Candidates for MCBA Board of Directors invited to declare

Members interested in running for one of five available seats on the MCBA Board are invited to declare their candidacy.

Incumbents are: Comr. Keelan S. Bodow, Lyzette M Bullock, Kyle Hirsch, Julie A. LaFave, and Sarah Smith.

Each of the five positions consists of a two-year term beginning in 2013. Board members attend monthly meetings, liaise with one or more MCBA sections, divisions, or committees, and support the work of the Association.

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 letter of candidacy to MCBA Executive Director, Allen W. Kimbrough,
   See Candidates for MCBA Board page 13

On June 25, the United States Supreme Court finally issued the long-awaited decision on Arizona’s immigration law known as “SB 1070.” The Court upheld most of the district court’s preliminary injunction against SB 1070’s enforcement. Arizona v. United States, No. 11-182 (U.S. June 25, 2012).

Soon after the decision came out, a debate raged in the media. Although the United States had prevailed on three of four provisions, was the decision nevertheless a victory for Arizona? This debate hinged in part on the media’s characterization of the ruling as having “upheld” the section known popularly as the “show-me-your-papers” provision.

We won’t wade into the winners-versus-losers debate here. We will, however, look into whether the media accurately reported that the Court had upheld the papers, please provision.

Two of the enjoined provisions create new misdemeanors in Arizona. Section 3 makes it an Arizona crime to fail to comply with federal alien-registration requirements. Section 5(C) makes it an Arizona crime for unauthorized aliens to work or to seek work in the state.

The two other enjoined provisions deal with police procedure. Under § 6, law enforcement officers who have stopped, detained, or arrested a person whom they reasonably believe to be illegal aliens must attempt to verify the person’s immigration status.

The United States sued to invalidate SB 1070, contending that it conflicts with federal law and is therefore preempted. The United States moved to enjoin the state from enforcing SB 1070 pending the suit’s resolution, bringing facial challenges to six of its provisions. The district court enjoined four provisions.

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Sage advice for law school grads

Jennifer A. Cranston
MCBA President

“Just one word . . . Plastics.” Though well-intentioned, Mr. McGuire’s advice to Dustin Hoffman’s character in the 1967 classic The Graduate was neither helpful nor inspiring. Hopefully, the following wisdom from the MCBA Board of Directors will be more useful to those of you who are just starting out in your legal careers. As for the rest of the readers — who don’t necessarily qualify as “recent” grads — I think you’ll find that some of this advice is applicable to all attorneys, regardless of age or experience level.

Get out. Not of the profession, out of the office. Start meeting people and marketing yourself as soon as possible. And remember that everyone you encounter is a potential client, adversary or judge — act accordingly.

Be a Boy (or Girl) Scout. And by this, I mean always be prepared. By doing a little more legwork early, you’ll save yourself time in the long-run and instill confidence in those around you. Also, you’ll be better able to deal with the unexpected issues that will inevitably arise.

Pick up the phone. In this age of emails and texts, it’s far too easy to communicate solely by the written word. But often you can achieve better results by engaging in a personal dialog with opposing counsel. This applies to clients as well — show them that you care enough about their business to make a personal call.

Take the high road. Whether you are litigating a dispute or negotiating a contract, mind your manners. Maricopa County is big, but the legal community is still fairly small and your reputation matters. Always keep in mind your client’s ultimate goal, and if your behavior doesn’t further that goal, then stop it.

Calling all modern-day Galileos—how will Daubert affect expert witness testimony in state courts?

By Emily Pokora, MCBA Construction Law Section Board Member

In 1633, Galileo Galilei unveiled a revolutionary theory claiming that the earth travels around the sun. This hypothesis was met with severe criticism resulting in his condemnation by the Roman Catholic Church, labeling him as a heretic based on what, at the time, was believed to be “junk science.” It was not until centuries later that Galileo’s revolutionary vision was ultimately supported. Unfortunately, he did not receive the vindication he deserved until well after his death.

Galileo’s and many other wiser vindications throughout history have proved, is that generally accepted consensus opinions deemed “junk science” are frequently wrong, with noteworthy scientists only honored years later, finally achieving their recognition.

With this history in mind, courts applying a “general acceptance” requirement to the admissibility of expert testimony will undoubtedly overlook the insight potentially available from ostracized modern-day Galileos.

In 1962, Arizona adopted the Federal Rule of Evidence 702 standard regarding expert testimony, now commonly known as the Frye “general acceptance” test. However, in 2000, well after federal courts had moved on to apply the Daubert framework, the Supreme Court of Arizona formulated its own unique expert admissibility standard falling “within a tiny minority of jurisdictions that have chosen to adopt a unique interpretation of Rule 702.”

This standard, outlined in the Arizona Supreme Court opinion Logerquist v. McVey, was a twist on the federal Frye test whereby Arizona courts were to apply Frye’s “general acceptance” test, only where a novel or scientific principle was proffered.

On the other hand, where expert testimony was not a new or novel scientific theory, and opinions were based solely on experience, observation or research, no standard of reliability was in place. Instead, the credibility of expert evidence was to be tested by examination of the witness at trial.

Commentators, as well as courts, criticized both Frye and Logerquist based on their inherent vagueness and significant delay required for novel scientific ideas to reach the courthouse steps.

In this age of emails and In this age of emails and In this age of emails and In this age of emails and In this age of emails, it is more important than ever to make sure that your email is always professional and well-crafted. This is especially true for attorneys, as emails are often used to communicate with clients or other legal professionals. However, it is also important to be mindful of the content and tone of your emails, as this can have a significant impact on how your message is received. For example, a well-crafted email can help to build trust and credibility with your clients or colleagues, while a poorly written email can may seem uncaring.

It is important to remember that emails are often used to communicate important information, and as such, it is important to be clear and concise in your writing. This means avoiding long, complex sentences and using simple, direct language. It is also important to proofread your emails carefully, as even a small mistake can be distracting.

However, it is also important to be mindful of the tone and style of your emails. This is because the tone of your writing can have a significant impact on how your message is received. For example, a professional and friendly tone can help to build trust and credibility with your clients or colleagues, while a more formal or stilted tone may come across as uncaring.

Finally, it is important to be respectful in your emails, as this can help to build a positive relationship with your clients or colleagues. It is also important to be mindful of the content and tone of your emails, as this can have a significant impact on how your message is received. For example, a well-crafted email can help to build trust and credibility with your clients or colleagues, while a poorly written email can may seem uncaring.

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MCBA opposes changes in Merit Selection process

The Board of Directors has voted to oppose any changes to the current process for the merit selection of judges as contained in Proposition 115, which will appear on the November ballot.

The following statement was filed with the Secretary of State’s office for inclusion in the voters’ information pamphlet:

The Maricopa County Bar Association, a voluntary organization comprising over 3,000 members of the Maricopa County legal community, urges you to vote NO on Ballot Proposition 115, SCR 1001. As local attorneys, we have daily interaction and experience with state court judges in Maricopa County. We believe the current merit selection system is not broken. Merit selection produces the highest quality judicial officers who provide superior and efficient service to our community. In fact, the Maricopa County judiciary is among the most respected in the country. The proposed changes will neither improve the quality of judges appointed to the bench, nor increase access to justice for residents in our community. Although some aspects of Ballot Proposition 115 do not appear to be objectionable, we oppose any changes that could politicize the selection of judges or erode the separation of powers. Ballot Proposition 115 seeks to increase the role of partisan politics in the judicial selection system and thereby undermines the constitutional goal of creating an independent judiciary staffed by impartial judges. For these reasons, we urge you to vote NO on Ballot Proposition 115.

How do I say ‘No’ to my boss?

ASK AN ASSOCIATE

Nicole Siqueiros

QUESTION

There are a few occasions when I really feel I need to tell my supervising partner that I cannot do the project they asked me to do. For instance, when I do not have time. It is extremely difficult for me. How can I tell the partner “no” or “I cannot” and not incur his/her wrath or risk my job? –Tell em’ no in Tempo, Arizona

It is an art to successfully say “no” to your boss, especially if you are a new and unproven associate and worry about job security. The first part of developing your “no” skills is to assess the reasons you are saying “no.” Are they legitimate? Will they make sense to the partner assigning work? As an example, it is probably not a good idea to tell your assigning partner that you cannot complete a project because you think it is too difficult or is beyond your level of understanding.

Assuming your reason passes muster, consider the point of view of the partner assigning work and brainstorm ways to solve this problem before taking the next step. Ask yourself the following questions:

1. Why is this specific project being assigned to me? Why am I an expert on this issue? You should assess why you specifically are being assigned this task and what the goal of the partner/firm is in assigning you this task.
2. How can I confirm the partner’s goals, the client’s goals and the goals of the firm, and still say “no”? This is important because you need to make sure you validate your understanding of the goals of all parties involved and try to make sure you can align yourself as best as possible with those goals. You must be a “team player.”
3. Is there a way to get an extension until I can complete the rest at an appropriate time? Is there someone else who can help me? This will help the partner assigning work in problem solving.

