County’s top court administrator resigns

Griller served court 16 years with ‘grace and distinction’

By Teena Booth
Maricopa Lawyer

ack in 1987, when Maricopa County Superior Court Presiding Judge B. Michael Dann put the word out that he needed a new court administrator, the announcement was preceded by the court’s reputation.

As far away as Minnesota, Gordon Griller, then the court administrator of Hennepin County, had heard “wonderful things” about the Superior Court in Phoenix and its development of modern techniques of case management.

Griller applied, was hired, and so began what he calls his “wild west adventure.” That adventure will change directions on Aug. 31 when Griller resigns as the administrator of Maricopa County’s trial courts.

“Gordy has served the court with grace and distinction for 16 years,” said Presiding Judge Colín Campbell. “He has served under four presiding judges, and worked with more supervisors from the Board of Supervisors than I care to count.” Meanwhile, Campbell added, the court has “nearly doubled in size... and grown two regional courts in the south-east and northwest.”

During Griller’s tenure, the national reputation of the Maricopa County court was further polished and refined, leading to a number of awards, including the American Bar Association’s Louis Brown Award for Legal Access. Griller also led the push to bring technology to the court, bringing dramatic improvement to the court’s ability to process and track cases.

“When I first arrived here, all the case information was handwritten on color-coded cards that were filed away in a room,” Griller recalled. “Every few months we’d count up the green cards and the blue cards and that’s how we kept statistics.”

Today the court boasts a state-of-the-art computer network that allows for a sophisticated case management system, augmented by the court’s 50 electronic courtrooms full of high-tech equipment.

Campbell acknowledged the sweeping changes ushered into the court by Griller as well as the challenges encountered in these past “extraordinary” years.

Court warns U.S. government lawyer on limits of zealous advocacy

Transferred intent misses mark

By Daniel P. Schaack
Maricopa Lawyer

n a recent appearance in the Valley, comedian Mario Joyner told a story about a man who was shot nine times and survived.

Joyner was troubled that some people called the guy lucky. Would you feel lucky, he asked, after having been shot nine times?

Jose Aguado Cervantes, a 67-year-old Mexican national, recently suffered mightily at the hands of the U.S. justice system. Like the man in Joyner’s story, Cervantes eventually prevailed, but one could question whether he considers himself lucky.

Cervantes’ bad luck started when he bought a car at an auction of the U.S. Marshals Service. Four months earlier, the car had been seized for smuggling undocumented aliens into the country.

Unbeknownst to Cervantes, 17 pounds of marijuana were secreted in the car’s bumper. Neither the Marshals nor the Immigration and Naturalization Service had properly searched the vehicle.

Cervantes remained ignorant of the dope he was transporting until U.S. Customs agents discovered it as he attempted to cross the border. His plea of ignorance went unheeded. He was arrested and incarcerated for drug smuggling.

Cervantes spent three and one-half months in prison until the United States dismissed the charges, having realized that it had failed to remove the marijuana when the car was seized. Cervantes sued the United States under the Federal Tort Claims Act, raising claims of false arrest, false imprisonment, and negligence. The district court ruled in favor of the U.S.

On appeal, the Ninth Circuit Court affirmed the dismissal of the false arrest and imprisonment claims. It held that the presence of drugs in the bumper of Cervantes’ car gave the Customs agents probable cause to arrest him. Cervantes v. United States, No. 01-56929 (9th Cir. June 2, 2003).

MARICOPA Lawyer
www.maricopabar.org July 2003

Volume Two of the Arizona Legislative Service contains the first 52 enactments of the first regular session of the 46th Legislature. Some of the more interesting enactments:

➤ A motor vehicle manipulation key (also called a jiggle key) or a master key is now specifically identified as a burglary tool if not possessed as part of a lawful business. (Chapter 39)

➤ Prior felony convictions are used to increase the potential sentencing range after a conviction. Priors are generally valid for 10 years for class 2 or 3 felonies and five years for class 4, 5 and 6 felonies. Time spent incarcerated is excluded from the five and 10 year periods. Time spent on probation and time during “abscon- der” status also is excluded. (Chapter 11)

➤ After January 1, 2004, all persons convicted of a felony are required to provide a bodily substance for the extraction of DNA information by the Arizona Department of Public Safety. (Chapter 12)

— See Update on page 10

We’re taking a break! No August issue

Maricopa Lawyer will follow the example of many Maricopa County attorneys and take a short break in the month of August.

Look for your next issue in September.

JULY 2003

Is spam getting to you? Woody tells you how to ‘quirt’ those annoying e-mails. Page 5

Family court gets some respect More judicial resources and new programs raising status of Family Court. Page 7

Put your swing to good use The Maricopa County Bar Foundation is taking registrations for the 2003 Pro Bono Golf Classic to benefit VLP. Page 6
Stress relieving strategies deserve your attention

S

stress is a big deal. I did not appreciate just how big of a deal it is until I started conducting research for this column. I plugged the phrase “stress management” into Google.com and the search engine returned 2.5 million results. Yes, 2.5 million!

Like any good young lawyer, I studied all the available data on this popular topic. Okay, I didn’t study all the data, that would have been too stressful. I did, however, read a great deal of the material on the subject and learned a few lessons in the process.

To begin, I learned that there are a significant number of stressed-out people in the world. I already knew lawyers are stressed, but I never appreciated the stress levels experienced in the non-legal world. However, this fact brings me little consolation because my guess is that new lawyers are among the most-stressed of the entire stressed population. I also confirmed my understanding that mental and physical health problems can arise when a person suffers from too much immediate stress or experiences stress over a prolonged period of time. Insomnia, depression, unhealthy addictions, anxiety, and agitation are just a few of the consequences. Again, I found this disheartening because many junior lawyers work under the double-whammy of heightened short-term stress and prolonged stress.

The many publications targeted at helping lawyers deal with stress provide coping strategies. These strategies are good advice and they are commonly presented in short phrases in a list format. The most common strategies include taking time out for yourself to relax, exercising regularly, getting a full eight hours of sleep each night, eating three meals a day, learning to say “no” to avoid taking on too many commitments, setting reasonable goals for yourself, and focusing on what you actually can control in your professional and personal life. This list of well-known coping strategies is so consistent that it almost appears to have been cut and pasted from one article to the next.

As I read the list for the hundredth time (an exaggeration, but it sure did feel that way), I realized the list has become so generic that it actually may detract from the effectiveness of the message. Advice repeated too often becomes meaningless phrases easily glanced over.

My intent is not to belittle the helpful advice contained on the list. On the contrary, I believe the strategies for coping with stress are not only helpful but vitally important. We live in a stressful world, and work in stressful environments. After a while, the constant tension can begin to feel normal, particularly when people around you are equally stressed. It is analogous to drinking the recommended daily dose of water; by the time you realize you are thirsty, your body already is suffering the effects of dehydration. By the time you realize you may be suffering from stress, your body is already experiencing the negative effects.

If you are aware that you will suffer from stress at various points throughout your life, you can take action now. And the next time you see a list that provides helpful advice for practicing stress prevention and coping techniques, ask yourself if you are practicing these techniques now. If the answer is no, commit yourself to making some of those techniques part of your daily routine. By incorporating stress management strategies into your life at times of little stress, you place yourself in a better position to reduce the negative effects you could suffer at a time when you are feeling overwhelmed.

Correction

Last month’s CourtyWatch column incorrectly stated that Judge Daniel A. Barker dissented in State v. Sanders, No. 1 CA-CR 00-0332 (Ariz. App. May 13, 2003). In fact, Judge Philip Hall authored the dissent. Maricopa Lawyer regrets the error.
Arizona Supreme Court approves ‘historic’ amendments to governing rules

“A historic and significant change,” is how Arizona Supreme Court Chief Justice Charles E. Jones characterized a one-word change in the Arizona Rules of Professional Conduct which will change the definition of what it means to be an attorney in Arizona.

