Two incumbents and five newcomers have entered this year’s election to join the 2014 Maricopa County Bar Association board of directors. The incumbents are Michael Kielisky and Norma Izzo Milner. The new candidates are Gail Barsky, Flynn Carey, Comr. Geoffrey Fish, Stanley Lutz and Matthew Meaker.

CAST YOUR ELECTRONIC VOTE NOV. 1-15
Seven candidates vie for five open seats on MCBA board of directors

MCBA members licensed to practice in Arizona and in good standing with the State Bar of Arizona are eligible to vote. Voting will be done through MCBA’s online election vendor. No paper ballots will be distributed. Voting begins Friday, November 1. Members with a valid email address on file will receive information on how to vote electronically from electionsonline.us. This email will contain a link to the election site and your username and password. At the election site, you will be prompted to vote for five of the candidates. (Candidate bios and photos are posted on our website, www.maricopabar.org).

It is essential that MCBA have your correct email address. If you are not receiving emails from us on a regular basis, then we do not have your valid email address on file. Please contact the MCBA office at (602) 267-1950.

In the last election, Arizona voters loudly told the legislature and the governor that they did not want the political branches to have increased influence in the choice of appellate-court judges. By a large margin, they rejected a proposed constitutional amendment that would have done so. The Arizona Supreme Court has now rejected that law, as emphatically as the voters had rejected the referendum. Dobson v. State ex rel. Comm’n on Appellate Court Appointments, No. CV-13-0225-SA (Ariz. Sep. 13, 2013).

In 1974, Arizona voters amended the constitution to de-politicize in some measure the process of naming judges to the appellate courts. Until then, all judges in Arizona were elected by popular vote. That year, voters adopted Proposition 108, which added constitutional provisions that fundamentally changed the process.

Prop 108 created the Commission on Appellate Court Appointments, a body comprising five attorneys and 10 non-attorneys, all appointed by the governor and confirmed by the Senate. It is charged with filling each appellate-court vacancy, primarily evaluating candidates for merit but also considering the diversity of the state’s population.

After publicly interviewing candidates, holding public hearings, and taking public comment, the commission nominates not less than three persons. The governor must name the new judge from the commission’s list.

In the 2012 general election, the legislature referred to the people a proposition that would have required the commission to send a slate of eight names for each vacancy. The commission could only send fewer names upon a two-thirds vote.

The voters would have none of it. They thrashed the proposition, voting against it by 73% to 27%.

Evidently not heeding the voters’ call to keep their hands off, the political branches opted for a power grab through the legislative process. This past April, the legislature passed and the governor signed H.B. 2600. It would require the commission to submit five nominees for each appellate vacancy instead of the three mandated by the state constitution. Fewer than five names could be submitted, but only upon a two-thirds vote.

Four members of the commission challenged H.B. 2600. Represented by a bevy of former supreme court chief justices, they filed a special action against the State asking the supreme court to hold the bill unconstitutional. In an opinion by Vice Chief Justice Scott Bales, the court rejected H.B. 2600 unanimously — and as decisively as the voters had rejected the referendum. Indeed, most of the opinion was taken up with housekeeping matters: the discussion of the merits took up only two of the opinion’s eight pages.

There was little doubt of the bill’s unconstitutionality: “On its face,” Bales wrote, “H.B. 2600 conflicts with our state constitution.” It “fundamentally changes the selection process set forth in the constitution.”

The state argued nonetheless that the change was merely a procedural supple-
Giving thanks this holiday season

Fall is officially here. November has begun and soon we will be well into the holiday season! These festive times kick off with Thanksgiving, so I thought I would take some time to reflect on all that I am thankful for. I am thankful for the MCBA, my executive committee, our board of directors and, of course, our members. My executive committee works tirelessly to better the MCBA, and guide it through the general challenges de jour. Our board of directors provides invaluable insight and guidance to the executive committee and also helps us through the tough decisions to make us a better bar association. And our members provide the many oars that move our ship along. I am also thankful to have such an active roster of past MCBA leaders at my disposal.

As I write this column, I am fresh off a bi-annual breakfast amongst our past MCBA presidents. This breakfast is always a great time for leaders, new and old, to come together to embrace the successes of the past, discuss the challenges of the future and generally celebrate the MCBA. Meeting new attorneys is my favorite part of this post — and our past presidents are an impressive line-up — and a class that I will be honored (and thankful) to join soon.

I am also thankful to be working for such a great law firm — one that encourages and supports my substantial time commitment to the MCBA. I work with a number of very talented attorneys, many of whom I count as my closest friends. When asked what I like most about Quinlivan & Bruder, my answer is always “the people.” I hope you too can be thankful for the support and kinship you receive from your colleagues.

