The legacy continues

By Allister Adel,
Executive Director of the MCBA

The MCBA has been through a year with many changes. We have new faces on staff. We are connecting members to each other and the community in new ways. We are re-examining our vision for the future. You have seen some of the changes first hand. Perhaps you noticed a new look to our emails. Or read new columns featured in the Maricopa Lawyer such as the “Spotlight on the Capitol.” Maybe you attended a quarterly member lunch to enjoy a presentation from Chief Justice Bales or Sheriff Penzone.

While the changes at MCBA are exciting, the journey has not been without challenges. In the last year, the Board and MCBA staff have worked together to find solutions to these challenges. Our decisions were focused on sustaining the MCBA and setting us on a path to grow into an even more outstanding organization that serves our community.

One of the most important decisions made is to sell the building on Palm Lane. The Board did not take this decision lightly. Our building has been the home of the MCBA for more than a decade. It has been the hub for us to socialize and learn. This building holds special memories for us and symbolizes our deep-rooted commitment to Maricopa County. We can all agree that change is often bittersweet.

The sale of the building is one component of the successful MCBA of the future. One that is built on a financially sound foundation that allows us to focus on our strategic plan. The Board chose to seize this rare opportunity because this is not an end, rather a new chapter. We are grateful to MCBA member and real estate expert Beth Jo Zeitzer of ROI properties for representing us in this process.

The MCBA staff feel re-invigorated with the new possibilities ahead. We can’t wait to find our new home and share it with all of you! But until then, we invite you to stop in, peruse the myriad of awards and pictures on the walls and remember how special the MCBA is to us all. That legacy will be with us, wherever we go.

Thanks for your continued support of MCBA and cheers to new beginnings!

CourthouseWatch

“Cold” expert testimony not unfairly prejudicial

The Arizona Supreme Court has clarified the admissibility of “cold” expert testimony in criminal cases. It held that the superior court had properly allowed expert testimony that could help the jury understand the victim’s behavior that might have been counterintuitive.


Mark Haskie, Jr., was charged with domestic violence after assaulting his girlfriend—identified as “P.J.”—in a Flagstaff motel room. After searching through messages on her cell phone, he had said to her, “I told you I would kill you if you cheated on me.” She gave a written statement that Haskie had been threatening her.

During one call, she told him, “maybe you should have tried to kill me … . You know exactly what you did.” And P.J. testified in Haskie’s favor at trial, stating that she could not remember who had beaten her because she was drunk at the time. She contended that she had accused Haskie because she was jealous and she was guilty of what he accused her of: cheating on him.

The state countered with recordings of phone calls that Haskie had made from jail before P.J.’s flip-flip. He dictated a story for her to tell that would exonerate him. He also promised to marry her after being released.

Ferraro testified that it was common “for someone who has been hurt by an intimate partner to return to that relationship.” She explained that some domestic-violence victims remain with their abusers because of such things as fear, retaliation, and threats. Others are affected by their own feelings of shame or pressure from extended family. Some domestic-violence victims to help the jury understand behaviors that might otherwise seem counterintuitive to jurors unfamiliar with domestic violence.”

Ferraro testified that it was common “for someone who has been hurt by an intimate partner to return to that relationship.” She explained that some domestic-violence victims remain with their abusers because of such things as fear, retaliation, and threats. Others are affected by their own feelings of shame or pressure from extended family. Chemical dependency and alcohol abuse are common complications.

Ferraro confirmed that victims commonly blame themselves for the abuse, of-
The business of conflict

The legal profession exists largely, if not exclusively, because of conflict. Unlike many other professions in which conflict may arise at intermittent times during one’s career, an attorney’s role is almost exclusively grounded in conflict - managing, mitigating, and overcoming conflicts. Conflicts encountered by attorneys can range from some of the more obvious and expected conflicts, such as litigation, to more subtle forms of tension, such as the internal conflicts an in-house attorney encounters when there are competing views within her organization, or the conflict that an attorney may experience when trying to guide her client to make the best decision despite the client’s insistence on adopting a less desirable strategy.

Unless something drastically changes in how law is practiced, I seriously doubt that the practice of law will suddenly, or even gradually, see a decrease in conflict over time. While there are mechanisms for streamlining conflict, such as Alternate Dispute Resolution, the very need for those tools is born out of an interest in making conflict management more efficient and less costly.

If we accept that the profession is conflict-based, and a lawyer’s role is to manage that conflict in a way that best meets a client’s needs, what can be done to ensure conflict is managed in ways that honor our client, our ethical responsibilities, and our professional responsibility? While I don’t profess to have the monopoly on ways to manage the inevitable, daily, sometimes tedious and unnecessary, and at times, mean-spirited and soul-crushing conflict that we encounter in our profession, there are a few ways that I have tried to manage conflict that have worked well in my practice.

First and foremost, at the very beginning of representation, I sit with the client and work to determine exactly what the client is trying to accomplish. Yes, every client wants to “win,” but I work to dig deeper than that, and define as accurately and specifically as possible the various goals that constitute a “win,” both on a macro level, and also what smaller victories might look like throughout the litigation. As I move forward in my work, I frequently refer back to that list of goals for the client in shaping my strategy, and review and refine those goals periodically with the client in shaping my strategy, and review and refine those goals periodically with the client as their matters proceed.

