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MARCH 2010
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MCBA
MARICOPA COUNTY BAR ASSOCIATION

Where The Legal Community Connects

New Lawyer Alert!

If you were admitted to practice in 2008, 2009 or 2010, you won't want to miss this fabulous two-day program, “Your Life in the Law: A Primer for New Lawyers,” on March 25-26. It features 23 experienced practitioners, including five judges, who are set to tell you everything they know about being a lawyer.

This event also includes two lunches and a reception so you can practice your networking skills and get to know your peers and the speakers. Both MCBA members and non-members are welcome to attend for one great low price, depending on the year of admission.

Register today at www.maricopabar.org. You can check out the programs and speakers right now on page 16 of this issue.

Almost 100 members and guests attended the MCBA’s Membership Luncheon last month at the Hyatt Regency. Shown here with featured speaker Arizona Supreme Court Chief Justice Rebecca White Berch are (left) Hon. Brian Rees and (at right) Garrick Gallagher and Brett Hager of Sanders & Parks, PC. Find more photos on page 10.

MCBA IS MOVING!
A Message from the Executive Director

On Feb. 12, 2009, our office building at 303 E. Palm Lane was the victim of an arsonist, and we have been operating out of temporary offices since that time.

Although no one could have imagined that the process would take this long, the restoration and renovation of the MCBA Building is complete, and we will be open for business back at 303 on Monday, March 1.

The moving process will commence on Wednesday, Feb. 24, but we anticipate remaining open for business here at the temporary offices through the end of the day on Thursday. We will be closed on Friday, Feb. 26.

I want to express my thanks to all of our members and staff for your patience and good humor as we have dealt with this situation. We look forward to welcoming you to a CLE program, meeting, or event at the MCBA in the very near future.

Sincerely yours,

Allen W. Kimbrough, JD, CAE
Executive Director

CourtWatch
Daniel P. Schaack

Compassion for One Party, None for Other
Reliant on Previous Published Opinions

This month, we look at two cases addressing situations where litigants were possibly prejudiced by their reliance on previous published opinions.

In one, the court felt compassion for the party and excused it from an otherwise adverse ruling. In the other, the court would have followed suit, but concluded it could not.

Turken v. Gordon

The Arizona Supreme Court expressed serious doubts about whether the City of Phoenix violated the Gift Clause of the Arizona Constitution in granting concessions to land developers in the CityNorth case. But it gave the city a break, acknowledging that its previous opinions had helped create confusion that possibly led the city to believe that its actions were okay. Turken v. Gordon, No. CV-09-0042-PR (Ariz. Jan. 25, 2010).

The Gift Clause precludes the government from “giving or loaning [their] credit in the aid of, or making any donation or grant, by subsidy or otherwise, to any individual, association, or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or become a joint owner with any person, company, or corporation.” The competition among municipalities to lure businesses to their confines, inevitably led to questions about whether their concessions go too far.

CityNorth is the commercial core of Desert Ridge, a large multi-use development in northern Phoenix. Its developer, NPP CityNorth LLC, informed Phoenix that it needed financial assistance to complete the development, and Phoenix worried that it might lose tax revenues to nearby Scottsdale.

They entered into a Parking Space Development and Use Agreement. It required NPP to reserve over 3,000 parking spaces for the non-exclusive use of the general public for 45 years, and also provide additional retail space. In exchange, Phoenix was to pay to NPP up to $97.4 million in retail sales taxes generated at the development for over 11 years.

Several Phoenix taxpayers and businesses challenged the deal based on the Gift Clause, as well as other alleged violations. The superior court tossed the case on summary judgment, but the court of appeals reversed; it nullified the agreement, holding that Phoenix had violated the Gift Clause. Turken v. Gordon, 220 Ariz. 456, 207 P.3d 709 (App. 2008).

The issue turned on two opinions. In Wistuber v. Paradise Valley Unified School District, 141 Ariz. 546, 687 P.2d 354 (1984), the supreme court established a two-part test, holding that a government expenditure does not violate the clause if it is made for a public purpose and if the government receives consideration that “is not so inequitable and unreasonable that it amounts to an abuse of discretion, thus providing a subsidy to the private
March On: ABA Ethics Madness Involves You

Welcome to March, home to Chamber of Commerce weather, $12 lawn seats, fantastic college basketball games, and you learning about the ABA’s effort to promote a discussion about our ethical responsibilities in the years to come. It’s called the ABA Commission on Ethics 20/20, and it certainly involves all of us.

The goal of the three-year commission is sizable: To focus on ethical and regulatory issues affecting the biggest legal transactions internationally down to a modest will dealing with one person.

The commission has started its work by focusing on three areas: a) ethical issues stemming from U.S. attorneys who are regulated by one state, but are working in several states, or foreign lawyers practicing in the United States; b) ethical issues created by emerging technology that allows for people to work across borders easily; and c) ethical issues raised by changes in technology.

The first issue asks how we will regulate U.S. lawyers who will be admitted to practice in other countries, and as you might guess, how will we regulate lawyers admitted from other countries to practice in the United States. The ABA does not have a policy regarding practice and registration of foreign lawyers practicing in-house in the United States. Should they?

With Arizona’s position as a border state, we will be at the intersection of this debate. Should we allow foreign lawyers to practice in the United States like we allow the multijurisdictional practice of law by U.S. lawyers? Should there be an ABA Model Rule or a local rule in Arizona permitting foreign lawyers to appear pro hac vice in our courts?

Another leg of this discussion involves the regulation of the outsourcing of legal work, which involves sending legal work to be performed by lawyers in other countries. Often this is done quickly and increasingly over e-mail. This practice is creating “global” law firms that create unchartered territory for those who are charged with enforcing our laws’ ethical duties.

The second issue asks if the Model Rules need to be amended to address “alternative business structures.” For example, Australia permits law firms to be publicly traded like companies here in the United States. Does a publicly traded law firm in Australia mean that the shareholders bear the ethical responsibilities of the lawyers?

Most states regulate individual lawyers, and not law firms. Should the Model Rule be amended to regulate entities or law firms opposed to individuals? Should local and state bar associations get involved in regulating law firms?

The third issue involves the protection of clients, especially when dealing with a “virtual law firm.” For example, does a law firm providing legal advice over the Internet to clients in all 50 states have to have attorneys certified to practice law in each state?

Another part of this discussion is the rise of social networking. Do our ethical rules adequately provide for the explosion of social networking among law firms and clients? Should lawyers and law firm websites be actively regulated?

Additionally, the ABA asks how it can increase transparency in the legal community regarding lawyer accountability. How can the ABA make the information about lawyer accountability more accessible to the public? Should state bar associations make information about lawyer discipline available on the Internet? Arizona already does in part. Further, regarding emerging technology, can and should the ABA use technology as a method to provide affordable legal services? If we do this, how will we regulate these services?

Another issue is security concerns. What if a law firm no longer holds control over a server that contains a client’s information? What obligations does the law firm have to protect the client’s confidentiality? This is referred to as “cloud computing.” Second, what if a client’s confidentiality is inadvertently betrayed? On whose shoulders does the responsibility fall? Do the existing ethical rules adequately address these issues?

The ABA needs to hear from us on these issues. At this point, they are asking numerous questions in an effort to frame the issues. If you are interested, or are curious, or want your voice to be heard, please send your comments to ethics2020@staff.abanet.org.

March is not only the time for us to take a serious look at the new challenges facing lawyer regulation, but it’s also for sunny afternoons in flip-flops and a few pints of Guiness.

Green is an assistant U.S. attorney for the District of Arizona. The views expressed in this article do not necessarily reflect the views of the Department of Justice.

Two Arizona Judges Journey to the Netherlands for a Seminar on International Law and Courts at The Hague

By R.L. Gottsfeld

For someone who has rarely gone to seminars outside Arizona in a 30-year judicial career, 2009 was quite different for me as I attended the Medina Seminar in Princeton (covered in the September 2009 Maricopa Lawyer) and the Sir Richard May Seminar in The Hague, Netherlands, on international law and international courts.

At the latter, held Sept. 20-25, 2009, 27 U.S. judges were in attendance from state trial and appellate courts and federal district courts, including bankruptcy judges and magistrate judges. Bankruptcy Judge Charles G. Case II, who has international law experience, was the other Arizona judge in attendance. There was also a four-member Latin American delegation from the National Court of Appeals, Buenos Aires, Argentina.

It is the only seminar that I know of which pays a stipend (U.S. $1,900) to participants who were not presenting and who are in reality students.

The sponsor of the seminar in honor of Sir Richard May (1939-2004) is the International Judicial Academy, Washington D.C. Sir Richard was the first British representative on the International Criminal Tribunal for the former Yugoslavia and the presiding judge in the Slobodan Milosevic trial held in The Hague. His untimely death before the end of the trial was followed by the death of Milosevic.

Participants heard arguments at the International Court of Justice (ICJ) located in the Peace Palace (Vredespaleis) in the case of Argentina v. Uruguay, concerning alleged pollution caused by a Uruguayan pulp mill on the River Uruguay, which flows into Argentina. We also attended the war crimes and crimes against humanity trials of Thomas Lubanga Dyilo, held at the International Criminal Court, and Charles Taylor, former president of Liberia, at the Special Court for Sierra Leone, held in The Hague because of security concerns.

Prosecution witnesses began testifying in the Taylor prosecution in January 2008 and the defense opened its case in July 2009. We were fortunate to hear the well-spoken Taylor, who went to college in the U.S. and is charged with egregious crimes, testify for most of one afternoon.

In trinational seminars we lectured on the history and development of international law, international judges, human rights law, actual visits to or discussions of numerous international courts, including the Iran-United States Claims Tribunal (no public hearings and still working on claims arising out of the detention of 52 U.S. nationals by a group of Iranian students at the U.S. Embassy in Tehran in November 1979), regional human rights courts such as the European Court of Human Rights and the Inter-American Court of Human Rights.

We also visited the Permanent Court of Arbitration, also housed at the Peace Palace and for whom it was originally built, one of the oldest arbitral institutions in the world which was instituted 50 years before the birth of the United Nations.

One of the speakers was Judge Thomas Buergenthal, the sole American judge sitting on the ICJ, about his 10 years of experience on the court. Interestingly, even though the U.S. has opted out of ICJ jurisdiction, our country has continued to provide a judge for the court and does its part in funding it.

We also learned about the U.N. system and various international organizations, such as The Organization for the Prohibition of Chemical Weapons, which was established in 1997, has 188 countries who are signatories, is independent of the U.N., and highly successful in its task of eliminating chemical weapons.

We learned from the director-general, Ambassador Rogelio Pfirter of Argentina, that 2012 is the date when all chemical weapons are to be destroyed, that each weapon must be destroyed one by one, and that Russia has destroyed 30 percent of its stockpile and the United States has destroyed more than 60 percent of its stockpile.

Judges interested in international law and the 2010 seminar, whether or not your court is involved with such matters, should contact Dr. Jim Apple, who was a major presenter and founding director of the academy, at jiaworld@verizon.net.

