NOMINATE NOW!

Hall of Fame and Member of the Year

Don’t miss this opportunity to honor a worthy attorney or judge by nominating them for the Hall of Fame. Also, in an effort to recognize the members who devote an exceptional amount of their time and talent to the Association, the profession, and/or the public, the MCBA seeks candidates for Member of the Year Award. The deadline to submit nominations for both the Hall of Fame and Member-of-the-Year is 5 p.m. on July 15. Detailed information on both awards is available at www.maricopabar.org and page 7 of this issue.

Secrets of the South Court Tower revealed — technology and Apple users, take note

By Aaron Nash

The CLE description promised answers to questions about technology in the state’s newest, high-tech, $340 million court tower. The presenters, Bert Binder and Ken Crenshaw, masterfully translated the latest innovations in courtroom technology into layman’s terms. The first takeaway: Apple users proceed with caution, as the court’s technology is PC-based.

The CLE was advertised for the South Court Tower (SCT), which was designed specifically for the needs of criminal cases, but the court strives to make the same courtroom recording equipment available throughout the court, as funding allows.

Courtroom technology

All courtrooms have either audio recording or audio/visual recording systems. Newer courtrooms have assistive listening headsets available for the parties and counsel, video conferencing capabilities for remote appearances, remote interpreter capabilities, and evidence presentation systems that allow evidence to display on monitors around the courtroom.

Courtrooms in the SCT were designed with victim rooms, where victims can see and hear the proceedings without being seen and potentially intimidated by those in the public gallery. Advance permission to use these rooms is required, as the judge has to approve the live feed being sent to the rooms.

The fifth floor of the SCT has the largest courtrooms in Superior Court with four counsel tables and a room designated just for the media to record proceedings, as recently observed in the Arias trial. Two of the courtrooms on this floor have two jury boxes to allow multiple defendants to be tried to separate juries at the same time.

Compatibility of exhibits and technology

In the SCT, the court provides an evidence cart capable of displaying information in many formats. Be cautioned, however, that the format of your exhibit (CD, DVD, jump drive) might not be compatible with the court’s equipment.

See Secrets of the South Court page 15

Major changes to the local rules of practice go into effect July 1

The Arizona Supreme Court on June 12 issued the amended Local Rules of Practice for the Maricopa County Superior Court, which become effective on Monday, July 1, 2013. You may find a pdf of the complete document at the MCBA website at www.maricopabar.org by clicking on the front page link or go to http://www.azcourts.gov/Portals/20/2013Rules/R120033Order.pdf

The amendments are substantial, including terminology and procedures, especially those relating to eFiling. Awareness of the revised rules is essential to every lawyer practicing in the Maricopa County Superior Court.

CourtWatch

Daniel P. Schaack

The supreme court takes a day off Alexander’s suspension

The Arizona Supreme Court recently issued the latest legal ruling arising out of Andrew Thomas’s tumultuous time as Maricopa County Attorney. It is the first published ruling arising from discipline imposed by the new disciplinary hearing panel.

The panel had recommended that former Deputy County Attorney Rachel Alexander be suspended for six months and a day. The court agreed that Alexander should be disciplined, but it reduced the suspension to six months. What a difference that day makes. In re: Alexander, No. SB-12-0039-AP (Ariz. May 30, 2013).

Alexander met Thomas while he was campaigning for county attorney. After the election, he hired her as a deputy county attorney. She did not handle cases but helped trial attorneys with nonlegal, behind-the-scenes work, issuing public information via websites, social media, and speeches.

When the Maricopa County Attorney’s Office became embroiled in its controversial pursuit of various legal proceedings against county supervisors and superior court judges, Alexander got more directly involved. Thomas decided to file a civil-racketeering or “RICO” suit against the Maricopa County Board of Supervisors, even though senior litigators in the office had advised that the evidence did not support it. Going around those attorneys, Thomas directed Lisa Aubuchon to file the suit. She did so but soon stepped aside because of a conflict of interest. Alexander took over.

Alexander had had no prior trial experience and knew very little about the racketeering laws. When the defendants moved to dismiss, she drafted and filed responses defending the complaint. She then filed an amended complaint, which she had drafted with input from her supervisor and Thomas. The judge rejected the amended complaint, concluding that Alexander could not file it without the court’s leave, which had not been granted.

Alexander then moved the court either to reconsider its ruling or grant leave to amend. The court never ruled on either Alexander’s requests or the defendants’ motions to dismiss. Instead, new attorneys stepped in for Alexander. They moved to voluntarily dismiss the case, which the court granted.

At the State Bar of Arizona’s request, the chief justice appointed special outside counsel to investigate Thomas, Aubuchon, and Alexander. Counsel charged Alexander with violations of six ethical rules in connection with the RICO suit. He also accused Alexander of failing to cooperate with the bar investigation.

After a lengthy evidentiary hearing, the hearing panel issued its report concluding that the state bar had proven all charges against Alexander. It ordered her to be suspended for six months and one day.

Alexander appealed. In an opinion by Justice Ann A. Scott Timmer, the supreme court upheld most, but not all, of the disciplinary panel’s rulings. Its differences with the panel led it to reduce her suspension.

Timmer first concluded Alexander had violated ER 3.1, which prohibits attorneys...
It’s July…get out of the office for a bit and recharge!

While the image accompanying this month’s column is somewhat of a joke, it is, after all, July in Phoenix. The heat is typically unbearable and things seem to slow down a bit. Like many attorneys, I plan to get out of town with my family as much as possible this month. First to Iowa to spend time with family and friends, and then to a little place off the beaten path called “San Diego.” Oh, you’ve heard of it? I guess the perpetually population of Arizonans probably does outpace the locals during the month of July, but hey, we have to go somewhere.

Letter to the Editor

I write in response to the article by Paralegal Division President Sarah Fluke entitled “Reach out and sue someone,” which appeared in the June 2013 issue of the Maricopa Lawyer. It is an unfortunate reality that the attitudes and thoughts expressed by Ms. Fluke are all too prevalent in our society. Plaintiffs’ lawyers are easy targets of those who consider profits to be more important than people. Despite all the propaganda and misinformation spewed against those of us who represent injury victims, our role in society remains critical.

Why? Because we preserve justice and hope for those who cannot fight alone. Through the Rule of Law—that magnificent concept that guarantees equal access to justice for everyone (the downtrodden and elite alike), we are able to vindicate wrongs for those who otherwise would have nowhere to turn.

It has been said, “True, we build no bridges. We raise no towers. We construct no public edi- fictions; we correct mistakes; we take up the eye of man can see. But we smooth out the troubles; we turn."

We all should be proud to work in a justice system that allows all citizens the right to seek redress for the harms and losses caused by others. Articles that trample on this right should not be condoned by an organization like MCBA.

