behalf of the client—all core values of the legal profession.

The proposed legislation—which aims to withhold funds from the university unless it reports on clients and cases served by the school’s clinical legal program, expenditures for those cases and funding sources—arose from concern that a suit brought by the school’s environmental law clinic is targeting an important segment of the state’s agriculture industry.

Carolyn B. Lamm, president of the American Bar Association, called the proposal “an intrusion on the attorney-client relationship.”

“Our legal system, and in fact our very democracy, is founded on the concept that all persons and organizations, including the government itself, are bound by the law,” Lamm said.

“For the law to have effect, lawyers must be allowed to fulfill their ethical obligations to provide effective representation, to protect client confidences and to resist interference or pressure that seeks to compromise their professional judgment.”

Lamm said it’s important for lawyers across the country to not forsake their professional obligation to uphold the independence of their profession and also to support future lawyers.

“Just as lawyers who represent unpopular clients are fulfilling the responsibilities of all lawyers, so too are law students who assist clients in clinical legal programs,” Lamm said.
Are you an Advocate or an Ostrich? Dealing with Negative Authority

LIBERAL WRITING

Tamara Herrera

Long ago, a senior litigation partner gave me a piece of advice that I have never forgotten: “Don’t stick your head in the sand.” What he meant was to tackle negative authority head on by including it in the legal argument before the opponent has a chance to bring it up. The distinct advantage to this approach is that it takes the sting out of the opponent’s argument; you get to present your take on this authority first. In addition, if the negative authority is directly on point, the lawyer has a duty to disclose it anyway. So this leaves the question of how to include negative authority persuasively and effectively.

As for where to place negative authority, place it toward the end of the argument. The key is not to make negative authority the focus of the argument. Negative authority should not lead or end the argument, as the beginning and ending are places of persuasive emphasis for the reader.

As for how to discuss negative authority, avoid using the following phrases to introduce it: “the opposition (or other variant) contends that,” “the other party (or other variant) will argue that,” and “one could argue that.” These phrases only serve to highlight the opposition’s argument. This is not your goal.

Your goal in persuasive writing is to give an affirmative argument as to why your client should win the case. You do not want to take a defensive position by starting an argument with the opponent’s contention, followed by your client’s rebuttal. Not only is this not effective or persuasive, even if you prove all of your points, you have only told the judge why you should not lose. You need to take the extra step to emphasize why you should win! To do this, you should start with a positive statement of your argument and then state why the proposition in the negative authority is not applicable. Here is an example:

Not persuasive or effective:

Appellant incorrectly contends that according to Smith v. Jones the contractual provision limiting damages is invalid because it is unconscionable. Contrary to its argument, the doctrine of unconscionability does not apply to these litigants who had equal bargaining power. Appellant’s argument is not consistent with the case law.

Persuasive and effective:

The contractual provision limiting damages is valid. Because the litigants had equal bargaining power, the doctrine of unconscionability does not apply under Smith v. Jones do not apply. Requiring unequal bargaining power as a prerequisite to unconscionability is a staple of the case law.

In the end, being an advocate in your writing forces you to write with better clarity, and you will be able to see what is coming at you (unlike the ostrich).

Legal Briefs

Arizona Federal Judge Nominated to Ninth Circuit Court of Appeals

On March 25, the White House announced that President Obama nominated Arizona federal trial court Judge Mary H. Murguia to serve on the bench of the Ninth Circuit Court of Appeals. If confirmed by the Senate, Murguia would fill a seat left vacant by another Arizonan, Ninth Circuit Judge Michael Daly Hawkins, who took senior status last February.

“Appointed by President Clinton, Murguia was the first Latina to serve on the Arizona federal bench. Murguia, 49, has served on the district court bench for the last 10 years.

ASU Alumni Named as Recess Appointment to Cabinet Post

After political stalling for months on the Senate confirmation of presidential nominees to fill administrative positions, President Obama made 15 recess appointments, one of whom is ASU alum P. David Lopez. Lopez is Obama’s appointment as general counsel for the Equal Employment Opportunity Commission. Lopez has worked in the EEOC for thirteen years and is currently a Supervisory Field Attorney with the EEOC’s Phoenix District Office. He received a Juris Doctor degree from Harvard Law School in 1988 and graduated magna cum laude with a Bachelor of Science degree in Political Science from Arizona State University in 1985.

Growing Up: Phoenix School of Law Adding Students, Staff and Diverse Organizations

By: Daniel dePaz, P.S.L. student

Phoenix School of Law is growing in its number of students, teachers, and classrooms – fast. The young law school is the only private law school in the state, and PSLS offers both part-time and evening classes.

The school’s student organizations mirror this growth with new groups forming every semester. One of the new organizations on campus is also one of the oldest international legal fraternities, Delta Theta Phi, joining Phi Alpha Delta as the two fraternities on campus. Some other groups are the Parents Attending Law School, Phoenix Law Review, Hispanic Law Student Association, American Bar Association, and Sports and Entertainment Law Society.

“We started this chapter because we wanted to give back to the school and the community, and Delta Theta Phi is a great way for us to make that positive impact on both of them,” said Grant Boland, the founder and president of D.T.P. “We believe that adding groups to the mix here will encourage diversity and give the students more options to get involved. It’s simple, students want to get involved, and are eager to grow, professionally and personally.”

“The best part about PSL is that as a school affords the students with these opportunities to make that positive impact,” says Boland.

“I am proud to be part of a school that centers on academics and promotes serving the underserved. The student groups aligned with a supportive faculty provide the path and platform to make a real difference in the community.”

Interim Dean Gene Clark encourages students to get involved.

“I think student involvement is critical in the development of a young law school, and student organizations are a great way to accomplish that,” said Clark.

When asked if there was any limit on how much PSL could grow, he said, “We try not to think in those terms of limits. We want to grow as much as we can while still maintaining a high-quality educational experience.”

The President of the Student Bar Association, Brittany Robinson, said, “I think being involved in student organizations has helped in a number of ways. It is a great way to make connections within the legal community. I have been fortunate to meet a number of attorneys and judges through various programs and events I have organized and participated in. That personal networking is invaluable for a future career. It allows you to meet legal professionals and they see you at your best.”

Robinson added, “I have been able to learn both practical skills, such as research, writing, and oral advocacy through Moot Court but also people skills in negotiation and compromise, event organization, networking, time management and even fiduciary duty. For me, being involved in student organizations and with the school in general has really helped me bridge the gap between what we learn in the classroom and the real world practice of the law.”
INSIDE THE PARALEGAL DIVISION

Paralegal Paralysis? Cross Train Beyond Your Scope of Expertise

Many paralegal students are finishing their paralegal programs now or will be in the near future. These students will come out of their classes with the most current information and techniques regarding the paralegal profession. For those of us already working in the paralegal field, and for these students just entering the profession, it is important to keep up to date with what is happening in our profession.

Often times we are asked to work on cases or projects that encompass more than one area of law and may likely be an area with which you are extremely familiar. However, it is advantageous for those of us in the litigation fields to familiarize ourselves not only with other areas of litigation, but also with some of the transactional areas with which our firms or corporations deal. The same can be said for the transactional paralegals: it is to your advantage to familiarize yourself with litigation.