Hon. Robert L. Gottsfeld is a judge of the Maricopa County Superior Court, currently assigned to the Criminal Division
New Requirements in Family Court

A new requirement in family court cases merges the sensitive data form with the family court cover sheet. Effective March 1, 2010, parties and attorneys must use the new family court cover sheet. Superior Court Administrative Order 2010-014 explains the requirements of existing Family Law Procedural Rule 43(G) regarding protecting sensitive data and appropriate access to that confidential document once filed with the Clerk’s Office.

The sensitive data form that has been required when initiating new family court cases in Maricopa County since 2008 has been updated with check boxes for case type and whether interpreter services are required. The new combined form also reminds filers not to include mailing address information on the form for parties who have protected addresses or who are requesting a protected address at the time of filing the initial complaint. The reminder about protected addresses is because the court rules allow both parties access to the sensitive data form after it is filed with the Clerk’s Office.

Remote Access to Records Expands

The Clerk’s Office recently posted directions for how attorneys appointed as arbitrators could access the images of public records in adult case types remotely. This service allows registered attorneys to view documents over the Internet without having to get paper or CD-based records from the Clerk’s records centers. Based on the positive feedback from this service, it has been expanded to other court-support providers such as judges pro tem, guardians ad litem, special masters and hearing officers.

To view records remotely, the attorney needs to first register with the Electronic Court Record Online (ECR Online) at https://ecr.clerkofcourt.maricopa.gov/login.aspx. E-mail a copy of the order naming the attorney as judge pro tem, guardian ad litem, etc. to the customer support e-mail address, efilesupport@cosc.maricopa.gov, or fax the document to the Clerk’s Office at (602) 372-8751.

In the e-mail or fax to the Clerk’s Office, include the case number and attorney’s name as well as preferred contact information in case Clerk staff need to follow-up. Office staff will manually add the case number to the attorney’s list of viewable cases within ECR Online and will e-mail confirmation when the case is added, typically by the next business day.

We hope this customer service enhancement improves the ability to assist the court and its customers.
To All Lawyers: Remember Mentorship

Senior attorneys too often forget the challenges they faced as new lawyers—acclimating to the pressures posed by clients, partners, judges and most importantly, balancing professional and personal life. Indeed, young attorneys too often forget the fact that more seasoned lawyers once experienced the very same challenges.

Fortunately, I learned early in my career the importance of mentorship. I am privileged to have worked at a firm that recognized the value of pairing attorneys new and old. I developed incredible mentors (some assigned and some I just acquired by luck) who are older. I developed an understanding of the importance of mentorship. I am privileged to have paired attorneys, including public and private lawyers, conducted practice interviews for interested students. The attorney volunteers reviewed resumes and questioned students one-on-one, after which the attorney evaluated the student's performance, offered feedback to improve interviewing skills and perhaps tighten resumes, and generally discuss the process of seeking legal employment.

The YLD has coordinated the Mock Interview Program for several years, but unsurprisingly, this year has posed heightened challenges to young lawyers and students entering an unstable job market. The MCBA thanks the Mock Interview Committee and its wonderful volunteers, and wishes all students good luck in their careers while maintaining a balanced life.

Please also be on the lookout for information about our annual Law Week. The

Temporary Repeal of Estate and GST Taxes Creates Planning Concerns and Opportunities

By Peter Wand, Lewis and Roca, LLP

Despite indications from congressional leaders that they would address the issue before the holiday recess, the federal estate and generation-skipping transfer (GST) taxes were temporarily repealed on Jan. 1, 2010. As a result, unless Congress enacts new legislation, no federal estate tax will be imposed on the estates of individuals dying in 2010 and no GST tax will be imposed on transfers made in 2010. As the law stands now, both taxes will return on Jan. 1, 2011.

While this temporary repeal may appear to be good news for taxpayers, the repeal of these taxes comes at a price. Most notably, the income tax basis for property acquired from a decedent in 2010 will be the decedent's adjusted basis in the property or the fair market value of the property on the date of the decedent's death, whichever is lower.

This new provision, which is known as the "carryover" basis rule, replaces the "stepped-up" basis rule and may result in higher capital gains taxes being imposed when inherited property is sold.

Importantly, the "carryover" basis rule does allow a personal representative to allocate up to $1.3 million in increased basis to the decedent's assets in general and, in certain circumstances, an additional $3 million in increased basis to assets passing to a surviving spouse who is a U.S. citizen.

The repeal of the federal estate and GST taxes may also have adverse impacts on existing estate plans. For example, many estate plans use formulas to determine the division of assets among different beneficiaries. These formulas are often based on the amount of the federal estate and GST tax exemption available in a given year.

Because the federal estate and GST taxes have been temporarily repealed, the formulas used in a decedent's estate plan may not allocate the decedent's assets as originally intended if the decedent dies in 2010.

Moreover, due to the temporary elimination of the "stepped-up" basis rule, all estate plans should be carefully reviewed to ensure that the new "carryover" basis rule does not produce unintended results.

For example, estate plans should be reviewed to ensure that assets left to a surviving spouse in trust will qualify for the additional $3 million in increased basis available to assets passing to a surviving spouse who is a U.S. citizen.

Estate plans should also be reviewed to ensure that personal representatives and trustees have the appropriate authority and discretion to make any necessary allocation of increased basis that is provided by the "carryover" basis rule.

Despite these concerns, estate planning in 2010 is not all gloom and doom. While congressional leaders have stated their intention to reinstate both the estate and GST taxes at some point in 2010—and to make that reinstatement retroactive to Jan. 1, 2010—the temporary repeal of the federal estate and GST taxes may present planning opportunities for certain risk-tolerant individuals.

For example, the repeal of the GST tax, coupled with a relatively low gift tax rate (35 percent), may present a good opportunity for certain individuals to make gifts to grandchildren and other remote descendants.

Legislative uncertainty aside, this may also be a good time to consider certain lifetime giving strategies that are particularly effective in this climate of low interest rates and depressed market values. Such strategies include loans to family members, grantor retained annuity trusts and charitable lead annuity trusts.

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Contingency Fee Splitting available in compliance with Ethical Rule 1.5(e)
When Good Nouns Go Bad

As I see it, a nominalization is simply the grammatical term for a “bad noun.”

A nominalization or “bad noun” is a noun that could be expressed more simply as a verb. A legal writer can generally recognize a nominalization by its Latin-based ending: “ion” or “ment.”

According to William Zinsser, nominalizations are strangling the English language. In his Aug. 11, 2009 talk to the incoming international journalism students at Columbia Graduate School of Journalism, Zinsser stated that nominalizations take the life out of clear writing because they “express a vague concept or an abstract idea, not a specific action that we can picture – somebody doing something.” He also noted that people in authority tend to use nominalizations, thus compounds the problem because writers emulate authoritative writings. Here are some typical examples:

<table>
<thead>
<tr>
<th>Nominalization</th>
<th>Improved, Active Verbs</th>
</tr>
</thead>
<tbody>
<tr>
<td>The judge will render a decision</td>
<td>The judge will decide</td>
</tr>
<tr>
<td>He made a motion</td>
<td>He moved</td>
</tr>
<tr>
<td>We can make enhancements</td>
<td>We can enhance</td>
</tr>
<tr>
<td>I conduct</td>
<td>I supervise</td>
</tr>
</tbody>
</table>

Although there is nothing grammatically incorrect about using nominalizations, they cause writers to add more words to the sentence, including an unnecessary verb. They also separate the subject of the sentence from its essential action. This affects clarity.

To improve clarity, and make the “bad nouns” better, Zinsser suggests using short, simple nouns and short, plain verbs. Interestingly, he never mentions the word “nominalization.” Why? Perhaps because the word “nominalization” is itself a nominalization! ■

Legal Briefs

By Joan Dalton

Revised Supreme Court Rules Took Effect February 2010

The United States Supreme Court adopted a revised version of the Rules of Court which took effect on Feb. 16, 2010. Some of the more important revisions to the Supreme Court rules include:

- A reduction in the amount of words (from 7,500 to 6,000) allowed in a Reply Brief on the Merits (Rule 33.1);
- A clarification of what is to be included on the cover of the Joint Appendix (Rule 34);
- A requirement that counsel of record include an e-mail address on the cover of every document filed (Rule 34);
- Requirements that appendices contain a descriptive index and citations to the United States Code whenever available (Rule 34);
- A clarification that only attorneys admitted to practice before the Supreme Court may file amicus curiae briefs (Rule 37.1); and,
- A clarification that a motion to extend time for filing an amicus curiae brief at the merits stage will not be entertained (Rule 37.3(a)).

The revised rules are available in their entirety at the Supreme Court’s website: www.supremecourtus.gov.

Court Interpreter Needs Increased in FY 2009

The federal judiciary reports that federal court events requiring interpreters increased by 11 percent in fiscal year 2009. The number of languages requiring interpretation increased from 118 in 2008 to 120 in 2009. Frequently used languages in 2009 included: Mandarin (1,543 events), Vietnamese (987 events), Portuguese (776 events), Cantonese (733 events), Korean (618 events), Russian (594 events), Arabic (556 events), Haitian Creole (469 events), and Fооchоо (467 events).

Judiciary Recommends Jury Instructions for the Use Of Electronic Devices by Jurors

The increasing use of electronic devices by jurors to research cases or communicate with others about cases has resulted in mistrials, the exclusion of jurors, and imposition of fines.

At its December 2009 meeting, the Judicial Conference Committee on Court Administration and Case Administration endorsed a set of recommended jury instructions that United States District Court judges should consider using to help deter the use of electronic devices by jurors to research cases or communicate with others about cases in which they currently serve.

The suggested instructions specifically inform jurors that they are prohibited from using these technologies in the courtroom, in deliberations, or outside the courthouse in order to gain information about cases on which they are serving as a juror. ■

Former MCBA President Honored for On-Going Commitment to Profession

Mark I. Harrison, member of Osborn Maledon, PA, is the 2010 recipient of the National Conference of Bar Presidents (NCBP) Fellows Award. The award recognizes the accomplishments of a past bar president who has demonstrated a continuing commitment to leadership, service, the work of the organized bar, and the purposes of the NCBP.

A former president of the Maricopa County Bar Association in 1970, the State Bar of Arizona in 1975-76, the NCBP in 1977, and an inductee into the Maricopa County Bar Hall of Fame in 2009, Harrison’s practice is currently concentrated in legal and judicial ethics and appellate matters. Throughout a professional life that spans 50 years, he is highly respected for his work as a teacher, a published author and crusader for the highest standards of ethics and professionalism.

Harrison served as chair of the ABA Commission to Evaluate the Code of Judicial Conduct, which was unanimously adopted by the ABA House of Delegates in 2007. He has represented lawyers in disciplinary proceedings for more than 25 years and has represented judges and the Arizona Judicial Conduct Commission in judicial discipline proceedings.

Since 2000 he has taught legal ethics as an adjunct professor at the Sandra Day O’Connor College of Law at ASU and from 1994-97 at the University Arizona James E. Rogers College Law. He currently serves on the national board of directors of Justice at Stake and as president of Justice for All, a bi-partisan, non-profit organization founded in Arizona in 2005 to promote and educate the public about the importance of preserving merit selection and an independent judiciary in Arizona.

