New Court Tower opens on State’s Centennial

By Karen Arra

Among the officials and others gathered Feb. 14—Arizona’s 100th birthday—to celebrate the opening of the new 16-story South Court Tower was former U.S. Supreme Court Justice Sandra Day O’Connor. O’Connor delivered the keynote speech for the ceremony.

Also attending were Maricopa County officials: Manager David Smith, supervisors Fulton Brock and Don Stapley, Board of Supervisors Chairman Max Wilson, Presiding Judge Norman Davis, and Supervisor Andrew Kunasek.

The tower is the largest construction project in county history, built over three years at a cost of $335 million. An additional 22 new courtrooms will serve the nation’s fifth largest court system. The construction project was funded by budgetary savings over the years and involves no debt, relieving taxpayers of an estimated $191 million in interest costs.

In addition, the project boasts an outstanding work safety record, not losing a day to a work incident. The court tower will be a LEED-certified building, sensitive to environmental and energy efficiency standards.

The new South Court Tower, which opened on Feb. 14, is located at 177 W. Madison in Phoenix. The tower is the largest construction project in Maricopa County and adds 22 new courtrooms that will serve the nation’s fifth largest court system.

Lack of attorney ads in Yellow Pages leads to losing case for police officers

By Daniel P. Schaack

It’s a cliché on television crime shows. After the cops book a suspect, they have to give him a phone call. But sometimes the opportunity to use the phone isn’t enough, as Scottsdale police recently learned when the Arizona Court of Appeals held that they had to give a drunk-driving suspect access to attorneys’ ads in the Yellow Pages. State v. Penney, No. 1 CA-CR 10-0766 (Ariz. App. Jan. 31, 2012).

Michael Kevin Penney crashed his car into a house. He abandoned the car and fled the scene, but police tracked him to his home. He was intoxicated and had marks of having suffered a recent accident. An officer arrested him for DUI and asked him to submit to a blood test. Penney refused and asked to speak to an attorney.

At the station, the officer placed Penney in the phone room, which had two phone books—white pages and yellow pages. The officer applied for a search warrant, which he received about an hour later.

Penney said that the yellow pages had been the phone book. He was intoxicated and had marks of having suffered a recent accident. An officer arrested him for DUI and asked him to submit to a blood test. Penney refused and asked to speak to an attorney.

At the station, the officer placed Penney in the phone room, which had two phone books—white pages and yellow pages. The officer applied for a search warrant, which he received about an hour later.

The attorney then asked if Penney had been able to call anyone. Penney said that he had, but the police had no attorneys’ ads, so he was denied his right to counsel. The officer ignored the complaint. He later served the search warrant, and a phlebotomist drew Penney’s blood. After that, Penney was placed in an interview room; he answered the officer’s questions after having been read his Miranda rights.

The state charged Penney with aggravated DUI, but the trial judge dismissed, holding that Penney had been denied his right to counsel. The state appealed.

Writing for the court of appeals, Judge Patricia A. Orozco agreed that it did not occur to him to call family members or friends because he was only trying to reach an attorney. Orozco disagreed. She pointed to the lack of attorneys’ ads in the yellow pages. “Police must afford a DUI suspect a reasonable opportunity to consult an attorney,” she wrote. “Penney could not have reasonably been expected to locate an attorney using the white pages if he did not know of a specific attorney; he answered the officer’s questions after having been read his Miranda rights.”

The state argued that the police had provided unrestricted access to a phone. It argued that it had not interfered with Penney’s ability to contact an attorney either “directly or indirectly.” Orozco disagreed. She pointed to the lack of attorneys’ ads in the yellow pages. “Police must afford a DUI suspect a reasonable opportunity to consult an attorney," she wrote. "Penney could not have reasonably been expected to locate an attorney using the white pages if he did not know of a specific attorney to call.”

Furthermore,” she added, “Penney testified that it did not occur to him to call family members or friends because he was only trying to reach an attorney.”

After Penney said that the yellow pages had no attorneys’ ads, Orozco held, “police were required to respond reasonably—by providing Penney with another phonebook that contained attorney listings or in some other appro
The art of writing about risk

Dear Client:

I write you this letter to update you on the status of your case. In my assessment, the case is moving forward as planned. However, there are some concerns that I would like to address with you. I hope that you will find this letter helpful.

Sincerely,

Attorney

LETTER TO THE EDITOR

Articles’ placement elicits mixed feelings on diversity progress

The February issue of the Maricopa Lawyer noted the distinguished careers of three African American judges (“Three Arizona Judges Who Broke Down Barriers”) in celebration of Black History Month. Turning the page, I read with interest the article about the former FBI agent [“From Lawyer to FBI Employee and Back”], as I, too, took a circuitous path in my career.

My emotions were torn, honestly – looking at the juxtaposition of the smiling faces of accomplished judged and the stoic men in black and white with no-nonsense, law-and-order expressions. The article about the former FBI agent further complicated my feelings on diversity progress in the legal profession.

I was startled by the accompanying photograph, which effectively, your client read the letter like a Peanuts character – or worse, focused solely on the portions of the letter that forecasted a good result.

I’m sure you’ve all heard the statistic that most bar complaints arise from attorney/client communications. While some of these can be avoided by maintaining regular contact with clients (i.e., the 24-hour rule), others focus on the content of communications and specifically the alleged failure to properly advise clients of risk.

Sincerely,

Attorney

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has become an associate of the firm.

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The art of writing about risk

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High Court to hear SB 1070 oral arguments

On April 25, the State of Arizona will present oral arguments before the U.S. Supreme Court in support of SB 1070, the controversial immigration bill enacted in April 2010. Last month, Gov. Jan Brewer and the state filed an opening brief with the Court, asking it to lift an injunction that has blocked key provisions of the bill.

Gov. Brewer described both the filing and the upcoming oral argument as the “culmination of a battle (she) pledged to fight on behalf of the people of Arizona.” Brewer said the debate surrounding the law is not just about SB 1070 but about the constitutional principle afforded to each state “to protect its people, especially when the federal government has failed in upholding its core responsibilities.”

Meanwhile, Democrats are working to introduce a bill to repeal the law, despite the narrow chances that it will pass. In January, Democratic Sen. Steve Gallardo said he planned to propose legislation to repeal SB 1070, which would be the first legislative attempt to do so.

Gallardo said he knows that the bill will not go far but believes there is less support in the Legislature and throughout the state for mandates that attempt to dissuade illegal immigration through criminal enforcement.
Help us help the hurting

Every year I am proud of the work done by the MCBA Young Lawyers Division to assist domestic violence victims. This year is no exception; however, the YLD’s impact is directly correlated to YOUR continued support.

This year’s Barristers Ball beneficiary

For example, this year the YLD has selected the Arizona Coalition Against Domestic Violence as the beneficiary for our annual Barrister’s Ball and silent auction (to be held on March 3 at the Sheraton Downtown). All of the proceeds raised by this year’s silent auction will go to support the Coalition’s Lay Legal Advocacy Hotline.

