The beginning of the end of paper minute entries?
■ 4 divisions in pilot project

By Edward O. Burke
Special to Maricopa Lawyer

Arizona may be the only state in the nation that issues and mails extensive amounts of paper to counsel and litigants in the form of minute entries. Most courts, including the U.S. District Court in Arizona, operate efficiently without the extensive distribution of minute entries.

The Maricopa County Superior Court and the clerk of the Superior Court have spent the past year studying ways to eliminate this paperwork and place more responsibility on the attorneys who practice in the Superior Court. As a result of the study and with the authority of a special administrative order of the Arizona Supreme Court, four Superior Court divisions began participating, as of April 1, in a pilot project to streamline and, when appropriate, eliminate the issuance and distribution of paper minute entries to parties and attorneys.

The project is expected to net significant savings. Not only will the expense of preparing and processing paperwork be reduced, but so will the cost of postage and mailing, which was about $98,000 in 2001.

The four judges participating in the project are Fred Pendleton Gaines, Roger W. Kaufman, Roland J. Steinle III and Edward O. Burke. The participating divisions will prepare abbreviated minutes, which will be placed in the court file and posted on the clerk of the Superior Court’s website at www.courts.maricopa.gov.

Minutes maricopa.gov Minutes will be automatically e-mailed to those attorneys and parties who have entered into agreement with the clerk of the court to receive minutes electronically.

Currently, 110 law firms and more than 1,500 attorneys receive minutes in their cases by email. The participating divisions suggest that attorneys

8 to interview for 2nd Supreme Court opening

Two lawyers in private practice and six judges — all but one from the Court of Appeals — will be interviewed on May 10 for a chance to be Arizona’s newest Supreme Court justice.

Fifteen lawyers and judges had applied for the vacancy, which resulted from the retirement of Justice Thomas Zlaket.

The Commission on Appellate Court Appointments on April 24 reviewed the applications and narrowed the field to:

■ Division Two Court of Appeals
  Judge J. William Brummer Jr.
  Andrew D. Hurwitz, Osborn Malemond
  Michael J. Meehan, Quarles & Brady Stretch Lang
  Apache County Superior Court Judge Michael C. Nelson
  Division One Court of Appeals
  Judge Cecil B. Patterson Jr.
  Division Two Court of Appeals
  Judge A. John Pelander
  Division One Court of Appeals
  Judge Michael D. Ryan
  Division One Court of Appeals
  Judge Sheldon H. Weisberg

Pelander, Ryan and Weisberg were among the eight applicants who had been interviewed by the commission for the vacancy created by the appointment of Frederick-Martone to the U.S. District Court bench. The commission ultimately nominated Hurwitz, Ryan and then-Court of Appeals Judge Rebecca White Berch. Gov. Jane Dee Hull chose to appoint Berch to the high court.

The commission will recommend at least three nominees to Hull.

At the same April 24 meeting, the appellate nominating commission selected 11 applicants to interview for two vacancies on Division One of the Court of Appeals. After interviews on May 9, the commission will nominate candidates to replace Berch as well as Judge Noel Fidel, who retired.

— See judges on page 3

Bench becomes 37th justice

Rebecca White Berch is sworn in by Arizona Supreme Court Chief Justice Charles E. Jones. Berch’s husband, Michael, and daughter, Jessica, are at left.

See story on page 9.

Take advantage of cross-examination, but be careful

By Jack Levine
Maricopa Lawyer

Cross-examination, if done well, can destroy your adversary’s case. Learning to become an effective cross-examiner is not all that difficult. Some basic principles need to be mastered, but once these are learned, you will be able to apply them in any type of courtroom situation.

Before the rules of discovery and disclosure, lawyers prepared for cross-examination by preparing a “worst case scenario” — that is, they would anticipate the most damaging testimony imaginable from each witness and then determine how they would meet this testimony. Frequently, the cross-examiner would have to prepare a number of alternative lines of questions depending on the answers that the witness might give to key questions. This was frequently done with stacks of index cards containing the prepared questions. If the witness answered “yes” to a pivotal question, the cross-examiner would then proceed to the group of “yes” cards immediately following. If the witness answered “no” to a pivotal question, the cross-examiner would skip over the “yes” group of cards and proceed with the “no” group.

Cross-examination is hard and tedious work

Our present rules of discovery, if used with cross-examination in mind, will make your task considerably easier. However, don’t lose sight of the fact that preparing for cross-examination is hard and tedious work. To cross-examine either a lay or expert witness, you must know your subject thoroughly. For example, in a personal-injury case, you might have to learn such diverse subjects as accident reconstruction, the anatomy and physiology of the human body, the basic principles of machinery and electricity or whatever other issues may be involved in your matter. Many people think that cross-examination questions by skilled lawyers in a trial are due to spontaneous brilliance. Not so. It is the result of considerable effort.

— See Legal Techniques on page 8

Dealing with title companies

A panel of title company representatives discussed issues commonly encountered by estate planning and probate attorneys at an Estate Planning Conference May 8 at the Maricopa County Bar Association’s Convention Center.

A unique member benefit: pet health care

United Pet Care, an Arizona-based company, offers Maricopa County Bar Association members a unique health-care plan for their pets.

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— See Legal Techniques on page 8
Give the gift of life: become an organ donor

By Kenneth W. Reeves III

Maricopa Lawyer

Imagine that you have just become corporate counsel for a medium-size company, and that you come to that position from private practice, a teaching position or the judiciary. Where do you go for advice about how to manage relationships between in-house attorneys and their corporations’ outside counsel? Such a scenario may not be realistic—people do not simply drop into positions of responsibility for the legal affairs of a corporation without some experience that makes them appear qualified to the corporation. However, if one were to suddenly find oneself at sea in a corporate counsel position, a tool provided by West Group, in association with the American Bar Association’s Young Lawyers Division, might help. Their four-volume, 6,000-page treatise provides a basic library of ideas, suggestions and forms (both on paper and disk) for selecting counsel through “beauty contests,” requests for proposals, bidding and verification of references. Forms provided include an early case assessment, two “request for qualifications” letters to be sent to outside law firms, and a “bud list.” Practice checklists are used throughout the work to summarize each chapter’s contents.

The authors of this and other chapters recognize that there are subjective as well as objective considerations involved in retaining outside counsel. In discussing this topic with other corporate lawyers, the importance of the relationship between inside counsel and outside counsel is at or near the top of the list. Other considerations, such as the relationship between the company and outside counsel, the expertise and reputation of outside counsel, and their availability to staff a matter with appropriate personnel, are also important.

The chapters on substantive law and the management of relationships between in-house attorneys and their corporations’ outside counsel were contributed by more than 100 lawyers currently or formerly associated with important companies like American International Group, BankAmerica, Bank One, BellSouth, Boeing, Continental Airlines, Credit Suisse First Boston, Hewlett-Packard, Intel, Kellogg, Lucent Technologies, Motorola, McDonald’s, Pfizer, Phillips Petroleum, Sun Trust Banks and Wal-Mart. Those outside counsel ideas were balanced by contributions from corporate lawyers practicing in some of the premier law firms in the country. Overall, the result of a graduate-level law school class, no lawyer would probably have the time, inclination or need to read Successful Partnering from cover to cover. However, the work could pay for itself in a single situation if a lawyer needed some help in addressing a problem and was able to find it in one of Successful Partnering’s chapters.

In addition to guidance about the selection of outside counsel, the 80 chapters include articles dealing with the evaluation of legal risks and costs, the relationship between inside counsel and the corporation they work for, the peculiar issues relating to licensure of corporate lawyers who offer no services to anyone other than their corporate employers, the operation of small law departments (including small departments in large corporations), alternative dispute resolution and settlements.

Two examples of the kinds of information and insight that the editor in chief, Robert L. Haig, and his colleagues have assembled give a hint of what one can find in Successful Partnering.

Chapter 12: Evaluating Legal Risks and Costs with Decision Tree Analysis (J. Bryan Whitworth, senior vice president and general counsel, Phillips Petroleum Co., with Clyde W. Lee, associate general counsel, Phillips Petroleum Co., Marc B. Victor, president, Litigation Risk Analysis Inc., and Craig B. Glidden, vice president and general counsel, Chevron Phillips Chemical Company LP). The authors recognize that other more intuitive models may exist for judging risk, but they suggest a form of “decision tree analysis called Litigation Risk Analysis (LRA)” developed by one of the authors, Marc Victor. While the risk computations used in the decision tree analysis are important, the chapter provides a helpful guide to understanding both the risk and costs involved in retaining outside counsel.

We encourage each and every one of you to become an organ donor. If you are interested in helping with our Gift of Life Project, please contact Shane Clay at 602-257-4200, ext. 111.