Harrison was president of the Maricopa County Bar Association in 1970 and the State Bar of Arizona in 1975-76. In 1977 he was elected president of the National Conference of Bar Presidents.

Active in a variety of community and law-related organizations, Harrison was elected president of the National Conference of Bar Presidents in 1977; has received the ABA Michael Franck Award for Professional Responsibility; the Walter E. Craig Lifetime Achievement Award from the State Bar of Arizona; the Peggy Goldwater Award from Planned Parenthood of Central & Northern Arizona for his leadership in promoting family planning services; and the Good Guys Award from the Arizona Women’s Political Caucus, among several others. ■

Green and Kimbrough on Panel

MCBA President Jennifer Green and Executive Director Allen W. Kimbrough attended the National Conference of Bar Presidents last month in Orlando. On the “Metro Bars: Relevance to and Retention of Large Law Firms” program, produced by the Metropolitan Bar Caucus, Kimbrough was the moderator and Green a member of the panel.
INSIDE THE PARALEGAL DIVISION

Celebrating The Division’s Past Presidents

Beginning with the MCBA granting associate membership status to paralegals in 1995, growing into the paralegal committee in 1998, and the MCBA Board of Directors approving the recommendation for the Paralegal Committee to be officially awarded division status effective Jan. 1, 2002, the MCBA Paralegal Division started.

We are grateful to many past presidents who have served the Paralegal Division well over the years. The 2010 Paralegal Board of Directors recently honored all of its past presidents at a luncheon on Feb. 4 for their outstanding efforts in creating the active division we have become. The current Board of Directors hopes to continue their legacy of excellent service to the legal community and to the 250 plus MCBA Paralegal Division members.

Join the Conference Committee

If you are interested in being a member of the 2010 conference committee, our next meeting is scheduled for Wednesday, March 3, at 5:30 p.m. The meeting will be held at the MCBA office. We will continue to meet once a month on Wednesday evenings through September. The paralegal conference is scheduled for Friday, Sept. 24, 2010.

If you know of anyone who would be interested in joining the committee, please ask them to join us. We look forward to working together to plan the 2010 paralegal conference. Putting together the conference is a lot of work, but very rewarding and fun. Hope to see you there.

Membership

In these tough economic times we are all trying to pare down our expenses. Hopefully your membership in the MCBA Paralegal Division is not one of your budgetary cuts. There are many benefits to being a member of the MCBA Paralegal Division.

Top Ten Reasons to Renew Your Membership

Networking: The chance to meet and talk with other paralegals in all types of positions

See Celebrating Our Past Presidents page 15

MCBA PARALEGAL DIVISION Spring Quarterly Meeting

DUI AND DISTRacted DRIVING

Paul Ramos will discuss the dangers and laws re the ‘distracted driver’ which include such behaviors as texting, looking at maps, surfing the web, watching TV, and talking without a hands free device while driving. He will also talk about the ‘impaired driver’, Arizona DUI laws, recent changes to the laws, and penalties, fines and sentencing of the impaired driver.

The Paralegal Division invites you to join them for lunch at 11:30 for an opportunity to meet, mingle and network with other Paralegal Division members. The DUI and Distracted Driving CLE will begin at 12pm.

RSVP by March 6th to Laurie Williams at lwilliams@maricopabar.org
Paralegals, Legal Assistants, Law Clerks, Law Office Administrators, Attorneys, and other legal personnel are invited.

Registration: $10.00 for Division Members
Non-Members Registration: $20.00, cash or check, payable at the door

Sponsored by: MCBA Paralegal Division
For more information please visit our web site www.maricopabar.org. Click on the “For Paralegals” link.

MCBA MARICOPA COUNTY BAR ASSOCIATION
2010 BOWLING OUTING

SPONSORED BY THE MCBA PARALEGAL DIVISION

WHEN: Saturday, April 24th, 2010 ■ 4 – 7 p.m.
WHERE: AMF Squaw Peak Lanes ■ 3049 E. Indian School Road, Phoenix
WHO: All interested parties of all skill levels who are interested in a lot of fun and networking opportunities. This event will give you a chance to meet and mingle with your fellow Paralegals.

COST: SINGLE: $25.00 ■ TEAM OF FOUR: $100.00

DEADLINE TO REGISTER IS APRIL 21, 2010
Please mail your registration form with payment to Laurie Williams, MCBA, 2001 East 3rd Street, Phoenix, Arizona 85004. Credit Card Registrations can be faxed to Laurie Williams at 602-682-6601 or online registrations can be completed at maricopabar.org.

Name: ____________________________
Employer/School: ______________________
Method of Payment

Amount: $ ______________________
Payment Method: □ Check (made payable to MCBA) or Credit Card □ Visa □ MasterCard
Credit Card #: ______________________
Expiration Date: ______________________
E-mail: ____________________________
Signature: __________________________

For additional information, or if you have a disability and require accommodations, please call Lynse Cooper at 602-382-6671 or Julie Edlich at 602-382-6854. For more information about the MCBA Paralegal Division, please visit our website, maricopabar.org.

Past presidents of the MCBA Paralegal Division gather for a group photo at their Feb. 4 luncheon. Front row: Sybil Taylor Aytch, RP, M.Ed.; Maureen L. Zachow, CP; Monica Rapps, CP; Kathryn Bunch. Back row: Garth A. Harris, CLA; Amy S. Davis, CLAS, RP, ACP; Clarisse S. Ringwald, RP. Not pictured: Tricia A. Kramer, CLA.
Progressive Political Tsunami Sweeps Arizona in 1910

When the celebratory dust settled in late June 1910, the lawyers and other leaders of Arizona quickly got about the business of implementing the provisions of the Arizona Statehood Enabling Act signed by President Taft a few days earlier.

The act detailed the process and procedures to be followed by the state-to-be for organizing a constitutional convention, electing delegates to the convention and otherwise laying out the pathway to statehood.

Taft had previously warned Arizonans to adopt a “good constitution,” not like the lengthy and progressive document adopted by Oklahoma in 1907. It was generally understood that Washington would not look favorably on a constitution that strayed too far from conservative Republican ideals.

Rumblings

Despite these cautions, during the late summer of 1910, political discourse in Arizona flourished about the controversial issues of the day and how they would be addressed in the new state constitution.

Would women be permitted to vote? Would the new state be “wet” or “dry”? Would capital punishment be permitted?

Would cash donations to elected officials, including judges, be subject to recall? Would the people be empowered to make laws directly through the initiative and referendum processes?

How should rights be apportioned between employees and employers?

After a slow start, Arizona’s organized labor and its progressive politics was in its ascendency by the end of the first decade of the twentieth century, and Arizonans, frustrated by more than 45 years of federal (mostly Republican) domination, were in no mood for the status quo.

Despite an almost universal impatience for statehood, important issues would have to be debated and decided before a constitution could be submitted to the voters and then to Congress and President Taft for final approval.

Step one in the process required Territorial Gov. Richard E. Sloan to set a date for election of delegates (Sept. 12, 1910), and for the governor and the justices of the Territorial Supreme Court to allocate, based roughly on population, the number of delegates to the constitutional convention from each county—the total number would be 52. Maricopa had nine, second in number to the territory’s most populous county, Cochise County with 10.

In the enabling act, the Senate insisted that delegates were to be elected by a “vote of qualified electors.” Those qualified to vote, according to the act, were to be determined under the territorial voting statute in effect in 1901—male residents over twenty-one who were U.S. citizens and not felons or insane.

Within the Democratic caucus, old guard conservatives struggled to control the emboldened progressive wing.

Maricopa County Sends its Best

Maricopa County’s Democratic delegates were the first in the territory to be selected at their convention held on Aug. 10 at the Third Avenue Theater between Washington and Jefferson Streets. The county’s Republican slate, proudly asserting itself as opposed to all “isms,” was selected on Aug. 13 at the same location.

Both slates were amply endowed with legal talent. For the Republicans, high powered business lawyers like Judge Joseph H. Kirkby, Thomas Armstrong Jr., George D. Christy and Roy Goodrich were joined by developer and newspaperman, Dwight B. Heard, Tempe mill owner A.J. Peters and lawyer/capitalist, George M. Halm.

The Democratic slate of candidates was more diverse, including a minister, an officer of the Commercial Club, a member of the county board of supervisors, an insurance man, a school administrator and a few legal men. Each member of the county Democratic slate had pledged to support initiative and referendum, to call for a separate vote of the people on suffrage and prohibition simultaneous with the vote on the new constitution, and for recall of elected officials and popular election of U.S. senators.

The Democrats of Maricopa County swept the election and sent three legal minds to the convention, Judge A.C. Baker, Lyndard Cassidy, and Judge Alfred M. Franklin each played important roles in the convention and in the history of Arizona. All three were conservative Democrats, not entirely comfortable in the rising tide of progressivism.

Judge Baker, a former color bearer in the Confederate army, was a big-city lawyer from California before being persuaded to move to Phoenix in 1879. He served in the territorial legislature, was Maricopa County attorney, Phoenix city attorney, chief justice of the Territorial Supreme Court and later, a justice of the Arizona Supreme Court. Judge Baker was in his mid-60s when he was elected and lived at 680 N. First Ave. His offices were on the third floor of the Fleming Building, across the street from the courthouse.

Cassidy was an Illinois lawyer before coming to Phoenix in 1901. He worked in the Cheadron Building at 26 N. First Avenue and his home was at 616 W. Monroe. He was 39 when he served as a delegate. Cassidy and Baker served together on the first board of curators of the Arizona State Library.

Judge Franklin, originally from Kansas City, settled in Phoenix in 1892 and became a member of the territorial bar the next year. His father was a territorial governor. Franklin was the same age as Cassidy, 39, when he was a delegate to the constitutional convention. His office was down the hall from Judge Baker and he had a home at 508 N. Seventh St.

In the pre-convention caucuses of the Democrats, Franklin was a candidate for president of the convention, but he lost in a fourth ballot to George Hunt. He was the first chief justice of the Arizona Supreme Court. In the late 1920s, he reportedly became a hermit living in the Arizona desert until 1950.

Aftershocks

When the delegates assembled for the business of drafting a constitution for the state-to-be, in the territorial capitol, the morning of Oct. 10, 1910, it was Judge Baker who was wielding the gavel. As temporary chairman of the convention, he called the convention to order and presided over the election of George Hunt to be president of the convention. Hunt, whose next job would be governor of the state, would go on to serve seven terms in that office.

Because of their leadership of the conservative challenge to Hunt and his progressive allies, none of the distinguished attorneys from Maricopa County were offered committee chairmanships. They did, however, receive, along with each of the other delegates, a pearl-handled, four-blade, engraved pocket knife and a similarly engraved pair of desk scissors.

See Progressive Political Tsunami Sweeps Arizona in 1910 page 15
Annual ASU Recruitment Event

MCBA staff went to the Sandra Day O’Connor College of Law at the end of January to acquaint students with the benefits of membership. Free pizza and plenty of materials were available to all comers. In this photo, Assistant Director of Career Services Samantha Williams explains to a law student why he should join the MCBA.