The Hotline provides victims with support, education, and referral services to assist in escaping their abusers and leading a life free of abuse. Our Barrister’s Ball Committee, headed by Flynn Carey, has done an outstanding job to ensure this year’s event is fun and entertaining. I hope to see everyone there!

Reaching out through LAWS

Additionally, the YLD’s Domestic Violence Committee will soon start its fourth year of the Legal Assistance to Women in Shelters (LAWS) program. The LAWS program is committed to providing education, resources and tips to victims of domestic violence to familiarize them with their legal options. To achieve this goal, the YLD provides a series of three one-hour legal seminars to domestic violence victims at shelters throughout Maricopa County.

All of the LAWS sessions are limited to providing information and do not offer actual legal advice to the individual attendees. The sessions are selected by the shelters based upon their needs and include, 1) introduction to the court process 2) family law, including divorce, paternity, child custody and support 3) orders of protection 4) bankruptcy, foreclosures, and creditor issues and 5) immigration, including the Violence Against Women Act. The sessions are presented by volunteer attorneys and offered free of charge to the participants.

Supporting victims with Race Judicata

Later in the year, the YLD raises funds to benefit the annual YLD Necessities Drive through the Race Judicata. Last year, thanks to the work of our Race Judicata Committee, spearheaded by Megan Jury, and all the participants who came to run and walk around Kiwanis Park, the YLD raised a significant amount of money to purchase necessities, including diapers, toiletries, and feminine products, to donate to four of the Valley’s domestic violence shelters.

A challenge to get involved

In short, there are many ways for YOU to get involved and help support the YLD’s efforts against domestic violence. I encourage everyone to attend the Barristers Ball and participate in the Race Judicata, and promise these events are fun and worthwhile. And I CHALLENGE everyone to sign up to present at least one session through the LAWS program.

As an attorney who handles many custody cases, as well as protective orders, I see my share of cases involving allegations of domestic violence. Unfortunately, it is easy to become cynical in this profession—both by instances where allegations are unfounded and used only to try and gain an advantage in court, and even more so, by instances that are justified but where justice seems to fall short. Despite this potential cynicism, we must remember that, as lawyers, we have the ability to help domestic violence victims through our advocacy and knowledge of the legal system. That is why I strongly encourage you to present a LAWS session or otherwise volunteer at a domestic violence shelter.

Finding hope through volunteering

From personal experience, I can say that volunteering even one hour of your time to provide victims at the shelters with knowledge, information, and encouragement to stand up for their rights and use the legal system to help them achieve their objectives is one of the most humbling and rewarding experiences I have yet to have as a young lawyer.

To volunteer for the LAWS Program, please email Melinda Sloma at msloma@jclawgroup.com. Sessions are slated to begin in late March and continue throughout the year.

Leslie A W Satterlee is a family law attorney at Gregg R. Woodnick, PLLC. For more information, visit www.woodnicklaw.com.

Lawyer Referral Service Needs You

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Spanish-speaking and West Valley attorneys are also needed.

It’s easy to join! Call Jennifer Deckert at (602) 257-4200, ext. 117.

Remembering Justice Ryan

By Warren Stapleton

Justice Michael D. Ryan passed away on January 30, 2012. I had the great fortune to have clerked for him between 1997 and 1998 while he was a judge on the Arizona Court of Appeals. He was my mentor, my friend, and the best example of what a man ought to be that I ever had.

My experience was not unique. At his memorial service, I was struck by the number of persons that said he had touched their lives in some extraordinary way. Indeed, his exceptional public service was matched by a less well-known, but perhaps more rewarding, private tutelage. Justice Ryan improved everything he touched, from institutions to individuals. His generous guidance survives him and continues to give to our community. More than any other lawyer I have known, Justice Ryan understood that the law is a human system. His judging was so effective not only because of his legal acumen, but also because of his compassion and his intuitive understanding of people.

Once, when I had suggested dispensing with a pro se appellant’s argument based on a procedural technicality, the judge asked me if the appellant would still lose if the issue were addressed on the merits. “Yes,” I said. The judge looked at me and said, “We better address it on the merits. A court that can explain the reasons for its decisions has more authority than a court that just hides behind technicalities.”

On another occasion he amplified on this theme. “Persuasion is our only real power. When the litigant leaves the courtroom his or her obedience to the decision will be a measure of the respect he or she has been shown by the legal process.”

Justice Ryan was not satisfied that his decisions be technically legally correct. They also needed to be understandable and consonant with a human understanding of the relevant facts. The fact that Justice Ryan was able to fashion such decisions working within the confines of his very conservative understanding of the judiciary’s role as executor, not maker, of the law is a further tribute to his legal knowledge and skill. Justice Ryan balanced his active execution of these high-minded principles with an equally active sense of humor. His one-liners and pranks on fellow judges are the stuff of legend.

Once, when some other court of appeals judges and their clerks took a day off to see a spring training game, he had me call their chambers and leave a message as if I were a reporter doing a story on the “workloads” of court of appeals judges. On an earlier occasion, he teased a fellow judge — wearing pink jeans — that he never wore pink pants before Memorial Day.

Justice Ryan was that rare blend of grace and steel, ability and decorum, that actually achieved the aspirational ideal we have for our leaders. His many public achievements are a testament to his talent and ability. His innumerable individual successes, the time and effort he selflessly spent teaching literally hundreds of individuals like myself to be just a little better are the true measure of his greatness. I shall miss him a great deal.

Michael D. Ryan

Warren Stapleton is an attorney at Osborn Maledon practicing in bankruptcy and commercial litigation. He clerked for Justice Ryan at the Arizona Court of Appeals from 1997 to 1998.

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New South Court Tower opens in time for Centennial celebrations

continued from page 1

O’Connor said she was impressed with the decision to build a new courthouse and that it will expose more of the community to the legal system. “You’ve done extremely well, in my opinion, to decide to build a new courthouse. So many of our citizens have their only glimpse into the law as prospective or actual jurors or witnesses or, unfortunately, as a litigant sometimes in the courts of our nation, and the courts play a crucial role.”

Wilson hailed the building as a fitting centennial project, “designed to serve the public for 100 years.” He also praised the construction management team. “This construction has been accomplished with military-like precision,” he said. “They overcame the challenges of working in Arizona’s heat and within the tight confines of an urban core, on time and under budget.”

The building is notable for its detailed planning, flexible courtroom alignments, enhanced security, victim-protection features and modern technology to increase efficiency in a judicial system already well known for its economy and professionalism. It can accommodate an additional ten courtrooms and includes holding cells for an estimated 1,390 inmates. “The large courtrooms can even handle two juries simultaneously, meaning additional savings of time and money. Victims will have separate areas so they won’t have to come in contact with defendants, witnesses or the general public.

The project began with the demolition of a parking garage in December 2008, with excavation starting soon after. At a time of a prolonged recession, the project created some 1,600 jobs, mostly in construction, a $107 million payroll, and took advantage of lower prices for materials like copper, steel and concrete.

