What a difference a day makes. The Arizona Supreme Court recently issued an opinion reducing by only one day the suspension of one of the most widely recognized attorneys in the state. But that reduction was more significant than it might have seemed.


Jeffrey Phillips, the ubiquitous television face of Phillips & Associates, is the firm's founder and managing attorney. Phillips no longer actively represents clients, spending his time supervising the high-volume, self-styled "consumer law firm." He sets firm policy on billing, accounting, and client-intake procedures. Retaining general control, he left primary responsibility for the firm's criminal division to Robert Arentz.

In 2002, the State Bar of Arizona instituted disciplinary action against Phillips, and he conditionally admitted to violations of three Ethical Rules. He stipulated to censure and a two-year term of probation that required changes to the firm's intake and accounting procedures, along with ethics training. Phillips successfully completed the probation, which terminated in 2004.

But he soon found himself in more hot water. Beginning in 2006, the State Bar initiated proceedings, eventually leveling a 22-count complaint of unethical conduct. It also leveled charges against Arentz. After an 11-day hearing, the hearing officer found Phillips guilty of 12 ethical violations, and Arentz of 19.

Areas of Violations
The violations centered in several areas. The firm's bankruptcy attorneys were overworked. Some carried as many as 500 cases, with predictable adverse effects on clients.
Respected Judge, Beloved Father and Husband Killed in Horrific Tucson Shooting Rampage

A sunny, quiet Saturday morning turned into a chaotic and tragic day on January 8 after a lone gunman opened fire on a crowd that had gathered to meet with U.S. Rep. Gabrielle Giffords at a Tucson Safeway supermarket.

Among the six killed was Chief U.S. District Court Judge (District of Arizona) John M. Roll, 63, who, according to a complaint against the suspect, had come to speak with Giffords about the high volume of federal cases in Arizona and to express his appreciation for her support of the federal judiciary.

Roll was concerned there weren't enough resources to handle the flood of immigration and drug cases coming into the court and had sent a letter to Chief Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit urging the court to declare Arizona a judicial emergency.

A longtime resident of Tucson and alumnus of the University of Arizona’s College of Law, Judge Roll had served as chief judge on the district court since 2006. As judge, he was known for welcoming first-year law students into his courtroom every year and patiently explaining to them how the system worked.

Before becoming judge, Roll spent most of 40 years working in the Arizona legal system, starting as a bailiff and later becoming a local and federal prosecutor. From 1987 to 1991, Roll served as a judge for the Arizona Court of Appeals, Division Two. In 1991, Roll was appointed to the federal bench by President George H.W. Bush.

Richard Weare, clerk of the United States District Court for the District of Arizona, said just four days after the shootings that the court is in shock over what happened. “I think it’s going to take a couple of weeks for things to get back to normal here,” he said.

Chief Judge John Roll was a wise jurist who selflessly served Arizona and the nation with great distinction, as attorney and judge, for more than 35 years….Roll’s death is a somber reminder of the importance of the rule of law and the sacrifices of those who work to secure it.”

—Chief Justice of the United States John G. Roberts

We are deeply saddened that a member of our sister judicial system—a kind man, a wise and fair jurist, and a friend to many within the legal community—has been harmed by this senseless act of violence. Our thoughts and prayers go to all of those affected by today’s shooting.

—Arizona Supreme Court Chief Justice Rebecca White Berch

“Judge Roll was a widely respected jurist, a strong and able leader of his court, and a kind, courteous and sincere gentleman.”

—Chief Judge Alex Kozinski, U.S. Court of Appeals for the Ninth Circuit

John was just a fine human being. It is easy to make someone out to be larger than life after he or she is gone. But in life and death, John can be accurately described only in superlatives. He was a man of principle and integrity, a person of strong faith, a rock solid family man, and a community leader. John was unpretentious and genuinely kind, considerate, and compassionate. He treated others with respect and dignity.

—Arizona Supreme Court Justice John Pelander
Barristers Ball Aims to Help Justice Museum & Learning Center Open in Time for State’s Centennial

Making it Even Bigger

You cannot yet visit the Maricopa County Justice Museum & Learning Center. But a visit to this year’s Barristers Ball could fix that.

The Barristers Ball is the Young Lawyers Division’s largest event of the year, featuring a silent auction, dinner, and dancing. Last year, the Barristers Ball outgrew the largest room available at the W Hotel in Scottsdale with approximately 300 lawyers and judges in attendance. This year, the event will move to a larger space at the Arizona Biltmore. It will be held next month on March 5. Tickets are still available and can be purchased at the MCBA website, www.maricopabar.org or by calling (602) 257-4200.

The recent outpouring of support is due largely to the legal community’s interest in helping the Maricopa County Justice Museum & Learning Center open in time for Arizona’s centennial. The museum is on the verge of being able to accomplish that feat, but needs a strong push from this year’s Barristers Ball to make it happen.

Great Things Planned

Pick your favorite alarming statistic. For example, 20 percent of those who responded in an American Bar Association poll identified the three branches of government as Republican, Democratic, and Independent. The Justice Museum hopes to fix that. Or at least to make sure that this 20 percent lives outside of Maricopa County.

The Justice Museum will have tour guides who can teach students about the American justice system generally, and about Maricopa County’s contributions to it in particular. The Museum will offer educational programming for elementary and junior high school students about cases from Maricopa County that established important national legal precedents, such as the Miranda case and Gault, which held that juveniles are entitled to due process in delinquency proceedings. The Justice Museum will also have information about infamous Maricopa County cases, such as Winnie Ruth Judd – the “trunk murderer.” The goal is to have history come alive by allowing the students to hear about the Miranda or Judd cases after they walk through the cells that held those people in the old courthouse.