As I preach in every column, communication is key. Once you have answered the above questions in your head and/or on paper, you need to make your move. An in-person conversation is always better than an e-mail. Approach the partner and come prepared with hard facts and details as to why you need to say “no.” For instance, if a partner is assigning you too much work, explain to the partner the specific projects you are working on and why they are so time consuming. However, be sure not to use accusatory or judgmental language, just state the facts.

Then, explain to the partner your understanding of why this assignment is important in reaching the goals of you, your client, the partner and/or the firm. Validating the partner’s concerns is important in collaborating with them to solve the problem of you not being able to take on more work.

For example, in response to a request to do a project when you are already overwhelmed with too much work, you could say something like, “I understand the firm is really busy right now and this client is an important client. But, I also know our firm prides itself on delivering a high-quality work product, and I believe if I take on this assignment the quality of my work will be diminished, and that is not what any of us wants for this client or this firm.”

Finally, always come with a proposed solution when you are unable to complete the project (even if it is not one the partner eventually chooses to use). For instance, propose the idea of asking for an extension from the other side to give you more time to complete the assignment; discuss dividing the work into simpler, faster projects; or mention another individual, such as an attorney, paralegal or staff member, who can help you.

In the end, a good law firm and partner wants you to do your best on every project. This, in turn, results in a better bottom line and high client satisfaction. Good luck!

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

MCBA 100% Club invites your participation for 2013

MCBA is now contacting law firms with five or more members with an invitation to join the 100% Club. Membership in the club denotes that all of the firm’s attorneys are members of the MCBA.

It also signals that the firm supports not only the bar association, but also professional competence through networking and education for legal professionals in Maricopa County. The benefits of 100% Club membership also accrue directly to firms: MCBA offers convenient one-payment billing; the firm’s name is listed on a plaque in the bar’s lobby; year-long listing on the website and in the weekly E-News; media promotion; and a free promotional advertisement in the Maricopa Lawyer.

New for 2013 is “CLE Passport,” which offers significant discounts to members of 100% Club firms.

For more information or to join, please contact Cynthia Quinonez at cquinonez@maricopabar.org or (602) 257-4200.

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Keep up with Facebook and Twitter

Find out about the “goings on” at the MCBA Watch videos, peruse event photos, and stay up to speed with upcoming CLE and programs. Plus, find promos that can help you save on CLE!
Involved yet?

Did you know that there are 724 Young Lawyer members in the MCBA? That’s right, there are 724 members who qualify as “young lawyers,” meaning you are either under 36 years old, have been practicing for less than five years, or are a law student.

You may not even know that you are in the Young Lawyers Division. This is because your enrollment is automatic if you qualify. That’s right—it is a free benefit to joining the MCBA!

So, if there are 724 of you out there, I want to make sure that you all know about the YLD opportunities. In case you haven’t caught on yet, there are a number of ways you can get involved, including:

**Barristers Ball**

The Barristers Ball Committee is in charge of planning the annual MCBA YLD Barristers Ball. The 2013 Barristers Ball will occur on March 9 and will be held at The Westin Kierland. We are seeking volunteers to assist in all aspects of the event from sponsorships to menu tasting, DJ selection, the silent auction, and any other ideas you may have.

We are planning a party so why we are light hearted, fun and enjoyable to be around. Do you think you’ve got the idea that will make this year’s Ball one to remember? Do you have a connection to a great business that would like to sponsor the Ball? How about the partners at your law firm? Want to be in charge of selling a few tables? Let us know how you want to help and we’ll say “Yes” and “Thank you!” We look forward to seeing you on "The Committee" For more information, or to get involved, contact the Barristel Ball chair, Brent Kleinman, at brent@kleinmanlaw.com.

**Domestic Violence Committee**

The Domestic Violence Committee offers numerous volunteer opportunities for those interested in helping victims of domestic violence in the valley.

The first program that has had great success the past several years is the Legal Assistance to Women in Shelters (LAW) Program. LAW offers one-hour seminars to men and women in shelters throughout Phoenix and the surrounding areas. The topics include introduction to courts, divorce, child support, paternity, violence against women’s act, and bankruptcy foreclosure seminars.

The second program that assists those in need in the valley is the annual Necessities Drive. The Necessities Drive occurs in October every year and needs volunteers to 1. collect items and donations; 2. help organize the drive; and 3. help organize all the collected items to distribute to the shelters.

If you are interested in volunteering either for the Necessities Drive or the LAW program, please contact Melinda M. Sloma at MSloma@jcdlawgroup.com.

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**Finding creativity in repetition**

Law Week

Every year on May 1 the country celebrates Law Day (a day to reflect on the role of law in the foundation of the country and recognize its importance to society). In an effort to celebrate Law Day the MCBA YLD puts on Law Week activities.

To date, these activities have included putting on pro bono Ask-A-Lawyer events at local farmers markets and an Essay Contest for middle-school children that provides a platform to better understand the law as it would apply in their lives (essay topic examples include a kid who was accused of stealing or cheating and what rights they have). We are also in charge of putting on a CLE that relates to the “law day topical” which changes every year.

This is an exciting time for the law week committee because we are in the process of adding new events. We want to have more pro-bono opportunities and are thinking of putting on an event for younger children, possibly a skit or mock trial of say the big bad wolf (accused by the three little pigs).

We are looking for people who want to have outreach with local children and get them excited about the law and the opportunities it may hold for them in the future. This committee is great for anyone who is creative and interested in outreach because we are in a transitional stage and open minded towards new ideas to help the community and recognize the importance of law in society.

For more information, or to get involved, contact the Law Week chair, Jennifer Rehholz, at Jennifer.rehholz@farmersinsurance.com.

Mock Interviews

Calling all young lawyers who remember what it was like to be a law student! The Mock Interview Committee is seeking volunteers to assist with mock interviews of law students at both ASU and Phoenix School of Law.

Mock interviews occur in both the fall and spring, and we need volunteers to commit to a minimum of one hour (two interviews). Prior interview experience is necessary; we will provide you with a packet of information and potential interview questions. All you need to bring is a passion for helping the next generation of lawyers and a solid commitment of your time.

If you are interested, please contact committee chairwoman Amanda Sheridan at ashidan@owlaw.com or (602) 382-6304 for more information.

**Transition planning not a priority for law firms, but it should be**

A new study reveals that many law firms are unprepared for changes in top personnel. Nearly 4 in 10 (39 percent) attorneys surveyed by Robert Half Legal, a legal staffing firm, said their law firm does not have a formal succession plan in place for key leadership roles. Among those without succession plans, close to half (49 percent) said there are no intentions to develop one. But succession planning should be a priority for all firms. The firm offers the following five tips for effective succession planning:

1. **Identify critical positions.** Determine which specialties are core business areas and what effect the retirement of staff supporting these areas will have on the firm.

2. **Zero in on leadership skills.** Look beyond a potential successor’s legal expertise and client roster to determine whether that person is able to create a vision and inspire others. The best candidates often bring a variety of skills to the table.

3. **Develop a knowledge transfer process.** Ask a departing employee to develop a plan for sharing as much knowledge as possible with his or her successor, such as conducting an analysis of work and preparing documentation to capture critical information.

4. **Make mentoring a priority.** Once a successor has been identified, it’s wise for leaders to engage in active mentoring. This may include inviting the prospective successor to key meetings, and making him or her aware of challenges to the business.

5. **Go for a test run.** Vacation can be an opportune time to put a future leader in charge and see how that person performs. Having an eventual successor take the reins during absences also may make time off more relaxing for senior attorneys.

---

**Community Legal Services seeks candidates for board of directors**

The MCBA appoints a certain number of the members of the board of Community Legal Services, the LSC-funded provider of legal services to the poor in Arizona. At the present time, there is one vacancy which needs to be filled by a member of the MCBA.

If you are interested, please submit your expression of interest and resume not later than August 6 to Executive Director Allen Kimbrough at akimbrough@maricopabar.org.
The 13th Arizona Paralegal Conference, which is sponsored by the Maricopa County Bar Association's Paralegal Division, is next month, and I’m not sure about it, but I’m getting excited for it!

I look forward to going to the conference every year, but as an estate planning/probate paralegal, most of the topics tend to not help me in my area of practice. I mainly go to the conference to take advantage of the networking and, of course, the CLE, which I need to keep up my certification.

This year I’m really happy with the topics that the conference committee chose to cover. The theme is “Paralegals in Practice,” which is true, but it is much more than that, I think. Each of the sections that we have may not have any impact for your job, but they could have some impact in your personal life or the life of someone you know.

