MCBA President Took Detour from Science to Become Lawyer

By Laura Swendseid

MCBA President David Benton admits that he is a very curious person. From being involved in a host of activities to treading the paths of two very different careers, Benton has a zeal for knowledge and working with others.

Benton, who works as general counsel at the Maricopa County Attorney’s Office in the Office of General Litigation, and has been a member of the Association about six years, said he has always had a passion for learning. Born and raised in Los Angeles with three sisters – two older and one younger – he enjoyed academics and particularly math. Encouraged by a high school teacher, he used his math skills to pursue a Bachelor of Science in chemistry at California State University, Long Beach.

After graduating from college, Benton landed a position at McDonnell Douglas (now Boeing), where he worked in materials and process engineering for eight years, followed by several years at the Hughes Aircraft Company, where among other projects, he built a machine to clean defense electronics systems with water, basically a “high-tech washing machine,” Benton explained.

Despite the mental stimulation and challenge of working on such technical projects, Benton said he lost interest in what he was doing and decided he wanted to return to school. After trying for a doctorate in chemical engineering – which equated to too many pages of calculus and math homework – Benton decided to go into law.

From Science to Law

Within about six months of his decision, Benton took the LSAT, applied to the James E. Rogers College of Law at the University of Arizona, and was accepted after interviewing at Perkins Coie.

“After leaving the court and coming to law school, I considered myself basically a ‘high-tech washing machine,’” Benton said.

Benton, who has a passion for helping people, decided on law school. He landed at the Maricopa County Attorney’s Office after graduating in 2008, where he is now a member of the Association about six years.

“I got a job because I was interested in public service and my main reason for coming to law school was to help people,” Benton said.

Even though he enjoyed working for Boeing, Benton decided to leave his job to attend law school and pursue his passion for public service.

“The opportunity to work for the Maricopa County Attorney’s Office was a no-brainer,” Benton said.

While working for the Maricopa County Attorney’s Office, Benton served as a legal intern in the Office of General Litigation and as a judge, where he worked on cases ranging from traffic to juvenile court.

“My first case was traffic court and, yes, the cases were simple and mundane,” Benton said.

Benton said he enjoyed working in the courtroom and was happy with the experience he gained.

“It was an opportunity to learn and grow,” Benton said.

In addition to his work, Benton is also a member of the Maricopa County Bar Association and the Young Lawyers Division, where he helps organize events and meet other lawyers.

“Being a member of the Bar Association has been a great experience for me,” Benton said.

Benton said he is looking forward to the future and hopes to continue his passion for public service and helping people.

“I am excited to be a part of the legal community and hope to make a positive impact on the community,” Benton said.

The Maricopa County Bar Association is now accepting applications for grants for the 2012 year. If you know of an organization whose project or program relates to the administration of justice; ethics in the legal profession; legal assistance for the needy; the encouragement of legal research, publications and forums; or the education of the public, and would benefit from being a grant recipient, please contact Laurie Williams at lwilliams@maricopabar.org. You may also visit the Maricopa County Bar Association website for more information and to download an application at www.maricopabar.org.

Law Week 2011 Features Guantanamo Attorney CLE, Public Events

The MCBA: Young Lawyers Division will celebrate a week of law-related activities leading up to Law Day, May 1, beginning at the end of this month.

In keeping with the 2011 ABA-designated theme of “The Legacy of John Adams: from Boston to Guantanamo,” a highlight for all attorneys will be a one-hour CLE on Wednesday, April 27, at 4 p.m. at the MCBA office, featuring Howard Cabot of Perkins Cole.

Cabot served as trial counsel for Noor Uthman Muhammed, a Guantanamo detainee from Sudan, in his recent war crimes trial proceeding. His insights into the human rights and legal issues surrounding this controversial representation will be both fascinating and moving.

In a similar situation in 1770, John Adams defended the British soldiers charged in the Boston Massacre to the disdain of the public. Today, Cabot says, attorneys are called upon to represent a myriad of unpopular clients. The right to counsel in criminal proceed-

Supreme Court: Freedom of Speech Outweighs Emotional Distress in Funeral Picketing Case

One of our most cherished American rights—freedom of speech—can sometimes come at a heavy cost. This fact was driven home recently when the United States Supreme Court upheld the right of a group that engages in a vile brand of speech—the Westboro Baptist Church, which spreads hateful messages at the funerals of American soldiers, to engage in a vile brand of speech.

Matthew Snyder was a lance corporal in the United States Marines who died in the line of duty in Iraq. His father, Albert Snyder, planned Matthew’s funeral, to be held in a Catholic church in their hometown of Westminster, Maryland.

Snyder’s death and plans for his funeral came to the attention of Fred Phelps, founder of the Westboro Baptist Church of Topeka, Kansas. The church believes that God hates the United States because it tolerates homosexuality, especially in the military, and that God kills American soldiers as punishment for the country’s sinful policies. Church members have spread their views by picketing at almost 600 military funerals nationwide.

On the day of Snyder’s memorial service, Westboro members picketed near his funeral and also at the Maryland State House and the United States Naval Academy. They carried signs with statements like “God Hates the USA/Thank God for 9/11,” “Thank God for Dead Soldiers,” “Priests Rape Boys,” “Pope in Hell,” “You’re Going to Hell,” “God Hates You,” and “God Hates Fags.”

The picketers had given town authorities advance notice of their demonstration, and they followed police orders designed to keep the picketing orderly. The site was some distance from the church, with several buildings in between. The picketing did not disrupt the memorial or the burial.

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Although Snyder’s father caught a glimpse of the picketers as he drove to the funeral, he
Arizona’s New Attorney General Brings Long Legal Experience to New Position

By Jack Levine

On February 14, 2011, the writer sat down with the new attorney general, Tom Horne, for a face-to-face interview.

On January 3, 2011 Tom Horne was sworn in as the 24th attorney general of the State of Arizona. He will preside over approximately 900 employees, including 367 lawyers, making it, by far, the largest law firm in the state.

In his appearance, there is something energizing and reassuring about the new attorney general. By observation, he maintains an office policy of informality with “Tom” being the salutation most often heard. For many, graduating from Harvard College and Harvard Law School would normally be enough for people to sit up and take notice. But in Tom Horne’s case it’s only the beginning of his diverse preparation for his current job.

Horne related that he received his initial training at Lewis and Roca under Walter Cheifetz and brings to his new office over 30 years of experience as a lawyer and litigator. Early in his political career, he was a member of the Paradise Valley Unified School District Board for 24 years, serving 10 years as its president. During Horne’s service and leadership on the board, the Paradise Valley School District was generally acknowledged to be one of the leading school districts in the state.

While in private practice, Horne authored a widely acclaimed book, Arizona Construction Law; that has undergone seven printings at the State Bar of Arizona and is still considered one of the best works available on the subject. In addition to his work as a practicing lawyer and author, Horne served as a judge pro tem on both the Superior Court and the Court of Appeals, which gives him the distinction of serving in all three of Arizona’s branches of government.

From 1997 until 2001, Horne served in the Arizona House of Representatives, chairing the Academic Accountability Committee and serving as vice chair of the Education Committee. In January 2003, he took the oath of office as Arizona’s Superintendent of Public Instruction, a position he held until the end of 2010. While in this post, he was the primary booster of House Bill 2281, a controversial law, which bans ethnic studies in Arizona schools.

Horne says his position on this issue has been unwavering in that he firmly believes that ethnic studies programs “do not unite us” but rather “divide us.” He also believes that such studies promote resentment and prejudice by minority members against the majority for perceived historical injustices and is a significant obstacle to our becoming an integrated society.

In his election campaign for attorney general, Horne was also supportive of S.B. 1070, which ramps up the effort to deport illegal immigrants. The lawsuit that was filed in the U.S. District Court last year is now before the Ninth Circuit Court of Appeals waiting decision. Horne said he is looking forward to representing the state and arguing the case before the U.S. Supreme Court, if and when it arrives there.

See Arizona’s Attorney General
Tips from the Bench: Practicing Outside of Maricopa County

It happens to the best of us. Occasionally we have to leave Maricopa County and practice before a judge somewhere else. I spoke with Coconino County Superior Court Judge Mark Moran and Pima County Superior Court Judge Deborah Bernini to get their pointers from their experiences with Maricopa lawyers.