Finally, I am thankful for my friends and family. Friends are there to get you through the tough times and, in my case, provide an outlet to my crazy life, where I balance my job, the MCBA, other community endeavors, a wife who is a full-time practicing attorney, three kiddos and a nanny (and a partridge in a pear tree). And, as many of you know from past articles, my family means everything to me. I give thanks every day for having a family that loves me and supports me no matter what. I know that I will always have three munchkins running to the door when I get home to give me a big hug. These hugs sometimes include dirt and/or food remaining from the activities of the day. That reminds me, I am also thankful for my dryer sheet.

In all seriousness, as we come upon the thankful holiday, take time to consider what you are thankful for, and don’t forget if this job of ours happens to get the best of you on any particular day. Happy Thanksgiving!

CLE provides tips, tricks and forms for compulsory arbitration

By Riley Snow

If you reside in Maricopa County and you have practiced law in Arizona for more than four years, you will have the opportunity to serve as a court-appointed arbitrator. Under the Maricopa County Superior Court’s Compulsory Arbitration Rules, attorneys meeting the above-mentioned criteria are randomly selected by the court to arbitrate civil suits where claims are limited to money damages of $50,000 or less. For your time and trouble, the court will pay you $75 — if you bother filing the necessary paperwork to get paid.

To put it diplomatically, Maricopa lawyers have mixed feelings about the program. As a court-appointed arbitrator, you will be tasked with handling the entire civil case. From discovery disputes to evidentiary rulings, findings of fact to conclusions of law, you are the judge. The rules set out those few instances where the judge needs to rule; otherwise, you are the decider. A.R.S. § 12-133(K) ensures you are personally immune from suit for your acts as an arbitrator. All that is required is that you do your best.

At a recent MCBA CLE program entitled “What Do You Mean I’m the Arbitrator?” Jennifer Cranston and Matthew Meaker provided explanation, advice and forms for local attorneys who will be required to don the judge’s robe — even if in a limited capacity. The following are a few highlights:

Timing is everything

As the arbitrator, you are responsible for ensuring a hearing is conducted within the proper time frame — usually 60-120 days following your appointment. This can be surprisingly difficult given the many busy schedules (yours included) that need to be accomplished. Add in some pre-hearing motions and the court’s inactive-calendar timeframe and things get really tight. Remember that while the parties can ask the court for extensions of time to avoid the inactive calendar, you, as the arbitrator cannot. Do all that you can to set a firm hearing date as soon as possible and then work with the parties on necessary extensions. A kind reminder that you cannot extend inactive-calendar timelines should help the parties keep things moving. Also, keep in mind certain post-hearing procedures are required. You need to be sure a hearing date is set that will allow all post-hearing matters to be completed prior to the case entering inactive status.

Know the rules

You are the judge, and the parties deserve a fair hearing. You should be familiar with the rules of civil procedure, arbitration and evidence, and you should conduct the hearing in accordance with those rules so no one is surprised and, to the extent possible, the parties feel they have been treated fairly by the court. There were 14,624 eligible arbitration cases filed in Maricopa County in 2012, and only 329 were appealed. It is extremely likely your hearing is the only hearing a litigant will get.

Make the most of it

It’s pretty clear that none of us are looking forward to more work for little to no pay — especially when you don’t even get to select the case. That being said, the benefit the arbitration program provides the court is profound. With nearly 15,000 fewer cases clogging the court’s dockets, we all benefit from increased access to judges and court staff on other matters. Also, the arbitration experience can provide each of us with a unique opportunity to view things from the other side of the bench — if we take advantage of it.

The next time you receive your appointment notice, just remember: a bad situation can always be made worse by whining about it. So, jump in, stick to the rules and make sure the litigants do the same. At the end of the day, you could take away some valuable bench experience. And if you need a good set of forms, just ask me. I managed to walk away with a nice set from the CLE.

GIVING THANKS THIS HOLIDAY SEASON

Thank you for making a difference!
Criminal and non-criminal bonds

Non-criminal bond payments will be strictly limited to cash and wire transfers in most situations. The limited exception will be for property bonds, which require a court order authorizing the party to post property as bond. Examples of the bonds this applies to are performance bonds and appeal bonds. While this will be an adjustment for family court and probate practitioners, it will not be a change for attorneys who electronically file and pay fees through AZTurboCourt in civil cases.

When posting a bond, wire transfers function the same as writing a check, except that the funds transfer immediately and cannot be cancelled once submitted. When paying by wire transfer, a printout or receipt of the bank's transfer to the clerk’s account as proof of payment must be filed with the document filed at the clerk’s counter or through the depository boxes. Cash and wire transfers are reliable forms of guaranteed payment for bonds. The clerk’s office will require cash or wire transfers for non-criminal bonds beginning January 1, 2014.

For details on funds deposited with the clerk and held in trust, such as criminal bail bonds, cash bonds, probate bonds, and civil and child support arrest warrants, see the “Trust/Bond Matters” page of the clerk’s website at http://www.azlegis.state.az.us/azsqa.trust/bondmatters.asp.