We will have a panel of attorneys to discuss bankruptcy, the Fair Debt Collection Practices Act, and foreclosure issues. Richard Drake, of Barski Drake PLC, will provide an overview of the three main bankruptcy chapters and the pros and cons of each.

Vincent Creta, of Hammerman & Hultgren, PC, will discuss the objectives and requirements of the Fair Debt Collection Practices Act.

Roman Kostenko, of the Law Office of Roman A. Kostenko, PLC, will talk about the process of doing a foreclosure, a short sale and other deficiency actions. In today’s economy and that of the past few years, I think that this is such a relevant topic to discuss.

This year we also have a criminal aspect to the conference with an overview of vehicular crimes. While I hope that none of us needs criminal crimes, they certainly impact everyone. I hope that none of us needs this topic for ourselves or someone in our family, and we all hear that a great area of law to learn a little more about.

As time moves forward, so does the law, and the most changes that have been made have involved vehicular crimes. Karin Horn, from the Maricopa County Attorney’s Office, and Bret Royle, of the Law Office of Bret A. Royle, PLLC, will educate us on the various types of vehicular crimes, the consequences for these types of crimes, and the impact they can have on your life and career.

As Benjamin Franklin said, “In this world nothing can be said to be certain, except death and taxes,” and estate planning (which is near and dear to my heart) covers both. It’s the area that not too many people work in, but one that I love.

As the theme of this conference continues, Thomas Murphy will be covering a decedent’s estate, the need for a good estate plan, as well as how to avoid mistakes and the new procedural rules in the probate court.

As of the date that I had to turn in this article, we had not finalized the ethics topic. However, Joshua R. Woodard, of Snell & Wilmer, will be conducting the ethics portion of the conference. If you have ever been to a conference, you’ll remember what a great speaker Mr. Woodard is, especially when it comes to keeping the audience engaged and entertained.

Want to get involved?

Do you want to get involved with the Paralegal Division, either now or in 2013? We can always use help, fresh faces, and fresh ideas to help Courthouse Experience.

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Want to get involved?

Do you want to get involved with the Paralegal Division, either now or in 2013? We can always use help, fresh faces, and fresh ideas in the division. It is about that time to start thinking about getting volunteers for next year’s Board of Directors for the Paralegal Division.

If you are interested in getting more involved with the division, helping out in any of the various committees, or if you have any questions, please contact me, Cami Barnella, at barnella@sackstierney.com. ■

Calendar of Events

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Time</th>
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<tbody>
<tr>
<td>August 13</td>
<td>Board Meeting</td>
<td>5:30 p.m.</td>
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<tr>
<td>September 10</td>
<td>Conference Committee Meeting</td>
<td>6:15 p.m.</td>
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<tr>
<td>28 Fri.</td>
<td>Paralegal Division Conference</td>
<td>8:00 a.m.</td>
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All Board of Director and Conference Committee Meetings are held on the second Monday of each month at 5:30 at the MCBA offices unless otherwise specified. Quarterly CLE Division meetings are held at the MCBA offices unless otherwise specified. Please visit the website at maricopabar.org and click on the "Paralegal Link" for updated information.

Invitation for Public Comment

Judicial Reapppointment

The Glendale Judicial Selection Advisory Board (JSAB) is considering the reapppointment of Judge John D. Burkholder to a four-year term as City Judge in the Glendale City Court.

All interested parties are invited to offer comments to the JSAB regarding Judge Burkholder’s judicial performance to serve another term as City Judge at the following hearing:

8 p.m., Monday, August 27, 2012
Glendale City Hall
5850 W. Glendale Avenue, Glendale, AZ
Room B-3

Signed, written comments received by Friday, August 24, 2012 will also be considered by the JSAB.

Send comments to:

Katie Douglas
City of Glendale Human Resources Dept.
5850 W. Glendale Avenue
Glendale, AZ 85301

The Judicial Selection Advisory Board will consider public comments and other relevant factors in making a recommendation to the Glendale City Council regarding the reapppointment application of Judge Burkholder.

As the theme of this conference continues, Thomas Murphy will be covering a decedent’s estate, the need for a good estate plan, as well as how to avoid mistakes and the new procedural rules in the probate court.

As of the date that I had to turn in this article, we had not finalized the ethics topic. However, Joshua R. Woodard, of Snell & Wilmer, will be conducting the ethics portion of the conference. If you have ever been to a conference, you’ll remember what a great speaker Mr. Woodard is, especially when it comes to keeping the audience engaged and entertained.
INSIDE THE COURTS

Winners of 2012 Superior Court NACo Achievement Award announced

Superior Court’s innovative programs continue to garner national recognition. As in years past, the National Association of Counties (NACo) declared several of Superior Court’s programs to be winners, recognizing that each effectively contributes to and enhances county government.

In 2010, NACo’s non-competitive awards program recognized 12 Superior Court projects; in 2011, NACo recognized six Superior Court and two Justice Court programs; and in 2012 another half dozen have been recognized—three from the Adult Probation Department and three from Juvenile Court:

Field probation officer performance evaluation

APD managers defined goals and criteria for performance evaluations and developed a measurement tool and supporting tools and activities directed at achieving the desired results. In addition to improving the evaluation process, the program supported department outcomes with 80 percent of probationers completing probation successfully in 2011.

The Legacy Project: A collaborative approach to reducing recidivism

In collaboration with the Arizona Department of Corrections, APD developed a supervision model to address the high crime and high criminal justice expenditures in south Phoenix, aligning probation and parole supervision strategies. Efforts included providing staff training on evidence-based practices and utilizing community stakeholders and resources to provide support and services to offenders transitioning into the community, improving the successful completion rate.

Project SAFE: Improving outcomes of transferred juveniles on adult probation

APD’s Project SAFE (Swift Accountable Fair Enforcement) focuses on drug and alcohol-related behaviors of probationers and provides a consistent, incremental approach to consequences.

In-House Restoration Education Program

Juvenile Court’s restoration education program, which educates juveniles to understand the court process, has been revised to engage juveniles in the process and to provide them the statistically mandated education in a cost-effective manner.

CASA Peer Coordinator Program

Building on the talents of experienced volunteers, in lean budget times, the Expand CASA (Court Appointed Special Advocate) Pilot Program introduced a mid-manager level of volunteer. The program allows our CASA volunteers to create meaningful relationships with their peers, provides our experienced volunteers an opportunity for meaningful growth, and permits paid staff to focus on administrative tasks.

E-filing, viewing of sealed juvenile cases now available in District Court

Starting last June, counsel of record in juvenile cases have been able to electronically file and view documents in sealed juvenile cases in the federal district court. Any first appearance or substitution of counsel in such cases must be filed in paper, after which the Clerk’s Office will modify the attorney’s electronic access accordingly. Subsequent filings by counsel in these cases should be done electronically. Because no Notice of Electronic Filing will generate, noticing of any e-filed document must continue to occur in paper form. The District of Arizona will soon be providing Case Management/Electronic Court Filing Sealed and Ex Parte Training on new e-filing procedures that are effective this month. This training will also include instruction on juvenile e-filing. If you have questions regarding e-filing procedures for juvenile cases, please contact the Help Desk: Phoenix/Prescott: ecffelpbx@azd.uscourts.gov or (602) 322-7688.

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McMurry takes reins as new presiding judge of Justice Courts

Judge C. Steven McMurry, Encanto precinct Justice of the Peace, has been selected as the presiding judge of the Maricopa County Justice Courts by his colleagues on the Maricopa County Justice Courts Bench. As presiding judge, Judge McMurry manages the operation and administration of the Maricopa County Justice Court system and continues to preside in the Encanto Justice Court.

Judge McMurry earned his BA from Rice University, cum laude and his JD from the Arizona State University College of Law, cum laude. He clerked in the Arizona Court of Appeals for Judge L. Ray Haire and then went into private practice before joining the bench. “I am honored by the opportunity to serve the people of Maricopa County in this new role,” said Judge McMurry. “I am committed to ensuring that all people within our Justice Court system are treated with equal respect and that the law is applied fairly in our courts.”

A Justice of the Peace since 1999, Judge McMurry has served on various committees and councils to improve the functioning of the courts, including the committee that drafted the rules for eviction actions. Judge McMurry teaches several different classes for other justices of the peace, including one entitled The Bill of Rights: American Common Sense in Our Courtrooms. He also serves as a mentor for new justices of the peace.

East and West Court Building security checkpoints closed

The security checkpoint at the West Court Building has been closed due to safety precautions for the demolition and abatement of the west court lobby and jury assembly area. The closure will remain in effect until Aug. 17.

Additionally, the East Court Building checkpoint located at the 1st Avenue entrance is closed. However, an Attorney Express Lane has been added at the Central Court entrance to accommodate the closures. All personnel can exit through the West Court Security checkpoint as usual.

For the duration of the closure, all county employees, attorneys, including by-pass personnel, must use the Central Court or South Court Tower entrance.