Both spoke highly about the quality of lawyers from Maricopa County. And both had tips for Maricopa lawyers on practicing outside of Maricopa County.

Q: What local procedures should Maricopa lawyers be aware of in each of your counties?

Judge Moran: Coconino County is large, geographically speaking. We have approximately an 80 percent success rate when summoning jurors. But those jurors may have to travel large distances. For example, it’s 78 miles to Tuba City, and 135 miles to Page. Attorneys should recognize the burden it is to be called for jury service here.

They should also be aware that with a higher-profile case, they may need to ask that we summon more jurors. It’s not in the local rules, but we have a process where the attorney can request that more jurors be summoned, and that they be given a screening questionnaire. For higher profile cases, we might summon 150 to 250 jurors.

In other cases, it has happened where we’ve come down to the last potential juror or the last alternate. If the attorney thinks more jurors may be necessary, it’s best to tell the judge.

A few small procedural things:
1. Our mandatory arbitration amount increased last year from $50,000 to $65,000;
2. When the response is filed and jury trial demand made, we don’t automatically set for trial; our trials are set following discovery and motion practice and they are firm trial dates;
3. We have a very active ADR process for those counsel who choose not to hire a private mediator;
4. We encourage counsel to confer and establish discovery and disclosure deadlines by stipulation that the judge can approve;
5. We have two new judges as of January 31. Our newly created Division 5 is made up of Judge Joe Lodge, and a new pro-tem in Division 6, Ted Reed. We also reorganized case assignments as of the same date. We have a dedicated Integrated Family Court (Division 4 Judge Elaine Fridlund-Horne);
6. And lastly, my JA says to tell your attorneys that they do not accept pleadings via facsimile unless it is an emergency.

Judge Bernini: The legal community in Pima County prides itself on being able to communicate with each other and resolve things informally before getting the judge involved. That’s important to us. It shows most in discovery.

When I get a discovery motion, I can tell if the lawyers involved have really attempted to resolve the matter before filing their motions. I would encourage the attorneys to make a sincere effort to resolve a matter with opposing counsel before sending harshly worded letters back and forth. It’s important to us.

The other important thing to know when filing a motion is that our rules require that a copy of the motion be sent directly to the judge’s chambers. Phoenix counsel tend to only mail a copy to the clerk of the court, who does not deliver copies to the judge. So we might not know that a motion for summary judgment was filed until we receive an opposition, if opposing counsel is from Tucson, Phoenix counsel should make sure to mail a copy to both the clerk and a separate copy to the judge.

Q: Are there any practice pointers you would give to Maricopa lawyers appearing before an out-of-county judge?

Judge Moran: If it is an important motion, it is important to be there personally. We provide for telephonic appearances because we understand the costs involved to make a personal appearance. But on important motions, it is more persuasive if you are an effective oral advocate to be there in person.

For example, it is easier for me to ask questions when the attorney is in the room rather than on the phone. That is particularly true when it is a case with many lawyers involved because it is easier to keep everyone straight visually than just by the voices alone.

Judge Bernini: My number one tip would be to read the trial order the judge issues. It has all of that judge’s preferences and expectations as to how to handle the case down to when to file motions in limine and motions for summary judgment. Lawyers frequently make things more difficult on themselves by not reading the trial order and then failing to follow the preferences and procedures in that order.

Outside of that, it would be a good idea for out-of-county lawyers to call someone who practices in their field locally to make sure they understand the procedures. I had a criminal case recently where it seemed that the Maricopa County procedure on arguments in criminal sentencing may be different than those here, for example.

Q: Do you have any other tips you would like to pass along?

Judge Moran: It snows here. Keep that in mind when you’re scheduling a trial. I mentioned that jurors have to travel long distances. Witnesses do too. You don’t want to have your trial continued because some of the jurors or your witnesses are not able to make it to court due to the snow. You’re safe from around the end of March to Thanksgiving, but it’s worth keeping it in mind the rest of the year.

Finally, encourage your attorneys to bring their skis in winter, and their running shoes or hiking boots in summer. Enjoy our trails while you are here.

Judge Bernini: I mentioned that we expect lawyers to be able to resolve matters before approaching the judge with them. It is not just about discovery. For example, lawyers should be careful with how many motions in limine they file. The first step should be to attempt to work out the matter with the other side. Judges appreciate it and can tell when the parties have made a sincere effort to work out the issue.

Maricopa County Legal History Close to Going Live

The Maricopa County Justice Museum & Learning Center Foundation is excited to announce that the Justice Museum dream is soon to be a reality. Construction will begin this summer on the museum facility – which will be centered in and around a restored cellblock on the sixth floor of the county’s Historic Old Courthouse – with the intent that it will be open to visitors in time for the State’s centennial celebration in 2012. With these deadlines quickly approaching, the Foundation has been busy planning exhibits and raising funds.

Exhibits that Teach and Engage

The exhibits curated for hosting by the Justice Museum will be directed to teaching aspects of citizenship to youth as part of the Maricopa County Superior Court’s Courthouse Experience program, and all others interested in the rich legal history of our state. The exhibits and programs will advance the conversation about an essential civics-related question: What is justice in Arizona? The museum will explore how, through the promotion of the rule of law, our society ensures that justice is intertwined into our daily lives. The museum’s exhibits will rotate on an annual or longer cycle. The first cycle will focus on watershed moments in Arizona’s legal history.

Featured exhibits will showcase the principles announced in Miranda v. State of Arizona and In re Gault, along with the impeachment and removal trial of Governor Evan Mecham. Another exhibit will feature the story of Justice Sandra Day O’Connor, an icon of the state’s legal history.

The exhibits committee is working toward interactive exhibits appearing in the museum space and online. One illustration is development of a timeline that, when “clicked,” will link the user to photographs, video clips and key documents in Arizona legal history. This is a first and essential step in making the exhibition aspect of the museum sustainable and individualized. The ongoing challenge for the Justice Museum is to be responsive to the young learner – the “consumivore,” in the words of Technology Editor Nick Bilton of the New York Times. Today’s youth expect to be able to encounter content that can be dissected, customized to personal taste, re-combined and distributed to others within their networks of friends and fellow students. The museum has an important story to tell. In order to have tomorrow’s youth consume this story, the museum’s staff will need to harness a range of technologies to tell that story convincingly, one visitor at a time.

Justice Museum Founders Program

In order to get and keep the Justice Museum doors open, the fundraising committee developed the Founders Program through which firms and lawyers as well as history-minded individuals and companies can become part of history themselves. The:

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Founders will be recognized in perpetuity on a plaque that will be placed at the entrance of the museum. Also, each Founder will receive a framed print of the Old Courthouse as a personal acknowledgement of his support and contribution.

The opportunity to be a Justice Museum Founder is a one-time occasion. Donations must be received by July 1, 2011 in order to be recognized as a Founder.

For further information about the Justice Museum or the Founders Program, please go to www.justicemuseum.org.
E-filing: Exceptions to the Rules

AZTurboCourt is being phased in for attorneys who file pleadings in civil cases in the Superior Court in Maricopa County. By May 1, 2011, all attorneys who file in civil cases will have to electronically file through AZTurboCourt, unless an exception applies. Arizona Supreme Court Administrative Order 2010-117 explains the details of the implementation of AZTurboCourt, including the attorneys and filings that are exempt from e-filing.

Applicability

Although electronic case-initiation is being tested, it is not yet available. Cases must still be initiated on paper at a Clerk’s facility. Clerk staff will casher the filing fee and apply the file stamp and case number before scanning the paper into the Clerk’s Electronic Court Record (ECR). Mandatory e-filing through AZTurboCourt applies exclusively to post-initiation civil case documents filed into the Superior Court in Maricopa County by attorneys filing on behalf of a client. Any attorney for whom e-filing through AZTurboCourt is not yet mandatory may choose to e-file through AZTurboCourt. Attorneys must e-file through AZTurboCourt in civil cases according to the schedule defined in the Administrative Order.

Exceptions for Case Types

In this early stage of implementation, AZTurboCourt is limited to general civil cases in the adult court. The following case types must still be filed with the Clerk on paper: most family court cases, probate, mental health and related case types, tax, juvenile, special actions, transcript of judgment, lower court appeals, and the Gila River General Stream Adjudication case. Cases in adult criminal court can be e-filed through the Clerk of the Superior Court’s eFiling Online website, as well as Family Court documents in a limited number of judicial divisions.