The Justice Museum will also highlight outstanding local lawyers. It will honor inductees to the Maricopa County Bar Hall of Fame. It will have drawings, tape-recorded readings, and artifacts collected from long-time bar members that will teach students about the history of the legal system in Maricopa County. It is hoped that the Justice Museum will become a draw for local and out-of-state tourists, just as the Hall of Flame or Toy Museums are now.

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A Busy Marriage Month at the Court
Plus, E-Filing Accuracy and Reducing Attempted Service-Notice Filings

By Erik Lemmon

Bankruptcy-related issues permeate the few non-foreclosure-related real estate transactions being consummated in today's stagnant economy. One example of this phenomenon is title insurance companies’ decision to delete the creditor’s rights endorsement from title insurance policies.

Background

A common concern of both purchasers of property and lenders taking a security interest in property is that a bankruptcy trustee might determine that the transaction was a fraudulent or preferential transfer under federal or state law and avoid the transaction or mortgage/deed of trust, leaving the purchaser without its property or a lender without its security.

Bankruptcy Code Section 547, which governs preferential transfers, allows a bankruptcy trustee to invalidate pre-petition transfers made by a debtor where (a) there was an actual intention to hinder, delay or defraud other creditors, or (b) the debtor received less than reasonably equivalent value for the property transferred, and the debtor: (i) was rendered insolvent as a result of the transaction; (ii) was engaged in or about to engage in business for the purpose of or with the intent to engage in a business for the purpose of fraudulently or preferentially transferring property; or (iii) intended or believed that the transaction would be avoided under Section 548, leaving the guarantor’s property might be set aside as a fraudulent transfer under Section 548, leaving the guaranty unsecured.

Shifting the Risk to Purchasers and Lenders

Until recently, the most common way purchasers and lenders addressed the risk of bankruptcy-related avoidance was to delete the creditor’s rights exclusion under a title insurance policy. In 2004, American Land Title Association (“ALTA”) adopted Endorsement Form 21 for this purpose. The effect of such an endorsement put the risk of the borrower’s or lender’s financial condition on the title insurance company.

In February 2010, ALTA announced that on March 8, 2010, it would withdraw Form 21 and the creditor’s rights endorsement. Predictably, title insurance companies followed suit, announcing that they also will not offer a creditor’s rights endorsement.

The deletion of the creditor’s rights endorsement effectively shifted the burden of determining the seller or borrower’s financial condition to the purchaser or lender. Consequently, purchasers and lenders must conduct the necessary due diligence to satisfy themselves that the seller’s or borrower’s financial condition is satisfactory.

No ‘Safety Net’ with Deletion of Creditor’s Rights Endorsement

By Erik Lemmon

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Solutions for Purchasers and Lenders

As a result of the deletion of the creditor’s rights endorsement, purchasers and lenders now face the risk of a bankruptcy-related avoidance without the safety net of a title insurance policy. The most important, and obvious, step for purchasers and lenders to negate this risk is to carefully conduct their due diligence. For lenders, this should not require a major adjustment because the same inquiries involved in the loan underwriting process necessarily produce the information required to determine the financial stability of the borrower.

This due diligence requirement is especially important in light of the safe harbor provision of Section 548, which allows a transferee to retain its interest in the subject property to the extent it took the property for value and in good faith.

A Busy Marriage Month at the Court

Plus, E-Filing Accuracy and Reducing Attempted Service-Notice Filings

By Erik Lemmon

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This due diligence requirement is especially important in light of the safe harbor provision of Section 548, which allows a transferee to retain its interest in the subject property to the extent it took the property for value and in good faith.

To satisfy this requirement, a lender must pursue and answer any questions that may arise regarding the borrower’s financial condition.

Purchasers and lenders should also keep the “reasonably equivalent value” requirement of Section 548 in mind. To that end, lenders should add covenants for guarantors requiring them to affirm that the loan directly benefits them, and purchasers should be wary of transactions involving distressed sellers or property advertised for below market value, which admittedly can be difficult considering the volatility of today’s market.

Erik Lemmon is an attorney with The Cavanagh Law Firm where he represents clients in a variety of transactional matters involving bankruptcy and creditors’ rights, commercial litigation, estate planning and real estate.
I Have an Assignment, Now What Do I Do?

ASK AN ASSOCIATE
Nicole Siqueiros

I'm a new associate at a firm. The managing partner called me into his office and asked me to do research on contract formation. When I left his office, I had no idea what was expected of me. What do I do? — Confused in Carefree, AZ

At some point in a young associate’s career they face the unenviable task of spinning their wheels while trying to complete a partner’s assignment. Without a clear understanding of the parameters, the project can be unmanageable.

When I first began as an associate, a friend of mine gave me an invaluable list of questions (a checklist) for use when meeting with a partner who is assigning projects. I hope these will help you in the way they helped me:

■ What is the specific issue or question that needs to be addressed?
■ In what form should I submit the assignment? (i.e. memorandum, e-mail, verbal discussion, pleading, etc.)
■ When exactly is the assignment due? (Try to get it in early!)
■ How much time should I spend on the project?

Once you’ve had these questions answered, you should be off to a good start. However, there are times when you might need to follow-up on the checklist. For instance, a partner may tell you to spend a certain amount of time on a project and, during your research, you realize you cannot finish the project in the time allotted. In this example, communication with the partner is important, particularly in advance of the deadline. So, discuss your concerns with the assigning partner and give them enough information to allow them sufficient time to give you an informed response.