By attending CLE in areas outside of our normal expertise, and expanding our knowledge base in other areas, we are increasing our value not only to ourselves, but to our employers and future employers. CLE Events, Dental Drive and Paralegal Conference

The MCBA Paralegal Division offers the opportunity to attend various CLE events throughout the year. Our next quarterly meeting will be held Wednesday, June 24. There will be a networking session before the presentation starting at 11:30 a.m.; lunch will be provided and the meeting will feature Xact Data Discovery on the topic of Electronic Discovery Computer Forensics. This lunch meeting is only $10 for members of the MCBA Paralegal Division and $20 for non-members. We will be collecting dental drive items for the John C. Lincoln Children’s Dental Clinic at this meeting.

The 11th Annual Arizona Paralegal Conference: Where the Paralegal Community Connects will be held on October 1 and will afford paralegals the chance to hear speakers on a variety of topics, including Hon. Michael A. Yarnell who will speak about the Arizona jury system. The conference is worth six CLE hours including one ethics credit hour.

For more information regarding the June 24 meeting, dental drive or conference registration form, please visit our Web site at www.maricopabar.org and click on the “For Paralegals” link.

ASU Law Journal Site Touts New Features

The Arizona State Law Journal website (http://www.law.asu.edu/?id=529) that serves as the primary scholarly publication of the Sandra Day O’Connor College of Law at Arizona State University has the following new features:
- A “blog” page where past and current members of the Journal will contribute posts about current Arizona issues
- Biography information on current Journal members
- Calendar of upcoming events sponsored by Journal
- Pictures of Journal events
- Information on how to submit articles to the Journal for publication
- Links to prominent articles printed in the Journal
- Information on how to subscribe and reprint past Journal issues

Other useful information:
- Information on how to submit articles to the Journal for publication
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ASU Law Journal Site Touts New Features

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Ms. Bickner is joining the firm’s bankruptcy and business practice groups. She will provide representation in bankruptcy, business, commercial, and real estate law.

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Calendar of Events

MAY
5 Wednesday  Conference Committee Meeting
13 Thursday  Board of Directors Meeting

JUNE
1 Tuesday  Dental Drive Begins
2 Wednesday  Conference Committee Meeting
10 Thursday  Board of Directors Meeting
24 Wednesday  Quarterly Division Meeting - 11:30 a.m. Electronic Discovery Forensics

JULY
7 Wednesday  Conference Committee Meeting
8 Thursday  Board of Directors Meeting (Dental Drive Stuffing)

AUGUST
4 Wednesday  Conference Committee Meeting
12 Thursday  Board of Directors Meeting

SEPTEMBER
1 Wednesday  Conference Committee Meeting
9 Thursday  Board of Directors Meeting
28 Tuesday  Conference Binder Stuffing

OCTOBER
1 Friday  11th Annual Paralegal Conference
14 Thursday  Board of Directors Meeting

NOVEMBER
11 Thursday  Board of Directors Meeting
15 Monday  Toy Drive Begins

All Board of Director meetings are held at 12 p.m. unless otherwise specified.
All Conference Committee meetings are held at 5:30 p.m., unless otherwise specified.
All Board of Director, Conference Committee and Quarterly Division Meetings are held at the MCBA Offices, unless otherwise specified.
For more information on Paralegal Events, please visit our Web site at: www.maricopabar.org and click on the “For Paralegals” link.
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New Family Court Commissioner Appointed

Presiding Judge Barbara Rodriguez Mundell appointed J. Justin McGuire as a Superior Court Commissioner.

McGuire, who has been in private practice since 1992, will oversee a Family Court calendar.

Prior to his appointment, McGuire was a sole practitioner at the Law Office of J. Justin McGuire, L.L.C. for eight years. As a sole practitioner, McGuire handled numerous trials and hearings as well as all aspects of the business. Before that, he was a partner in a two-person firm – Cunanan & McGuire, L.L.C. – for seven years.

McGuire earned his Juris Doctor from the Arizona State University College of Law and his Bachelor of Arts from Boise State University.

Reinkensmeyer Receives ICM Certification

Court Administrator Marcus Reinkensmeyer has joined the Institute for Court Management’s (ICM) adjunct faculty.

Last month, Reinkensmeyer earned certification from the ICM’s Faculty Development Training program. The four-day course certifies court professionals to teach courses to court supervisors and managers in Arizona and other states.

“I’m excited about this opportunity because I will be involved in helping create the next generation of court managers,” Reinkensmeyer said.

Reinkensmeyer completed the Essential Component course, which covers areas such as jury management, court security, records, the verbatim record and case initiation.

According to Reinkensmeyer, there has been a shift in the traditional ICM training model. Arizona has joined a consortium of states that allows students the opportunity to train closer to home to reduce travel costs; in the past, students would travel across the country to complete certain programs.

Reinkensmeyer becomes the second court administrator at the Superior Court in Maricopa County to receive his ICM teaching certification. Last year, General Jurisdiction Court Administrator Phil Knox completed the Casework Management program.

Tweet! Tweet!
Social Media Useful to Courts

Social Networking, social media and social marketing are new communication tools used by many agencies and most recently some court systems. After months of planning, research and policy revisions, the Media Relations and Community Outreach departments of the Superior Court of Arizona in Maricopa County recently launched the court’s Twitter and Facebook pages.

Social Marketing, social media and social networking are different aspects of online communication. Social networking is the interaction and exchange of information with others; social marketing is the strategic process of sending messages to your audiences; and social media are the tools used to deliver those messages.

Millions of people use Facebook every day to keep up with friends, upload an unlimited number of photos, share links and videos and learn more about the people they meet. As a court system, we can use that tool to build a relationship with the community we serve. We can post announcements, workshops, forums and important information like parking and where to report for jury service. The possibilities are endless.

Sending the Message

Twitter is a short, precise communication tool that alerts followers with timely bits of information. Although limited to 140 characters of information, it has already proven extremely useful to both the media and the community.

For example, if a judge sentences a high-profile defendant or a jury has reached a verdict in an important case, a Tweet can be sent out to all of the court followers. Court Public Information Officers (PIOs) have the ability to Tweet from anywhere at any time of the day or night.

As we continue to develop these new communication tools, we encourage court departments to submit news items that would be of interest to the media and to the community.

If you have a Twitter account, you can follow us @courtpio; and if you have a Facebook account you can become a “fan” of the Superior Court of Arizona in Maricopa County.

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Detecting accounting irregularities and financial fraud can leave you frustrated if you don’t know what you’re looking for. Our forensic accounting and investigation professionals can uncover the deceit and reveal the truth. We apply our accounting and financial fraud detection expertise and experience to investigate allegations of accounting discrepancies and financial fraud. We provide expert witness testimony and assist with legal prosecutions.

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INSIDE THE COURTS
The Maricopa County Bar Hall of Fame was initiated in 2008 and the selection committee is now seeking nominations for 2010. So far 59 lawyers have been honored. The committee expects to select a dozen or so from the broad diversity of lawyers in the county this year.

The deadline for submissions is August 6, 2010.

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:

- Played prominent and important roles that have had an impact on the history and development of our local bar and the legal profession;
- Made significant or unique contributions to the law or the administration of justice; and/or
- Demonstrated significant leadership, advocacy and accomplishments in service to the community or the profession.

Nominees from 2008 and 2009 will automatically be re-considered for nomination in 2010. However, the legal community is encouraged to submit new or additional information about these nominees.

The names of current Hall of Fame members and those who have been nominated are available on the MCBA website at www.maricopabar.org.

Submission Requirements

- Full name of nominee, including date of birth (and death, if applicable);
- A brief statement or summary of nominee’s significant qualifications and achievements (about 100 words or less);
- A detailed biographical description of nominee. The committee relies on the information supplied by the nominator(s), so comprehensive information is important. Supporting letters from others are also welcome.
- A photograph, preferably in color, submitted in electronic jpg format as an attachment to email.