The MCBA/YLD recognizes Monica Limon-Wynn of Snell & Wilmer as its volunteer of the month for March. Monica is the chair of Law Week this year and has done a fantastic job organizing this important event. Thanks, Monica!
Agreement buried in contract may waive tribe’s sovereign immunity

By Richard H. Herold
Special to Maricopa Lawyer

Arbitration agreements can be effective tools for cost-effective dispute resolution in some circumstances, yet these agreements may have unintended consequences if not carefully reviewed prior to execution.

An Indian tribe is not subject to suit in a state court, even for an alleged breach of contract involving off-reservation commercial conduct, unless Congress has authorized the suit or the tribe has waived its immunity. Kiowa Tribe of Okla. v. Manufacturing Technologies, Inc., 532 U.S. 751, 118 S.Ct. 1700, 140 L.Ed.2d 981 (1998). Under what circumstances might such a waiver occur?

In C&L Enterprises, Inc. v. Superior Court, 145 Ariz. 538, 703 P.2d 502 (App. 1985) (“Before entering into the arbitration agreement, the respondent Tribe was free from suit by petitioner. However, after agreeing that any dispute would be arbitrated and the result entered as a judgment in a court of competent jurisdiction, we find that there was an express waiver of the Tribe’s sovereign immunity.”) give careful consideration to what alternative dispute resolution clauses are part of any final agreement to ensure that you do not unintentionally waive a tribe’s sovereign immunity in an arbitration clause. A “mediation first” clause in the parties’ contract would keep them heading in a constructive direction in the event of a dispute, but without sacrificing the tribe’s sovereign-immunity defense.

Richard H. Herold practices commercial litigation and is chair of the Maricopa ADR Committee, which meets at 4:30 p.m. on the first Thursday of each month. Contact Herold at 602-778-9962 or richherold@herolddlaw.com.

Judges...

The commission will interview David R. Cole, J. Richard Gama, Randall M. Howe, Patrick Irvine, Donn G. Kesper, Patricia K. Norris, Maurice Portley, G. Murray Snow, Christina Urias, Eileen S. Willett and Lawrence F. Winthrop.

A total of 19 lawyers and judges had applied for the two Court of Appeals openings.

The Maricopa County Commission on Trial Court Appointments has nominated five candidates to fill the vacancy created by the retirement of Superior Court Judge John R. Sticht. After interviewing candidates on April 18, the commission nominated: Harriett E. Chavez, 48, Democrat, of Phoenix, a Superior Court commissioner; Larry Grant, 51, Democrat, of Phoenix, east valley chief deputy of the Maricopa County Public Defender’s Office; Raymond P. Lee, 57, Democrat, of Phoenix, a Superior Court commissioner; Nancy K. Lewis, 50, Republican, of Phoenix, a Superior Court commissioner; and Margaret R. Mahoney, 44, Independent, of Phoenix, of counsel to Bryan Cave.

Hull has 60 days from the date she received the nominations to appoint the new judge. She had not made an appointment by press time.

Write a letter!

We welcome letters to the editor. Letters generally should be no more than 300 words long. Maricopa Lawyer reserves the right to edit all letters for length. Letters to the editor must be typed on your letterhead, signed and submitted to Maricopa Lawyer, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, 85004.

MCBA, Hayzel B. Daniels team at Black Heritage Festival

Maria Starnes, John Parker and Linda Boone give out information about the Maricopa County Bar Association’s Lawyer Referral Service and Hayzel B. Daniels Bar Association at the 2002 Black Heritage Festival.

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Parting... Continued from page 2

ditional approach can be done without the assistance of specialized software, the results may not be as reliable if that software is not used. Issues that should be taken into account include business considerations that may outweigh the need for careful legal analysis, estimated legal costs (giving particular attention to whether a matter can be settled for less than the cost of defense without encouraging other lawsuits to be filed), a best estimate of the maximum litigation risk, who should conduct the analysis and identification of major liability and damage issues. Obviously, this process should include an objective assessment of the known facts, whether the facts are such that the case cannot be disposed of by motion practice, and the impact of exposing those facts to a jury. Sometimes, these assessments are best performed by outside counsel, but inside counsel also should be able to perform them and have the independence to give the management of the business their best assessment of the risk involved in defending against a claim.

Chapter 16: The Relationship Between the Legal Department and the Corporation (Janet Langford Kelly, executive vice president, general counsel and secretary; Kellogg Company, and Susan R. Snider and Kelly A. Fox, Hildebrandt International). If the at-sea hypothetical lawyer described at the beginning of this article were to ask where to look for help first in Successful Partnering, a good starting place would be this chapter. The culture of corporations and the relationship between inside counsel and the business centers of the corporation differ significantly from law firms in which there is often considerable independence — as long as one carries one's own weight. Kelly and her colleagues give sound advice about understanding the company's culture and how its internal lawyers fit into that picture.

The authors' practice checklist provides pointers that are more often than not right on point, at least from this writer's perspective. Here are some of their suggestions:

➤ “A company's culture is defined by its people, their attitudes, behaviors, beliefs, and its geographical location and position in the marketplace.”

➤ What life will be like in the company's legal department is driven by the company culture.

➤ “Lawyers need to keep pace with changing cultures.” Businesses change, markets change and expectations change. Lawyers have to keep up and be flexible enough to address new circumstances.

Legal Briefs

The State Bar of Arizona's Civil Jury Instruction Committee is reviewing the RAJI instructions to make revisions as well as update the commentary. The committee also will be considering new instructions and approving non-published instructions. Jury instructions and revisions will be posted on the State Bar's website at www.azbar.org/committees/ CJII/ for review and comment. Contact the committee chairman, Joe Schenk (602-248-8203), with any comments or suggestions.

The Arizona Coalition Against Domestic Violence is a non-profit organization whose mission is to work toward the empowerment of women and their families who are victims or survivors of domestic violence and to prevent and ultimately eliminate domestic violence. Its legal advocacy hotline has received more than 10,000 calls. The organization needs family law attorneys for telephone and/or face-to-face consultations, either pro bono or on an affordable sliding fee scale. Most of the victims who seek help cannot afford the $25 fee for the Family Law Assistance Project or the $35 fee for the Lawyer Referral Service. To help, call Lynne Norris at 602-279-2900, ext. 221.

The Maricopa County Bar Association appreciates all of our donors and apologizes to anyone who donated who is not listed.

➤ “Clients, even in the same company, have different expectations of their lawyers.” What those expectations may be boils down to the corporate manager's personal experiences. Some may personally dislike lawyers and find them hard to work with, while others who have had good experiences with them are more willing to listen to their advice. It is important that lawyers not be so thin-skinned that they cannot handle the different perceptions of them within the company.

➤ Internal clients expect corporate lawyers to "show good judgment; to demonstrate strong analytical ability; to fully grasp the business reasons for the transactions or the business implications of the litigation; to analyze problems and present the optimal solution; and to be proactive. Clients also measure quality of work based on the service and responsiveness provided by the lawyer.”

In short, internal clients expect a lot, and they expect it yesterday. Understanding the culture can help counsel meet the expectations of the company and its management. Simple things like making sure phones are always covered (including automatic forwarding of the lawyer's direct line to a cell phone when the lawyer is not in the office) can avoid a lot of misunderstanding and enhance the perception of responsiveness.

It is hard to even scratch the surface of Successful Partnering Between Inside and Outside Counsel in the space available here. Individual chapters show deep insight into the relationships between inside counsel and their corporate clients, as well as the relationships between inside and outside counsel. Some of the suggestions contained in the book would not be useful in every kind of corporate culture, but they nevertheless provide analytic approaches to problems that may be adapted for use in different situations.

Ken Reeves is senior vice president, general counsel and corporate secretary of Northern Trust Bank. He also serves as secretary of the Maricopa County Bar Association.

Thank you!

The 2002 Barristers Ball Committee thanks the following businesses and individuals for showing their support by donating to the Silent Auction. Thanks to their generosity, this year's auction was a great success.

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Phoenix Fire Department
Phoenix International Raceway
Phoenix Mercury
Phoenix Open
Phoenix Symphony
Polar Ice
Pueblo Grande Museum
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Rosita's Fine Mexican Food
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Larry Yanez

The Maricopa County Bar Association appreciates all of our donors and apologizes to anyone who donated who is not listed.
Title experts share insights about deeds

By Thomas J. Murphy

More than 120 lawyers turned out April 10 to hear a panel of title company representatives discuss issues commonly encountered by estate planning and probate attorneys. It was the largest attendance at any breakfast meeting ever held by the Maricopa County Bar Association’s Estate Planning, Probate and Trust Section, indicating that the topic generated great interest.

Panelists were John Graham, First American Title; Patricia Ilmat, Fidelity National Title; Jim Scott, Stewart Title; and Victor Rapecki, Lawyers Title and Transnation Title.