Judge Davis lauded the building’s unique design, saying it was “configured to provide greatly increased efficiencies in the processing of criminal cases, to protect the rights of victims and witnesses participating in the process, and to utilize modern technology to reduce costs and enhance the delivery of justice to the community.”

Maricopa County Supervisor Mary Rose Wilson said the project timing, just as the nation was falling into a deep recession, boosted Arizona’s economy. “The construction industry in Maricopa County lost 50,000 jobs. This project added more than a thousand jobs in the building trades, using Arizona labor, materials and supplies. And we have already paid for it.”

Brock predicted the new court would become the center piece of Arizona’s legal profession and a place where the state’s legal history is both honored and made.

“They will come here to learn and experience the judicial system and see the importance of the rule of law,” he said. “They will appreciate here the critical place our judiciary plays in American democracy.”

Stapley hailed the engineering and construction excellence and the dedication to efficient justice. “In its architectural design and its visionary use of space and technology, this court tower will be admired and copied for generations,” he said.

To learn more of the project and the design features of the building, go to its transparency website: http://www.maricopa.gov/courttower/about.htm.

Karen Arra is media relations director for the Maricopa County Superior Court. She can be reached at karra@superiorcourt.maricopa.gov or (602) 506-7570.

From left to right, Maricopa County manager David Smith, Maricopa County Supervisor Fulton Brock, Maricopa County Supervisor Don Stapley, Maricopa County Board of Supervisors Chairman Max Wilson, Presiding Judge Norman Davis and Maricopa County Supervisor Andrew Kunasek cut the ribbon for the new South Court Tower opening on Feb. 14.

A crowd listens during the dedication of the new South Court Tower.
Give typography a second glance

LEGAL WRITING

Tamara Herrera

Very few legal writers I know sit around talking about typography and how typography affects their legal writing, but they should. Fortunately, former graphic designer and current attorney Matthew Butterick thinks about these issues all the time and has recently published a book aptly titled Typography for Lawyers. He also maintains a website with many tips and sample documents that legal writers may find helpful (www.typographyforlawyers.com).

According to Butterick, “[t]ypography matters because it helps preserve the most valuable resource you have as a writer — reader attention.” Following is a very short list of some of his advice directed at making the best use of white space in a document:

■ Use one space between sentences for more balanced white space.
■ Choose curly quotes over straight quotes because they are more legible and match the other characters better.
■ Mix two fonts within a document when each font has its own role (one font for headings and another, distinguishable font for text).
■ Limit yourself to three levels of headings; any more headings than three results in confusion and wastes space.
■ Choose boldface or italics to give emphasis because they are easier to read than underlining.
■ Use first-line indents or double-spacing between paragraphs to indicate the start of a new paragraph; do not use both.
■ Use widow and orphan control settings to manage white space.
■ Avoid using too many exclamation points.

In addition to his advice, Butterick has designed two fonts specifically for legal documents: Alix (a monospaced font) and Equity (a proportional font, like Times New Roman). The Legal Writing Institute is honoring Butterick for his work by awarding him the 2012 Golden Pen Award, and I cannot recommend his site highly enough. If you have ever have a question of “how do I do that” with a word processor, Butterick likely has an answer.

Legal Briefs

By Stacy Nykorchuk

Oldest federal judge dies

Still presiding over cases at 104 years of age, Senior U.S. District Judge Wesley Brown passed away on Jan. 3. He was appointed to the U.S. District Court in Wichita, Kansas, by President John F. Kennedy in 1962.

Are jurors using social media during trial and deliberations?

A study published by the Federal Judicial Center surveyed district court judges on their awareness of jurors using Facebook, Twitter, and other social media while in the courtroom or while deliberating. Of the 508 responding judges, only 30 (or 6%) reported knowing of jurors using social media while in court or deliberations. Actions taken by judges in these situations included removing the juror from the jury, declaring a mistrial, and firing the juror. The whole report can be viewed at http://www.fjc.gov/public/pdf.nsf/lookup/dunnjuror.pdf?file=dunnjuror.pdf.

U.S. v. Loughner: Ninth Circuit provides court documents in one place

For those following Jared Lee Loughner’s appeal from the United States District Court for the District of Arizona, the Ninth Circuit has a website that organizes all the documents in one place and is regularly updated. That website is: http://www.ca9.uscourts.gov/content/view.php/ok_id=0000000550. Alternatively, you can sign up for updates via email or SMS / Text from the US District Court of Arizona by visiting http://www.azd.uscourts.gov/ and clicking on the USA v Jared Lee Loughner section.

National crime victim’s rights week is April 22-28, 2012

This year’s theme is Extending the Vision: Reaching Every Victim. More information on the vision, goals, and resources available to crime victims and their service providers is available at http://ovc.ncjrs.gov/ncvweek2012/index.html.

Stacy Nykorchuk earned her Master’s Degree in Criminal Justice at Arizona State University in 2008. She is presently earning a Master’s Degree in Information and Library Sciences with the University of Arizona, as well as volunteering with the Arizona State Attorney General’s Office Law Library.

The art of dealing with difficult clients

ASK AN ASSOCIATE

Nicole Siqueiros

QUESTION

I’m having a very hard time with a new client. How do I deal with this difficult client and still protect myself? –Scarlet in Scottsdale, AZ.

Much has been said about this subject, but I think it always merits additional discussion. Dealing with difficult clients is an art in itself. It takes time and practice. It is never easy, particularly because it’s no secret that difficult clients are more likely to file a bar complaint.

Do your homework

If you have the ability, as an associate, to screen your clients before beginning representation, sometimes you can begin to look for red flags during the consultation. To help in the screening process review prior litigation your potential client has been involved in. Find out if the potential client was represented by other attorneys and why they withdrew.

Also, review with the potential client their expectations about your time, service, fees and outcome; ask yourself whether they are being realistic. These sorts of questions will give you a good idea of what the potential client might be like if he/she retains you.

Set boundaries in the beginning

Once the client retains, laying out boundaries and expectations at the beginning of the case will help in later discussions. For instance, it may be a good idea to provide the client with a formal letter as part of your Fee Agreement describing the objective and philosophy of representation. Then, if the need arises, you can refer the client to
Certificate vs. certification: What IS the difference?

Certificate of completion

These two words seem very similar but are two different things in the paralegal community. Certificate refers to a "Certificate of Completion" that a person can obtain if they already have a college degree. The certificate program call for completion of all the legal classes that one would have to take to earn the degree minus all the general courses, which would have already been completed with their previous degree.

A Certificate of Completion consists of passing approximately 10 legal classes. When you have completed a certificate program, you are not a Certified Paralegal.

Certification

A Certification is something in addition to a degree. The two most nationally recognized certification exams are the Certified Legal Assistant exam through the National Association of Legal Assistants (NALA), and the PACE Registered Paralegal exam and CORE exam, both through the National Federation of Paralegal Associations (NFPA).