Exceptions for Documents

For various reasons, the following documents cannot be e-filed and must be filed on paper, even under mandatory e-filing: case initiation documents and their accompanying issuance or service documents, default judgment packets, garnishment and other execution documents, any document the Clerk has to issue, injunctions against harassment and workplace harassment, motions to file documents under seal and documents filed under seal, and applications for waiver or deferral of any fee or cost.

Exceptions for People

What If I Don’t?

The courts can likely avoid imposing the sanctions authorized for the failure to use AZTurboCourt because of the inherent advantages of e-filing for attorneys and their clients.

At Keegan, Linscott & Kenon, PC, our professionals specialize in providing expert services and assisting attorneys in all financial matters regarding Bankruptcy/Reorganization, Fraud Detection and Prevention, and Litigation Support.

Our bankruptcy practice assists companies, attorneys, unsecured creditors, secured lenders, and all other parties in interest with the complexities of both in-court and out-of-court reorganizations.

We provide assistance throughout the entire bankruptcy process; and our professionals have the proven ability to develop and communicate compelling analyses of accounting, economic and financial information in plain, simple language.

Let our team of Certified Insolvency & Restructuring Advisors (CIRA) and Certified Fraud Examiners (CFE) show you how over 30 years of experience can be an invaluable asset to your case, while providing your clients the quality service they deserve. Call Chris Linscott today at (520) 884-0176 for a free consultation.

Attorneys are positioned to realize cost savings by reducing paper, postage and ink costs as well as reducing travel time to the courthouse. Runner services and other professionals that support the legal community will be able to reduce their trips to the courthouse and focus on service of process and other time-sensitive matters, rather than standing in line at the file counters. Early adopters of e-filing can demonstrate to their clients a familiarity and command of how today’s courts operate. As always, the biggest concern for attorneys who fall behind the times is their ability to continue serving their clients in a changing environment.

What’s Next?

AZTurboCourt will continue to expand with the intention of reaching as many case types and types of documents as possible, as well as being available in all courts. As this newer form of business has changed over time, exceptions have been needed. Certain types of documents will likely need to be filed and maintained on paper. Original wills, courtroom exhibits and some sensitive or sealed information may have to remain on paper. Some court processes that require a physical presence at a court facility may be more efficient as a paper process than as an electronic alternative.

Specific processes and formats will change with the needs of the courts and the ability of technology. Stay tuned for updates from the Clerk’s Office, the Administrative Office of the Courts, specialty groups, and bar associations.
**Sending Ethical Thank Yous for Referrals**

By Jordan Furlong

I’ve been receiving a few referrals from some of my former law school friends. What is your advice on how to thank my friends some of my former law school friends. What can I do to ensure they continue to refer to me in the future? – Thankful in Tempe

Referrals are extremely important, and knowing how to continue receiving them is critical to building your business and reputation in the community. Your question is a good one. It is about how to keep referrals coming and thank the referral sources appropriately—and ethically.

As associates, part of our work is to begin building a book of business so that some day we may become partners or have our own firms. That is why each referral is so valuable and the key to your legal future.

There are ethical rules that limit your ability to do certain actions. For instance, E.R. 7.2(b) does not allow you to give anything of value to a referral source, except under certain circumstances. However, de minimis gifts of thanks after a referral are permissible. (See Ariz. Ethics Op. 02-01.) E.R. 5.4 and E.R. 1.5 discuss fee-sharing which might come into play with referrals. Specifically, you cannot accept or give a referral fee. (See Ariz. Ethics Op. 02-01.)

So, keeping these rules in mind, what can you do? I have a couple of ideas I think will help you on your way to thanking and maintaining referral sources.

**Send a Thank You Note**

Always send a thank you note once you receive a referral; it’s the least you can do. Do not give client information in the note. Simply say something like “I appreciated you thinking of me.” I like to send personalized thank you cards because it shows that I am willing to take the time to remember that person and that their referral meant something to me.

**Send a de Minimus Gift**

You can’t send big expensive bottles of Dom Perignon, but you can send something to show that you appreciate them. In the past, I have sent or received cookies, edible arrangements, a bottle of reasonably priced wine, a book and more. I personally like the idea of sending food to law firms because the whole firm will likely enjoy my gift and think of me. Your firm may even reimburse you for the expense of a small gift, so it’s worth considering.

**Have A Question? Don’t Be Afraid to Ask…**

“Ask an Associate” is a monthly column which allows attorneys to anonymously submit questions to a real-life associate attorney. Questions cover a wide range of issues from marketing to office dynamics. To send your questions, please e-mail Nicole Siqueiros at nriqueiros@halierrezlaw.com. Siqueiros is an associate family-law attorney at Halier and Ziesing, PLLC.

**Send a Thank You Note**

A friend of mine recently introduced me to the website www.sendoutcards.com, which is fast and pretty amazing. In just a few minutes you can select and personalize a card, pick an optional gift to go with it, and have it all sent out directly from their company to your referral source. It’s all done on the computer and the prices are pretty reasonable.

**Keep the Connection Strong Through Regular Contact**

Whether it is planning a lunch or happy hour, going to YLD events, CLEs, or just sending a quick e-mail, it is important to keep your name in their referral sources. Your firm may also do this by sending holiday cards or monthly/quarterly newsletters. These connections need to be cultivated, so be sure to regularly touch base with your referral sources in some way. Make sure that you are the one they think of when someone asks them for a referral in your area of law.

Most importantly, do a great job on the cases you receive from referral sources. The client will probably tell the person that referred them how wonderful you are, and the referrals will keep coming!

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**Destroying Your Own Business**

By Jordan Furlong

**Without Innovation, Law Firms’ Future Shaky in Rapidly Changing Business Environment**

The problem — in Blockbuster’s case, at least — was that the very features that people thought were strengths turned out to be weaknesses. Blockbuster’s huge investment, both literally and psychologically, in traditional stores made it slow to recognize the Web’s importance: in 2002, it was still calling the Net a “niche” market. And it wasn’t just the Net. Blockbuster was late on everything — online rentals, Redbox-style kiosks, streaming video.

There was a time when customers had few alternatives, so they tolerated the chain’s limited stock, exorbitant late fees … and absence of good advice about what to watch. But, once Netflix came along, it became clear that you could have tremendous variety, keep movies as long as you liked, and, thanks to the Netflix recommendation engine, actually get some serviceable advice. (Places like Netflix and Amazon have demonstrated the great irony that computer algorithms can provide a more personalized and engaging customer experience than many physical stores.)

Why didn’t Blockbuster evolve more quickly? In part, it was because of what you could call the “internal constituency” problem: the company was full of people who had been there when bricks-and-mortar stores were hugely profitable, and who couldn’t believe that those days were gone for good. Blockbuster treated its thousands of stores as if they were a protective moat, when in fact they were the business equivalent of the Maginot Line.

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**The Art of Dovetailing**

By Tamara Herrera

Someone once told me that transitions in documents are never noticed until they are missed. Good legal writers recognize the need to use helpful transitions and spend time editing to make sure the transitions help the reader, rather than getting in the way. One way to do this is to dovetail one paragraph with the next. Once you start editing for transitions, you may soon discover, however, that sometimes one of these phrases or words is not quite right for the job or that certain transitional phrases and words are overused in a document (e.g. “also” and “in addition”). When faced with this dilemma, I suggest looking backwards. Looking backwards is what grammarians call “dovetailing”: using the key phrase at the end of the previous sentence as the lead-off part of the new sentence. The transition between the first paragraph of this column and the paragraph you are now reading uses dovetailing with the phrase “looking backwards.”

Dovetailing is especially helpful in making explicit connections in writing that includes dense, difficult, or technical information, which is why dovetailing is a compelling transitional technique in legal writing. This technique can even be used from sentence-to-sentence and not just from paragraph-to-paragraph, as I just did with the beginning of this sentence (“technique”) and the end of the previous sentence. Finally, a writer may decide to put greater emphasis on a certain transition by combining a transitional phrase or word with dovetailing. This is an example of how I could have employed this combination at the beginning of the paragraph: “Put another way, looking backwards is what grammarians call dovetailing.”
A Glimpse into the Life of a Corporate Paralegal

In my present position, and for most of my paralegal career, I have worked in-house as a corporate paralegal. Although the majority of my job experience has focused on the discovery side of litigation, there are many different roles for a paralegal in a corporate legal department.