Where to Submit Nominations

Nominations will be accepted by mail, email or through the MCBA website. For mail or email, please use the form on this page, or you may download the form from the website or use the website’s electronic form: www.maricopabar.org

Forms should be mailed or emailed to:
Laurie Williams, Hall of Fame, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, AZ 85004-1532. Phone: (602) 257-4200. Email: lwilliams@maricopabar.org.

HALL OF FAME INDUCTEES TO DATE

**2008**

**PIONEERS**

- Hon. Joseph Kibbey
- Hon. A.D. Lemon
- Anita Lewis
- Hon. Frank H. Lyman
- Wing E. Ong
- Hon. John C. Phillips
- Hon. Rawghlie Stanford
- George J. Stoneman

**MODERN ERA**

- Hon. William H. Rehnquist*
- Paul M. Roca*
- Richard A. Segal
- Kenneth J. Sherk
- Frank L. Snell, Jr.*
- Hon. Thomas Tang*
- Hon. James A. Teilborg
- Mark Wilmer*

*Deceased

**2009**

**PIONEERS**

- Hon. Rebecca Albrecht
- Roxana C. Bacon
- Paul E. Eckstein
- Michael L. Gallagher
- Mark I. Harrison
- Orme Lewis*

**MODERN ERA**

- Rodney B. Lewis
- Hon. Ruth V. McGregor
- Frank A. Parks
- Willard H. Pedrick*
- Elias M. Romley
- Harvey E. Streich*
- *Deceased

*The selection committee relies upon the detailed bio to make a decision. Letters of support from others are also welcome. Also separately, please send a photograph (preferably in color) in jpg format, as an attachment to email.

NAME OF NOMINEE

(include birth date and date of death, if applicable):

1. Please attach a detailed biographical description of nominee

2. Please write a brief statement or summary of nominee’s significant qualifications and achievements (100 words or less) here, or attach it to this form as a separate document:

提名委员会将表彰在马里科帕县执业至少10年的律师，他们已：

- 在我们当地律师协会和法律界的历史发展方面扮演了重要而显赫的角色；
- 对法律或司法的管理和执行做出了重大或独特的贡献；和/or
- 显示了在社区或专业服务方面显著的领导、倡导和成就。

2008年的提名者将自动再考虑2010年的提名。但是，法律界鼓励提交新的或额外的信息关于这些提名者。

提名人的名字和那些被提名的人可以在MCBA网站www.maricopabar.org上获得。

提交提名要求

- 提名人的全名，包括出生日期（若有死亡则包括死亡日期）；
- 简短的声明或对提名人的显著资格和成就的总结（100字或更少）；
- 详细的提名人的个人资料。委员会依赖于提名人的信息，所以全面的信息非常重要。其他人的支持信件也受欢迎。
- 附上彩色的电子jpg格式的照片。

在哪里提交提名

提名将通过邮寄、电子邮件或通过MCBA网站接受。通过邮件或电子邮件，请使用此页面上的表格，或从网站下载表格或使用网站的电子表格：www.maricopabar.org

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Laurie Williams, Hall of Fame, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, AZ 85004-1532。电话：(602) 257-4200。Email: lwilliams@maricopabar.org。

HALL OF FAME INDUCTEES TO DATE

**2008**

**PIONEERS**

- Hon. Joseph Kibbey
- Hon. A.D. Lemon
- Anita Lewis
- Hon. Frank H. Lyman
- Wing E. Ong
- Hon. John C. Phillips
- Hon. Rawghlie Stanford
- George J. Stoneman

**MODERN ERA**

- Hon. William H. Rehnquist*
- Paul M. Roca*
- Richard A. Segal
- Kenneth J. Sherk
- Frank L. Snell, Jr.*
- Hon. Thomas Tang*
- Hon. James A. Teilborg
- Mark Wilmer*

*已故

**2009**

**PIONEERS**

- Hon. Rebecca Albrecht
- Roxana C. Bacon
- Paul E. Eckstein
- Michael L. Gallagher
- Mark I. Harrison
- Orme Lewis*

**MODERN ERA**

- Rodney B. Lewis
- Hon. Ruth V. McGregor
- Frank A. Parks
- Willard H. Pedrick*
- Elias M. Romley
- Harvey E. Streich*
- *已故

*提名委员会依靠详细的生物来做出决定。其他人的支持信也是受欢迎的。另外，分别附上彩色的电子jpg格式的照片，作为附寄电子邮件。
Phone-Call Fear Keeps Prospects From Calling

By Trey Ryder

Your prospect has a problem. He doesn’t know what to do. He’s concerned. He’s afraid. He needs a lawyer. Will he call you? Maybe. Maybe not.

Your prospect is afraid of a problem he doesn’t understand. Plus, he’s afraid of a marketplace he has learned not to trust.

But there’s a bigger problem: He’s even more afraid of you.

I call this “phone-call fear” and define it as your prospect’s fear of calling your office based on what he thinks might happen when he calls.

Notice that phone-call fear is not based on what will happen because your prospect doesn’t know that. It is based only on what your prospect is afraid might happen, based on his experience with lawyers and his perceptions about lawyers.

What’s he afraid of? Lots of things, including the following:

■ He’s afraid you may refuse to talk with him over the telephone.
■ He’s afraid you may try to pressure him into making an appointment.
■ He’s afraid you may charge him for the phone call.
■ He’s afraid you may not handle his type of problem.
■ He’s afraid you may not have time to help him.
■ He’s afraid you may charge more than he can afford.

What else? (You can probably add several fears to this list.)

Even though prospects need your help, phone-call fear often keeps prospects from calling you. So, how do you overcome phone-call fear?

Simple. In your marketing materials and on your website, make sure your prospects know:

■ You welcome their calls.
■ You’ll gladly talk with them over the telephone or in person, without charge.
■ You’ll return their calls promptly, if they aren’t available when they call.
■ You won’t pressure them in any way.

In addition, you can offer to help prospects even if they aren’t ready to speak with you.

■ You can offer a free fact kit, which you will mail or e-mail to them upon request.
■ You can offer information about yourself and your firm, such as your biography and the services you offer.
■ You can offer educational seminars and where they can meet and talk with you in person without the perceived pressure of an office appointment.

You can offer to add their name to your mailing list so they receive your newsletter, invitations to seminars, news in your area of law, announcements, and more.

You can offer your Internet website, which they can visit for more information.

As a lawyer, every day you fight an uphill battle of negative perceptions about the legal profession. Since your prospect doesn’t know you, he could assume that “you’re as bad as all the rest.” The burden is on you to show that you rise above the negative perceptions and that you’ll do everything you can to help.

The first way you demonstrate this is by providing information about you and your practice and by giving your prospects ways to get to know you at whatever speed they feel comfortable. The more information you provide and the more ways you invite prospects to learn about you, the more comfortable they will be with the process.

Addendum: After a CLE seminar, in which I explained prospects’ phone-call fear, the next speaker (a lawyer) came to the podium. He seconded what I said, then added that prospects aren’t the only people who are afraid to call him. He discovered that even his clients are afraid to call.

So don’t conclude that phone-call fear affects only your prospects; it could hinder communication with your clients as well.

Make sure prospects and clients know that you welcome their calls. Also, make sure they know that if you can’t help them with their problem, you’ll gladly refer them to a competent lawyer who can.