Another way in which I work to manage conflict is by not picking unnecessary fights simply because I had a personality conflict with the opposing party or counsel or a lack of experience with that party or counsel. I practice in areas of family law, and because the family bar is small, it is not out of the ordinary to have cases opposite attorneys with whom I have friendships, professional relationships, and developed working relationships. I noticed that in situations in which I have had a case against someone with whom I have a
Membership Challenge Winner!

Michael Altaffer of O’Connor & Campbell PC is the winner of the MCBA’s Membership Challenge and the recipient of a $250 Visa gift card from our sponsor, MBA Legal Transcription. Mr. Altaffer works in the areas of personal injury and insurance coverage litigation, construction defect and general construction litigation, fire loss litigation, and subrogation litigation arising from property claims. He has been a member of the MCBA since 1985 and finds the MCBA and its CLEs to be very informative and helpful to him and his practice.

Next steps after the Bar Exam

Recently, the July 2017 Bar Exam took place in Phoenix. This got me thinking back to when I sat for the Bar exam in February 2013. I will admit, it was a grueling time full of anxiety and stress over how I would perform on the exam. But what is not typically discussed is what happens after the exam is over for most of those taking it.

Once the exam is over, there is definitely a sigh of relief. However, about a week after, reality sets in that the next step is finding a job. For me, this was the time where I started to freak out a bit about just how I was going to break into the small niche of education law and find a job in that practice area. I would guess that for many of the individuals who took the exam (other than those lucky few who may have already been hired at a firm) this is exactly what they are facing. Ultimately, the stars aligned for me and I landed just where I wanted to be: at one of the best (okay, the best!) firms for education law in the state. However, I strongly believe that due to the steps I took immediately after the Bar exam, I was able to land just where I was hoping to.

For all those out there who are now in job-seeking mode, I offer the following tips in the hopes that you too can find the position you want.

- Don’t sit idly waiting. Get out there and pound the pavement. Don’t just send in your resume and hope for the best. Approach the managing partners or hiring partners at the firms you are interested in and offer to take them to lunch. Show them you are worth investing in.
- Reach out to your contacts. Don’t assume that just because someone you know is not a lawyer or in the legal field that they cannot help. Reach out to those individuals around you and see what types of contacts in the legal field they may have.
- Network and get involved. There are plenty of community agencies that revolve around the legal field, like the MCBA for one. Get involved, and start going to networking events and/or CLEs to introduce yourself to those in the legal field. There is also the opportunity to participate in events put on by groups of individuals that work in the legal field. One such group is Legal Professionals Unite, a Facebook group started by the MCBA’s own Tina Ziegler. Through this group many legal professionals attend volunteer events, which provides the opportunity to network.
- Saying “thank you” matters. Throughout my job search I sent many “thank-you” cards or emails to those individuals I met with, even if it was just a phone call. This will set you apart from other candidates. Be sure to personalize the thank-you and do not send a robotic, pre-designed thank-you message. Send a thank you email or card immediately after an interview to every partner who interviewed you AND to every assistant you spoke with in securing the interview.
- Clean up your social media presence. Almost daily I see my law school colleagues posting things on social media websites that just make me face-palm. You must understand that any prospective employer will likely look to the social media world to see your presence and posts. The last thing you want a prospective employer to see in a post about how much fun you had at a party last weekend, including pictures further indicating the amount of “fun.”

A Small Donation Makes a Big Difference

Arbitration Fee Donations Help
Partnering with the Maricopa County Superior Court, the Maricopa County Bar Foundation (MCBF) is once again encouraging attorneys assigned to arbitration to donate the $75 fee to the Foundation’s fundraising efforts.

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 maricopabar.org and click on “About Us” on the top menu bar then “Maricopa County Bar Foundation.”

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Paralegal Member of the Year

One of the most rewarding responsibilities as the Division President is selecting the member of year. It is the one time that an individual is recognized for their contributions to the division and the paralegal profession. I am happy to announce this year’s MCBA Paralegal Division Member of the Year is Norma Frances.

Norma is a Certified Paralegal, Certified Legal Document Preparer, and a Licensed Real Estate Agent. She holds a Masters in Business Administration from Arizona State University. In the last three years, she has served as the Paralegal Division’s Liaison with the Maricopa Lawyer and as our Resource Committee Chair. In addition, she has served as Division Secretary, and is currently the Treasurer.

As the Resource Committee Chair, Norma has had the responsibility of scheduling and organizing the various CLE events sponsored by the Division for the last three years. Norma has worked very hard in promoting the Division to students, co-workers, and sponsors. In addition, she has participated in numerous fundraisers and Paralegal Career Day.

I am grateful for all the hard work that Norma has put into the Division, especially this year. I have found that I can rely on her to get the job done, and having her as Resource Committee Chair has been a wonderful experience. On behalf of the Paralegal Division, we thank Norma for her devotion to the Division and for the wonderful work she has done.