In addition, you may be faced with a situation in which you realize the assignment you were given has an “easy” answer and can be completed in a shorter period of time than expected by the partner. In this circumstance make sure to explain to the partner why the assignment required less time, and offer to do additional work if the partner believes it is necessary.

■ Do not be afraid to clarify the assignment with the partner and use the checklist. I cannot stress enough that asking the partner reasonable questions is actually a good thing, and will make for a productive work environment and great final product. I hope your next assignment is a success!

■ Have A Question? Don’t Be Afraid to Ask...

An “Assign 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 nsiqueiros@hallierlaw.com.

Self-Service Center Marks 15th

This year marks the 15th anniversary of the Maricopa County Superior Court’s Self-Service Center. For its 10th anniversary, the Self-Service Center tossed over one million served. In the 15th anniversary, we can make that over 1.4 million served.

While the idea of helping self-represented litigants navigate the court is commonplace now, it was a revolutionary idea in 1995. The Maricopa County Superior Court’s Self-Service Center was the trend-setter for the concept of helping self-represented litigants then, and it continues to be a model for this service throughout the country. The Self-Service Center receives requests for tours and information from other courts on a regular basis.

The landscape of our Self-Service Center has definitely changed since its origination. We have online dynamic and intelligent Family Court legal forms available through eCourt. Our latest project is to transition from having both PDF and Word versions of all the forms on our SSC website to having only a single fillable form format for each form.

We look forward to seeing where the Self-Service Center will be for its 20th anniversary. And, we are shooting for 2 million served in 2015 too! Help us reach our goal by remembering to refer litigants to the Self-Service Center for preprinted legal forms and information.

A Small Donation Makes A Big Difference

Arbitration Fee Donations Help

Partners with the Maricopa County Superior Court, the Maricopa County Bar Foundation (MCBF) is once again encouraging attorneys assigned to arbitration to donate the $57 fee to the Foundation’s fundraising efforts. Tens of thousands of dollars in funding each year goes to a variety of deserving organizations, and in many cases, “could make the difference between a citizen becoming a ward of the state or even a street person versus a contributing member of society,” said Randy Nausbaum, 2010 Foundation Chair.

It’s Easy to Contribute

The court has made it easy to contribute with a convenient “pro bono” check-off box located at the bottom of the Invoice in Support of Request for Warrant, a form provided in your arbitration packet. For more information, go to www.maricopabar.org and click on the Maricopa County Bar Foundation link located on the homepage sidebar.

Thank you for making a difference!

Two ‘Rules’ of Citation You Won’t Find in Any Manual

LEGAL WRITING
Tamara Herrera

As someone who teaches citation regularly, I find there are many citation questions that citation manuals do not answer. These unanswered questions deal with the legal audience’s expectations, and as such, the answers cannot be reduced to a mechanical rule in a manual. The following two questions about case law citation are probably the most frequently asked and debated.

When should I use a string citation?

It depends. Citation manuals include rules on how to construct a string citation, but this inclusion does not mean that a legal reader expects string citations or finds them helpful. My advice is to avoid string citations unless the audience needs that level of detail. For example, you may need to show how multiple jurisdictions address a problem, and a string citation is a good vehicle to show this succinctly.

In most other instances, however, a string citation takes up valuable space; most readers skip them. Although a writer may be tempted to use a string citation to show that an argument is well supported by listing all relevant cases, this is not persuasive if the reader skips the list.

Legal Briefs

By Joan Dalton

U.S. Supreme Court makes audio recordings available to public

Audio recordings of all oral arguments heard by the Supreme Court of the United States are now available on the court’s website, www.supremecourt.gov. Each week’s audio recordings are posted on Fridays after the court’s conference. The audio files may either be downloaded or listened to on the court’s website.

The court began audio recording oral arguments in 1955. These recordings are maintained at the National Archives and Records Administration. Prior to the 2010 Term, the recordings from one term of Court were not available until the beginning of the next Term. The Archives will continue to serve as the official repository for the court’s audio recordings.

Transcripts of the court’s oral arguments are available on the court’s website the day of the argument.

Ninth Circuit releases audio and video proceedings of arguments to public

The Ninth Circuit Court of Appeals now releases both audio and video files of its oral arguments on its website, http://www.c9thcircuit.gov. The website features an enhanced search mechanism for searching the recordings by hearing date, case number, case name, hearing location or by case panel. All recordings are placed on the website by noon Pacific Time the day after the argument.

Bankruptcy filings up 13.8 percent

A U.S. Courts report finds bankruptcy filings in

U.S. District courts rose 13.8 percent in the fiscal year ending in September 2010. And while non-business bankruptcy filings rose, bankruptcies involving businesses declined for the first time since 2006. For more information visit the U.S. Court’s website at: http://www.uscourts.gov/News/NewsView/10-11-08/Bankruptcy_Filings_Up_Nearly_14_Percent_over_Last_Fiscal_Year.aspx/CrPageId=1.

U.S. Attorney General comes out opposing legislation to block transfers of Guantanamo Bay detainees

On Dec. 9, 2010 U.S. Attorney General Eric Holder, a Democrat, wrote to Senate Majority Leader Mitch McConnell, R-Kentucky, in order to express his opposition to Language in a proposed 2010 Full-Year Continuing Appropriations Act that would prohibit funding for any transfers of Guantanamo Bay detainees to the United States for any purpose, including the purpose of standing trial.