Working as a corporate paralegal, I have the opportunity to research a specific issue utilizing Westlaw or Lexis and then draft a memorandum of law for my supervising attorney. So, even though I do not have the liability that an attorney has, I still get to utilize my job experience has focused on the research business, and worked as a corporate paralegal. As my resume continues to develop, so do I.

I enjoy working as a paralegal. I love research and drafting the documents. The best part is that by working under the direct supervision of an attorney, my liability is limited but my opportunities for learning are not!

2011 Bowling Event

Please be sure to join the Paralegal Division on April 16 at Shea Village Lanes, 10870 N. 32nd Street, for a night of fun and networking. We will be hitting the lanes from 4 to 7 p.m., and enjoying pizza and soda in addition to each other's company. To sign up, please see the Paralegal Division page on the MCBA website or contact the Outreach Committee Chairperson, Julie Estlick at 602-382-6854. The Paralegal Division would like to encourage all other divisions of the bar to participate and get to know your local paralegals. We look forward to seeing you there!
APRIL 2011 CALENDAR

All meetings at MCBA Office.

1. Estate Planning, Probate & Trust Section Board meeting 7:30 a.m.
   CLE: Personal Injury Fundamentals: Session 1 - Intake Procedures and Administration; First Interviews; Fee Contracts 11:30 a.m. to 1 p.m.

2. Paralegal Division Board meeting 5:15 p.m.
   Paralegal Division Board meeting 5:30 p.m.

3. Young Lawyers Division Board meeting Noon

4. Construction Law Section Board meeting Noon
   CLE: Social Security Benefits: What You Need to Know, Even If You Are Not Representing A Claimant 1 to 5 p.m.

5. Estate Planning, Probate & Trust Judicial Reception 11:30 a.m. to 1 p.m.

6. Community Court Board meeting Noon

7. CLE: Personal Injury Fundamentals: Session 2 - Investigation; Medical Records; Police/Incident Report 4 to 7 p.m.
   Wells Fargo Museum

8. CLE: Personal Injury Fundamentals: Session 2 - Investigation; Medical Records; Police/Incident Report 4 to 7 p.m.
   Wells Fargo Museum

9. Paralegal Career Day 8 a.m. to 4 p.m.

10. Family Law Section Board meeting Noon
    Environmental Law Section Board meeting 8 a.m.
    Gust Rosenfeld Law Firm
    CLE: The New AAR Residential Resale Purchase Contract Noon to 1 p.m.
    Real Estate Law Section Board meeting 5 p.m.

11. Executive Committee meeting 7:30 a.m.
    Public Lawyers Division Board meeting Noon

12. CLE: Personal Injury Fundamentals: Session 3 - Complaint; Discovery; Settlement; Liens 11:30 a.m. to 1 p.m.

13. Paralegal Division Bowling Outing 1 to 4 p.m.

14. Volunteer Lawyers Program Advisory meeting Noon

15. Volunteer Lawyers Program Advisory meeting Noon

16. Volunteer Lawyers Program Advisory meeting Noon

17. MCBA Board of Directors meeting 4:30 p.m.

18. MCBA Board of Directors meeting 4:30 p.m.

19. CLE: Real Estate: Speculative Builder Tax: What is it and When Does it Apply? Noon to 1 p.m.

20. Employment Law Section meeting Noon
    LRS Committee meeting Noon

21. CLE: Real Estate: Speculative Builder Tax: What is it and When Does it Apply? Noon to 1 p.m.

22. CLE: Real Estate: Speculative Builder Tax: What is it and When Does it Apply? Noon to 1 p.m.

23. MCBA Board of Directors meeting 4:30 p.m.

24. MCBA Board of Directors meeting 4:30 p.m.

25. PI Fundamentals: Session 4-Joint Pre-Trial Statements; Motions in Limine; Jury Selection; Post Trial 11:30 a.m. to 1 p.m.

26. E-filing with AZTurboCourt – How to Use the New Statewide E-filing Application 7:30 to 9:30 a.m.

27. Maricopa County Bar Foundation Board of Trustees meeting 7:30 a.m.

28. Family Law Quarterly meeting 5 to 7 p.m.

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

Legal Briefs

Ninth Circuit revamps website

The United States Court of Appeals for the Ninth Circuit has updated its website with a sleeker new look, expanded content, and more tools. Tabs added to the newly designed webpage provide users with information about the district and bankruptcy courts in the Ninth Circuit, the judicial Council of the Ninth Circuit (the court’s governing body), and the Ninth Circuit Library.

Users can also take advantage of an advanced search tool when searching Ninth Circuit published opinions. The advanced search option allows users to search the entire database of published opinions and display them by year, month, case type, case number and case name. The law library tab offers useful hyperlinks to research resources, including hyperlinks to other law libraries throughout the circuit.

Explore the content and features of the newly designed website at: http://www.ca9.uscourts.gov/

New Reporter of Decisions at U.S. Supreme Court

Christine Luchok Fallon has been named the new Reporter of Decisions of the Supreme Court of the United States. She is the 16th Reporter of Decisions and the first woman to hold the position. Fallon succeeds Frank D. Wagner, who retired from the Court after more than 23 years of service.

February 8, 2011, Arizona Supreme Court Conference Dispositions Resulting in Grants of Petitions for Review Submitted to the Arizona Supreme Court.

<table>
<thead>
<tr>
<th>Case Caption &amp; Court Info.</th>
<th>Disposition or Issue(s) Presented for Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Apparel v. CMX LIC/GNMX Group Inc.</td>
<td>IT IS ORDERED granting review.</td>
</tr>
<tr>
<td>CV-10-0324-PR</td>
<td>IT IS FURTHER ORDERED remanding this matter to Division Two of the Arizona Court of Appeals for reinstatement of Appellant's appeal.</td>
</tr>
<tr>
<td>Appealed from Arizona Court of Appeals, Div. One</td>
<td></td>
</tr>
<tr>
<td>State v. Whitbeck</td>
<td>Disposition: IT IS ORDERED granting review.</td>
</tr>
<tr>
<td>CR-10-0280-PR</td>
<td>IT IS FURTHER ORDERED remanding this matter to Division Two of the Arizona Court of Appeals for reinstatement of Appellant's appeal.</td>
</tr>
<tr>
<td>Appealed from Arizona Court of Appeals, Div. Two</td>
<td></td>
</tr>
<tr>
<td>State v. Hummons</td>
<td>Whether evidence should have been suppressed where Mr. Hummons was unlawfully seized and later arrested when the officer discovered a warrant for his arrest.</td>
</tr>
<tr>
<td>CR-10-0309-PR</td>
<td>Disposition: The parties are required to address whether the defendant had a right to be present at the hearing. See State v. Dunn, 205 Ariz. 557 (2010).</td>
</tr>
<tr>
<td>Appeled from Arizona Court of Appeals, Div. One</td>
<td></td>
</tr>
<tr>
<td>Merchants &amp; Dayi v. Hon. Barton/State/ Miller</td>
<td>Appellee Penny West's Petition for Review Granted as to issues 1 and 2 only.</td>
</tr>
<tr>
<td>CV-10-0327-PR</td>
<td></td>
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<tr>
<td>Appeled from Arizona Court of Appeals, Div. One</td>
<td></td>
</tr>
<tr>
<td>State v. West</td>
<td>1. Whether the trial court sufficiently met the standard articulated in State ex rel. Hyder v. Superior Court, 128 Ariz. 216, 624 P2d 1264 (1981), when it granted the post-verdict Motion for acquittal based on a mistake of law in Counts 20 and 21; 2. The law library tab offers useful hyperlinks to research resources, including hyperlinks to other law libraries throughout the circuit.</td>
</tr>
<tr>
<td>CR-10-0306-PR</td>
<td></td>
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<tr>
<td>Appeled from Arizona Court of Appeals, Div. One</td>
<td></td>
</tr>
<tr>
<td>FURTHER ORDERED: Petition for Review of Special Action Decision of the Court of Appeals = GRANTED. This case is remanded to the superior court for further consideration in light of State v. Motor, 2011 WL 221212.</td>
<td></td>
</tr>
<tr>
<td>Disposition: IT IS ORDERED granting review.</td>
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<tr>
<td>IT IS FURTHER ORDERED remanding this matter to Division Two of the Arizona Court of Appeals for reinstatement of Appellant's appeal.</td>
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Ninth Circuit extends AZ District Court's judicial emergency

In an order and report filed March 2, the Judicial Council of the Ninth Circuit extended the 30-day judicial emergency for the United States District Court for the District of Arizona for an additional year. With emergency status, the federal court in Arizona may temporarily suspend from 70 days to 180 days, a time limit set by law for bringing accused criminals to trial.