September 8, 2017 is the Division’s yearly conference. This year the Division is celebrating its fifteenth year. There will be great presentations from leaders in the legal field and fun door prizes. It’s not too late to register. We will be looking for volunteers to help stuff the conference bags, so please see our Facebook page for more information. I hope to meet many of you at the Conference.

Division Meetings are held the second Monday of each month, unless the Monday is a holiday; then it will be held on Tuesday. All members are invited to attend the meeting. Our next Division meeting is September 11, 2017 at 5:30 p.m. at the MCBA offices.

Legal Professionals Unite for Arizona Helping Hands

The group distributed backpacks to foster families, assisted with the assembly of first aid kits, stuffed backpacks with school supplies, and selected and wrapped birthday gifts for foster children. Founded by Judge Paul and Kathy Donaldson in 1998, Arizona Helping Hands assists foster families who have stepped up to provide a safe, loving environment for children in the Department of Child Safety system. This school year they will provide over 5,000 backpacks to foster children. They also provide twin beds, cribs, clothing, diapers, books and other items to help boys and girls in foster care. For more information including donations and volunteer opportunities, go to www.azhelpinghands.org.

MCBA PARALEGAL DIVISION’S CONFERENCE

“Every Possibility Begins with the Courage to Imagine…”

WHEN
FRIDAY, SEPT. 8, 2017  7:15 A.M. TO 5 P.M.

WHERE
DESERT WILLOW CONFERENCE CENTER
4340 E. Cotton Center Blvd., Phoenix, AZ

Keynote Speaker
Vince S. Goddard, Pinal County Attorney’s Office

“The Analysis of a Death Penalty Case: Getting it Right When Life and Death are at Stake”

First Breakout Session

• Trial Track: “Did Your Lamb Turn into a Lion? Trial Preparation and Presentation Techniques for Large Complex Cases”
  – Tim Piganelli, Piganelli & Associates
• Immigration Law Topic: “Casting Refuge: Current Issues in Asylum Law and Policy”
  – Sambo Dul, Perkins Coie, LLP
• Family Law: “To Have and To Hold: Drafting, Negotiating, and Challenging Prenuptial Agreements”
  – Jeff Pollitt, Law Office of Jeffrey Pollitt

Second Breakout Session

• Trial Track: “Discovery Under the New Rules: Swim Towards the Safe Havens!”
  – Kenneth Withers, Deputy Executive Director of The Sedona Conference
• Bonus Ethics Session: “The Good, The Bad and The . . . Yeah”
  – Hon. William J. O’Neil, Supreme Court of Arizona
• Employment Law: “The Impact of Proposition 206 on Arizona’s Workforce (Minimum Wage and Paid Time Off)”
  – Jodi R. Bohr, Gallagher & Kennedy

Third Breakout Session

• Trial Track: “Start Making Sense: What the Talking Heads Can Teach us About Opening Statements and Closing Arguments”
  – Scot Claus, Dickinson Wright
• Elder Law: “Care Planning for Parents, Spouses, Children and Clients”
  – Marsha Goodman, Frazer Ryan Goldberg & Arnold, LLP
• White Collar Crime (telemarketing and email scams)
  – Flynn Carey, Mitchell Stein Carey

General Sessions

“Game of Thorny Ethics Questions”
  – Patricia Sallen
“Cyber Security 101, What You Should Know”
  – David Grant, Associate General Counsel, Director of Privacy, Altep

REGISTRATION FEES

MCBA Member: $115  Public/Government Paralegal: $115
Paralegal Non-Member: $230  Student Member: $85
Student Non-Member: $110

REGISTER ONLINE
maricopabar.org/paralegalconference or contact Karla Durazo
(602) 682-8586 or kdurazo@maricopabar.org
Deadline to declare candidacy in Board of Directors election is Sept. 15

The Maricopa County Bar Association (MCBA) is currently inviting members to declare their candidacy for one of five available seats on the board of directors. Each of the five positions consists of a two-year term beginning in 2018.

The terms of Lynne Adams, Gail Barsky, Tyler Carrell, Michael Kielsky, and Stan Silas expire on December 31, 2017. An election will be held to fill their seats. The majority of this group will likely run for re-election.

Board Members attend monthly meetings, liaise with one or more MCBA sections, divisions, or committees, and support the work of the association. They are expected to make every effort to attend the Annual Meeting/Hall of Fame, Bench-Bar Conference, Barristers’ Ball, and other membership events, as well as assist with fundraising and member recruitment. Candidates must be licensed Arizona attorneys or judges, active members of the MCBA, and in good standing with both MCBA and the State Bar of Arizona.

Candidates are asked to:
1. Submit a formal letter of candidacy to the Board of Directors, with the candidate’s signature, addressed to MCBA Executive Director, Allister Adell, either by email (PDF or MS Word document) or postal mail: MCBA, 303 E. Palm Lane, Phoenix, AZ 85004-1532, or aadel@maricopabar.org no later than 5 p.m., Sept. 15, 2017.
2. Provide additional required election materials. A 200-word bio and a color jpeg photograph must be submitted to maricoplawyer@maricopabar.org no later than 5 p.m., Sept. 15, 2017. Submitted biographies that exceed 200 words may be edited by staff. Please note that a standard-form resume or curriculum vitae are not acceptable.