Scott I. Palmumbo
Palmumbo Wolfe & Palumbo

Public Fiduciary Catherine Robbins returns to home ground

By Lindsey A. Jackson

When twenty-one year fiduciary industry veteran Catherine Robbins took the helm at the Maricopa County Public Fiduciary (MCPF) Office in January, it was a welcome homecoming. Robbins previously served as the estate administration manager for the MCPF from 2000–2002.

“I have a daughter who lives here, so to have the opportunity to be close to one of my children again was a very big perk in making the decision to return,” Robbins explained.

An Arizona licensed fiduciary and national master guardian, Robbins accumulated an impressive list of credentials during her previous tenure in Maricopa County. These include developing and implementing the first statewide fiduciary certification program in the nation as certification manager for the Arizona Office of the Courts in 1997 and an appointment to the Committee on Improving Judicial Oversight and Processing of Probate Matters in 2010.

Prior to returning to Phoenix, Robbins served as the public fiduciary for Mohave County for 10 years and was named Mohave County Employee of the Year in 2010. By returning to take over the MCPF, she adds yet another feather to her cap. Although she is not an attorney, she is the first non-attorney to hold such a position in recent years. “I didn’t know this opportunity could possibly come up, and so when it opened, I thought I would give it my best shot,” she added.

The MCPF provides guardianship, conservatorship, decedent services, and court-appointed roles with a sense of urgency and purpose. Currently, Robbins is the third non-attorney to hold such a position in the MCPF office, Robbins has assumed her new role with a sense of urgency and purpose.

See Meet Public Fiduciary page 12

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Office (480) 525-4042 Cell (480) 502-7875
lchubaty@r0properties.com

Find out about the “goings on” at the MCPF. Watch videos, peruse event photos, and stay up to speed with upcoming CLE and programs. Plus, find promos that can help you save on CLE!
Hatfields, McCoys, and eFiling: A decade of adventure

Before getting into the specifics of a decade of eFiling, remember the events that were occurring in 2002 and 2003: The world still felt the emotional and financial impacts of September 11; the Dow Jones closed at its lowest level in five years (7,286.27); a tragedy occurred as the Space Shuttle Columbia re-entered from orbit; the governor of California’s tenure was terminated after a total recall; and in less-remembered news, the Hatfields and McCoys signed a formal truce.

Older technologies ceased, including production of the last “old” Volkswagen Beetle. New technologies were introduced, including version 1.0 of Mozilla, the open-source software that produced the Firefox web browser. And it was in 2003 when the Clerk’s Office and Superior Court implemented eFiling in Maricopa County.

eFiling began as a pilot project in complex civil litigation cases and filings were submitted through LexisNexis File and Serve, a third-party vendor. Soon after, the Clerk’s Office implemented an in-house eFiling system called eFiling Online, which is still in use for three case types.

Mandatory eFiling in complex civil cases was implemented by an 11-page Superior Court Administrative Order. eFilings were required to file, serve, and accept service through the eFile system, and signing in to the eFile system with a vendor-issued user ID and password constituted the filer’s signature.

eFiling was originally limited to some civil and criminal cases. It was permissive in criminal cases, and in civil cases, attorneys had to receive a minute entry stating eFiling was available in individual cases. Nonetheless, a group of go-getters began eFiling documents in civil cases that had not been designated for eFiling or that were meant for family court, probate, and other matters where eFiling was not allowed (including some documents meant for justiciable courts).

A victim of its own success, the Clerk’s Office walked a precarious line of encouraging enthusiastic eFilers while letting them know their documents couldn’t be accepted in cases or divisions that weren’t set up to receive them. During the last ten years, eFiling was implemented through the Clerk’s eFiling Online system in a single division or with a few judicial officers in a case type. The filing parties were normally allowed, but not required, to eFile and a few adventurous lawyers and individuals would be early adopters of the change. Once eFiling proved its stability and viability, judicial officers anxious to move beyond paper would order attorneys to eFile in cases before them.

In this way, eFiling expanded relatively slowly, being piloted in a few judicial divisions in one or two case types at a time before being more available throughout a case type. After eFiling’s start in complex cases, its journey continued with pilots in criminal and general civil cases starting in 2005; permissive eFiling with a few judges in family court in 2007; available in Tax Court in 2011; and accessible in all family court divisions since 2012.

Today, the majority of criminal case documents are eFiled through the Clerk’s eFiling Online system by the Maricopa County Attorney’s Office and Indigent Defense. In general civil cases, attorneys were permitted to eFile through the Clerk’s system beginning in 2005 and have had mandatory eFiling through AZTurboCourt since February of 2011. The Clerk’s Office processed its one millionth eFiling in October 2011.

While some judges and attorneys were immediately ready and willing to move forward with eFiling, not everyone was so eager. Some judges, attorneys, legal support staff, and court employees unabashedly admitted to anchoring their retirement timetable to the progress of mandatory eFiling.

A number of those who weren’t interested in retiring or eFiling attended a CLE the Clerk’s Office conducted in 2009 called “eFiling for the Panicked and Unwilling!” This course covered basic concepts like word processing software, how to name and upload documents for the eFiling environment, characteristics of different internet connection speeds, how much memory a computer should have, email providers available in the market, and options for scanners.

Peter Swann, then a Superior Court judge, was an early adopter of eFiling and, after working with a pilot group of attorneys, ordered eFiling for all attorneys with civil cases assigned to his division.

Beginning in 2005, and as an offshoot of working with the firms in the pilot program, the Clerk’s Office travelled to law firms, paralegal groups, and conducted CLEs at the Clerk’s offices and with bar associations over the next few years to train thousands in the legal community about eFiling. Training materials for multiple case types are still online on the Clerk’s website and from AZTurboCourt.

The Clerk’s Office didn’t pursue eFiling because it was “the next thing.” The paper situation in the Clerk’s Office was dire. The Clerk’s records center was built to last for ten years of population and filing growth but was filled to capacity in fewer than four years. Once the space designated for records was filled, the records center nearly became a fire hazard with boxes stacked two-deep and five-high throughout the hallways and conference and break rooms.

The options were to build another building (not really an option) or reduce the paper. The situation in the records center didn’t ease until eFiling was incorporated, scanned images were designated as the official record, and the Clerk’s Office obtained authority to shred paper.

Reflecting on the last ten years of eFiling, scanning, the electronic court record, and other advances and efficiencies through technology, it’s clear that the legal community, the court, and the Clerk’s Office did this together.

Early adopters of the changes tested the systems and processes and gave feedback. Firms and individuals upgraded their technology and most people got new software, went to training, and learned through trial and error. Clerk’s Office employees managed paper and electronic processes simultaneously and guided attorneys and legal staff through the processes, often while learning it themselves.

Through the persistence of time, eFiling is a fact of modern-day practice. Soon enough remote access to records will improve and other needs and changes will keep “modern-day practice” an evolving reality. Like the relations between the Hatfields and McCoys, some will always be panicked and unwilling.
Section members met up at O.H.S.O. at the end of May to enjoy their annual social. From left are Susie Martinsek, Cody Hayes and Talia Offord, secretary of the section.

