Valdivia trades restaurant biz legacy for the law and her vision of equal justice

By Isolde Davidson

Dawn Valdivia has Mexican food restaurants in her heritage going back to 1939. But instead of a career in the restaurant business, for Valdivia, these successful ventures meant a college education, a law degree, and the opportunity to become a leader in promoting diversity in the legal profession.

Originally established by her Texas-born grandmother Josephine, later joined by three sisters from Mexico, the family’s two Phoenix restaurants are now complemented by 14 other family-run Mexican food establishments in Globe-Miami and five other Arizona locations. With one sister, but 22 first cousins, the extended family is still close.

“I worked in my Dad’s restaurant since the age of 12, but now, other than eating for free, I’m not involved,” she says. “But my father runs the Los Compadres on 7th Avenue, and now I’m not involved,” she says. “But my father runs the Los Compadres on 7th Avenue, and now and then I do give him free advice when he has questions about employee issues.”

Which is only fair since she is today the chair of the Labor and Employment Group of Quarles & Brady’s Phoenix office. But Valdivia’s ethnic background—mixed European and of course, Mexican—and her innate activist instincts have brought her into major diversity-oriented leadership roles.

Call Deborah Jean Milke's capital-murder trial a “swearing contest” between her and the detective who testified she had confessed to murder, the Ninth Circuit has granted her habeas corpus because the State did not disclose that the detective was guilty of several instances of dishonesty and violations of suspects' constitutional rights.

The court held that had the jury been informed about Phoenix Police Detective Armando Saldate, Jr.'s history of lying under oath and other misdeeds, it might not have convicted Milke. Milke v. Ryan, No. 07-99001 (9th Cir. Mar. 14, 2013).

Milke’s case is one of the more infamous in recent Arizona memory. She was convicted of murdering her four-year-old son Christopher around Christmas time in 1989. Her roommate, Jim Styers agreed to take Christopher to see Santa Claus at the Metrocenter Mall. On the way, they picked up Styers’ friend Roger Scott. But instead of going to the mall, they went to the desert, where Styers shot the boy three times in the head. Styers and Scott then proceeded to the mall, where they reported Christopher missing and instigated a police search for him there.

Saldate was called in to interview Styers and Scott, and he got Scott to break down and confess that it was murder. Scott took detectives to Christopher's body and, according to Saldate, along the way told detectives that Deborah Milke was involved in the plot. Seizing on that statement, Saldate went to interview Milke in Florence, where she had gone to stay with family after learning of Christopher's disappearance.

Saldate interviewed Milke in a room at the Pinal County Jail. Although his supervisor had instructed him to record the conversation, Saldate did not bring a recorder with him nor did he borrow one at the jail. And he did not ask anyone to witness the interview.

According to Saldate, when he told Milke that Christopher had been murdered, Milke tried to cry but did not fool the detective: “When someone is told that their child was murdered and they start to sob and no tears come to their eyes, it’s obviously a way for her to try to make me feel for her, and I didn’t buy it.”

Saldate arrested Milke and read the Miranda rights, which she agreed to waive. She started to say that although she had complained about Christopher to Styers, she did not think he would hurt the boy. But Saldate shut her down, telling her that he was there to learn the truth, not to listen to lies.

With that, Milke opened up and shared with the detective the most intimate details of her life. She reminisced about her failed marriage to Mark Milke and his legal woes and troubles with drug and alcohol abuse. She recounted that she had been on birth control...
A tribute to the mothers in my life

It’s May, spring has sprung (and/or we have jumped straight to summer, as usual), and as this issue of the Maricopa Lawyer hits your inboxes, we have yet another holiday just around the corner—Mother’s Day. Thus, it seems a perfect time to recognize two very special mothers in my life.

My mother

For as long as I can remember, my mother Michaela (“Gigi” to her grandchildren) has been there for me, first as a caretaker, then as a confidant, and now as a doting grandmother to our three children. My mother was a full-time, stay-at-home mom who took the title with stride. She raised me and my two older sisters as well as any one could, and sacrificed everything for us. And, she loved each of us with every fiber of her being.

While there are many memories of how great a mother she was, perhaps the best comes by way of my baby book. Now, having our own children and doing our best to successfully log important milestones in their baby books (which is a struggle), we often get my baby book out for reference and guidance. A more fulsome account of someone’s life could not exist. Presidential biographers have nothing on her. From every time I was sick as a baby (including ailment, temperature and remedy), to every visitor in the first years of life, to a replete mapping of every tooth loss, my mother was there, recording life’s little moments with a mother’s commentary.

I got older, mom was the “go-to” person for any issue. I remember choking on an apple when I was young, and I bypassed every other member of my family to get to my mom. With a swift slap on the back, the airway was cleared.

Years later, I was riding my bike and accidentally hit a parked boat in our street (yes, this was a precursor to me getting glasses, and a local ordinance on boat parking). My mom heard me screaming from down the street, ran to where I was, and carried me home with superhuman strength.

My mom basically moved in for a month when Alicia and I had each of our three children (four, if you count me, which is at least half the time) before she was born. Hours in the middle of the night to calm a crying child, early mornings preparing lunches, and nights and weekends baking special cakes for our kids.

And, not just any cakes. We are talking award-winning, creative cakes that are awesome in every way, not to mention delicious. And, this isn’t limited to three times a year for birthdays, as Alicia will often bake cakes for her friends’ children.

Because I don’t say it nearly enough, I love you, Alicia. Thank you for being my wife, best friend and confidant, and for blessing me with three super munchkins, mini-Funks.

As I got older, mom was the “go-to” person for any issue. I remember choking on an apple when I was young, and I bypassed every other member of my family to get to my mom. With a swift slap on the back, the airway was cleared.

Years later, I was riding my bike and accidentally hit a parked boat in our street (yes, this was a precursor to me getting glasses, and a local ordinance on boat parking). My mom heard me screaming from down the street, ran to where I was, and carried me home with superhuman strength.

My mom basically moved in for a month when Alicia and I had each of our three children, and helped with every task without complaint. Now she essentially has a three-month hard-stop for flying to Phoenix to see the Funkhouser brood.

And, three cards arrive in the mailbox days ahead of every, single holiday—from Halloween to Valentine’s Day to Easter— with a thoughtful card from Gigi (and Papa, of course), and a little something for the kids to stash away in their piggy banks (or a Batman, Spiderman and a Things Remembered bank, respectively).

Saying “I love you” doesn’t seem good enough for my mother, but perhaps a spotlight in the award-winning Maricopa Lawyer is a good start.

My wife

Like many lawyer couples we know, Alicia and I met in law school. I still remember the first time she walked into our small section classroom and took my breath away. But, because the first year of law school is, well, the first year of law school, time was short, and my game was off. That changed our second year, when we began dating soon therein, and have never looked back.

It didn’t hurt that, upon their first meeting, my mother (see Michaela, or Gigi, above) gave me that “nod” and conveyed a mother’s approval right away.

I proposed on graduation day, on the banks of the mighty Iowa River, just outside of earshot from our families. We packed up everything the next day and drove from Iowa to Phoenix to start our new lives. We managed to not kill each other while both studying for the bar exam, and started our legal careers the following fall.

People ask if we always talk about work always shares a hug or a cry with her client upon conclusion of the case.

We should all strive to be empathetic in our profession, but Alicia takes this to a whole new level. She is the best attorney I know.

As if working full-time—as a lawyer mind you—aren’t enough, Alicia also blessed me with three wonderful children. David Edward Funkhouser IV (“Davey”) was born in 2007, Jackson William Funkhouser was born in 2009, and Cayla Celeste Funkhouser was born in 2012 (and named, in part, in honor of my mother). I sometimes tell people that you can’t do justice to parenthood until you actually do it. While sometimes frustrating, always exhausting, and unusually expensive, I can’t imagine life without our little Funks—one of which has been identified as a “mini-me.” I will let you guess which one.

Just like my mother, Alicia always puts her three children (four, if you count me, which is at least half the time) before herself. Hours in the middle of the night to calm a crying child, early mornings preparing lunches, and nights and weekends baking special cakes for our kids.

And, not just any cakes. We are talking award-winning, creative cakes that are awesome in every way, not to mention delicious. And, this isn’t limited to three times a year for birthdays, as Alicia will often bake cakes for her friends’ children.

Because I don’t say it nearly enough, I love you, Alicia. Thank you for being my wife, best friend and confidant, and for blessing me with three super munchkins, mini-Funks.
Great Points from MCBA CLE on fundamentals of gifts & estate tax

By Hayleigh Crawford

Earlier this year, the MCBA Estate Planning, Probate, and Trust Section kicked off its Estate Tax Boot Camp CLE series. In four sessions, the program covered topics ranging from basic gifts and estate taxes to advanced Arizona-specific tax planning.