In his letter, Holder characterized the language in section 1116 of the Act as “an extreme and risky encroachment on the authority of the Executive branch to determine when and where to prosecute terrorist suspects. Such decisions should be based on the facts and circumstances of each case and the overall national security interests of the United States.” The letter further stated that “Section 1116 would undermine my ability as Attorney General to prosecute cases in Article III courts, thereby taking away one of our most potent weapons in the fight against terrorism.”
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Our 1st Quarter CLE on Feb. 10 will be presented by attorney Nick Rayes. The topic is Bankruptcy and the Utilization of the Paralegal in the Bankruptcy Practice. Mr. Rayes has been an attorney for over 35 years with over 20 years experience in bankruptcy. This will be an excellent opportunity to meet with other legal professionals and continue your legal education. You will find the registration form on our website, www.maricopabar.org.

Continue to check the website for updates. Hope to see you at our next board meeting on Feb. 7 at 5:30 p.m. Again, I would like to hear from you: please feel free to contact me directly at paralegal@maricopabar.org.

### Calendar of Events

**February**
- 3 Thursday: Conference Committee
- 7 Monday: Board Meeting
- 10 Thursday: Paralegal Division Quarterly Meeting

**March**
- 7 Monday: Board Meeting
- 9 Saturday: Paralegal Career Day Registration, 8:00 am
- 16 Saturday: Paralegal Bowling Event

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**We’re Off and Planning an Exciting Year**

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**Inside the Paralegal Division**

**PARALEGAL DIVISION PRESIDENT**
Kelly Gray

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All Board of Director, Conference Committee and Quarterly Division Meetings are held at the MCBA Offices unless otherwise specified.

For more information on Paralegal Events please visit our website at: www.maricopabar.org click on the “Paralegal Link”.

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Retreat Kick Starts Board’s Governing Year

By Callie Parkinson

On a chilly Saturday morning last month, the Board of Directors “retreated” at the bar office, where directors spent the day reviewing their governing functions, the MCBAs structure and activities, and most importantly, getting a handle on the Association’s strategic plan for 2011.

Led by President David Benton, who is focusing his year of leadership on enhancing MCBA’s programming and services, the retreat covered the strategic plan topics of continuing legal education, the Lawyer Referral Service, communications, technology and membership.

Staff managers provided context and background on work currently in progress in each area, and offered ideas for the coming year. The format gave board members a knowledge base on which to discuss ideas, brainstorm, and contribute to how each strategic plan item might be implemented.

In order to encourage lawyers to volunteer their services, the court of appeals will grant oral argument requests made by lawyers appearing as counsel of record in an appeal brought or defended by program participants.

Attorney Help for Maricopa County Pro Per Appellants

By Callie Parkinson

Each year, the Arizona Court of Appeals, Division One, handles hundreds of civil and family law appeals filed by pro per litigants.

Pro per appeals create unique challenges for the litigant and the court. The litigant is often at a disadvantage due to a lack of legal knowledge and experience.

According to Chief Judge Ann A. Scott Timmer, “many pro per appellants are unfamiliar with the court’s rules so they miss deadlines or file briefs that do not comply with the rules. Most pro pers are unfamiliar with laws applicable to their appeals so they fail to adequately support arguments or miss them altogether.

Some pro pers do not understand the court of appeals’ role and tend to view an appeal as a ‘do-over’ rather than a review of the trial court’s rulings.” The court frequently expends additional resources to understand and respond to briefs filed by pro per litigants.

In an effort to ensure access to appellate justice, regardless of economic status, Division One of the Arizona Court of Appeals, along with volunteers from the Appellate Practice Section of the State Bar of Arizona, Community Legal Services, and the Arizona Foundation for Legal Services & Education, have implemented the Maricopa County Appellate Pro Bono Pilot Program.

The program will assist litigants who cannot afford legal counsel in navigating through appellate procedure and adhering to court requirements while handling their family law and civil appeals. Depending on the pro per’s income, legal services will be provided free of charge or at a reduced rate of $75 per hour.

The program will begin on Feb. 1, and conclude on Jan. 31, 2012.

In order to encourage lawyers to volunteer their services, the court of appeals will grant oral argument requests made by lawyers appearing as counsel of record in an appeal brought or defended by program participants.

Attorneys interested in volunteering should contact Kimberly Demarchi at KDemarchi@LRLaw.com. Additional information will be available at the court of appeals’ website, http://cofad1.sp.state.az.us/.

Callie Parkinson is a clerk for Arizona Court of Appeals Chief Judge Ann Scott Timmer.

Judge Chosen to Preside Over Tucson Shooting Case

Judge Larry A. Burns of the United States District Court for the Southern District of California has been designated to preside over United States v. Jared Lee Loughner, Case No. 2:11-mj-00035, in the U.S. District Court for the District of Arizona.

The case involves the alleged gunman in the mass shooting that occurred Jan. 8 in Tucson. The designation of Judge Burns was made by Chief Judge Alex Kozinski of the United States Court of Appeals in an order filed today. The chief judge acted after judges of the Arizona district court recused themselves from hearing the case.

In Memoriam:

The Honorable Francis Pendleton "Penny" Gaines III

A jurist respected by the bar, his intelligence and wit will be missed.

Kasdun Simonds Weber & Vaughan, LLP
THE MCBA YOUNG LAWYERS DIVISION INVITES YOU TO THE

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.
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Attorney’s Book Probes Issue of Coerced Confessions

By Laura Swendsen

In August 1991, nine people were shot and killed execution style in a Buddhist temple about 20 miles west of Phoenix; the killings are known as Arizona’s worst mass murder.