MCBA Membership Assistant Cynthia Quinonez (left) tells two students how to sign up. Law students may join MCBA for $10 per year and may attend the bar association’s regular CLEs for just $10 per program.

LAWS Program Seeks Attorney Volunteers

By Leslie Satterlee

The Legal Assistance to Women in Shelters (LAWS) Program is seeking attorney volunteers to present a variety of topics at domestic violence shelters throughout the valley.

Created by the MCBA Young Lawyers Division’s Committee on Domestic Violence, the LAWS Program was developed to provide pro se information to women at domestic violence shelters. The focus of the LAWS Program is to provide education, resources and tips to victims of domestic violence to familiarize them with the legal process from starting a case to the final trial.

This will be done via a series of three one-hour seminars presented to women at domestic violence shelters across the valley.

The session topics include:

i. Introduction to the courts
ii. Divorce/paternity
iii. Child support
iv. Orders of Protection
v. Bankruptcy/foreclosures/
   landlord-tenant laws
vi. Immigration/VAWA

We need volunteers to help present these topics at the shelters. Sessions will be running throughout the year. Handouts will be provided; thus, there is little prep work needed.

If you would like to learn more about the program or are interested in volunteering, please submit your name, contact information, preferred topic of presentation to Leslie Satterlee at lsatterlee@nglaw.com. Also, please indicate if you can speak Spanish.

MCBA Practice Fundamentals Luncheon Series:

FAMILY LAW 101

Every Tuesday, from March 2 through March 30.
For more information or to register, visit www.maricopabar.org

TOP TEN REASONS TO REGISTER FOR FAMILY LAW 101

1. Learn a new type of law!
2. Make more money because you will be able to offer more services.
3. Meet other attorneys who are also attending and teaching the seminars.
4. It’s a good excuse to see the newly built MCBA office
5. Use the new family law knowledge you will gain to provide pro bono legal assistance.
6. Understand what is meant when you signed your deed to the house as “community property” with rights of survivorship.
7. Learn what you would be entitled to if your spouse leaves you (joking).
8. Spend time with the Family Law Section board!
9. Understand the difference between trial practice in family court vs. civil/criminal/bankruptcy court
10. Understand why people say “in family law you have the best clients on their worst behavior and in criminal law you have the worst clients on their best behavior.”
THE MCBA YOUNG LAWYERS DIVISION INVITES YOU TO THE

2010 Barristers Ball

BENEFITTING THE MARICOPA COUNTY JUSTICE MUSEUM & LEARNING CENTER FOUNDATION

The Maricopa County Justice Museum & Learning Center educates children and adults about bedrock principles in the American justice system. The Museum will restore the historic Old Courthouse’s sixth floor and preserve Arizona’s past in an interactive and vibrant way. The Justice Museum will offer visitors an opportunity to learn about Arizona’s significant contributions to the justice system (e.g., Miranda rights) through interactive displays and knowledgeable tour guides. The Maricopa County Justice Museum & Learning Center will be one more attraction that will help revitalize downtown Phoenix.

**W Hotel**

7277 East Camelback Road, Scottsdale, Arizona

6 p.m. Cocktails and Silent Auction

7:30 p.m. Dinner

Black Tie Optional

**Cost**

- $125 per seat
- $1,250 per table

**Please reserve seats for________________________ # of guests______ Table host name*:__________________

**Address:** ________________________________

City:_________________________ State:________ Zip:__________ E-mail:________________________

*Table hosts are firms or individuals who sponsor a table of 10. Please provide guest list along with payment.

☐ Please place me/us at a no host Table________________________

☐ Please seat me/us with________________________

**TABLE GUESTS**

1.__________________________ 2.__________________________ 3.__________________________ 4.__________________________ 5.__________________________

6.__________________________ 7.__________________________ 8.__________________________ 9.__________________________ 10.__________________________

**Payment Information**

Please charge my: ☐ Visa ☐ MasterCard ☐ TOTAL CHARGE TO MY C.C. $______________ ☐ Enclosed is my check for $______________

Credit Card Number:________________________________________ Exp. Date:________________________

Name on Card:______________________________________________

C.C. Billing Address:________________________________________

Please return form to MCBA, Attn: Laurie Williams, 2001 N. 3rd Street, Suite 204, Phoenix, AZ 85004-1439 or Fax to 602-682-8601. Thank You.
Arizona Supreme Court Chief Justice Rebecca White Berch explained the workings of the court, how the budget crunch is affecting it, and about a challenge against merit selection of judges in Maricopa County.

Christina Rubalcava of Osborn Maledon, PA, looks over a handout with court statistics. At right is Courtney Cloman of Iafrate & Associates.

Richard Lustiger, Harkins Theatres, listens to the speaker.

After the luncheon, Hon. Louis Araneta and Nicholas Bender and Mark Worscheck of Sanders & Parks, stopped to chat.

MARCH 2010

The MCBA will be closed for business on Friday, Feb. 26, as it moves back into its building at 303 E. Palm Lane. As of Monday, March 1, the office will be open for business as usual at the Palm Lane address.

Regular Office hours: 8:30 a.m. — 5 p.m., Monday-Friday

1 Maricopa Lawyer Editorial Board
   5:15 p.m.

2 CLE: Family Law 101 – Session I
   11:30 a.m.
   Real Estate Section
   4:30 p.m.

3 YLD Board
   12 p.m.
   LRS Committee
   12 p.m.

4 Construction Law Section
   12 p.m.

5 Estate Planning Probate & Trust Section
   7:30 a.m.

6 Paralegal: CLA Review Course
   8:30 a.m.

9 CLE: Family Law 101 – Session II
   11:30 a.m.
   Family Law Section
   12 p.m.
   Public Lawyers Section
   12 p.m.
   CLE: Got Sanctions? The eDiscovery Year in Review
   4:30 p.m.

10 Environmental & Natural Resources Section
   12 p.m.

11 CLE: How to Choose a Trustee: Public, Private or Corporate
   7:30 a.m.
   MCBA Board of Directors Executive Committee
   7:30 a.m.
   Paralegal Division
   12 p.m.

16 CLE: Family Law 101 – Session III
   11:30 a.m.
   CLE & Basketball
   5 p.m.

17 Employment Law Section
   12 p.m.
   Lawyer Referral Committee
   12 p.m.

18 Paralegal Winter Quarterly Meeting: DUI and Distracted Driving
   11:30 p.m.
   MCBA Board of Directors
   4 p.m.

19 MCB Foundation Board of Trustees
   7:30 a.m.
   CLE: Criminal Law: Forensic Psychiatric and Psychological Expert Consultation in Criminal Cases
   11:30 a.m.

23 CLE: Family Law 101 – Session III
   11:30 a.m.

24 Past President’s Breakfast
   8 a.m.

25-26 CLE: Your Life in the Law
   8 a.m. each day

30 CLE: Family Law 101
   11:30 a.m.

31 CLE: Employment Law: Overview of the U.S. Supreme Court's Decision in 14 Penn Plaza LLC v. Pyett
   12 p.m.

*Please watch your MCBA E-News for updated information about meetings and events.

DON’T WAIT ANOTHER MINUTE TO SAVE ON CLE WITH MCBA’S CLE SERIES TICKET

GET THE BEST CLE BANG FOR YOUR BUCK

MCBA Series Tickets for 2010 make CLE even more affordable! With a MCBA CLE Series Ticket for 2010, you can save up to $90* on 9 hours of CLE credit.

Even if you opt for fewer hours, you get significant savings. Purchase online at www.maricopabar.org or order your series ticket by calling Jennifer at (602) 257-4200, ext. 118.

*Savings for MCBA members. Section/division members receive a $5 discount on programs sponsored by their section/division so their savings vary.

If the CLE includes lunch or breakfast, there is an additional $10 charge. CLEs that include a .5 hour of credit will count as 1 full hour off the ticket. Ticket is valid through Dec. 31, 2010.

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602.252.9300 www.casehuff.com
**New Judge Q and A: David Palmer**

Q: Prior to your appointment, you served as a court commissioner since 2004. How did that work prepare you for your career as a judge?

A: My assignments as a commissioner were all high volume criminal assignments. Family Court is a very high volume and high emotion court, so I got a good taste of back to back hearings from morning ‘til night. I hopefully developed some skill in empathetically dealing with people as they go through difficult times, trying to ensure they feel listened to and treated fairly even in that high volume setting.

Q: Shortly after law school, you served as a law clerk for Judge D.L. Greer of the Arizona Court of Appeals. Can you explain how that experience affected your career path as a judicial officer?

A: That was a good experience. It gave me exposure to many different issues within many areas of law. Judge Greer would often tell me he liked being an appellate court judge, but missed the interaction with the lawyers on a daily basis he enjoyed as a trial court judge. I understand that better now, at least with most lawyers.

Q: What’s your favorite quote?

A: For several years now, I walk out the door to go to work every morning and hear at least one of my children shout in an expression of their supreme confidence in me, “Have a good day, Dad. Don't get fired.” Those words serve as my internal beacon as I battle to get through each day.

Q: Do you have a favorite movie or television show in the court or legal genre?

A: During one of my law school years, there was a pizza joint next to the BYU campus that served a wicked breakfast buffet and also had bad cable. Some of my classmates and I would often go there after a morning class to get breakfast and watch a daily installment of Perry Mason reruns, trying to guess the outcome. We lobbied the powers that be at the law school for some credit for that academic exercise. Shockingly, we were not as successful as Perry always was. Still love that show.

Q: Do you own an iPod and what kind of music is on your playlist?

A: Yes. Both country AND western.

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**Lawyer Referral Service Needs You**

Potential clients can be yours with the MCBA Lawyer Referral Service. The LRS receives more than 100,000 calls per year from people seeking legal assistance as well as attorneys referring clients outside their practice area.

- **AMONG THE AREAS NEEDING COVERAGE ARE:**
  - administrative law
  - SSI-SSDI/Medicare law
  - workers’ compensation
  - immigration
- Spanish-speaking and West Valley attorneys are also needed.
- It’s easy to join! Call Don Burns at (602) 682-8590.

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**BASKETBALL PLUS CLE!**

**TUESDAY, MARCH 16, 2010  ■  CLE: 5:30-6:30 P.M.**

**PHOENIX SUNS V. MINNESOTA TIMBERWOLVES TO FOLLOW**

Bring your family and friends to enjoy the game and get the bonus of 1 credit hour of CLE!

**Negotiating Sponsorship Deals in a Challenging Environment**

In today’s challenging economic environment, sponsors and media buyers are closely examining returns on investment generated by marketing relationships with professional sports teams and athletes. This CLE program will provide an overview of the key points and strategies that corporate counsel, firm attorneys, sports lawyers, and agents need to be aware of when negotiating sponsorship deals for their clients.