John Becker, of Becker & House PLLC, presented the first of four sessions, “The Fundamentals of Gifts and Estate Tax.” Luckily for participants, John Becker is no stranger to teaching—he has worked as an adjunct professor at Arizona State University’s Sandra Day O’Connor College of Law for ten years while maintaining a full-time estate planning and administration practice.

Participants were able to take advantage of Becker’s experience and depth of knowledge by asking specific questions beyond the scope of the basic material. In addition, participants received an outline summarizing key information and highlighting valuable practice and planning points.

Here are some key points from the first program:

**Federal gift tax**

The categorization of a transfer as a “gift” for purposes of the gift tax is mechanically defined under the federal regulations as “any transaction in which an interest in property is gratuitously passed or conferred upon another, regardless of the means or device employed, constitutes a gift subject to the gift tax.” Reg. §25.2511-1(c).

Although a gift for gift tax purposes overlaps with the property law definition of a “gift” in some ways, such as requiring a compliant donor, there are important distinctions. A critical difference is donative intent: While property law requires donative intent to qualify as a gift, the gift tax does not require donative intent to make a transfer subject to taxation.

Becker highlighted two important planning points for practitioners regarding completion of gifts: First, because a gift must be a present interest to qualify as a “gift,” a donor’s gift tax liability is calculated as follows:

1. First, a donor’s total gifts during the year are determined and subsequently reduced by any allowable exclusions and deductions.
2. Next, the donor’s “total taxable gifts” are determined by adding the taxable gifts from the present year to the taxable gifts for all prior years.
3. Then the donor’s “total taxable gifts” are reduced by the donor’s “total tentative tax” on his or her total taxable gifts is reduced by the tentative tax on all prior year gifts, which gives the donor’s “total tentative tax.”
4. Finally, the donor’s total tentative tax is reduced by the donor’s “total taxable gifts” minus the donor’s “tentative tax” on his or her total taxable gifts.

**Federal estate tax**

Described as an “indirect tax” on the transfer of property rather than a tax directly on the property itself, the estate tax generally applies to a decedent’s gross estate and property in which the decedent had an interest in death. Thus, the tax is broadly applicable to a wide variety of property, which can include countervenient items such as life insurance policies or jointly-owned property.

Prior to 1982, all gifts, not subject to the annual exclusion and made within three years of the decedent’s death, were brought back into the decedent’s estate and subject to the estate tax. However, since 1982, this rule has been limited to certain transfers of property in which the decedent (or his or her estate) retained some control or interest.

For example, if the decedent retained a right to possession or enjoyment of the property for life or for a period that does not in fact end before his or her death, the entire value of that property is included in the decedent’s estate.

Similar to the gift tax, estate tax is assessed on the fair market value of property on the date of the decedent’s death. However, the federal regulations also provide guidelines for valuing specific types of property, such as stocks/bonds and business interests.

To help ensure that assets are fairly and accurately reported, Becker suggested that practitioners request documentation, such as homeowners insurance policies, to confirm what assets the decedent owns and their approximate values. In this way, practitioners can also avoid reporting widely discrepant values—while a client may indicate that the monetary value of a personal item is low, it reflects poorly on you if it comes to light that the item is insured for a significantly higher amount.

Lastly, if a decedent’s estate decreases in value during the six-month administration period following the decedent’s death, the estate’s personal representative may elect to use the six-month anniversary of the decedent’s death as an “alternative valuation date,” subject to certain requirements.

Also similar to the gift tax, the estate tax provides both a marital deduction and charitable deduction. The marital deduction is critical to planning for estate taxes (unlike in the gift tax context) because it can be utilized to delay the payment of estate tax until the death of the surviving spouse.

In addition to the marital and charitable deductions, the estate tax allows a deduction for certain expenses, claims, debts, taxes, and losses of the estate. For example, funeral expenses and costs of administering the estate are generally deductible if actually expended and actually and necessarily incurred, respectively.

A decedent’s federal estate tax liability is calculated as follows:

First, the decedent’s “gross estate” is established by determining what property is subject to the estate tax. The gross estate is reduced by any applicable deductions, resulting in the decedent’s “taxable estate.”

The next step is to add the value of the decedent’s adjusted taxable gifts to his or her taxable estate, because the estate and gifts taxes are part of a unified transfer tax system, thus including prior gifts in the decedent’s estate subject to taxation. This gives the decedent’s “tax base,” upon which a tentative tax is calculated according to the applicable tax rate in the Code.

This tentative tax is reduced by gift taxes already paid by the decedent to avoid double taxation. Lastly, the tentative tax is reduced by any applicable estate tax credits (such as those for state death taxes) to reach the final estate tax due.

Estate taxes are payable nine months after the decedent’s death. While there is one six-month extension available for filing an estate tax return, this extension applies to filing only, not to the actual payment.

Hayleigh Crawford is a student member of the Maricopa Lawyer Editorial Board and a 3L at the Sandra Day O’Connor College of Law at ASU.
Lady Luck and Law Week

What do Lady Luck and Law Week have in common, you may ask? Quick answer: both involve two MCBA YLD events that benefit the Maricopa County community.

Barristers Ball
Lady Luck breezed into the Barristers Ball this year and made it a huge success for the 2013 beneficiary, the Maricopa County Bar Foundation. The event was held at the Westin Kierland on March 9 and included a night of dancing, casino games, and prizes for the 330 attendees. I am pleased to announce that to date (we are still tallying) the YLD earned an impressive $12,858 for the MCBF! A special thank you goes to those in the MCBA membership and Phoenix community who donated items for the silent auction. The funds from the auction will go a long way to help the MCBF in continuing to provide funding for various community programs.

Also, a very sincere thank you to the Barristers Ball Committee: Chair Brent Kleinman, Flynn Carey, Jason Wood, Jen Rebholz, and the MCBA’s Laurie Williams, Bree Bohlke and Allen Kimbrough for all your hard work in pulling off a wonderful, entertaining event without the proverbial hitch.

Law Week
As our lovely Lady Luck bids us adieu, the YLD ushers in another philanthropic event aimed at the Maricopa County Community: Law Week. Law Week surrounds Law Day, which occurs every year on May 1. Its origins date back to 1958 when Dwight D. Eisenhower established a day of national dedication to the principles of national dedication to the principles of law. The ABA releases a Law Day theme each year that is taken up by countless community organizations throughout the country. These organizations include but are not limited to schools, courts, bar associations, and other community groups.

This year’s theme is “Realizing the Dream: Equality for All.” Notably, 2013 marks the 150th anniversary of Lincoln’s Emancipation Proclamation and the 50th anniversary of Dr. Martin Luther King, Jr.’s “I Have a Dream” speech. The theme of equality in the law is a reoccurring issue that remains relevant today. An issue that was succinctly and eloquently stated in an excerpt from Dr. King’s “Letter from a Birmingham Jail”:

An unjust law is a code that a numerical or power majority group compels a minority group to obey but does not make binding on itself. This is difference made legal. By the same token, a just law is a code that a majority compels a minority to follow and that it is willing to follow itself. This is sameness made legal.

In exploring the theme of equality, the YLD will celebrate Law Day by organizing and hosting several activities for the MCBA membership and the Maricopa County Community. The first is an essay contest based on the Law Day theme that has been distributed to school children who participate in the Maricopa County Teen Court Program. The winners of this contest will have the opportunity to tour the Supreme Court on May 2 and meet Judge Lawrence Winthrop, chief presiding judge of the Court of Appeals.

On May 1, from 4:30-6:00 p.m., the YLD will host a CLE entitled “Equality for All?” at the MCBA offices. To attend this CLE please register online at www.maricopabar.org or contact Laurie Williams at whilliams@mariocopabar.org.

Information regarding the annual Ask-A-Lawyer events scheduled for May can be found on page 6 of this issue. For more information on any of these activities please contact the Law Week chair, Raees Mohamed, at RMohamed@WongFujiiCart- er.com.

Related articles: other government agencies, and those who interact with the justice system in Maricopa County.

The County Board of Supervisors approved the fee on March 27, 2013; however, the Clerk’s Office and A2 turboCourt require programming and updates before the fee can be implemented. The Clerk’s Office will announce the effective date on its website, social media, and in the Clerk’s monthly e-newsletter, The Brief.

Juvenile ECR Phase Two
The second phase of the Juvenile Electronic Court Record (ECR) begins June 3, 2013. Phase II is the second of four phases and includes seven case types: Adoption Certification (AC), Adoption (JA), Emancipation (JE), Relinquishment (JL) and (JR), Orders of Protection/Injunctions Against Harassment (JP), and Severance (JS).

In this phase, all newly-filed documents in the seven case types above will be scanned, and orders in all 10 Juvenile Court case types will be scanned and electronically distributed. The electronic distribution of signed orders will be similar to the current distribution of minute entries.

Paper files will no longer be created in the above seven case types when new cases are initiated after June 3, 2013. Existing cases will include both electronic images, for those documents filed after June 3, 2013, and paper documents for those filed through June 2, 2013.