Judicial nominees submitted to governor

The Maricopa County Commission on Trial Court Appointments has recommended candidates to Gov. Janet Napolitano for two vacancies on the Maricopa County Superior Court. Nominees for the vacancy created by Judge Roger Kaufman’s retirement are George H. Foster Jr., 49, a Democrat, a commissioner of the court; Kristin C. Hoffman, 54, Republican, a hearing officer of the court; Marc Kalish, 55, Democrat, with the firm Meyer, Hendricks & Bivens; Michael W. Kemp, 44, Democrat, Assistant United States Attorney, J. Wayne Turley, 52, Republican, a partner with Martinez Turley & Johnson; and Robert J. Weber, 58, Republican, an attorney in private practice.

Nominees for the vacancy created by Judge Maurice Portley’s appointment to the Court of Appeals are James W. Evans, 52, Democrat, a partner with Holloway, Odegard, Sweeney & Evans; Kristin C. Hoffman, 54, Republican, a hearing officer of the court; John C. Rea, 51, Democrat, vice-chief staff attorney for the Arizona Supreme Court; Peter B. Swann, 37, Democrat, a partner with Steptoe & Johnson; J. Wayne Turley, 52, Republican, a partner with Martinez Turley & Johnson; and Robert J. Weber, 58, Republican, an attorney in private practice.

Napolitano will make the appointments.

Court of Appeals taking applications

Applications are being accepted for a vacancy created on Division One of the Arizona Court of Appeals by the June 30 retirement of Judge Cecil Patterson.

The Commission on Appellate Court Appointments will review applications, interview selected applicants and recommend at least three nominees to Gov. Napolitano.

Applicants must be admitted to practice law in Arizona, a resident of the state for the past five years, under the age of 65 at the time the nomination is sent to the governor, and a resident of Apache, Coconino, La Paz, Maricopa, Mohave, Navajo, Yavapai, or Yuma counties for the past three years.

Applications may be obtained by calling (602) 542-9311 or at the Judicial Department web site: www.supreme.state.az.us/hr (Judicial Vacancies). Applicants for the recent Division One vacancies will be considered for the new opening and do not need to re-apply.

The original complete application and 16 copies must be returned to the Administrative Office of the Courts, Human Resources Division, 1501 W. Washington, Suite 227, Phoenix, by 3:00 p.m. on July 22, 2003.
Continued from page 1

However, the court reversed the dismissal of the common-law negligence claim, pointing to Cervantes’ continued suffering at the hands of the government. Circuit Judge Kim McLane Wardlaw laid waste to the government’s argument that the Tort Claims Act did not apply because of a rule that made it inapplicable to the detention of any goods by a Customs officer, the detention being the original seizure of the car. “Although rare,” she wrote, “on occasion, we see arguments that simply fail the straight-face test.” The government’s detention-of-goods argument was “patently without merit.”

Wardlaw held that Cervantes’ claim did not arise out of the government’s detention of the automobile. Rather, it arose out of the car’s subsequent sale: “The negligent act was the government’s decision to sell the car without first inspecting it, an independent and intervening event from the detention itself.”

“The plain text of the statute,” Wardlaw wrote, “says the claim must relate to the detention, not to any activity that happened to involve a once-detained item.”

Wardlaw did not mince words in taking the government to task for its position. “In assessing whether detention of goods was applicable to the detention of any goods by a Customs officer, the detention being the original seizure of the car’s occupants, were being cooperative. Without warning, Johnson—who was standing over 100 yards away—aimed a 30.06 rifle and fired a single shot, striking one of the officers in the leg and inflicting serious, permanent injuries. Johnson was convicted of aggravated assault on the bystanders on the theory that his intent to assault the officer transferred to the bystanders.

Two Phoenix police officers had stopped a car in a residential neighborhood. Onlookers from a nearby house gathered as the officers questioned the car’s occupants. All involved, including the car’s occupants, were being cooperative. Without warning, Johnson—who was standing over 100 yards away—aimed a 30.06 rifle and fired a single shot, striking one of the officers in the leg and inflicting serious, permanent injuries. Johnson was convicted of aggravated assault on the police officer as well as aggravated assault on civilians bystanders on the theory that his intent to assault the officer transferred to the bystanders.

Early registration fees: MCBA Paralegal Division Member $150.00 Non-Member $175.00 Student $50.00 Registrations received after August 1st and at-the-door will be assessed a $25 late fee—students excepted.

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The Convention Center is the building to the west of the registration lobby.
Room Rate $145. Reservations 1-800-876-4083.
Ask for MCBA Room Rate. Reservations must be made by September 6th.

EARLY Registration Fees:

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Register online: www.maricopabar.org

Late Fee required for all registrations after August 1, 2003 and at the door registrations. Students are exempt from the late registration fee.

All reservations must be cancelled by September 10th to receive credit. Thank you!

For more information, contact Bonnie R. Glass at 602-257-4200 ext. 138.

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A few years ago, I watched an interview with Bill Gates and Andy Grove, two of the most influential leaders of the digital revolution. When asked about the most important contribution of digital technology, they both agreed that e-mail was at the top of the list. They also agreed that out of the many technologies that have changed our lives over the last twenty years, the one they could not live without was e-mail.

Although the interview took place ten years ago, I’m certain that if you were to bring Gates and Grove together again they would confirm that e-mail still is the most important tool they rely on for running their businesses. However, they also would likely add that e-mail has become a terrible burden because of a little problem we call spam (stupid pointless annoying messages).

Some of you may remember a controversy that arose about ten years ago when Phoenix lawyers Lawrence Cantor and Martha Siegel sent out a mass e-mail advertising their immigration practice. The use of the Internet for commercial purposes created a huge outcry amongst listserv techies and old school purists who were the major users of the Internet and its complicated e-mail systems. The thrust of the outcry was that the Internet was not a place for the crass purposes of commercial advertising. Yet only a few years ago Cantor and Siegel shocked the Internet community, the development of browser technology allowed even the most technically unsophisticated users to get on the Internet. Today, the phenomenal growth of the Internet is equally matched by the technically unsophisticated spam on the Internet have been published. When you have pre-approved to get their mail from that sender. Indeed, it can be impossible to discover the server from which the spam has been sent because spammers are very clever and continually change e-mail addresses from one server to another.

In short, there is no easy answer to spam. The best answer I have found for now is a product called Qurb. Unfortunately, it works only with Outlook 2000 and above. But since most of the world now uses one of the recent versions of Outlook it is beginning to have an impact. For the individual user, Qurb works like a charm.

Qurb automatically builds its white list of approved senders by initially approving all the addresses contained in your contacts list as well as all of the addresses to which you have sent e-mail. It also can pre-approve all the e-mail you have received and have saved. In my case, the initial white list developed by Qurb for me contained about 11,000 e-mail addresses. Most of those e-mail addresses are from spammers, but since spammers constantly change their address-

es, the old spam addresses that found their way onto my white list don’t cause a problem. And, unlike other white list programs, Qurb puts all messages from unapproved senders in a special folder and notifies you when it has done so. Your only task is to scan the folder and mark the addresses you would like added to your white list. A single click moves them to your list and you can then delete the remaining e-mails in that folder.

While Qurb does allow you to blacklist certain addresses with a click of the “blacklist button,” there is a better good in regard to the worst kind of spammers. Most spammers soon move on to a new e-mail address, so blacklisting doesn’t do much. On the other hand, adding addresses from the Qurb folder to your approved list is very easy to do. That is really all you need to do to keep your e-mail flowing.

While Qurb only works on your desktop or laptop computer, they’re now developing a program for Outlook Express and a server-based product as well. I will let you know when that happens. In the meantime, you may download a free trial product from www.qurb.com or buy the full product for only $24.95.

Don’t Play Around When It Comes To Immigration Law

Winton Woods is a lawyer, professor at the University of Arizona College of Law and the founder of Qurb. Unfortunately, it works only with Outlook 2000 and above. But since most of the world now uses one of the recent versions of Outlook it is beginning to have an impact. For the individual user, Qurb works like a charm.