The seminar began with a discussion of the various forms of deed. Panelists explained that a quitclaim deed does not warrant or guarantee ownership or anything else; it simply states that the transferor gives whatever interest he or she may have in the property. At the other end of the spectrum is a warranty deed, in which the transferor warrants that he or she has title subject to matters of record, such as taxes and encumbrances. Knowledgeable practitioners do not commonly use either form of deed.

What is commonly used is the special warranty deed, which — as one panelist indicated — is “a huge gray area.” The transferor warrants acts that he or she has done but not anything done by the transferor obtained the interest in the property.

The panelists agreed that using such a deed would not require a rider or endorsement to the existing title policy but that obtaining one would mean a prudent course of action. Such a rider can typically be obtained for $75. If a quitclaim deed was used, the rider must be obtained or the transfer will not be covered.

When deeding property into a revocable trust, the panel agreed that the grantor/trustee does not need to review the trust agreement because title companies can rely on the statutory authority given to trustees.

Such transfers become more complicated when a limited liability company or family limited partnership is used. If the husband and wife were the only members/partners, then a title company would not be likely to have a problem with the transfer. However, if there are children or other family members as members/partners, then a new policy, and not just a rider or endorsement, will have to be obtained.

The panelists emphasized that the failure to record is a risky strategy because a creditor could record a judgment before the deed is recorded, thereby giving the creditor superior rights to the grantee.

The seminar also addressed the issue of post-mortem recording of deeds. Panelists agreed that there is no problem if the unrecorded deed is to the revocable trust of the husband and wife. However, if the unrecorded deed is from husband and wife to a son or daughter, then the title company will want some substantiation to verify that delivery occurred. If there are other children and husband and wife were alive. Panelists also emphasized that the failure to record is a risky strategy because a creditor could record a judgment before the deed is recorded, thereby giving the creditor superior rights to the grantee.

Another post-mortem topic concerned alternatives to Form 74, which is no longer issued by the Arizona Department of Revenue. The panel was not troubled by this development, indicating that simply recording the death certificate will be sufficient.

Panelists also discussed the beneficiary deed. The panel noted the Arizona Legislature approved new legislation (HB 2334) amending A.R.S. §§ 33-405 on April 3. (The governor subsequently signed the bill on April 8.) One problem resolved by the new act is that the current owners can obtain a loan without having to revoke any existing beneficiary deed. The new act also clarifies that a joint tenancy deed prevails over a beneficiary deed. That is, if the joint tenant granting a beneficiary deed is the first to die, the surviving joint tenant takes title and the beneficiary deed is rendered void.

In divorce matters, panelists agreed that a disclaimer deed is required in addition to any court decree. As to the severance of community property rights by virtue of the filing of a marriage dissolution petition, panelists emphasized that a title company will not need to review the trust agreement because title companies can rely on the statutory authority given to trustees.

When deeding property into a revocable trust, the title company has no need to review the trust agreement because title companies can rely on the statutory authority given to trustees.

Minutes...

continued from page 1

add their email addresses to the identification block on the first page of each pleading they file to help speed communication between the division and counsel.

Lawyers and parties representing themselves who are interested in participating can contact Carl Gerchick, clerk of the court communications director, at 602-506-6728 or cgerchick@cosc.maricopa.gov.

Hearings in the participating pilot divisions will be set by the mailing of “Notices of Hearing” by the party requesting oral argument following the procedure set forth in Maricopa County Local Rule 3.2(d)(1). Any party requesting oral argument must attach a proposed Notice of Hearing and postage-prepaid return envelope with each motion or response that requests oral argument. If oral argument is granted, the judicial assistants will insert the date and time of the hearing and mail the notice to the party requesting the hearing. The party requesting the hearing is responsible for mailing or delivering the notice of hearing to all opposing parties within the time limits provided by the rules.

Attorneys also are required to submit proposed forms of orders with sufficient copies and addressed postage-prepaid envelopes for all counsel and self-represented parties similar to those required by Maricopa County Local Rule 3.2(b)(1). This requirement pertains to all motions, including those for summary judgment.

Judges who want to explain their reasons will do so on the record or in a separate order that will be mailed to the attorneys and parties in the case.

The pilot program is expected to run three or four months, during which time the participating judges hope to discover and work out any bugs in the new system. Your comments are welcome.

If successful, it will be adopted in the remaining civil divisions in conjunction with the implementation of the court’s new computer system, iCYS. The new system, according to John Barrett, the court’s head of information technology, is expected to be in place at the end of July.

Maricopa County Superior Court Judge Edward O. Burke is presiding judge of the Civil Department.

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IMMIGRATION LAW

Don't Play Around When It Comes To Immigration Law
The State Bar of Arizona’s Task Force on Associate Membership for Paralegals and Legal Assistants has been meeting since December to consider whether State Bar associate membership should be extended to paralegals. The task force is considering issues such as defining the term “paralegal”; creating membership qualifications for associate membership; establishing a continuing legal education component; identifying lawyers’ responsibilities for paralegal members; and establishing ethics components for paralegal membership.

The task force, at its February meeting, initially approved a definition of paralegal relating to voluntary associate membership, but then disapproved of the definition’s application to non-lawyers after concluding that doing so might implicate a possible constitutional conflict.

Separation of powers

The uncertainties that could result from paralegal associate membership in the State Bar have to do with any features of the associate membership taking on a regulatory character, because the constitutional authority vested in the Legislature and the separation-of-powers doctrine appear to suggest that the Legislature has regulatory authority over paralegals; and establishing ethics components for paralegal membership.

Inherent powers

The inherent-powers doctrine is premised on the concept of lawyer self-regulation. Although legal scholars and lawyers debate how the law profession is regulated, the concept of lawyer self-regulation is thought to be necessary because non-lawyers cannot fully appreciate the complexities of the law profession. The inherent-powers doctrine vests authority in a state’s supreme court to issue licenses to practice law within the state’s boundaries.

Paralegals to explore access to justice at annual conference

“Access to Justice” will be the theme of the Paralegal Division’s 2002 Paralegal Conference, which will be held Sept. 27.

The Conference Committee, working with the division’s Outreach and Resources committee, has developed this year’s theme to provide paralegals with information on how to assist those who cannot afford traditional legal services. The educational portion of the conference will include an overview of different types of non-traditional legal programs available in the local community, as well as information on tribal courts and how they operate.

Attorney Robert J. LeClair, president of the American Association for Paralegal Education, will speak on paralegal regulation and how it may affect paralegals participating in pro bono work and other avenues of aiding those in need of access to justice. Many division members specifically asked that LeClair, a speaker at the 2001 conference, be on this year’s program to provide an update on paralegal regulation across the country. Several members of the area’s legal community have been invited to participate in different aspects of the program, including a panel discussion of non-traditional programs and an ethics section. The program and speakers will be confirmed within the next month.

The 2000 and 2001 conferences were held in the spring but, due to the MCBA’s change of fiscal year in 2001 and other considerations, it became necessary to move the event to the fall. Having outgrown the Heard Museum, it became necessary to move the event to the Pointe Hilton at Squaw Peak. Conference attendees will earn five to six hours of continuing legal education credit for the day, depending on the final schedule.
Parts of Windows Office XP valuable

We just got back from the ABA TechShow in Chicago and one of the things that almost everybody agreed on was that there really was nothing very new in any of the tracks. At the Courtyard of the Future site, we attempted to present a post-Sept. 11 version of the portable electronic courtroom. While it was well received, nobody could call it very exciting.

The truth of the matter is — and there was wide agreement about this at the TechShow — we have reached a kind of steady state in legal technology. The new versions of old applications are only incrementally better than their predecessors. The purveyors of software to the legal industry do not have very much new to contribute and, unfortunately, many of them simply add bells and whistles to their existing product. Some of the bells ring and some of the whistles whistle but by and large most of the new additions do not add anything of critical value to the computing environment.

I know I have said this before, but it has only recently become as clear to me as it has after the ABA TechShow. Windows/Office XP Professional is case in point.

For the last six months I have been running Windows/Office 2000 on one of my computers and Windows/Office XP on another computer next to it. My purpose has been to evaluate the day-to-day differences so that I can either choose to view a slide show of the images or print them using the Microsoft photo-printing wizard.

For most of us, however, digital photography is an interesting but not a necessary part of what we do. If you fall into that group, then Windows XP may not provide any substantial additional value for you considering the cost and difficulty of making the switch.

The Office XP part of the new Windows regime is, on the other hand, very important.

For lawyers, the two most important applications in Microsoft Office XP are PowerPoint and Outlook. Both are substantially improved over the Windows 2000 versions. PowerPoint has many new features that allow you to create very powerful presentations with utter simplicity. Outlook XP, while essentially the same as the older product, has a number of enhancements that make it very worthwhile.