Signed orders in all juvenile case types will be available only in the ECR. To ensure you are seeing the entire case record, it will be important to check the ECR at an access terminal in all cases.

Phase I was successfully implemented on October 1, 2012 for Title 14 Guardian (GJ) cases. The Phase III implementation, which includes dependency (JD) cases, is planned for August/September 2013. The Phase IV implementation, which includes delinquency (JV) cases, is planned for October/November 2013.

There are no changes to the confidentiality of any Juvenile Court records. Access to records remains the same, only the format is changing. Information about Juvenile Court records is on the Clerk’s website at: www.ckefourt.maricopa.gov/juvenile.asp.

Collect Those Judgments!
Get them out of your files and generate revenue
Let an AV Rated Attorney with 24 years of experience handle them for you

MICHAEL J. FULLER, ESQ.
3030 North Third Street, Suite 200, Phoenix, Arizona 85012
602-241-8599
mjfuller.esq@juno.com | www.mjfullerlaw.com

Contingency Fee Splitting available in compliance with Ethical Rule 1.5(e)
Avoiding the hazard of run-on sentences

LEGAL WRITING

Tamarra Herrera

Because legal writers generally have a lot to say and limited space in which to say it, run-on sentences are an expected hazard. Basically, a run-on sentence is one in which two independent clauses are joined without the proper punctuation or conjunction.

Legal writers rarely compose sentences that are categorized as true comma splices, such as the following:

The defense objected, the witness testified.

This sentence is incorrect because it joins the two independent clauses with only a comma. Instead, legal writers are more likely to incorrectly join the two independent clauses with a comma splice and an adverb:

The defense objected, nevertheless, the witness testified.

This sentence is incorrect because “nevertheless” is not a conjunction. “Nevertheless” is an adverb that operates as a transition. Following is a list of potentially hazardous transition adverbs that should never replace a conjunction:

- Accordingly
- Certainly
- Consequently
- Finally
- Furthermore
- However
- Indeed
- Meanwhile
- Moreover
- Namely
- Nevertheless
- Specifically
- Still
- Subsequently
- Therefore
- Thus

When editing a document, look for these terms to find improper run-on sentences. Generally, transition adverbs should only appear at the beginning of sentences. If the writer finds these adverbs as part of a run-on sentence, he or she has three ways to fix the sentence:

1. replace the comma splice and adverb with a semi-colon,
2. remove the comma splice and adverb and write the clauses as two separate sentences, or
3. replace the adverb with a conjunction (and, but, for, or, so, and yet).

Question: Are you working hard or hardly working?

I know what you’re thinking…how could I even ask a question like that? Seriously, in this market, everyone is working hard. With companies doing more with less, we don’t have a choice but to work harder. This must mean our work ethic is at an all-time high, right? Not necessarily.

According to Webster’s Dictionary, the definition of work ethic is a belief in work as a moral good. And once I find the definition for that definition, I will let you know. Until then, let’s focus on what work ethic looks like.

We all spend time at work shopping online, checking Facebook or reading up on the Jodi Arias case. It’s natural to detour for a few minutes during the day. The time you spend detouring, a.k.a. slacking off, doesn’t define you as an employee or your work ethic. It’s what you do during the eight or so hours of your work day that define your work ethic.

There are a number of things that contribute to a good work ethic. Some of the obvious answers are taking responsibility for your work, meeting deadlines, and paying attention to details. But as most of my loyal readers know by now, I will be touching on the not-so-obvious.

One of my biggest pet peeves in the workplace is “Mr. and Mrs. It’s Not My Job.” If you want to see my head spin around and green pea soup fly out of my mouth, say that within earshot of me when a fellow co-worker asks for help. If you know the answer to the question or have the ability to help the person, even though it may be out of the scope of your daily job duties, what would possess you to blow off a co-worker?

Let’s face it, we spend more time with our work family than we do our real family. Why wouldn’t we do what we can to help each other out? (A) Fear of responsibility, (B) laziness, (C) lack of regard for the overall vision of the company you work for, or (D) all of the above? Answer? (D) AND poor work ethic. If someone needs help and you have the answers, step out of your comfort zone and help them!

When you are assigned a task, your boss typically has a specific end result they are looking for. They may ask you to research the migration patterns of South African dung beetles. As a good employee, you start researching the migration patterns of South African dung beetles. A great employee goes an extra step and also looks into the migration patterns of Australian dung beetles.

This shows your boss that you can take the initiative and you’re not afraid to speak up when you think you have something of value to offer. Don’t be afraid to build on an idea or thought pattern of your boss. Your boss hired you for your support and to make him or her look good, take the extra step.

Another workplace pet peeve of mine is inefficiency. For most of us, the reason we do a task a certain way is because that’s how it’s been done for the last umpteen years. At some point, you may realize you can cut out a step or two and still come up with the end result.

Here’s where good work ethic kicks in. A person with a strong work ethic will take the initiative to cut out the unnecessary steps and use the time saved on other tasks. Look for ways to work smarter and be more efficient. You never know what opportunities this will open up for you with all the extra time you will have.

Most of our companies have realized the importance of offering training and seminars at no extra cost to us. They aren’t doing it to be nice. They are doing it because they want to help you grow as a professional. It’s mind-boggling to me when employees do not take advantage of this perk.

If your employer is offering a seminar on how to fine-tune your paralegal skills and you decide it’s not important for you, take a minute to ask yourself what that says about you as an employee. It says you don’t care about your job. Go to the seminar and take something away from it that you can implement.

Remember if you don’t want to improve your work ethic, there is still a 7.9% unemployment rate. I’m sure a few of those people would love to show your boss what they’re made of.
# MAY 2013 CALENDAR

All events at MCBA Office, unless otherwise specified.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
</table>
| 1    | Young Lawyers Division Board meeting Noon  
      | Equality for All?: Civil Rights in Phoenix Yesterday, today, and tomorrow 4:30 p.m. |
| 2    | CLE: Criminal Law Fundamentals Session I - Visiting Your Client in Jail Noon  
      | Construction Law Section Board meeting Noon |
| 3    | Estate Planning, Probate & Trust Section Board meeting 7:30 a.m.  
      | CLE: Bankruptcy Ambushes Lurking in the Legal Jungle 8:30 a.m. Chaparral Suites, Scottsdale  
      | CLE: Employment Law Fundamentals: Session I - The Hiring Process 11:30 a.m. |
| 6    | Diversity Committee meeting Noon  
      | Litigation Section Board meeting Noon |
| 7    | CLE: What Do You Mean, I'm the Arbitrator? Answers for Beginners Noon |
| 8    | Environmental & Natural Resources Section Board meeting Noon |
| 9    | MCBA Executive Committee meeting 7:30 a.m.  
      | CLE: What Every Estate Planning Attorney Must Know to Avoid Costly Mistakes with Social Security Claiming 7:30 a.m. |
| 10   | CLE: Employment Law Fundamentals: Session II - Managing Employees - Responding to Issues 11:30 a.m. |
| 13   | Paralegal Division Board meeting 5:30 p.m.  
      | Bankruptcy Law Section Board meeting 7:30 a.m.  
      | Lawyer Referral Committee meeting Noon |
| 16   | CLE: Lawyers Serving on Nonprofit Boards - Some Special Considerations 7:30 a.m.  
      | Employment Law Section Board meeting Noon  
      | MCBA Board of Directors meeting 4:30 p.m. |
| 17   | CLE: Employment Law Fundamentals: Session III - Managing Employees - Responding to Issues 11:30 a.m. |
| 18   | 2013 Paralegal Career Day 7:45 a.m. |
| 21   | CLE: Starting Your Own Law Practice: Prepare for Success! Session I - Office Space and Starting Up 8 a.m.  
      | CLE: Ethical Rules for Corporate Counsel 11:30 a.m.  
      | Family Law Section Board meeting Noon - telephonic |
| 22   | Maricopa County Bar Foundation Trustees meeting 7:30 a.m.  
      | CLE: How Staff Can Help or Hurt Your Ethics Tips for Lawyers and Staff 8:45 a.m.  
      | CLE: Criminal Law Fundamentals Session II - So You Want to Negotiate? Noon |
| 28   | CLE: Starting Your Own Law Practice: Prepare for Success! Session II - Hiring and Working with Staff 8 a.m.  
      | Public Lawyers Division meeting Noon |
| 29   | CLE: MCBA Annual Update on Ethics with Gary Stuart Noon |
| 30   | CLE: Estate Planning, Probate and Trust Section Members: What’s on Your Desk? 11:30 a.m. |
| 31   | CLE: Employment Law Fundamentals: Session IV - Termination 11:30 a.m. |

Please watch your MCBA E-News for updated information about meetings and events.

---

**DOMINGUEZ LAW FIRM, P.C.**

ATTORNEYS AT LAW

Welcome Lisa M. Montes as a member in the firm.

Ms. Montes is a graduate of Phoenix School of Law and received her Bachelor of Science Degree in Psychology from Arizona State University.