Gates and Grove together again they would agree that out of the many technologies that have changed our lives over the last twenty years, e-mail was at the top of the list. They also agreed that the use of intelligent systems becomes a constant game of catch up that never ends. While the technical staff’s efforts have reduced the amount of spam we receive, plenty still gets through.

Black lists that attempt to block e-mail coming from particular servers have caused huge problems. Legitimate servers can be commandeered by spammers, resulting in unwelcome placement on a black list. Once a few years ago a hacker invaded the law college’s mail server and started sending spam from it. The server was blacklisted and for several days all college e-mail was interrupted because the “block list” barred all e-mail from our server without regard to the actual person sending it. Indeed, it can be impossible to discover the server from which the spam has been sent because spammers are very clever and continually change e-mail addresses from one server to another.

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2003 Pro Bono Golf Classic tempts golfers of all levels

By Shane Clays
Foundation Director

“"When I'm on a golf course and it starts to rain and lightning, I hold up my one iron, 'cause I know even God can't hit a one iron."
—Lee Trevino

Who could say it better than Lee Trevino? Even for the pros, golf is one of the world’s most challenging, frustrating and fun games in existence. Each year, some of the Valley’s best “weekend hacks” “sandbaggers” and “polished golfers” sign up to play the Maricopa County Bar Foundation Pro Bono Golf Classic. This year’s classic is scheduled for September 13, 2003, at Westin Kierland Resort & Spa.

Proceeds from the event will benefit the Volunteer Lawyers Program (VLP), which provides legal aid to low-income clients. The mission of the foundation, a 501(c)(3) non-profit corporation since 1983, focuses on programs that relate to the administration of justice; ethics in the legal profession; legal assistance for the needy; the encouragement of legal research, publications and forums; and the education of the public. The VLP fits well within this mission.

“We’re very pleased the program was chosen as the beneficiary of this year’s tournament,” said Pat Gerrich, VLP Director. “This support will make it possible for VLP to help more children who need guardians ad litem in family court, domestic violence victims, grandparents caring for their grandchildren, senior citizens, consumers, and others who would not otherwise have access to legal assistance.”

John Hendricks, co-chair of the golf tournament committee, also noted the importance of the tournament to the foundation’s yearly fundraising efforts. “For more than 15 years, our annual golf classic has been one of the primary sources of funding for the foundation and its grants program,” he said. “If it wasn’t for the generosity of the attorneys who come out and play at this event, the grants we give each year and the impact we have in the community would be greatly diminished.”

Golfers will be treated to breakfast before a morning of golf on the Kierland course, regarded as one of the most beautiful golf courses in Arizona. Lunch will follow along with a raffle drawing. Last year, raffle winners walked away with prizes such as DVD players, Ping golf clubs and gift certificates to local restaurants.

“It’s easy to tell that people truly enjoy this event from the atmosphere during the tournament,” said Pat Fowler, also a co-chair of the tournament committee. “There’s a lot of laughing and ribbing going on, so it’s a lot of fun. Golfers get a chance to play on a great course, enjoy a wonderful lunch and the opportunity to win some great prizes, all while supporting an important charitable cause.”

Golfers who register before August 1 qualify for the early bird registration fee of $160. After August 1, registration is $185 per golfer. Single golfers as well as foursomes are welcome. Non-golfers who are interested in supporting the VLP are encouraged to register in a phantom foursome for $100. Tournament sponsorships also are available.

Please note: we have listened to your feedback and there will not be any CLE at this year’s event. For more information or to register for golf, please visit us online at www.maricopabar.org/foundation or call Shane Clays at 602-257-4200.

Complete the registration form below and please print clearly.

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Firm __________________________
Address ________________________
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Please pair me with (each golfer must be registered):
1. ______________________________ 3. ______________________________
2. ______________________________ 4. ______________________________

☐ I will not be golfing, but would like to join the Phantom Foursome for $100.00 (those who join the Phantom Foursome will have their names listed in the Maricopa Lawyer)

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For more details, call 602-257-4200 ext. 111 or log on to www.maricopabar.org/foundation
Family Court growing rich in judicial resources, new programs

By Teena Booth

Not long ago, Family Court was perceived as the “stepchild” of the court system, at least according to the court’s presiding judge, Mark W. Armstrong. Many judges viewed it as an unpopular assignment, in part because of heavy caseloads.

“That’s not the case anymore,” Armstrong said. “The status of Family Court has improved. And the primary reason for that is the increase in judicial resources. Over the last few years, we’ve increased the number of judicial officers by 50 percent. We now have 32 judicial officers, which brings us very close to our goal of having one Family Court judge per 100,000 people in the county.”

Since 1996, the court’s case filings have remained at about 30,000 per year. More judges means cases are heard more quickly and the judges may spend more time on each case.

Family Court judges also are gaining the advantages of new technology. Soon, computers will be installed on the bench in each courtroom, allowing judges to calculate child support or prepare orders of protection at the bench.

Yet even with such dramatic improvements, a Family Court assignment still holds challenges.

“Family Court is different from other courts in that it is multi-disciplinary,” Armstrong said. “These judges not only have to know the law; they have to understand human relationships and child psychology and the many different emotional aspects that can play into a case. They have to delve into what is most private, and most personal for any family.”

“Ultimately, it’s an internal judicial leadership decision,” he added. “And with the commitment of Judge Campbell and myself, you will continue to see this court working to improve the family court in Maricopa County.”

Three of the seven judges newly assigned to Maricopa County Family Court met with the MCBA Family Law Section on June 4. Judge Cari Harrison, who rotated from Civil Court, was joined by recently appointed judges Larry D. Grant and Harriett Chavez in addressing 60 members of the Family Law Section. Family Court Presiding Judge Mark W. Armstrong introduced the judges and noted their enthusiasm for their new assignment.

“Of course, just because we call them our ‘new’ judges doesn’t mean they are inexperienced,” he said. “These are well-educated professionals with entire successful legal careers to draw from.”

Harrison acknowledged that other judges had told her that “Family Court is the hardest assignment on staff.” But after two years on Civil Court, she said she is looking forward to the challenge. She also remarked on “excellent and sometimes overwhelming training” given to the new judges by the court.

Grant started by saying he welcomed the assignment. “I believe that dealing with issues of family impacts what goes on in our community,” he said. “I am looking forward to this opportunity more than you will ever realize.”

Chavez also emphasized the training received by the judges.

“This is one of the best trainings I’ve had in 12 years,” she said. She continued with a promise to run an efficient calendar and remain open to “talking” with family law attorneys.

All three judges stressed the importance of mutual respect between bench and bar in the courtroom.

“ Civility should be a watchword,” Grant said. “In these cases, the issues are very contentious. Parties are usually very upset. Sometimes we will have to agree to disagree.”

Chavez will be assuming a northwest facility calendar, while Judge Mark Santana has joined Grant and Harrison downtown. Judges Penny Willrich, Connie Contes, and Linda Aker are the new Family Court judges at the southeast facility.
**LEGAL BRIEFS**

El Mirage and Glendale courts win back control

The Arizona State Supreme Court recently returned administrative control of the El Mirage and Glendale municipal courts to their respective presiding judges. In 2001, the court ordered supervision of a number of limited jurisdiction courts to be assumed by Maricopa County Superior Court Presiding Judge Colin Campbell until operational problems were corrected. In the Supreme Court’s opinion, the El Mirage and Glendale courts now have corrected their deficiencies.

Proposed rule change would clarify jurisdiction issues

The State Bar’s Task Force on Multijurisdictional Practice has written a proposal to change Rules 5.5 and 8.5, which deal with the practice of law in Arizona by lawyers admitted in other jurisdictions.