**PRESENTER:** Jason Rowley, Senior Vice President & General Counsel of Suns Legacy Partners, LLC, the holding company for the Phoenix Suns NBA Team, Phoenix Mercury WNBA Team, and the US Airways Center

**PRICING:** Members: $70  ■  Non-members: $90  ■  Extra game tickets: $35 each  ■  LOCATION: US Airways Center, 201 E. Jefferson St., Phoenix

Register now at www.maricopabar.org or call Laurie at (602) 257-4200

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**Davis Names June Rotation Presiding Judges**

**By Presiding Judge Norman Davis**

I am pleased to announce that effective with the normal June rotation of judges, the following judges have agreed to serve as departmental presiding judges:

- **Associate & Juvenile:** Edward Ballinger Jr.
- **Criminal:** Douglas Rayes
- **Civil:** Robert Oberbillig
- **Family Court:** Carey Hyatt
- **Probate:** Rosa Mroz
- **Tax:** Dean Fink

When I’m asked why I want to serve as the next presiding judge of this court, I always answer the same way: We have the greatest group of judicial officers and staff in the nation. The high standards of excellence, integrity and honor that our judicial officers display has been an inspiration to me since my first day on this bench.

I can’t tell you how gratifying it is to ask someone to take on the added responsibility of leadership, and without hesitation here judges say “sure,” “absolutely,” “of course,” “whatever you need.” Each of these judges has great energy, talent and leadership ability, and each has a proven track record in the courtroom.

I also want to thank the currently serving presiding judges who have given such exemplary service to the court, to the community and to each of us the last several years. Great strides have been made in each of our departments as a result of the vision and dedication of Judge Donahoe, Judge Ryan, Judge Garra, Judge McNally, Judge O’Connor, most recently, Judge Fink, and the regional presiding judges who will remain.

Judge Mundell will shortly announce the remaining individual rotations, and we are fortunate to still have the benefit of her leadership for several more months. As I have met with her in recent months and come to better understand the enormous challenges she faces on a daily basis, my admiration and respect for her continues to grow. I hope each of us will take the opportunity to thank her and our other leadership judges for their service and dedication.

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**Litigation-Hold Retained Juror Summons to be Destroyed**

Due to a litigation hold, the Superior Court of Arizona, in and for the County of Maricopa, has retained juror summonses and juror biographical forms for longer than the 90-day retention period required by A.R.S. § 21-314 and the Arizona Code of Judicial Administration § 4-302.

That litigation having been concluded, effective immediately, the Office of the Jury Commissioner will dispose of juror summonses and juror biographical forms in accordance with the statutory 90-day retention period. For more information, call (602) 372-0874.
VLP ATTORNEY OF THE MONTH

Father-of-Twins Hirsch Committed to Taking Monthly Cases from the Children’s Law Center

By Peggi Cornelius

It would be an understatement to say attorney Kyle Hirsch is deserving of recognition for his pro bono work on behalf of low income clients.

Upon admission to the State Bar of Arizona in December 2005, he began participating in the Maricopa County Volunteer Lawyers Program (VLP). In 2007, the Arizona Foundation for Legal Services & Education named him one of the top 50 pro bono attorneys in Arizona.

For his ongoing and extraordinary contributions since that time, the VLP is pleased to honor him as Attorney of the Month.

At the outset of his participation in VLP, Hirsch accepted diverse cases involving home ownership, consumers’ rights, and guardianships of minor children. It wasn’t long before he discovered his passion for assisting clients who were rearing children without the legal right to make many important decisions regarding their care. In the past year, he has accepted one case per month through VLP’s Children’s Law Center.

A father of five-year-old twins, Hirsch says he identifies with the commitment his VLP clients make when they volunteer to raise children.

“I am struck by my pro bono clients’ willingness to assume the responsibilities of parenthood when the natural parents cannot,” Hirsch said. “Some of these clients are not related to the children, yet they still are compelled to accept parental responsibility, and to respond to the plight of children in need.”

As an associate at Bryan Cave, LLP, Hirsch specializes in bankruptcy litigation, and is appreciative of the commitment the firm has made to community service.

He values the balance pro bono work affords him, noting “My corporate clients have important issues and legal needs, and representing their interests is rewarding. But in the world of business law, the human touch and emotion can be missing. When a grandparent shakes your hand and says, ‘Thank you,’ it has little to do with the legal accomplishment of obtaining a favorable order of the court, and everything to do with the impact you’ve had in their personal life.”

One of the skills Hirsch brings to his pro bono endeavors is his fluency in Spanish. He and two of his colleagues, Tony Merrill and PJ Rivera, share the commitment to present quarterly guardianship workshops in Spanish at local community centers.

“The coordinator of the Children’s Law Center, attorney Roni Tropper, not only arranges the outreach we do in the community, she does a good job of screening cases we accept for representation,” said Hirsch.

A native of Phoenix, Hirsch recalls beginning to learn Spanish in the fourth grade. During undergraduate school at Middlebury College in Vermont, Spanish was one of his two major studies. After obtaining a degree, he taught English in Argentina. He commented that representing Spanish speaking clients helps maintain his bi-lingual skills.

“My VLP clients help me, too,” he said. Hirsch attributes his interest in becoming a lawyer to his early career experience in human resources management. He says his pro bono work is a natural outgrowth of witnessing the same commitment to community service in the lives of both his parents—his father is dedicated to philanthropy and his mother is passionate about her role as a guardian ad litem for children in Minnesota. The dean at the Sandra Day O’Connor College of Law further advanced his commitment to present quarterly guardianship workshops in Spanish at local community centers.

“She mantra was ‘give back to the community with the skills you learn in your profession,’” Hirsch said. ■

If you would like further information regarding pro bono opportunities through the Volunteer Lawyers Program, contact director Patricia Gerrich at VLP at (602) 254-4714 or pgerrich@clsaz.org. ■

GUARDIANSHIP OF INCAPACITATED ADULT

Kyle Hirsch
Bryan Cave

GUARDIANSHIP OF MINOR CHILDREN

Jesse Rowley Callahan
Law Offices of Dominica Minore
Sandra J. Creta (two cases)
Sole Practitioner
Megan Halld
Bryan Cave
Robert S. Reder (two cases)
Bryan Cave
Michael R. Ross
Gallagher & Kennedy
Adrienne Wilhoit
Ballard Spahr

HOME OWNERSHIP ISSUE

Robert S. Reder
Bryan Cave

TENANTS’ RIGHTS

Kenneth W. Burford
Hastings & Hastings
Todd Feltus (two cases)
Kerkes & Feltus

VLP SPOTLIGHT ON GREATEST CURRENT PRO BONO NEED

VLP clients especially need attorneys to volunteer to provide advice or brief service to help with debt and debt collection problems. To help, please call Pat Gerrich at (602) 254-4714.
ASU Law, Science Center Commemorate 25th Year with New Name, Programs

By Janie Magruder

A quarter-century of academic study at the intersection of law and science was commemorated on Wednesday, Jan. 27, as the Sandra Day O’Connor College of Law unveiled its new Center for Law, Science & Innovation and announced programs that will reinvent the law school’s role in solving global technological challenges.

Hosted by Dean Paul Schiff Berman, the renaming celebration was held at the University Club on Arizona State University’s Tempe Campus.

The Center for the Study of Law, Science, & Technology was renamed the Center for Law, Science & Innovation to reflect the new expanded role of the center in national public policy debates, Berman said. “These are more than just technology issues—they deal with the capacity of law, policy, and governance structures to innovate in order to keep pace with the revolutionary new scientific changes that are fast-approaching,” Berman said.

To propel the center into its next 25 years, Berman has created a series of new programs under the innovation banner, including new programs in law and sustainability, public health law and policy, and a global think tank called The Prevail Project: Wise Governance for Challenging Futures.

Other new programs dealing with post-conviction DNA issues, real-world experiences in healthcare entrepreneurship and law, science and the future, also are planned.

Launched at the College of Law in 1984, the Center for the Study of Law, Science, & Technology was the nation’s first and largest academic center to address the special legal problems arising from rapid developments in science and technology.

Four Phoenix Law Faculty Members Awarded Tenure

The Phoenix School of Law is proud to announce the awarding of tenure to four faculty members:

Placido Gomez
Professor Gomez has served on the Phoenix School of Law faculty since 2008. He currently conducts classes in property law and evidence.

Michael O’Connor
Professor O’Connor joined Phoenix School of Law in 2007. He currently conducts classes in constitutional law.

Victoria Salzmann
Professor Salzmann first joined Phoenix School of Law in 2006. She currently conducts classes in remedies and torts.

Ann Woodley
Professor Woodley is currently serving as the associate dean for academic affairs. She joined Phoenix School of Law in 2006. Tenure is a keystone moment in a professor’s career. It is the granting of continuous employment status to a faculty member. Tenure also protects the professor’s free speech rights, minimizing the political pressures affecting their performance in the classroom. At PSL, it reflects the faculty member’s achievement of excellence in scholarship, teaching and leadership abilities, as well as their commitment to serving their community.

It takes seven years to complete the process conducted by a tenure review committee. The committee bases its recommendations to award tenure on endorsements by peers, administrative evaluations, university evaluations, board member endorsements, self-evaluations, committee observations, and student evaluations. The committee then makes its recommendation to the college dean.

This brings the number of tenured faculty at Phoenix School of Law to seven, including Don Lively, Dennis Shields and Eugene Clark, who also serves as current interim dean.

Harvard Scholar Delivers Shoen Lecture at ASU, Holds Out Little Optimism for Health Care Reform

By Janie Magruder

In the past 100 years, comprehensive health care reform has been initiated by American politicians in every decade with the exception of the ‘20s and the ‘50s, and all have failed, according to a Harvard University scholar who holds little hope for this latest attempt in Congress.

Theda Skocpol, still reeling from the election in her home state in which Scott Brown, a Republican who opposes health care reform, won the late Ted Kennedy’s U.S. Senate seat, delivered the Second Annual Edward J. Shoen Leading Scholars Lecture on Thursday, Jan. 21, at the Sandra Day O’Connor College of Law.

The title of the lecture was “Obama and the struggle to transform U.S. public policy: The case of health care reform redux.”

“It’s an odd moment for someone to arrive from Massachusetts,” Skocpol told an overflow audience in the Great Hall. “It is hard for me to smile, given where I stand.”

In introducing Skocpol, the Victor S. Thomas Professor of Government and Sociology at Harvard, Dean Paul Schiff Berman of the College of Law said “her analysis of the American political system is better than just almost anybody’s. She is eminently qualified to communicate on topics of U.S. public policy, generally, and how it changes or does not change through the generations and, specifically, on the topic of health care reform.”

Skocpol gave a history of reform efforts, outlined the reasons for President Obama’s dedication to the effort, and compared President Roosevelt’s New Deal era with Obama’s presidency, dubbed 14 months ago “The New New Deal” by Time magazine.

Roosevelt had a blank slate for creating plans to promote economic well-being during the desperate, Great Depression, a luxury Obama, who entered office at the beginning of a recession, does not have, she said.

“We’ve had a half century of pervasive regulatory and fiscal interventions into society, and Democrats and Republicans alike have supported increases in tax subsidies and social spending,” Skocpol said. “When a president arrives to redirect in some big way the scale and shape of these interventions, it’s not starting from scratch.