Dominguez Law Firm, P.C., is an AV rated firm with Martindale Hubbell and provides exceptional legal services to its clients. The firm’s practice includes condemnation, commercial litigation, construction, corporate, probate, guardianship/conservatorship of both minors and adults, estate planning and real estate. Referrals welcomed.

Dominguez Law Firm, P.C.
2323 North Third Street, Suite 100, Phoenix, Arizona 85004-1305  
(602) 252-1885 (Spanish-speaking clients welcomed)

---

**YLD seeks member-volunteers for Ask-a-Lawyer events**

The MCBA Young Lawyers Division is seeking volunteers to give guidance to the public at its annual Ask-a-Lawyer event. This activity is part of the YLD’s Law Week, which commemorates May 1, Law Day.

This year the YLD will hold two Ask-a-Lawyer events: Saturday, May 11, at Old Town Scottsdale Farmers Market, Brown and 1st Streets, and Saturday, May 18 at the Farmers Market at Ahwatukee Swim and Tennis Center at 4700 E. Warner Rd. Both events run from 9 a.m. to Noon.

If you are interested in volunteering, please send an email to Laurie Williams at lwilliams@maricopabar.org. Be sure to include the areas of law in which you have experience.

---

**Phoenix Law summer clerk program seeks firms to hire students on wage match basis**

The Phoenix School of Law Valley of the Sun Law Clerk Program is designed to attract private law firms and business employers to hire students as summer law clerks, and to provide them with high quality practice experience.

The program is made possible by a grant from PSL to participating employers, and covers a match of the hourly wages paid to the student by the employer. For example, if an employer will pay $8 an hour, PSL will provide a matching grant of $8, for a total of $16 per hour paid to the student.

Jennifer L. Kupiszewski with the Kupiszewski Law Firm hired two law students last summer. “We’ll be doing the same this year,” Kupiszewski said. “The program offers tremendous value for the money; the students were well prepared and hardworking. The most fun was getting to know them and experiencing their enthusiasm and excitement toward the law—something that diminishes after practicing for a while.”

To view a complete overview of the program and if your law firm or business is interested in participating, please visit the link below and complete a quick registration form.


If you have any questions about the Valley of the Sun program, please contact Joseph Perez at (602) 682-6841 or jperez@phoenixlaw.edu.

---

**If your client suspects fraud in their business, we can help you get to the bottom of it.**

According to the Association of Certified Fraud Examiners (ACFE), 5% of an organization’s gross revenue is lost to fraud. Don’t let your client become part of this statistic!

Our forensic accounting and investigation professionals have over 60 years of experience investigating and uncovering acts of financial fraud. We can help you build a stronger case.

- Asset Misappropriation
- Contractor Fraud
- Bribery and Corruption
- Financial Statement Fraud
- Conflict of Interest
- Breach of Fiduciary Duty

Call Chris Linscott today for a free consultation!
Losing and regaining firearm rights in Arizona: A guide for the legal practitioner

By David T. Hardy

Around a third of Arizona’s 1.9 million households possess firearms, and over 176,000 Arizonans hold concealed weapons permits. Arizona likes guns. It is thus important for the practitioner to grasp how firearm rights may be lost and regained.

In the beginning....

At the Federal level, the Gun Control Act of 1968 listed a number of classes of persons who were forbidden to possess firearms. The most prominent was persons convicted of an offense punishable by more than a year’s imprisonment.

This was extensively amended by the Firearms Owners Protection Act of 1986, 82 Stat. 449 (1986). FOPA excluded opened-ended offenses that were designated as misdemeanors, and convictions that had been expunged or set aside, or for which civil rights had been restored, unless the restoration expressly excluded gun rights.

Restoration of rights after a state felony conviction

In Arizona, restoration of gun rights is not automatic, but requires a motion. See A.R.S. §§13-905 to 912. Rule 29, A.R.Crim. P., sets out the motion’s content and time limits. Maricopa County has a form, online at http://clerkoffourt.maricopa.gov/faxondemand/300.pdf.

Older convictions: What law governs?

Prior to 1988, gun rights, like other civil rights, were automatically restored to a first-time offender at the end of probation. A 1988 amendment required proceeding by motion. Laws 1988, ch. 240. Then a 1994 amendment established standards. For “dangerous offenses,” gun rights could never be restored. For “serious offenses,” they could be restored after ten years. For all other felonies, they could be restored two years after probation ended. Laws 1994, ch. 200, §6.

Older convictions pose the question of what law should be applied— that of the date of the offense, of the conviction, or of the motion to restore rights?

Two considerations govern here. The first is whether the restoration is considered substantive (which argues for date of the conviction) or procedural (which counsels for date of the conviction).

Aranda v. Industrial Commission, 198 Ariz. 467, 470, 11 P.3d 1005, 1009 (2000), suggests that the 1988 and 1994 amendments are substantive. Aranda held that a statute suspending or expunging or setting aside a conviction does not include a restoration of rights.

Restoration of rights after a mental commitment

The Gun Control Act also forbade firearm possession by anyone who had been committed to a mental institution or adjudicated a “mental defective.” By ATF regulation “committed” does not include commitment for observation or a voluntary commitment. See 27 C.F.R. §478.1.

Recently Congress enacted states to restore firearm rights after a commitment, and Arizona makes the restoration available via A.R.S. §§13-925. In my experience the application is filed as a motion in the underlying commitment case.

Restoration of rights after a domestic violence restraining order

Federal law also prohibits firearms possession by those subject to a DV restraining order. Such an order is defined as one that “restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person,” or that forbids “engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.” 18 U.S.C. § 922(b)(8). The federal statute covers only orders that were “issued after a hearing of which such person received actual notice.”

This poses an interesting issue. Under A.R.S. §13-3602(E), the court can issue a DV order ex parte and often does so, leaving the defendant to request a hearing. If no such request is made, the order may not meet the federal criteria, since it was not preceded by notice and hearing.

The DV injunction bar can be lifted by securing a lifting of the injunction—but note that the defendant is restricted to one such motion per year. A.R.S. §13-3602(2).

The problem of non-DV injunctions

Arizona also has provisions for injunctions against harassment and against harassment, and now with the addition of Ms. Patton, all aspects of estate planning and probate matters.
Rewarding Volunteer Opportunity for Attorneys

Find out how you can help people step away from their own personal fiscal cliff!

Attorneys are needed to volunteer to work with law students at a new monthly debt clinic that will be offered at the Phoenix School of Law.

This joint effort project of the Bankruptcy Section of the Maricopa County Bar Association, Phoenix School of Law, and the Volunteer Lawyers Program, will provide assistance to people who need clear information and direction regarding debt and debt collection issues, and who cannot afford to hire an attorney.

An upcoming clinic is scheduled for May 8 at 5:30 p.m. Find out how you can make a difference by donating just three hours of your time!

For more information, please contact Volunteer Lawyers Program Director Pat Gerrich at pgerrich@clsaz.org or 602-258-3434 ext. 2630.
You are invited to the book launch of

The Articulate Attorney: Public Speaking for Lawyers, Second Edition
by Brian K. Johnson and Marsha Hunter

May 31, 2013
3:30-6:00pm
Maricopa County Bar Association
303 E. Palm Lane, Phoenix, AZ

3:30-4:30pm
Becoming More Fluent on Your Feet — free CLE!

4:30-6:00pm
Book signing and networking happy hour

Registration required for this free event.
RSVP: www.crownkingbooks.com/launch

Please join us as we celebrate the release of this new book with an hour of free CLE, a book signing with the authors, and a networking happy hour.

Get your nose out of your notes, look your audience in the eye, and become a more confident speaker.

How can you rely less on your notes?
How long should you maintain eye contact?
How can gesture help your confidence?

Whether you are at the beginning of your career or a seasoned practitioner, this one-hour lecture focuses on reliable skills you can use the next time you stand to speak.

See CLE Communiqué page 10

Sponsors:
MCBA

$20 including tax (regularly $24.99 retail)
Pre-order at the RSVP link.

Questions? afessler@crownkingbooks.com
CRIMINAL LAW FUNDAMENTALS

LUNCH SERIES • APRIL 5, 12, 19, 26
11:30 a.m. - 1 p.m. • Lunch included
(Each session my qualify for up to 1.5 hours)
Register for all four sessions and save! Package of four (you save $55)

PACKAGES OF THREE PRICES
MCBA Member: ..........................$170
MCBA Criminal Law Section Member: $150
MCBA Public Lawyers Division members/Paralegal Division members: $105
MCBA Student Member: ..........................$30
Non-Member: ..........................$105

INDIVIDUAL PROGRAM PRICES
MCBA Member: ..........................$62.50
MCBA Personal Injury Section Member: $55
MCBA Public Lawyers Division members/Paralegal Division members:$45
MCBA Student Member: ..........................$10
Non-Member: ..........................$102.50

SPONSORED BY THE MCBA CRIMINAL LAW SECTION

SESSION I
THURSDAY • MAY 2
So Your Client Called From Jail: The Beginning
• How to visit client in jail, hear from MCSO, public defender and private attorneys
• How to get client ready for court when client is in jail
• What release options do you have (From OR to work)?
• Hear answers to these questions and more from Maricopa County Sheriff’s Office, a public defender and private defense counsel.