Fees and other services

Acceptable forms of payment for filing fees, copies, certifications, marriage licenses, the clerk’s portion of processing a passport application and other clerk’s office services will be implemented for the public and self-represented parties on January 1, 2014. Payments must be made with cash or by credit or debit card with verified cardholder’s signature and matching identification. This change will impact filings across all case types for case initiation and subsequent filing fees collected at the file counters.

To process documents received through the mail and at depository boxes, the clerk’s office will contact the submitter by phone using contact information on the face of the document to obtain payment by credit or debit card. Documents will be rejected if they are submitted without payment or if the clerk’s office cannot obtain payment by phone.

Law firms, attorneys, process servers and runner services account for the majority of the filing fees and services at the clerk’s office. The office is actively working with these customers to phase-out the use of checks and to transition to payment by cash, wire transfer or credit and debit cards with the cardholder’s signature.

The clerk’s office will have further updates as the implementation date approaches. These practices will improve the office’s financial management and fiduciary responsibilities, which are priorities in the clerk’s strategic plan.

The need for change

Effective January 1, 2014, the clerk’s office will begin restructuring the forms of payment that are acceptable for various fees and services. Changes will be implemented over time and will begin with bond payments, filing fees, and fees for services from self-represented parties and the public. At the same time, the clerk’s office will work with attorneys, process servers and bonding companies to eventually move toward guaranteed forms of payment and away from personal and business checks. This change mirrors practices from other courts within Arizona and around the nation.

Cash, wire transfers and credit or debit cards with a signature are reliable forms of guaranteed payment. Other forms of payment, such as cashier’s checks, money orders, and bank checks, can be stopped and results in insufficient funds. This disrupts the court’s ability to conduct business and can place the clerk’s office and the county at substantial financial risk.

Acceptable forms of payment at clerk’s office changing January 1

CLE examines how to avoid conflicts when serving on nonprofit boards

By Margaret Esler

Attorneys today often choose to serve on the boards of nonprofit corporations. Such service allows a member of the bar to provide community service, to gain real world experience outside the practice of law, and to pursue marketing, networking or leadership opportunities.

On May 16, 2013, John R. Dacey of gammage & burnham presented a CLE program about attorneys serving on nonprofit boards. As Dacey explained, attorneys serving on nonprofit boards must be cognizant of potential conflicts that might arise from being a part of the legal profession.

Attorneys who serve as directors of nonprofit boards are subject to particular duties. First, an attorney-director owes a duty of care. Pursuant to A.R.S. 10-3830(A), a nonprofit director must act “with the care an ordinarily prudent person in a like position would exercise under similar circumstances.” However, an attorney-director may be held to an even higher standard: that of “ordinary attorney.” Second, an attorney-director is subject to a duty of loyalty. A.R.S. 10-3830(A)(5) requires a nonprofit director to perform in “a manner the director reasonably believes to be in the best interests of the corporation.” Third, an attorney-director has a duty of obedience; he or she must act in accordance with the nonprofit corporation's stated goals, rules and relevant laws.

An attorney serving on a nonprofit board must be vigilant about potential conflicts of interest. E.R. 1.7 prohibits an attorney from representing a client if such representation involves a concurrent conflict of interest. Comments to E.R. 1.7 specifically address issues raised by board service. For example, Comment 34 clarifies that if there is material risk that serving on a nonprofit board would “compromise the lawyer’s independence of professional judgment” then the attorney should act neither as director of a board nor as a lawyer for the corporation. Further, Comment 9 states that an attorney’s fiduciary duties that arise from serving as a corporate director may materially limit duties of loyalty and independence that are owed to their legal clients.

There is no absolute prohibition against an attorney who is a nonprofit board director also serving as the nonprofit corporation’s attorney. However, in such situations, the attorney must be particularly sensitive to potential conflicts that may arise from such a dual role. Dacey discussed four common conflicts: (1) an attorney is asked to pursue objectives as counsel of a nonprofit that he or she opposed as a director; (2) an attorney is asked to give legal advice on a board action that he or she participated in as a director; (3) an attorney takes action as part of a nonprofit board that may affect his or her law firm; and (4) an attorney or his or her firm represents the nonprofit in litigation, with the potential that the attorney-director will be named as a defendant in such litigation or be required to testify as a witness.

There are several ways for an attorney to deal with such conflicts. First, Dacey advised ensuring that the nonprofit has a Conflict of Interests Policy. Also, prior to joining a nonprofit board, the attorney should determine what conflicts may arise and fully advise the attorney-client relationship. Finally, attorneys acting in a board director capacity should make all appropriate disclosures, both prior to joining the board and during their entire tenure thereon.

Before accepting a dual role as attorney for a nonprofit corporation and as board director, an attorney should fully disclose how being both might affect the attorney-client privilege. Dacey advised that the attorney should continually remind the board when he or she is communicating with them as director and when as counsel. One possible safeguard, according to Dacey, would be to have another attorney from their firm communicate the legal advice. Finally, if providing legal advice at a board meeting, the attorney should consider going off record so that the commentary...
Sometimes the simple words are the ones that are most likely to be misused. “But,” “though,” “despite” and “while” are four words I have noticed causing confusion. Specifically, I have noticed writers using “but” as a synonym to the other three terms in connecting main ideas together in a sentence or paragraph. This usage ignores the important distinction between “but” and the other three terms.