Trey Ryder specializes in education-based marketing and can be reached at trey@treyryder.com.
Lawyer, ethicist, scholar and friend.

Daniel J. McAuliffe
March 27, 1945 - March 12, 2010

“The credit belongs to the man who... spends himself in a worthy cause...”
– Theodore Roosevelt
EPA Ranks Phoenix in Top 25 Energy Saving Cities

The U.S. Environmental Protection Agency (EPA) released a list of U.S. metropolitan areas with the largest number of energy efficient buildings that earned EPA’s Energy Star in 2009. Phoenix was ranked 20 on the list, signifying a strong commitment to energy conservation. Energy efficiency saves building owners money and fights climate change. “These cities and Energy Star buildings are shining examples of leadership in the fight against global warming,” said Jared Blumenfeld, EPA’s Regional Administrator for the Pacific Southwest Region, where five of the top 25 cities are located. “We applaud these facilities for making significant contributions to reduce their footprint through energy conservation in the workplace.”

EPA first issued its ranking of cities with the most Energy Star labeled buildings last year. In 2008 Phoenix was ranked number 22 and in 2009 has moved up two spots to number 20 in all U.S. cities. There are currently 52 ENERGY STAR buildings in Phoenix which creates an $11.4 million dollar cost savings and an electricity savings equal to 9,900 homes’ energy use.

“These cities see the importance of taking action on climate change,” said Gina McCarthy, assistant administrator for EPA’s Office of Air and Radiation. “Communities from Los Angeles to Louisville are reducing greenhouse gases and cutting energy bills with buildings that have earned EPA’s Energy Star.”

Since EPA awarded the first Energy Star to a building in 1999, nearly 9,000 buildings across America have earned the Energy Star, with 48% of the end of 2009, representing a more than 40 percent increase over last year’s total. Overall annual utility savings have climbed to nearly $1.6 billion and greenhouse gas emissions equal to the emissions of more than 1 million homes a year have been prevented.

Energy use in commercial buildings accounts for 17 percent of U.S. greenhouse gas emissions at a cost of more than $100 billion per year. EPA awards the Energy Star to commercial buildings that perform in the top 25 percent of buildings nationwide compared to similar buildings. Thirteen types of buildings can earn the Energy Star, including schools, hospitals, office buildings, retail stores and supermarkets. ■

Andrew Thomas and Dark Places

continued from page 3

our judges absorbed my attention. The RICO complaint alleges that judges Mundell and Fields filed bar complaints against Thomas that were ultimately dismissed. If we lawyers think a fellow lawyer might have committed an ethics violation, E.R. 8.3 says we must report it. Doing so cannot be criminal activity because the Arizona Supreme Court says that filing a bar complaint is subject to an absolute privilege. Drummond v. Stahl, 127 Ariz. 122, 126, 618 P.2d 616, 620 (1980). Any other rule would squeeze a lawyer who suspects ethics violations between granite and a steel plate.

Other than non-cognizable bar-complaint-distress, the only specific facts Thomas pleads as a basis for accusing Maricopa County Superior Court judges are judicial decisions. Hon. Kenneth Fields, Ret.: Thomas says Judge Fields should have disqualified himself from sitting on one of Thomas’s cases because Fields had previously demonstrated a bias against Thomas, and that Fields made an improper ruling supporting a possible insult to a judge. What bribery? When asked this question at the press conference announcing his criminal complaint against Judge Donahoe, Thomas admitted Judge Donahoe did not receive any money, but stated, “The bribery statute is very broad.” How this breadth encompasses any act by any of the four judges, Thomas has never revealed.

Neither does his RICO complaint. Upon undisclosed “information and belief” it alleges that as part of a conspiracy, Judge Mundell appointed Judges Daughton and Fields to Thomas’s cases; Judge Mundell and Judge Baca refused to disqualify Judge Fields; and Judges Fields and Donahoe ruled against Thomas in all in order to protect members of the Board of Supervisors and their staff from criminal investigation.

In exchange for such a grotesque perversion of justice, what result did these four well-respected, veteran judges expect to achieve? The complaint says “facilitation” (whatever that means) of payments necessary to build the new criminal court building—despite the fact that the Supervisors committed to the project in 2006 and had already saved the funds necessary to build it.

To constitute a bribe, a benefit must go to the offender. State v. Walter, 185 Ariz. 228, 242, 914 P.2d 1320 (Div. 1 App., 1995), and Thomas does not allege that any judge will receive even a trivial benefit. Even an absurdly broad interpretation of “benefit” does not help. Due to their retirements and judicial rotations, not one of the four judges stands to gain so much as use of an office within the new criminal court building.

Andrew Thomas has taken the unprecedented step of suing respected Maricopa County Superior Court judges for criminal acts while failing to allege the facts necessary to show the existence of a crime. The complaint does not contain a scintilla of fact from which a reader can infer that the preposterous agreement Thomas alleges is anything other than Thomas’s invention.

Anyone who reads the RICO complaint and brief can see why Thomas dismissed. If he had not, the U.S. District Court was sure to do it, and almost certainly award sanctions. Only Thomas’s high office and his access to public funding distinguish his RICO suit from the commonplace pro per complaints crackdowns file claiming that they lost in court due to a “conspiracy” between the judge and opposing counsel.

So why did he do it? Whatever the reason, it cannot be lack of brain. Andrew Thomas is a Harvard Law graduate. There can be only one motive: Intimidation.

Sitting high in their black robes, judges appear imposing, but they are a vulnerable lot. The typical judge gave up his or her client base and referral sources long ago, and Superior Court pay is insufficient to allow judges to accumulate the six-figure litigation contingency board necessary to counter a county attorney’s vast resources.

Sure, judges can ask the state to reimburse them for the fees they incur defending civil suits, but how certain can they be certain of receiving full payment? And if Thomas ups the ante by filing criminal charges, no statute authorizes reimbursement.

There’s also the disgrace. A reputation for honesty is bedrock for a judge. How would you like to explain to your children why the county prosecutor accused Daddy of taking a bribe? Judge Donahoe will have to answer that question for the rest of his life.

Thomas’s timing bespeaks intent to intimidate. Why didn’t Thomas wait for the Court of Appeals to rule whether the four judges’ decisions were in error? There is no statute-of-limitations urgency. Without an alternative explanation, we can only assume that Andrew Thomas chose to strike fast so that other judges would fear his certain, swift vengeance.

So it should be no surprise that when faced with able opposition before a formidable federal judge, Andrew Thomas dropped his suit. These antics would be comical, except that Thomas has: 1) treated decent people indecently; 2) attempted to jeopardize the law’s most sacred principle—the balance between the scales in the blindfolded lady’s hand; and 3) squandered a large amount of badly needed public funds in pursuit of his ignoble campaign.

Arizona has had more than its share of embarrassing public figures. Until now, none of them have been so power-razed that they have refused to accept the judicial process or sought vengeance against the dedicated, honorable women and men who serve as our judges.

Although neither will ever achieve perfection, respect for the legal process and those who administer it is fundamental to maintaining a civilized society. Andrew Thomas’s actions create a moral crisis for our profession. We, the lawyers, cannot remain neutral. The times require that we take that Italian’s admonition to heart. ■

Tom Galbraith is a 1969 graduate of Yale Law School, and practiced law in Arizona until he retired from Meyer Hendricks in 2008. His writing has appeared in the ABA’s Litigation, Arizona Attorney and Maricopa Lawyer.
MCBA Seat in ABA Open to Members

Members of the MCBA interested in becoming the bar’s representative to the ABA House of Delegates are encouraged to submit a letter of interest and a resume to the MCBA’s Board of Directors no later than the end of business on Monday, May 10, 2010.