This bio may include an optional position statement of the candidate’s vision and priorities for the MCBA. Position statements and any other campaign or election materials may not refer to other candidates or include defamatory or inappropriate language, as determined by an ad hoc Election Review Committee appointed by the President of the Association.

For complete election information, go to www.maricopabar.org for a copy of our By-laws on the Board of Directors webpage.

Mock Interview Program

“What brought you to law school?” It’s one of the first questions posed to law students during On-Campus Interviewing (OCI). The answer to that question can set the tone for the rest of the session. Without preparation, interviewees may drone on for minutes before finishing. Sometimes, potential candidates use filler words, “um” “uh” or “like.” But a quick practice session before the real deal can boost confidence and provide validation before that big day. On Saturday, August 5, the MCBA YLD held its annual Mock Interview Program at ASU Law School. Lawyers at the Maricopa County Bar Association met students at the ASU’s new downtown campus to go through 30-minute interview sessions. The purpose behind this program is to help students have a leg up as they go through (often very competitive) interviews. Performing well at these interviews leads to summer employment, and potentially a job upon graduation.

While not to overstate the importance of interviewing, it is a solid interview that will convince an employer: this candidate is a good hire. Students who take advantage of the annual Mock Interview Program that the MCBA YLD offers are better prepared and more confident in their job search. While no metric exists to measure the impact this program has on students, we intuitively know: practice helps. In the working world, many firms often practice oral arguments or stage mock-juries in high stake cases. On a micro-level, the Mock Interview Program provides this practical opportunity to students.

This program would not be successful if it were not for the young attorneys giving their time to spend a Saturday morning at the school. Often, these attorney volunteers are only a few years removed from law school themselves. Such attorneys are uniquely equipped to help offer practical tips to refine a presentation. They also provide a low-pressure environment where students can ask about post-graduation life in law firms or other positions. For a law student, it’s a win-win scenario: practicing interviewing skills coupled with straight-talk and answers from lawyers who have working for a couple years.

This program requires a coordinated effort between the MCBA YLD and the ASU Law School. With the help of the Assistant Dean of the Office of Career and Employment Services, Ray English, and his administration, this program will continue to thrive. It should. After all, these students will soon become our colleagues. Imagine, in a few years, the future-lawyers who utilized this program will likely run for re-election.

By Ben Eid, a YLD Board Member, works at The Law Office of Amy M. Hamilton

GET THE MOST OUT OF YOUR MEMBERSHIP

Join a section or division by calling the Membership Dept. at (602) 257-4200
Appeal and cost bond info online

Is your client or law firm owed money? The Clerk’s office spends a great deal of time handling bonds posted in court matters. On final adjudication, the Clerk will determine whether the bond should be returned to the client, potentially with interest. Depending on the type of issue, the parties, the complexity of the case and other factors, years could pass between when the bond was posted and the final determination. Customers can search the Clerk’s office online. Litigants and attorneys can now search the Clerk’s website for unresolved bonds.

Court rules, statutes, court orders or other authorities may require posting appeal or cost bonds with the Clerk’s office. Depending on the type of issue, the parties, the complexity of the case and other factors, years could pass between when the bond was posted and the final determination. During that time, parties may join or be dismissed from the action, counsel of record could change, and the attorneys and courts may overlook issues resulting in lower costs for clients. For more information about the deposit or release of these funds, including specific information the Clerk’s office needs before releasing money, see the Clerk’s website at http://www.clerkofcourt.maricopa.gov/release_bonds.aspx. The Clerk’s office will only assist parties to a case or their attorneys. Third-party vendors, personal representatives, and other non-parties must be named in a court order to obtain detailed information, or to receive a payment check.

Legal Writing

Tamara Herrera

One four-letter word always gives me pause when I am proofreading a legal document for wordiness: that. Most legal writing style manuals agree to minimize the use of “that” when possible, as long as taking out “that” does not cause ambiguity. Personally, I crave more concrete guidance when editing. So, when is it appropriate to include the word “that”?

1. Include “that” after verbs where the “that” starts a direct object clause, especially if the verb may have multiple meanings. For legal writers, these verbs include the following ones: hold, decide, determine, and assume.

Example: The court held that the dog was vicious.

Potentially confusing: The court held the dog . . .

Joan Tang, in The Lawyer’s Editing Manual, provides an even longer list of verbs for which “that” is usual: agree, announce, argue, argue, aver, calculate, conceive, contend, indicate, learn, maintain, observe, reckon, remark, state, and suggest. I suggest searching your document for these verbs (in any tense) to check if you can eliminate the “that.” Sometimes it helps to have a second set of eyes look at the sentence because another proofreader may see an ambiguity that you did not intend.

2. Include “that” as the simpler replacement for the unnecessary wind-up phrase “the fact that.”

Worly: The fact that the officer did not return is no reason to panic.

Better: That the officer did not return is no reason to panic.