During this time, the entry lobby into the Recorder’s and Elections’ offices will remain open. If you have any questions about the Clerk of the Court’s Renovation Project, including this phase in the West Court lobby, please contact Facilities Management at 602-506-8182. Please direct all inquiries about the bus route to Protective Services at 602-506-6880.
Legal Briefs • News to Use and Inform

By Stacy Nykorchuk and Isolde Davidson

Longtime Snell Tax Partner Dies
Charles (“Charlie”) A. Pulaski, Jr., passed away peacefully, surrounded by his family, at age 70, on June 21, 2012 in Phoenix. The cause of death was complications from lymphoma. Joining Snell & Wilmer in 1986, he was a senior tax partner at the time of his death. A 1964 graduate of Yale College, he received an LLB degree from Yale Law School in 1967. At Yale Law School, he was a member of the Order of the Coif and an editor of the Yale Law Journal.

Pulaski later served on the faculties of the University of Iowa College of Law (1972-1980) and Arizona State University College of Law (1980-1986), where he won numerous teaching awards. He wrote and published a case book in 1982: Criminal Pretrial and Trial Procedure: Cases & Materials. In 1983, he co-authored Equal Justice and the Death Penalty: A Legal & Empirical Analysis with David Baldus and George Woodworth. The study examined the presence of racial discrimination in death penalty sentencing and has been widely cited by legal scholars and jurists. It was also the centerpiece of the United States Supreme Court’s 1987 decision in McCleskey v. Kemp.

The Pulaski family requests that, in lieu of flowers, gifts be made in memory of Charlie Pulaski to the endowment. Donations should be sent to: The Sandra Day O’Connor College of Law, P.O. Box 879901, Tempe, AZ 85287. Checks should be made out to the ASU Foundation-Pulaski Memorial.

Maricopa County Superior Court Law Library awarded LSTA grant
The Institute of Museum and Library Services supports Arizona libraries through the Library Services and Technology Act program, which is administered by the Arizona State Library. Through this program, the Maricopa County Superior Court Law Library applied for and received a grant to assist with planning a modern legal learning center within the Law Library.

With the funding, the library will create a space that gives community users access to technology that can provide free or low-cost access to legal resources.

Supreme Court declines to block voter registration ruling
The Supreme Court in June denied the State of Arizona’s application to stay a major ruling from April of this year by the U.S. Court of Appeals for the Ninth Circuit. In that decision, Ninth Circuit, sitting en banc, held that voter registration provisions of Arizona’s Proposition 200 violate the National Voter Registration Act of 1993 (NVRA).

The effect of the Supreme Court order will be to require Arizona to accept and use federal mail-in voter registration applications, even if they do not include documentary proof of citizenship. The documentary proof of citizenship requirement for voter registration was held to be unnecessary and burdensome to eligible citizens trying to exercise their fundamental right to vote.


Clemency clinics, resources, and information
Across the country, much work is being done to promote justice through “clemency clinics,” “innocence projects,” and other similar titles. Ken Strutin’s article, “Clemency Clinics: A Blueprint for Justice,” highlights some of the efforts around the country coming out of law schools, law firms, and independently run organizations.

With the article’s many links to additional resources, attorneys who have an interest in clemency may find this article a good starting point for exploring this line of work. The article can be viewed at http://www.lirx.com/fea-tures/clemencyclinics.htm.

Attorney income and population by state
Using information from the U.S. Bureau of Labor Statistics, Kohn Communications has put together an info-graphic that details the number of attorneys and their average annual income. Check it out at www.tinyurl.com/8964lv.

Company offering judges opportunity to get private information off the Internet
Abine, a private company that specializes in removing personal information from the Internet, has partnered with the California Judges Association to offer its members their services. The company offers to remove personal information, such as name, address, credit information, and other private information that is readily available to anyone searching.

The service may also be of interest to stalking victims, attorneys, or anyone else who wants to pay $100 a year to have a little peace of mind. More information can be found at https://abine.com/delete-medetail.php.

ABA and ISAC announce mandatory reporting of entering-class data
The American Bar Association Section of Legal Education and Admissions to the Bar and the Law School Admission Council have informed law school deans about a program for schools to certify the accuracy of their reporting of entering-class academic credentials.

“In an environment where the actions of a few schools have raised questions in the minds of some about the integrity of data reporting by law schools more generally, this program gives schools a straightforward and efficient method to have their admissions data verified and to assure that they are accurately reporting admissions data to the ABA and to the public,” said John O’Brien, chair of the Council of the ABA Section of Legal Education and Admissions to the Bar.

To make the certification program possible, the ABA is now requiring schools to report their information about their first-year students. The ABA and LSAC will use these reports to correlate and cross-check students and provide to schools that request it a report of their entering-class credentials. Reports for each school will include the 25th, median and 75th percentile undergraduate grade point averages and LSAT scores.

Although law schools will now be required to provide entering-student data in the ABA Annual Questionnaire each fall, participation in the certification process is voluntary and is being offered on a pilot basis for the 2012-13 academic year at no cost.

Starting salaries continue to decline
The National Association for Law Placement (NALP) reported that its research shows that average starting salaries for class of 2011 grads holding full-time jobs dropped by 6.5% as compared with the 2010 class. NALP also reported that the median starting salary has decreased by 17% since 2009 and the average salary by 16%.

AUGUST 2012 CALENDAR
All meetings at MCBA Office, unless otherwise specified.

1 Young Lawyers Division Board meeting Noon

2 Construction Law Section Board meeting Noon

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

8 Environmental Law Section Board meeting Noon

9 Executive Committee meeting 7:30 a.m.

13 Paralegal Division Committee meeting 5:30 p.m.

14 Family Law Section board meeting Noon

15 Bankruptcy Law Section Board meeting 7:30 a.m.

16 Employment Law Section Board meeting Noon

17 MCBA Board meeting 4:30 p.m.

22 MCBA Foundation Board Grant Awards breakfast 7:30 a.m.

23 CLE: Indemnity and Defense Obligations: Three Perspectives Noon to 1 p.m.

24 CLE: Where Is SB 1070 Now and Who Are the Dreamers? 5 p.m.

31 MCBA Office closes at Noon for Labor Day

Please watch your MCBA E-News for updated information about meetings and events.
Hall of Fame Nominations Sought for 2012

The Maricopa County Bar Hall of Fame Selection Committee is now seeking nominations for 2012. So far, 83 lawyers have been honored (see list at right). The committee expects to select a dozen or so from the broad diversity of lawyers in the county this year.

The deadline for submissions is August 3, 2012.

Hall of Fame Criteria

The Maricopa County Bar Hall of Fame will recognize Maricopa County attorneys who have practiced for at least 10 years and who have:

- Played prominent and important roles that have had an impact on the history and development of our local bar and the legal profession;
- Made significant or unique contributions to the law or the administration of justice; and/or
- Demonstrated significant leadership, advocacy and accomplishments in service to the community or the profession.

Please note that nominees from previous years will not automatically be reconsidered for 2012. You are, however, invited to re-submit a previous nominee with complete information as noted below.

Submission Requirements

- Full name of nominee, including date of birth (and death, if applicable);
- A brief statement or summary of nominee’s significant qualifications and achievements (100 words or less);
- A detailed biographical description of nominee. The committee relies on the information supplied by the nominator(s), so comprehensive information is important. Supporting letters from others are also welcome.
- A photograph, preferably in color, submitted in electronic jpg format as an attachment to email.

Where to Submit Nominations

Nominations will be accepted by mail, email or through the MCBA website. Forms should be mailed or emailed to: Laurie Williams, Hall of Fame, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, AZ 85004-1532. Phone: (602) 257-4200. Email: lwilliams@maricopabar.org.

*The selection committee relies on the detailed bio to make a decision. Also separately, please send a photograph (optional) in jpg format, as an attachment to email.

Full name of nominee, including date of birth (and death, if applicable):

A brief statement or summary of nominee’s significant qualifications and achievements (100 words or less):

A detailed biographical description of nominee.

A photograph, preferably in color, submitted in electronic jpg format as an attachment to email.