The term of MCBA’s current representative, Timothy R. Hyland, expires at the conclusion of the ABA’s 2010 Annual Meeting. Hyland is eligible for reelection.

The representative will serve a two-year term expiring in 2012. The candidate must be a member of the American Bar Association in good standing throughout his or her tenure as a delegate.

Members of MCBA Named ‘Forty Under 40’

Jennifer Cranston, a shareholder of Gallagher & Kennedy, P.A. and treasurer of the MCBA board of directors as well as past president of the Young Lawyers Division board of directors, has been honored as one of the Phoenix Business Journal’s “Forty Under 40” for 2010. Cranston was honored with 39 other recipients at an awards reception on April 6 and was profiled in the April 9 issue of the Phoenix Business Journal. Cranston focuses her practice on general litigation, with an emphasis on real estate disputes, including condemnation and valuation matters, as well as insurance coverage analysis.

Jason Vanacour, MCBA member and attorney with Snell & Wilmer LLP, was named to the Forty Under 40. Vanacour successfully prosecuted a pro bono matter on behalf of a prisoner and a wrongful termination matter through the use of his expertise in electronic discovery. Vanacour is president of the Arizona Youth Soccer Association and vice chairman of the Phoenix Regional Sports Commission.

Shelley Dewittler DiGiacomo, a member of Osborn Maledon PA and MCBA member, was honored for her work in corporate litigation and involvement in pro bono legal services, which she says is her “greatest professional reward.” DiGiacomo is secretary of the board of Community Information and Referral, a volunteer for the Uphill into the Wind charity and co-teaches a section on small-business organizations at the Phoenix School of Law.

Christa Torralba, Director of Fennemore Craig PC and MCBA member was honored for her work as a health-care defense attorney, including helping navigate the challenges of litigation with professionalism. Torralba also works in labor and employment defense and was praised by a client for pushing for “the truth to be heard.” Torralba is a member of the Junior League of Phoenix and volunteers for Safe Return, the Ronald McDonald House, St. Mary’s Food Bank and many other organizations.

Other Attorneys Honored

Bill Gates, an associate general counsel with Ping Golf and District 3 representative for the Phoenix City Council, was recognized for his work in commercial litigation.

James Goodnow, Harvard Law School graduate and attorney with Fennemore Craig PC was honored for his work on “some of the largest, most sophisticated litigation cases in the West.”

MEMBER PROFILE

LRS Client Lauds Langford

By Isolde Davidson

It all started in the eighth grade when Elizabeth Langford just knew that whatever job was in her future, she’d be wearing a suit and carrying a brief case doing it. “And it worked out really well,” she said, laughing. Now in practice for almost 20 years, she heads her own firm in Glendale, where she practices bankruptcy and family law.

Langford came to MCBA’s attention when one of her bankruptcy clients wrote a letter to the MCBA Lawyer Referral Service, praising her outstanding service. The client wrote: ‘At all times, Ms. Langford and her excellent staff were on top of my case and worked with me and were very supportive through the entire process…I am writing this letter so that your office will know the outstanding attorney you have in the community.”

Of the Lawyer Referral Service, Langford says, “They’re great with scheduling, and I frequently recommend them to people who call from out of state needing a lawyer.”

Born in the Midwest but raised in the Valley from an early age with two siblings, she exercised her competitive spirit in soccer, softball and tennis. At the University of Arizona, she earned a B.S. in economics and then went on to obtain her J.D. from the university’s James E. Rogers College of Law. For Langford, the best part of practicing law is meeting with people and problem solving. After a few years as a Maricopa County public defender, she launched her solo career in 1995, taking over the practice of a retiring lawyer for whom she initially worked.

He was practicing bankruptcy, family law and doing some litigation, and she learned the ropes in his office, “getting my hands dirty.” Langford continued the focus on family law and bankruptcy. “I love it,” she says.

Past Presidents’ Breakfast

Among those at the Past Presidents’ Breakfast last month were, from left, Ted F. Warner (1980-81), Kevin D. Quigley (2009); Allen W. Kimbroough, MCBA executive director; Jerry L. Angle (1969); Hon. Robert D. Meyers (ret.) (1979-80); and Hon. Glenn M. Davis (2000). One of the group’s projects is to assist in the development of the Maricopa County Justice Museum and Learning Center.
Take Advantage of MCBA’s Corporate Partners

The MCBA partners with providers that can offer a high value product or service at a discounted rate to members. Please be sure to check out our current providers and come back often to see what’s new.

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Jane Kassel or Steve Cabrera, Vision Care Direct/Cabrera Financial (602) 346-5155 Email: jmkassel@cox.net or stevecabrera@yahoo.com
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Because the financial impact of a disability can be devastating, many consider income protection an essential part of a sound financial plan. EXCLUSIVE OFFER: As a member of the Maricopa County Bar Association, you can help protect your most valuable asset and receive premium discounts up to 30% on high-quality Individual (DI) Insurance from Principal Life Insurance Company:
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Enroll online at: Membership.BrooksBrothers.com (do NOT include http:// or www, in front of the website address) You will be prompted to validate your MCBA membership by using the the MCBA Organization ID and Pin Code.
• Organization ID#: 10082
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You may also enroll by telephone at: 1-866-515-4747 during ET business hours. Have the organization ID and pin code ready.

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Enroll online at: Membership.BrooksBrothers.com (do NOT include http:// or www, in front of the website address) You will be prompted to validate your MCBA membership by using the the MCBA Organization ID and Pin Code.
• Organization ID#: 10082
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You may also enroll by telephone at: 1-866-515-4747 during ET business hours. Have the organization ID and pin code ready.

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### MAY

**THURSDAY • MAY 6**

2 PM - 5 PM

Environmental Law: Resolving Environmental Conflicts

3 credit hours

Through a combination of discussion and exercises, this program will explore the essential elements of processes used to address and resolve environmental conflicts. We will focus on techniques for preventing conflict and managing conflict when it occurs. Discussion will include:

- Environmental Conflict Resolution (ECR) defined
- When ECR is used
- Techniques to promote collaboration and manage conflict
- Essential communication skills
- Interest-based negotiation

Please join us afterwards for a complimentary happy hour with beer, wine and appetizers from 5 to 7 p.m.

**PRESENTER:**
Jeffrey Silvyn, General Counsel, Udall Foundation & U.S. Institute for Environmental Conflict Resolution

**COST:**
- Student members: $90
- MCBA members: $105
- Non-members: $165
- Student members: $10

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**MONDAY • JUNE 7**

11:30 AM - 1 PM (Lunch included)

Tips for Effective and Ethical Marketing on the Internet

1.5 ETHICS credit hours

What are the best ways to optimize your Web site’s ranking in search engines, market your company online and use Google Maps to your advantage? Those topics and more are featured in Part One of a two-part discussion about the Internet. Part Two will discuss whether to answer “anonymous” legal questions on the Web, the ethical rule restrictions on online referral services, the five things that ethically must be on a law firm Web site and the rules on clients “friending” you on Facebook and recommending you on LinkedIn.

**PRESENTERS:**
Elina Tsekh, Senior Media Specialist, Yellowbook
Lynda Shely, The Shely Firm, PC

**SPONSORED BY:**
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**COST:**
- MCBA members: $60
- Non-members: $62.50
- Student members: $40

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**THURSDAY • JUNE 24**

11:30 AM - 1:30 PM (Lunch included)

Criminal Law: Collateral Consequences of a DU: How Will My Client’s Career Be Affected?