PRESENTERS:
Jon Ellison, Mesa City Prosecutor’s Office (Moderator)
Jennifer Rock, Maricopa County Public Defender
Jess Lorona, Lorona Steiner Ducar, Ltd.
Lt. Michael Winks, Maricopa County Sheriff’s Office

SESSION II
WEDNESDAY • MAY 22
So You Want to Negotiate?
This Session will cover deviation requests, settlement conferences and plea deals.

PRESENTERS:
Tom Henze, Gallagher & Kennedy, PA
Janey Henze, Gallagher & Kennedy, PA
Andrea Tazoli, Quarles & Brady, LLP

SESSION III
THURSDAY • JUNE 13
Successful Outcomes: Guiding Your Client Through Sentencing and Beyond

PRESENTERS:
Janet Blake, Maricopa County Adult Probation
Jerald Schreck, Trial Group Supervisor, Maricopa County Public Defender Office

This course explores professionalism principles and analyzes a series of professionalism hypotheticals pertinent to a lawyer’s relationship with clients, judges and other attorneys. The bulk of the seminar is presented in interactive breakout groups.

PRESENTERS:
Lynda Shely, The Shely Law Firm
Keith Swisher, Phoenix School of Law
Hon. Peter Swan, Arizona Court of Appeals - Division One
Christina Urias, Christina Urias, Director, Christina Urias Consulting LLC, Insurance Law and Regulation

COST:
• MCBA members practicing less than 3 years: $95
• MCBA members practicing more than 3 years: $125
• Non-members: $190

BANKRUPTCY AMBUSHES LURKING IN THE LEGAL JUNGLE
Friday • May 3 • 8:30 AM - 4 PM
Co-Sponsored by the MCBA Bankruptcy Law Section and the Scottsdale Bar Association. May qualify for up to 6.0 standard CLE credit hours. Lunch is included.

CHAPARRAL SUITES
5001 N. Scottsdale Road, Scottsdale, AZ 85250

Registration 8:30 – 9 a.m.
Morning 9 a.m. – Noon
Session 1 – 4 p.m.

PROPERTY OF BANKRUPTCY ESTATE
PRE-PETITION ASSET PLANNING AND EXEMPTIONS
Ilene Lashtinsky, Office of U.S. Trustee
Gary R. Stickell, Law Office of Gary R. Stickell
Joel Newell, Lane & Nach, PC

TAX ISSUES IN BANKRUPTCY
Tracy Essig, Essig Law
Rachel Zepeda, SBSF Senior Attorney, Chief Counsel, Internal Revenue Service

INTERPLAY BETWEEN BANKRUPTCY COURT AND STATE COURT CONSTRUCTION LITIGATION
Dean Dinner, Nussbaum, Gillis, & Dinner, PC
Julie Wheeler, Jennings, Haag and Cunningham

Lunch Noon – 1:00 p.m.

11 U.S.C. §363 SALES AND NON-DISCHARGEABLE
STUDENT LOANS
Johit Nast, Gast Rosenfeld, PLC
Cody Jess, Schian Walker

ETHICS – UPDATES AND CURRENT ISSUES
ATTORNEYS SHOULD KNOW (1 hour ethics credit)
Susan Freeman, Partner, Lewis and Roca, LLP
Marvin Ruth, Partner, Lewis and Roca, LLP

PERSONAL INJURY/INSURANCE ISSUES
Hon. Sarah Saruer Curley, U.S. Bankruptcy Court
Randy Nussbaum, Nussbaum, Gillis, & Dinner, PC

PRICING:
Full Day
• MCBA Bankruptcy Law members: $205
• MCBA members: $235
• MCBA Paralegal & Public Lawyers Division members: $145
• MCBA Student members: $25
• Non-members: $335

Half Day
• MCBA Bankruptcy Section members: $115
• MCBA members: $130
• Non-members: $190
• Paralegal & Public Lawyers Division members: $85
STARTING YOUR OWN FIRM?

PREPARE FOR SUCCESS!

SIX TUESDAYS

MAY 21 • MAY 28 • JUNE 4 • JUNE 11 • JUNE 18 • JUNE 25

8:00 - 9:30 a.m.  •  Breakfast is included.

Sponsored by the MCBA Young Lawyers Division. Each session: 1.5 hours

SESSION I • TUESDAY • MAY 21
Office Space and Starting Up
• Getting office space and setting up business
• Commercial office space: Leasing
• Whole office vs. conference room only concepts

Mr. Watland will discuss operating your business as a sole proprietorship, a professional corporation, or a professional limited liability company, titling of your assets, obtaining financing, and maintaining your organization records.

PRESENTERS:
Tim Huff, Case Huff & Associates
Blake Hardison, Keyser
Dwight Watland, Watland & Allen, PLLC

SESSION II • TUESDAY • MAY 28
Hiring and working with Staff
• Do I need staff?
• Leasing vs. hiring
• Independent contractors vs. employees
• Hiring staff
• HR practices
• Do I need and employee handbook/written procedures?
• Managing employees
• Firing employees
• Working with paralegals

PRESENTERS:
Melinda Sloma, Sloma Law Group
Linda Hassele, Paralegal, Fennemore Craig
Lee Davis, Lee Davis & Associates

SESSION III • TUESDAY • JUNE 4
Law Firm Ethics
Ethics Tips for Establishing a New Practice—the Basics of Dealing with Client Money

SESSION IV • TUESDAY • JUNE 11
Office Technology & Law Firm Accounting
• Fax machines vs. eFax services
• Virtual receptionist/conference room services
• File management software (do you need expensive software?)
• Website creation
• WordPress? Others?
• SEO (Search Engine Optimization)
• The cloud
• Free case law search – FastCase
• Document management
• Collecting from clients
• NO charge time (or Courtesy Reductions) vs. deleting time from bills
• Three-way reconciliation
• Sample Quickbooks

SESSION V • TUESDAY • JUNE 18
How Do I Get Clients: Marketing and Beyond
I. This session will give you tips on everything you need to know about networking, advertising, and marketing your law firm.
A panel of current MCBA Young Lawyers Division board members will educate and entertain you on the following topics:
• Effective Networking: Using non-attorney referrals to your benefit
• Tips for Rainmaking: Steps for turning contacts into business—in a cost-efficient manner
• Your Marketing Plan: Creating and executing your marketing plan, including use of traditional advertising and social media
• Question and Answer segment

SESSION V • TUESDAY • JUNE 25
My First Case
• Where do I file?
• What court does what?
• Where are the courts?
• Getting admitted to federal court if necessary
• Electronic filing requirements
• Settlement options (tender cost of defense; offer of judgment)
• Tips for courtroom decorum (judges preferences)
• Oops. This client isn’t for me (or vice versa)!

PRESENTERS:
Judd Nemiro, Law Offices of Judd S Nemiro PLLC
Kimberlee Handy

SERIES/INDIVIDUAL SESSION PRICING

MCBA YLD Division members: $295 / $60
MCBA members: $345 / $67
MCBA Paralegal & Public Lawyers Division members: $250 / $45

Non-members: $495 / $90
MCBA student members: $150 / $35

TUESDAY • MAY 7
12 - 1:30 PM (Lunch included)
What Do You Mean, I’m the Arbitrator? Answers for Beginners

SPONSORED by the MCBA Public Lawyers Division.
1 hour of professional responsibility available.
The Superior Court appoints attorneys as arbitrators in qualifying legal cases, regardless of the appointed attorney’s background or experience. This program is ideal for new attorneys, first-time arbitrators and anyone who wants to be well-prepared and confident in handling an arbitration. Participants will learn the basics of what to expect, what forms and time frames are required, where to access information, and whom to contact with questions.

PRESENTERS:
Jennifer A. Cranston,
Gallagher & Kennedy, PA
Matt Meaker, Sacks Tierney, PA

COST:
• MCBA members: $62.50
• MCBA Paralegal & Public Lawyers Division members: $40
• MCBA Student members: $10
• Non-members: $102.50

THURSDAY • MAY 16
7:30 - 9 AM (Breakfast included)
Lawyers Serving on Nonprofit Boards: Some Special Considerations

1.5 hours, including .5 hour of professional responsibility.
This program is especially for lawyers who serve on nonprofit boards or are considering such service. Within a general discussion of directors’ responsibilities, presenter John Dacey will address special considerations arising out of one’s status as a lawyer (e.g., service on the board of a client).