“Changes these will make it easier for lawyers to represent clients whe the client’s needs are, while providing a means for state bar authorities to discipline lawyers who are not members of that bar but whose conduct occurs in their state,” explained Myles Lynk, co-chair of the task force and recipient of an Award of Appreciation from the State Bar for outstanding service in that role.

The proposed amendments would permit limited forms of legal practice in Arizona who are admitted in other states but not in Arizona, and allow for greater enforcement of Arizona’s rules against lawyers from other jurisdictions.

The proposal has been approved by the State Bar Board of Governors and submitted for adoption by the Arizona Supreme Court.

Public Defender conference debuts

Over 500 lawyers, investigators and administrators attended the first annual statewide Public Defender Conference on June 17 and 18 at the Tempe Mission Palms. Sponsored by the Arizona Public Defender Association, the one and one-half day seminar included six break-out sessions with seven to 11 choices for each.

Steven Rench, a premier teacher of trial advocacy in the United States, was among the lecturers, while former Attorney General Grant Woods entertained his luncheon audience with humorous courtroom war stories.

Three award recipients came from Maricopa County Judge Dean Trebesch, former Maricopa County Public Defender, received the Gideon Award in recognition for his development of a public defender training fund. Christopher Johns was presented with a Lifetime Achievement Award and Linda Shaw received an award as Outstanding Urban Paraprofessional.

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ABA provides resource for loan repayment assistance

Many law school graduates burdened by heavy educational loan debt are forgoing careers in public service in favor of more lucrative private practice. In response, the American Bar Association has created “The State LRAP Tool Kit,” a resource guide for creating state loan repayment assistance programs, or LRAPs, for public service lawyers.

This free tool kit was designed to help states create programs to attract young lawyers to public service and keep public legal careers an option for recent graduates who pursued a law degree with the hope of serving their communities.

The tool kit includes sample LRAP legislation with an analysis and LRAP checklist, guidance on creating an independent non-profit organization to administer the program, and information about the existing statewide programs.

To download the tool kit at no charge, visit the ABA’s Web site at www.abanet.org/lrap.

New Ninth Circuit award honors memory of Phoenix attorney

Chief Judge Mary M. Schroeder of the Ninth Circuit Court of Appeals announced the establishment of the John P Frank Award to recognize an outstanding lawyer practicing in the federal courts of the western United States.

The new award was named for the late John P. Frank, a renowned attorney; author, law professor, civil liberties advocate and legal historian. His law career spanned 62 years and included work on more than 500 appeals argued before the Arizona Court of Appeals, the Arizona Supreme Court, the Ninth Circuit Court, and the United States Supreme Court.

Frank, who died last year, was the first recipient of the award, presented last month at the Ninth Circuit Judicial Conference in Hawaii. Schroeder, who was mentored by Frank as a young attorney and later became his partner at the Phoenix firm of Lewis and Roca, accepted the award on his behalf.

Beginning in 2004, the award will be presented annually to a lawyer who has “demonstrated outstanding character and integrity; dedication to the rule of law; proficiency as a trial and appellate lawyer; success in promoting collegiality among members of the bench and bar; and a lifetime of service to the federal courts of the Ninth Circuit.”

ABA report charts new course for judicial selection

“Justice in Jeopardy,” a report released last month by the American Bar Association, attempts to break the deadlock in the debate over appointment versus election of state judges. The report also provides a blueprint for states on how to restore eroding public confidence in the courts, and addresses widespread funding problems brought about by the worst budget crises for states since the Depression.

Written by the ABA Commission on the 21st Century Judiciary, the report includes more than two dozen innovative recommendations on improving state courts and judicial selection.

Electronic copies of the report are available on the American Bar Association Web site at www.abanet.org/media.

ABA asks lawyers to assist military reservists

As the war in Iraq winds down, the ABA has renewed its call for lawyers across the country to provide free legal assistance to the men and women called to serve.

To date, more than 200,000 reserve and national Guard personnel have been called to active duty in the nation’s fight against terrorism and Operation Iraqi Freedom. As part of their preparation, all reservists undergo a “legal checkup” to ensure their legal affairs are in order before they are shipped out.

Despite such preparations, many reservists return home to face challenging legal issues, such as problems with creditors, threats to their savings and possible job loss.

**NEW ON THE WEB**

New site offers legal advice to public

Arizona’s legal aid organizations worked together to launch a statewide website to help low-income individuals find legal assistance. AZLawHelp.org is a free site designed to help users find legal aid where they live.

The site also features articles, forms and links to information about civil legal issues in the following topics: Family, Kids and Seniors, Housing, Immigration, Native American Law, Public Benefits, Work, Your Money, and Your Rights.

The site was created under a grant to Southern Arizona Legal Aid from the Legal Services Corporation and is managed by the William E. Morris Institute for Justice.

Legal reference site online

The Arizona Investigators Association has gone online with a 250-page reference site designed for lawyers, paralegals and legal assistants in Arizona.

www.investigators-az2.com features pages of court locations, divisions, precincts, filing fee charts, forms and many other tidbits of information used by legal professionals.

Superior Court cover sheets, accident request forms, UCC forms and more are available in pdf format and set up for online fill-in to save time.

Maps of Arizona, its counties and additional detail maps, along with a full catalog of Arizona license plates, can be found on the site as well.

ABA provides resource for loan repayment assistance

Many law school graduates burdened by heavy educational loan debt are forgoing careers in public service in favor of more lucrative private practice. In response, the American Bar Association has created “The State LRAP Tool Kit,” a resource guide for creating state loan repayment assistance programs, or LRAPs, for public service lawyers.

This free tool kit was designed to help states create programs to attract young lawyers to public service and keep public legal careers an option for recent graduates who pursued a law degree with the hope of serving their communities.

The tool kit includes sample LRAP legislation with an analysis and LRAP checklist, guidance on creating an independent non-profit organization to administer the program, and information about the existing statewide programs.

To download the tool kit at no charge, visit the ABA’s Web site at www.abanet.org/lrap.

New Ninth Circuit award honors memory of Phoenix attorney

Chief Judge Mary M. Schroeder of the Ninth Circuit Court of Appeals announced the establishment of the John P. Frank Award to recognize an outstanding lawyer practicing in the federal courts of the western United States.

The new award was named for the late John P. Frank, a renowned attorney; author, law professor, civil liberties advocate and legal historian. His law career spanned 62 years and included work on more than 500 appeals argued before the Arizona Court of Appeals, the Arizona Supreme Court, the Ninth Circuit Court and the United States Supreme Court.

Frank, who died last year, was the first recipient of the award, presented last month at the Ninth Circuit Judicial Conference in Hawaii. Schroeder, who was mentored by Frank as a young attorney and later became his partner at the Phoenix firm of Lewis and Roca, accepted the award on his behalf.

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Despite such preparations, many reservists return home to face challenging legal issues, such as problems with creditors, threats to their savings and possible job loss.
O’Connor shares concerns at Inn of Court conference

By Terri Zimmerman
Maricopa Lawyer

U.S. Supreme Court Justice Sandra Day O’Connor revealed her concerns about the increasing rigidity in the law at last month’s National American Inn of Court Leadership Conference in Philadelphia. Examples she shared included the twelve-year-old girl taken into custody in Washington D.C. for eating French fries on the subway because the Metro Transit Police had a “zero-tolerance” policy for infractions, and the child who got in trouble at school for a plastic knife in her lunchbox. The rule of law has to be flexible, she said, and the life of law is not logic but experience.

O’Connor also expressed concern for legal professionalism and cited large billable hours, reduced pro bono and abuse of contingency fee arrangements as evidence for decline in standards. O’Connor said she does not know the solution to the problem and expected it to take years to resolve. But she did say, “lawyers and judges will play an important part” in guiding the future of the profession.

Four conference attendees from Maricopa County listened to the keynote speech, including Arizona Supreme Court Vice-Chief Justice Ruth McGregor, who previously clerked for O’Connor. The speech reflected the goals and objectives of the American Inns of Court.