“But” is a term used to indicate a contrast: the main idea following this conjunction contrasts with the preceding main idea, and is making a stronger point. Consider the following example:

I would hire the last candidate, but we cannot meet his salary requirements.

By using “but” as the coordinating conjunction, the writer emphasizes the point after the “but” making it the controlling main idea. In other words, the writer will hire the candidate because of money. In contrast, the terms “though” (or “although”), “despite” and “while” introduce subordinating ideas to the main point of the sentence. The two ideas in the sentence are not equal; the main point of the sentence controls. Consider the following example:

I would hire the last candidate, though he/ she cannot meet his salary requirements.

In this example, the actor will hire the candidate. Despite the sharp difference in emphasis between “but” and the other three terms, a legal writer can use all four terms to persuasive advantage. If the writer wishes to emphasize a contrasting point, the writer can start a new sentence with “but.”

The term was ready to fulfill the order. But the buyer did not pay on time.

This technique is especially effective if the “but” sentence is short and to the point. If the writer is trying to de-emphasize a point or hide a bad fact, the writer can put that point or fact in a subordinating clause at the beginning of the sentence.

While both parties had several drinks, the defendant chose to drive anyway.

In short, simple words can really pack a persuasive punch when used correctly.
Climate change in the southwest CLE provides a regional prospective

By Riley Snow

Recently, the Environmental & Natural Resources Law Section of the Maricopa County Bar Association sponsored a CLE presentation that addressed climate change in the Southwest. The keynote speaker was Gregg Garfin, a professor in climate, natural resources and policy at the University of Arizona. Garfin is one of the editors of a forthcoming book titled “Assessment of Climate Change in the Southwest United States: A Report Prepared for the National Climate Assessment.” The book illustrates how global shifts due to climate change will affect the Southwest region of the U.S. It is a monumental piece of work involving 120 contributors who distilled all presently available data on climate change and then evaluated how such changes will impact Arizona, California, Colorado, Nevada, New Mexico and Utah.

In his presentation, Garfin expounded on the projected growth trends, resource trends and climate change data to offer attendees a glimpse of what the Southwest's future holds. Obviously, certain predictions were dire. But not all the news was bad.

For instance, Garfin explained that while temperatures have been, and will continue to trend hotter, annual rainfall amounts are likely to stay constant. Given that the availability of water is the Southwest's greatest challenge, this news appears promising when compared to a predicted never-ending drought. The higher temperatures, however, will likely result in less snowpack, more volatile storms and increased flooding. So, water will become available in different forms, at different times, and more rapidly than we are currently prepared for.

Electrical power requirements and land and resource consumption are expected to increase as well. Available data shows the population of the Southwest is projected to rise even more rapidly than it has in the past. Future electrical power requirements are of particular concern since greater population and higher temperatures will lead to exponentially increase power usage. But the news isn't all about how hot it will get. Winter temperatures are expected to remain consistent. However, significant cold snaps and unexpected weather shifts are expected to become more regular.

How does all this affect the legal community? During the question-and-answer session, attending lawyers agreed that infrastructure development would play a major role in preparing the Southwest for the changing weather conditions and demands. Likewise, future lawyers seeking work in the environmental and resources fields should become versed in administrative law. Federal environmental laws are of particular importance as such laws currently provide the legal framework for governments and businesses to deal with these changes.

The aforementioned book shows us that we can expect warmer temperatures, more volatile storms, consistent forest fires and greater human demand over the course of the next century. It will be left, in part, to Maricopa lawyers to assist governments and corporations in protecting residents of the Southwest from the fallout.

Riley Snow is a sole practitioner at The Law Office of Riley S. Snow and a member of the Maricopa Lawyer Editorial Board.

Community Legal Services seeks board members

Community Legal Services seeks three MCBA appointees to its board of directors. Board members work collectively to insure the fiscal integrity of CLS programs, set policies and procedures, and enhance CLS’s standing within the community. Applicants must be active members in good standing with the State Bar of Arizona and the MCBA, and supportive of the vision and mission of CLS. Board members are expected to attend board meetings held five times a year and participate in CLS activities. Please send a letter of interest to Executive Director Allen Kimbrough, 303 E. Palm Lane, Phoenix, AZ 85004 or email akimbrough@maricopabar.org by noon on Friday, Nov. 8.

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We would like to encourage you to recruit new members for the Maricopa County Bar Association.

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All recruited new members (who have not been a member for at least a year) receive a certificate for one hour of free CLE.