Be on the lookout for other lengthy wind-up phrases with “that.” I too, suggest replacing “despite the fact that” with “although” and “because of the fact that” with “why” because.

3. Include “that” after an attributing verb (say, announce, disclose, state) if “that” introduces a time element.

Potentially confusing: The office announced October 31 the office would close. Did the announcement occur on October 31? Or is the office closing on October 31?

Better: The office announced that October 31 the office would close.

In short, deciding whether to omit “that” is not easy; it is a difficult judgment call. When in doubt, I suggest keeping “that” in the sentence. Its use is never incorrect, but its omission can cause confusion.

That” is the question

Lawyer Liability and Ethics

Robot lawyers and you

There has been much written lately about the strides in artificial intelligence (AI) and the possible consequences for various industries. The legal profession will not be immune from the coming upheaval. Although it might sound like an awful science fiction movie, robot lawyers have arrived. In 2015, a Stanford student created an application that helped users appeal parking tickets free of charge in the United Kingdom, eventually resulting in overturning $3 million in parking fines in a few months. That application is now available in the United States. More than 10 major law firms have “hired” ROSS, a robotic attorney powered in part by IBM’s Watson artificial intelligence, to perform legal research.

Before the singularity arrives and we all lose our jobs to our new robot overlords, lawyers will have to grapple with the ethical challenges that AI presents. In a recent article by Andrew Arruda—a co-creator of ROSS—he suggests that lawyers who do not use AI programs risk violating ER 1.5, which requires lawyers to charge and collect reasonable fees.

Many new products and services are using AI to make law practice more efficient. These products are expected to reduce the time it takes to complete legal services and should result in lower costs for clients. For example, Case Analyst Research Assistant (CARA) allows you to upload any cited document (like a memo or a brief) and it recommends relevant cases that are missing. LawGeek compares a new contract with an ever-growing database, finding similar contracts, and identify missing or problematic clauses. While human review of documents currently accounts for 70% of discovery costs and a similar amount of lawyer misery, NexLP developed a program that it hopes will reduce that cost to 2%. The program learns what the user deems relevant, then identifies pertinent documents by understanding concepts and reading the tone of the document—not just the keywords.

Arguably, the most impressive product is IBM’s ROSS—the junior associate replacement. ROSS claims to cut 20–30 hours of research per case. Ask ROSS a question in plain English, and receive a result that was previously only achievable after hours of Boolean searching with perfect combination of terms and connectors. ROSS analyzes the applicable law and provides the user with a cited answer and argument. But its real strength evolves from its interactions with the user. ROSS develops a hypothesis that the user can enforce or question. The interactions further refine the system’s accuracy and help ROSS become “smarter.” ROSS learns from every search, every interaction, every correct—and incorrect—result. It probably also works Saturdays and Sundays.

Mr. Arruda argues that AI provides more accurate results in a fraction of the time. He then suggests that it is not reasonable to charge your clients for the unnecessary additional time of not using AI, thus presenting a possible ethical problem. One cannot help but note the benefit to Mr. Arruda if lawyers were ethically obligated to use the product he created and sells.

While AI may trigger ethical issues to consider (Is ROSS a subordinate attorney? Is an attorney-client relationship possible if ROSS uses a networked distributed algorithm used by other robots?), whether it is unreasonable under ER 1.5 to change a client for the time it takes a non-ROSS associate to conduct legal research is not currently one of them. Mr. Arruda is not completely incorrect. Knowing and understanding the changes in relevant technology is required under the ethics rules. But understanding the rules and benefits associated with new technology under ER 1.1 does not mandate attorneys to utilize all services that save the client money. A “reasonable” fee under ER 1.3 does not mean the cheapest.

The changes will occur, not because it is an ethical violation not to, but because it must. Firms did not stop using legal secretaries for live dictation, or carbon copies, or typing briefs on typewriters because of ER 1.1 or 1.5. Changes are driven by clients, competition, and convenience. Clients will refuse to pay for 20 hours of research that another attorney charges an hour for. The optimal result would be that more efficient lawyers will be able to provide legal service at lower cost, thereby improving the poor access to legal counsel that our system currently provides because of the prohibitive cost.

Q&A

Lawyer Liability and Ethics

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Joseph Brophy is a partner with Jennifer Hang Cunningham in Phoenix. His practice focuses on professional responsibility, lawyer discipline and complex civil litigation. He can be reached at jab@jhc.law.
2017 MCBA BENCH BAR CONFERENCE

SEPTEMBER 15, 2017
PHOENIX COUNTRY CLUB

REGISTRATION & NETWORKING
11:30 a.m. - 12 p.m.

LUNCH WITH JUDGE BARTON
12 p.m.

PROGRAM
1 p.m.-2 p.m.
Overview of new rule changes with Judge Peter Swann (Court of Appeals Division 1); practice specific breakout sessions with division presiding judges

2 p.m.-3 p.m.
Jury Consultant and Panel Discussion with Rachel York Colangelo, PH.D., National Managing Director of Jury Consulting

3 p.m.-4 p.m.
Ethics for Lawyers Appearing in Court

COCKTAIL RECEPTION
4:15 p.m. - 6 p.m.