To be eligible to obtain your Certification through NALA, you must meet the following requirements: (1) Graduate from a paralegal program or (2) Have a bachelor's degree in any field plus one year experience as a paralegal or at least 15 semester hours of substantive paralegal courses (Certificate programs) or (3) A high school diploma, seven years' experience, and a minimum of 20 continuing legal education credits within two years of the date you would like to take the exam. If you meet one of the initial requirements, you can file an application to take the exam.

NALA exam schedule

Currently the NALA exam is available three specified months each year where the exam is to be taken at an ACT Testing Center. The exam can take up to eight hours and is divided into five sections: Communications (1 1/2 hrs allotted), which includes an essay, Ethics (1 hr allotted), Judgment and Analytical Ability (2 hrs allotted which includes an essay), and four self-chosen areas of Substantive Law (2 hrs allotted).

Each of these sections needs a minimum passing score of 70 percent. Paralegals who pass the certification can use the letters "CP" or "CLA" after their name (i.e. Cami Barnella, CP). As of November 2011, there were 16,757 CP/CLAs nationwide and 1,155 of those are from Arizona. Arizona is ranked third in the number of CP/CLAs among states. For more information about the CLA exam, you can go to www.nala.org.

PACE and CORE exams

Initially, NFPA had one exam that was used for experienced paralegals known as the PACE (Paralegal Advanced Competency Exam). Certification. Now it has started to administer a certification for early career paralegals called the CORE Competency Exam, which started in June of 2011.

To be able to take the PACE exam through NFPA, you must meet the following requirements: (1) Have an associate's degree from an accredited or ABA approved paralegal program and six years of paralegal experience or (2) Have a bachelor's degree in any field and three years of paralegal experience or (3) Have a bachelor's degree in paralegal program from an accredited school and two years paralegal experience or (4) Four years of paralegal experience on or before December 31, 2000. If you meet one of these initial requirements, you can file an application to take the PACE exam.

Exam expectations and requirements

The PACE exam is made up of 200 multiple choice questions and you have up to four hours to complete the exam, in which you are required to pass in the following areas: administration of client legal matters, development of client legal matters, factual and legal research, factual and legal writing, office administration, ethics, technology in the law, and some substantive areas of law. Paralegals who pass the PACE exam can use the letters "CP" after their name. Currently, there are approximately 146 CPs nationwide, one of whom is from Arizona. Currently the NFPA exams are available year round through Sylvan Technology Centers. For more information about the PACE or CORE exam, you can go to www.paralegals.org.

A proud achievement

I received my certification through NALA back in 2008. I can honestly say that it was the hardest thing that I did “school” wise and it is also the thing that I am most proud of in my professional life. I would encourage anyone who is thinking about taking one of these exams to take it.

In most work places, it does not mean that you will get paid more, but it does show how serious you are in your career and, to me, it is also such a great personal achievement.

Great turnout at quarterly meeting

What a great turnout we had for our first quarter CLE lunch. I want to thank everyone who came to the quarterly meeting to support the division. I also want to thank Tina Ziegler for presenting such a great topic for us.

I know that it has been said time and time again, but we can use all the help we can get in the division. If you are interested in getting more involved with your division and helping out in any of the various committees, please contact me at barnella@sackstierney.com. I hope everyone has a great March and Happy St. Patrick’s Day!
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Arizona’s Capitol Centennial Celebration
On Feb. 14, 1912, Arizona became the 48th state

Arizona’s current governor Janice K. Brewer, addresses the Centennial crowd. Brewer, a slender blonde and conservative Republican, and the state’s first governor, George W. P. Hunt, are almost complete physical and political opposites. Hunt was 5 feet 9 inches tall, close to 300 pounds and bald. Politically, he was a Progressive Era populist who supported reforms such as women’s suffrage, secret ballots, income tax, free silver coinage, and compulsory education, as well as being an opponent of capital punishment and a supporter of organized labor.

Official state historian, Marshall Trimble, met up with Governor George W.P. Hunt (Don Shields). Gov. Hunt was the framer of the Arizona Constitution, the first governor of the new state, and the most often elected governor in the U.S. On Feb. 14, 1912, he walked from City Hall to the State Capitol to mark Arizona’s statehood. It was quite an endurance test for the almost 300-pound Hunt, who took 55 minutes to walk the 15-block-plus distance.

Did you know Arizona has a state song? On the Capitol Centennial celebration stage, the ASU Barrett Honors College Chorus sang a rousing a cappella rendition. Written by Rex Allen, Jr., the first line is just the thing for Valentine’s Day: “I love you Arizona.”

Every birthday requires cake, and Arizona is no different. This four-foot square beauty was surrounded by several hundred cupcakes.

Arizona Secretary of State Ken Bennett poses in front of a 45-star U.S. flag with four representatives of the 22 Native American nations involved in the Centennial Celebration.

The Clerk of the Superior Court celebrated the Centennial and Valentine’s Day in its own special way—it invited couples to be married by the chief justice of the Arizona Supreme Court, Rebecca White Berch, on the steps of the Arizona Courts Building. Some 90 couples took the Clerk up on its offer.

Arizona's Capitol Centennial Celebration
On Feb. 14, 1912, Arizona became the 48th state

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Get to know your 2012 MCBA leadership

This is the final installment of our Q-and-A feature with leaders of the MCBA’s governing board, sections and divisions. We hope these brief “introductions” give you a chance to get to know these leaders a little more and their goals for the association.

Cami Barnella, Sacks Tierney PA, President, Paralegal Division
What do you plan to accomplish in 2012 as a leader of your section/division/board?

To get more member involvement by providing networking opportunities, community involvement/outreach events, and some great social gatherings.

What’s most valuable about your involvement with the MCBA?

Getting to meet and know more fellow paralegals with different legal backgrounds and being able to socialize and network with them. They can be a great resource.

What do you like best about your job?

I like that no two cases are the same. Even if you think that there are all the same type of issues in two different cases, they are always different so it keeps me on my toes and thinking. I also like the people I work with.

What’s your favorite hobby outside of work?

This past year I’ve started to get into running and doing running/obstacle courses (i.e. Warrior Dash, Rugged Maniac, Great Urban Race). I like how they push me to do things I didn’t think I could do. When I’m not doing those, I’m normally just trying to have fun with my 7-year-old son.

Your favorite local restaurant is…?

Oh, there are so many since I like to think of myself as an amateur foodie, but a few I love are Harry’s, Over Easy, Joes Farm Grill, and Sushi 101.

Paula O. Burgess
Law Office of Paula O. Burgess, PC
Chair, Estate Planning, Probate and Trust Section
What do you plan to accomplish in 2012 as a leader of your section/division/board?