Scott Hulbert, section vice chair, and Mike Minneaugh.

Lindsay Schafer and Section Chair Matt Meaker.

Litigation Section members meet and mingle

By Meagan Pollnow

U.S. Supreme Court: Federal law governing federal employee life insurance policy preempts state law

The U.S. Supreme Court recently ruled that federal law controls a designated beneficiary’s right to retain the proceeds of a federal employee’s life insurance policy even when that beneficiary is the decedent’s former spouse.

In Hillman v. Mazzetta, the former spouse of a deceased federal employee was the designated beneficiary of his federal employee life insurance policy, governed by the Federal Employees’ Group Life Insurance Act ("FEGLIA"). The terms of FEGLIA provide that the proceeds of the life insurance policy shall be paid to the designated beneficiary above any other beneficiary even when the proceeds were received after a divorce. Virginia’s law provided that a designation of a spouse as a beneficiary is deemed to be revoked upon divorce.

The Court held that FEGLIA’s provisions governing designated beneficiaries preempted state law and that Virginia’s law could not be used to sue the former spouse who had received the proceeds of the life insurance policy lawfully under FEGLIA. In other words, the decedent’s designated beneficiary of a federal employee’s life insurance policy is entitled to the proceeds of the same regardless of his or her subsequent divorce.

Full opinion can be found at http://www.supremecourt.gov/opinions/12pdf/12-207_d18e.pdf.

Ninth Circuit permits partial discharge of law graduate’s student loan debt

In Headlund v. Educational Resources Inst., the Ninth Circuit (three-judge panel) ruled that the bankruptcy court did not err in granting a partial discharge to a law school graduate who, after three attempts, failed the bar and could not afford to pay the more than $85,000 in student loans he had an accumulated by obtaining a law degree from Willamette Law School.

The bankruptcy court discharged all but approximately $10,000 of the graduate’s $85,000 student debt. The district court ruled based on its de novo review of the record. The Ninth Circuit reinstated the bankruptcy court’s ruling on the basis that district court erroneously adopted the wrong standard of review (de novo instead of clear error) of the bankruptcy court’s determination.

The bankruptcy court ordered the partial discharge of the graduate’s student debt after finding that he had made efforts to maximize employment and that even after three attempts to pass the bar, a law license would not materially improve his financial situation given the current economic climate for new lawyers.

The Ninth Circuit concluded it was not clearly erroneous for the bankruptcy court to conclude that the graduate had engaged in “good faith” efforts to repay his student debt.

Full opinion can be found at http://cdn.ca9.circuits.gov/docket/opinions/2013/05/22/12-3523%20web%20%20Corrected.pdf?utm_source=feedly

Senate approves Judge Charles R. Breyer to serve on U.S. Sentencing Commission

The Senate has confirmed President Obama’s nomination of Senior District Judge Charles R. Breyer of the United States District Court for the Northern District of California, to serve as a commissioner of the U.S. Sentencing Commission. Confirmation came by voice vote on June 6.

Judge Breyer, 71, who has chambers in San Francisco, is the first federal judge from the Ninth Circuit to serve on the commission. He has served as a professor of law and has been named a commissioner of the commission.

Full opinion can be found at http://www.supremecourt.gov/opinions/12pdf/12-207_d18e.pdf.

Ninth Circuit contributes opinions to new online repository

The U.S. Court of Appeals for the Ninth Circuit recently joined other federal courts and government agencies in a new system that provides free access to official documents from all three branches of the U.S. government.

The Government Printing Office’s Federal Digital System, or FDsys, is an Internet-based repository of information from Congress, the executive branch and the judiciary. So far, FDsys has collected 695,000 federal court decisions, including more than 2,750 published opinions recently contributed by the Ninth Circuit Court of Appeals.

Court decisions are available here: http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=USCOURTS

The Ninth Circuit is one of eight appellate courts now enrolled in the FDsys. Nineteen district courts and 24 bankruptcy courts are currently participating with five more courts scheduled to come online later this month after FDsys completes a system upgrade.

Besides being free, FDsys offers advanced search capabilities not available from other federal court online resources. Most notably, users can conduct searches across multiple courts, rather than having to search records from one court at a time. Complex searches can be conducted using metadata attached to the files. Once an opinion is located, associated opinions and published orders also can be quickly obtained. Digital signatures embedded in the files assure users that the documents users download are authentic.

The FDsys collection of court records dates back to April 2004, though searchable electronic files for some courts may be incomplete for earlier years. The Ninth Circuit opinions date back to January 2008, shortly before the court migrated to a fully electronic case management and filing system.

Legal Briefs

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The FDsys collection of court records dates back to April 2004, though searchable electronic files for some courts may be incomplete for earlier years. The Ninth Circuit opinions date back to January 2008, shortly before the court migrated to a fully electronic case management and filing system.
The nature of the practice of family law is very fluid. Rarely do I encounter a family law case that ends with the same set of facts that it began with. Invariably something occurs between the parties to change the dynamic.

One of the more challenging issues to handle in a family law matter is a false allegation of criminal conduct proffered by a party to leverage a position. I acknowledge that there are many circumstances in which criminal allegations in a family law matter are legitimate. Furthermore, at all times, these allegations must be taken seriously and thoroughly analyzed.

Therein lies the crux of the problem—no matter the legitimacy of the claim, the court and the parties must spend precious resources investigating the claim and presenting evidence because the risk of exposing a victim to more harm is too great. However, in circumstances of false allegations, the question then becomes: Is there any relief for the litigant that has been falsely accused of criminal conduct? The answer to that question is a resounding “yes.”

One of the most common areas of family law where there are false allegations of criminal conduct are cases involving child custody (now referred to in Arizona as legal decision-making authority). The allegations can range from sexual abuse to alcohol.

Additionally, the timing could be tricky in assessing the statute of limitations and the termination of the marital community (if a divorce matter) and any associated claims. The allegations must be taken throughout the proceedings, may order a party to pay a reasonable amount to the other party for the costs and expenses of maintaining or defending any proceeding under this chapter . . . .” Like A.R.S. § 25-403(7), this involves a highly fact intensive analysis by the trial court.

A third option for litigants is to bring a separate civil suit against the opposing family law litigant. Appropriate claims may include breach of fiduciary duty or defamation. However, important considerations for this route are the lengthy and often cost-prohibitive nature of a civil suit for the average person.

Furthermore, there are many circumstances in which family law litigants is a request for attorney's fees from the court based on the opposing party's unreasonable litigation posture, e.g., false allegations. Pursuant to A.R.S. § 25-324, a party may request an award of attorney's fees if the court finds that the opposing party maintained unreasonable positions: “The court . . . after considering the financial resources of both parties and the reasonableness of positions each party has taken throughout the proceedings, may order a party to pay a reasonable amount to the other party for the costs and expenses of maintaining or defending any proceeding under this chapter . . . .”