PRESENTER:
John Dacey, Gammage & Burnharm, PLC

COST:
• MCBA members: $62.50
• MCBA Paralegal & Public Lawyer Division members: $40
• MCBA Student members: $10
• Non-members: $102.50

THURSDAY • MAY 19
7:30 - 8:30 AM (Breakfast included)
What Every Estate Planning Attorney Must Know to Avoid Costly Mistakes with Social Security Claiming

SPONSORED by the MCBA Estate Planning, Probate and Trust Section.
1 hour credit.
Much has been written about so-called “switch strategies” that can add an average of $130,000 in lifetime benefits to Social Security recipients. But how other claiming strategies can increase Social Security survivor benefits and even divorced-spouse benefits and divorce settlements is rarely described or

See CLE Communique page 12
COST:
- MCBA members: $45
- MCBA Estate Planning, Probate, and Trust members: $40
- MCBA Paralegal & Public Lawyers Division members: $30
- MCBA Student members: $10
- Non-members: $75

Presener:
Mark Harrison, Osborn Maledon

SPONSORED BY
Ahern Insurance Brokerage

MCBA Annual Update on Ethics with Gary Stuart
1.5 hours of professional responsibility.

What to expect:
- A brief summary of the latest and greatest Ethics Opinions from the State Bar of Arizona Committee on Professional Responsibility—What’s hot and what’s not.
- A review of the most important disciplinary actions by the Bar disciplines—Who’s out and why.
- A review of the five most important things you should do if you get a phone call from the Arizona State Bar Disciplinary Department—Why you actually want to get that phone call.
- A review of the three most important things you should NOT do after getting that phone call from the Arizona State Bar Disciplinary Department—When to cry uncle.
- A review of the basics on how to avoid ever getting a phone call from the Arizona Disciplinary Department—Ethical sunscreen can keep you from getting burned.
- A quick & A wide open discussion about ethics, discipline, safe practice, and the greening of ethical systems in your office.
- Free lunch—maybe cookies—maybe a review of recent hot cases and what you can learn from them. What are the implications of ethics cases for malpractice, and vice versa.
- Insurance 101: Avoiding traps for the unwary.

Presenters:
Rian Jorgensen, J.D., Senior Vice President, Ahern Insurance Brokerage
Denise M. Quinterri, Office of Denise M. Quinterri, PLLC

Cost:
- MCBA members: $115
- MCBA Paralegal & Public Lawyers Division members: $70
- MCBA Student members: $10
- Non-members: $190
- Law Firm Staff member: $25

Ethical Issues in Construction Litigation
1.5 hours of professional responsibility available.

The seminar will address various ethical issues that frequently arise in construction litigation from the perspective of owners, general contractors, and subcontractors. Topics include client solicitation, multiple-client representation, fee agreements, preservation of records, and insurance coverage issues.

Presenters:
Darrien Shuquem, Dicks, Coglanese & Shuquem
Jason Kelly, Schneider & Onofry
Greg Cahill, Dickinson Wright Mariscal Weeks

Cost:
- Construction Law Section members: $55
- Paralegal & Public Lawyers Division members: $40
- MCBA members: $62.50
- Non-members: $92.50
- Law student members: $10

Find more CLE programs for May and June at www.marinopabar.org
Do you have a few hours a month to help children learn about the judicial system? Maricopa County Superior Court is launching its 22nd year of the Courthouse Experience Program. This program has given students an opportunity to see and understand what really goes on behind closed courtroom doors. But to reach these children and make a difference in their lives, Superior Court needs the help of volunteer attorneys.

The program's success depends on volunteer attorneys who provide their time to lead student groups, ranging from 6th grade through college-age youth, on a personal tour of the court. A Courthouse Experience often includes visits with judicial officers and staff, observations of court proceedings, including trials (we will schedule this for you), visits to the jury assembly room, the law library, and question and answer periods.

If you are interested in becoming a volunteer for this year's program, please send a confirmation email with your name, phone number and email to: courtpio@mail.maricopa.gov.

**BOOK REVIEW**

**Out of Order: Stories from the History of the Supreme Court**

By Sandra Day O'Connor

Reviewed by Suzanne Dohrer

Sandra Day O'Connor, Arizona ranch-gal, former state legislator, appellate judge, golfer and legendary first woman to sit on the high bench. She shared her high moments and her parents' unwavering support when she decided to pursue a legal career.

If, through their influence and support, her parents played a part in Zawtocki becoming an attorney, the outstanding commitment she has since made to pro bono work is also to their credit. Recently named “Attorney of the Month” by the Maricopa County Volunteer Lawyers Program, Zawtocki is being honored for a decade of diverse assistance to low income clients.

"There is a legacy of focus on faith, family, education, hard work and hard play on both sides of my family," said Zawtocki. "I think my grandparents would be the most proud of the work I do through VLP, but it's not an exceptional thing to me. It's just the Golden Rule in action; something a person does as a matter of course."

As a matter of course, Zawtocki has regularly used her professional expertise to assist pro per litigants at court by providing advice to them through the Family Lawyers Assistance Project (FLA.P.). She has represented VLP clients in dissolution cases involving domestic violence and custody disputes. She has represented clients in petitioning for guardianship of minor children in their care.

She was the first volunteer to participate in the VLP's Appellate Pro Bono Pilot Project, begun in February 2011. And, she has offered her time to mentor other volunteer attorneys, enhancing the capacity for more people to be served through the efforts of her colleagues. VLP employees coordinating pro bono services provided by hundreds of attorneys can't say enough about Zawtocki's individual contributions. FLA.P. coordinator Karen Jackman says, "She can be described as upbeat, steadfast, reliable, compassionate, and professional. After years of practice and volunteering, she clearly still feels excited to be part of the solution in helping low income families get access to justice."

Attorney Roni Troppe, Coordinator of VLP's Children's Law Center, calls Zawtocki "awesome!" Community Legal Services attorney Josh Eisenstein comments, "I know her to be committed to making a difference for victims of domestic violence and their families, and her staff members are very passionate and involved."

Zawtocki and her husband, Rich Zawtocki, became partners in their law firm in 2003, the year Zawtocki joined VLP. In speaking of him and the employees in their office, she notes that her pro bono work is not a solo endeavor. "My name appears on VLP records, but it's an all-office venture."

VLP is not the only venue for Zawtocki's community service, as she is a judge pro tem and volunteers in a variety of capacities to help schools, churches and not-for-profit organizations. In everything she does to be a force for good in the lives of others, Zawtocki knows the lasting effect of her efforts is produced when people develop a greater capacity for self-reliance.

Of those she has assisted through VLP, Zawtocki reflects, "It is gratifying to see clients and their families achieve empowerment over their situation. I help with the legal issue, but they figure out the rest. The clients keep me coming back. They are people who want to find the best solutions for themselves."

**VLP ATTORNEY OF THE MONTH**

‘It’s just the Golden Rule in action…’

**By Peggi Cornelius, VLP Programs Coordinator**

"YOU, who dislike conflict and public speaking, want to go to law school?" Then, began years of lawyer jokes, and he knew them all." Attorney Marie Zawtocki quotes her father's humor, as she recalls her decision and her parents' unwavering support when she decided to pursue a legal career.

As a storyteller, the Justice recounts her life and her parents' expertise to assist pro per litigants at court by providing advice to them through the Family Lawyers Assistance Project (FLA.P.). She has represented VLP clients in dissolution cases involving domestic violence and custody disputes. She has represented clients in petitioning for guardianship of minor children in their care.

She was the first volunteer to participate in the VLP's Appellate Pro Bono Pilot Project, begun in February 2011. And, she has offered her time to mentor other volunteer attorneys, enhancing the capacity for more people to be served through the efforts of her colleagues. VLP employees coordinating pro bono services provided by hundreds of attorneys can't say enough about Zawtocki's individual contributions. FLA.P. coordinator Karen Jackman says, "She can be described as upbeat, steadfast, reliable, compassionate, and professional. After years of practice and volunteering, she clearly still feels excited to be part of the solution in helping low income families get access to justice."

Attorney Roni Troppe, Coordinator of VLP's Children's Law Center, calls Zawtocki "awesome!" Community Legal Services attorney Josh Eisenstein comments, "I know her to be committed to making a difference for victims of domestic violence and their families, and her staff members are very passionate and involved."

Zawtocki and her husband, Rich Zawtocki, became partners in their law firm in 2003, the year Zawtocki joined VLP. In speaking of him and the employees in their office, she notes that her pro bono work is not a solo endeavor. "My name appears on VLP records, but it's an all-office venture."

VLP is not the only venue for Zawtocki's community service, as she is a judge pro tem and volunteers in a variety of capacities to help schools, churches and not-for-profit organizations. In everything she does to be a force for good in the lives of others, Zawtocki knows the lasting effect of her efforts is produced when people develop a greater capacity for self-reliance.

Of those she has assisted through VLP, Zawtocki reflects, "It is gratifying to see clients and their families achieve empowerment over their situation. I help with the legal issue, but they figure out the rest. The clients keep me coming back. They are people who want to find the best solutions for themselves."