The board members on the EPPT section are some of the most talented and dedicated people I know. My goal is to provide them the support they need to reach their goals, and stay out of their way as much as possible. Besides being committed to the overall goals of providing excellent CLE programs, here are some of the things to look for in 2012:

- Kelly Kral started the Probate Lawyers Assistance Program and it is now up and running, and she continues to oversee the student and attorney volunteers.
- Mark Moritz will be taking the lead to bring to fruition T.J. Ryan’s idea to improve A.R.S. 14-6103 to provide the same definitive cutoff as probate creditors in other estate administrations (such as trusts, where no probate has been opened) if the procedures in the statute are followed.
- Mark Ther, who also serves on the State Bar Probate and Trust Section, will be working on a solution to again allow public access to superior court minute entries in probate cases.
- Hillary Gagnon will be the head of our newly formed publicity committee to help inform our members of recent developments, which is a huge and fast changing challenge for our members in our area of the law. I’m sure I’ve forgotten some things, but you can see our group is very busy and making great contributions.

What do you like best about your job?

I enjoy the variety of substantive issues and the talented people with whom I work.

What’s your favorite hobby outside of work?

I enjoy spending time with my husband and my dog, whether we are hiking, taking a trip to the beach, or getting a cup of coffee.

Your favorite local restaurant is…?

Happy Hour at Fleming’s.

David E. Funkhouser
Quarles & Brady, LLP
President-elect, MCBA Board of Directors
What do you plan to accomplish in 2012 as a leader of your section/division/board?

As one of the co-chairs of the Maricopa County Bench/Bar Committee, along with Judge Christopher Whitten, we hope to grow our committee by adding to our already impressive roster of judges and commissioners, and also by expanding our attorney membership from both the public and private sector. So, for anyone that is interested in joining, please contact either myself or Judge Whitten (shameless plug). In addition, and in my role as president-elect of the MCBA, my goal is to also create the First Annual Bench/Bar Committee Retreat for early 2012. Ideally, it will be an informative CLE, followed by a networking event for attorneys and judicial officers.

What’s most valuable about your involvement with the MCBA?

As a transplant from the great state of Iowa, I landed in Phoenix without knowing too many attorneys other than those at my first law firm. By joining the MCBA, and becoming active in its leadership, I have met dozens of attorneys and judicial officers from all across Maricopa County. It really has been a rewarding membership for me.

What do you like best about your job?

As a litigator, I love being in the courtroom. I also enjoy the constant challenges that come with being a trial attorney, and essentially doing something new each and every day. Of course, my favorite part of my job are the people I work with at Quardles & Brady.

What’s your favorite hobby outside of work?

I certainly enjoy spring training, the Phoenix Open and college football. But, whenever I can, I escape to the outdoors to hunt or fish. It is a passion that was installed upon me by my father, and I hope to pass along to my two boys as well. Arizona is a diverse state in terms of wildlife, and I have been fortunate to partake in many exciting trips over the years.

Your favorite local restaurant is…?

Dick’s Hideaway on 16th Street and Bethany Home. This quaint restaurant serves, in my humble opinion, the best Southwest fare around. Of course, Los Dos Molinos is a VERY close second.

Bill Kastin
Snell & Wilmer, LLP
Treasurer, MCBA Board of Directors
What do you plan to accomplish in 2012 as a leader of your section/division/board?

To continue to make the Maricopa County Bar Association THE place where attorneys throughout Maricopa County can learn about the most relevant legal topics of the moment and discuss any other matters that are important to them.

See Get to Know page 12
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New law mandates air quality forecasts, dust control practices

Billions in federal highway construction funds at stake

By John D. Burnside, Polsinelli Shughart, PC

Thanks to a new statutory amendment enacted last year by the Arizona Legislature, Maricopa County may be one step closer to avoiding severe Clean Air Act sanctions that might otherwise threaten to detail the region’s nascent economic recovery.

The new law, known as House Bill 2208, aims to reduce emissions of airborne dust that threaten regional air quality on specific days that windy weather conditions create a high risk that dusty activities will damage air quality.

House Bill 2208’s revisions to A.R.S. section 49-424 require the Arizona Department of Environmental Quality (ADEQ) to develop and disseminate “air quality dust forecasts” for Maricopa County. Each dust forecast identifies a low, moderate, or high risk of dust generation for the next five days based on projected weather conditions.

House Bill 2208 also adds A.R.S. section 49-457.05, requiring ADEQ to issue a “Dust Action General Permit” that specifies best management practices (BMPs) for owners and operators of dust-generating operations to implement before and during a day that is forecast to be at high risk of dust generation. ADEQ posts dust forecasts on its website at http://www.azdeq.gov/environ/air/ozone/mcdust.mgs/

ADEQ issued the Dust Action General Permit in December 2011. The permit includes examples of specific BMPs for dust-generating operations in typically dusty contexts, including open areas and vacant lots; unpaved parking lots, roadways, alleys and road shoulders; utility access roads; bulk material storage; live-stock special events, and managed trail systems.

The permit’s BMP’s generally require owners and operators to stabilize surfaces using gravel and compacting, including effective dust suppressants, to prevent or reduce dust emissions.

If a dust generating activity fails to implement the required BMPs before and during a high risk day, ADEQ may require the owner or operator to obtain a “Requirement to Operate” pursuant to the Dust Action General Permit. Violations of the permit are subject to enforcement under A.R.S. Title 49, Chapter 3, Article 2, including civil penalties of up to $10,000 per day, per violation, pursuant to A.R.S. section 49-463.

Despite some significant overlap, the new law is designed to complement, rather than duplicate or supplant, existing regulatory programs. For example, the Maricopa County Air Quality Department currently regulates dust-generating activities within the County, including construction, pursuant to Air Pollution Control Rules 310 and 310.01, among several other rules. Rule 310 requires a county-issued dust control permit for dust-generating operations that disturb a total surface area of one-tenth acre or more.

According to Representative Amanda Reeve, the legislative sponsor of HB2208, a goal of the new legislation was “to avoid duplicative regulatory requirements while increasing awareness of the need for the public’s cooperation in reducing dust, particularly on days with windy conditions.” Reeve points out that the law includes specific prohibitions against double enforcement, such as an exemption from the new general permit for activities already subject to a Maricopa County dust control permit.

The new dust forecasting program and the Dust Action General Permit provide new material for Arizona to include in its federally-required plan for improvement of Maricopa County’s air quality. Because ambient air in Maricopa County has been found, at certain times and in certain monitoring locations, to exceed federally-enforced limits for particulate matter, the region has been designated a “serious” non- attainment area for PM-10 pollution.

Scientific studies suggest that inhaling PM-10, consisting of airborne particles measuring less than 10 micrometers, can harm public health, particularly as to sensitive populations. As a result of the “serious” nonattainment designation, section 189(d) of the Clean Air Act requires Arizona to prepare and submit to the United States Environmental Protection Agency (EPA) a plan to demonstrate that there will be a five percent reduction in PM-10 emissions each year until attainment is achieved.

In December 2007, ADEQ submitted such a plan, known as the “Five Percent Plan,” but withdrew the plan from consideration in January 2011 after EPA publicized its intention to deny approval of the plan. By withdrawing the plan before EPA finalized its disapproval, the state gained the ability to delay implementation of certain sanctions, such as the freezing of all federal funding for highway projects, as long as it submits a revised plan before the sanctions take effect.