Modeled after English advocacy training which stresses ethics, manners and deportment, the first American Inn of Court was formed in 1980. Today, over 20,000 members throughout the country meet regularly to participate in Inns of Court programs. This membership is comprised of experienced and inexperienced lawyers, judges and third-year law students. The objectives of the organization are:

➤ To unite a cross section of the bar into a forum for the promotion of excellence in legal advocacy;
➤ To promote brotherhood of the bar, the bench and students of the law;
➤ To provide congenial, stimulating and cooperative interaction among students, lawyers and judges;
➤ To contribute to essential reforms and improvements in the training and performance of legal advocates;
➤ To facilitate the transition of law students and young lawyers into the operation of our court system, and
➤ To renew and inspire joy and zest in legal advocacy as a service worthy of constant effort and learning.

Each Inn is divided into “pupillage teams” (groups with attorneys and judges of varied experience and background) which work together to plan programs on legal issues to be presented to the Inn at a dinner meeting. This allows new attorneys to be mentored by more experienced attorneys and judges, and to encourage conversations about the practice of law.

Phoenix boasts five chartered American Inns of Court (AIC): the Sandra Day O’Connor AIC, the Horace Rumpole AIC, the Lorna Lockwood AIC, the Irwin Cantor AIC, and the Thurgood Marshall AIC. In September, the Thurgood Marshall group will host a program called “The Care and Feeding of Superior Court Judges,” to be led by Maricopa County Superior Court judges Edward Burke, Margaret Downie and Gary Donahoe.

For more information on American Inns of Court or the September program, contact Terri Zimmerman at (602) 506-4230 or zimmerman@mail.maricopa.gov.

Arizona Supreme Vice-Chief Justice Ruth McGregor stops on her way into the American Inn of Court Conference to pose with U.S. Supreme Court Justice Sandra Day O’Connor, who was the keynote speaker at the event.
Update...
Continued from page 1
➤ Juvenile Court can now order a parent to pay all or part of the costs of foster care or educational programs required by the court. (Chapter 23)
➤ A seller of five or fewer parcels of land in an unincorporated area of the county must furnish an affidavit to the land owner in an unincorporated area of the county must furnish an affidavit to the buyer disclosing information regarding legal access to the property as well as physical access, road maintenance, flood plain inclusion and water availability. (Chapter 24)
➤ The statute requiring an employer to inquire whether an employee is subject to a wage assignment upon hiring has been repealed. (Chapter 27)
Volume Two also contains the governor’s Executive Order 03-03 regarding affordable prescription drugs. After various findings about the high cost of prescription drugs, the governor ordered the Arizona Health Care Cost Containment System to “develop and implement a bulk purchasing-based discount card program for Arizona’s Medicare-eligible seniors and persons with disabilities.”
A final report to the governor is due Sept. 1. It is interesting that this order creates a program which, without funding, bypasses the legislative process yet places duties on the AHCCCS that will necessarily entail a considerable expenditure of money and manpower.
Volume Three of the Arizona Legislative Service contains the next 67 enactments of the 46th Legislature.
➤ In keeping with a public records law that already protects police officers and prosecuting attorneys, all judicial officers (justices, judges, commissioners and public defenders) now can request that the general public be prohibited from accessing identifying information in recorded data and instruments at the County Assessor, County Treasurer and County Recorder’s offices. It is also illegal (class 5 felony) to make personal information regarding judicial officers available on the internet. (Chapter 106)
➤ Grandparents seeking visitation rights shall petition for their rights in the same action in which the parents’ marriage was dissolved. (Chapter 106)
➤ An amendment to private investigator and security guard statutes says a conviction for a domestic violence offense can adversely impact a person’s eligibility to engage in this type of employment. (Chapter 112)
➤ A new statute prohibits state employees from accessing internet pornography on state computer equipment. (Chapter 80)
➤ When recording deeds and contracts for sale of real property, the inclusion of the assessor’s parcel number is now required. (Chapter 105)

Griller... Continued from page 1
“We have lived through a biblical time span of financial drought and financial surplus more than once,” Campbell said. Yet in spite of the ups and downs, he added, Griller remained “a man of compassion who sought to bring out the best in everyone he met.”
In Griller’s opinion, however, the post of court administrator is not “personality-dependent.” Rather, his approach has been one of collaboration and a strategic focus on bringing the member parts of the justice system together to work on solutions. He noted that a court is “one of the most complex and multi-faceted human organizations on the face of the planet,” and the most effective way to serve it is to cross boundaries and open pathways within the system.
“The administrator of the court should represent the culture of the organization,” Griller said. “And in my experience, this court has fostered an environment focused on team-building and problem-solving. It has been my job to facilitate the culture that already exists, independent of me.”
He added that he is proud to have been part of a court that “works.”
“This is a court that thinks of itself as having customers, a court that takes risks, a court that is willing to pioneer new programs,” he said. “And I attribute that to the caliber of the judges here. I’d put [Maricopa County’s] judges toe-to-toe with judges from any urban bench, and our judges would come out ahead.”
Griller’s firsthand knowledge of the strengths of the bench was further expanded a year ago when he became the administrator for all trial courts in Maricopa County to include not only Superior Court with its 91 judges and 30 commissioners, but also the 23 justice courts and 23 municipal courts. In this role he was able to provide integrated, coordinated management throughout the county’s judiciary.
In addition to his involvement on numerous professional boards and commissions, Griller served as the president of the National Association of Trial Court Administrators (now the National Association for Court Management) in 1983 and 1984. In 1988, he received the Warren E. Burger Award for outstanding contributions to the development of court administration from the National Center for State Court’s Institute for Court Management. In 2000, the National Association for Court Management presented him with its highest accolade, the Award of Merit.
Griller admitted that his accomplishments as administrator, as well as the court’s progress, did not always proceed smoothly.
“There are always struggles in making progress,” he said. “There have been dead ends, and we have made our share of mistakes. But an energetic and vibrant organization will factor in those mistakes, factor in the costs, and learn from them.”
When asked what he will miss most about the job, Griller said he will miss the “pulse beat” of the courthouse, and being at the center of a never-ending human drama.
“They write movies about places like this,” he said. “Major life-changing situations unfold here every day. People’s lives change by what happens in a courtroom on a particular day.”
When asked what he will miss the least, he laughed. “I’d have to be nuts to reveal that.”
He said he isn’t worried about the difficulty of finding someone to fill his shoes. “Part of my obligation as administrator has been to help develop other managers here and provide the court with choices for a successor, and I think I’ve done that.”
Another important part of the job, he said, is knowing when it’s time to move on. “I’ve been here a long time,” he said, “I’m ready for something new, something different. But whether I’ll go on in public service, or I’ll venture into consulting, I haven’t decided yet.”
He added that he’s had some interesting offers and he’ll likely take his time sorting through them. Then what?...
Gordon Griller’s “wild west adventure” continues...
**MCBA CALENDAR**

**JULY 2003**

**JULY 1**
- Summer Social, 5:30 to 7:30 p.m.
- Independence Day, MCBA office closed.

**JULY 8**
- VLP Advisory Committee, noon
- Scottsdale Bar Association lunch meeting, noon, Scottsdale Athletic Club, 8225 E. Indian Bend Rd., Scottsdale. Speaker: To be announced. Cost: $15 with advance payment (send checks payable to Scottsdale Bar Association to P.O. Box 2087, Scottsdale, 85252-2087); $18 at the door. Information/reservations: Jill Miller, 480-481-3047.

**JULY 7**
- MCBA executive committee, noon
- Warner Angle Hallman Jackson & Formanek, 3550 N. Central.
- Hayzel B. Daniels Bar Association, 5:30 p.m.

**JULY 14**
- Task Force on Recruitment of Women and Minority Lawyers, noon
- YLD board, noon
- Paralegal board, 5:30 p.m.