Fraught by heavy media pressure, the case took many twists and turns leading to false arrests, coerced confessions, and a missed opportunity to prevent another murder: a woman killed two months later by one of those convicted in the temple murders. In his recently released book, Innocent Until Interrogated: The True Story of the Buddhist temple murders and points out mis-takes law enforcement made in investigating.

Questioning the Interrogation

Stuart, who spent four years piecing together and law-enforcement personnel, said his interest in the case arose from writing his 2004 book, Mirandas: America’s Right to Remain Silent.

“After I finished the Miranda book, I was reminded several times during the research that there’s another side of this story,” Stuart said. A number of questions churned in his mind: Is there a difference between a confession from a guilty person versus one from an innocent person? Should there be a difference? Should society expect both the guilty and the innocent to be treated the same during interrogation?

In his quest to dig for possible answers to those questions, Stuart gathered his arsenal of sources: the attorney for Jonathan Doody, one of the two suspects ultimately convicted in the killings; one of the four Tucson men who were initially arrested: judges; prosecutors; witnesses; and several reporters who covered the case.

The greatest amount of information, however, came from Doody’s attorney, Peter Balkan. Balkan, who had spent three years working almost exclusively on the case, handed Stuart two disks containing over 500,000 separate records. Each record contained multiple files, some with several hundred pages.

Stuart said he was stunned by the quantity of information on the disks. From that documentation, which he spent one year poring over, he was able to compile much of his contact list.

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FEBRUARY 2011

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

2 YLD Board meeting Noon

3 Construction Law Section Board meeting Noon

4 Estate Planning, Probate & Trust Section Board meeting 7:30 a.m.

5 CLE: Real Estate Planning Fundamentals: Session II: Title and Escrow Disputes 11:30 a.m. to 1 p.m.

6 Maricopa Lawyer Editorial Board meeting 5:15 p.m.

7 Paralegal Division Board meeting 5:30 p.m.

8 Family Law Section Board meeting Noon

9 Executive Committee meeting 7:30 a.m.

10 Paralegal Division Quarterly meeting 11:30 a.m.
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Volunteer Lawyers Program Thanks Attorneys

The Volunteer Lawyers Program thanks the following attorneys and firms for agreeing to accept 27 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.

ADOPTION
Megan L. Lennox
Bryan Cave

CONSUMER ISSUES:
Richard J. Boyd
Sole Practitioner
David J. Carroll
Snell & Wilmer
Brian J. Foster
Snell & Wilmer
Robert M. Kort
Snell & Wilmer
Keith J. Kosco
Sole Practitioner
Jeffrey B. Molinar
Osborn Maledon

GUARDIANSHIP OF MINOR CHILDREN:
Ruth Khalsa
Snell & Wilmer
Gustavo E. Schneider
Bryan Cave
Nancy E. Triibensee
Arizona Board of Regents

HOUSING ISSUES:
Michael T. Denious—2 cases
Stoops Denious Wilson & Murray

TENANTS’ RIGHTS
Katherine F. McLeod
Sole Practitioner
Jeffrey B. Molinar
Osborn Maledon

**PRO BONO SPOTLIGHT ON GREATEST CURRENT NEED**
Attorneys are needed to help low-income families who speak primarily Spanish. Please call Pat Gerrich at 602-254-4714.

**NEW BARRISTER SPOTLIGHT**
The Volunteer Lawyers Program (VLP), Buzzelle is the most recent recipient of VLP’s “Attorney of the Month” award.

On a hot summer day last August, Buzzelle contacted VLP and made an ongoing commitment to conducting initial case evaluation interviews and advising people seeking counsel related to indebtedness. Shortly after his weekly visits to VLP began, he agreed to present monthly workshops to educate and advise low-income people with debts beyond their capacity to pay, and whose limited income is protected by law from garnishment.

“I believe everyone wants to pay their bills. When circumstances prevent that, it is extraordinarily stressful and extremely frightening. The guidance and reassurance I’ve given has been rewarded with sincere expressions of gratitude, genuine appreciation, and a sense of relief,” said Buzzelle. In less than five months, he has assisted nearly 100 people seeking help through VLP.

Born on a naval air station in Rhode Island, Buzzelle was a “travelin’ man” early in life. His father’s career took the family many places, including Japan, where Buzzelle attended his first two years of school. When his father retired, Buzzelle completed high school and community college in southern California. Marriage and a career in banking and consumer finance eventually led him to California. Marriage and a career in banking and community college in southern Indiana, where he worked as a branch manager and consumer finance eventually led him to.

In 1993, when Buzzelle and his family moved from Indiana to Arizona, he and his wife founded a non-profit credit counseling company. He served as the director for 15 years. Part of his work involved workshop presentations on credit issues. Being no stranger to world travel, he didn’t hesitate when asked to spend three weeks in Romania, training social workers in budgeting practices. He recalls that time in 2001 as one of his most rewarding experiences.

Not surprisingly, Buzzelle’s abilities and enthusiasm for learning, teaching, and giving were recognized by others. He comments, “A member of our board of directors was a professor of social work at Arizona State University. She insisted I should complete my formal education, and I agreed. After obtaining a Bachelor’s degree in political science and sociology, I was accepted into an ASU Master’s program, and planned to pursue a PhD in interdisciplinary social science.”