The dust forecasting program and the new Dust Action General Permit are important elements of a new Five Percent Plan currently under development. Arizona law designates the Maricopa Association of Governments (MAG) as the agency responsible for development of regional air quality plans for Maricopa County, including the new Five Percent Plan.

At the time of this writing, MAG is cooperating with ADEQ, the Maricopa County Air Quality Department, and various other stakeholders to develop the new plan. The group expects to submit the plan to EPA around the time this publication goes to press.

The participants in the development of the new Five Percent Plan anticipate that the air quality forecasting program and the Dust Action General Permit will help smooth EPAs approval of the revised plan. EPA was involved as a stakeholder throughout the development of the legislation, the permit, and the new plan, and initial indications from the agency are positive. Says Amanda Reeve, sponsor of House Bill 2208: “EPA is very excited about this Dust Action General Permit. They view it as a creative solution to further addressing our air quality issues here in the valley.”

With billions of dollars of federal highway construction funds at stake if Maricopa County does not meet Clean Air Act requirements, such actions give some reason for optimism.

John Burnside practices environmental law, including air quality regulation and enforcement defense, with Polsinelli Shughart, PC.
What's most valuable about your involvement with the MCBA?

There’s nothing more valuable to me than the ability to connect with other attorneys – attorneys in large and small firms, in-house counsel and those working for the government, including recent law school graduates, recent Arizona “transplants,” or those who have contributed significantly to our legal community in the past. MCBA-hosted events give me opportunities that are unparalleled in this regard.

What do you like best about your job?

I’m a tax attorney; so the best part of my job is that I get to work with attorneys in a wide variety of markets and practice groups. The interaction I have with so many different people in so many different industries is truly enjoyable.

What’s your favorite hobby outside of work?

I enjoy spending time with my family, including Churchill, our loyal and trusted canine companion.

Your favorite local restaurant is…?

Wherever my wife likes to eat on a particular evening is my favorite place to eat.

Get to know your 2012 MCBA leadership

continued from page 9

T.J. Ryan

Frazer, Ryan, Goldberg & Arnold

Secretary, MCBA

Board of Directors

What do you plan to accomplish in 2012

as a leader of your section/division/board?

Increase the value of the MCBA brand and membership.

What’s most valuable about your involvement with the MCBA?

Networking with quality professionals in the community, identifying and addressing needs of the membership, and keeping current with local legal news and events.

What do you like best about your job?

Providing solutions to problems and overcoming what sometimes can appear to be insurmountable adversity.

What’s your favorite hobby outside of work?

Playing golf.

Your favorite local restaurant is…?

Moto Sushi on 16th and Glendale.

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 pgerrich@cclsaz.org.

**PRO BONO SPOTLIGHT ON CURRENT NEED**

Attorneys are needed to help working families who need to file Chapter 7 bankruptcy to stop garnishment of their limited wages. Three families need attorneys who speak Spanish.

J. B. Molinar

Jeffrey B. Molinar (2 Cases)

Attorneys are needed to help working families who need to file Chapter 7 bankruptcy to stop garnishment of their limited wages. Three families need attorneys who speak Spanish.

VLP ATTORNEY OF THE MONTH

A cold shower in Alaska: Attorney takes on challenges of pro bono

By Peggi Cornelius, VLP Programs Coordinator

“Stepping into a civil appeal in a case already discombobulated is like taking a cold shower in Nome, Alaska.” So said attorney David Abney of the challenge involved in his pro bono work with the Volunteer Lawyers Program appellate project. Abney’s enthusiasm and exceptional participation in the pilot project initiated by Division One of the Arizona Court of Appeals at the outset of 2011 has earned him recognition as VLP’s Attorney of the Month.

Licensed to practice as a trial lawyer in three states and the District of Columbia, and specializing in civil appeals, Abney was well prepared and eager to take the “cold shower” pro bono cases this past year. But his 12 years of service to VLP clients have involved him in complex litigation and appeals before.

Abney’s pro bono cases have spanned the spectrum of civil law, from his first VLP home- ownership matter to contact disputes and adoption. In 2006, he received a VLP “Family Law Attorney of the Year” award. Abney often has more than one VLP case at a time and has provided representation in lengthy and contentious family law matters. When his donated time exceeds hundreds of hours, he doesn’t skip a beat.

Like many who were inspired by reading To Kill a Mockingbird, Abney set his sights on becoming a lawyer in his formative years. “It took me a while, as I did yard work and had my first employment experiences as many young people do in places like McDonald’s, Burger King, and Montgomery Ward,” he said.

While serving in the Navy, Abney was a cryptologic technician in the Russian language, and that has since been advantageous in his work with clients. In fact, the VLP case that stands out most in his memory involved a Russian mail-order bride. He recalls, “She needed a divorce and enough spousal support to get a new start with her young son. It was gratifying to help her achieve both goals.”

Perhaps one of the reasons Abney is such an outstanding lawyer is due in part to his extensive education. Beginning with a double major in History and Russian as an undergraduate, and proceeding to graduate studies in the arts, American history, forensic science, and, of course, law and federal litigation, Abney has received multiple masters and doctoral degrees.

Not neglecting his personal life, Abney married his high school sweetheart 34 years ago. He describes her as “wonderful” and feels blessed to have raised two sons with her. “We met in the church choir, and supporting choirs is still a passion for me. For seven years, I’ve been the vice-president of the Desert Vista High School Choir, helping raise over $100,000 to pay for uniforms, music, support equipment, scholarships, and tour expenses.”

Abney also serves as the co-chair of the amicus committee for the Arizona Association for Justice/Arizona Trial Lawyers Association. He shares the distinction with retired Chief Justice Stephen F. Gunderson. “I clerked for him for 12 years, on two separate occasions between 1978 and 1995,” said Abney. “He is an inspiration in every way.”

Whether or not it’s conscious, there is no doubt Abney inspires others. He believes his pro bono work is a small part of paying back an immense debt he owes the legal profession, his state, and his nation. He invites colleagues to join him, saying, “You are a member of a privileged profession in hard times. People are desperate for help and you can help them.”
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 programs 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.

For example, registrations for a September 17 program must be paid by September 15 in order to avoid the late fee. 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.

**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) 682-8660, or e-mail at: presenter@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 5-7 weeks). If audio media is available, registrations may be converted to a self-study package for an additional $15 charge.

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**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 FLYER**
Follow directions for online registration. Then, from the program's online registration page, download a print registration form to mail or fax.

**PHONE**
Call Patty at (602) 682-8588

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**THURSDAY • MARCH 8**

**7:30 - 8:30 AM (Breakfast included)**

What Wealth Transfer Opportunities Does the Tax Relief Act of 2010 Provide?