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

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


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Order books online at www.maricopabar.org. You may purchase online with Visa, MasterCard or American Express, or download an order form and purchase by check. Save mailing charges ($5-$8) by purchasing books at the MCBA Office at 303 E. Palm Lane in Phoenix.
Two Superior Court programs win NACo awards

The Probate Court and the Criminal Court Administration departments within the Maricopa County Superior Court won 2013 National Association of Counties (NACo) awards for their programs. NACo awards recognize innovative programs that modernize county government and increase services to county residents.

“Reinventing Probate Court in Maricopa County: Restoring Public Trust” was a program administered by the court’s probate department. It instituted dramatic reforms and re-engineered both judicial procedures and administrative processes. In the last two and a half years, the court developed and implemented systemic changes, overhauled court processes and enhanced protections for vulnerable adults.

Another program, called “Settlement Conference on Demand, Criminal Court Administration,” was created to increase the use of settlement conferences to resolve more felony criminal cases without going to trial. The superior court serves all of Maricopa County and adjudicates more than 30,000 felony filings each year. The court has a long history of developing innovative case-flow management techniques to specifically address the early resolution of felony criminal cases.

Two commissioners appointed as Superior Court judges

The governor has selected Commissioners Kathleen Mead and Rodrick Coffey as new Maricopa County Superior Court judges.

Mead has been appointed to fill the vacancy created by the retirement of Judge Helene F. Abrams. She has been a commissioner for the superior court since 2003. In this role, Mead handled initial criminal appearances and felony matters — including preliminary hearings, bond review and detention hearings — and adjudicated as many as 60 sentences per week. She also was an integral part of the team that launched the Maricopa County Search Warrant Center, a centralized court that reviews and issues search warrants for law enforcement.

Prior to becoming a court commissioner, Mead was a sole practitioner (1994-2003); worked for the Maricopa County Attorney’s Office (1993-1994); served as a clerk for the Arizona Court of Appeals (1988-1993); and was a paralegal with the firm of Beer & Toone (1984-1988) and a legal secretary with Warner Angle (1983-1984).

Coffey has served as a court commissioner, Coffey’s law practice was primarily focused on commercial and real estate litigation at the trial and appellate court levels in Arizona and federal courts. He also has handled bankruptcy cases.

Coffey graduated Order of the Coif from the J. Reuben Clark Law School at Brigham Young University and educated youth in his community about the judicial system. Coffey is active in his church, where he has taught Sunday school and served as a youth leader.

Coffey graduated Order of the Coif from the J. Reuben Clark Law School at Brigham Young University in 1999. He also has coached youth basketball teams, interviewed high school students applying to Vanderbilt University and educated youth in his community about the judicial system. Coffey is active in his church, where he has taught Sunday school and served as a youth leader.

Coffey graduated Order of the Coif from the J. Reuben Clark Law School at Brigham Young University in 1999. He received his Bachelor of Arts in sociology from South Dakota State University in 1980. For her second appointment, Gov. Brewer has selected Rodrick “Rod” Coffey to replace retired Judge Glenn M. Davis.
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- Maricopa Lawyer Editorial Board
- Membership
- Technology

If you are interested in serving on one of these committees, please send an email to appointments@maricopabar.org. Please write the name of the committee on which you would like to serve in the subject line of your email and include a resume with your request.

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Fax: 602-682-8601 Phone: 602-682-8584 Email: truff@maricopabar.org
The 2013 Paralegal Conference kicked off on Sept. 27 at the Hyatt Regency Phoenix. Along with breakout sessions, a keynote speech by Chief Justice Rebecca White Berch and a proclamation read by prosecutor Juan Martinez declaring it Arizona Paralegal Day, participants also mingled and networked with colleagues and vendors.

Conference Chairs Irene Gregory and Janet Castner posing with Chief Justice Rebecca White Berch

Maricopa County Bar Foundation Scholarship winner Nicole Villa with MCBA Paralegal Division Past President and Foundation Board Member Kathy Bunch

Prosecutor Juan Martinez reading the proclamation declaring September 27, 2013 as Paralegal Day in Arizona!

Conference Chairs Irene Gregory and Janet Castner posing with Chief Justice Rebecca White Berch

MCBA Paralegal Division President Sarah Fluke moderating a great panel on “Career Transitions—What Else Can I do With My Paralegal Skills?”

Alisa Gray and Jim Fassold of Tiffany & Bosco get the attendees up and moving in “Taming the Toxic Trickle—Using Time Management and Mindfulness to Enhance Your Life”

Bench Bar Conference

Judges and attorneys came together for the Bench Bar Conference on Oct. 11 at the Hotel Palomar in downtown Phoenix.