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The family law free-for-all

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To split or not to split: A guide to placing adverbs

Occasionally, a legal writer will ask me a question that takes me back to the sixth grade where I remember standing at a chalkboard diagramming sentence after sentence. Where to place an adverb is precisely one of those questions.

In sixth grade, I was taught to put the adverb at either the beginning or the end of the entire verb phrase or infinitive. Thus, a proper sentence would look like the following (the adverb is underlined):

The plaintiffs unjustly have been enriched by the award.

This sentence does not sound right when read aloud, and the adverb separates the subject from the verb, which can hinder a reader's comprehension. Fortunately, the newer grammar and style guides agree: these guides allow a writer to split a verb phrase or infinitive to aid a reader's comprehension.

Most guides suggest placing an adverb after the first “helping” verb in a phrase, as shown by the following example:

The plaintiffs have unjustly been enriched by the award.

I suggest thinking about word placement as matter of persuasion. What word does the writer intend to emphasize to the reader by using the adverb? If the answer is “enriched,” then the adverb will do a better job of persuading if it appears before the word being emphasized.

The plaintiffs have been unjustly enriched by the award.

If the answer to the question is that the writer intends to emphasize the adverb itself, then the best placement for the adverb is at the end of the verb phrase.

The plaintiffs have been enriched unjustly by the award.

Another option is for the writer to pull out the adverb, change it to an adjective, and place it in its own short sentence.

The plaintiffs received a two-million dollar award.

This award is unjust.

A writer can then use this short sentence as a persuasive tool by repeating it as a theme or as a transition from one argument to the next. I am just glad that I no longer have to diagram these possibilities!

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MCBA President David E. Funkhouser III greets Kate LaFosse, Sara Gomski and Jayme Weber.

Kenise Simpson, Jon Hasabe and attorney Barbara Rodriguez Pashowski enjoy the Summer Social for interns, externs and law students last month. Bar leaders also attended to meet the up- and-coming attorneys.

Jason Thomas meets MCBA board member Lyzzette Bullock.

Past president Chas Wirken talks with Matthew Meehan.

Came. Lisa VandenBerg brought her clerk, Alexis Carter.

Law students Levi Claridge and Grant Hodgson.
Hall of Fame Nominations Sought for 2013

The Maricopa County Bar Hall of Fame Selection Committee is now seeking nominations for 2013. The committee expects to select inductees from the broad diversity of lawyers in the county.

The deadline for submissions is July 15, 2013.

Hall of Fame Criteria

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

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

Please note that nominees from previous years will not automatically be re-considered for 2013. You are, however, invited to re-submit a previous nominee with complete information as noted below.

Submission Requirements

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

Where to Submit Nominations

Nominations will be accepted by mail, email or through the MCBA website. For mail or email, please use the form on this page, or you may download the form from the website or use the website’s electronic form: www.maricopabar.org

Forms should be mailed or emailed to: Laurie Williams, Hall of Fame, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, AZ 85004-1532. Phone: (602) 257-4200. Email: lwilliams@maricopabar.org

Hall of Fame Inductees 2008-2012

PIONEERS

(all deceased)

Dr. John Alsop
A.C. Baker
Alice Birdsell
Frank Haze Burch
Jubel Early Craig
Hon. Walter E. Craig
Amelia Dietrich-Lewis
Rafael (Ralph) Carlos Estrada
Herbert B. Finn
Greg Garcia
Hon. William Hancock
Richard F. Harless
Leon S. Jacobs
Hon. Joseph Kibbey
Hon. A.D. Lemon
Anita Lewis
Hon. Frank H. Lyman
Hon. Ernest McFarland
Wing F. Ong
Hon. John C. Phillips
Francis J. Ryley
Hon. Richard E. Sloan
Hon. Rawleigh Stanford
George J. Stoneman

MODERN ERA

Hon. Rebecca Albrecht
Jerry L. Angle
Bruce Babkin
Rosana C. Bacon
Peter D. Baird*
Hon. Rebecca White Berch
Hon. Charles C. Bernstein*
John J. Bouma Robert W. Browder
Jack E. Brown*
Jose A. Cardenas
Walter Chefitz
Hon. Valdemar A. Cordova*
Daniel F. Cracchiolo
Harry J. Cavanaugh, Sr.*
Hon. Hayzel B. Daniels*
Paul F. Eckstein
John J. Flynn*
John F. Frank
Hon. William P. French
Michael L. Gallagher
Samuel P. Goddard, Jr.*
Hon. Frank X. Gordon, Jr.
Hon. Robert L. Gottsiebel
Larry A. Hammont
Mark I. Harrison
William F. Haug
Hon. Michael Daly Hawkins
Ed Hendricks, Sr.
Tom Henze
Edward “Bud” Jacobson*
Curtis A. Jennings*
William R. Jones, Jr.
Michael K. Kennedy
Sen. Jon Kyl
Orme Lewis*
Rodney B. Lewis
H. Jerry Lewkowitz
Hon. Lorna E. Lockwood*
William J. Malecon
Alan A. Matheson
Hon. James E. McDougall
Joseph E. McGarry
Flon. Ruth V. McGregor
Patrick J. McGeoder III
Hon. Robert D. Myers
Hon. Janet Napolitano

Modern Era

Hon. Sandra Day O’Connor
Frank A. Parks
Willard H. Pednick*
Hon. Cecil B. Peterson, Jr.
Hon. Robert W. Pickewell
Hon. William H. Rehnquist*
Philip A. Robbins
Paul M. Roca*
Elias M. Ronley*
Hon. Mary Murphy Schroeder
Richard A. Segal
Kenneth J. Sherk
Frank L. Snell, Jr.*
Charles T. Stevens*
Harvey E. Speedway*
Gary L. Stuart
Hon. Thomas Tang*
Hon. James A. Teilborg
Ted F. Warner
John H. Westover
Hon. Jean Williams*
Mark Wilmer*

* Deceased

Maricopa County Bar Hall of Fame

2013 NOMINATION FORM

Use this form or go to www.maricopabar.org

NAME OF NOMINEE

(include birth date and date of death, if applicable):

1. Please attach a detailed biographical description of nominee
2. Please write a brief statement or summary of nominee’s significant qualifications and achievements (100 words or less) here, or attach it to this form as a separate document:

_____________________________________________________________________________________________________________________________________________________________
_____________________________________________________________________________________________________________________________________________________________
_____________________________________________________________________________________________________________________________________________________________
_____________________________________________________________________________________________________________________________________________________________
_____________________________________________________________________________________________________________________________________________________________
_____________________________________________________________________________________________________________________________________________________________

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

FIRM/EMPLOYER: Name:

Address: City: State: Zip:

Telephone: E-mail:

DEADLINE FOR SUBMISSION IS JULY 15, 2013

Submit to: Laurie Williams, Hall of Fame, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, AZ 85004-1532.
Email: lwilliams@maricopabar.org  Phone: (602) 257-4200  Website: www.maricopabar.org
Meet Our 100% Club Members for 2013
And if you’re not a club member, you’re invited to join!