Fortunately for VLP clients, that plan was not to be. Buzzelle acknowledges his oldest son had a part to play in his decision to attend the Sandra Day O’Connor College of Law, saying, “He convinced me I could do more good as an attorney, than as a professor.” In 2010, both Buzzelle and his son were sworn in as lawyers in different states.

Because he’d often worked with families in his role as a credit counselor, while a law student, Buzzelle was attracted to both consumer and family law issues. Now, beginning his private law practice, he intends to focus on both. “I’ll be accepting Chapter 7 bankruptcy cases from VLP, and matters from VLP’s Children’s Law Center, as well,” he said. “The families and individuals I have interviewed at VLP are experiencing financial distress and hardships that result from lack of sufficient financial resources. These are very real and compelling needs. I have never before seen so many people suffering in this way. Help is urgently needed.”

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Supreme Court Holds First Meeting

The Royal Exchange Building, at Broad and Water streets in New York, is home to the first gathering of the U.S. Supreme Court. However, with only three of the six justices present, the meeting is adjourned until the next day. The first two U.S. Supreme Court sessions will be held in New York; the court will move to the country’s capital of Philadelphia the following year.

**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.

**APPOINTMENTS**

Ken Mann (ADR and Law Office of Kenneth L. Mann) has been recently admitted to the mediation and arbitration panels of Financial Industry Regulatory Authority (formerly known as the National Association Of Securities Dealers), one of the securities industry’s primary self-regulating organizations, and was among the inaugural group of volunteer attorneys appointed on Dec. 22 by the Chief Justice to the Arizona Supreme Court’s newly created Attorney Discipline Hearing Panels.

**NEW HIRE**

The international law firm Greenberg Traurig, LLP is pleased to announce that Mona Mehta Stone has joined its Phoenix office as of counsel in the labor and employment and litigation practices. Stone practices in the areas of labor and employment, business and commercial litigation, antitrust, and insurance defense. She has drafted, negotiated and litigated various corporate and service contracts, given numerous presentations and written several articles on best practices for employers, and has counseled clients on developments in the law affecting their operations and business practices.

**ANNOUNCEMENTS**

**New Firms**

Prominent family law and personal injury attorney Craig J. Simon has formed Simon Law Group, a full-service law firm headquartered in Tempe. Simon previously was a founding partner of Cantor Simon Law Group, where he successfully represented clients in family/divorce, accident and injury cases for more than nine years. Simon Law Group’s key practice areas will include family/divorce law and accident and injury law.

**Newly Published**

Rossa practices in the area of labor and employment law. Her experience includes representing employers before various government agencies, defending employers in settlement, arbitration, mediation and litigation, and advising employers on current trends and compliance with state and federal employment laws.

**APS/Pinnacle West**

are now offering pro bono services. The PNW law department has formalized a pro bono program that affords PNW attorneys and staff a variety of pro bono opportunities, from traditional pro bono services for the indigent (through the Maricopa County Volunteer Lawyers Program), to litigation and appeals in the federal court system. Stefanie Layton, PNW senior attorney, will act as the pro bono coordinator and administer the program. The PNW law department has partnered with Lewis & Roca, Snell & Wilmer and Gallagher & Kennedy for additional resources and general guidance on pro bono activities.

**Recognitions**

If you are an MCBA member and you’ve moved, been promoted, hired an associate, taken on a partner, or received a promotion or award, we’d like to hear from you. Talks, 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 are printed as space is available. News releases regarding lawyers who are not MCBA members in good standing will not be printed.

**THE BULLETIN BOARD**

**Respected Judge**

continued from page 2

We serve the members, the profession, the judiciary, and most importantly, the public. Our profession serves the public. The Board directs that the goals of the MCBA Strategic Plan, drafted with the purpose of implementing our Mission, in my view, we serve you in order for you to serve others. When we provide the best tools and resources to our members, it will result in the betterment of the public: our community. I believe that serving lawyers is serving the public.

What inspired me during our retreat was that, to a person, our reason for being here as members of the Board was to contribute to something bigger than our individual selves. The MCBA is a service organization, initiated in 1914, to improve the lot of lawyers and according to the MCBA Articles of Incorporation, to honor this profession. Our Board of Directors expressed its dedication and conviction to carry and lift that distinction ever higher.

Adopted in 1980, an intriguing phrase stands out in the Articles of Incorporation: “cultivate public discourse among its members.” In the wake of the attempted murder of Congresswoman Giffords, media talking heads rushed to debate the vitriol of public and political discourse that arose during the 2010 election cycle, much of it thrown about during Giffords’ third bid for the District 8 seat, which lies along the border of southern Arizona. The implication that such malicious speech leads to this inchoate act of controversy. Or could this have been the only step-parent adoptions, modification/divorce, accident and injury cases for more than nine years. Simon Law Group’s key practice areas will include family/divorce law and accident and injury law.

The national law firm of Quares & Ready announced that Susan Bricher Trujillo and Marian M. Zapata-Rossa have received the President’s Volunteer Service Award from the Arizona State Bar for their pro bono work with the Wills for Heroes® program. Briccher Trujillo practices in the areas of health law and litigation & dispute resolution. Her practice includes the representation of commercial health care clients in contract and employment discrimination disputes, licensing and regulatory issues, and litigation matters and the representation of commercial clients and health care professionals before state agencies and regulatory boards. Zapata-Rossa practices in the area of labor and employment law. Her experience includes representing employers before various government agencies, defending employers in settlement, arbitration, mediation and litigation, and advising employers on current trends and compliance with state and federal employment laws.