2 credit hours

Thousands of Arizona professionals receive DUI convictions each year. This seminar will explore the impact of such a conviction on the professional career of the practitioner. Topics will include mandatory reporting requirements, licenses and certifications and practical realities of a DUI conviction.

**PRESENTERS:**
Paul A. Ramos, Maasen Law Firm
Craig Jospson, Stoel & Wiltz, LLP

**COST:**
- Criminal law section members: $70
- MCBA members: $80
- Non-members: $120
- Student members: $10

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**THURSDAY, JUNE 10**

2:00-5:00 P.M. (Reception to Follow)

Ethical Issues in Construction Litigation

3 hours ethics credits

This program will discuss the ethical issues that arise in construction law litigation, including:

- Indemnity disclosure
- Choice of law issues
- Party and non-party Communications
- Privilege and Reporting Obligations

**PRESENTERS:**
J. Gregory Cahall
Scott A. Holcomb
Both Marshall, Weeds, McIntyre & Friedlander, PA

**COST:**
- Construction Law Section members: $90
- MCBA members: $105
- Non-members: $165
- Student members: $10

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### Mundell Retiring; Superior Court Seeks Applicants by May 14

Superior Court Accepting Applications for Judge Vacancy

Applications are being accepted for a vacancy on the Maricopa County Superior Court created by the retirement of Judge Barbara Rodriguez Mundell.

The Maricopa County Commission on Trial Court Appointments will review applications, interview selected applicants and recommend at least three nominees for the vacancy to Gov. Jan Brewer, who will appoint the new judge.

Applicants must be at least 30 years old, admitted to practice law in and a resident of Arizona for the past five years and a resident of Maricopa County for the past year.

Applications can be obtained from the Administrative Office of the Courts,Human Resources Division, 1501 W. Washington, Suite 221, Phoenix, by calling (602) 452-3511; by sending an electronic mail request to: jnc@courts.az.gov; or at the Judicial Department website: http://supreme.state.az.us/jnc/Apply.htm.

The original completed application and six copies must be returned to the Administrative Office of the Courts, Human Resources Division, 1501 W. Washington, Suite 221, Phoenix, AZ, 85007, by 3:00 p.m. on Friday, May 14, 2010. Applicants for the recent vacancies in Maricopa County will be considered for the new vacancy and do not need to re-apply.

The Commission may, at its discretion, use the applications filed for this vacancy to nominate candidates for any additional vacancies known to the Commission before the screening meeting for this vacancy is held.

All meetings of the Maricopa County Commission on Trial Court Appointments are open to the public. Meeting dates will be announced next month. The new judge will be paid $145,000 annually.

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continued from page 14

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VLP ATTORNEY OF THE MONTH

Attorney Goes Beyond Pro Bono to Help Others

By Peggi Cornelius, CVA

Within a year of obtaining his J.D. from the University of Tulsa, Shawn L. Stone had returned to the community of his youth and joined in the practice of law with his father. That was a fortunate year for people seeking assistance through the Volunteer Lawyers Program (VLP), as Stone also joined his father in making pro bono work a priority in his professional life. In recognition of a five-year commitment that is equally strong and continues to grow today, the VLP is pleased to honor him as the “Attorney of the Month.”

Stone’s first years as an attorney engaged him in real estate litigation – and although not directly related – he found his knowledge was easily applied in advising VLP clients of their responsibilities and remedies under the Arizona Landlord and Tenant Act. He notes that because low-income people have fewer options for affordable housing and fewer resources with which to affect solutions to problems, they are sometimes victimized.

“I may be a bit disillusioned when a tenant has unreasonable expectations, but I’m equally uplifted when I can intervene in cases where my ability to negotiate a resolution or represent someone in court makes an unfair situation right,” said Stone. “It’s not surprising (that) emotions run high and communications have often broken down by the time a tenant reaches VLP. Under such circumstances, I’m naturally better able to advocate for someone than they are for themselves.

“But there’s also no doubt that my being an attorney and having the negotiation skills I’ve developed as a lawyer adds what may be the deciding factor in reaching an equitable outcome,” he noted.

Last year, when Stone heard VLP director Patricia Gerrich speak of an increased need for volunteer attorneys to represent underemployed VLP clients in no-asset bankruptcies, he offered to assist. Stone’s willingness to learn coincided with a willingness to teach and mentor on the part of a VLP attorney experienced in bankruptcy law. He readily joined a group of volunteers under the tutelage of attorney David Engelman. Since completing the course of study presented by Engelman, Stone has accepted three Chapter 7 pro bono case referrals.

Stone continues to volunteer monthly in the Tenants’ Rights Advice Clinic. In describing his experience, Stone commented, “I believe it’s important for people to give back when they can. It does not take a lot, and you never know what will come of it. In this case, I have integrated bankruptcy into my private practice.”

Outstanding volunteers often stand out because they share similar values and characteristics. It’s not uncommon for them to be engaged in more than one volunteer endeavor. Stone participates in “Big Brothers Big Sisters” as well as VLP. Outstanding volunteers are reliable and self-motivated, often asking to be of service rather than waiting to be asked. VLP staff members have only great things to say about Stone.

“I know I can count on him to advise tenants every month,” said one member. Another said, “He contacts me to say he’s ready to represent another family needing to file bankruptcy. It’s great!”

Age Dispute Ends in Reversal for Assault Case

continued from page 1

usage,” he wrote, “we typically refer to the age of a person, other than an infant child, in terms of years, not in months or days. Thus, a person who is fifteen years old is ‘exactly’ that age only at the precise moment he was born fifteen years earlier. He continues to be fifteen years old, however, for almost another year, until his sixteenth birthday.”

Brown also found counsel in a previous version of the statute, which formerly aggravated the crime of assault in two situations: first, when the attacker was an adult male and the victim was a female or a child; second, when the attacker was an adult female, and the victim was a child. “By its plain terms,” Brown observed, the statute was intended to allow a more serious crime – or, to be charged if the victim was a child.”

He also found the legislative history persuasive. The legislature amended the statute in 1970. The bill originally proposed to specify a victim who was “a child under the age of fifteen.” This was amended to “a child the age of fifteen years or under.” This change of language was important to Brown: “Had the legislature intended to protect only children less than fifteen years of age,” he wrote, “it would have left the proposed wording intact, as the unmodified version clearly did not apply to any child who had reached his fiftieth birthday.”

Further cinching this interpretation was language from a different part of the statute that is similar, but significantly different. Subsection (B) of the statute specifies that the crime is a class-2 felony in certain circumstances when “the child is under fifteen years of age.” “We presume,” Brown wrote, “that the legislature intended that these two provisions be treated differently and that ‘fifteen years of age or under’ describes a different age classification than ‘under fifteen years.’”

Finally, Brown found that Munoz’s professorial interpretation would defray common sense because it “would have us find that the legislature intended to impose criminal liability for aggravated assault on a person who assaults a fifteen-year-old child only on that child’s birthday.” Actually, he found Munoz’s interpretation even more far-fetched than that: “[I]f fifteen years of age is tied to an exact moment in time, as Munoz suggests, then a person’s exact fiftieth anniversary is measured in increments of seconds, not days.”