Hon. Christopher Whitten and a conference attendee chat at the reception

Hon. Janet Barton speaks with a conference attendee

Participants enjoy the post-conference reception

Hon. Norman Davis delivers the State of the Courts report

The judges take part in the first of two judicial panel discussions
Get the most out of your membership

Join a section or division by calling the Membership Dept. at (602) 257-4200

**ADDITIONS**
Rebekah S. Bell
Sole Practitioner
Amie Clarke
Burguan Clarke Law Office
Meredith H. Flori
Perez Law Group
Joseph Miller
Snell & Wilmer
Shawna R. Riggers
Sole Practitioner
Gustavo E. Schneider
Bryan Cave

**BANKRUPTCY**
Phoenix School of Law Clinic
(3 cases)
c/o David Wm Engelman & Cody Jett

**GUARDIANSHIP OF INCAPACITATED ADULTS**
Barbara R. Berman
Sole Practitioner
Lora G. Johnson
Salone and Johnson
William Van Curen
Snell & Wilmer

**GUARDIANSHIP OF MINOR CHILDREN**
Hector J. Diaz
Quarles & Brady
Amanda Goede
Sole Practitioner
Jane A. Proctor
Fennemore Craig

**HOMEOwNSHIP ISSUES**
Ryan Konsdorf
Snell & Wilmer
John D. Wilenchik
Wilenchik & Bartness

**OTHER JUVENILE MATTERS**
Clarence E. Matherson
Tempe City Attorney's Office

**DOMESTIC VIOLENCE/FAMILY LAW**
Rachel F. Johnson
Sole Practitioner
Melanie Pate
Lewis Roca Rothgerber

**PRO BONO SPOTLIGHT ON CURRENT NEED**
Lawyers, paralegals and law students who speak Spanish are needed to assist families with low incomes.

VLP ATTORNEY OF THE MONTH
Busy professional inspired to continue giving back

By Peggi Cornelius,
VLP Programs Coordinator

If a secret to a well-rounded and gratifying life involves bridging gaps between large and small undertakings and making time to give back, then attorney Magdalena Valenzuela has discovered it. Honored as “Attorney of the Month” by the Volunteer Lawyers Program (VLP), Valenzuela has been educating and advising people with debt problems about their legal rights and responsibilities on a pro bono basis for two years. “I am one of more than 290,000 associates in an interstate corporation engaged in banking,” Valenzuela says. “I’m fortunate to work remotely, which is enjoyable but isolating. Using my professional knowledge and skills to help others is important to me. While attending the state bar convention a couple of years ago, I learned of pro bono opportunities through the VLP. There, I have found a way to enhance my work in the corporate world with my desire for community involvement.”

The majority of people eligible for assistance through the Volunteer Lawyers Program and the VLP have income levels at or below 125% of federal poverty guidelines. Many rely on fixed incomes and are unemployed or underemployed. They may be single parents, grandparents raising grandchildren or couples working two or more jobs to make ends meet. Often, the deaths of a spouse or family member has caused them to be unable to pay their debts in full.

Valenzuela meets with individual applicants to discuss their personal circumstances, explain how collections efforts transpire over time, advise them in responding appropriately and to explore remedies that may be available. “Many times people arrive in a state of high anxiety; stressed because they’ve received a summons or been told their meager wages will be garnished,” she says. “It’s priceless to see the relief on their faces when I advise them of what can and cannot be done, given their financial situation. I can see weight being lifted off their shoulders, and they are always so thankful and grateful.”

A native Phoenixian, Valenzuela grew up with two older brothers. “Both my parents were employed throughout our formative years, and we were never deprived of life necessities or love and encouragement,” she says, describing her childhood. “However, I remember witnessing the struggle my parents had in keeping up with expenses, and moving for purely economic reasons. Perhaps, the silver lining in their financial struggle is the closeness we share as a family and my appreciation for what the clients I meet at VLP are experiencing.”

Valenzuela became employed while still in high school, waiting tables at one of Bill Johnson’s Big Apple restaurants. That employment sustained her through her undergraduate studies in the Barrett Honors College at Arizona State University. Her justice studies honors thesis on the American death penalty sparked her interest in law school and she earned her J.D. at the Sandra Day O’Connor College of Law. Now, as a professional, wife and mother, Valenzuela says the most challenging part of volunteer commitments is making time for them. She makes time to serve as a volunteer at her son’s preschool, as well as VLP and credits her husband for arranging his schedule to be home on the evenings that she devotes to pro bono legal clinics. She says, “I’m motivated by the knowledge that if I don’t stay engaged at VLP, someone may not receive the legal counsel they need and deserve.”

Volunteer Lawyers Program Thanks Attorneys

The Volunteer Lawyers Program thanks the following attorneys and firms for agreeing to assist on 23 cases referred by VLP to help low-income families. VLP supports pro bono service of attorneys, by screening for financial need and legal merit and provides primary malpractice coverage, donated services from professionals, training, materials, mentors, and consultants. Each attorney receives a certificate from MCBA for a CLE discount.

**ADOPTIONS**
Rebekah S. Bell
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Burguan Clarke Law Office
Meredith H. Flori
Perez Law Group
Joseph Miller
Snell & Wilmer
Shawna R. Riggers
Sole Practitioner
Gustavo E. Schneider
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THREE WAYS TO REGISTER

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

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

PHONE
Call Bree at (602) 682-8588.