**SPONSORED BY:** The Estate Planning, Probate and Trust Section

**May qualify for up to 1.0 standard CLE credit hour.**

- Planning opportunities to use the $5 million gift and GST tax exclusion.
- Discussion of GRATs, Charitable Lead Annuity Trust, and Qualified Personal Residence trusts.
- Overcoming client objections/resistance to inter vivos transfers.
- Planning to maximize portability of the exclusion amount.
- Recent IRS pronouncements of portability and other planning issues.

**PRESENTER:**
Robert Phelp, JP Morgan
Cathy Knapp, Frazer Ryan Goldberg & Arnold, LLP

**COST:**
- Estate Planning, Family Law section members: $40
- MCBA members: $45
- Non-members: $65
- Public Lawyers & Paralegal division members: $30
- Student members: $10

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**THURSDAY • MARCH 22**

**NOON - 1 PM (Lunch included)**

Get Noticed, Get Found

May qualify for up to 1.0 standard CLE credit hour.

Manage Your Online Presence to Grow Your Practice

When should you focus on your professional online presence?

What should your law firm website and web presence look like so you are sending the correct message?

Discover how to grow your online professional reputation the right way and learn how to comply with the stringent rules governing attorneys' online presence.

Educational and entertaining course will help you transform your online presence.

**PRESENTER:** Jabez Lefert, co-author of the most current legal marketing book: How to Turn Clicks into Clients – The ultimate law firm guide to getting clients online.

**COST:**
- MCBA members: $35
- Paralegal & Public Lawyer Division members: $20
- Law student members: $10
- Non-members: $55

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**FRIDAY • MARCH 30**

**8:30 AM - 5 PM (Lunch included)**

**Lecture & The Law Conference**

This program may qualify for up to 7 CLE ethics hours.

**LOCATION:** ASU Mercado

The Maricopa County Bar Association is hosting “Literature and the Law,” an all-day conference with the assistance of the Law Office of Travis R. Marker.

The conference will address the practical application of the literature to the law. This is not a theoretical or academic discussion. The classes and presentations will discuss relevant topics such as advocacy, client interviews, negotiations, problem solving, ethics, and other areas of practical application of the literature to the practice of law.

**PRESENTERS:**
- What Lawyers can Learn from Beowulf – Robert Bjork, Professor and Director of the Arizona Center for Medieval / Renaissance Studies
- Good Lawyers/ Bad Lawyers in Poetry – David Kader, Professor of Law, ASU Sandra Day O’Connor College of Law
- Crime, Punishment and Poetry – Michael Stanford, Faculty Associate, Barrett Honors College, ASU
- Pro Bono, Ethics Literature & the Law – Benjamin Miranda, Law Offices of Benjamin Miranda
- Faulkner, Gender and the Law – Deborah Clarke, Professor of English, ASU
- Shakespeare Sextet and Why Lawyers Should Know it – Rachel Alexander, Maricopa County Attorney’s Office
- Leo Tolstoy, Transcendentalism, and Lawyer Problem Solving Skills – Travis Marker, Law Office of Travis Marker
- Dorian Gray, Legal Ethics & Inner Beauty – Jennifer Cranston, Gallagher & Kennedy

**COST:**
- Early registration until March 23: $195
- Attorney registration after March 23: $250
- Students with valid ID: $20

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**MARCH 2012 FUNDAMENTALS**

**201 FAMILY LAW SERIES**

**Fridays • MARCH 2, 9, 16, 23 • Lunch included**

**May qualify for 6 standard CLE credit hours (1.5 each)**

**YOU SAVE $55 BY REGISTRATION FOR ALL FOUR MARCH PROGRAMS.**

**PACKAGES PRICES**

| Family Law Section members: | $185 |
| Public Lawyers & Paralegal | $105 |
| Division members: | $195 |
| MCBA members: | $195 |
| Non-members: | $315 |
| Student members: | $40 |

**THURSDAY • MARCH 15**

**NOON - 1 PM (Lunch included)**

What Every Trial Lawyer Should Know About Appeals

**SPONSORED BY:** Litigation Division

**May qualify for up to 1.0 standard CLE credit hour.**

- Understanding Law of Appeal.
- When you need an appeal.
- Managing your appeal
- Litigation appeals standards
- Preparing your briefing for appeal
- Understanding multiple appeal
- Further appeals

**PRESENTER:** Kim Demarchi, Lewis and Roca, LLP

**COST:**
- Litigation Section members: $40
- MCBA members: $45
- Non-members: $65
- Student members: $10

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**SESSION 1 • FRIDAY • MARCH 2**

**11:30 A.M. - 1 P.M. (1.5 HOURS)**

Prenuptial/Postnuptial Agreements a 201 Level Course

This beginner to intermediate level CLE will address basic negotiation, drafting, litigation, and enforcement of prenuptial and postnuptial agreements.

**PRESENTER:** Leonce A. Richard
Mariscal, Weelo, McShane & Friedlander, PA

**SESSION 2 • FRIDAY • MARCH 9**

**11:30 A.M. - 1 P.M. (1.5 HOURS)**

Avoiding Bar Complaints for Family Law

This beginner to intermediate level CLE will address steps family law attorneys can take to avoid bar complaints. In addition, the seminar will deal with how to respond to bar complaints with a particular focus on family law practice.

**PRESENTER:** Karen Clark, Adams & Clark, PC

**SESSION 3 • FRIDAY • MARCH 16**

**11:30 A.M. - 1:30 P.M. (1.5 HOURS)**

Family Law Post-Decree Motions and Appeals 201

This seminar is for attorneys who wish to practice family law at both the trial court and appellate level. The CLE will address which family law orders can be appealed and the basic process for appeals. In addition, the class will cover post-decree motions such as motions for reconsideration, motions for a new trial, motions for alter or amend judgment order, motions to correct mistakes, relief from judgment or order, and obtaining stays of judgments or proceedings.

**PRESENTER:** Stanley David Murray
The Murray Law Offices, PC

**SESSION 4 • FRIDAY • MARCH 23**

**11:30 A.M. - 1:30 P.M. (1.5 HOURS)**

Domestic Violence and Orders of Protection for the Family Law Attorney

This beginner to intermediate CLE will cover how to effectively provide evidence to the court of domestic violence issues, as well as the significance and role of domestic violence issues in family law. In addition, special consideration will be made regarding obtaining orders of protection and the hearing process.

**PRESENTERS:**
- Tom Alongi, Community Legal Services
- Nicole Siqueiros, Hallier & Lawrence, PLC

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**REGISTRATION**

Register online at: www.maricopabar.org or call Patty at (602) 682-8588

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**CONTINUING LEGAL EDUCATION FROM THE MARICOPA COUNTY BAR ASSOCIATION**

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**OFFICE MARCH 2012 • 13**

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**BACK BY POPULAR DEMAND!**

Coming to MCBA CLE in APRIL is the Bankruptcy Ambush CLE

See page 12.
Elections

Michael C. Mason, a shareholder in the Phoenix office of Greenberg Traurig, LLP, has been elected to serve on the board of directors of the Valley of the Sun Human Resource Association (VSHRA). Mason, with more than 30 years of experience, including 25 years spent in legal-related fields, has practiced in labor & employment and commercial litigation. He earned his J.D. from Arizona State University Sandra Day O’Connor College of Law and his B.A from ASU.