I find a number of features in Outlook XP very useful. Because Outlook is my major time-management tool, I have many calendar entries with prompts that pop up on my screen in advance of an appointment or task. If I am gone from my office for awhile, I collect a large number of pop-up reminders covering my screen and it takes some time to clear all of them. For some reason, Outlook 2000 continues to send those pop-ups even when you have tried to delete them. That is incredibly annoying. In Outlook XP, a list of reminders shows up in a dialog box and you can permanently dismiss all of them.

That is an enormous timesaver and removes one of the major annoyances in the day-to-day operation of Outlook.

A second feature that I really like is called “complete addressing.” When you start to enter an email address, a dialog box pops up offering you all of the versions of that mail address that might be applicable. You can click on the one that you want use and move on. This, too, is an enormous timesaver because, unlike the old version of Outlook, incorrect addresses that may still live in your system are displayed in full and you are able to override them, thus greatly reducing bounced email.

The group-scheduling function also has been very improved. Unfortunately, the current version has a glitch that makes it workable only if everybody else in the group is using Outlook XP. That problem will be solved in time, but, for the moment, the group-scheduling feature is virtually unusable.

Outlook XP offers many other enhancements, including a great email verification system that does not force your correspondent to send a “read receipt.” Outlook XP now automatically informs you of delivery without the hated “read receipt” of the old program.

All in all, Outlook XP is an extremely valuable upgrade to your system. Fortunately, Outlook XP can be purchased as a stand-alone product for less than $100. And, miracle of miracles, Microsoft’s new onerous activation and licensing practices that keep many of us from adopting Office XP do not apply when you buy the stand-alone version of Outlook XP.

PowerPoint XP also can be purchased in a stand-alone version. It has greatly enhanced animation possibilities and the new slide design-task panel provides a much easier way to design a PowerPoint program. You can quickly preview each selection before you adopt it. In addition, PowerPoint XP has a number of professionally designed animation templates and handles video with ease. The increase in animation capability is certainly worth the price of the single product upgrade.

The real enhancements here are, as in Outlook XP, subtle but pronounced. I find PowerPoint XP to be much easier to work with and much more capable than its predecessor in the handling of video and other images. I strongly recommend the upgrade.

Many new computer builders will give you a choice between the Windows 2000 Professional and XP Professional. If you can tolerate the intrusive activation and registration scheme, XP Professional is a better, smoother and easier operating system. It is easier to set up a network and provides many new tools for a variety of tasks. It eventually will replace Windows 2000 Professional, but Win2K will remain a powerful and stable operating system that does not require the use of the new activation limitations.

I am keeping Win2K on my main computer with the PowerPoint and Outlook stand-alone upgrades. But I am keeping my XP computer at the ready just in case. And, for kicks, I am thinking of buying an iMac just for its looks. For an old PC guy, that is quite an admission! I have always loved my clunky beige boxes that fill up a desktop. I get the same feeling of power with them that I got driving my father’s Oldsmobile 98 sedan. But the new iMac is so svelte, with its monitor appearing to float in space, that I am sorely tempted to play around. I’ll let you know if I do.

Winton Woods is a lawyer professor at the University of Arizona College of Law and director of the college’s Courtroom of the Future project. He also serves as general counsel to Lex Solutio Corp. and as an electronic litigation consultant. He welcomes questions and comments by email at wintonwoods@mail.com or by phone at 520-881-6118. Visit him at www.wintonwoods.com or www.digitaltrial.net.
Retain control of the witness

In addition to preparing your questions in advance, you should arrange your questions in a precise order for maximum effectiveness. However, except for special circumstances that might require it, don’t read the questions. It is the concept expressed in the question that is important and not the precise words. On cross-examination, you want to shape the question so that the witness must give the desired answer and you want to close your examination with the greatest possible impact.

When not to cross examine

Of course, keep in mind that you are not required to cross-examine a witness, and if the witness doesn’t hurt your case, you should not do so. However, if you feel that the jury may read your failure to cross-examine as a sign of weakness, you can always question the witness on such collateral or safe issues as:

- Q. Were you subpoenaed as a witness or did you come voluntarily?
- Q. Whom have you talked to about this case?
- Q. When did you last discuss your testimony?
- Q. Are you a friend of the defendant?

Objectives of cross examination

There are normally six objectives of cross-examination:

1. To show that the witness is testifying untruthfully.
2. To show the witness is mistaken.
3. To show the witness is biased.
4. To show the witness’s story is incomplete.
5. To show that other witnesses called by your adversary are not to be believed or are mistaken.
6. To corroborate the testimony of your witnesses or to build up your witnesses.

Be sensitive to the jury’s reaction

Cross-examination is inherently dramatic and thus the interest and attention of the jury is usually at a maximum level. In this context, there is much to be gained by effectively destroying the credibility of a witness but, unless you are sensitive to other important factors that play a part in the dynamics of a jury trial, you might be in the unenviable position of winning the battle but losing the war. For example, you might not want to attempt to destroy the credibility of a frail or elderly person, or a clergyman or anyone else who is likely to have the jury’s sympathy. Instead, you might be content to suggest that they are simply mistaken in their recollection and leave it at that. The jury will respect you for your courtesy toward the witness.

Seek points of greatest vulnerability

Instead of trying to attack an adverse witness on each and every point at issue, you should instead zero in on the points of greatest vulnerability. Remember that if you succeed in attacking the witness on one or two points where he or she is most vulnerable, the jury is likely to discredit all of the witness’s testimony, including those portions that you did not even challenge.

Using prior inconsistent statements

If you are confronted with a witness at trial who has changed his story from that given at a deposition, you should use the prior statement on cross-examination in as dramatic a fashion as possible for its impact on the jury. For example:

- Q. Mr. Jones, at the time you gave your earlier testimony at your deposition, were you sworn to tell the truth?
- Q. Were you telling the truth when you testified at your deposition?
- Q. Were you asked these questions, and did you give these answers at your deposition?
- Q. Was that the truth then?
- Q. Is that the truth now?
- Q. And of course, your recollection was better a year ago when your deposition was taken than it is now; isn’t that true?

Proceed step by step

One of the common errors made in cross-examining a witness is trying to take too big a leap between your questions and the conclusion you want the jury to reach. For example, suppose you are confronted with a police officer who testifies three years after an open intersection accident that your client’s vehicle was on the left when, in fact, it was on the right. Compare the following:

- Q. Isn’t it true that in the three years since this accident, you have investigated hundreds of accident similar to this one?
- A. Yes.
- Q. And is it possible that you have confused the details of this accident with some other accident you have investigated?
- A. No. I don’t believe so.

But if you invest a little more time and patience with your cross-examination, taking it step by step, notice the difference:

- Q. How long have you been a police officer?
- Q. And I take it you are frequently called to the scene of an accident similar to this, I suppose as many as several hundred a year?
- Q. And in many of those cases one car was coming from the right and one from the left?
- Q. And in many of these intersection accidents there were skid marks from one or both of the vehicles?
- Q. And the skid marks varied in length and the location of debris varied from accident to accident, isn’t that true?
- Q. So you may have seen as many as a thousand accident scenes since the time this accident occurred more than three years ago?
- Q. And your testimony then is based on your recollection of what occurred more than three years ago, during which time you have investigated more than 1,000 accidents?

Maintaining control over the witness

It is important to let the witness know who is boss. If you let a witness ramble on, or if a witness is not responding directly to your question, you run the risk of appearing weak and ineffective in front of the jury. Even worse, you run the risk that damaging evidence will come in through a long narrative answer that might otherwise be inadmissible. Here are some suggestions for handling these problems.

The witness who rambles:

- Q. Mr. Jones, please try to be more direct in answering my questions. Your attorney will be able to ask you for more details if she wishes to.
- Q. Mr. Jones, did you hearsay your question?
- Q. Did you understand my question?
- Q. Do you prefer not to answer my question?
- Q. Well, if it embarrasses you for the jury to know the answer to my question, I have no further questions. You are excused.

Important rules

➤ Prepare in advance for each witness.
➤ Don’t cross-examine unless necessary.
➤ Don’t read your questions.
➤ Have a specific purpose in mind.
➤ Concentrate on essential points.
➤ Never ask a witness “why” unless you don’t care what the answer is.
➤ Do not permit yourself to be side-tracked.
➤ Begin and end your cross-examination at a high point for maximum effectiveness.
➤ Stand up when cross-examining.
➤ Close all avenues of escape before confronting the witness with impeaching material.
➤ Don’t attempt to break down the story of a witness who has testified truthfully.
➤ Never try to get a witness to admit he is a liar.
➤ Don’t display anger.
➤ Keep your questions simple.
➤ Be ready to immediately proceed with your next question if an objection to your last question is sustained.
➤ Use words and phrases such as “might,” “could conceivably” and “isit possible” to gain concessions from an adverse witness.