**JULY 15**
- Employment Law Section, 12:30 p.m.
- Bankruptcy Section, 5:00 p.m.

**JULY 16**
- Litigation Section, 7:30 a.m.
- Bench Bar Committee, 12:15 p.m., Central Court Building, 4th floor
- Bench Bar Committee, 11:00 a.m., Central Court Building, 4th floor

**JULY 17**
- PLD Board, noon
- MCBA board of directors, 4:30 p.m.

**JULY 18**
- Maricopa County Bar Foundation board of trustees, 7:30 a.m.
- LRS Marketing Committee, noon

**JULY 21**
- Membership Communications Committee, noon
- YLD Domestic Violence Committee, noon

**JULY 22**
- Juvenile Practice Section, noon, southeast court facility, Mesa

**JULY 24**
- Technology Section, 7:30 a.m.

**JULY 30**
- Arizona Women Lawyers Association lunch meeting, noon, Arizona Club. Speaker: TBD. Program begins at 12:30 p.m. Cost: AVLA members, $15; non-members, $20. Reservations (required): 602-863-7678 or luncheons@awla-maricopa.org by noon (two days before).

**AUGUST 2003**

**AUGUST 4**
- Maricopa Lawyer editorial board, 5:00 p.m.

**AUGUST 6**
- Full House or Joker?: Prop 202 and the aftermath of Federal Indian Gaming Law 1:00 to 3:30 p.m. ASUD
- Our panel will examine issues and challenges presented by Proposition 202. Compacts, including compact appendices, regulation of blackjack operations, and regulatory authority. Requirements for tort claims procedures, revenue-sharing issues and sovereign immunity also will be covered.
  - Cost: Member attorneys, $50; non-member paralegals and public lawyers, $35; non-member attorneys, $70; non-member paralegals and public lawyers, $50; same-day registration, $15 additional.
  - CLE: 2 hours

**AUGUST 7**
- Construction Law Section, noon

**AUGUST 11**
- YLD board, noon
- Paralegal Division board, 5:30 p.m.

**AUGUST 12**
- VLP Advisory Committee, noon
- Scottsdale Bar Association lunch meeting, noon, Scottsdale Athletic Club, 8225 E. Indian Bend Rd., Scottsdale. Speaker: To be announced. Cost: $15 with advance payment (send checks payable to Scottsdale Bar Association to P.O. Box 2087, Scottsdale, 85252-2087); $18 at the door. Information/reservations: Jill Miller, 480-481-3047.

**AUGUST 13**
- MCBA executive committee, 7:15 a.m.
- Personal Injury/Negligence Section, noon
- Hayzel B. Daniels Bar Association, 5:30 p.m.

**AUGUST 15**
- Maricopa County Bar Foundation board of trustees, 7:30 a.m.

**AUGUST 21**
- PLD board, noon
- MCBA board of directors, 4:30 p.m.

**AUGUST 26**
- Juvenile Practice Section, noon, southeast court facility, Mesa
- Corporate Counsel Division board, 4:30 p.m.

**AUGUST 27**
- Arizona Women Lawyers Association lunch meeting, noon, Arizona Club. Speaker: TBD. Program begins at 12:30 p.m. Cost: AVLA members, $15; non-members, $20. Reservations (required): 602-863-7678 or luncheons@awla-maricopa.org by noon (two days before).

**Courtwatch… Continued from page 4**

Intending to kill his wife so that he could marry another woman. His daughter ate part of the apple and died. The court convicted the man of his daughter’s murder, holding that his intent to kill his wife transferred to the daughter.

Arizona’s codified doctrine of transferred intent, A.R.S. § 13-203(B), applies in two different situations. It applies when the actual and intended victims differ but the actual and intended harms are the same. It also applies when the actual victim is the intended victim, but the actual harm differs from the harm intended.

Gemmill found it impossible, based on the trial court’s instructions and the jury’s verdict, to determine whether Johnson intended only to frighten the officers or bystanders, or whether he intended to both shoot somebody and frighten one or more persons, or whether he meant only to shoot someone and did not mean to scare anyone. Gemmill could not rule out the third possibility, in which case the transferred-intent doctrine could not apply. It cannot be presumed from the act of firing a shot at [the] officer, he wrote, “that Johnson also intended to scare [the] officer…or any of the bystanders.”

While common sense suggests that a person who shoots at one person likely knows that bystanders will be frightened by the shot,” he held, “the apprehension form of assault requires proof of intentionally placing a person in apprehension.” He continued, “Knowingly placing a person in apprehension is a less culpable mental state and is not sufficient for this crime. Thus, if Johnson intended simply to shoot [the] officer, the actual victims at issue may be the bystanders, but the intended victim was [the] officer.”

“Accordingly,” Gemmill concluded, “because both the victims (together with judges Jefferson L. Lankford and Susan A. Ehrlich, he reversed the conviction.”

**Need meeting space?**

The MCBA has conveniently located and inexpensive conference rooms available. To make a reservation, call MCBA Reception 602-257-4200.

**MCBA Member Rates**
- Half-day: $25.00
- Full-day: $50.00

**MCBA CALENDAR**

**JULY 2003**

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Former Arizona Supreme Court Chief Justice James D. “Duke” Cameron passed away on May 23, following a lengthy illness. He was Arizona’s 27th chief justice, serving on the state’s highest court from 1971 to February 1, 1992 for a total of 21 years, with the last four years as chief justice.

“The passing of Chief Justice Cameron is truly the end of an era for Arizona’s judiciary,” said current Chief Justice Charles E. Jones. “He personally supervised a comprehensive revision of the Rules of Court. His contributions to modernizing and organizing the state’s judicial branch is legendary.”

Jones noted that Cameron’s emphasis on administration has had a continuing impact on the court. Cameron “always felt that effective administration is an essential assurance for justice,” Jones added.

Former Supreme Court Justice Frank Gordon shared the bench with Cameron and remembers him as a “great administrator” who influenced the development of the rules of procedure for not only the appellate courts of the state but the trial courts as well. “Cameron took the recommendations of the American Law Institute more seriously than any other judicial officer in the state’s history,” Gordon said.

As a justice, one of the first items Cameron tackled was to order an audit of all the cases then pending courts throughout the state. He accompanied that audit with an order permitting the dismissal of stale cases. He concentrated on two counties each year for seven years until there was a complete accounting of all cases across the state.

Gordon recalled that Cameron, who served as chair of the Conference of Chief Justices in 1977, hosted the organization’s annual meeting at Lake Powell that year. Sandra Day O’Connor, who was then a judge on the Arizona Court of Appeals, attended the conference at Justice Cameron’s invitation, as did U.S. Supreme Court Justice Warren Burger. During the conference Cameron introduced O’Connor to Burger and, according to Gordon, “the two of them really hit it off.” A short while later, when a vacancy developed on the U.S. Supreme Court, O’Connor was nominated.

Gordon also remembers Cameron as an exceedingly patient man who listened well to others. Cameron was often a guest in Gordon’s home, watching returns on election nights and exchanging political yarns.

Cameron was a well-known basketball fan as well, and there was a considerable rivalry between Cameron, Gordon and Justice Stanley Feldman on behalf of their respective alma maters. Whenever one of their teams played against the others, all bets were on $1 to $5. Gordon recalled a basketball-related incident when he was still a newcomer to the court. It was the day of a big game and the court was in session, Gordon used a ball in an oral argument to pass a bet slip with a folded one dollar bill to Justice Jack D.H. Hayes, followed by a gesture to pass it on to Cameron. Hayes refused, fearing that passing money from one justice to another might give the impression that he was offering Cameron a bribe.