The report was delivered to Congress and the Judicial Conference of the United States. The process notifies Congress that a judicial emergency exists and also serves to seek authorization for additional resources to assist the court.

Federal Sentencing Commission to hold training

The U.S. Sentencing Commission will hold its 2011 Annual National Training Program on the federal sentencing guidelines May 18-20 in San Diego. The training program will cover all aspects of the sentencing guidelines, and will feature discussions on the latest issues in federal sentencing. More information is available at the U.S. Sentencing Commission's website: http://www.ussc.gov/Education_and_Training/An nual_National_Training_Seminar/index.cfm

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Barristers Ball 2011 at the Biltmore: A Night to Enjoy

Thank you 2011 Barristers Ball Sponsors and Attendees

Thank you to those who hosted tables:

Multiple tables:
- Hon. Glenn Davis

Single tables:
- Bryan Cave
t- The Cavanagh Law firm
- Frazer Ryan Goldberg & Arnold
t- Gallagher & Kennedy
- Grasso Law Firm
t- Gust Rosenfeld
t- Krut Rock
- Lewis and Roca
t- Lorber, Greenfield & Polito
- Osborn Maledon
t- Phoenix School of Law
- Quarles & Brady
- Sandra Day O’Connor College of Law at ASU
- Swell & Wilmer
- State Bar of Arizona
- Stinson Morrison Hecker
- Wells Fargo

Judge Bethany Hicks of the Superior Court and Bill Hicks, a partner at Ballard & Spahr.

MCBA Board of Directors member Holly Davies of Lorber, Greenfield and Polito and Greg Mohl purchase a raffle ticket from YLD President Stefan Polys (not shown), who also served as Silent Auction chair.

After dinner, the dance floor got crowded as guests rocked to the music.

Thank you 2011 Barristers Ball Sponsors and Attendees

Special thanks to those who hosted tables

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- Hon. Glenn Davis

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- Swell & Wilmer
- State Bar of Arizona
- Stinson Morrison Hecker
- Wells Fargo

From left are Judge Glenn Davis, vice president of the ball’s beneficiary, the Maricopa County Justice Museum & Learning Center Foundation, and Stan Watts and Suzanne Dohrer of the firm of Dohrer and Watts.

Two ASU law students, Elle Maupin and Cruz Ramirez, take dressing to the next level.

Nicole Davis, who is with the state Attorney General’s Office, and solo practitioner Andrew Ellis examine the bids made on one of the silent auction items.

Nicole Sorenson (left) is the raffle’s first place winner of an iPad. Presenting the prize is Jennifer Rebholz of Burrell & Seletos, chair of the 2011 Barristers Ball Committee.

John Gilbert (left) and Don Alvarez (far right) of the Scottsdale firm of Alvarez & Gilbert are having drinks on the lawn of the Biltmore along with their spouses, Jenny Gilbert and Becky Alvarez.
**BOOK REVIEW**

**Long Way Home**

by Laura Caldwell

c.2010, Free Press

$26.00 / $29.99 Canada

303 pages, includes notes

You've seen some pretty amazing things in your life. In your travels around the world or around the block, there's always something to see. People with unusual attributes. Buildings going up, down, or staying in the same place for centuries. Nature in all its glory. You've seen birth and death, and some things you wish you'd never seen.

And that's where Jovan Mosley was after the police picked him up: wishing he'd never been witness to a murder. In the new book *Long Way Home* by Laura Caldwell, what Jovan saw cost him almost a quarter of his life.

On the night that Henry Thomas, Jr. lost his life, things were going well for him. Thomas was well-liked in his job, and he was making enough money to buy a decent house for himself and his long-time girlfriend. His family was doing fine, and he was looking forward to seeing his grandchildren soon. His wallet had a few dollars in it that night, so he grabbed some chicken at a local Chicago restaurant and started home. He never made it.

Earlier that night, Frad Muhammad asked his boy, Jovan Mosley, if he wanted to hang out. They briefly visited a park and asked his boy, Jovan Mosley, if he wanted to hang out. They briefly visited a park and then went unsolved for several months, until a break in the case came. Police arrested Muhammad, Marvin Treadwell, and Lawrence "Red" Wideman. Witnesses said a boy named "Fetta" was at the scene, as was a boy named Jovan Mosley, but Jovan didn't do anything except walk away.

They arrested Jovan anyway.

For almost two days, the 19-year-old was kept, handcuffed, to a wall. Given no food or water, he wasn't allowed to use the bathroom. Detectives wandered in and out, yelling and threatening. Finally, told that he could "go home" if he confessed to two punches, Jovan signed his name to a piece of paper. Five years later, attorney Catherine O'Daniel had a chance meeting with Jovan in SuperMax, the Cook County jail. Impressed and astounded that he'd been in jail for so long with so little legal help, O'Daniel agreed to do something he'd never done: she took Jovan's case, pro bono.

And that's where author, lawyer, and novelist Laura Caldwell came in: to help O'Daniel and, in the process, immerse herself into this astounding, horrifying case.

With a writer's knack for words and an attorney's eye for detail, Caldwell brings Jovan Mosley's story to light with the kind of suspense that will keep you up all night. As a co-lawyer, Caldwell was obviously sympathetic to Mosley's case, and she makes you care, too. I loved that about this book, and I loved the "afterward" hints that Caldwell gives without spoiling the proceedings.

If you love a good courtroom drama, try this gripping true story. *Long Way Home* is definitely a book to see yourself reading soon.

*The Bookworm is Terri Schlichenmeyer. Terri has been reading since she was three years old and never goes anywhere without a book. She lives on a hill in Wisconsin with two dogs and 12,000 books.*

---

**Mandatory e-filing Begins May 1**

Mandatory e-filing is being phased in alphabetically according to Administrative Order 2010-177. All attorneys will be required to e-file civil subsequent documents to Maricopa County through AZTurboCourt by May 1, 2011. Training is available as both an overview presentation and live demonstration of the new AZTurboCourt e-filing application currently available in Maricopa County for civil subsequent filings. This course will teach you how to efficiently set up and utilize AZTurboCourt in your office; use one registration process to e-file in any state level court (as the application becomes available in each of the 15 counties); e-file and pay filing and user fees online; and reduce data entry for multiple filings. In addition to classes offered at the Administrative Office of the Courts, a presentation will be held April 26 from 7:30 to 9:30 a.m. at the MCBA Office. For details regarding AZTurboCourt training events, please contact Jeff Harrison at 602-452-3943 or Diane Wilson at 602-452-3943. Also, please visit our website at www.azcourts.gov/azturbo courtinformation.

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*Applications must meet all eligibility requirements including qualifying for coverage under BCBSAZ underwriting guidelines. If approved for coverage, pre-existing waiting periods and waivers may apply.*
FRIDAYS • APRIL 1, 8, 15 & 22
11:30 a.m. - 1 p.m. • 6 standard CLE credit hours (1.5 each)
Lunch included.

Register for the four-session practice fundamentals luncheon series scheduled for the month of April. YOU SAVE $5.

<table>
<thead>
<tr>
<th>PACKAGE PRICES</th>
<th>INDIVIDUAL PROGRAM PRICES</th>
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<tbody>
<tr>
<td>Personal Injury/Negligence</td>
<td>Personal Injury/Negligence</td>
</tr>
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<td>Law Section Member: $185</td>
<td>Law Section Member: $55</td>
</tr>
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<td>MCBA Member: $195</td>
<td>MCBA Member: $62.50</td>
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<td>Non-Member: $315</td>
<td>Non-Member: $92.50</td>
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<tr>
<td>Student Member: $40</td>
<td>Student Member: $10</td>
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</tbody>
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S E S S I O N  I
FRIDAY • APRIL 1
Intake Procedures and Administration; First Interviews; Fee Contracts
It was once stated that when deciding to undertake representation of a PI claim, a lawyer should “ Beware the Albatross.” That age-old adage remains true today and will serve as the basis for the first part of this initial program. Once having made the decision to represent, we will explore how best to establish a relationship with the client, create reasonable mutual expectations and get the case off to a good start. We will also discuss the difficult subject of the fee contract, its ethical requirements, and how to “sell” the concept to the client without appearing greedy.