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

ATTENDANCE POLICIES

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

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

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

CANCELLATIONS/REFUNDS
Refunds, less a $10 fee, will be issued only if the MCBA receives your cancellation, in writing by mail, fax at (602) 682-8601, or email bree@maricopabar.org at least two business days prior to the program.

NO SHOWS
If you registered and paid, but could not attend, you may request that materials be sent to you, free of change (allow 3-4 weeks). If audio media is available, registrations may be converted to a self-study package for an additional $15 change.

THURSDAY • NOVEMBER 7
11:30 AM - 1 PM (Lunch included)
Estate Planning, Probate and Trust Section
Members: What’s on Your Desk?
SPONSORED BY: Estate Planning, Probate and Trust Section
1 hour CLE; credit available
Back by popular demand! Enjoy a free lunch while discussing the issues on your desk with other Estate Planning, Probate and Trust Section members, and offer your experience to others. This month’s theme: Unusual assets. No matter how long anyone has practiced in the area of trusts and estates, we have all come across something odd or unusual within a probate or as part of an estate plan. Perhaps you’ve come across a mystical statue? Civil War artillery, weaponry and ammo? Circus-trained rats? (no, we did not make this one up)? All of these strange or unusual assets present unique challenges and issues, such as how does one value this asset for federal estate tax purposes? What actions must be taken by a Personal Representative to preserve the asset’s value? How does one transfer such an abnormality to a trust?

COST:
MCBA members: $60
MCBA Estate Planning, Probate and Trust members: $40
MCBA Paralegal & Public Lawyer Division members: $10
Non-members: $120

THURSDAY • NOVEMBER 7
7:30 - 9 AM (Breakfast included)
Drafting Charitable Remainder Trusts
SPONSORED BY: Estate Planning, Probate and Trust Section
1.5 hour CLE; credit available
Charitable Remainder Trusts are useful estate and tax planning tools; every estate-planning attorney should be familiar with them. However, writing a Charitable Remainder Trust that is appropriate for the client involves more than just copying the IRS sample form. This session will begin with illustrations of how CRTs work (and IRS requirements), then move to analysis of trust provisions and finish with a discussion of practical ways of dealing with some of the ethical issues involved.

PRESENTER:
Mark Mortiz, Attorney at Law
COST:
MCBA members: $62.50
MCBA Estate Planning, Probate and Trust members: $55
MCBA Paralegal & Public Lawyer Division members: $40
MCBA Student members: $10
Non-members: $102.50

FRIDAY • NOVEMBER 8 • 3 - 5 PM
Annual Wine CLE – Regulatory Roundtable
(Wine tasting included)

SPONSORED BY:
Environmental Law and Natural Resources Section
2 hours CLE; credit available
This year’s Annual Wine CLE will be a Regulatory Roundtable featuring Henry Darwin, director of the Arizona Department of Environmental Quality; Sandy Fabritz Whitney, director of the Arizona Department of Water Resources; and William (Bill) Wiley, director of the Maricopa County Air Quality Department. Additional information on the event will be available soon.

THURSDAY, NOVEMBER 14
4:30 - 6 PM (Happy hour to follow)
War Stories and Lessons Learned
SPONSORED BY: Litigation Section
1.5 hour Ethical CLE; credit available
Every litigator has had a moment they wished they could take back or had learned the hard way. Fortunately, these experiences make for better lawyers, provided we learn from them. The MCBA Litigation section is thrilled to have six of Phoenix’s most experienced litigators share their most memorable experiences and lessons learned (and maybe share a laugh or two at this profession that we’ve chosen).

PRESENTER:
Pam Kingsley, Tiffany & Bosco, P.A.; Dick Friedlander, Dickinson Wright Mariscal Weeks, PLLC; Beth Fitch, Righi Law Firm; Peter Sorensen, Greenberg Tauring, LLP; Mark Breyer, Breyer Law Offices
COST:
MCBA members: $62.50
MCBA Paralegal & Public Lawyer Division members: $40
MCBA Litigation Section Members: $55
MCBA Student members: $10
Non-members: $102.50

TUESDAY • NOVEMBER 12
12 - 1 PM (Lunch included)
Retirement Plans and Health Care Reform
1 hour CLE; credit available
The speakers will present on retirement plan options for employees and employers and also talk about financial planning strategies and how these benefits can improve employee morale and potentially lower attrition. Discussion topics will include health coverage in 2014 and will be directed around health care reform, including individual tax penalties for non-compliant health plans, not having health insurance coverage and new additions to health coverage that are causing increases in premiums.

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

RESERVE YOUR SPOT TODAY!
Register online at maricopabar.org under “CLE/EVENTS” or call Bree Bochikle at 602-682-8588.