Cameron is survived by Paula, his wife of 63 years; his son, Craig, a lawyer with the Pinal County Attorney’s office; his two daughters, Alison Gray, of Paradise Valley and Jennifer Cameron Klein, of Duxbury, Massachusetts; his sister, Shalia Gaffney of Phoenix, and seven grandchildren. Duke will be greatly missed by all.
MARIPOCA BAR ASSOCIATION

seeks Executive Director

The Maricopa County Bar Association (MCBA) seeks candidates for the position of Executive Director. The MCBA is the largest volunteer bar association in the State of Arizona with more than 4400 members and an annual budget of $1.25 million. The Executive Director implements the goals, policies and procedures of the MCBA Board and coordinates support for the Maricopa County Bar Foundation, the philanthropic arm of the MCBA. In addition, the Executive Director represents MCBA in legal and community forums, directs the operations of the MCBA, manages and supervises the staff, prepares annual budget for the MCBA and supports the Sections and Divisions of the MCBA.

Desired Qualifications: Undergraduate Degree in Business or equivalent certification in nonprofit management; prior nonprofit association experience desired; excellent verbal and written communication skills, including a demonstrated ability to work with diverse groups and individuals; fundraising; prior successful supervisory, budgeting, management, programs planning, implementation and administrative experience.

Salary: DOE, Excellent Benefits

To apply, send letter of interest along with current resume and salary requirements to:

MCBA
303 East Palm Lane
Phoenix, Arizona 85004
Attention: Search Committee

Deadline: July 18, 2003

Reach thousands of attorneys in Maricopa County with a display ad in Maricopa Lawyer. Special rates for Members Only. Call Kirra for more info. 480-515-5719

Tell us! Have you won an award? Is your law firm involved in a interesting community project? Send information for our People in Law column to: Maricopa Lawyer, 303 East Palm Lane, Phoenix, AZ 85004; fax to 602-257-0522; or email to: maricipalawyer@mcbabar.org.
David Kelly and Quentin Vaughan have re-joined Lewis & Roca as of counsel. Kelly (J.D. 1989, University of Georgia) was previously an attorney with the National Labor Relations Board and will concentrate his practice in labor and employment issues. Vaughan (J.D. 1982, Northwestern University) re-joins the firm's corporate group and will concentrate on mergers and acquisitions, securities regulation and other transactional matters.

Christopher L. May has joined Bryan Cave as an associate. May (J.D. 1996, Vanderbilt University) will practice in the firm's class and derivative actions, commercial litigation and anti-trust/U.S. trade client service groups. Prior to joining the firm, May practiced in Tennessee.

Bryan Cave partner Frank M. Placenti has been named co-leader of the firm's transactions and corporate governance client service group of 110 lawyers. His practice will focus on capital formation, corporate governance, mergers and acquisitions and securities regulation.


Squire Sanders & Dempsey announced the addition of partners David M. Klein and Jordan A. Kroop and associates Brent H. Hall and Anoma Phanthourath to the firm's Phoenix office. Klein (J.D. 1995, ASU) will focus on real estate and commercial finance transactions in the hospitality and leisure industry. Kroop (J.D. 1994, University of Virginia) will practice in bankruptcy and corporate restructuring matters. Hall (J.D. 1999, University of Michigan) will focus on general commercial, insurance, construction and labor and employment issues. Phanthourath (J.D. 1998, UA) will handle claims involving fraud, breach of contract, breach of warranty, wage claims, wrongful termination, negligence and defamation.

Scottsdale attorneys Daniel J. Adelman and Steven J. German have formed Adelman German, a new law firm. Adelman (J.D. 1987, ASU) recently practiced at Begam Lewis Marks and Wolfe in the areas of personal injury and wrongful death litigation. German (J.D. 1992, Cleveland-Marshall College of Law) was a solo practitioner concentrating on personal injury and disability insurance disputes. The new firm will handle serious injury and wrongful death cases.

Quarles & Brady Streich Lang has named four new partners. David T. Barton (J.D., Brigham Young University) focuses his practice on labor and employment law and litigation. Brian R. Booker (J.D. 1994, University of Virginia) concentrates on commercial litigation. Mark. K. Briggs (J.D. 1994, University of Iowa) focuses on the areas of corporate finance and securities, mergers and acquisitions, and international transactions. Kevin D. Quigley (J.D. 1994, ASU) practices in the area of commercial litigation and administrative and regulatory law.

Tamalyn Lewis and Natalie Garth were named partners at Ridenour Hienton Harper Kelhoffer Lewis & Garth. Lewis is head of the firm's bankruptcy practice group. Garth handles complex real estate, estate planning and lending transactions.

Ali J. Farhang and Lisa A. Brautigam have joined Fennemore Craig as associates. Farhang (J.D. 1997, University of Denver) will focus on labor and employment law. Brautigam (J.D. 1997, Florida State University) will practice in natural resources, water and environmental law.

Gust Rosenfeld announced the addition of associate Abbie S. Shindler to the firm's estate planning and corporate practice. Shindler (J.D. 1999, California Western School of Law) was previously with Mohr Hackett.

Christopher Johns has been selected to serve as the training director for the Maricopa County Public Defender's Office. Johns (J.D. 1984, ASU) previously served the office in the appellate division and as a trial deputy.

Stephanie R. Derby has joined Jennings, Strouse & Salmon as partner and chair of the firm's employee benefits and compensation practice group. Prior to joining the firm, Derby (J.D. 1991, University of Minnesota) practiced with Snell & Wilmer.
COMMENTARY

Is lawyer advertising threatening the tort system?

By Jack Levine
Maricopa Lawyer

Busy lawyers seldom have time to look around and take stock of what is happening in our profession. However, we should make an effort to do this occasionally to be sure that things are not broken. And, if they are, we should develop pragmatic solutions for fixing them. Lawyer advertising — and its impact on the tort system — is one item badly in need of repair.

Like many lawyers, I was initially in favor of permitting lawyers to advertise because of the potential benefit to the public. When the late John P. Frank, representing the State Bar, squared off against William C. Canby Jr. to argue the landmark case of Bates vs. State Bar of Arizona before the U.S. Supreme Court in 1977, Frank predicted that lawyer advertising would lead to the commercialization of the profession. He was particularly concerned that if lawyers were permitted to solicit personal injury claims through advertising, lawyers would come to be viewed by the public as money-grubbing ambulance chasers.

As we know, the court rejected this argument, persuaded that the benefits to the public would outweigh any real or imagined harm to either the public or to the legal profession. It may be time to re-examine this issue based on evidence that the public, as well as lawyers, are now suffering substantial harm from the deluge of TV, billboard, phone book, and transit bus advertisements which solicit personal injury cases. Not only are many of these ads crass and offensive, but they hold out the promise of financial rewards for the public.

Meanwhile, the insurance industry has watched these developments and has seized upon the opportunity to increase its bottom line. The industry has spent millions of dollars in a public relations campaign designed to persuade the public that lawyers and accident victims are greedy, corrupt, and dishonest in filing frivolous lawsuits and manipulating juries into awarding huge sums of money to undeserving litigants. As part of its campaign, the insurance industry has planted false or grossly exaggerated reports about cases in which multimillion dollar verdicts have been awarded for trivial injuries or accidents which are the fault of no one but the injured party. Frequently mentioned is the McDonald’s hot coffee case. Rarely mentioned is the fact that out of the $2.9 million verdict jury awarded to the elderly plaintiff, 32.7 million was for punitive damages based on over 700 previous claims filed against McDonald’s by scalding victims. Also rarely mentioned is the reduction of the punitive damage award down to $480,000, while the compensatory damage award of $200,000 was reduced to $160,000. Not much considering the plaintiff’s excruciatingly painful third-degree burns which required an eight-day hospitalization and multiple skin grafts.

In another report widely circulated by the insurance industry, a woman in a department store was said to have tripped over her own infant child, then sued the store for her injuries. Upon investigation, the story was determined to be a complete hoax. No such case ever existed.

The insurance industry has continued to push the same themes: the tort system is totally “out of control,” people are bringing frivolous lawsuits hoping to win the “litigation lottery,” there are too many false and exaggerated claims, jury verdicts are too high and all of this is leading to greatly increased liability insurance premiums for the public. This public relations campaign has been extraordinarily successful, far beyond the wildest dreams of the insurance industry.