PRESENTERS:
Tony Palumbo, Palumbo Wolfe
Gloria Andersen, Paralegal

S E S S I O N  II
FRIDAY • APRIL 8
Investigation; Medical Records; Police/Incident Report
The successful PI claim is made well before the complaint is first filed. It is accomplished by diligent ground work and constant and objective re-evaluation as each step of the investigation process is completed. This part of the PI program will discuss the types of investigation that are required to shore up your claim, e.g. the facts of the event in question, the nature, extent and duration of the injuries in question, the consequences of those injuries in terms of tangible and intangible damages, the client’s past medical history, those who can verify the claims to be made, and more. It is rightly said that a prepared plaintiff’s lawyer will be more than 75 percent ready to try the case at the time the complaint is filed. This lecture will tell you how to get there.

PRESENTERS:
Donna Featherston, RN, Nurse Consultant
Additional Presenter, TBA

S E S S I O N  III
FRIDAY • APRIL 15
Complaint; Discovery; Settlement; Liens
This part of the series will explore the philosophy of notice vs. more specific pleading in crafting a complaint. The recent cases (federal vs. state) on notice pleading, the necessity and desirability of including all possible claims in a complaint, the devising and execution of a discovery plan, taking and defending depositions, including experts, the use of ADR and its various options and how liens impact the resolution of PI claims. Appropriate sample forms will be handed out as examples of how to implement the suggestions discussed.

PRESENTERS:
Tony Palumbo and Scott Palumbo, Palumbo Wolfe

S E S S I O N  IV
FRIDAY • APRIL 22
Joint Pre-Trial Statements; Motions in Limine; Jury Selection Trial; Post-Trial Proceedings
The culmination of all the initial preparation and groundwork is always accomplished with the end result of a trial in mind. A lawyer should NEVER take a case unless he/she is prepared to persuade a jury of its merits. Trials are hard work and require fantastic preparation. The process begins before the case is filed and continues through post trial motions. Each pleading, discovery response, disclosure statement deposition is prepared for and implemented with the ultimate trial in mind. The joint pre-trial statement (JPTS) supersedes all other pleadings and filings. It must be prepared meticulously. We will provide forms and discuss its preparation. Motions in Limine are critical for trial and post-trial purposes. We will make suggestions and provide forms. Jury selection is essential to a fair trial. We will discuss philosophy and provide lists of questions and motions for extended voir dire time. Post-trial motions provide the gateway to the court of appeals. These, too, will be discussed.

PRESENTERS:
Tony Palumbo and Elliot Wolfe, Palumbo Wolfe

The annual Ask-a-Lawyer event, which invites the public to stop in and talk face-to-face with a lawyer, will be held on Saturday, April 30, at the Christown YMCA at 5517 N. 17th Ave. in Phoenix. Volunteer attorneys will staff a morning (9 a.m.-noon) or afternoon (noon-3 p.m.) session and will answer questions of a general nature.

To volunteer at Ask-a-Lawyer or for more information, contact Carey Blais at cblais@tcattorney.com or Jessica Jackson at jackson@ehmark-law.com.

Law Week Kicks Off in April
This lecture will tell you how to get there.

PRESENTERS:
Donna Featherston, RN, Nurse Consultant
Additional Presenter, TBA

Register at www.maricopabar.org or call Lisa at (602) 682-8588

Law Week Kicks Off in April
continued from page 1

T U E S D A Y  •  A P R I L  19
12 - 1 PM
Speculative Builder Tax: What It Is and When It Applies
The program will explain when and where city speculative builder tax applies to sales of improved real property. Topics covered will include exemptions, exclusions, deductions and credits; how tax is deferred on sales of partially improved property; and success liability for unpaid tax. The program will also cover how success liability for speculative builder tax applies to foreclosing lenders.

PRESENTER:
Mark D. Vladoic, Quares & Brady, LLP

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APRIL 2011

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11:30 a.m. - 1 p.m. • 6 standard CLE credit hours (1.5 each).
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INSIDE THE COURTS

Judges Budoff, Burke Retire after Combined 30 Years on the Bench

Northeast Presiding Superior Court Judge Robert Budoff has retired. Judge Budoff, who served 20 years on the bench, has served with distinction in every department of the court as a commissioner and judge. "I am happy for Bob that he will be able to turn to other pursuits of his choice after 20 years of exemplary service to the bench, but I will miss him as an outstanding judicial officer on our court," said Presiding Judge Norman Davis. "I have known Bob for some years before I was appointed to the bench 15 years ago, and have always admired the way that he treated me and all others that appeared in front of him."

Before his appointment to the Superior Court bench, Judge Budoff was in private practice for seven years and served 12 years as a Juvenile Court commissioner before rejoining the bench in 1991.

Judge Budoff is a graduate of the University of Nebraska School of Law and has a Bachelor’s in political science from Hiram Scott College in Nebraska.

Judge Edward Burke

Maricopa County Superior Court Judge Edward Burke retired after serving more than 11 years on the bench. Since his appointment in 1999, Judge Burke presided over civil, family and criminal court calendars, including an appointment as civil presiding judge.

"Over the years Judge Burke has handled heavy calendars and still volunteered extensive contributions to the court system and the people of Arizon,” Berch said.

Berch also noted Judge Burke’s dedication to the probate community, particularly as the court systems in Maricopa County have changed to better serve the people of Maricopa County. "Judge Burke has brought a light-hearted outlook to the bench for the past 11 years. He has served as a presiding judge for civil, family, and criminal cases, and has served in every department of the Superior Court."

New Judge at Superior Court

On March 23, Gov. Jan Brewer announced the appointment of Mark H. Brain to the Maricopa County Superior Court. Since 2006, Judge Brain has served as a court commissioner presiding over juvenile cases.

Gov. Brewer appointed Judge Brain to fill a vacancy created by the passing of Judge Pendleton Gaines, who died Jan. 4 and had a 30-year career in private practice. He was a partner at Bennet, Burke, Carmichael & Kennedy and was a founding partner of Norton, Burke, Berry & French. He was also an attorney at Rawlins, Ellis, Burrus & Kewitz.

Judge Burke was a colleague of Brain’s at the Fennemore Craig law firm.

Before becoming commissioner, Brain worked at both Fennemore Craig and Peskikin & Kotalik specializing in civil matters. He received his undergraduate degree in physics from Iowa State University, and graduated from the University of Michigan School of Law.

AZ Supreme Court Chief Justice Berch speaks to Accomplishments, Proposed Merit Selection Changes

Despite dreary weather accented by a gray sky and an endless drizzle of rain, Arizona Supreme Court Chief Justice Rebecca White Berch’s annual State of the Judiciary address was largely optimistic.

In her address, presented March 21 to a joint session of the Arizona Legislature, Berch touted the courts’ work over the past 12 months and the judiciary’s efforts to protect children, families and communities.

Successes and More Work

The chief justice opened her approximately 15-minute speech by outlining the Supreme Court’s recent accomplishments, including implementing new attorney discipline system rules and establishing the Office of the Presiding Disciplinary Judge.

She also highlighted the judiciary’s successes in launching statewide e-filing; working to reduce the crime rate and the number of probation revocations through implementing the Safe Communities Act, which the Legislature passed in 2008; and assisting in the deportation of illegal immigrants convicted of felony crimes through changes to protocols for determining the legal status of individuals in the probation program.

Berch also detailed efforts to improve the state’s probate court system by enhancing transparency in the system, reducing and controlling fees, closing loopholes for those seeking to harm or unduly profit from the system, and providing enhanced protection to the vulnerable.

In a petition to legislators for help in improving the state’s probate system, Berch said it is important to examine and implement changes that will be effective and workable statewide, not just in Maricopa County.

“We must also be cautious that, in our efforts to solve problems, we don’t create new and even greater ones. Finally, we must take care to not let a few high profile cases tempt us to adopt bad policy,” she said.