The State Bar of Arizona does not approve or accredit CLE activities for the Mandatory Continuing Legal Education requirement. The activities offered by the MCBA may qualify for the indicated number of hours toward your annual CLE requirement for the State Bar of Arizona, including the indicated hours of professional responsibility (ethics), if applicable.
FRIDAY • NOVEMBER 15
8 – 9 AM (Breakfast included)
Shed the Stuffing and Survive the Holidays
NEW MEMBERSHIP SEMINAR (NON CLE)
The holidays are around the corner, so come learn how to survive them with diet, fitness, and exercise. SICFIT Scottsdale will bring you fitness tips for the workplace, along with sensible and easy nutrition tactics, to help you feel and perform at your best.
During this hour-long seminar, SICFIT Scottsdale will talk about:
- Enjoying the holidays without overeating
- How to use food as fuel for your body
- General tip for keeping the weight off
- Healthy recipes and food alternatives
- At-home or office workouts
COST: MCBA members: $10

THURSDAY • DECEMBER 12
7:30 – 9 AM (Breakfast included)
Qualified Plans, IRAs and Estate Plans: Avoid Tripping the Snare
SPONSORED BY: Estate Planning, Probate and Trust Section
1.5 hour CLE credit available
Qualified plans and IRAs can make up a substantial portion of any persons estate. Because of the IRS requirements imposed to achieve the income tax deferral, planning for these assets goes beyond simple beneficiary designations. What works for life insurance can lead to serious income tax liability for the trust or heirs. This session will explain the rules and offer ideas about how to plan for the complexity.
PRESENTER: Anne L. Leary, Gallagher & Kennedy
COST: MCBA members: $62.50
MCBA Estate Planning, Probate and Trust members: $55
MCBA Paralegal & Public Lawyer Division members: $40
MCBA Student members: $10
Non-members: $102.50

THURSDAY • DECEMBER 12
12 – 1:30 PM (Lunch included)
Practitioner Do’s and Don’ts From the Judge’s Perspective
SPONSORED BY: Bankruptcy Law Section
1.5 hour CLE credit available
Please join Judges Edward Ballinger, Dan Collins and Brenda Whinery as they educate you on the do’s and don’ts in their court rooms. The judges will candidly share with you the shortcomings they have observed during their tenures on the bench and how they have been both pleased and disappointed by pleadings they have read. This program is designed for commercial and consumer bankruptcy practitioners of all levels of experience.

Race Judicata

The race begins!
Runners prep for the start of the race
The event also included a fun kids’ dash
More runners making their way to the finish line
Runners stretch and get their bibs on
Runners make their way to the finish line
Runners nearing the finish line
A group from the Arizona Attorney General’s Office showed up for the early morning run
Thank you to the volunteers who came out and helped make it a great event!
**HONORS & AWARDS**

Lewis Roca Rothgerber is pleased to announce that partner Richard N. Goldsmith will be honored with the Department of Defense Patriot Award for his support of the Guard and Reserve. The Patriot Award is given to supervisors in recognition of the support they provide individual soldiers/employees during their Reserve Training and Deployment. A representative of the Arizona Employer Support of the Guard and Reserve (ESGR) program will present the award. Goldsmith, a partner in the firm’s Business Transactions Practice Group, practices primarily in the areas of lending, equipment leasing and sales, real estate, general contract drafting and alternative dispute resolution.

Bryan Cave partner George Chen has been elected as president-elect of the National Asian Pacific American Bar Association (NAPABA) for the fiscal year 2013-2014. He will be sworn into office on November 9, 2013 in Kansas City, Mo. In 2014-2015, he will serve as president and will be sworn into office in November 2014 in Scottsdale, Ariz., and in 2015-2016, he will serve as immediate past president and will be sworn into office in November 2015 in New Orleans, La. Chen has been a member of NAPABA since 1999, holding various positions within the national organization including treasurer, vice president for programs and operations, and southwest regional governor.

Chen, an attorney with Bryan Cave since 1999, partners with long-term clients to develop, protect, enforce, defend, license and commercialize intellectual property and other business assets. Chen received his B.S. in electrical engineering from the Massachusetts Institute of Technology and his M.S.E.E. and J.D. from Arizona State University. He is the co-inventor of four patents.

**NEW HIRE**

Margaret Olek Ester has joined the Real Estate/Transactions Practice of Polsinelli, PC, in its Phoenix office. Ester has extensive experience in the areas of purchase and sale transactions, leasing, financing, landlord-tenant disputes, and development for both commercial and residential clients.

She also has experience in environmental real estate matters including due diligence and CERCLA compliance issues.

**BULLETIN BOARD POLICY**

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

CLE examines how to avoid conflicts continued from page 3

Cleaving will not be published in the minutes from the meeting.

Dacey suggested that attorneys considering nonprofit board service ensure they understand what the expectations of the nonprofit are and evaluate their own interest in serving on the board. If attorneys stay vigilant about avoiding conflict and separating their interests as a board member from their interests as an attorney, service on a nonprofit board can be valuable both to the attorney’s personal and professional growth and to the nonprofit corporation.

Margaret Ester is an associate with Polsinelli, PC, and a member of the Maricopa Lawyer Editorial Board.
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