“That means people who already know what they have and are worried about what they might lose are quick to mobilize and stop redistribution,” she said. “That has bedeviled the Obama administration.”

The mobilized parties have been very vocal, too, appearing non-stop on 24-hour news networks, another problem Roosevelt did not have, Skocpol said.

The U.S. has “the kind of [health care] system that no one would create from scratch,” she said, because it gives tax subsidies to private employers for insuring their workers, transfers huge emergency room costs to employers and the public system, and has a complex maze of reimbursement procedures for physicians.

“The task looked impossible from the beginning,” Skocpol said. “Nevertheless, Obama set off on this journey.”

In their attempt to fix the system, Congressional Democrats faced enormous public skepticism that 46 million uninsured Americans could be insured at a cost savings. They also were up against special interests that “already think they have health insurance or have profits in the system that they want to protect.”

And they were stonewalled in the Senate by obstructionist Republicans watching out for their own interests, said Skocpol, pointing out a recent headline, “Scott Brown Wins Mass. Race, Giving GOP 41-59 Majority in the Senate.”

“The founders never foresaw one of the major houses of Congress would have to have a super majority to do anything at all, and I don’t think they would have liked it,” she said.

Skocpol also shared part of a newspaper editorial that “Washington’s polarizing ways, and public anxiety about change, have again left Americans with the most expensive, least reliable health care system in the developed world.”

She agreed, saying, “If the Democrats don’t wake up and pass the Senate bill to the House, the only route they have right now, they will turn, I confidently predict, like their Republican counterparts over the next 10 months (until the mid-term elections) to a whole series of purely symbolic gestures designed to arouse the partisanship on both sides.”

“And what will be lost is the sense that government can work through problems,” Skocpol said. “The guilty ones are the Republicans, through pure obstruction, and the Democratic liberals who dithered over improvements [to the bill] they were never going to get.”

The Shoen lecture is named in honor of Edward J. “Joe” Shoen, chairman and CEO of AMERCO, the parent company of the U-Haul system, and a 1981 alumnus of the College of Law. The event allows the college to bring to campus some of the leading minds in the legal academy to present major new works and set those scholars in dialogue with others.
**To register, use the registration form on this page, go to www.maricopabar.org, or call Jennifer Deckert at (602) 257-4200. Unless otherwise specified, all CLE programs will be held at the MCBA office:**

**2011 N. 3rd Street, Suite 204, Phoenix, AZ 85004.**

### MARCH

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<th>DAY</th>
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<tr>
<td>TUESDAY</td>
<td>MARCH 9, 2010</td>
<td>4:30 - 5:30 PM</td>
<td>(Happy Hour following program) Got Sanctions? The 2009 eDiscovery Year in Review</td>
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<td>This program is a brief review of the most important (and interesting) discovery cases of 2009. Learn which legal decisions may help you lower costs, improve discovery strategies, or avoid legal sanctions. Afterwards, please join us for a complimentary Happy Hour with beer, wine, and soda from 5:30-7:00 p.m.</td>
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<td>PRESENTER: Bryan McIntosh, Senior Project Manager, TMBIS</td>
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<td>COST:  ❑ MCBA member $35.00  ❑ Non-member $55.00</td>
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<td>THURSDAY</td>
<td>MARCH 11, 2010</td>
<td>7:30 - 9 AM</td>
<td>(Breakfast included) How to Choose a Trustee: Public, Private or Corporate</td>
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<td>1.5 credit hours</td>
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<td>This program will discuss which variables should be considered in choosing a trustee.</td>
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<td>PRESENTERS: Michael Dyer, Dyer &amp; Ferris, LLC  Roberta Finger, Wells Fargo Law Dept.  Donald Childers, Childers &amp; Berg, LLC  Silvia Arelano, Maricopa County Public Fiduciary</td>
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<td>SPONSORED BY: Estate Planning, Probate &amp; Trust Section</td>
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<td>COST:  ❑ Estate Planning, Probate &amp; Trust Section member $55  ❑ MCBA member $62.50  ❑ Non-member $92.50  ❑ Student member $10</td>
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<td>THURSDAY</td>
<td>MARCH 18, 2010</td>
<td>11:30 AM - 1 PM</td>
<td>Please join us for lunch at 11:30 a.m. for an opportunity to meet, mingle and network with other Paralegal Division members. The CLE program will begin at 12:00 p.m.</td>
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<td>Paralegal Winter Quarterly Meeting - DUI and Distracted Driving 1 CLE credit hour</td>
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<td>In this program, Paul Ramos will discuss the dangers and laws re the ‘distracted driver,’ which includes such behavior as texting, looking at maps, surfing the web, watching TV, and talking while driving. He will also talk about the ‘impaired drivers’ Arizona DUI laws, recent changes to the laws, and penalties, fines, and sentencing of the impaired driver.</td>
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<td>PRESENTER: Paul Ramos, Certified Criminal Law Specialist</td>
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<td>COST:  ❑ MCBA Paralegal Division member $10.00  ❑ Non-member $20.00</td>
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### FRIDAY  MARCH 19, 2010  11:30 AM - 1:30 PM  (Lunch included)  Criminal Law: Forensic Psychiatric and Psychological Expert Consultation in Criminal Cases

**2 credit hours**

Part I of this interactive presentation will include an overview of the role of mental health experts in criminal cases, similarities and differences across mental health disciplines, when to use which type of expert and why, and strategies for the most effective use of mental health consultation and testimony. Part II of the presentation includes the dynamic illustration of key concepts through the use of videotaped vignettes.

**PRESENTERS:**
- Steven E. Pint, D.O.
- Erin M. Nelson, Psy.D.

**SPONSORED BY:** Criminal Law Section

**COST:**  ❑ Criminal Law Section members: $70.00  ❑ MCBA members: $80.00  ❑ Non-members: $120.00

### WEDNESDAY  MARCH 31, 2010  12 - 11 PM  (Lunch included)  Employment Law: Overview of the U.S. Supreme Court’s Decision in 14 Penn Plaza LLC v. Pyett

**1 credit hour**

In a path-breaking 5-4 decision, the United States Supreme Court held that a collective bargaining agreement (“CBA”) provision clearly and unmistakably requiring union members to arbitrate Age Discrimination in Employment Act (“ADEA”) claims is enforceable. In an opinion written by Justice Thomas, the Court found that the National Labor Relations Act (“NLRA”) provides the union and the employer with the statutory authority to collectively bargain for arbitration of employment discrimination claims. The Court expressed confidence that the substantive statutory rights conveyed by the NLRA, i.e., the right to be free from workplace discrimination, could be vindicated in arbitration as well as in court. The dissent asserted that the majority opinion “may have little effect, for it explicitly reserves the question whether a CBA’s interpretation clearly and unmistakably requiring union members to arbitrate Age Discrimination in Employment Act (“ADEA”) claims is enforceable.”

**PRESENTER:** Nicholas J. Enoch, J.D., Enoch, Lanin & Enoch, PC

**SPONSORED BY:** Employment Law Section

**COST:**  ❑ Employment Law Section members: $40.00  ❑ MCBA members: $45.00  ❑ Non-members: $65.00  ❑ Student members: $10

### REGISTRATION

Please mark boxes under CLE programs to indicate which classes you wish to attend.

**YOUR INFORMATION**

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**ADDRESS:**

City/State/Zip:  Phone:  Email:  

**Method of Payment**

❑ Mail registration by personal check.  ❑ Please charge my credit card:
   ❑ Visa  ❑ MasterCard

Card #:  Exp. date:  Billing address:

Signature:  

**GENERAL INFORMATION**

**Advance Registration:** Full payment must be received in advance of the program before you are considered registered.

**Late Registration:** All registrations not paid in full and in advance by the day of the program will be assessed a $15 fee. You may register at least two business days in advance of the program, MCBA cannot guarantee space or availability of materials.

**Cancellations:** Refunds, less a $10 fee, will be issued only if the CLE department receives your cancellation, in writing, at least two business days prior to the program.

**No Shows:** If you registered and paid, but could not attend, you may request that materials be sent to you, free of charge (allow 3-5 weeks). If audio tapes are available registrations may be converted to a self-study package for an additional $15 charge.

**Special Accommodation:** If you have a disability, please call ahead so we can accommodate your needs.

**Ways to Register**

**Mail:** Send check or credit card information with registration form to: MCBA CLE Registration 2011 N. 3rd Street, Suite 204, Phoenix, AZ 85004  

**Online:** www.maricopabar.org  

**FAX:** Credit card payment to: Jennifer Deckert, (602) 682-8061  

**Phone:** Jennifer Deckert, (602) 257-4200.

**Ext. 118, with credit card payment**

**Fee Total is: $**

**Payment Method:**

❑ Mail registration by personal check.  ❑ Please charge my credit card:
   ❑ Visa  ❑ MasterCard

Card #:  Exp. date:  Billing address:

Signature:  

**Clerking Our Past Presidents**

continued from page 6

and law firms—solo practitioner to large, corporate, government.

**Job Bank:** List of job openings received from the legal community.

**Access to website:** Ability to keep up to date on Paralegal Division events and access to the members only section of the website.

**Mentoring program:** Experienced paralegals giving guidance to paralegal students, new paralegals or any paralegal needing assistance.

**CLE Opportunity:** Earn three free hours of CLE by attending the Paralegal Division’s quarterly meetings; receive discounted rate on other MCBA-sponsored CLE.

**Discounted rates:** For the Arizona Annual Paralegal Conference.

**Review classes:** Opportunity to enroll in CLA and PACE review courses.

**Marcopar Lawyer:** Receive the monthly newspaper featuring “Inside the Paralegal Division.”

**Giving back to community:** Paralegal Divisions sponsor a variety of charitable events throughout the year, including the Dental Drive benefiting the John C. Lincoln Dental Clinic, collection of toys at Christmas for children in need, and fundraising for the William K. Eaton School.

**Social events:** Bowling Event and End of Year Celebration.
YOUR LIFE IN THE LAW: A PRIMER FOR NEW LAWYERS
WHAT YOU NEED FOR A SUCCESSFUL CAREER!
MARCH 25-26, 2010

Receive real world advice from 23 legal professionals in Maricopa County.
Speakers includes lawyers from large and small firms in a variety of practice areas. Learn from the judges about what to expect in court.

IT'S AN UNBEATABLE VALUE!
Your tuition includes two full days of instruction, valuable course materials and CLE credits. Included are two free lunchtime sessions on work-life issues and enriching your life with pro bono.

All registrants will be eligible to win prizes.
Your registration fee includes course materials.

CREDITS
Both regular and ethics credits are available, for a total of 11.5 CLE credit hours, including 3 ethics credits.

CANCELLATION
Paid registrants who cancel their registration at least 72 hours before the program will receive a full credit on their account; if fewer than 72 hours, a $25 administrative fee will be deducted. Paid registrants who do not cancel, yet fail to attend, forfeit their registration fee and will not receive the course materials. Materials will be available for purchase after the course.

HOW TO REGISTER
You may register for this program by filling out the form below or registering online at www.maricopabar.org.