 “[W]e cannot accept that the legislature intended to include or exclude a fifteen-year-old victim within the scope of the aggravated assault statute on such a hyper-technic basis,” Brown concluded. Joining him in reversing the dismissal of the complaint were Judges Patrick Irvine and Donn Kesler.

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Missing Dan

about legal ethics was impressive. I got to know Dan through our Sandra Day O’Connor Inn of Court, an organization whose mission, in part, is to promote high standards of civility and ethics. Dan was one of our Inn’s pillars, and we will deeply miss his contributions, his command of peculiar movie trivia and yes, his unmistakable laugh.

Once a year, usually during a Lynda-Shely-created “Legal Jeopardy” presentation, Dan would run the “Legal Ethics” category. No one else, not judges or other long-time respected members of our bar stood a chance. A few times Lynda would chide Dan, commenting that he better know the answer because he helped write the rule. But of course, Dan loved to help others.

You don’t think about your friends and colleagues having a theme for their lives, but at his memorial service, one became clear: Dan loved serving others. During his tenure leading the State Bar, his focus was on access to justice for all, especially the poor. His spirit of service wasn’t just as a lawyer but was a steady refrain present throughout his life: Dan coached the women’s basketball team at Fordham in undergrad (and of course was very successful).

Dan’s passion for helping people was one of his gifts that will never leave us. One Inn meeting, Dan took the podium for an entire meeting and thoughtfully regaled us with his challenging year as president (there are challenging years for bar presidents, and then there is the fact that he was battling myeloma during his year, which he never specifically mentioned of course). He shared with us his struggle to decide whether to keep going, knowing the days would be long and the work would be tremendous. Any rational person would have stepped down and let work, treatment and recovery take up most waking hours; he had certainly earned it. But of course, Dan was stirred by the challenge and eager to take on the work of the State Bar. The year he was president, he devoted more than 1,500 hours to the task, while keeping his work aloft, and admitted that in reflecting on the journey, he loved every second of it. He was asked many times if he would make the same decision if he could do it all over again. He said, “I wouldn’t have changed a thing.”

So we’ll miss his service, his contributions to legal ethics in Arizona and his camaraderie. I’ll think of him every time our Inn gets around to playing “Legal Jeopardy” or if someone asks what ethical violations are present in one of the outrageous courtroom scenes in “My Cousin Vinny.” But mostly we’ll miss his big, bold, sometimes-scruffy laugh that was contagious. Thank you, Dan McAuliffe. You will be missed.
Appointments, New Hires, Relocations and Expansions

Christine Meis McAuliffe, a partner of the Scottsdale office of Holme, Roberts & Owen, was recently elected to serve as secretary of the Arizona BioIndustry Association Board of Directors. McAuliffe is a registered patent attorney who practices in patent prosecution, patent validity and infringement opinions, patent litigation, trademark, and copyright law. She also counsels clients in technology and intellectual property acquisition and transfer, joint ventures, and strategic alliances.

Greenberg Traurig shareholder John E. Cummerford has been elected to serve a four-year term on the Board of Trustees of the Frank Lloyd Wright Foundation. Cummerford will also serve on the Foundation's Archives Committee. Cummerford's practice focuses on the legal and business needs of established and emerging growth companies, with particular emphasis on software, Internet, hardware and knowledge-based industries.

Charles W. Wirken, a partner at Gust Rosenfeld PLLC, has been selected to become a Fellow in the American Academy of Appellate Lawyers. Only nine other attorneys in Arizona are members of this prestigious group. During his 34-year career, Wirken has briefed and argued a broad range of cases and issues in state and federal appellate courts. In 2009, he successfully petitioned the United States Supreme Court to hear the case of United Student Aid Funds vs. Espinosa, the recent decision of which established legal requirements for the discharge of student loan debts in bankruptcy cases. Wirken will be inducted as a Fellow in the Academy on April 9, 2010 at a ceremony during the Academy’s spring meeting at the Arizona Biltmore.

David M. Paltzik has been elected to the board of directors of the Camp Soaring Eagle Foundation. Paltzik focuses his practice on the representation of homebuilders, developers, investors and business owners in a wide variety of real estate, financing and commercial transactions. Paltzik said he is honored to serve the foundation, which provides a special place for children living with fatal or life-threatening illness to forget their worries. “Kids need and want to be kids, regardless of illness. We are committed to providing these children the opportunity to attend a camp where they can focus on laughter and fun and just being kids,” Paltzik said.

International law firm Greenberg Traurig, LLP has announced that shareholder John Alan Doran has been named to Law360’s 2010 Employment Editorial Advisory Board. Doran focuses his practice in the areas of labor and employment, appellate and litigation. His labor and employment practice includes traditional labor law and union avoidance; OSHA compliance and defense; harassment training and litigation; executive employment contracts; downsizing; Qui tam and government contractor obligations; and personnel policies and disciplinary issues.

The national law firm of Quarles & Brady LLP is pleased to announce that attorney Charles Herf has been appointed to a three-year term as a Lawyer Representative to the United States Ninth Judicial Circuit. As a Lawyer Representative, Herf, a partner in Quarles & Brady’s Labor and Employment Practice Group, will participate in joint meetings of lawyers and judges in the Arizona district and assist in organizing its annual Judicial Conference for all of the state’s U.S. District Court judges, bankruptcy judges, magistrate judges and federal court practitioners.

New Hires

Fresh off the heels of being named the No.1 law firm in its class for the second consecutive year, 12 attorneys will join Polsinelli Shughart’s Phoenix office, significantly expanding the firm’s Environmental and Natural Resources practice and its Insurance Coverage/Bad Faith Litigation practice. The group of six shareholders, two counsel and four associates are led by Lucas Narducci, Troy Froderman and Brian Moll. The team previously practiced at Bryan Cave in Phoenix and brings a wealth of experience and success representing national manufacturing, mining and service companies in the areas of environmental and natural resources, toxic tort, public liability, product liability, corporate law, business litigation, and insurance coverage/bad faith litigation.

Relocating

Chisetz Iannitelli Marcolini, PC is pleased to announce that effective March 1, our Phoenix office relocated to 111 West Monroe Street, 17th Floor, Phoenix, Arizona 85003.

Expanding

Quarles & Brady LLP, a full-service national law firm with more than 425 attorneys and a major presence in Phoenix and Tucson, has opened a new office in Tampa, FL. It is the second Florida office for Quarles & Brady, which already has a presence in Naples in addition to its offices in Phoenix and Tucson, Chicago, Milwaukee and Madison, WI.

The firm’s Phoenix and Tucson offices are among the largest in their markets. Attorneys joining the firm include corporate franchise attorney David Beyor, commercial bankruptcy attorney Phillip Martino and commercial litigators Christian Burden, Kelli Edison, Bill Hamilton and Paul Parrish.
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well as judges from Maricopa County Superior Court and the Arizona Court of Appeals.

Recent graduate Brent Kleinman, 39, of Phoenix, said the workshop provided much help and insight into his new career as an attorney.

"The program that (MCBA) just ran is going to be ideal just to give me a foundation of how the practice (works) and a couple of tips on how to survive and succeed," Kleinman, who graduated from the Phoenix School of Law in December after 15 years in the hospitality industry, said he really enjoyed the opening workshop, "Candid Advice for New Lawyers." He said the discussions opened his eyes to the idea that he doesn’t have to work from 6 a.m. to midnight to be successful.

"My fear is that's what it would have to be to succeed in the firm mentality. But it seems today that a lot of firms are encouraging the out-of-office activities, be it pro bono work or community service or just taking (work) home," Kleinman said.