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MEMBER SPOTLIGHT

JOE CASEY
MCBA LAW SCHOOL STUDENT MEMBER
Attends Drake Law School, is a member of the Young Lawyers Division, the Litigation Section, and the Personal Injury/Negligence Law Section
MCBA MEMBER SINCE 2016

Why did you decide to join the MCBA as a law student, and how does it benefit you while you're in law school?

I joined the MCBA because one of my mentors, Judge Mike Herrod, spoke highly of the organization. Since becoming a member, I have really enjoyed having access to a practicing lawyers and a variety of great CLE programs. The MCBA is a wonderful supplement to the law school experience.

What practice area or type of law are you interested in and why?

I would like to focus on trial work, specifically in the plaintiff’s personal injury field. Over the past few years, I’ve been blessed to observe a handful of truly great plaintiff’s lawyers in court and I’ve come to appreciate the enormous difference that skilled lawyers can make in the lives of their clients. For me, this area of practice is a calling; I love the idea of doing my part to guarantee that the average citizen has access to the civil justice system.

What is the strangest job you’ve ever held?

If you weren’t planning on becoming an attorney, what other field might you have gone into?

My undergraduate degree is in the Classical Greek language, so the original plan was to continue onto a Ph.D. program and teach Classics at a university. Although I decided on a different career path, the discipline required to effectively communicate complex, even foreign, concepts to experts and laymen alike was perfect pre-law training.

What is the strangest job you’ve ever held?

I spent the summer before college cleaning showers at a homeless shelter. It wasn’t so much “weird” as it was humbling.

If you were a character in a movie or TV show, who would you be?

As corny as it sounds, I’d like to be Andy Taylor of Mayberry (The Andy Griffith Show). His character reflects a wholesome honesty and admirable balance as a lawman and a father.

September Calendar

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<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>1</td>
<td>Estate Planning Section Board Meeting 7:30 AM</td>
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<tr>
<td>4</td>
<td>15th Anniversary MCBA Paralegal Conference (CLE) 7:15 AM-5 PM</td>
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<td>7</td>
<td>Construction Law Section Board Meeting NOON</td>
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<tr>
<td>8</td>
<td>2017 Paralegal Division Board Meeting 5:30 PM</td>
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<tr>
<td>11</td>
<td>Personal Injury Law Section Board Meeting NOON</td>
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<tr>
<td>12</td>
<td>2017 Bankruptcy Law Section Board Meeting NOON</td>
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<tr>
<td>13</td>
<td>2017 MCBA Bench Bar Conference (Featured Event) Phoenix Country Club 11:30 AM-4 PM</td>
</tr>
<tr>
<td>19</td>
<td>Family Law Section Board Meeting NOON</td>
</tr>
<tr>
<td>20</td>
<td>Title Talk (CLE) 9 AM-12 PM</td>
</tr>
<tr>
<td>21</td>
<td>2017 Family Law Section Board Meeting NOON</td>
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<tr>
<td>20</td>
<td>2017 Family Law Section Board Meeting NOON</td>
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<tr>
<td>27</td>
<td>Diversity/Inclusion Committee Meeting NOON</td>
</tr>
<tr>
<td>28</td>
<td>2017 MCBA Board of Directors Meeting 4:30 PM</td>
</tr>
</tbody>
</table>

Please watch your MCBA E-News for updated information about meetings and events.
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Court interpreters hired

The Judicial Branch of Arizona in Maricopa County hired Roger Mancia and Fernando Venegas as court interpreters. Mancia and Venegas will be working in the Justice of the Peace courts, Superior Criminal and Family divisions, as well as with the Remote Interpreting Project, providing distance interpreting for divisions throughout the Valley.

Son of a Guatemalan mother and a Salvadoran father, Roger began his practice as a telephonic interpreter in 1999 in a wide range of subject areas. He then moved to in-person interpreting in medical and legal matters out of court, and began work as private contractor in Arizona in 2010. He has appeared before Superior Court commissioners and Maricopa County Justices of the Peace prior to his being sworn as an official interpreter with Court Interpreting and Translation Services.

Fernando came to Phoenix from Guadalajara, Mexico as child. He has been practicing as a freelance interpreter for 12 years, for the Department of Child Safety, Administrative Law hearings and then later as a contractor with Avondale and Goodyear City Courts. More recently, he has acted as a contractor before Maricopa County Justices of the Peace, as well as Criminal Court commissioners and Family Court divisions in Superior Court.

Presiding Judge Janet Barton hired Melissa Zabor as a Court Commissioner. She fills the vacancy created by the retirement announcement of Commissioner Jeffrey Woodburn.

Commissioner Zabor, who will assume an initial appearance calendar, is a graduate from the University of Arizona Law School and is currently employed by the Office of the Legal Advocate. Previously, she worked for the Maricopa County Attorney’s Office, the Oracle Law Group and Davis Miles McGuire Gardner PLLC.

Commissioner Zabor is actively involved in the Arizona Women Lawyers Association, having served as the President of the Maricopa Chapter in 2014. She is also an adjunct professor at Chandler-Gilbert Community College. Her first day with the court will be September 30, the same day Commissioner Woodburn will retire.