The Maricopa County Bar Association is pleased to endorse its 100% Club members in this issue of the Maricopa Lawyer. These firms have made a commitment to the bar association and its work on behalf of the local legal profession and the public by assuring membership to all of their attorneys.

The 100% Club also confers special privileges to its member firms: convenient one-payment dues billing, firm name listed on a plaque in the bar’s lobby; yearlong listing on the website and weekly E-News, media promotion; 5% discount to firm members on selected CLE programs; and a free promotional advertisement in this issue.

100% Club invitations are now being issued for 2014 and all firms with five or more members are invited to join. Contact Cynthia at (602) 257-4200 or at cquinonez@maricopabar.org for more information or to become a member.

Zwillinger Greek & Knecht would like to congratulate the ZGK Riders on completing the 100-mile America’s Most Beautiful Bike Ride around Lake Tahoe and successfully raising nearly $100,000 for The Leukemia & Lymphoma Society’s efforts to eradicate blood cancers.

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Oh no, your hard drive is failing! What to do next

All hard drives eventually fail—it is a symptom of aging mechanics to wear down, and modern computers are no exception, though thanks to computer viruses or user error, they may not even get the chance to go gracefully.

Unfortunately, because hard drives hold data in addition to performing physical tasks related to data entry and preservation, the first thing to flash through a user’s mind when a hard drive fails is all the data that was held in the hard drive that now refuses to work properly.

That can include documents, photos, videos, and virtual address books, in addition to sensitive data related to client files and personal information. And that’s not even going into how the client feels when they learn of the compromised data.

Statistically, a hard drive failure rate of less than 1% is cited by hard drive manufacturers. Yet according to a recent study conducted by Carnegie Mellon University computer scientists, the actual average rate of failure is 2-4%, and under certain circumstances the hard drive failure rate could go as high as 13%.

However, there are several ways to deal with data recovery failure. Before we get into how to fix the problem, though, it can help to define why the drive failed in the first place. There are two very different types of hard drive failure—physical and logical.

**Logical failure**

Logical hard drive failure means that the mechanical properties of the hard drive drive cannot be accessed by your computer’s BIOS, which is the built-in software that determines what a computer can do without accessing programs from a disk. This could be the result of a few things:

- data error, such as deleting or overwriting an important file, partition, or other registry component(s);
- a computer virus which causes data corruption from an outside source;
- defective media, which could create data on the wrong part of the disk, thus corrupting it;
- or even an electrostatic charge coming from common causes of large amounts of static electricity, or from sources like old or outdated electrical outlets.

**Physical failure**

Physical failure means that at least one physical part of the hard drive is not functioning correctly—this could be the effects of aging, or it could be a manufacturer’s defect. Some types of physical failure merely mean that the disk cannot be read by the mechanical arms that glide over the hard drive’s platters to retrieve information. This could mean the arms are malfunctioning but that the data is safe. If you hear unusual clicks or grinding noises coming from your computer, then power it down immediately by removing the power cord from the outlet, or by pressing the power button.

Unusual noises could mean you’re experiencing a “head crash,” which is when at least one of those mechanical arms is making physical contact with the disk's rotating platter rather than gliding over it, damaging the magnetic layer, rendering the data on the disk permanently unrecoverable.

If the information is not critical, but is desired, you may attempt to recover the data on your own. There are several programs (Data Recovery Professional, Wondershare Data Recovery, and Prosoft Data Rescue, to name a few) that can assist you in retrieving the data. They range in cost from about $30 to over $300, depending on the size and scope of the issue at hand. If you are positive the issue is a logical failure, then this may be your best (and cheapest) bet. If the failure could be electronic or physical, do not chance data loss by using one of these programs, and do not try to read data from or repair bad sectors with data recovery software, as this will result in permanent data loss.

**Conclusion**

If you are attempting to salvage the data on your own, be careful not to use system software in an attempt to repair the disk unless you can afford complete data loss. System software like CHKDSK is made to repair the system, not preserve and retrieve the data on a damaged system.

Executing system software will almost assuredly overwrite (and thus, erase) any and all data on a damaged drive. Again, the best way to handle data recovery—especially if the data on the failed drive is critical—is to call a professional. They will be able to break down your particular situation to find the best chance of data recovery.

This article is from whitepapersweekly.com and is reprinted with permission.
Mikitish and Adelman appointed to Superior Court by Gov. Brewer

Joseph Patrick Mikitish and Jay Ryan Adelman have been appointed to the Maricopa County Superior Court by Governor Jan Brewer.

“Personally and professionally, Joe is a stand-up individual with the demeanor and legal expertise fitting for a judgeship,” said Gov. Brewer. “The legal acumen he has developed working on complex environmental law issues – coupled with an extensive background in both the private and public sectors – will lend a unique and valuable voice to the bench. I am confident he will serve Maricopa County with dignity and integrity.”

Joseph Mikitish has worked for the Arizona Attorney General’s Office since 2001 and has served as unit chief since 2007. His current practice involves the representation of the Arizona Department of Environmental Quality on a variety of environmental issues pertaining to the state. In this capacity, his responsibilities include litigation and appeals, general counseling, administrative, open meetings and public records law, and supervision and training.

Previously, he practiced at Beshbears Mushmire Wallwork (2000-01); served as an attorney general at the Arizona Attorney General’s Office (1996-2000); worked for Fenimore Craig (1992-96); and served as an Arizona Supreme Court Clerk (1991-92).

See Mikitish and Adelman page 13

Probate Court receives top honor

After three years of comprehensive reform, Maricopa County Superior Court’s Probate Court has positioned itself as one of the top probate courts in the nation. The National Association of Court Management (NACM), the largest organization of court management professionals in the world, awarded Superior Court’s Probate Court with the 2013 Justice Achievement Award.

Superior Court Presiding Judge Norman Davis said, “It is clear that over the past few years the Maricopa County Probate Court has experienced significant reform and innovation under the able leadership of Probate Presiding Judge Rosa Mroz.

“The process of improvement is by its nature perpetual, and the Maricopa County Superior Court has always, and will continue to, strive for excellence in providing the public with the best judicial system possible. My sincere thanks to all who were – and are – involved in the Probate Court system improvements and other reform initiatives.”

The award recognizes the tremendous efforts made by the judicial officers, administrators and court staff that helped transform Probate Court. During the last three years, Probate Court developed a new case management protocol with case differentiation, expanded use of ADR, created a new accountability court, improved communication and information flow between administrative oversight personnel and judicial officers, and implemented public education programs and videos.

“The reform and innovations made by the Probate Court could not have happened without the support and dedication of everyone in the department. They not only implemented these changes, they embraced them,” said Probate Presiding Judge Rosa Mroz. The Court will accept the award at the NACM Annual Conference on July 15.

The Justice Achievement Award was established in 1988 to recognize outstanding achievement and meritorious projects that enhance the administration of justice. In 2010, the Maricopa County Superior Court received a Justice Achievement Award for the re-design of its CASA website.