➤ Jack Levine is a past chair of the Trial Practice Section of the State Bar of Arizona and has lectured and written extensively on courtroom strategy and trial techniques.
Berch becomes state’s 37th Supreme Court justice

For first time, 2 women on court

By Maureen Kane

The Arizona State University College of Law’s Great Hall was filled to capacity April 19 for the investiture of Rebecca White Berch as an Arizona Supreme Court justice. Family, friends, state officials and current and former colleagues watched as Berch, 46, became the 37th justice and only the third woman in Arizona’s history to serve on the court.

A unique member benefit: pet health care

United Pet Care (UPC), an Arizona-based company, offers Maricopa County Bar Association members a unique health-care program for their pets. MCBA members can reduce the cost of escalating veterinary bills associated with routine pet care and additional procedures, including emergency care. This health-care program saves on office visits, diagnostic tests, radiology, dentistry, medications, surgery and all veterinary procedures for dogs and cats. There are also programs for birds, ferrets, rabbits and horses.

Lawyers and MCBA members Victoria A. Bellomo of The Law Offices of James J. Everett, and Antonio M. Rosacci of the Rosacci Law Firm have been UPC members since September 2001 and have two dogs (top photo).

“We have found United Pet Care to be a great investment for our girls,” they said. “Ashley is 15 years old and Nikki is 13. We were unable to secure pet insurance based on their ages, but because United Pet Care does not discriminate, the girls were approved right away. As members, we have saved hundreds of dollars in veterinarian fees. We have referred many of our pet-loving friends to UPC.”

Jerri Altendorf, a Snell & Wilmer paralegal, also has been with the program since September 2001 and has one dog (bottom photo). “I joined this program after receiving a flyer from the MCBA regarding it. This is a wonderful program that allows me to provide my dog, Buddha, with the best medical treatment at reasonable rates. Because my pet is in his senior years, I have had the opportunity to use my United Pet Care membership many times. I would recommend this program to everyone.”

For more information or to enroll, please call United Pet Care at 602-266-5303.

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Attorneys who practice in Maricopa County Superior Court are encouraged to use digital video records for appeals, when available, as part of a yearlong study. For nearly a year, the Superior Court has been operating several innovative electronic courtrooms (ecourtrooms), which include state-of-the-art digital video technology to make the trial record. This advanced technology provides a comprehensive audio and video record of civil and criminal trial court proceedings.

The digital video recordings also offer benefits when a matter is appealed due to expedited availability of the court record, reduced delay for matters on appeal and potential cost savings. Superior Court officials submitted a proposal to Division 1 appeals court judges to study how litigants, lawyers, the public and the judiciary would benefit by using video recordings of short judicial proceedings without transcription.

After considering the request and reviewing the quality and nature of the digital video record produced in the ecourtrooms, the Division 1 judges endorsed the proposal by a 15-1 vote. Superior Court officials next sought state Supreme Court approval. In December, then-Chief Justice Thomas Zlaket signed an administrative order establishing a 12-month pilot project for Maricopa County.

Under the terms of the experiment, if the record designated for the appeal consists of digital video recording totaling one hour or less, the official record on appeal shall be the digital recording. Subject to payment or waiver of appropriate fees, upon filing a notice of appeal, the parties will be provided with either a copy of the videotape of the proceeding or a copy of the proceeding on digital videodisk. In appellate briefs, parties shall cite the portion of the digital recording where the testimony referred to appears.

By Ken Crenshaw
Special to Maricopa Lawyer

Attorneys who practice in Maricopa County Superior Court are encouraged to use digital video records for appeals, when available, as part of a yearlong study. For nearly a year, the Superior Court has been operating several innovative electronic courtrooms (ecourtrooms), which include state-of-the-art digital video technology to make the trial record. This advanced technology provides a comprehensive audio and video record of civil and criminal trial court proceedings.

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Minority bar convention explores personal, professional issues

By Terri Zimmerman
Maricopa Lawyer

By the year 2005, 62 percent of the work force will be comprised of women and minorities. As a result, law firms must reflect these demographics or it will show up on their bottom line.

That prediction from Arizona Court of Appeals Judge Michael D. Ryan, a panelist at last month’s Minority Bar Convention, was the convention’s luncheon speaker. She told the audience that when someone commits a racial faux pas, people should not react out of context. Sometimes the best way to handle the situation is to calmly talk later to the speaker about the offensive comment. Jenkins called that later conversation “a teachable moment.”

Jenkins advised that minority attorneys not let others define their place in life. Each person, she said, should have a written, five-year career plan and an evaluation every ten, five-year career plan and an evaluation,

“Tax is the number one priority for athletes.” Two traps athletes can fall into are too many partnerships and too many shelters. The IRS only allows a certain number of tax shelters, and violations may result in large tax bills after the athlete is no longer earning the major salaries, an unfortunate event he personally experienced. He said he bought property in the Cayman Islands that he visited only once, and also had a condo in Aspen, even though he does not ski (but his lawyer does).

Arizona Court of Appeals Judge Ann Scott Timmer moderated a panel discussion on “What Senior Attorneys Will Never Tell You: Strategies for Success.” Advice included: arrive for work early, put in extra hours, be the hardest worker in the office and provide quality work. One must be aware of the office’s culture and politics, including the firm founders, the rising stars and those being rewarded for their work. Hints included being professional yet pleasant and being aware that the secretary may be an important ally, not only in finding that killer motion on your disk, but also alerting you when openings might be available.

One of the panelists, Monique Branscomb, said her mentor once told her, “It is more important to be respected than liked.” Once one has established a good reputation, that might be the better time to address prejudice issues, because that is when one can be more effective.

Scott Greene was the speaker for the breakout session, “Cultural Diversity/Gender,” which included discussions of such terms as steganography, cryptography, hacking, morphing, cyberstalkers, cybersquatters, slack space and cybercrime.

Other breakout topics included technology in the courtroom; criminal year in review, legal issues affecting gay, lesbian, bisexual and transgender clients; employment law and interpreter qualifications.

The final session, “Cultural Diversity/Gender,” was presented by Phoenix Municipal Court judges Louis Frank Dominguez and Elizabeth Finn. The session included an exercise in which attendees lined up by height without talking, making a list of what people say about men and women; and “cultural bingo,” a game requiring players to find individuals in the room who knew answers to such questions as what city is two-thirds Hispanic (Miami), the names of at least eight Native American tribes indigenous to the Southwest, and what and when is Kodomo no hi (Children’s Day in Japan, May 5, a day set aside to pray for the health and happiness of children).

The convention concluded with a discussion about the future. Finn urged attendees to find their cause to support or their passion to pursue. Her cause is battered women.

Six law students participated in the Tang Writing Competition, submitting essays on the topic “Diversity on the Bench.” First prize of a $1,000 scholarship and Palm Pilot went to Kathleen Murphy. Heather Sapp received the second prize of a $500 scholarship and a Palm Pilot.

Dan Carrion chaired the convention committee. The event was held at the Sheraton Phoenix Airport Hotel in Tempe.
Clerk’s night filing box relocated to parking garage

But after-hours window closed

By Michael K. Jeanes
Clerk of the Superior Court

Two significant changes have taken place in the Clerk’s Office for the legal community to note. These changes will be of particular interest to those attorneys who use our downtown night depository box and the night filing window.

We recognize that many of you who use the 24-hour night filing depository box at the Central Court Complex are concerned about the lack of legal parking available in the immediate area of the depository box. We are happy to announce that, as of April 16, we relocated the depository box to inside the Madison Street garage. It is next to the new security station, which is at the garage’s east entrance on First Avenue. There now is adequate parking so that you can access the depository box more easily. In addition, a shelf by the box will make it more convenient for you to complete your work when you file.

Relocating the depository box is a direct result of the security guard station being moved to the east side of the Madison Street garage. Previously, the security guard was located across Madison Street, directly opposite the night filing windows and served to secure the safety of all of our after-hour customers.

Due to the guard station being moved, we no longer can provide adequate security to those of you who use our night filing window. Because security concerns are more important than ever in these post-Sept. 11 days, we closed our night filing windows on May 1. We realize that many of you rely on the night filing windows and want to assure you that you still have 24-hour filing access by using the night depository filing box.

Now, when you come downtown after hours to file your documents, you will be able to:
➤ park directly in front of security personnel;
➤ have sufficient work space; and
➤ continue to be able to file your documents at any time, day or night.

Finally, because overall quality of service is our top priority, we are adjusting our file-counter employees’ daily schedules. The changes will enhance service for those of you who do business at our file counters during our regularly scheduled business hours of 8 a.m. to 5 p.m. If you are in line at one of the file counters at 5 p.m., we will continue to serve you in the same manner that we serve you during the day until your documents are filed.

We look forward to providing even better service to you as a result of these changes.

More mediators trained for probate program

By Konnie K. Young
Special to Maricopa Lawyer

Twenty-eight new mediators have joined the Maricopa County Superior Court’s Probate Mediation Program, after being trained for three days in January.