2017 Judicial Integrity Award

Judge Dawn Bergin earned the Judicial Integrity Award from the Arizona Association for Justice for 2017.

The award goes to a judge who exemplifies the highest standards of judicial conduct and independence; who is knowledgeable of the law and faithful to it; who is patient, dignified and courteous to all who appear before their court; and who endeavors to improve the administration of justice.

During her tenure on the Bench, Judge Bergin has presided over juvenile, Criminal and Civil calendars. Before joining the Court, she was a partner in the commercial litigation section of Lewis and Roca and was the Chair of the firm’s Litigation Department.

Epilogue:

Just five days after Obergefell was issued, the Arizona Supreme Court held oral argument in McLaughlin. The oral argument—available at (http://supremestateaz.granicus.com/MediaPlayer.php?view_id=2&clip_id=2199)—shows just how complicated the issues and how the court may struggle with them.

One day before the McLaughlin argument, the United States Supreme Court threw something of a monkey wrench into the Obergefell opinion. It summarily reversed in Petrie, the opinion on which Howe had relied to justify a narrow reading of Obergefell. According to the per curiam opinion, the Arkansas Supreme Court’s decision “deemed married same-sex couples access to the ‘constellation of benefits that the State[s] help[s] linked to marriage’ that Obergefell had mandated.” Obergefell ruled that states may not “exclude same-sex couples from civil marriage on the same terms and conditions as opposite-sex couples,” and it specifically noted that birth certificates were among those terms and conditions. “The State uses [birth] certificates to give married parents a form of recognition that is not available to unmarried parents. Having made that choice, Arkansas may not, consistent with Obergefell, deny married same-sex couples that recognition,” the majority concluded.

It will now be up to the Arizona Supreme Court to determine whether Obergefell will be extended from birth certificates to the statutory parental presumption.
THREE WAYS TO REGISTER

ONLINE
Register online at: www.maricopabar.org. Click on “CLE/Events” at the top of the page and then “CLE Calendar.”

DOWNLOAD PRINTED FORM
Follow directions for online registration. Then, from the program’s online registration menu, download a print registration form to mail or fax.

PHONE
Call (602) 257-4200

PROGRAM LOCATION
Unless otherwise specified, all programs will be held at the Maricopa County Bar Association office at 303 E. Palm Lane, Phoenix 85004.

ATTENDANCE POLICIES

ADVANCE REGISTRATION
Full payment is due in advance of the program before you are considered registered.

LATE REGISTRATION
Early Bird registration ends five days prior to the program date. Late registration is an additional $15.

CANCELLATIONS/REFUNDS
Refunds, less a $25 fee, will be issued only if the MCBA receives your cancellation, in writing, by mail, fax at (602) 257-4200, or email mmorales@maricopabar.org at least two business days prior to the program.

NO SHOWS
If you registered and paid, but could not attend, you may request that materials be sent to you, free of charge (allow 3-4 weeks). If audio media is available, registrations may be converted to a self-study package for an additional $15 charge.

The State Bar of Arizona does not approve or accredit CLE activities for the Mandatory Continuing Legal Education requirement. The activities offered by the MCBA may qualify for the indicated number of hours toward your annual CLE requirement for the State Bar of Arizona, including the indicated hours of professional responsibility (ethics), if applicable.

SEPTEMBER 1 • 12:00PM-1:00PM
(Lunch Included)
Managing Client Trust Accounts – Avoiding Sanctions and Staying in Compliance
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While managing IOLTA and Client Trust Accounts may often seem tedious, there are tools and strategies attorneys at solo and small firms can use to stay compliant and make sure you are meeting their ethical obligations. Throughout this workshop, we will review Arizona’s IOLTA accountability and reporting requirements, we will discuss various tools and strategies for effectively and accurately managing your trust accounts, and we will show you how you can integrate IOLTA management into your overall practice accounting.

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SEPTEMBER 20 • 9:00AM-12:00PM
(Breakfast included)
Title Talk
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■ Negotiating Title Insurance Endorsements: A Primer for Residential and Commercial Transactions
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■ Tips for Non-Judicial Title Resolutions

This 3 hour seminar will be a lively and timely discussion of a number of topics involving title. With some considering development/ redevelopment projects underway at an unprecedented pace in years, there will be practice pointers provided when addressing these matters with the title company. We will review not only the common endorsements used in trans-
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Join us as we delve into the financial forces at play in distressed deals, including updates in claims trading and how working-capital adjustments can disrupt §363 sales and plan confirmation.

SEPTEMBER 19, 2017  |  5:30 P.M.-8:00 P.M.
PANEL STARTS AT 6:00 P.M.     |     NETWORKING BEFORE & AFTER WITH REFRESHMENTS

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Volunteer Lawyers Program Thanks Attorneys

The Volunteer Lawyers Program thanks the following 16 attorneys and firms for agreeing to provide pro bono representation on cases referred by VLP to help people with low incomes. VLP supports pro bono service of attorneys by screening for financial need and legal merit and provides primary malpractice coverage, donated services from professionals, training, materials, mentors and consultants. Each attorney receives a certificate from MCBA for a CLE discount. For information about ways to help, please contact Pat Gerrick at VLP at 602-254-4714 or pgerrick@elsaz.org.