**Courthouse Experience Program Needs Volunteer Attorneys**

Do you have a few hours a month to help children learn about the judicial system? Maricopa County Superior Court is launching its 22nd year of the Courthouse Experience Program. This program has given students an opportunity to see and understand what really goes on behind closed courtroom doors. But to reach these children and make a difference in their lives, Superior Court needs the help of volunteer attorneys.

The program’s success depends on volunteer attorneys who provide their time to lead student groups, ranging from 6th grade through college-age youth, on a personal tour of the court. A Courthouse Experience often includes visits with judicial officers and staff, observations of court proceedings, including trials (we will schedule this for you), visits to the jury assembly room, the law library, and question and answer periods.

If you are interested in becoming a volunteer for this year’s program, please send a confirmation email with your name, phone number and email to: courtpio@mail.maricopa.gov.

**Out of Order: Stories from the History of the Supreme Court**

By Sandra Day O’Connor

Sandra Day O’Connor, Arizona ranch-gal, former state legislator, appellate judge, golfer and legendary first woman to sit on the high bench. She shared her high moments and her parents’ unwavering support when she decided to pursue a legal career.

If, through their influence and support, her parents played a part in Zawtocki becoming an attorney, the outstanding commitment she has since made to pro bono work is also to their credit. Recently named “Attorney of the Month” by the Maricopa County Volunteer Lawyers Program, Zawtocki is being honored for a decade of diverse assistance to low income clients.

Tentative beginnings, the personalities who approached the book with preconceived notions, the fabulous iCivics interactive government and the role of the judiciary. If you have not seen this book from front cover unback almost diminishes the personal touch of hearing the stories, in no particular order, as if shared over a cup of coffee or on a walk around the ranch.

This book fits well the Justice O’Connor's commitment to educating everyday Americans about the structure of our government and the role of the judiciary. If you have not seen the fabulous iCivics interactive educational website founded by Justice O’Connor, then you and every school-age child you know need to take time to visit www.iCivics.org.

Her writings in Out of Order move forward her dedication toward improving civics education. Clearly, this book is not directed toward an audience of lawyers looking for the inside workings or the “dirt” on the Supreme Court. Reviewers who have approached the book with preconceived notions that the out-of-order reference would reveal important secrets about the Court have missed the point.

This new book is less an exposé or structured analysis of legal history and more of a family cookbook that allows us to reminisce about our legal system’s crazy uncles, important milestones and interesting yarns. The book’s 12 chapters present easy-going doses of civics, law and history with brevity and the peculiarities of human nature, with sources cited for those who desire more depth.

Last month, many locals had the special opportunity to hear Justice O’Connor retell several of the stories contained in Out of Order. She appeared on March 7th, to a packed beyond capacity crowd at her namesake Arizona State University Sandra Day O’Connor College of Law, in a forum sponsored by the law school and Changing Hands bookstore.

Former Arizona Supreme Court Chief Justice Ruth McGregor led the conversation and question-answer format. Justice O’Connor discussed her own piece in the history of the Supreme Court, the first woman to sit on the high bench. She shared her high regard for her colleagues and the institution. Justice McGregor also revealed a few of her own tidbits, from her days serving as a law clerk to Justice O’Connor. Among the audience were students, the public, dignitaries from our state and federal courts and friends. This reader hopes that Justice O’Connor will share her personal voice and storytelling by producing an audio version of Out of Order.

Paralegal Career Day

Saturday, May 18, 2013

7:45 a.m. - 1 p.m.

Maricopa County Bar Association

303 E. Palm Lane, Phoenix 85004

This is a not-to-be missed opportunity for paralegal students and those interested in making a career change to the paralegal profession to learn how to succeed.

Topics include:

- Benefits of social networking
- Speed dating with paralegals
- Interviews and what's legal
- Interview process and hiring
- Fashion show sponsored by J Crew-Dress For Success

Registration fee includes a continental breakfast, afternoon snack and refreshments. Register online at www.maricopabaro.org.
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.

NEW HIRES

Attorneys Matthew B. Meaker (construction law) and Ellen K. Aiken (family law) have joined the Scottsdale law firm of Sacks Tierney, PA. Meaker is a member of the Arizona Registrar of Contractors Industry Advisory Council and the American Subcontractors Association. Aiken is a member of the ABA Young Lawyers Division, where she serves on the Family Law Section and the Children & the Law Committee.

Murphy Karber PLC, a boutique Phoenix construction, real estate and business law firm, has announced it has added a third partner, Michael A. Cordier. The firm also announced its new name, Murphy Karber Cordier, PLC and unveiled its new logos. The firm will also use the trade name MKC Law, taking advantage of the State Bar of Arizona’s recent rule change. Cordier most recently served as the managing shareholder of the Phoenix office of DeConcini McDonald Yetwin & Lacy, PC.

Cordier represents a wide variety of businesses and individuals in commercial matters and often serves as an outside general counsel for businesses. His areas of focus include business and corporate law, employment and labor law, intellectual property, real estate and commercial transactions and litigation.

The firm also announced that Alicia M. Casale joined the firm as of counsel. She has experience in broad-based litigation and transactional work for small businesses and will add expertise to the firm’s real estate and general business law practice.

Before joining Murphy Karber, Casale spent ten years serving as general counsel to a multi-restaurant owner and operator. Casale also served as a full-time judicial extern for U.S. Magistrate Lawrence O. Anderson, U.S. District Court for Arizona. She received her JD from the University of San Diego School of Law.

In addition to the state and federal courts in Arizona, Cordier is admitted to practice before the Ninth Circuit Court of Appeals and the U.S. Court of Appeals for the federal circuit. He is member of the MCBA Corporate Counsel Division and Employment Law Sections. At the state bar, he is a member of the Business Law, Employment & Labor Law, Intellectual Property, and Construction sections, and is a member of the American Intellectual Property Law Association.

HONORS & AWARDS

Lewis and Roth LLP is pleased to announce that in 2012 the firm had a total of 153 attorneys, including representatives from each of the six offices, contribute more than $800,000 in pro bono hours to worthy causes. Twenty-six attorneys, including 14 MCBA members, in the Phoenix office were recognized for exceeding 50 hours of pro bono services during last year. The MCBA members are: Matt Bingham, Tom Campbell, Emily Cates, Kim Demarchi, Scott DeWald, Matt Engle, Rich Goldsmith, Alexandra Gormley, Kristyna Holmstrom, Randy Papetti, Melanie Pate, Bob Schaffer, Jared Sutton, and Will Voit.

The firm’s wide range of practice areas spans from corporate bankruptcy and litigation to real estate, transactions, estates and trusts, general business issues and corporate and contractual representation for businesses and professional entities.

If you are an MCBA member and you’ve moved, been promoted, hired, or received a promotion or award, we’d like to hear from you. Talks, speeches (unless they are of national stature), CLE presentations and political announcements are not accepted. In addition, the Maricopa Lawyer will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, etc.). Notes of a personal nature (e.g., moving announcements at no cost, must be submitted in writing, and are subject to editing.

Estate Planning Probate & Trust Section Members: What’s on Your Desk?

FREE FOR SECTION MEMBERS!

Thursday, May 30, 2013
11:30 a.m. - 1 p.m.
Maricopa County Bar Association
303 E. Palm Lane, Phoenix 85004

Grappling with a difficult, unusual or obscure issue? Wishing you had another colleague’s brain to pick? Then, join fellow section members for a free lunch (yes, sometimes there really is a free lunch), networking and a discussion and offer your experience to others.

Please reserve by registering online at www.maricopabar.org or call Bree at (602) 527-4200.

BULLETIN BOARD POLICY

Members in good standing will not be printed.

NEW FIRM

Attorney Shelton ‘Tony’ Freeman has announced the launch of his new multi-disciplinary law firm, Freeman Law, PLLC, with offices in Scottsdale and Flagstaff. Prior to establishing Freeman Law, Freeman was a shareholder at DeConcini, McDonal-d, Yetwin & Lacy, PC for nearly two decades. Freeman Law provides legal solutions to small and medium sized businesses and high wealth individuals.

The firm’s wide range of practice areas spans from corporate bankruptcy and litigation to real estate, transactions, estates and trusts, general business issues and corporate and contractual representation for businesses and professional entities.

Estate Planning Probate & Trust Section Members: What’s on Your Desk?

FREE FOR SECTION MEMBERS!

Thursday, May 30, 2013
11:30 a.m. - 1 p.m.
Maricopa County Bar Association
303 E. Palm Lane, Phoenix 85004

Grappling with a difficult, unusual or obscure issue? Wishing you had another colleague’s brain to pick? Then, join fellow section members for a free lunch (yes, sometimes there really is a free lunch), networking and a discussion and offer your experience to others.

Please reserve by registering online at www.maricopabar.org or call Bree at (602) 527-4200.

BULLETIN BOARD POLICY

Members in good standing will not be printed.