Staff members of the Superior Court’s Alternative Dispute Resolution Office conducted the training, which included the expertise of experienced presenters, knowledgeable participants and ongoing lively discussions of hot mediation topics and specific concerns in the area of probate mediation.

The training included presentations by many experts in the field of probate mediation. Charles “Chick” Arnold, a mental health/elder law attorney with Arnold, Barron and Polk, presented “Alternatives to Guardianship” and discussed current issues in probate mediation. Another recognized elder law attorney and probate mediator, Catherine Leas, addressed “Meeting the Needs of the Elderly.” Franklin “Troy” Dodge, an attorney with Ryan, Woodrow and Rapp, led a discussion on “Salient Issues in Probate Mediation.” Throughout the training, participants, presenters and panelists discussed ethical concerns and standards for mediators.

The Superior Court ADR staff is pleased to welcome this new group of trained probate mediators to its Probate Mediation Program, which began as a pilot project in January 2000. This pilot project was launched to offer an alternative to trial for parties wishing to resolve contested decedents’ estate cases and adult guardianship or conservatorship matters pending in Probate Court. This has been a successful project. In the initial two years of the pilot project, 48 cases were referred to the program. The mediation settlement rate hit 78 percent at the close of 2001.

The participants from the recent probate training will join the current 14 probate mediators (seven lawyers and seven non-lawyers) to handle future probate mediations. This program uses a co-mediation model with one attorney mediator and one non-attorney mediator, who assist parties in reaching an acceptable agreement.

The next scheduled probate mediation training offered by the Superior Court ADR Office will be next spring. When the specific dates have been determined, the registration information will be posted in the ADR Newsletter.

➤ Konnie K. Young is an Arizona State University legal intern and volunteer mediator.

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Changes in China, Taiwan, Salmon tells Asian banquet

By Terri Zimmerman

Former U.S. Rep. Matt Salmon, a frequent traveler to China who is fluent in Mandarin Chinese and lived in Taiwan for two years during the 1970s, was the guest speaker at the March 21 Arizona Asian American Bar Association installation banquet.

Salmon did not mention his candidacy for Arizona’s governorship, but did tell the audience of attorneys, “I just want you to know I am in favor of merit selection.”

Salmon believes the Chinese government is moving toward a rule of law. They understand all eyes are watching them and they are on center stage, he said. And, although our country may have fundamental differences with the Chinese government, he said, the people of China care about their families as we care about ours.

“With respect to China, they understand all people are important,” he said. “They understand all people are treated equally under the law.”

Salmon, who was designated as the U.S. representative to officially welcome the president of China to the United States, said changes are already occurring in China. Upcoming leaders have been educated at Harvard and Oxford, and Salmon believes that within the next couple decades there will be a movement to democracy. In addition, he said, last year 4.5 million translated Bibles were printed, compared to 500,000 in the past.

Taiwan is the number one investor in China, investing approximately $100 billion, and about 600 million people from Taiwan live in Shanghai, he said. This brings in new ideas of how to do business and promotes peaceful negotiations between Taiwan and China.

Arizona Court of Appeals Judge Michael D. Ryan swore in the 2002 officers and board of directors. The new officers are: JoAnn Garcia, president; Teresa Mercado, vice president; Catherine Parker-Williams, secretary; and Rosa Mroz, treasurer. Members of the board of directors are George Chen, Leezie Kim, Lisa Loo and Barry Wong.

Marian Yim presented $1,000 scholarships, based on academic achievement and need, to first-year law students Melissa S. Ho, who attends the University of Arizona, and Shimin Loo, who attends Arizona State University.

Yim and Kathy Wong Lau received special awards for service.

The ten-course dinner served by the Sampan Restaurant at the Chinese Cultural Center included roasted duck, five spice beef, sweet and sour pork and mango pudding. For some it was a first time sampling of jellyfish. (Not comparable to chicken, it had a mild flavor and sponge-like texture.)

Paralegal...

Continued from page 6

This law appears to affirm that the Legislature has plenary authority to make laws regarding any subject falling under the scope of government, in this case, court reporters. Additionally, A.R.S. § 32-4405(1) authorizes the Supreme Court to adopt rules to implement and enforce the regulatory structure set up by the Legislature. The judicial branch thus appears to have been granted jurisdiction by the Legislature pursuant to the provisions of Ariz. Const. art. VI §§(3) and (6). Similarly, attention is paid to separation-of-powers issues by A.R.S. § 32-4003, which specifies that the regulatory scheme set up by the Legislature “does not limit the contempt powers of the court or the authority of the court to discipline its employees.”

Paralegals generally assist in the direct delivery of legal services. They perform their functions in varied settings and the work that is performed by some paralegals may never see a courtroom. They do not “practice law” if they are properly supervised by an attorney. It would seem then that the Legislature is the proper entity for the initiation and development of a regulatory scheme for these types of paralegals.

On the other hand, a group of paralegals that might warrant regulation by the judicial branch on inherent-powers grounds is paralegals who are allowed to represent clients in judicial settings. These types of paralegals do not yet exist in Arizona, but the concept is popping up in states such as Washington, which has set up a Practice of Law Board in its Supreme Court to evaluate whether the public interest can be adequately protected through non-lawyer regulation, as a means of delivering legal services in unmet need areas. As a starting point for this concept in Arizona, in 1980 the Supreme Court authorized limited discovery in Arizona, but the concept is popping up in states such as Washington, which has set up a Practice of Law Board in its Supreme Court to evaluate whether the public interest can be adequately protected through non-lawyer regulation, as a means of delivering legal services in unmet need areas. As a starting point for this concept in Arizona, in 1980 the Supreme Court authorized limited non-lawyers to represent clients in administrative tribunals for public policy reasons.

The State Bar task force was present to report to the State Bar board of governors at its April 18 meeting. The board is scheduled to vote on the task force report at its May meeting.

Jean Dalton is a legal assistant project specialist in the Arizona Attorney General’s Office. She is a member of the State Bar Task Force on Associate Membership for Paralegals and Legal Assistants.


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• Cocktail hour from 5:00 – 7:00 p.m. on Thursday, May 16, 2002.
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• The cost of the seminar is $400.00
• Contact Natalie@benefitrecov.com for more information or go to benefitrecovinc.com for a registration form
• Seminar may qualify for up to 8 hours of CLE credit including 1 hour of ethics with the Arizona Bar.

Presenters will include Thomas H. Lawrence, who was one of the attorneys who represented Great-West Life in Knudson and is one of the authors of ERISA Subrogation, published by the American Bar Association. He is also a Chapter Editor of Employer Benefits Law, published by the ABA and BNA Books. Mr. Lawrence is a frequent author and featured speaker on subrogation issues. He has successfully handled numerous ERISA subrogation cases in state and federal courts throughout the United States, many of which are published in the West Reporter System and LEXIS. Louis A. Tuccitto, who is head of Great-West Life’s subrogation unit, will also be a featured speaker.

Topics will include:

• May a health plan still enforce its rights in federal courts?
• Why it is more important than ever before to ensure that settlement funds are being preserved.
• Ethical issues in disbursing funds with knowledge of a subrogation lien.
• Specific strategies for administering an in-house subrogation unit in the voice of Knudson.
• Suggested subrogation provision modifications to help prevent being left without a remedy in any court.
• An update of the law throughout the United States regarding the make-whole rule and common fund doctrines.


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**LEGAL MOVES**

- Former Maricopa County Superior Court commissioner Leah Pallin-Hill (J.D. cum laude 1988, Arizona State University) has opened an office for mediation and arbitration of all civil matters, including family disputes. Her office is at 2375 E. Camelback Road, Phoenix 85016; telephone 602-397-3333 or 602-565-0828. Prior to her appointment to the bench, she practiced civil litigation with an emphasis on appellate practice at Gallagher and Kennedy.

- J. Peskind has opened a law office in the Scottsdale Airpark at 7047 E. Greenway Parkway, Suite 230, Scottsdale. Peskind, a certified real estate specialist whose practice includes real estate litigation and transactions, title insurance and escrow administration litigation, was the founding partner of the firm formerly known as Peskind, Hymson & Goldstein.

- Ivan Mlachak has joined Lewis and Roca as counsel in the firm’s intellectual property and technology practice group, and will emphasize patent law. Prior to joining the firm, Mlachak (J.D. 1990, University of Texas) practiced intellectual property law and litigation in Houston. He is currently admitted to practice in Texas and is registered with the U.S. Patent and Trademark Office.

- Ed Barkel has joined Lewis and Roca as counsel in the firm’s business section and will manage the firm’s newly formed securities and broker-dealer multidisciplinary practice. Barkel (JD/MBA 1988, University of Detroit Mercy College) previously was an associate general counsel and the assistant director of compliance at SunAmerica. He is a member of the Michigan and Ohio bars and holds several securities licenses.