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Gustavo E. Schneider
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The Volunteer Lawyers Program provided $3,285,147 in economic assistance to families through cases completed during 2016. Thanks to all who participated and supported VLP!

■

The Volunteer Lawyers Program is a joint venture of Community Legal Services and the Maricopa County Bar Association

VLP ATTORNEY OF THE MONTH

By Peggi Cornelius,
VLP Programs Coordinator

While attending Sandra Day O’Connor College of Law, Nathan Finch participated in the Volunteer Lawyers Program (VLP) Friend of the Court project at the U.S. Bankruptcy Court. After admission to the Arizona Bar he joined VLP and has continued to distinguish himself as an outstanding volunteer. For his diverse and effective community service to bankruptcy petitioners, law students, and the court, Finch is VLP’s most recent recipient of the “Attorney of the Month” award.

As a law student, Finch was mentored and given the opportunity to appear in the bankruptcy court through the VLP Friend of the Court project. On the day of their reaffirmation hearing, pro se petitioners have the option to meet with experienced bankruptcy attorneys and law students who are present during the consultations. Thereafter, during the hearings, the law students appear as Friends of the Court. Finch acknowledges the project as an invaluable learning experience for law students, but is equally committed to it because it provides clarification of the reaffirmation process for litigants, and clarification of the debtor’s record for the court.

Now serving as a mentor to law student volunteers, Finch is gratified to pass along the knowledge and educational opportunities made available to him. He comments, “Among a number of amazing lawyers who have provided guidance and mentorship are Krystal Ahart, Diane Drn, Tami Johnson and Warren Stapleton. Each of them models the importance of giving back to the community.”

In addition to his pro bono service in VLP’s Friend of the Court project, Finch represents debtors and creditors in bankruptcy litigation as a part of the Pro Bono Panel of the court’s Self Help Center. Attorney Tami Johnson, Pro Se Law Clerk at the bankruptcy court, refers to Finch as a “Pro Bono Super Hero.” She notes that his combined passion for helping people and for litigating makes him a tremendous asset in matters that are contentious.

At VLP there is a list on which people with a compelling need for debt relief are waiting for a volunteer attorney to represent them in petitioning for bankruptcy. To help diminish that need, Finch regularly accepts Chapter 7 case referrals to represent pro bono clients referred to him in his private practice at Catalyst Legal Group.

Prior to law school, Finch gained a wealth of experience in the business world. He worked in real estate development and internet-based advertising, held management positions in a medical practice and an auto sales business, and owned a professional employment company. He speaks of how his real-world experience has enhanced his ability to be an effective advocate as a lawyer, and how he is able to maintain a successful private practice while having the time to do pro bono work.

Reflecting on his background, he says, “When it comes to problem solving for my clients, I find the work I did before law school can be an advantage. I have often lived through the very problems my clients are having, and the insight from my personal experience helps me to resolve those cases. With regard to valuing my services as a lawyer, I’ve taken a different approach by operating as much as possible on a flat-fee basis, rather than an hourly rate. I’m accountable to myself in being efficient with my time as I address the client’s concerns. It is working well and providing me freedom for pro bono work too.”

Time management seems to be another area of expertise for Finch. When he’s not engaged in professional pursuits, he enjoys time with Joy, his wife of 21 years, and their Great Dane, George McFly. They have a micro-farm and dairy goats, and are currently building a home. One of his hobbies is working on vintage cars. His smile broadens, as he mentions, “I’m currently restoring a ’61 Lincoln suicide door sedan and I enjoy breaking and fixing an ’87 Chevy Blazer off-road vehicle.”

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STAY SOCIAL WITH THE MCBA
Conflict is inevitable and as lawyers, it is the business of conflict. The way in which I try to manage conflict is to get to the root of a client’s conflict and make it our own, at the cost of the objective and awareness for which we were hired. It’s easy when the opposing party or opposing counsel is taking direct steps to unnecessarily expand or complicate a case. Even in those situations, however, we are not our client’s problems— we owe a duty to our clients to not take on their problems in a way that compromises our ability to be their advocate.

If I came to the doctor’s office to receive a bad diagnosis, I would want the doctor to give me an honest opinion and I would hope that that opinion was given to me with empathy and understanding. However, I would have some reservations if the doctor took on my emotional state to a level where he or she was paralyzed with emotion.

It is important to feel something for our clients, particularly when we are their advocate. However, it is also important to feel something about our own emotions to a level where we are completely emotionally divorced from the work we do. At the same time, I remind myself that I’m the lawyer, and that role compels the responsibility of helping the client view conflict from a different, more reasoned perspective.

Conflict is inevitable and as lawyers, it is what we signed up for when we joined the profession. It is important to feel something about our own emotions and to feel something for our clients. It is important to feel something about our own emotions and to feel something for our clients. It is important to feel something about our own emotions and to feel something for our clients.

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