As a child, Kleinman, who is awaiting results from his state bar exam, said his father was an attorney and was usually not home when he woke up in the morning and before he went to bed at night.

That was something he didn’t want to repeat as a new lawyer. In the "Negotiation and Settlement Skills" workshop, Kleinman said he learned some valuable life lessons, such as best car shopping practices.

"Buying cars in the past, I always thought I was good at (it)," Kleinman said. "But going through the workshop, I realized I've got a lot to learn. I paid too much for my last car," he said, laughing.

No Lectures Allowed

Steven Hirsch, attorney with Bryan Cave, LLP, and one of the moderators for the "Candid Advice for New Lawyers" workshop said one of those presenting was to create a forum-type atmosphere and not a lecture format.

"We wanted it to be collaborative," he said.

Hirsch, a practicing attorney in general business and commercial litigation for 30 years said he felt the workshop was a huge success.

"The group was very engaged and asked a wide variety of questions."

One question even solicited advice on romantic relationships, asking what types of relationships the speakers had gravitated toward.

"We were ready for anything. That was not anticipated," Hirsch said with a laugh.

During the course of the workshop, he said four main points were emphasized: the importance of community outreach and service, the importance of personal time, the need for mentors for beginning lawyers and having a focus on personal likes and interests as an attorney.

Hirsch said it was especially important for him as a beginning attorney to interact with others through organizations such as the MCBA.

"It got me out of the harder edge of adversarialness that one can fall into. It got me known to other people that are business associates."

Hirsch said it’s important to keep a good reputation as a lawyer. "You begin to see that, despite [Maricopa County’s] size, it’s really a small legal community," he said.

The Work/Life Balance

Leslie Satterlee, a family practice attorney at Nirenstein Garnicke Soderquist, PLC in Tempe and a panel member for "Candid Advice for New Lawyers," said she would have benefited greatly from attending the workshops three years ago.

A graduate of the Sandra Day O’Connor School of Law at Arizona State University, Satterlee began practicing family law in 2007.

She said in her three years of practice the most challenging part has been juggling the many aspects of family law, including real estate, probate and criminal law.

"You have to be familiar with a lot of different areas," she said.

Another difficult part is dealing with the emotional struggles faced by clients.

"It's not always a happy time for parties going through divorce," she said.

Satterlee, who gave birth to a daughter six months ago, said that on a personal level she is still seeking to strike a balance between life and work, which is what she imparted to attendees of the workshop.

"I think for me it was important to let them know they can have a life-work balance - especially for me just having a new baby," she said.

Satterlee said she was surprised that many of the attendees didn’t know how to go about finding that balance, although most firms are flexible towards employees.

"Firms want to have employees working for them that are happy and do volunteer in the community," she said.

While she still works hard to please her clients and perform well, she knows she is cared about at her firm.

"They allow me to have a slightly flexible schedule so that I can participate as a mom. And (they) are supportive of activities I’m part of at the MCBA," she explained.

A View from the Judge’s Seat

With more than 20 years of experience as an attorney, it makes sense that Maricopa County Superior Court Judge Glenn Davis would be moderator of the workshop, "Your Day in Court: What to Expect and What Judges Expect From You."

Davis, who practiced mostly in civil and juvenile cases and now rules on criminal cases, said he was glad for the opportunity to share with new attorneys what he has learned over the years.

"I wanted (attendees) to be able to get acquainted with some judges outside of the courtroom and get different perspectives," he said.

Despite some differences, Davis said that most of the judges who spoke at the workshop shared similar views on courtroom protocol and expectations towards attorneys.

"A lot of the things they (the judges) said were in common in terms of preparation and presentation — to be clear and concise, to be courteous and civil in your presentations and keep it short and simple instead of long-winded and complex," Davis explained.

Another important aspect for attorneys presenting their case, Davis said, is to get to know the judge and his or her likes and dislikes.

"You should make it a point to know the judge you’re appearing before (in terms of) how they hear oral arguments, what expectations they have and protocol," he said.

Davis said there were many ways attorneys could research a judge, including networking with other attorneys in one’s section of the bar association.

"Don’t just walk into the courtroom not having any clue what the judge wants," he said.

The Passion and Need for Pro Bono

Patrick Fowler, partner at the Snell and Wilmer law firm and chair of the Maricopa County Volunteer Lawyers Program, participated as a speaker at two workshops with two very different themes: the first was "The Joys of Pro Bono," the second was "Deposition Basics: Direct and Cross Examinations."

"The former evokes more of the passionate side of law; the latter, Fowler admitted, is a little on the drier side."

Nonetheless, the veteran attorney said having a firm understanding of each is essential to his success after more than 20 years in the legal profession.

"I'm a big advocate of lawyers providing pro bono legal services to those who cannot afford to hire a lawyer so that everyone has access to justice regardless of their financial situation," Fowler said. "It's a huge need."

In Maricopa County and surrounding counties, more than 7,000 people qualify for pro bono civil legal services either because they are at or below the poverty level, Fowler said.

That number signifies a rise in need due to Arizona and the nation's struggling economy.

"We’re talking about people who have foreclosure issues, debt issues, problems getting benefits from the government, landlord/tenant problems...domestic violence," he said.

"With the bad economy, there are more people that need assistance."

Despite that growing need, Fowler said, the means for providing those services has recently been hampered, again due to the ailing economy.

Of the nine staff laid off a year ago at the Community Legal Services department in Phoenix, five were attorneys.

The cutback happened as a result of a funding reduction of several hundred thousand dollars provided by the Interest on Lawyers Trust Accounts (IOLTA) - a lawyer-related public service program that increases access to justice for individuals and families living in poverty - as well as other funding sources, Fowler said.

Because of the layoffs, the VLP is looking to the bar for more help in recruiting volunteer attorneys than ever.

And the response from attorneys who attended the "Joys of Pro Bono" workshop gives hope for those in need of legal help - a number of people agreed to take at least one case a year.

"That’s all we ask, that each lawyer take one case a year," he said.

A Lawyer’s Creed of Professionalism

What does it take to develop and uphold a good reputation as an attorney? That was the topic of discussion in the workshop, "The Honorable Profession: Making and Protecting Your Reputation," taught by Mark Harrison, attorney with Osburn Maledon.

A practicing attorney for nearly 50 years in the areas of alternative dispute resolution, appellate and litigation, Harrison mixed his knowledge of legal principles with wisdom garnered from peers to help attendees.

He outlined some of the challenging situations attorneys face each day, including pressure by clients to go against one’s ethics, financial pressures, being treated by opposing counsel in a belligerent way and even personally violating a court rule, court order or rule of professional conduct.

Harrison said that how one responds to these challenges largely shapes and determines his or her reputation.

One question came up from an attendee regarding how to respond after observing a colleague do something that may be a violation of the Arizona Rules of Professional Conduct.

"The answer is you use common sense and good judgment. Unless you observe and can demonstrate that it’s dishonest, you’ll probably waste your time to report it," Harrison said.

Harrison said that young lawyers tend to abuse the rules and use them as a sword, which courts don’t appreciate.

When he first began practicing in 1961, continuing legal education was available for attorneys but was not mandatory, Harrison said. When efforts arose to make it mandatory in Arizona, it was a topic of controversy, especially for practicing attorneys who felt it should be an option.

However, in the veteran attorney’s view, making CLE a requirement was a good move.

"I do think it is a good thing because the law is constantly evolving. In order to be competent they need to keep up with the changes in the law," he said.
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