Judge Gottsfield named Outstanding Jurist by State Bar of Arizona

Judge Robert Gottsfield is the State Bar of Arizona’s James A. Walsh Outstanding Jurist Award recipient. Judge Gottsfield received the award at a state bar luncheon last month.

Judge Gottsfield has served with distinction for 32 years as a Maricopa County Superior Court judge, including service as the presiding judge of Family Court from 1981-83. Though mandatorily retired in 2005 at age 70, he has continued to serve as a full-time pro tem judge. Upon his official retirement, he received the Outstanding Jurist Award from the Phoenix Chapter of the American Board of Trial Advocates.

A prolific and influential author, he has written more than 130 law-related articles for numerous publications—15 published in the past three years. His writings have contributed to the improvement of the judiciary and management of the court system. In 1988, he was given the Continuing Legal Education Award from the State Bar of Arizona, where he was also a co-founder and chair of the Dispute Resolution Committee (which has since become a section).

Judge Gottsfield’s community service includes more than 35 years of involvement with the Arizona Youth and Government Program of the YMCA. He was a founder of the Phoenix University Club and, more recently, the Maricopa County Justice Museum and Learning Center.

The James A. Walsh Outstanding Jurist Award is presented to the judge whose career exemplifies the highest standards of judicial conduct for integrity and independence; who is knowledgeable of the law and faithful to it; who is unswayed by partisan interests, public clamor or fear of criticism; who is patient, dignified and courteous to all who appear before him; and who endeavors to improve the administration of justice and public understanding of, and respect for, the role of law in our society. ■

Court seeks friendly faces

A friendly face is reassuring, especially when you’re lost.

The Maricopa County Superior Court is seeking volunteers who will serve as Court Ambassadors and help guide Maricopa County residents through the sprawling Downtown Phoenix Court Complex. Court Ambassadors are volunteers whose mission is to roam the Court and provide visitors with faster, easier and more informed service wherever the visitors are.

“The Court can be an intimidating and confusing place to navigate. While we are court staff to do our best to help ease the fear and confusion, we can’t be everywhere at once and unfortunately can’t provide the personal touch of walking someone from point A to point B. This is why the court created this unique opportunity for the public to be involved in the Court’s exciting and fast-paced environment,” said Jennifer Murray, Public Access to Court Services administrator for the Maricopa County Superior Courts.

Court Ambassadors should be outgoing people who are interested in our court system and physically able to walk the court. Volunteers will need to complete a four-hour orientation. They should also be available to volunteer for at least a two-hour timeframe per week from Monday through Friday from 8 a.m. to 5 p.m. Due to the importance of the court environment, volunteers will need to successfully pass background checks. Bus passes and free parking are available for volunteers.

If you are interested in becoming a court ambassador, please contact Jennifer Murray at murrayj006@superiorcourt.maricopa.gov, 602-506-3464 or complete an interest form on the court’s website at www.superiorcourt.maricopa.gov. ■

High Profile Verdicts: Then and Now

At left, a crowd gathers outside the Old Courthouse in 1932 for the Winnie Ruth Judd verdict. Outside the South Court Tower following the announcement of the State v. Jodi Arias verdict in 2013.

Court Hosts Students

Superior Court hosted a group of 7th graders from the Arizona School for the Arts for a Law Day event. The students participated in discussions about Law Day and conducted a mock trial in which the Harry Potter character Severus Snape was charged with the murder of Albus Dumbledore. Students serving as jurors were unable to reach a verdict, causing a mistrial. Later that afternoon, the students posed with Superior Court judges on the Old Courthouse steps for a photo. Law Day 2013 fell on the same day as the Annual Bench Photo.
Giving Lawyers the Business: Quarles & Brady sends partners back to school

Two dozen partners at the law firm of Quarles & Brady, including Phoenix-office lawyers Jessica Franken and Leezie Kim, recently earned a Certificate in Executive Management through a nine-month Partner Development Program.

The program, developed in concert with the Mendoza College of Business at Notre Dame University, consisted of a mix of quantitative and qualitative courses typical of a full MBA program, designed to impart knowledge of the financial, marketing and management environments in which most legal clients operate.

Quarles & Brady conceived the program after partner Michael J. Ostermeyer completed the Executive MBA program at Notre Dame in 2011. Recognizing the potential of the financial, marketing and management MBA program, designed to impart knowledge of the key elements of graduate business curriculum," said Ostermeyer.

"At the end of the day, it’s all about showing clients that you understand what keeps them awake at night, that you know what to do about it, and that you can trust you with their back. If you can speak to them in their own language, it goes a long way toward building that relationship."

Firm chairman John W. Daniels Jr. added, "The times have demanded some significant changes in the way outside firms practice law. Mike’s proposal struck us as so obvious that we knew immediately it was a wise investment."

Designing a cohort format, much of the program was conducted online in order to allow the attorneys to continue their full-time duties at the firm—but there were several multiday resident sessions conducted at Notre Dame’s Chicago campus and on the university’s South Bend campus as well.

Topics included statistics, economics, strategic marketing, financial accounting, operational budgeting, investment and finance, competitive analysis, pricing strategy, leadership development, negotiations, problem solving, and decision making, among others. There were both individual assignments and group projects to complete along the way.

A number of business programs have been created to educate lawyers, but the developers of the Mendoza College program believe it is the only one designed specifically for partner-level attorneys.

Quarles believes law schools will eventually adjust their curricula to meet this professional need, and that associates can be brought up to speed in the business-centric environment that the firm is cultivating. But the firm felt there was an immediate need to equip its partnership with the tools necessary to deliver the level of service demanded by today's clients.

"Quarles and Brady believes all its lawyers should be lifelong scholars," said Leezie Kim, one of the Phoenix participants. "This customized program, taught by nationally recognized scholars at Notre Dame, was an extended MBA boot camp that put the Quarles lawyers in the shoes of our business clients, experiencing the challenges they face every day."

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Also seeking 1-3 year associates.
Email resume to RESUME@QPWBLAW.COM

New Public Fiduciary
Catherine Robbins continued from page 2

County Board of Supervisors chose her for the appointment.
"I didn’t come down here thinking it would be a walk in the park or that I didn’t have to still work really hard to make the best future for my staff and the industry," she says. And she has done just that in the several months that she has been in her new role.

Shortly after taking office, Robbins initiated what she terms a "paradigm shift in practices" after observing that many of her staff guardians and conservators were relatively inexperienced. Robbins has placed more focus on training and providing staff a better foundation by allowing flex scheduling and requiring attendance at all-staff training events two days a month.

In fact, when asked about her favorite part of the new position, Robbins replied without pause, "my staff. My staff is really wonderful, it’s just a delight to come to work each day."

Improving communication with the staff was also a key focus of her shift of office practices. "They have survived a lot of administrations before me and keeping people abreast of changes coming down the line reduces some of the fear of the unknown," she said.

"I aspire to some pretty great things and I have staff that are buying into those concepts and philosophies. They are eager, too, for stabilizing and change, provided it makes for a better future for us and our clients."