- Mia R. Brodsky has joined Gust Rosenfeld’s commercial section. Brodsky (J.D. 2000, Emory University) practices in the areas of complex commercial litigation, securities, bankruptcy and creditors’ rights, professional malpractice, contract dispute and land-use law. She previously practiced with Beus Gilbert.

- Thompson Collins and David S. Cohen have been elected partners of Jones, Skelton & Hochuli. Collins (J.D. 1995, University of Arizona) has been with the firm since 1995. His practice consists of retail car liability, premises liability, insurance coverage, and insurance bad faith defense. Cohen (J.D. 1994, University of Michigan) has been with the firm since 1996. His practice consists of medical malpractice defense, elder abuse defense, personal injury defense and litigation. He is admitted to practice in Nevada as well as Arizona.

- Michael F. Patterson has rejoined Titus, Brueckner & Berry as an associate. Patterson practiced with the firm from 1993 to 1998, and then was affiliated with it through DeOvando y Martinez del Campo, S.C., in Mexico City.

- Misha L. Marshall and Greg Stanton have joined The Silver Law Firm’s litigation practice group Marshall (J.D. 1985, Thurgood Marshall) will concentrate her practice on commercial litigation, employment litigation, real estate litigation and construction defect litigation. Stanton (J.D. 1993, University of Miami) will concentrate his practice on commercial litigation and employment law. Stanton is a member of the Phoenix City Council, representing District 6.

- Robert P. Solliday, Carolyn R. Matthews and Daniel P. Kiley have become shareholders of Mohr, Hackett, Pederson, Blakely & Randolph. Abbie S. Goldfarb has joined the firm as an associate.

- Jorden & Bischoff has changed its name to Jorden, Bischoff, McGuire & Rose to reflect the contributions of partners Andrew McGuire and Jordan Rich Rose.

- Tom Liddy has been named executive director of the Institute for Justice Arizona Chapter. The Washington, D.C.-based Institute for Justice describes itself as a “libertarian public interest law firm.” It opened its Phoenix chapter last fall. Liddy (J.D., Fordham University) joined as an attorney in January after working in private practice.

- Michael E. Neumann has joined the firm resulting from the merger of Morrison & Hecker and Kansas City-based Stinson, Mag & Fizzell will be known as Stinson Morrison Hecker.

- The Arizona Paralegal Training Program has changed its name to Phoenix Career College as a result of new ownership. The new name also reflects the institution’s growing curriculum, which will expand from paralegal training to include career training in the medical field.

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The divisions, sections and committees in the calendar are those of the Maricopa County Bar Association, unless noted otherwise. All events are meetings and take place at the MCBA office, 303 E. Palm Lane, Phoenix, unless noted otherwise. Other frequent venues for meetings and events include the University Club, 39 E. Monte Vista, Phoenix; Arizona State University Downtown (ASUD) Center, 502 E. Monroe, Phoenix; and the Arizona Club, 36th floor, Bank One Building, 201 N. Central, Phoenix.

1 Family Law Section, 5:15 p.m., University Club
2 Public Lawyers Division (PLD) board, noon
3 Corporate Counsel Division (CCD) mini-seminar, 3:30 p.m. to 5:30 p.m., Snell & Wilmer, One Arizona Center, 19th Floor, Phoenix
4 Legal Support Professionals of Arizona spring dinner, 7:30 p.m., University Downtown (ASUD) Center, 502 E. Monroe, Phoenix
5 Scottsdale Bar Association lunch meeting, 12:15 p.m., Scottsdale Bar Association, 5:30 p.m.
6 Young Lawyers Division (YLD) Domestic Violence Committee, noon
7 Estate Planning Section Executive Committee, 7:30 a.m.
8 Estate Planning Section social event, 5:15 p.m. to 7 p.m., University Club
9 Litigation Section social event, 5:15 p.m. to 7 p.m., University Club
10 YLD board, noon
11 Paralegal Division board, 5:30 p.m.
12 Scottsdale Bar Association lunch meeting, noon, restaurant at McCormick Ranch Golf Club, 7305 E. McCormick Parkway, Scottsdale.
13 Litigation Section Executive Committee, 7:30 a.m.
14 YLD board, noon
15 Litigation Section Executive Committee, 7:30 a.m.
16 PLD, 11:30 a.m.
17 Maricopa County Bar Foundation board, 7:30 a.m.
18 Last Practitioners Section, 11:30 a.m.
19 Arizona County Bar Association board, 5:30 p.m.
20 Arizona Women Lawyers Association lunch meeting, 12:00 p.m. at MCBA, 303 E. Palm Lane.
21 Estate Planning & Probate Section Executive Committee, 7:30 a.m.
22 Lunch meeting, 12:00 p.m. at MCBA, 303 E. Palm Lane.
23 MCBA closed in observance of Memorial Day
24 Paralegal Division Outreach Committee, 5:30 p.m.
25 CCD board, 4:30 p.m.
26 Arizona Women Lawyers Association lunch meeting, 12:00 p.m. at MCBA, 303 E. Palm Lane.
27 MCBA, 303 E. Palm Lane, Phoenix, AZ 85004; fax to 602-257-0522; or luncheons@awla-maricopa.org by noon May 27. Information: Amy Schwartz, 602-956-4438.
28 Paralegal Division Outreach Committee, 5:30 p.m.
29 Maricopa Lawyer editorial board, 5 p.m.
30 Maricopa Lawyer editorial board, 5 p.m.
31 Paralegal Division Outreach Committee, 5:30 p.m.
Raven was selected because of her long-time commitment to animal spay and neuter programs and her efforts to reduce the number of unwanted animals in Maricopa County that are euthanized. Raven also was recognized for her work with the Arizona Cat Assistance Team, which she co-founded to help reduce and eliminate homelessness, suffering and overpopulation of free-roaming cats. Raven was to receive the award at the AAWL’s black-tie benefit last month.

The Arizona Civil Liberties Union has awarded José A. Cardenas, managing partner of Lewis and Roca, its 2002 Civil Libertarian Award. Cardenas, the son of a Mexican pipe layer, was the first in his family to graduate from high school. Among his many civic activities, he is Valley of the Sun United Way’s new chairman of the board, and serves on the boards of Chicanos Por La Causa and Xicanindio Artes. He was to be honored at an April 28 dinner.

Lindsay E. Jones, an associate with Jennings, Strouss & Salmon, has been elected to the board of Play It by HEART, an organization that assists developmentally disabled adults and teens by providing quality experiences in the areas of arts and recreation.

Jennings, Strouss & Salmon celebrated the 60th anniversary of the firm’s founding by hosting a March 14 open house at its new Collier Center offices. The firm was founded in 1942 by Irving Jennings, Riney Salmon and Ozzell Trask, who were joined four years later by Charles Strouss Sr. The firm has produced many distinguished alumni over the years, among them U.S. Sen. Jon Kyl; Arizona Supreme Court Chief Justice Charles Jones; Frederick Martone, who served on the state Supreme Court until his recent appointment to the District Court bench; A.J. (Jack) Pfister, former general manager of the Salt River Project; Rex Lee (deceased), who served as U.S. solicitor general under President Reagan before becoming the first dean of the J. Reuben Clark Law School at Brigham Young University; and later, BYU’s president; Nicholas Udall (retired), a former Phoenix mayor who later became a Maricopa County Superior Court judge, state Court of Appeals judges Jefferson Landlkid and James Ackerman (deceased); Superior Court judges Maurice Portley and Margaret Downie; and Richard Kleindienst (deceased), U.S. attorney general under President Nixon.
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LEGAL NOTICE

NOTICE OF HEARING ON PETITION FOR TERMINATION OF PARENTAL RIGHTS IN RE Adoption of Brandon Richard Button and Cory Clement Button No. 258 of 2001, in the Orphans’ Court Division of the Court of Camman Peac of Allegheny County, Pennsylvania. To: Carol Ann Button, natural mother of Brandon Richard Button, born on March 29, 1988 at Las Vegas, Clark County, Nevada, and Cory Clement Button, born March 29, 1990, at Phoenix, Maricopa County, Arizona. A petition has been filed asking the court to put an end to all rights you have to your children, Brandon Richard Button and Cory Clement Button. The court has set a hearing to consider ending your rights to your children. That hearing will be held in the Orphans’ Court Division, 1700 Frick Building, Grant Street, Pittsburgh, Pennsylvania on August 21, 2002, at 10:00 a.m. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your children may be ended by the court without your being present. You have the right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to the telephone office set forth below to find out where you can get help from the Lawyers Referral Service, The Allegheny County Bar Association, 920 City-County Building, Pittsburgh, Pennsylvania 15219 (412) 261-5555. Attorney: Richard M. Ford, Esquire, 660 U.S. Tower, 600 Grant Street, Pittsburgh, Pennsylvania 15219 (412) 227-5888.
Quares & Brady honored for exceptional VLP service

By Peggi Cornelius
Special to Maricopa Lawyer

April was a time of special recognition for the Phoenix office of Quares & Brady Streich Lang. For its exceptional support of free legal services to low-income residents of Maricopa County, it was named Volunteer of the Month by the Volunteer Lawyers Program (VLP) and honored for outstanding community service by the local chapter of Directors of Volunteers In Agencies (DOVIA).