Proposed Merit Selection Changes

Before closing her speech, Berch brought up the topic of proposed changes to the state’s current merit selection process, which voters established in 1974.

Under the current system, the State Bar of Arizona nominates five attorneys to each of the 16-member commissions that recommend prospects for openings on the Arizona Supreme Court, state appeals courts, and the Maricopa and Pima county Superior Courts. The commission then submits names of at least three of the most highly qualified applicants to the governor of Arizona, who then chooses one of the applicants for appointment. Voters later decide whether to retain the judges or remove them from office.

At press time, the state Senate had approved the bill, SCR 1040, with a 20-6 vote. If approved by the House and by voters in late 2012, the proposal will allow the governor to continue appointing attorneys to the commissions, but would eliminate the state bar from nominating people to serve on the panels.

Berch said she supports the current system because it ensures the selection of qualified judges and helps preserve judicial impartiality and integrity.

Under the proposed system, Berch said judges’ sense of independence to follow the law without fear of retaliation would be compromised.

“The evidence shows that merit selection is working well. And common sense tells us that, “If it isn’t broken, don’t fix it,”’ she said.

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**VLP ATTORNEY OF THE MONTH**

**Attorney, Graff, Challenges Others to Step Up to Pro Bono Service**

*By Peggi Cornelius, CVA*

Attorney Benjamin Graff attributes his passions for leadership, law, and community service to the influences of his mother, a local psychologist, and a high school friend. In Graff’s case, the happy integration of these influences inspired his commitment to pro bono work through the Volunteer Lawyers Program, and has earned him recognition as VLP’s Attorney of the Month.

Graff was born and raised in Phoenix. He recalls his first volunteer experience as a freshman in high school, when a senior student organized a group of teens to visit the residents of a retirement home. “I was immediately hooked, and spent four years visiting the residents every Friday afternoon,” he said.

After obtaining an undergraduate degree in psychology at the University of Arizona, Graff worked for both Child Protective Services and a statewide Arizona Attorney General campaign. What he learned in an undergraduate course called Psychology and Law, combined with his interests in politics and public policy, led him to return to the University of Arizona for a degree in law.

As a summer associate at Lewis and Roca in 2005, Graff was introduced to the VLP by an associate who took him along to conduct intake interviews with people facing challenges many of us would consider commonplace. “Come shadow me for a day.”

Volunteering with Lazarus & Associates, Graff continues devoting his volunteer time to the VLP Tenants’ Rights Clinic. He notes, “With my current practice most closely linked to zoning and real estate issues, assisting clients with landlord and tenant law concerns comes naturally. When I think about the importance of what I can do as a volunteer, I recall an instance where a client told me my negotiation with opposing counsel had prevented her and her partner from becoming homeless. It’s a great example of how some simple phone calls can make a big difference in someone’s life.”

In addition to what his advice and intervention efforts do to benefit many low-income clients, Graff says there’s a hidden benefit for him, as well. “As a young attorney, you sometimes question whether you are truly prepared for the work before you. At VLP, I’ve met amazing people facing challenges many of us don’t even imagine, and I’ve been repeatedly shown I can effectively use my education and experience to help them. It’s made me a better and more confident attorney in my private practice.”

To any colleague who doubts their ability to be of service to clients at the Volunteer Lawyers Program, Graff says, “Come shadow me for a day.”

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**Volunteer Lawyers Program Thanks Attorneys**

The Volunteer Lawyers Program thanks the following attorneys and firms for agreeing to accept 31 referrals last month from VLP to help low-income families. VLP supports pro bono service of attorneys by screening for financial need and legal merit and provides primary malpractice coverage, donated services from support professionals, training, materials, mentors, and consultants. Each attorney receives a certificate from MCBA for a CLE discount. For information about cases and other ways to help, please contact Pat Gerrich at VLP at 602-254-4714 or pgerrich@clsaz.org.

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**Income Tax Held Unconstitutional**

The U.S. Supreme Court declares that a federal law taxing income derived from property is unconstitutional. In *Pollack v. Farmers’ Loan & Trust Co.*, the court states that “imposing a tax on the income or rents of real estate” was a “direct tax” that violates the “rule of apportionment” in Article I of the Constitution. The Pollack decision will be negated in 1913 by adoption of the 16th Amendment, which authorizes the present system of income taxation.

Elections
The national law firm of Quarles & Brady LLP announced that Michelle A. De Blasi, a partner in the firm’s Phoenix office, has been elected to the new public policy committee of The Phoenix Green Chamber of Commerce. De Blasi practices in the area of environmental and natural resources law and leads the solar team of Quarles & Brady’s clean energy, climate change & sustainability practice group. She advises clients on a variety of renewable energy and sustainability projects.

Mark Dioguardi, co-founder of the law firm Dioguardi Flynn LLP, has been elected as an officer for the Friends of Public Radio Arizona (FPRAZ) board of directors. FPRAZ is a non-profit organization that supports and raises funds on behalf of the Valley’s non-profit public radio stations KJZZ (FM 91.15) and KBAQ (FM 89.5).

Jennings, Strouss & Salmon, P.L.C., a leading Phoenix-based law firm, announced that Richard C. Smith, a member of the firm’s Phoenix office, has been elected to the board of directors of the Arizona Tax Research Association. Smith, a member in the firm’s Phoenix office, estate planning and probate practice, will serve a five-year term. Smith represents clients in the area of estate planning, estate and trust matters, and natural resources litigation.

New Hires
The Phoenix law firm of Osborn Maledon, P.A., announced today that Chelsea Sage Durkin has joined the firm as an associate. Durkin was previously with the firm Branscomb P.C. and, before that, clerked with the U.S. Court of Appeals for the Ninth Circuit. Her practice focuses on representation of middle-market and entrepreneurial and growth companies in public and private offerings, mergers and acquisitions, and SEC reporting and compliance.

Recognitions
The international law firm Greenberg Traurig, LLP has elevated 51 attorneys to shareholder or of counsel positions. Reflecting the firm’s diversified platform and wide-ranging legal expertise, the new 2011 class represents 19 different locations and 14 areas of practice. In Phoenix, Michael C. Mason was named shareholder. Mason focuses his practice on commercial litigation and labor and employment issues. He has represented employers at trial and before various administrative agencies, including the EEOC, DOL, and OSCP.

The Phoenix law firm of Osborn Maledon, P.A., announced that Anthony P. Cali has joined the firm’s Phoenix office as an associate in the commercial bankruptcy, restructuring and creditors’ rights group. Cali received his law degree from the University of Arizona James E. Rogers College of Law in 2010.

The national law firm of Quarles & Brady LLP announced that Anthony P. Cali has joined the firm’s Phoenix office as an associate in the commercial bankruptcy, restructuring and creditors’ rights group. Cali received his law degree from the University of Arizona James E. Rodgers College of Law in 2010, and his Bachelor’s degree, magna cum laude, in economics and Spanish from the University of Arizona in 2005.

Innovate - Arizona’s Afterschool Awards of Excellence luncheon, sponsored by the Quarles & Brady law firm’s Phoenix office, was recently honored by the Maricopa County Superior Court judge pro tem. Nicole France Stanton, a partner in the Quarles & Brady law firm’s Phoenix office, was recently honored by the YWCA Maricopa County at its 18th annual “ Tribute to Women” luncheon. Stanton was the honoree in the Business Leader category. Stanton, who practices in the area of litigation, is a current member of Charter 100 Women and serves as a founding board member and past president of the Women’s Metropolitan Arts Council of the Phoenix Art Museum.

Bullet Board Policy
If you are an MCBA member and you/you’ve worked, been promoted, hired an associate, taken on a partner or received a promotion or award, we’d like to hear from you. Talk, speeches (unless they are of national stature), CLE presentations and political announcements are not accepted. In addition, the Maricopa Lawyer will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, etc.). Notices are printed at no cost, must be submitted in writing, and are subject to editing. Items printed are as space is available. News releases regarding lawyers who are not MCBA members in good standing will not be printed.

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MCBA President Took Detour

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Arizona, was accepted, and headed east across miles of desert to Tucson. Benton's approach to his education was more philosophical than hardcore academic: instead of striving to be at the top of the class, writing for the Law Review and clerking for a judge, Benton opted to write for U of A school newspaper, Arizona Daily Wildcat, edited an environmental newsletter, worked as a student lobbyist, participated in school debates, and became president of the Black Law Students Association— all while working part-time at a popular, local restaurant to pay the bills.