Ogletree, Deakins, Nash, Smoot & Stewart, PC announces that Michelle Ganz and Caroline Larsen, both from the firm’s Phoenix office, have been elected shareholders. Both were elected to the position during the firm’s Annual Meeting of Shareholders in Atlanta.

Ganz represents private and public employers in all aspects of employment law, including federal and state laws on employment discrimination, retaliation, whistleblowing, leave, wage and hour, contracts, restrictive covenants, and various torts. Ganz earned her J.D. from the University of Southern California Gould School of Law.

Larsen has experience defending employment-related lawsuits in state and federal courts involving allegations of employment discrimination, harassment and retaliation under Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Larsen earned her J.D., cum laude, from ASU’s Sandra Day O’Connor College of Law.

David M. Villadoïd, a shareholder with the law firm of Burch & Cracchiolo, PA, has been elected to the Primers Section of the firm. Villadoïd is an AV Preeminent 5.0 out of 5 peer review rated attorney in Martinez Hubbard and the senior partner in the firm’s employment law section. He advises management and executives on a variety of employment issues including compliance with state and federal employment laws and regulations, including hiring, discipline and termination of employees; restrictive covenants; severance agreements; reductions in force; structuring the workforce; executive compensation; and the defense of discrimination and retaliation claims before the EEOC and other agencies and tribunals.

Recognitions

Jean-Jacques ”J” Cabou has joined Perkins Coie in Phoenix as partner in the investigations and white collar defense practice. He joins the firm from Osborn Maledon, PA.

J focuses his practice on criminal defense and responding to government investigations. His practice also emphasizes criminal defense matters, including defense of complex white collar crime matters, civil and criminal forfeiture, and opposition to government investigations and other post-conviction proceedings.

Phoenix attorney William J. Maledon has been appointed to the Ninth Circuit Advisory Board, a group of prominent attorneys that advises on the effective administration of the federal courts in the western states. Maledon, 64, is a member of Osborn Maledon, PA., and leads the firm’s litigation practice. He is considered one of the leading commercial litigation and trial attorneys in Arizona. An appointee of Chief Justice John G. Roberts, Jr., Maledon has served the Judicial Conference of the United States as a member of the Standing Committee for Rules of Practice and Procedure since 2005. He served on the Arizona Supreme Court Committee on Complex Litigation from 2001 to 2010, and on the U.S. District Court for Arizona Magistrate Judge Selection Committee from 1996 to 2000.

He was a delegate to the Ninth Circuit Judicial Conference from 1995 to 1998. Maledon received his B.S. in 1969 from Loyola University of Chicago, and his J.D. in 1972 from the University of Notre Dame, where he graduated summa cum laude and served as editor-in-chief of the Notre Dame Law Review. He clerked for the late Supreme Court Justice William J. Brennan, Jr., from 1972 to 1973.

New Hires

Guist Rosenfeld welcomes Justis M. Scorza, who will enhance the firm’s commercial litigation practice. Scorza practices in the areas of civil litigation and dispute resolution, focusing primarily on insurance defense, commercial law, foreclosure, and real estate. He earned his J.D. in 2011 from Arizona State University College of Law where he earned the highest distinction available for pro bono service and was a repeat Pedrick Scholar.

O’Connor & Campbell, P.C. announces that Kurt D. Maahs has joined the firm. Maahs was previously in private practice in Nebraska and Missouri. Maahs will continue to focus his practice on litigation including insurance law, premises liability, products liability, professional negligence and personal injury.

CLASSIFIEDS

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

ATTORNEY WANTED

LITIGATION ASSOCIATE ATTORNEY—Mann, Berens & Winner, LLP, a small/little-size AV rated firm, seeks to hire an associate attorney with minimum 3 years commercial litigation experience, with excellent academic and professional credentials.

The firm offers competitive salary, objective credentials. The firm offers competitive salary, objective credentials. The firm offers competitive salary, objective credentials.

Call (602) 257-4200.

Kurt D. Maahs

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Lack of attorney ads in yellow pages leads to losing case for police officers

The art of dealing with difficult clients

The Government physically occupied private property for the purpose of obtaining information. We have no doubt that such a physical intrusion would have been considered a ‘search’ within the meaning of the Fourth Amendment when it was adopted.

Alito recognized that the evidence gained from the GPS device to a suspect’s car.

The government later filed drug charges against Jones. He unsuccessfully moved to suppress all evidence obtained from the tracking device. The district court reversed the conviction, holding that the evidence gained from the GPS was inadmissible.

The Supreme Court granted the government’s petition for certiorari.

Continued from page 5

The art of dealing with difficult clients

private fashion.” “What [the] officers did in this case was tantamount to providing no means to contact counsel at all,” she concluded.

Joining her opinion were Judges Diane M. Johnson and Peter B. Swann.

Crime and Punishment

GPS tracking evidence ruled inadmissible

When the Fourth Amendment entered the Constitution, the drafters could not possibly have foreseen the invention, centuries later, of gadgets that register the positions of automobiles by receiving signals from artificial satellites circling the earth. But according to the Supreme Court, they nevertheless would have agreed that placing that magical device on a private vehicle and using it to record the driver’s movements is an unreasonable search. In United States v. Jones, No. 10-1259 (U.S. Jan. 23, 2012), the Court held that law-enforcement officers must get a search warrant before placing a tracking device to a suspect’s car.

District of Columbia police investigated nightclub owner Antoine Jones for involvement in drug trafficking. They applied for a search warrant authorizing them to place an electronic tracking device on a jeep that Jones drove.

The court authorized placing the tracking device but ordered the government to install it in D.C. and to do so within ten days. Agents did not install the device until the eleventh day, and they did so in Maryland, not D.C. The device tracked the jeep’s movements over the next 28 days, reporting the results automatically by cell phone to a government computer.

The government later filed drug charges against Jones. He unsuccessfully moved to suppress all evidence obtained from the GPS device. The district court reasoned that persons traveling on public streets have no reasonable expectation of privacy in their movements from one place to another.

Jones was eventually convicted, and the district court ordered him to prison for life. But there had been no legislative action, as an associate meeting.

Continued from page 5

The art of dealing with difficult clients

a difficult client. Having another lawyer in the room can often ease the tension, will bring additional insight to the table, and could help you if the bar “comes knocking.”

When all else fails, and you’ve sufficiently documented and staffed the situation, you may have to withdraw. In the end, a client and his attorney must be able to effectively and productively work on the case. Do be cognizant that there are procedural and ethical rules for withdrawal of representation that must be followed.

As an associate, you may have to take the extra step of staffing this with a partner or supervisor at your firm. But, a good partner/ supervisor will appreciate your candor and your effort. He/she will hopefully support you if you feel this is the only way.

Most importantly, remember to document document document in letters and e-mails.

“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.

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