Founded in 1973, DOVIA consists of non-profit organizations nationwide. The local chapter has about 150 members. Each year, the governor proclaims April as “Volunteer Month” and DOVIA hosts an awards luncheon. At this year’s luncheon, held April 10, Arizona Secretary of State Betsey Bayless presented the DOVIA award to Quares & Brady Streich Lang.

“Quares & Brady Streich Lang has a deep and long-standing commitment to providing pro bono services to indigent clients, as well as donating substantial hours to charitable and civic organizations,” said Kent W. Stevens, the Phoenix office’s managing partner. As a founding board member of the Arizona Equal Justice Foundation, Stevens has been a leader in the firm’s efforts to ensure the financial support needed to sustain access to justice for Arizonans unable to afford legal services.

Attorneys Thomas D. Arnn and Peter A. Terry co-chair a firm committee on pro bono, which promotes participation in the firm’s policy of providing billable-hour credit for legal services donated to non-profit organizations.

For many years, Quares & Brady Streich Lang attorneys have assisted VLP clients, but a renewed level of enthusiasm is apparent in their contributions during the first quarter of 2002. Of 123 cases VLP referred for representation by attorneys in Maricopa County between January and March, Quares & Brady Streich Lang volunteers accepted 20. During this same time, seven firm members also conducted intake interviews at the VLP office, donating a total of 36 hours of community service.

Especially noteworthy is the volunteer spirit of many young associates.

“I first worked on a VLP case as a summer clerk and later joined the program after a VLP presentation to associates,” said Denise M. Quinterri. She currently is helping a grandparent obtain guardianship of three grandchildren. She also encourages colleagues to volunteer by representing VLP at recruitment meetings with other law firms.

“I talk about our ethical responsibility, the opportunities for young attorneys to get practical experience in dealing with clients or going to court, and the chance to vary one’s work,” she said. “But the most important reason is VLP allows us to help people who really need help.”

There’s nothing more satisfying than making a difference in a person’s life.

Will B. Potterved is another young associate who has been very active in promoting participation in VLP and taking cases involving real estate matters, such as contract disputes, construction defects, tenants’ rights, foreclosures and fraud.

“Our firm’s progressive pro bono policy supports so many of our attorneys who perform pro bono work because we recognize the grave legal inequities that arise when people with limited resources are unable to obtain legal counsel,” he said.

Many thanks to Quares & Brady Streich Lang attorneys who interviewed prospective clients, accepted new VLP cases between January and March 2002, or did both: Arnn, Potterved, Quinterri, Rachel M. Bacalis, Heather Buchta, Ellis M. Carter, Jonathan A. Couyr, Lisa E. Davis, Booker T. Evans Jr., Emily H. Mann, Brooks J. Holcomb, Cindy Kwacala, Stephen D. Li, Monica L. Miller, Benjamin R Norris, Kerry Patterson, Caryn C. Rabe, Laura Sawicki, Seth L. Smythe and Lori Winkelman.

➤ Peggi Cornelius is VLP’s program coordinator. If you or members of your firm would like to know more about pro bono opportunities through VLP, contact director Patricia Gerrish at 602-254-3714.

VLP thanks attorneys who accepted recent cases

The Volunteer Lawyers Program, co-sponsored by Community Legal Services and the Maricopa County Bar Association, thanks the following attorneys and firms in Maricopa County who agreed recently to assist low-income clients with these civil legal needs:

- Bankruptcy
  - Thaddeus H. Allen, Allen & Sale
  - Robert D. Becker, Phillips & Associates
  - Jeffery L. Phillips, Phillips & Associates
  - Cleve W. Smith, sole practitioner
  - John R. Worth, Forrester & Worth

- Debt collection
  - Douglass H. Alkworth, Kukal Rock
  - Jason E. Bland, Kognerman Dobbins Smith & Delgado
  - John E. Egidt, Jennings Simuos & Salmon
  - Elizabeth Farhart, Doyle Winthrop
  - Kent M. Kasajici, Snell & Wilmer
  - Marvone Palomaki, Maricopa County Bar
  - Dennis M. Quinterri, Quares & Brady Streich Lang
  - Kenneth G. Rorer, Gallagher & Kennedy
  - Douglass G. Shook, Browning Overby Woods Willett & Cas
  - Karl McKay Worthington, Brown & Bain
  - Debt collection
  - Timothy H. Barnes, Barnes & Laxter
  - Gary R. Bumle, sole practitioner
  - Jennifer Bounou, Snell & Wilmer
  - Jonathan A. Couyr, Quares & Brady Streich Lang
  - Casey Willman Cullens, Brown & Bain
  - Benjamin R. Norris, Quares & Brady Streich Lang
  - David E. Shan, Rylie-Carely & Appelwistle
  - Family law/domestic violence
  - Henshel Bar, sole practitioner
  - Harry M. Frenelander, Gibson Matheson Weiser L’Alla Publin & Frenelander
  - Wendy Lancaster, Wilton & Wilton
  - J. Kent McCluggage, Woodruff McCluggage & Associates
  - Gregory C. Michael, sole practitioner
  - James Ochom Popp, sole practitioner
  - Charles C. Schoi, sole practitioner
  - Marion S. Swift, Snell & Wilmer
  - Guardians ad litem for children in family court
  - Rachel P. Bacus, Quares & Brady Streich Lang
  - Robert C. Fish, Lewis & Roca
  - Jennifer C. Godwin, Cohen & Froneck
  - H.F. (Pat) Girbert, Mass Community Action Network
  - Brooks J. Holcomb, Quares & Brady Streich Lang (2 cases)
  - Kevin M. Kasajici, Holiden Creekman
  - Danielle J. Malody, Snell & Wilmer
  - Mary C. McDonnell, sole practitioner
  - Joan E. Smith, Roberts & Rowley
  - Guardianship (minor children)
  - Vanessa Andreacchi, sole practitioner
  - Herbert M. (Pete) Bohlin, sole practitioner
  - Jerome L. Frommon, sole practitioner
  - James Allen, Bryan Cave
  - Nancy Tribbenius, ASU Office of General Counsel
  - Jonathan D. Winkleman, sole practitioner
  - Margaret D. Pullner, Richard J. Johnson PC
  - Bridget D. Swarts, Swarts & Bivens
  - Home ownership
  - John P. Aeger, Robbins & Grean
  - David C. Aufrer, Bowman & Brooke
  - Timmer (Larry), Burton, Gant, Rosenfeld
  - Barbara Dawson, Snell & Wilmer
  - Gregory W. Fals, Pohr Krueger Pederson Blakely & Randolph
  - Steven G. Ford, Murray & Haken
  - Brooks Holmes, Holmes & Brady Streich Lang
  - Jeffrey F. Hubbard, Balbut Hunter & Conant
  - Lawrence D. Jefferson, Pled and Associates
  - Howard C. Meyer, Burch & Conchelos
  - Richard J. Rubin, Arizona Title Agency
  - Lori L. Winkelman, Quares & Brady Streich Lang
  - Gary Zwigler, Morrison & Hecker
  - Nonpro bono organizations
  - Ellis M. Carter, Quares & Brady Streich Lang
  - Melenea Kay Hyrck, Gallagher & Kennedy
  - Social Security
  - Rodney A. Mellowoff, Delaney & Mellowoff
  - Tax
  - James Beamer, Means & Beamer
  - Tenants’ rights
  - Sean Berberian, Stepiton & Johnson
  - Frank W. Busch II, Snell & Wilmer
  - Cheryl Koth-Martinez, Gil River Law Office (2 cases)
  - Delton Pullen, Pullen Law Group (3 cases)
  - Henry N. Stone, sole practitioner (2 cases)
  - Torts Defense
  - John J. Cockett, Campbell Yoell Hergenreder Clare & Nofeld
  - Paul Rey Niel, Jennings, Simuos & Salmon
  - Scott A. Salmon, the Caenon Law Firm
  - Scott Siring, Stepiton & Johnson
  - Other issues
  - Kerry K. Patterson, Quares & Brady Streich Lang

Quares & Brady Streich Lang was honored by the Valley of the Sun Chapter of DOVIA at an April 10 luncheon held at North Phoenix Baptist Church. Representing the firm were (from left) attorneys Denise M. Quinterri, Thomas D. Arnn and Will B. Potterved.

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