After earning his Juris Doctor, Benton landed a position in environmental enforcement at the Arizona Attorney General's Office, where he aided the Arizona Department of Environmental Quality in implementing rules for cleaning up state superfund sites, establishing permit policies, and other code enforcement and permitting actions. After 2 1/2 years with the AG's office, he went on to the Maricopa County Attorney's Office where he was hired as the lead land-use attorney. There he gave advice to county departments and the Maricopa County Board of Supervisors regarding land use, planning, zoning, enforcement actions, and a variety of other matters.

Following his time at the county Attorney's Office, Benton became a legislative officer for the Arizona Supreme Court, where he helped protect the court's merit selection system and worked on budgeting issues and other areas supporting the goals of the court and the entire judicial branch. Benton said his three years as a legislative officer were "eye-opening" in the amount of time he spent reviewing legislative bills (approximately 40 each day), communicating with the justices, and speaking with court administrators.

Three years later, Benton had his first foray into private practice at Fennemore Craig, where he used his science background to assist clients. He said it was a great learning experience to work with many of the established attorneys at the firm.

In 2009, Benton was asked to return to the county Attorney's Office where he now works in the Office of General Litigation, advising the Maricopa County Board of Supervisors on any number of matters.

Setting Goals, Creating Vision

For several years, Benton has been active-ly involved in the MCBA, including serving on the Diversity Committee and the Board of Directors as secretary, treasurer and now president.

As president, Benton said he has a number of goals for the association this year, one of which was met in January: implementing the strategic plan. A committee was formed last year that drafted the plan, which is essential, he said, for running the association and realizing short-term and long-term goals.

Another, more far-reaching goal, is to organize his new department by bringing with him a number of people from his previous office, as well as outside lawyers and experienced administrators. Horne says he has been making a point of staffing the divi-sions and sections of the department with seasoned trial lawyers and litigators. He believes that in prior years, the Attorney General's Office may have been too inclined to settle cases rather than to take them to trial because they did not have enough experienced lawyers available that knew their way around a courtroom. Horne vows this will not happen during his administration.

To this end, Horne coaxed former the Maricopa County Superior Court judge, James H. Kepple, to leave the Maricopa County Attorney's Office to serve as chief of the Criminal Division. Likewise Michael E. Benchoff of the Copperstate firm, Michael Tryon of Eckel & Associates, and Buddy Rake, Jr., a distinguished trial lawyer, have been persuaded to leave their respective positions to serve as senior counsel to the various divisions of the Attorney General's Office. In addition, Eric J. Bistrow, formerly of the Burch & Cacchillo firm, has been tapped to be the new chief deputy attorney general.

On the personal side, married with four adult children, Horne is a professional-level pianist who also enjoys water skiing with his family and reading history books. There are many who believe that if Horne ever gives up practicing law, he could easily slip into a sec-ond career as a concert pianist, having already given recitals with the Phoenix Symphony Orchestra, the Yuma Symphony Orchestra, performed at the Scottsdale Center for the Arts, at the Herberger, and at many of his own political fundraising events.

Arizona’s Attorney General

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However, Horne doesn’t believe that S.B. 1070 is the ideal answer to stop illegal immigration. He stated he would much rather see a huge increase in border patrol agents to stop illegals at the border. He pointed out that once illegals settle in cities and towns, human suffering and the administrative difficulties of deportation are immensely increased. But, Horne said, until there are adequate resources devoted to scaling off our borders, he believes the state must do whatever it can with our current resources.

Horne is particularly concerned about indi-vidual terrorists slipping across the border con-cealed among the 400,000 who enter our country illegally each year. Although he says he is sensitive to the feelings of the Hispanic com-munity on this issue, he feels that stopping illegal immigration is not so much a “Hispanic issue” as it is an “American issue.”

As for his priorities as attorney general, Horne points to his top three: (1) Fighting crime to keep homes and communities safe; (2) securing the border; and (3) creating a cli-mate favorable to economic growth to attract jobs. Horne has also been reviewing projects pursued by the previous attorneys general to see if any would be of value during his admin-istration. One such project he believes would be worthwhile to resurrect from the Grant Woods era is the spot checking of auto repair facilities “to be sure that the public is not being defrauded by paying for repairs that are not needed.”

Horne says he approached the task of

Destroying Your Own Business

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Firms Face Same Fate

What happened to Blockbuster and Virgin and Circuit City is now starting to happen to law firms, for all the same reasons. Firms have invested heavily in legacy costs like long-term leases of downtown offices with rich interiors, and have resolutely refused to take the internet seriously as a service delivery vehicle. They have thrived from the absence of client choice, but will suffer as new competitors offer more surely to come. Same old response, with more surely to come. Same old response, same old thinking. Where are the law firms buying out LPOs and bringing them in-house? Where are the law firms adapting the online delivery methods of startups? Where are the law firms that recognize the peril of their posi-tion and are moving to thwart, or to transform themselves into, their smaller, swifter, hungrier new rivals? They’re nowhere to be found, and that’s why the future of law firms looks a lot more like Blockbuster than Netflix.

Surowiecki concludes his article with an observation that readers of The Innovator’s Dilemma will find familiar: “Sometimes you have to destroy your business to save it.” Law firms, unfortunately for them, don’t come with self-destruct buttons.

Innovation Equals Evolution

But what really concerns me is this: where is the strategic response from law firms to the revolution outside their gates? Where are the signs that firms recognize the existential threats to their marketplace position and are reacting accordingly?

Here’s an example: last month, Bloomberg BusinessWeek published a cover story about Diapers.com, a sort of Amazon.com for baby and infant products that looked to be the next evolution in online shopping. Its founders were quoted in the article as saying they’d welcome a price war with Amazon, and the article was fact titled “What Amazon Fears Most.” This week, Amazon announced it had bought Diapers.com for a truly stunning $545 million. That is how you handle upstart com-petition that threatens your market position.

So what are law firms, facing the same kind of threat, doing these days? Merging with each other, of course: mergers within the United States, within Canada and across the Atlantic, with more surely to come. Same old response, same old thinking. Where are the law firms buying out LPOs and bringing them in-house? Where are the law firms adapting the online delivery methods of startups? Where are the law firms that recognize the peril of their posi-tion and are moving to thwart, or to transform themselves into, their smaller, swifter, hungrier new rivals? They’re nowhere to be found, and that’s why the future of law firms looks a lot more like Blockbuster than Netflix.

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Jordan Farling is a lawyer and consultant in Ottawa, Canada, who speaks to law firms and legal organizations throughout North America on the extraordinary changes underway in the legal services marketplace. He is a partner with Edge International and a senior consultant with Stem Legal Web Enterprises. He blogs at Law21.ca, where this article first appeared.
Supreme Court: Freedom of Speech

"As long as the public speaks, the public suffers," Roberts wrote, "in the kind of activity that the Code of Conduct expressly prohibits. But the kind of activity that the Code of Conduct expressly prohibits is, for better or worse, the kind of activity that the Code of Conduct expressly prohibits."

"Westboro's choice of words is certainly not the same as the expression of views on public matters that have been the subject of this case," Roberts wrote. "Westboro's choice of words is certainly not the same as the expression of views on public matters that have been the subject of this case."

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[A letter to all Maricopa County Lawyers]

THE MARICOPA COUNTY BAR FOUNDATION... LAWYERS CARE; THEY REALLY DO CARE!

In 1984, I joined my fellow Directors of the Maricopa County Bar Association in founding the Maricopa County Bar Foundation. We created the MCBF to address our community’s ever-growing legal needs and promote access to justice. Once the Foundation was established, we were proud to observe the good works that were supported by the MCBF’s grants, including programs that helped those who were most in need of legal representation and counseling.

Looking back on the Foundation’s nearly 30 years of service, I remain inspired by the number of organizations and people we had a hand in helping. I also realize that the work of the MCBF is not nearly finished – in these difficult economic times, the Foundation’s grants have even greater potential to impact our community. The MCBF is a tradition we cannot afford to relinquish, an experience we must pass on to future generations, because lawyers really do care.

Sincerely,

Michael K. Kennedy

Michael K. Kennedy

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