Hall of Fame Inductees 2008-2011

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<tr>
<th>PIONEERS</th>
<th>MODERN ERA</th>
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<tr>
<td>Dr. John Alsup</td>
<td>Hon. Frank H. Lyman</td>
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<tr>
<td>A.C. Baker</td>
<td>Hon. William H. Rehnquist*</td>
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<td>Alice Birdsell</td>
<td>Hon. William Hancock</td>
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<tr>
<td>Frank Haze Burch</td>
<td>Hon. William F. Haug</td>
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<tr>
<td>Hon. Walter E. Craig</td>
<td>Edward &quot;Bud&quot; Jacobson*</td>
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<td>Amelia Dietrich-Lewis</td>
<td>Curtis A. Jennings</td>
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<td>Rafael (Ralph) Carlos Estrada</td>
<td>Sen. Jon Kyl</td>
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<td>Orme Lewis*</td>
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<td>Rodney B. Lewis</td>
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<td>H. Jerry Lewkowitz</td>
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<td>Hon. Lorna E. Lockwood</td>
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<td>William J. Maleden</td>
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<td>Hon. James E. McDougall</td>
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<td>Joseph E. McGarry</td>
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<td>Hon. Ruth V. McGregor</td>
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<td>Hon. Robert D. Myers</td>
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<td>Hon. Sandra Day O’Connor</td>
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*Deceased
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Now you can take advantage of special year-round savings through the Hertz Member Benefit Program. Maricopa County Bar Association members receive a discount off Hertz Daily Member Benefit Rates, Hertz U.S. Standard Rates, and Hertz U.S. Leisure Rates. For reservations and information, call Hertz’ Members-Only toll free number at 1-800-654-2200 and mention your Hertz Discount CDP# 24454. Present your membership card at the time of rental.

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$2,390,000
ML# 1472485

For more information about these events, or to register, visit www.maricopabar.org.

MCBA Corporate Partners Offer Savings For You
Find more details about these Corporate Partners programs at www.maricopabar.org.
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). Full payment must be received in advance of the program before you are considered registered.

The Meet-the-Judges series in October and November will feature a Speed Networking element in which attendees move from table to table, meeting with different judges. A Hot Topic CLE coming up at the end of this month (see top of page) is Where Is SB 1070 Now and Who Are the “Dreamers.” A panel of three attorneys will discuss what lawyers and employers need to know about these two recently-enacted laws.

Top-Notch CLE on Tap for 2012-13

By Laura Kimball

The CLE department is hard at work planning topical, engaging, and educationally-packed CLEs for fall 2012 and spring 2013. Laurie Williams, CLE director, said last year’s CLE was well-received and MCBA plans to bring back popular CLE programs, including the Meet-the-Judges series in October and the Fundamentals Series in the spring, as well as programming for new attorneys. The Meet-the-Judges series will include the opportunity to meet with family law, probate, and criminal law judges from the Maricopa County Superior Court. Last year’s programming featured a Speed Networking element in which attendees moved from table to table, meeting with different judges.

A Hot Topic CLE coming up at the end of this month (see top of page) is Where Is SB 1070 Now and Who Are the “Dreamers.” A panel of three attorneys will discuss what lawyers and employers need to know about these two recently-enacted laws.

See above for other August and September programs set to date.

Returning in January is the Fundamentals Series with topics covering estate planning, bankruptcy, personal injury and family law. Williams said the series is an excellent program that provides lots of helpful information to young attorneys.

Also, in the spring, new attorneys will have the opportunity to network and gain valuable perspectives on the practice of law through the all-day seminar “Your Life in the Law.” Williams said that in addition to offering hot-topic CLEs on various topics and CLEs for newer practitioners, the MCBA has programs for more advanced practitioners, such as the popular Family Law Trial Advocacy CLE. She said there will also be plenty of ethics programs to help attorneys earn the required credits.

To offer the best programming possible, Williams said she receives much support from the MCBA’s sections and divisions, and is grateful for their contributions.

“We really appreciate our volunteer attorney speakers and how hard the sections and divisions work to create CLE that is timely and interesting for their section members.”

MCBA COMMUNIQUE
CONTINUING LEGAL EDUCATION FROM THE MARICOPA COUNTY BAR ASSOCIATION

THREE WAYS TO REGISTER

ONLINE:
Register online at: www.maricopabar.org. Click on “Calendar of CLE & Events” or on the CLE program listing on the right side.

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

PHONE
Call Bree at (602) 682-8588

PROGRAM LOCATION

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

ATTENDANCE POLICIES

ADVANCE REGISTRATION
Full payment must be received in advance of the program before you are considered registered.

LATE REGISTRATION
All registrations must be paid in full two business days prior to the program date or a late fee of $15 applies.

WALK-INS
You may register at the door if space is available; the $15 fee will apply. If you do not register at least two business days in advance of a program, MCBA cannot guarantee space or availability of materials.

CANCELLATIONS/REFUNDS
Refunds, less a $10 fee, will be issued only if the MCBA receives your cancellation, in writing by mail, fax (at 602) 682-8600, or email bleeke@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.

THURSDAY ■ AUGUST 23
12:00 - 1:00 PM (Lunch included)
Indemnity and Defense Obligations: Three Perspectives
This program activity may qualify for up to 1 hour toward your annual standard CLE requirement for the State Bar of Arizona.

This CLE is all about the practical application and implications of indemnity rights—indemnity, defense, and hold harmless—in litigation and settlement. The panel will discuss the merits of typical express indemnity provisions, general and specific, including drafting considerations; the effect on separate defense obligations within indemnity provisions on case analysis and settlement; assignment of indemnity rights as part of settlement; and contesting indemnity obligations at trial or “reasonableness” hearing. Attendees can expect a lively exchange of ideas from three different perspectives—indemnitee, indemnitor, and prospective assignee.

MODERATOR:
Paul Frame, Restnic & Louis, PC

PANELISTS:
Greg Cahill, Maricatal, Wedes, McEntyre & Fiddler, PA
Jason Kelly, Schneider & Onofry, PC
Darrien Shuquem, Dicks, Coblanow & Shuquem

COST:
■ MCBA members: $45
■ MCBA Paralegal & Public Division members: $30
■ MCBA Student members: $10
■ Non-members: $75

THURSDAY ■ SEPTEMBER 12
7:30 - 9:00 AM (Breakfast included)
Basic Income Tax Issues in Decedents’ Probate & Trust Estates
This program activity may qualify for up to 1.5 hours toward your annual standard CLE requirement for the State Bar of Arizona.

Even experienced attorneys make common mistakes in simple estates. This seminar will address these questions:
• Do I need to file state or federal income tax returns when all assets are passing by beneficiary designation?
• What are the common mistakes in probate estate administration in failing to file or reporting assets?
• What are the common mistakes in trust administration in failing to file or reporting assets?

PRESENTER:
John R. Becker, Becker and House, Attorneys at Law

COST:
■ MCBA members: $62.50
■ MCBA Estate Planning, Probate and Trust Section members: $55
■ MCBA Paralegal & Public Division members: $40
■ MCBA Student members: $10
■ Non-members: $92.50

THURSDAY ■ SEPTEMBER 13
12:00 - 1:00 PM (Lunch included)
Unclaimed Property Law and Compliance
This program activity may qualify for up to 1 hour toward your annual standard CLE requirement for the State Bar of Arizona.

The Arizona Department of Revenue is charged with administering the Revised Arizona Unclaimed Property Act. Information regarding key provisions of the Act will be presented with an emphasis on advising clients on its application. Both claiming and reporting property will be discussed, and you will be provided with information regarding advising clients on how to avoid potential fees and penalties for non-compliance with the Act.

PRESENTER:
Joshua A. Joyce, Arizona Department of Revenue

COST:
■ MCBA members: $45
■ MCBA Paralegal and Public Division members: $30
■ MCBA Student members: $10
■ Non-members: $75

THURSDAY ■ SEPTEMBER 13
1:00 - 4:00 PM
The Changing Culture of Divorce

This program activity may qualify for up to 3 hours toward your annual standard CLE requirement for the State Bar of Arizona.

The adversarial-divorce model is becoming a thing of the past. Be ready to provide your clients with the most valuable tool for today’s divorcing families: Collaborative Divorce. If you are unaware of this alternative dispute resolution model, you risk losing cases to contemporary lawyers who offer this valuable service.

Come spend the afternoon learning about Collaborative Divorce and the role of the lawyer, coach, financial and child specialist. Observe three role plays: An initial client consultation explaining Collaborative Divorce; and two three-way preparation meetings with lawyer, coach and client. Being your questions. Learn how you might become trained in this model and how you can participate in Collaborative Divorce Professionals of Arizona.

PRESENTER:
David N. Horowitz, Collins, May, Potenza, Baran & Gillespie, PC
Norma Izzo Milner, Collins, May, Potenza, Baran & Gillespie, PC
Ellie Izzo, PhD, LPC
Vicki Carpenter Miller, BSN, MS, LMFT, PC

COST:
■ MCBA members: $140
■ MCBA Family Law Section members: $120
■ MCBA Paralegal & Public Division members: $80
■ MCBA Student members: FREE
■ Non-members: $230
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**VLP ATTORNEY OF THE MONTH**

Attorney, Riccio, helps clients weather the storms of life

By Peggi Cornelius, VLP Programs Coordinator

In the realm of pro bono work, attorney Dennis Riccio, Jr. could be called a "Renaissance Man." His most recent recognition as "Attorney of the Month" is not the first time the Volunteer Lawyers Program has honored him for his varied and outstanding assistance to low-income Arizonans. Between his enrollment in September 2009 and VLP's "For Love of Justice" awards program in April 2010, he earned the "New Attorney of the Year." Shortly after Riccio became licensed to practice law, volunteer attorney Denise Quinterri suggested he join the VLP. He began familiarizing himself with VLP and the needs of those seeking pro bono representation by conducting intake interviews and writing case evaluation summaries used to determine what type of legal advice or assistance might be offered.