**NEWS**

A book celebrating its 25th anniversary. Anywhere, Anytime, Any Courtroom, which the firm has published to celebrate its 25th anniversary. Anywhere, Anytime, Any Courtroom gathers an array of photographs of the 250 courthouses nationwide where Bowman and Brooke lawyers have tried cases. It is a visually impressive compilation of the diverse architectural styles that have shaped American justice. A nationally recognized trial firm specializing in product liability matters, Bowman and Brooke has fielded over 650 trial teams, trying cases in over 350 courthouses coast to coast. Bowman and Brooke opened its doors in 1985, with 14 lawyers and offices in Minneapolis and Phoenix. Today, the firm has more than 150 lawyers in seven cities across the nation.

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**RECOGNITIONS**

Jennings, Strouss & Salman, PLC, a leading Phoenix-based law firm, is pleased to announce that Carolyn Johnson, a member in the firm’s Phoenix office, has been selected as a member of the 2011 DirectWomen Board Institute. Johnson is the chair of Jennings Strouss’ Business Restructuring & Reorganization Section. Her law practice encompasses every aspect of commercial reorganizations and she has successfully represented both debtors and creditors in developing and confirming multiple and complex Chapter 11 plans for clients in a multitude of industries including real estate, manufacturing, refunding, and hospitality.

**BULLETIN BOARD POLICY**

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**Respected Judge**

continued from page 2

“He was famous for being able to say so many genuinely nice things about people without having to consult notes, for he so genuinely loved people and had such a remarkable mind,” Schroeder said. “Judge Roll will be greatly missed and will continue to provide inspiration for the generations of lawyers and judges who were fortunate enough to know him.”

U.S. District Judge Raner C. Collins of Tucson said he and his colleagues were shocked and deeply saddened. “How do you explain such a senseless tragedy? Our hearts really go out to the family.”

Judge Rodyn O. Silver has assumed the role of chief judge by statute. Roll is survived by his wife, Maureen, three sons, and five grandchildren.
ATTORNEY WANTED

To place a classified ad, please e-mail shamlain@maricopabar.org or call (602) 257-4200.

CLASSIFIEDS

ATTORNEY WANTED

MID-SIZED CENTRAL PHOENIX Law firm seeks attorney with a minimum of 5 years experience in real estate and commercial transactions. Excellent academic credentials required. Competitive salary and benefits. Send resume to: C. Kevin Dystra, BENNETT, FARBBOUIN, FRIEDMAN & BALINT, P.C. E-MAIL: kdys7979@msn.com, FAX: 602-798-5806.

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POSITIONS

LAW FIRM ADMINISTRATOR – Established medium sized Camberbak. Coridor law firm is seeking an experienced law firm administrator responsible for accounting, financial analysis, IT and pension plan coordination with outside providers/administrators, and personnel management. Salary commensurate with qualifications and generous benefit package will be provided. Submit resume, including statement of experience and salary requirement, to jswe@laplegal.com. Responses will be kept confidential on request.

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PROFESSIONAL OFFICE SUITES AVAILABLE 7210 N. 16th St. Phoenix AZ 85020 (off of the I-17 between Glendale and Northern). Owner occupied by law firm and financial advisors. Phone system, high speed internet, fax services and receptionist available. Free parking. Nice conference room and other amenities. Please call for lease rates. Monthly or longer term leases available. Contact Sue at susan@rogerskirby.com, or call 602-748-1900.

Phillips & Associates Founder in Hot Water, Again, Over Case Overload, Failing System

CourtWatch, continued from page 1

The firm’s client-retention process was flawed, in part because there was not enough lawyer involvement. The process was handled by nonprofessionals—what the firm called “legal administrators”—who engaged in high-pressure tactics with clients and potential clients. Phillips and Arentz were responsible for this behavior, the hearing officer ruled, because the legal administrators’ compensation was tied in part to client retention.

The Disciplinary Commission adopted the hearing officer’s findings. It imposed a suspension of 60 days on Arentz. For Phillips, it imposed a period of six months and one day. The two attorneys were suspended for review, but the supreme court agreed to consider only two issues concerning Phillips’ case.

Writing for the court, Justice A. John Pelander first considered Phillips’s argument that he was being improperly sanctioned for others’ conduct: the actions of the legal administrators in the client-intake process. Pelander turned to Ethical Rules 5.1(a) and 3.3(a), which require managing attorneys to make reasonable efforts to ensure that a firm’s employees—attorneys and nonattorneys alike—act ethically.

These rules, Pelander wrote, do not impose vicarious liability for a subordinate’s acts but instead impose an independent duty of supervision. He concluded that the hearing officer had properly applied them to Phillips: “Although . . . attorneys’ and staff members’ conduct violated various ethical rules, the supervisory and managerial breaches for which Phillips was found liable under ER 5.1 or 5.3 were independent.”

Pelander then turned to the length of Phillips’s suspension. He listed the factors that entered into the equation: the nature of the duty violated, the attorney’s mental state, the actual or potential injury to the clients, and any aggravating or mitigating circumstances. He found that there were several mitigating factors present, including Phillips’s full dislo-
Judge Pendleton Gaines Dies

Superior Court Judge Pendleton Gaines, 66, passed away Jan. 4 at St. Joseph’s Hospital following a valiant battle with cancer. During his 11 years on the bench, he was known for his integrity, wit and sense of humor. Judge Gaines was assigned to the Criminal Department at the time of his death. During his tenure, he served in the Family and Civil Court departments and as the Civil Department associate presiding judge. Judge Gaines earned his B.A. from the University of Arizona and his J.D. from the University of Virginia.