The combination of lawyer advertising and insurance industry propaganda has engendered public attitudes that have all but destroyed the tort system and deprived thousands of innocent Arizona citizens of fair compensation for negligently inflicted injuries. It has also created a deep-seated public distrust of lawyers and a feeling of disgust with our legal system. Members of the public are all too eager to strike back in an effort to rectify these wrongly perceived circumstances every time they receive a notice to appear for jury duty in personal injury cases.

The assumption running through U.S. Supreme Court opinions dealing with personal injury advertising is that despite any potential adverse effect to the image of the profession, the damage is outweighed by the First Amendment right to commercial speech along with the presumed benefits that such advertising grants to the public. Clearly, these assumptions are no longer true. Now that we have had over 25 years of experience with personal injury advertising, perhaps it is time for the State Bar to go back to the U.S. Supreme Court, armed with data drawn from the polling of public attitudes as well as the statistics that show the increasing downward trend of jury verdicts. This data would be sufficient to demonstrate the tragic effect lawyer advertising has had on the tort system.

Based on past U.S. Supreme Court cases on this issue, Justices Rehnquist, O’Connor, Scalia and Thomas would be likely to re-visit the wisdom of permitting lawyer advertising if presented with proof that the public is being harmed. Given the existing climate, such a revisit should be welcomed by the profession.

Jack Levine is a sole practitioner who practices in the areas of personal injury, employment law and family law. He is a former chair of the Trial Practice Section of the State Bar and a former president of the Arizona Trial Lawyers Association.

Jennings, Strouss & Salmon, P.L.C. congratulates

The Honorable Maurice Portley

on his appointment to the Arizona Court of Appeals, Division One

Judge Portley practiced with the Firm from 1984 until his appointment to the Maricopa County Superior Court in 1991.

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Attorney earns second VLP honor for 19 years of noteworthy service

By Peggi Cornelius
Maricopa Lawyer

Shawn K. Aiken, a partner at Hebert Schenk, is being honored for the second time as VLP’s Volunteer of the Month. He previously received the award in 1998.

In addition to his 19 years of representing VLP clients, Aiken’s service is noteworthy for its scope and the outcomes he has achieved. His VLP cases have ranged from tort defense and consumer fraud to tenants’ rights and home ownership.

In his most recent case, Aiken delved into family law with a home ownership dispute involving a couple that had never been legally married. Aiken’s client sought to enforce a separation agreement she had made with her former partner and father of their seven children. When her partner chose to leave the family after 16 years of cohabitation, they verbally agreed she and the children would continue to live in their shared home and ownership of the property would be transferred to her.

Later, however, the partner manipulated the situation to evict the family from the property and occupied it himself. The client could not afford more than a one-bedroom apartment for her family of eight, and they eventually moved in with friends.

Strict interpretation of community property law was unfavorable to Aiken’s client, but his legal argument concerning cohabiting couples and implied partnerships was persuasive. One week before trial, the judge encouraged the opposing party to take advantage of the opportunity to negotiate settlement. The parties settled the case that afternoon.

“We were ready for trial,” Aiken said. “We were very pleased when the opposing party agreed to give my client ownership of the land and build a house to replace the mobile home there. She and the children now have the home she has legal title to the land.”

Aiken credits paralegal Lorraine Fletze-Brant for her work on the case. “Lorraine and I have worked together for many years. My pro bono efforts are matched by hers.”

During his undergraduate years as an English and Latin major, Aiken aspired to become a professor. “I’m not sure how I decided on law school, but the teaching market was tight when I graduated.” Aiken, who won a National Collegiate Championship in extemporaneous speaking, thought he would do well as a trial lawyer. “You could say I transferred my vision of speaking in a courtroom to speaking in a courtroom.”

In fact, Aiken has done exceptionally well as a trial lawyer. He is certified by the National Board of Trial Advocacy as a civil trial advocate and rated AV by Martindale-Hubbell. He has been the lead attorney on hundreds of litigated matters, including over twenty-five trials to judgment. He also has conducted over seventy-five arbitrations, mediations, settlement conferences and jury trials as arbitrator, mediator and judge pro tem.

Aiken’s volunteer activities include coaching his son Babe Ruth baseball team, keeping up with his 17-year-old daughter, and serving on the State Bar’s Civil Practice and Procedure Committee. Yet he returns for more pro bono cases even when his time and energy are in short supply. “Every case matters,” Aiken noted. “But in most VLP cases, the problem keeps the client from moving on. It’s the central issue in their life at that time, and it often affects an entire family. Helping them resolve the problem is an opportunity to influence or change the course of their life. If that doesn’t get your motor going, I don’t know what will.”

Peggi Cornelius is VLP’s programs coordinator. If you or members of your firm would like to know more about pro bono opportunities through VLP, contact director Patricia Gerrich at 602-254-4714.

VLP thanks attorneys who accepted 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. Each volunteer attorney receives a discount CLE certificate from the MCBA.

Bankruptcy
Robert D. Beauder, Phillips & Associates
Joseph M. Hillegas, Jr., Ayers & Brown
Jeffrey L. Phillips, Phillips & Associates

Consumer
Richard J. Boyd, Sole Practitioner
Herbert S. Fidel, Sole Practitioner
Stacy Y. Hammert, Quares & Brady

Streitch Lang
Chester Mclaughlin, Sole Practitioner
Joshua Milligan, Stewart & Associates
Michael E. Neumann, Hahn Howard & Green
Angelo J. Patane, Burrell & Seletos
Bahar A. Schippel, Snell & Wilmer
Geoffrey H. Walker, Sole Practitioner

Family Law/Domestic Violence
Heather L. Buctha, Quares & Brady
Streitch Lang
Clarence Calvin III, Sole Practitioner
Harry P. Friedlander, Gibson Matheson
Lailis & Friedlander
Richard Underwood (QDRO), Ryan Woodrow & Rapp

Guardians Ad Litem for Children in Family Court
Steven N. Cole, Cole & Wingard
Wallace R. Nichols Jr., Sole Practitioner

Guardianship of Incapacitated Adults
Brad Tewow, Sole Practitioner
Eric Bradley Van Buskirk, Sole Practitioner

Guardianship of Minors
Joseph M. Boyle, Bohm Boyle & Jones
Mary Dolores Guerra, Bowman & Brooke
Judith A. Morse, Sole Practitioner

Home Ownership
Peter Baird, Lewis & Roca
Don C. Fletcher, The Cavanagh Law Firm
Andrew F. Halaby, Snell & Wilmer
Thomas F. Hickey, Keller & Hickey
Donna Parks, Lewis and Roca
Jonathan D. Schneider, Levin & Schneider

Non-Profit Organization Assistance
Victor Padilla, Honeywell Corp.
John L. Hay, Gust Rosenfeld

Tenants’ Rights
Don Gaffney, Snell & Wilmer

Tort Defense
Thomas C. Hall, The Cavanagh Law Firm

Courthouse Experience needs more volunteers

The Superior Court recruiting season has begun for court-savvy lawyers who would enjoy volunteering their expertise to the Courthouse Experience educational program for Valley students.

Since 1990, volunteer lawyers have escorted nearly 72,000 students (grades 6 – 12) through the Superior Court complex in downtown Phoenix. Volunteer attorneys meet their assigned class at the courthouse at 9 a.m. to introduce students to the justice system. They escort students to a courtroom so participants may observe court proceedings, explain what is happening and answer the students’ questions about the legal system.

Visits may include time with judges, visits to the law library, jury assembly room, clerk’s filing counter or other court departments. The program typically concludes around 11:30 a.m.

It is not too early for interested attorneys to begin planning their participation for the 2003-2004 school year. About 6500 students are expected to take part in the program this next year. Over the next several weeks, schools throughout the county will receive notices about the Courthouse Experience and invitations to participate. Lawyers are urged to volunteer for this dynamic program by calling (602) 506-2280.

Got an itch to write more than motions?

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