The biggest challenge since undertaking her new position? Getting acclimated to life in the big city. "I had forgotten what it’s like to live in a city," Robbins chuckled. "The first couple days I realized that just because the arm opens at the parking garage exit, that doesn’t mean you can just pull out onto the sidewalk, because people walk by—I mean, I didn’t hit anybody, but there is a lot of stimuli at first."

Add to that adjustment the fact that her office manager resigned during Robbins’ first week in office, leaving her to learn the ropes alone. "I could tell you some pretty funny stories about what I went through just trying to negotiate daily living," she laughs.

Looking ahead, Robbins has set lofty goals for the MCPF office, including reducing the MCPF’s caseload by emphasizing the need for alternatives to guardianship. But her current focus is stabilizing the referral intake and appointment process. As a result of the large number of courts throughout the county, the MCPF office receives many case referrals under circumstances that aren’t always appropriate.

"We can’t be all things to all people and do it well with limited resources and newly-trained staff," Robbins explains. "For us to succeed, we have to decide what it is this community and this court needs from our office, and then do that really well."
Mikitish and Adelman appointed to Superior Court

continued from page 11

Mikitish has served as a director and officer for the following organizations: Maggie’s Place, a non-profit that provides homes for homeless pregnant women; Arizona Bridge to Independent Living, a group that provides programs and services for people with disabilities; and St. Thomas Moore Society, an organization in which legal professionals share and promote faith and high ethical standards.

He is widely-acclaimed and recognized for his legal and volunteer work. His awards include: Arizona Business Journal’s 40 Under 40 (2002); Phoenix Mayor’s Award – Commission on Disability Issues (2002); the Attorney General’s Office – Rising Star Award (2005); and Public Advocacy Division Outstanding General’s Office – Rising Star Award (2005).

In addition to his professional back- ground, as well as a deep appreciation and respect for the rule of law. He will be a tremendous asset to the Maricopa County Superior Court.”

Adelman has been serving as a Maricopa County court commissioner since 2011. In this capacity, he presides over juvenile court matters involving delinquency and dependency-related issues. His legal background also includes criminal law in both prosecution and defense roles, insurance bad faith, wrongful death and personal injury cases involving delinquency and dependency-related issues. His legal background also includes criminal law in both prosecution and defense roles, insurance bad faith, wrongful death and commercial litigation. In ad-
in a positive way.”

She said the learning experience with Hamilton was enjoyable, and she believes the “partnership” aspect of the pro bono assignment makes it much less daunting for attorneys who may fear they don’t have the necessary knowledge to help in that area of law.

Disolution proceedings, particularly those involving custody disputes and allegations of abuse, can be protracted matters that are physically and emotionally draining for all parties. Perhaps what sustains the commitment and enthusiasm Hamilton and Pate show for this pro bono work is the balance they’ve created between their personal and professional lives.

Both women are happy wives and mothers, with children who range in age from 9 to 21 years old. Both are also engaged in community activities, taking on leadership roles on committees, planning groups, and boards, in organizations ranging from the State Bar of Arizona to the Arizona Family Planning Council.

Pate speaks with pride of being a ‘true Arizona native,’ having been born in the Village of Grand Canyon, being raised in Flagstaff, attending college in Tucson, and raising her family in Phoenix. Her family’s shared interests are sports and outdoor time with their red golden retriever.

When Hamilton speaks of her decision to attend law school, she playfully mentions encouragement from high school and college instructors who told her she should be a lawyer, as she is ‘very argumentative’.

On the serious side, she relates how clients inspire her. “I will never forget the homemade dinner a client brought me to take home to my family, or the battered woman who sat with dignity and respect before the court during hearings where her abuser and his family repeatedly said vicious things about her.”

Pro per litigants outnumber those who are represented in family law matters. By being among the first to participate in the Domestic Violence Mentoring Program, Hamilton and Pate have greatly helped individual clients, and done equally important work by demonstrating the power of collaborative efforts to address the needs of a larger population.
THE BULLETIN BOARD

News from the legal community

The Maricopa Lawyer invites members to send news of moves, promotions, honors and special events to post in this space. Photos welcome. Send your news via e-mail to maricopalawyer@maricopabar.org.

HONORS & AWARDS

Roxanne K. Song Ong, chief presiding judge of the Phoenix Municipal Court was honored as the 2013 Judge of the Year by the Arizona Supreme Court for her outstanding contributions by improving public trust and confidence in the Arizona court system. Judge Song Ong was also the recipient of the 2013 Asian Pacific Community in Action Award for the outstanding work she has accomplished in the field of law, diversity, and particularly for her contributions to the Arizona Asian Pacific American community.

Bowman and Brooke has the fifth-highest percentage (tied with one other firm) of minority partners in the survey, at 17.9 percent. Nine partners of the firm’s management committee are either minorities or women.

The University of Arizona College of Law honored alumna Michael R. King, with the Distinguished Alumnus Award at a College of Law Convocation ceremony on May 10. King is a founding partner of the law firm Gammage & Burnham, which is celebrating its 30-year anniversary this year. According to the College of Law Interim Dean Marc Miller, “Mike’s sustained commitment to Arizona law and his willingness to help at every turn demonstrate his deep commitment to the college and the welfare of our students. Indeed, he has been supportive with his time and talent all across campus. This award celebrates his passion for the U of A.”

Bowman and Brooke, LLP, a leading defense firm focused on defending high-stakes product liability and mass tort cases, announces that it has been identified by the Diversity Scorecard as a founding partner of the law firm Gammage & Burnham, which is celebrating its 30-year anniversary this year. According to the College of Law Interim Dean Marc Miller, “Mike’s sustained commitment to Arizona law and his willingness to help at every turn demonstrate his deep commitment to the college and the welfare of our students. Indeed, he has been supportive with his time and talent all across campus. This award celebrates his passion for the U of A.”

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Gust Rosenfeld announces that appellate and trial lawyer Charles “Chas” Wirken has been elected to membership in the American Law Institute (ALI). ALI is the leading, independent organization in the United States producing scholarly work to clarify, modernize and otherwise improve the law. He joins 65 other distinguished Arizona judges, law professors and lawyers in receiving this prestigious honor.

Wirken has served as president of the State Bar of Arizona, the Maricopa County Bar Association, and the East Valley Bar Association. He currently serves as a delegate to the American Bar Association House of Delegates and as chair of the Arizona Bar’s Client Protection Fund.

He is a Fellow of the American Academy of Appellate Lawyers and is recognized by both The Best Lawyers of America® and Southwest Super Lawyers. Wirken is the former chair of the State Bar of Arizona Trial Practice Section. Previously Wirken served as a judge pro tem of the Maricopa County Court of Appeals. He continues to serve as a judge pro tem of the Maricopa County Superior Court, a position that he has held since 1986.

Wirken graduated from the University of Arizona with a BS in Business Administration in 1972 and received his JD from the University of Arizona College of Law in 1975.