During initial interviews, he quickly saw the great need among many applicants for education regarding debt collection processes and counsel about the pros and cons of filing bankruptcy. He gladly added debt consultations to his pro bono endeavors.

Within a week of his introduction to VLP, Riccio accepted two cases for pro bono representation. One of the clients was attending a trade school and had been anxiously awaiting receipt of financial aid for which she had qualified a semester earlier. With Riccio’s advocacy, the client’s need was met very quickly.

In the second matter, a young man had become immersed in substantial debt associated with an auto accident. The client’s limited earned income, the amount of the debt, and the accruing interest made it clear he would be unable to make acceptable payments and garnishment would impose a long term hardship unable to make acceptable payments and garnishment would impose a long term hardship. In the midst of assisting people struggling with debts, Riccio agreed to take an adoption case from the VLP’s Childen’s Law Center. The outcome in that case was the legal affirmation of the parental role two grandparents had accepted in the life of their six-year-old grandchild on the day she was born.

When advisable, clients qualify for pro bono assistance through the VLP are represented in no-asset Chapter 7 bankruptcy proceedings. However, volunteer attorneys who screen requests for debt-relief assistance need knowledge of Chapter 13 bankruptcy to assess which is appropriate.

Director Patricia Gerrich credits Riccio for his willingness to provide other VLP attorneys free continuing legal education in his area of expertise. "Last year, he donated his time as a presenter for a Chapter 13 CLE. He helps clients and the program in every way possible," Gerrich said.

Riccio describes himself as an Arizona native of Italian and Swedish descent who was raised in a middle-class home. His previous professional experience includes work as a personal trainer, and his Master’s degree in business administration prepared him for his work as the owner of a limousine company.

But Riccio says he returned to law school because, "I was bored with my profession and I was drawn to helping others." He’s grateful he became a member of the bar when he did, noting, "My first case was representing my clients and helped him get a fresh start. Another VLP bankruptcy matter followed shortly on the heels of the first, and Riccio assisted a family by stopping the garnishment of the wife’s wages as she and her children weathered a storm of domestic violence, impending eviction, and divorce.

The Volunteer lawyers program thanks attorneys

The Volunteer Lawyers Program thanks the following attorneys and firms for agreeing to accept 31 referrals from VLP to help low-income families. VLP supports pro bono service of attorneys by screening for financial need and legal merit and provides primary malpractice coverage, donated services from 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 Gerrich at VLP at 602-254-4714 or peggiech@clsa.org.

MCBA Books for Lawyers

Guide to Arizona Statutes of Limitation 2011 (2nd edition)

The one reference every lawyer really needs to meet critical deadlines and avoid malpractice

This 174-page book (softcover, spiral bound), newly updated through 2011, includes most, if not all, statutes where a time limitation is specified. Compiled, updated and edited by the MCBA Young Lawyers Division, the Guide is intended for use as an aid to Arizona attorneys in all areas of practice.

The Most Frequently Asked Questions in Environmental Law (2nd edition)

Completing up-to-date and comprehensive, this publication of 16 chapters covers every major area of environmental law of interest to persons and organizations in the Arizona business community. Each chapter has been drafted and updated by experienced local practitioners and provides fully referenced, Arizona-specific information. The content is presented in an informative, non-technical manner for use by non-environmental practitioners and non-lawyers. It is also useful for legal professionals who are experienced in environmental law but need a quick reference and research aid for questions in unfamiliar subject areas.

The book has sixteen chapters and 290 double-spaced pages in a three-ring binder. It is written and edited by the MCBA Environmental & Natural Resources Section and can be downloaded online.


The essential criminal law practitioner’s reference

This book is a compilation of the most frequently referenced criminal statutes, rules, guidelines, timelines, and sentencing information, among other useful information. This second edition contains updates and additional sections to make it more practical and helpful for use as a portable criminal-law desk reference. Use it as a quick reference during Arizona criminal proceedings. Spiral bound, 210 pages, the book lies flat and is convenient to take to court.

Compiled by the MCBA Criminal Law Section, Downloadable online.

Order books online at www.maricopabar.org. You may purchase online with Visa, MasterCard or American Express, or download an order form and purchase by check. Save mailing charges ($5-$8) by purchasing books at the MCBA Office at 303 E. Palm Lane in Phoenix.
Calling all modern-day Galileos
continued from page 2

prompting the State to request an evidentiary hearing under Daubert v. Merrell Dow Pharmaceuticals, Inc. In response, the defendant merely claimed that Dr. Esplin's testimony satisfied requirements for admissibility. The defendant, contradicting the language of Arizona's new Rule 702, argued that, "challenges to Dr. Esplin's factual basis or the sufficiency of his methodology are issues for cross-examination and not a basis for exclusion." Nonetheless, the trial court allowed admission of the testimony, to which the State appealed.

On appeal, in analyzing the new Rule 702, the court acknowledged its departure from Logueygri and recognized the trial court's new found "gate-keeping" role to ensure reliability and provide assistance in the jury's determination of the facts at issue. The gate-keeping function, the court advised, requires the court to hold an evidentiary hearing where the records available to the court are insufficient to permit it to "make a legally adequate determination" that the testimony proffered is admissible under Daubert.

The case was therefore remanded to the trial court for an evidentiary hearing with respect to Dr. Esplin's testimony, to comport with the new requirements of Rule 702. While the court in Scott v. Burde did decline the use of a judge's responsibility in reviewing compliance with each prong of Rule 702, it did advise that all Arizona trial judges must now actively review the record to ensure that admissibility of expert testimony is proper.

If the record is inadequate, a judge is required to hold an evidentiary hearing to obtain information required to make an informed determination regarding admissibility. According to Scott v. Burde, admissibility issues will likely need to be addressed more early on in the life of a case to ensure quality deposition and by disclosing adequate documentation evidencing the expert's qualifications and methodologies, to appropriately allow the judge to apply the principles of Rule 702. Otherwise, with an insufficient record before the court, the judge will have no choice but to require an evidentiary hearing to ascertain admissibility as trial approaches.

In the realm of construction law, challenges to admissibility of expert testimony under the former Logueygri standard were not uncommon. Based on Logueygri, the Arizona Court of Appeals has advised that witnesses with relevant training or experience can provide constructive testimony.

Construction, architecture, cost to repair, as well as other construction-related expertise, are not novel scientific theories subject to scrutiny under the old rule. However, under the new Rule 702, we may begin to see more zealous attempts to preclude testimony.

It will likely now be insufficient to simply disclose an expert that proves to be a "jack-of-all-trades," opining on everything from mechanical HVAC defects, to the structural integrity of a building, as well as how settlement problems are contributing to ponding on a property.

Instead, construction experts will now be required to show adequate qualifications to render opinions in a particular area at issue, as well provide the standards applied in reaching those opinions, rather than simply disclosing conclusions alone. Although the new rule will not preclude experts who base their knowledge solely on experience, their knowledge must be specialized and apply processes reasonably relied upon in their field.

Only time will tell whether applying Daubert in Arizona state courts will be a "complex and daunting task," as the Logueygri majority feared, as it is anticipated to either be "an enlightening step forward in the way the law uses science or a stumble backward."

Either way, one thing is certain, innovative scientific theories, like that of Galileo, will no longer be overlooked only to be praised years later for their groundbreaking ideologies. Instead, Arizona courts are now required to at least consider even the most radical conjecture advanced by many modern-day Galileos, which may subsequently be found to be revolutionary.

Emily Pokora is an attorney at Jennings, Haug and Cunningham, LLP and practices in the areas of business litigation, medical malpractice litigation, insurance coverage, and insurance defense litigation. She is a graduate of Arizona State University with a Bachelor's in finance and marketing and earned her JD from the University of St. Thomas School of Law.

This article, with complete citations, is available on the MCBA website at www.maricopabar.org under the Maricopa Lawyer tab.

Candiates for MCBA Board of Directors continued from page 1

either by email or postal mail: MCBA, 303 E. Palm Lane, Phoenix, AZ 85004-1532 or akimbrough@maricopabar.org no later than 5 p.m. Sept. 14, 2012. The photo must be sent as an attachment—not embedded in the email.

For complete election information, go to www.maricopabar.org.

ELECTION MATERIAL DETAIL

A. General policies

1. Required election material must be submitted electronically, as detailed in Section B (with the exception of the formal letter of candidacy, which may be mailed), and all materials must be received by Sept. 14.