LOCATION
303 E. Palm Lane, Phoenix 85004

Friday March 26 – Day Two

4:30 p.m. – Networking Professionally
Networking is a skill all lawyers need in order to grow their practices, reputations, and leadership opportunities. In this program you'll learn the skills and techniques to make contact in a professional manner and get professional results.

Speaker: Jared Marks, Jared Marks & Associates

5:30 – 6:30 p.m. – Networking Reception
What better time to practice your newly-polished social/professional networking skills than at this end-of-the-day reception? But don't forget to relax and enjoy yourself!

Thursday March 25 – Day One

8:15 – 9 a.m.
Registration and Continental Breakfast

9:10 a.m.
Candid Advice for New Lawyers
How do you achieve professional satisfaction and success in the practice of law? The answer to this question is as varied as the make-up of our bar. This panel will kick off our conference with a free-wheeling, wide-ranging discussion of how lawyers have built their careers over several decades of practice in Maricopa County. Our panel members are from diverse practice backgrounds, ranging from family law, environmental law, criminal defense, and big firm litigation practice to an appellate court judge. Expect to gain insights and advice that will work for you in any practice setting.

Moderator: Steven Hirsch, Bryan Cave
Panel Members: Dan Lowrance, Maricopa County Public Defenders Office; Kevin Quigley, Quigley & Brady; Barbara Rodriguez-Fashkow; Gust Rosenfield; Leslie Satterlee, Nirenstein, Gamsie, Soderquist; Hon. Ann Timmer, Arizona Court of Appeals, Division One

10:45 a.m.-12 p.m.
Avoiding Common Ethics Problems
During your career, you’ll often be placed in the positions of dealing with situations that involve ethical issues. In this program, ethics expert Linda Shely will tell you how to avoid some of the more common pitfalls new lawyers run into:

■ How do you deal with partners who ask you to do something that you don’t believe is ethical?
■ When is too much work ETHICALLY too much work?
■ Tips to communicate effectively with clients and others
■ Staying on top of deadlines and tips for getting help
■ Creating your own conflict checklist for all new matters

Speaker: Linda Shely, The Shely Law Firm

12-1 p.m. – Lunch – “How to Find Your Work-Life Balance”
Speaker: Pat Gerrich, Director, Volunteer Lawyers Program

1-2:15 p.m.
Deposition Basics: Direct and Cross Examinations
In this program you’ll learn about the basics and some key points of how to be successful in a deposition.

■ Fundamentals of direct examination
■ Strategies for effective direct exams
■ Fundamentals of cross examination
■ Strategies for effective cross exams
■ Tactics and practice pointers

Speaker: Patrick X. Fowler, Partner, Snell & Wilmer

2:30-4 p.m.
Negotiation and Settlement Skills
What do you think about your negotiation skills? Whether you’re already pretty good or think you have a lot to learn, this program will help you improve. You’ll learn about:

■ The number one mistake lawyers make in negotiations
■ Steps to becoming a more effective negotiator
■ Traditional techniques
■ Negotiating with “pit bulls”
■ Anatomy of a negotiation

Speakers: Marc H. Lamber, Fennemore Craig; James Goodnow, Fennemore Craig; Andrew Clawson, Fennemore Craig

4-5 p.m.
Networking Professionally
Networking is a skill all lawyers need in order to grow their practices, reputations, and leadership opportunities. In this program you’ll learn the skills and techniques to make contact in a professional manner and get professional results.

Speaker: Jared Marks, Jared Marks & Associates

5:30 p.m.
Networking Reception
What better time to practice your newly-polished social/professional networking skills than at this end-of-the-day reception? But don’t forget to relax and enjoy yourself!

Friday March 26 – Day Two

8:30-9 a.m.
Check-in and Continental Breakfast

9:10 a.m.
The Honorable Profession: Making and Protecting Your Reputation
Your reputation is like a bank account—make daily deposits and few withdrawals. Your reputation as an ethical, competent and professional lawyer is arguably the single best asset you can bring to bear in favor of your client. This program will suggest what is required to make and protect your reputation.

Speaker: Mark Harrison, Osborn Maledon

10:15-11:45 a.m.
Managing Staff and Working with Paralegals
One of the most important elements of your practice will be to build an effective work team to serve clients in the best possible manner—and, of course, to generate profits. This program will provide you with strategies on how to manage and cultivate a positive working relationship with your staff and delegate appropriate tasks to improve efficiency. A portion of this presentation will focus on how the proper use of paralegals will help you provide a higher level of client service, at a competitive cost, and allow you to concentrate on substantive legal matters and client development.

Speaker: Kathy Bunsch, Fennemore Craig; Sheila Vogt, Snell & Wilmer; Maureen Zachow, Snell & Wilmer

12-1 p.m. – Lunch – “How to Find Your Work-Life Balance”
Speaker: James A. Fassold, Fassold & Gray

1-2:15 p.m.
The Basics of Discovery
In this program, you’ll learn about the essential features of pre-trial discovery, commencing with developing a theory of the case and providing the initial disclosure statement, through implementation of a discovery plan designed to benefit from written discovery and deposition practice, through motion practice to facilitate discovery and test the sufficiency of the opposing party’s case.

Speaker: Larry J. Cohen, The Cohen Law Firm

3-4:30 p.m.
Your Day in Court: What to Expect and What Judges Expect from You
Hear it straight from the judges themselves. This panel discussion by five judges of the Maricopa County Superior Court will give you a sense of how to prepare and prepare yourself for a court appearance. You’ll also hear about the varied expectations of the individual judges on this panel, and what others might expect.

Moderator: Hon. Glenn Davis

ACCOMMODATION
If you have disability and need an accommodation in order to attend this program, please contact Laurie Williams at (602) 257-4200.

QUESTIONS?
Call the MCBA CLE Department at (602) 257-4200 or Laurie Williams at (602) 257-4200.

LOCATION
Maricopa County Bar Association
303 E. Palm Lane, Phoenix 85004

ACCOMMODATION
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QUESTIONS?
Call the MCBA CLE Department at (602) 257-4200 or Laurie Williams at (602) 257-4200.

LOCATION
Maricopa County Bar Association
303 E. Palm Lane, Phoenix 85004
MCBA’S PRACTICE FUNDAMENTALS SERIES

MARICOPA FAMILY LAW 101

Tuesdays, March 2 through March 30
11:30 a.m. - 1 p.m.

7.5 TOTAL CREDIT HOURS for all 5 programs. Lunch included.

Register for the five-session practice fundamentals luncheon series scheduled for the month of March. You save $55 by registering for all five programs.

MEMBER: $257 □ NON-MEMBER: $407 □ STUDENT MEMBER: $40

You may also register for individual programs

MCBA MEMBER: $62.50 □ NON-MEMBER: $92.50 □ STUDENT MEMBER: $10

INTRODUCTION

Learn the ins and outs of family law as members of the MCBA Family Law Section take you through the “Smith” family divorce. This series of CLEs will expose you to different topics that family law practitioners face every day. The goal is to familiarize new family law attorneys with issues common to family law cases and provide tips and guidance on how to handle a family law case from the beginning to end. Join us for one session or them all!

SESSION I

TUESDAY, MARCH 2
Meeting the Client and Getting Started

This presentation will focus on the initial steps necessary to get the matter moving forward. We will start with the initial meeting with the client, cover some generic intake forms, highlight some of the basic family law issues that you will want to be alert for during the initial meeting, and end with a brief discussion on custody and parenting time issues.

PRESENTER:
Jason Castle, Mattesal, Weeks, Melinray & Friedland, PA

SESSION II

TUESDAY, MARCH 9
How the Court Determines Child Support and Spousal Maintenance?

Learn the factors that the court considers when calculating support and how to strengthen your client’s case. This session will focus on the Arizona Child Support Guidelines and case law on spousal maintenance.

PRESENTER:
Trevi Harris, Jolyon Grant, PC

SESSION III

TUESDAY, MARCH 16
Identifying Property Types and How the Court Will View Each

Learn how to identify separate and community property and how the characterization affects your client and the division of property by the court. You’ll also get an overview of community property, cases you need to know, and discovery techniques pertaining to property vital to your clients.

PRESENTER:
Leslie Satterlee, Nirenstein Garnice Soderquist, PLC

SESSION IV

TUESDAY, MARCH 23
Dividing Community Property

This session will focus on more in-depth issues of dividing community property including real property, business interests, retirement accounts and pensions. Learn how the courts value and divide these different assets as well as identify when other experts should get involved such as business appraisers, real estate specialists, and financial experts.

PRESENTER:
Larry Hirsch, Jaburg Wilk

SESSION V

TUESDAY, MARCH 30
Ask the Experts

Get advice from family law attorneys and judicial officers on the practical aspects of family court. This Q&A session will allow you to get answers to your most pressing questions.

PANEL MEMBERS:
Leslie Satterlee, Nirenstein Garnice Soderquist, PLC (moderator)
Larry Hirsch, Jaburg Wilk
Rebecca Owen, Rebecca L. Owen, PLLC
Hon. Roger Hartsell, Maricopa County Superior Court, Family Court
Hon. Edward Russell, Maricopa County Superior Court, Family Court

Register at www.marcopabar.org or call Laurie at (602) 257-4200
Compassion for One Party
continued from page 1

person’s effect only. Prospective-only opinions usually come when the court overrules past precedent, and the court’s opinion did not do that. But the court gave a sort of mea-culpa.

"[W]e recognize that the consideration prong of the Winterthur test has been adversely misapplied during the past two decades," Hurwitz stated. "To some extent, this confusion may have arisen from our statement in Winterthur that '[t]he public benefit can be obtained from the private entity as consideration for the payment or conveyance by a public body may constitute a ‘valuable consideration.’""

The City was not let completely off the hook, however. The Supreme Court reminded the parties to the course of appeals to rule on the plaintiffs’ other constitutional attacks on the Parking Agreement.

Haight v. Catholic Healthcare West

It could have, a ruling of the Ninth Circuit Court of Appeals would have excused a party from her misfortune of having relied on a Ninth Circuit case that the Supreme Court later overruled. But alas, the court could not.

Haight v. Catholic Healthcare West, No. 07-16857 (9th Cir. Feb. 4, 2010).

Federal Rule of Appellate Procedure 44 gives parties 30 days to file an appeal after the judgment is entered. But if the United States is a party, the parties have 60 days to do so. This seems straightforward enough, but confusion is always possible: qui tam cases under the False Claims Act, are an example.

In a qui tam case, a private party files suit on behalf of the United States to recover public funds that were improperly expended. The United States may intervene, but it does not always do so.

So, how long does the losing party have to file its notice of appeal in a qui tam case where the United States does not actually intervene? In 1996, the Ninth Circuit held that the United States was nominally a party, and therefore the 60-day deadline applied. United States ex rel. Haynsworth v. Hughes Aircraft Co., 98 F.3d 1190 (9th Cir. 1996).

Patricia Haight and her organization, In Defense of Animals, were unhappy that scientist Michael Berens had received a research grant from the National Institutes of Health. On behalf of the United States, she sued Berens and organizations he was working with, alleging that Berens had made false and misleading statements in his applications.