NEW FIRM

Attorney Shelton ‘Tony’ Freeman has announced the launch of his new multi-disciplinary law firm, Freeman Law, PLLC, with offices in Scottsdale and Flagstaff. Prior to establishing Freeman Law, Freeman was a shareholder at DeConcini, McDonald, Yetwin & Lacy, PC for nearly two decades. Freeman Law provides legal solutions to small and medium sized businesses and high wealth individuals.

The firm’s wide range of practice areas spans from corporate bankruptcy and litigation to real estate, transactions, estates and trusts, general business issues and corporate and contractual representation for businesses and professional entities.
Prosecution's failure to divulge detective's known dishonesty thwarts State's case

When she got pregnant with Christopher and had contemplated having an abortion. She feared that Christopher was becoming like his father. And she confessed to consorting with Scott, and Syers told Christopher, something that she called a “bad judgment call.” Milke's version of the interview was, not surprisingly, quite different. She testified that she told the detective that she did not understand the Miranda warnings that he had given her. When he asked if she wanted him to tape the interrogation, she said, “No, I need a lawyer,” but he ignored her request. Instead, he put his hands on her knees and carried on with the interrogation, embellishing and twisting her statements to make it seem that she had confessed.

Those were basically the facts that the jury had to analyze in deciding whether to convict or acquit Milke. There was no physical evidence linking her to the crime, and neither Syers nor Scott testified against her. So it came down to whether the jurors found Saldate credible when he testified that Milke had confessed. They did. They found her guilty of conspiracy and murder, child abuse, and kidnappings. The judge sentenced her to death.

In an opinion by Chief Judge Alex Kozinski, the Ninth Circuit held that Milke had not received a fair trial because the jury was denied crucial evidence. He concluded that the State was aware of but did not disclose to Milke’s attorneys numerous items of potentially exculpatory evidence, evidence that cast a shadow over Saldate’s credibility.

Kozinski pointed to several incidents that the State had not divulged, including:

- an incident where Saldate had accepted sexual favors from a female motorist and then lied about it to his supervisors, leading to a five-day suspension;
- four cases where judges set aside confessions or indictments because Saldate had lied under oath; and
- four other cases where judges had suppressed confessions or vacated convictions because Saldate had violated the suspects’ constitutional rights during interrogations.

One case in particular caught Kozinski’s attention. Saldate testified that he had obtained a confession from a suspect who “was strapped to a hospital bed, incoherent after apparently suffering a skull fracture.” When doctors had interviewed the man, he could not tell them his own name, what year it was, or who was president.

“All of this information should have been disclosed to Milke and the jury,” Kozinski wrote, “but the state remained unconstitutionally silent.” “Had these incidents been brought to the jury’s attention, they would certainly have cast doubt on Saldate’s credibility,” he concluded.

Multiple judicial determinations that Saldate lied in performing his official functions and violated suspects’ constitutional rights would have been highly relevant where the state’s case rested on his testimony.

Kozinski laid out how Saldate’s cross-examination might have proceeded had the State produced the court orders concerning Saldate’s misconduct. “With court orders in hand,” he wrote, “defense counsel would have had a good faith basis for questioning Saldate about prior instances where he had lied on the witness stand.”

If Saldate admitted the lies, his credibility would have been impaired. If he denied them, he would have exposed himself to a perjury prosecution. If he claimed he couldn’t remember, defense counsel could have shown Saldate the documents to refresh his memory.

And if Saldate still couldn’t recall, the jury would have had reason to doubt, not only his veracity, but his memory as well.

“Saldate’s credibility was crucial to the state’s case against Milke,” Kozinski wrote. “It’s hard to imagine anything more relevant to the jury’s—or the judge’s—determination whether to believe Saldate than evidence that Saldate lied under oath and trampled the constitutional rights of suspects in discharging his official duties.”

“The prosecution did its best to impugn Milke’s credibility,” the judge continued. “It wasn’t entitled, at the same time, to hide the evidence that undermined Saldate’s credibility.”

Joining him in overturning Milke’s conviction were Judges Jerome Ferris and Carlos T. Bea.

Valdivia trades restaurant biz legacy for the law and her vision of equal justice

Valdivia was chosen by Quarters & Brady to be a member of the 2013 class of Fellows, participating in a landmark program created by Leadership Council on Legal Diversity (LCLD). LCLD’s focus is to identify, train and advance the next generation of leaders in the legal profession. The program offers participants an extraordinarily rich year of relationship-building, virtual and in-person activities, peer-group projects, and extensive professional contact with LCLD’s top leadership.

Valdivia was also selected as one of the “25 Most Influential Hispanic Business Leaders in Arizona” by AZ Business Magazine. Over the past year, the editorial team at AZ Big Media compiled a list of more than 100 potential leaders to spotlight and selected 25 who they believe have had the biggest impact on Arizona’s business environment — past, present and future.

“It’s great to see Dawn rise to a position of real prominence in this area,” said John W. Daniels, Jr., chairman of Quarters & Brady, LLP. “Our firm is passionate about diversity and inclusion, but individual partners like Dawn are the difference between a statement of principle and real action where it matters.”

Valdivia grew up in the MetroCenter area of north Phoenix and attended Corteaz High School. She said neither of her parents went to college, but her paternal grandparents understood the value of higher education. “They wanted to break through racial and ethnic stereotypes, and my parents echoed that ambition,” she says.

“My mother has some good stories about how I frequently got into trouble in school because I was always defending other kids. The teachers would tell me to mind my own business, but something in me…. I was born with inner confidence and with intellect. If I see an undergrad, my innate instinct is to try to help.”

As an undergraduate at ASU, Valdivia majored in religious studies and Spanish, graduating magna cum laude, with honors. “My grandparents pushed law school—you can just imagine employers beating down my door with those majors!” She also had a friend who was a law graduate. “I was really impressed by him, even by the way he carried himself,” so I said, I’m going to go for it. That’s probably the best decision I made in my life.”

After receiving her law degree at University of Arizona James E. Rodgers College of Law, Valdivia began her career as a trial attorney, in Arizona. 480-628-0788. $25/hour.

Her pro bono cases stem from a variety of sources, including the Volunteer Lawyers Program, but also from the federal court when cases are referred from district judges, and

MCBA members save on the ABA's book sale—May 7 and 8 only

Shop the ABA Spring Book Sale, May 7-8 only and save 30% and receive free ground shipping.* Plus, your purchase of ABA books helps support the MCBA with a commission on all purchases.

A huge variety of topics are available so you can develop your area of expertise, manage your law practice better, and enhance your profession development—all at great savings.

CLASSIFIEDS

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

SERVICES

LEGAL RESEARCH – HIGH QUALITY, thoughtful, thorough, 30 years experience & 15 years trial support, 30 years legal research. Call Clifford Heiney, ESQ. (480) 510-9524


EXPERT WITNESSES: Title Insurance and Escrow. More than 40 years professional experience. Founder or co-founder of a number of Title Agencies. Gregory A. Milheil, Sr., 602-618-6870 or gregmilheil@earthlink.net

LEGAL RESEARCH – LITIGATION SUPPORT. PERSONAL INJURY/MEDICAL MALPRACTICE. EXPERIENCED ATTORNEY. CALL CLIFFORD HEINEY, ESQ. (480) 510-9524

OFFICE SPACE

OFFICE SPACE AVAILABLE AT 7TH ST. & THOMAS RD. Executive Suites, Virtual Offices and Large standalone offices. Executive Suites include full service reception, conference rooms, copy machine, security system. Large standalone offices: 1,210 sf, 1,750 sf and 2,252 sf. 777 E. Thomas Road 602-722-4251

LARGE 12′X14′ office and secretarial space to sublet in existing iSpace at Gilbert/Central, includes utilities, covered parking, phones/fax/internet, conference rooms, receptionist and client amenities. $695 for annual lease or $795 monthly. 480-553-8700.

SPACES AVAILABLE AT 7TH ST. & THOMAS RD. Executive Suites, Virtual Offices and Large standalone offices. Executive Suites include full service reception, conference rooms, copy machine, security system. Large standalone offices. 1,210 sf, 1,750 sf and 2,252 sf. 777 E. Thomas Road 602-722-4251

NORTH CENTRAL LUXURY OFFICES with secretarial space, smaller offices available. Large and small conference rooms, kitchen, cable, quiet street, covered parking. North of Bethany at 714 East Rose Lane. Call Rick 602-230-2916
The Easiest Way to Get Paid!

- Accept Visa, MasterCard, Discover & Amex
- Save up to 25% off standard fees
- Control cash flow & increase business
- Accept credit cards for retainers
- Avoid commingling client funds

LawPay’s unique processing program correctly separates earned and unearned transactions keeping your firm compliant. The process is simple. Begin accepting payments today!

Accept payment online through our Secure Payment Link

L a w P a y

CREDIT CARD PROCESSING

866.376.0950

www.LawPay.com/mcba