2. Submitted biographies that exceed the 200 word limit may be edited by staff.

3. Position statements and any other campaign or election materials may not refer to other candidates nor include defamatory or inappropriate language, as determined by an ad hoc Election Review Committee appointed by the President of the Association.

B. Candidate Election Materials

The following materials are required for candidates no later than Sept. 14:

1. A signed letter formally declaring candidacy for the Board of Directors, with the candidate's signature and addressed to the Executive Director. This document may be submitted electronically as a pdf document, but a mailed paper version is also acceptable.

2. A 200-word biographical statement. This statement must be included in "position statement" of the candidate’s vision and priorities for the MCBA. This information must be submitted electronically as an attachment to an e-mail, preferably in MS Word. Regardless of what is included in the biography, the word limit total is 200 words as counted electronically in MS Word. MCBA staff may edit bios exceeding the limit. (Please note that a standard-form resume or curriculum vitae are not acceptable.)

3. A color photograph in JPG format, sent as an attachment to an e-mail. The photo format must be JPG, no other types of files or format can be accepted. Additionally please note that photos taken directly off a website are of very poor quality and normally unusable.

Involved yet?
continued from page 4


Proceeds from the event are used to fund YLD programs, including the Domestic Violence Committee's Necessities Drive and Law Week, during which time volunteers provide free legal services to the community and educate the community on the legal system.

Not only is the Race a great charitable project that any young lawyer would be proud to be a part of but it provides a great day of fun for the legal community.

Race Judicata is one of the major fundraisers for the operations of the MCBA YLD. Additionally, Race Judicata will help improve the skills of any young lawyer who is involved on the committee because it involves networking with major donors around the Phoenix metropolitan area, organizing a major charitable race, working on real-world business skills, marketing a major event, and coordinating with other committee members.

If you are interested, please contact Committee Chair, Kiernan Curley at kiernan.curley@azar.org for more information.

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Dr. Esplin's testimony to "make a legally adequate determination" that the testimony proffered is admissible under Daubert by the court.

The majority feared, as it is anticipated to either be "an enlightening step forward in the way the law uses science or a stumble backward." Either way, one thing is certain, innovative scientific theories, like that of Galileo, will no longer be overlooked only to be praised years later for their groundbreaking ideologies. Instead, Arizona courts are now required to at least consider even the most radical conjecture advanced by many modern-day Galileos, which may subsequently be found to be revolutionary.

Emily Pokora is an attorney at Jennings, Haug and Cunningham, LLP and practices in the areas of business litigation, medical malpractice litigation, insurance coverage, and insurance defense litigation. She is a graduate of Arizona State University with a Bachelor's in finance and marketing and earned her JD from the University of St. Thomas School of Law.

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Involved yet? continued from page 4

at Kiwanis Park in Tempe on Oct. 7, 2012. Proceeds from the event are used to fund YLD programs, including the Domestic Violence Committee's Necessities Drive and Law Week, during which time volunteers provide free legal services to the community and educate the community on the legal system.

Not only is the Race a great charitable project that any young lawyer would be proud to be a part of but it provides a great day of fun for the legal community. The

Chapter 21 attorneys and former judges have been recognized as Charter Members of the AZ Chapter, including the state’s most widely-accepted civil trial ADR professionals as soiled by litigation firms. For the benefit of litigation attorneys and support staff, our members are publishing their calendars online, please visit www.NADN.org/ARIZONA to check members’ profiles and available dates in seconds, at no cost. For complete election information, go to www.NADN.org/about or call 813-608-3678.

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Upheld or not? Critiquing the media's coverage of SB 1070’s “show-me-your-papers” provision

CourtWatch: continued from page 1

aliens. He pointed to two sources for this power, one express, one implied. The first is the government’s Article I of the Constitution to “establish an uniform Rule of Naturalization.” The second is the federal government’s “inherent power as a sovereign to control and conduct relations with foreign nations.”

Roberts noted that to determine immigration policy is well settled, Roberts wrote. “Immigration policy can affect trade, investment, tourism, and diplomatic relations for the entire Nation, as well as the perceptions and expectations of aliens in this country who seek the full protection of its laws.”

For foreign countries concerned about the status, safety, and security of their nationals in this country, Roberts called it fundamentally important that they “be able to confer and communicate on this subject with one national sovereign, not the 50 separate States.” In accordance with its extensive power, Roberts noted, “Federal governance of immigration and alien status is extensive and complex.”

Notwithstanding, Arizona has an extensive interest in the subject. “Arizona bears many of the consequences of unlawful immigration. Hundreds of thousands of deportable aliens are apprehended in Arizona each year,” Roberts wrote. “The problems posed to the State by illegal immigration must not be underestimated.”

Against this background, Roberts measured Arizona’s ability to legislate in the immigration field. He didn’t find much room for the State.

Section 3

Roberts first addressed § 3, which makes it an Arizona misdemeanor to willfully violate federal law by failing to “complete or carry an alien registration document.” As Roberts put it, this section essentially “adds a state-law penalty for conduct proscribed by federal law.”

And that description essentially doomed the provision. Roberts concluded that “a alien registration is a field that the national government has completely occupied.” The federal statutory directives provide a full set of standards governing alien registration, he wrote, “including the punishment for noncompliance.”

“If §3 of the Arizona statute were valid,” Roberts wrote, “every State could give itself independent authority to prosecute federal registration violations.” This would diminish federal control over immigration enforcement and would detract from the integrated scheme of federal regulation.

Roberts concluded that § 5(C) “stands as an obstacle to the accomplishment and execution of full purposes and objectives” behind IRCA. It would, he concluded, “interfere with the careful balance struck by Congress with respect to unauthorized employment of aliens.” Section 5(C), he decided, “is an obstacle to the regulatory system Congress chose” and is therefore preempted.

Section 6

Next on the agenda was § 6, under which officers may arrest a person without a warrant if they have probable cause to believe that he has committed any public offense that makes [him] removable from the United States.” Roberts noted that federal law generally imposes criminal consequences on removable aliens who remain in the country. Instead, they are required to appear at a civil removal hearing. Consequently, there is no predicate for arresting a person “based on nothing more than possible removability.”

Federal arrest warrants may be issued in two circumstances. First, the Attorney General has the discretion to issue a warrant for the alien’s arrest and detention pending the removal proceedings. And after the hearing, the Attorney General will issue a warrant if removal has been ordered. “In both instances,” Roberts wrote, “the warrants are executed by federal officers who have received training in the enforcement of immigration law.” When no warrant has been issued, officials may arrest the alien only if he “is likely to escape before a warrant can be obtained.”

Section 6, Roberts wrote, “attempts to provide state officers even greater authority to arrest aliens on the basis of possible removability than Congress has given to trained federal immigration officers.” This, he noted, “would allow the State to achieve its own immigration policy.” Allowing Arizona to do so could result in “unnecessary harassment of some aliens (for instance, a veteran, college student, or someone assisting with a criminal investigation) whom federal officials determine should not be removed.”

This is not the system Congress created,” Roberts continued. He noted that federal law allows state officers to perform the functions of an immigration officer, but mostly only under agreements with the Attorney General. These agreements require certification that local officers have received adequate training in federal immigration-law enforcement.

By authorizing state officers to decide whether an alien should be detained for being removable,” Roberts ruled, “§6 violates the principle that the removal process is entrusted to the discretion of the federal Government.”

“Decisions of this nature,” he continued, “touch on foreign relations and must be made with one voice.”

Section 6, he concluded, “creates an obstacle to the full purposes and objectives of Congress,” it is therefore preempted by federal law, he held.

Section 2(B): “Show me your papers”

Roberts turned finally to § 2(B), which requires officers to try to determine the immigration status of any person they stop, detain, or arrest if “reasonable suspicion exists that the person is an alien and is unlawfully present in the United States.” It also provides that “[a]ny person who is arrested shall have the person’s immigration status determined before the person is released.” These status checks are made by ICE—Immigration and Customs Enforcement—which maintains an immigration database.

If the person under suspicion presents a valid driver’s license or other valid identification, he or she is presumed not to be an unlawfully present alien. Section 2(B) bars officers from considering race, color, or national origin in making their determinations.

Roberts noted that consultation between the different levels of government is an integral part of the national immigration system. Congress has encouraged intergovernmental consultation and formal agreements before state and local authorities may report to the federal government. Furthermore, ICE must respond to requests for immigration status. Roberts noted that the federal government’s contention that § 2(B)’s mandatory immigration checks interfere with the federal scheme. Congress, he noted, has encouraged intergovernmental sharing of immigration information. A federal statute even provides that state and local governments may not be precluded from communicating with ICE about aliens’ immigration status.

The federal scheme thus leaves room, he concluded, “for a policy requiring the officials to contact ICE as a routine matter.” But he didn’t definitively rule on the provision’s validity, one way or the other.