The district court entered judgment for the defendants. Fifty-one days later, Haight filed her notice of appeal. The Supreme Court later issued United States ex rel. Eisenbud v. City of New York, 129 S. Ct. 2230 (2009), holding that the 30-day appeal deadline applies if the United States has not intervened in a qui tam action.

Based on Eisenbud, the Ninth Circuit dismissed Haight’s appeal. But authorizing Judge Susan P. Graber did not try to hide her unhappiness at not being able to excuse Haight’s reliance on a case that was later overruled.

“It is a serious misunderstanding to call this result ‘inequitable,’” she wrote.

“Nevertheless, the Supreme Court “has instructed us that concerns of equity must give way to the need to preserve clear lines of jurisdiction,” Graber wrote. She noted that the Supreme Court had been asked to make Eisenbud prospective only: Haight herself had filed an amicus brief so suggesting. The court had refused, meaning that Haight’s notice of appeal was late when she filed it.

Joining Graber’s opinion were Circuit Judges Betty B. Fletcher and William C. Canby, Jr. ■

ATTORNEY WANTED

Seeking Attorney Willing to accept contingency fee arrangement in contract dispute. At issue: validity of royalty agreement. At stake—6 years back royalties, also future royalties from arrangement in contract dispute. At issue: validity of royalty agreement. Please fax or e-mail your resume, along with salary requirements to 602-384-9505 or wz@azlawnet.com.

LEGAL ASSISTANT

Wilson Overstreet Attorney is seeking applications for an Experienced Family Law Legal Assistant. Please fax or e-mail your resume, along with salary requirements to 602-240-7824 or send e-mail to aoverstreet@wilsonoverstreet.com.

LITIGATION ATTORNEY

Marc, Bernstein & Weiss, LLP, a small-medium-sized A-List firm, seeks to hire an attorney with minimum 1-3 years commercial litigation experience and excellent academic credentials. If the firm offers above average salary and bonus opportunity, please submit resume and writing samples to 1. Tazuma, 3300 N. Central Avenue, Suite 2400, Phoenix, Arizona 85012, Fax (602) 258-6212 or e-mail tzazumalaw@msn.com.

DOWNTOWN LAW OFFICES

Three offices and one conference room: (1) Conference rooms, library, kitchen, fax, photocopy, storage, and parking, easy access to light rail. Excellent location and working environment. (2) Downtown location with easy access to 117, 110, 51, 202, 101, and Downtown courts. Included: phones, internet, copier, fax, kitchen, storage, multiple conference rooms, admin help. Free conference room and parking. (3) Downtown location and easy access to all the highways. This highly desirable location is only 3 minutes from downtown and right on the light rail. 1440 E. Washington Street, Phoenix. Call Cell at 602-140-4092.

FULLY FURNISHED ATTORNEY OFFICE and secretarial/paralegal work in new class-A office building owned by firm partners. Located on 5th Blvd, north of Shea. Shared office building, west conference room, west paralegal, west secretary, east conference room, kitchen, and remainder. Office is currently rented. You may be able to buy it for $5,000 for the job. Call 480-832-7744.

BELLE'S OFFICE

The Office of Belle C. Haight will be moving from its location at 7511 N. 16th Street in Phoenix. The office will move to the 4th floor of a small, two story, stucco building surrounded by large, mature, shade trees and landscaping. Office has French doors with adjacent balconies. Awaiting occupancy. Call Anabe at 602-395-9000, if interested.


LEGAL EXECUTIVE OFFICE SPACE AVAILABLE


FULLY FURNISHED EXECUTIVE SUITES

Fuller Fritch & Wistuber 11701 N. 16th St., Suite 101 Phoenix, AZ 85020. Full service law firm. 20 attorneys, 30 staff members. First floor of a small, two story, stucco building surrounded by large, mature, shade trees and landscaping. Office has French doors with adjacent balconies. Awaiting occupancy. Call Anabe at 602-395-9000, if interested.

OFFICE SPACE CHANDLER


MONTH TO MONTH OFFICE memberships only $24.99. Influence your professional image! Memberships include full-time receptionist, a professional address with mail service, fax, internet and copy service. Private office space and conference room also available. Office contains state wide telephone, high speed internet, conference room and deca. Contact us at 480-735-4321 or 602-453-3417 or visit for a tour 10675 S. Price (S Titanium) 100, Tempe, AZ 85224.


TWO ATTACTIVE “must use” offices at 7511 N 16th Street. First floor of a small, two story, stucco building surrounded by large, mature, shade trees and landscaping. Office has French doors with adjacent balconies. Awaiting occupancy. Call Anabe at 602-395-9000, if interested.

service, needs an attorney for the party who wished to file a qui tam suit who had lost in the Ninth Circuit. The Supreme Court held that the United States was nominally a party, and therefore the 60-day deadline applied. United States ex rel. Haynsworth v. Hughes Aircraft Co., 98 F.3d 1190 (9th Cir. 1996).

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Joining Graber’s opinion were Circuit Judges Betty B. Fletcher and William C. Canby, Jr. ■
Moves, New Hires and Openings

Ogletree, Deakins, Nash, Smoak & Stewart, PC, is pleased to announce that Tom Arn has joined its Phoenix office as a shareholder and Leah Freed was elected shareholder at its Phoenix office. Arn advises and represents management with respect to compliance with federal and state anti-discrimination laws, sexual harassment litigation, trade secret protection, restrictive covenant enforcement and defense, federal labor law compliance, affirmative action plans, and ERISA and whistleblower claims. Freed represents both public and private sector employers in all aspects of labor and employment litigation.

Gallagher & Kennedy, PA, announced the addition of David J. DePippo to the firm’s 19-person environmental and natural resources department as of counsel. DePippo has represented private and public clients in numerous states in environmental disputes, with a specific focus on civil and criminal environmental law and litigation and complex real estate development transactions.

Dickinson Wright, PLLC, welcomes attorney John D. Titus to the firm. Titus will lead the intellectual property practice group of the firm’s Phoenix office. His practice focuses on patent prosecution and litigation in the mechanical and aerospace arts, as well as trademark prosecution, litigation and opposition proceedings before the United States Trademark Trial and Appeal Board.


Daugherty is a registered patent attorney with experience in electrical, mechanical and biomedical patent prosecution. Green serves as bond counsel, special tax counsel, underwriter’s counsel and trustee’s counsel in a variety of tax-exempt and taxable municipal bond and lease-purchase transactions for state and local governments. Hawkins focuses her practice on antitrust and trade regulation counseling and advises clients on a variety of antitrust issues. Schulman’s practice is focused on complex commercial and securities litigation. Seibl practices in the areas of commercial and construction litigation, appellate advocacy and alternative dispute resolution in Arizona state and federal courts.

Greenberg Traurig also expanded its Phoenix office with the addition of associates Matthew E. Stoloff and Tracy L. Weiss. Stoloff focuses his practice in the areas of corporate and securities law, representing both public and private companies in public offerings, private placements, and mergers and acquisitions. Weiss focuses her practice in the areas of franchising and distribution law, as well as business finance.

Engelberg Berger announces the addition of Olga X. Zlotnik to its growing list of attorneys. Zlotnik will focus on bankruptcy and business reorganization issues, joining the bankruptcy practice at Engelberg Berger.

Bowman and Brooke, LLP, is pleased to announce that Barry C. Toone has been named managing partner of the firm’s Phoenix office. His two-year term, which holds responsibility and leadership for day-to-day operations at the law office, began on the firm’s 25th anniversary, Feb. 1. Toone dedicates his litigation and trial practice to defending product liability matters involving catastrophic injury and loss.

Thomas L. Hudson, an appellate attorney and partner at the Phoenix law firm, Osborn Maledon, PA, was elected to be a member of the distinguished American Academy of Appellate Lawyers. Hudson is a past chair of the State Bar Appellate Practice Section, whose practice focuses exclusively on complex civil appeals.

The American Academy of Appellate Lawyers was founded in 1990 to recognize outstanding appellate lawyers and promote the improvement of appellate advocacy and the administration of the appellate courts.

Steve Leach, a partner at Jones, Skelton & Hochuli, PLC, has been named chairman of the Fiesta Bowl Committee for the 2010-2011 season. Leach will oversee the committee’s activities in coordinating fundraising, member participation and event planning for the bowl.

Leach joined Jones, Skelton & Hochuli as a partner in 2005 and is the chair of the firm’s Employment Law Practice Group.

Polinelli Shughart, PC, announced today that David W. Lunn has joined the firm’s Phoenix office as a shareholder in the business litigation practice group. Lunn focuses his practice on commercial, construction and eminent domain cases.

Hinshaw & Culbertson, LLP, today announced that litigator E. Scott Dosek has joined the firm as a partner in its Phoenix office. Dosek focuses his practice in the areas of commercial litigation, products liability, environmental and construction litigation.

The Tempe community association law firm of Carpenter, Hazlewood, Delgado & Wood, PLC, is pleased to announce that it has added Adam W. Watters and Andrea E. Watters of the Watters Law Office, PC, to its practice encompassing Arizona and New Mexico. They will be of counsel and manage and operate the Southern Arizona office of the firm in Tucson.

Honors and Awards

Myles V. Lynk, the Peter Kiewit Foundation Professor of Law and the Legal Profession, received the 2010 Outstanding Faculty Award of the Sandra Day O’Connor College of Law Alumni Association at the association’s annual luncheon on Monday, Feb. 8.

Lynk was honored for his numerous contributions to the College of Law, including his organizing the only symposium at the law school on federal campaign finance reform and “soft money,” and a series of programs about the various ways in which different areas of the law would change and be affected by the events of 9/11.

Robyn Nordin Stowell, a lawyer and partner in the Scottsdale office of Holme Roberts & Owen and head of the firm’s golf course, resort and community development team, has been selected as one of the golf industry’s “Seventeen Most Prominent Women.”

The BoardRoom, the official national magazine for the Association of Private Golf Clubs and Directors, granted the distinction, the first time the publication has specifically selected women. Stowell is known throughout Arizona and the United States for her in-depth legal knowledge and extensive experience in golf course and private club matters.

Greenberg Traurig, LLP, announced that Phoenix corporate and securities shareholder Quinn P. Williams has been selected as a 2010 BTI Client Service All-Star. Nominated exclusively by in-house general counsel in BTI’s annual independent study, the BTI Client Service All-Stars are recognized for their commitment to the absolute best in client service.

Williams has represented leading public and private corporations, entrepreneurs and investment funds for more than 29 years.

Bryan Cave, LLP, Partner Neil Irwin received the Downtown Phoenix Partnership Visionary Award, the highest honor given, Feb. 1 at the organization’s 16th annual DREAMR awards program. DREAMR stands for Downtown Revitalization Effort Awards of Merit and Recognition.

The awards luncheon recognizes those who have had a part in revitalizing the downtown Phoenix area either through new commercial development, urban residential opportunities or activity in the arts and entertainment community. Irwin has practiced business law for more than 35 years with a special emphasis on transactional matters for many private and public companies.

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.
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