In Memory: Our Friend Penny

By William L. Kurtz, Fenimore Craig, P.C.

“Well, Bill, that question has never been answered to my complete satisfaction.” Huh? I thought it was a simple enough question: “What is the origin of ‘The Bonnie Blue Flag’?” But our friend Francis Pendleton Gaines III would never take the easy way out. He was, among many of his seemingly limitless qualities, a scholar who insisted on doing what he needed to do to get the complete and correct answer and a stickler for always doing things the right way. I first met Penny Gaines 39 years ago as a second-year law student interviewing for a summer clerkship with Evans, Kitchel & Jencks. I was fortunate enough to get the job and spent nearly all of the next 26 years practicing law with him, first at Evans, Kitchel and then at Fenimore Craig. He was a star and a leader at both firms and, like others there and in the general legal community, I was awed by his charm, integrity, wit, intellect, judgment, decency, honesty and love of the law. Our friend Penny.

We were pleased to see him go on the bench in 1999 as we knew he wanted so much to do so. We figured that the judicial selection folks saw his name on the applicant list and put him on the fast track before he changed his mind. While we missed playing bridge and going to Sing High for lunch, and just seeing him on a daily basis, seeing him so happy made us happy as well. Penny’s generosity was one of his many virtues, and he was always giving of his time and his counsel. When I admired a painting at his home one evening, he ordered a print for me. His wit was legendary. When reviewing a draft paper in a committee meeting, his comment on an obvious misspelling was that he preferred ‘the more traditional’ spelling of the word. Our friend Penny.

Penny loved to regale us with his stories, and we all have our own favorites. For me, it was the one about the Lee Chapel at the Washington and Lee campus in Lexington, Virginia (where he was born in 1944). The skeleton of Traveller, General Lee’s horse, was exhibited at the chapel, where the General and his family were interred, along with the skeleton of a smaller horse. You could see the twinkle in Penny’s eyes as he got to the punch line. It seems that every now and then a guide would point out Traveller and tell the visitors that this was the skeleton of Traveller, and then would point out the skeleton of the smaller horse and tell them that it was the skeleton of Traveller — when he was a pony. Our friend Penny.

My new bride and I were on our honeymoon in Rome the first week in January. As we walked around the city, I had a strong sense of Penny, knowing that he was seriously ill. We went into one of the churches near the Vatican and lit a candle for Penny. Later that night, we found that he had passed. We shall not see his like again. Our friend Penny.

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Supreme Court Minutes

Compiled by Ardyn Feken, Arizona Attorney General’s Office

January 4, 2011 Arizona Supreme Court Conference Dispositions Resulting in Grants of Petitions for Review

<table>
<thead>
<tr>
<th>Case Caption &amp; Court Info.</th>
<th>Disposition or Issue(s) Presented for Review (as presented in Appellants’/Appellees’ Petition for Review)</th>
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<tr>
<td>Gutierrez v. Industrial Commission of Arizona/Masonlaw</td>
<td>Issue One: Did the Court of Appeals err in holding that Rule 54, ¶ 1 (Aug. 5, 2010). The proper interpretation of the Arizona Rules of Civil Procedure is an issue of statewide importance, see ARCAP 23(c), and the Court has jurisdiction, under Article 6, Section 5(3) of the Arizona Constitution and A.R.S. § 12-120.24 (2003), to review the court of appeals opinion. The Court should reverse the court of appeals opinion and remand the case back to the court of appeals for a determination of whether the trial court abused its discretion in finding that no understandable mistake was made in identifying the proper party to this action.</td>
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<tr>
<td>CV-10-0285-PR</td>
<td>Appealed from Arizona Court of Appeals, Div. One</td>
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<tr>
<td>Preston v. Kindred Hospitals</td>
<td>Issue Two: Did the Court of Appeals err by holding that the Rule lawyfully delegated authority to the American Medical Association? In so doing did the Court misconstrue the Supreme Court opinion in State v. Williams, 119 Ariz. 595, 583 P.2d 251 (1978)? Williams states, in part:</td>
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<tr>
<td>CV-10-0292-PR</td>
<td>Appealed from Arizona Court of Appeals, Div. One</td>
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<tr>
<td>State v. Fisher</td>
<td>Pursuant to Arizona Rule of Civil Appellate Procedure 23, the appellants (collectively referred to hereafter as “Kindred”) petition the Arizona Supreme Court to review the Arizona Court of Appeals opinion in the above-captioned matter. The court of appeals holding that, under Arizona Rule of Civil Procedure (“Rule”) 7(a), a plaintiff can substitute a “real party in interest, without establishing that the proper party plaintiff was difficult to determine or that they made an ‘understandable mistake’: is contrary to both well-established law and sound public policy. See Preston v. Kindred Hospitals West, LLC, 558 Ariz. Adv. Rep. 54, ¶ 1 (Aug. 5, 2010).</td>
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<tr>
<td>CR-10-0315-PR</td>
<td>Appealed from Arizona Court of Appeals, Div. One</td>
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A protective sweep is permitted if the officer possessed a reasonable belief based on specific and articulable facts which taken together with the rational inferences from those facts reasonably warranted the officer in believing that the area harbored an individual posing a danger to the officer or others. The protective sweep in this case was not based on specific and articulable facts that the area harbored any danger to the officers or others. Did the trial court abuse its discretion when it denied Fisher’s motion to suppress?
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