Roberts stated that “[d]etaining individuals solely to verify their immigration status would raise constitutional concerns.” It would also “disrupt the federal framework to put state officers in the position of holding aliens in custody for possible unlawful presence without federal direction and supervision.” The program Congress created, he noted, “does not allow state or local officers to adopt this enforcement mechanism.”

However, according to Roberts, the provision could be interpreted to allow these considerations. He essentially challenged the Arizona courts to ensure the provision’s validity by narrowly construing it. He posed the example of someone stopped for jaywalking and “unable to produce identification.” Under §2(B), officers would have to make a “reasonable” attempt to verify this immigration status with ICE. “The state courts,” Roberts wrote, “may conclude that, unless the person continues to be suspected of some crime for which he may be detained by state officers, it would not be reasonable to prolong the stop for the immigration inquiry.”

He also hypothesized a person arrested for drunk driving. “State courts,” he surmised, might read §2(B) “as an instruction to initiate a status check every time someone is arrested, or in some subset of those cases, rather than as a command that an officer under these circumstances complete no matter the circumstances.”

“Even if the law were interpreted as instructing officers to complete a check while the person is in custody, he wrote, “it is not clear at this stage and, as the provision’s certification work is complete no matter the circumstances.”

“the Supreme Court rejected the district court’s basis for enjoining § 2(B). But it did not thereby rule that the provision is valid in the face of by federal immigration law. And it specifically warned that the provision faces serious constitutional questions.”

Roberts declined to rule on the provision, stating that “there is no need in this case to address whether reasonable suspicion of illegal entry or another immigration crime would be a legitimate basis for prolonging a detention, or whether this too would be preempted by federal law. At this stage,” he continued, “without the benefit of a definitive interpretation from the state courts, it would be inappropriate to assume §2(B) will be construed in a way that creates a conflict with federal law.”

As a result, the district court’s injunction against § 2(B)’s enforcement could not be sustained. But Roberts cautioned that the opinion “does not foreclose other preemption and constitutional challenges to the law as interpreted and applied after it goes into effect.”

Did the Supreme Court uphold § 2(B)?

According to my Random House Dictionary, “uphold” means “to support or defend, as against opposition or criticism.” The high court upheld the lower court’s judgment of the case.

In Arizona v. United States, the high court clearly did not uphold the lower court’s decision striking down § 2(B).

The judgment that struck down a law is not the same as affirming that law. The Supreme Court rejected the district court’s basis for enjoining § 2(B). But it did not thereby rule that the provision is valid in the face of by federal immigration law. And it specifically warned that the provision faces serious constitutional questions.

And that’s not the same as upholding SB 1070’s “show me your papers” provision, is it?
New hires

Attorney Jami Cornish has joined the Diane Haller Center for Family Justice at the Sandra Day O’Connor College of Law at ASU as the family law supervising attorney, a new position in the center. Cornish has a long and distinguished career as an attorney, advocate and case manager for victims of domestic violence and sexual assault. Previously she worked at Community Legal Services where she served as a senior staff attorney providing pro bono direct representation, legal advice and document preparation to a diverse population of domestic violence victims, parents of abused children and other low-income individuals litigating family court cases with complex custody issues such as interstate and international child abduction. Earlier in her career, Cornish worked as a case manager for domestic violence shelters arranging temporary emergency shelter for domestic violence victims and their children, providing crisis counseling and other services.

Sanders & Parks, PC, announces the recent hiring of Megan Evans. Evans, a 2011 cum laude graduate of the Sandra Day O’Connor College of Law at Arizona State University, will work in the firm’s medical malpractice and general civil litigation practice groups.

Recognition

Nicole France Stanton, a partner at Quarles & Brady LLP, was recently recognized and honored by three Arizona organizations for her contributions in the Arizona community. The AGUILA Youth Leadership Institute, a college access program for Latino/Latina youth, appointed Stanton to its board in recognition of her dedication to academic, personal and professional success, recognized Stanton on May 25 at its “ Fulfilling Arizona’s Destiny” luncheon for her work on anti-bullying and support of the AGUILA program. In June, Stanton received the “Emerging Star” award from Emerge Arizona, a political leadership training program that works to identify, educate and inspire politically motivated women who want to pursue a career at the local and state level in Arizona. Stanton is a member of the firm’s commercial litigation group. Her experience includes the defense of an accounting and benefits consulting firm against professional liability claims brought by trustee and pension plans, the defense of local and national law firms in legal malpractice actions, and assisting in the defense of a telecommunications provider against alleged violating of the Arizona Consumer Fraud Act. She earned her law degree, magna cum laude, from the University of Arizona and her Bachelors degree from the University of Utah.

Appointments

Debora Verdier, an attorney at Sanders & Parks, PC, has been appointed to the International Bar Association’s Commission on Defensive Counseling. Verdier is a shareholder and director in the firm. She is a 1997 graduate from the Sandra Day O’Connor College of Law at Arizona State University. Her practice includes handling antitrust, copyright and healthcare reimbursement litigation.

Gust Rosenfeldt announces that Timothy A. Straton is recently appointed chairman of the City of Scottsdale Board of Adjustment. Straton focuses his practice on public finance and municipal law. He represents colleges and universities, special districts, cities, towns and other units of local government in Arizona and Illinois in all matters related to the issuance of municipal securities. Straton also maintains an active practice as underwriter and disclosure counsel on publicly offered debt issues.

Promotions

Burch & Craigchiu, PA announces that Melissa G. Iyer has been named shareholder. Iyer has been practicing with Burch & Craigchiu since 2006 and has represented a number of governmental institutions and their elected officials including the Maricopa County Attorney’s Office, the Maricopa County Sheriff’s Office, the Superintendent of Public Instruction, and the State of Arizona in a number of high-profile cases involving a range of issues. Iyer’s practice also emphasizes business litigation wherein she has represented numerous clients in matters involving a myriad of legal issues pertaining to contracts, securities, employment, and fiduciary responsibilities. Iyer earned her JD, cum laude, from Southern Methodist University Dedman School of Law in 2006 and her B.A. from Northwestern University in Texas in 2002. She serves on the board of the American Bar Association’s Women’s Leadership Forum and The Beatitude Anglican Program.

Dean Douglas Sylvester has promoted three faculty members at the Sandra Day O’Connor College of Law at Arizona State University to associate deans to help advance the law school’s upward trajectory in teaching, scholarship, research and new projects.

Prof. Mary Sigler will become associate dean for faculty, a new position that entails assisting the administration in directing faculty research grants, conference planning and travel requests. Sigler, who joined the College of Law in 2003, teaches criminal law, jurisprudence and topics in moral and political theory and her interests lie at the intersection of legal, moral and political philosophy.

Prof. Zachary Kramer will be the associate dean for intellectual life. In this role, Kramer, who joined the faculty in 2010, will oversee junior faculty mentoring, institutional conferences, retreats and media. His teaching and research are concentrated on employment law, antidiscrimination law, law and sexuality and work/family issues.

Prof. Adam Chadower was appointed associate dean for innovative ventures, a position focused on the launch of new programs at the law school. Initially, Chadower will concentrate on establishing a law school-affiliated, nonprofit law firm, modeled loosely on medical residency programs. The firm will train recent graduates in the practical aspects of lawyering, while providing low-cost, high-quality legal services to those who may not otherwise be able to afford legal representation. Chadower has been on the faculty since 2004, and is the faculty editor of Jurimetrics, Journal of Law, Science, and Technology, and a faculty fellow in the College of Law’s Center for Law, Science & Innovation. His teaching and research interests lie in tax, business and regulatory law. He chairs the Teaching Tax Committee of the ABA Tax Section.

Elections

Lewis and Roca LLP announces that Scott Brown has been named chair-elect of the State Bar of Arizona Bankruptcy Section. He will be the chair-elect for 2012-2013 and has been a member of the State Bar of Arizona Bankruptcy Section since 2001. Brown is a partner in the firm’s Bankruptcy and Creditors’ Rights group and the Commercial Litigation group. He practices primarily in the area of bankruptcy and creditors’ rights, but devotes a significant amount of his time to commercial litigation, pre-bankruptcy workouts, and collections. He also represents both secured and unsecured creditors, as well as trustees, committees and debtors in all aspects of Chapter 11 bankruptcy cases, including workouts and litigation.

Bulletin Board Policy

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

Attorney, Riccio, helps clients

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mom because she had no money to afford an attorney and she desperately needed one." The combination of his heritage and experience may not seem particularly unique. But, like everyone, Riccio has integrated them into forming a uniquely individual approach to life. It is an approach that is founded on empathy and service to others. Riccio reflects on the encouragement he received to make it to the point he is at today. As part of his everyday practice, "Retired Justice of the Peace Don Weisenberger tells me never to forget to take volunteer cases so I don’t lose perspective."
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