NEW OFFICE

Jennings, Strouss & Salmon, PLC, a Phoenix-based law firm, announced the May opening of its Yuma, Arizona office. In addition to agribusiness law, the firm will offer a full range of personal and business legal services to Yuma and Imperial counties, including bankruptcy; business and finance; commercial litigation; bankruptcy; business and finance; commercial litigation; construction; ethics and professional liability; intellectual property; personal injury and medical malpractice defense; real estate; tax; and trusts and estates.

Shanna Bowman Orlich and Wayne Smith will be the primary attorneys at the Jennings Strouss Yuma office. Shanna has deep roots in Yuma and a strong background in agriculture. She is the daughter of Neil and Beth Bowman and was born and raised in Yuma. Over the years, Orlich has been involved in the business and legal aspects of both of her father’s agribusinesses, BSN Farms and Coronation Peak Ranches, Inc.

NEW HIRE

Jennings, Strouss & Salmon, PLC announced that Michael J. Payne has joined the firm’s Phoenix office as a tax, estate planning and corporate associate.

Payne will focus his practice in the areas of tax, estate planning and probate, corporate and business law; mergers and acquisitions, real property corporations and tax-exempt organizations. He is a certified public accountant (CPA) and previously worked as a tax practitioner in the Exempt Organizations – Tax Services group at Ernst & Young, one of the “big four” accounting firms.

Prior to joining the firm, Payne served as an extern with the Arizona Supreme Court. At the firm’s Office of General Counsel for a small Phoenix firm. He earned a JD from Arizona State University Sandra Day O’Connor College of Law and a BS in Accountancy from Northern Arizona University.

Ryley Carlotch & Applewhite welcomed Amber D. Curtis as an associate in the firm’s Estate Planning and Corporate Practice groups. Curtis joins established Corporate Law and Estate Planning Practice groups, which represent hundreds of clients throughout the U.S. and internationally, offering legal counsel from start-up companies to mature businesses.

“I enjoy taking a client centered approach to estate planning to make sure that all details, whether it be in a simple estate or a complex trust administrat ion, are taken care of,” stated Curtis, “and learning from and working with John Lienker and the other experienced and knowledgeable attorneys in these practice groups will give me the ability to assist my clients in new and innovative ways.”

Prior to joining the firm, Curtis clerked for Hon. Judge Glenn Davis of the Arizona Superior Court and was an associate for an Arizona estate planning firm. She earned her JD from California Western School of Law, San Diego, in 2011, and her BS, summa cum laude in 2008, from Arizona State University. While in law school, she was a member of the Moot Court Honors Board as well as president of the Business Law Society. Her community service endeavors have included Girl Scouts of America, Project C.U.R.E., and Crisis Nursery.

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Fortunately, converters are readily available and attorneys have been using the court’s technology successfully. The presenters often call the judicial assistant ahead of time to find out what technology will be available in the specific courtroom where your hearing will be held.

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FTR
For The Record (FTR) is the PC-based proprietary format for the court’s audio and audio/visual recordings of court proceedings. To view or listen to FTR recordings you’ll want to download “The Record Player,” the free software from www.forth-record.com.

Because this software is not compatible with Apple products, you may have to ask the court’s Electronic Records Services (ERS) to convert the recording to a Windows media file that can be converted by Apple products. Tip: specify the format you want before you’ve paid for the FTR version or you’ll have to pay again.

The court’s ERS department receives about 700 requests each month for CDs and transcripts of hearings taking place in over 100 courthouses. Copies take 10 to 15 business days and expedited services are not available, so plan ahead.

The most effective way to request copies or transcripts of hearings from ERS is by emailing the specifics (case name, case number, date and time of hearing, and the requestor’s contact information) to ERS@superiorcourt.maricopa.gov.

Lastly, it’s worth mentioning that the South Court Tower has great technology because it was designed that way, but don’t expect every courtroom at every location to match it all at once.

To get an idea of the planning required to retrofit older courthouses, take the cost of any update: adding new wiring, flat-panel monitors, high-speed cable or wireless features, and any carving into floors and walls required for installation, and then multiply it by the 100 courthouses that may need those updates.

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The supreme court takes a day off Alexander’s suspension

CourtWatch, continued from page 1

from taking frivolous positions in legal proceedings. Alexander violated the rule by maintaining the RICO suit because both the original and proposed amended complaints were factually and legally deficient. Furthermore, she had failed to adequately investigate the validity of the allegations.

Alexander admitted that the RICO lawsuit was frivolous, but she contended that she did not know this while she was pursuing it and that she had relied in good faith on the representations of more-experienced prosecutors while investigating it. Timmer rejected the argument. “The involvement of other lawyers in filing the RICO complaint did not relieve Alexander of her ethical obligation to ensure the RICO lawsuit was supported in law and fact,” she wrote.

Timmer concluded that Alexander knew that the case was frivolous before she joined it. She had received an email from the office’s senior RICO attorney who warned of a “deep and profound concern” about the case because the complaint was “legally deficient at every issue” and “dead-on-arrival.”

And even though her own research had led her to conclude that she needed to beef up the complaint, “Alexander failed to confirm the existence of any meaningful evidence to support plausible RICO claims.” Furthermore, she had opposed dismissal proceedings. Alexander violated the rule by proceeding under the influence of illness or chemical dependency, abandoned a client, proceeded under an alleged representation of client standing, would protect the public by deterring Alexander and others from engaging in similar misconduct,” Timmer concluded.

Alexander deserved the lesser sanction, Timmer wrote, because she “has no prior disciplinary record and, although her misconduct caused significant injury to the RICO defendants, the public, and our system of justice,” there was no “evidence that her misconduct requires her to affirmatively demonstrate rehabilitation before reinstatement.”

Alexander, she explained had not “acted dishonestly, continued a pattern of misconduct, abandoned a client, proceeded under the influence of illness or chemical dependency,” and was not “motivated by malice, greed, or other morally deficient reason.”

Joining Timmer were Vice Chief Justice Scott Bales and Justices John Pelander and Robert M. Brutinel, along with Chief Judge Lawrence F. Winthrop of Division One of the Court of Appeals. He sat in the place of Chief Justice Rebecca White Berch, who had recused herself.

She added that “Alexander knew her lawyers were obstructing the investigation.”

Having affirmed many, but not all, of the charged violations, Timmer turned to the appropriate sanction. Alexander asserted that she should be reprimanded or censured. Timmer rejected that contention, but she also rejected the sanction that the disciplinary panel had imposed: suspension for six months and a day.

She noted that the panel’s addition of one day to a six-month suspension had grave consequences. It required Alexander to undergo a more onerous reinstatement process and demonstrate her rehabilitation before being reinstated.

That could, she noted, “significantly extend the effective length of her suspension.”

A suspension of six months or less, with its attendant loss of income and professional standing, would protect the public by deterring Alexander and others from engaging in similar misconduct,” Timmer concluded.

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