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

Four newcomers and two incumbents have entered this year’s election to join the 2015-16 Maricopa County Bar Association Board of Directors. They are (in alphabetical order): Hon. Nicole Brickner, Tyler Carrell, Julie Ashworth LaFave, Amanda Sheridan, Richard Siever and Melinda Sloma.

2014 Race Judicata: A perfect day for a race

Participants begin the 5K Race Judicata on a sunny and chilly October morning.

MCBA statement opposing CLE recommendations set by State Bar

On Sept. 4, 2014, the Executive Committee of the MCBA sent a statement to the Board of Governors at the State Bar of Arizona regarding their opposition to certain recommendations by the State Bar’s CLE Task Force Report. Below is a copy of the statement:

Summary

For various reasons, including but not limited to the ones set forth below, the Maricopa County Bar Association (“MCBA”) is opposed to the entirety of Part A of the Recommendations of the CLE Task Force entitled “CLE Provider Precertification” (“Recommendation”). The MCBA currently takes no position with respect to the remaining recommendations of the Task Force to the extent such recommendations deal solely with the internal operations of the State Bar of Arizona.

We are confident that (i) the CLE Task Force had the best of intentions in making its Recommendation, and (ii) the Recommendation is, as a technical matter, aimed towards protecting the profession from bad CLE.

Nevertheless, the MCBA is concerned that, as a practical matter, the Recommendation would, if accepted, (i) put the MCBA and other CLE providers, including but not limited to affiliated bar associations and other non-profit organizations, in a significant competitive disadvantage in the CLE marketplace, and (ii) result in an additional and unacceptable financial burden on the MCBA and such other associations and organizations.

I. Introduction – CLE Providers in Arizona

The State Bar of Arizona (“State Bar”) is a unified bar association in which membership is mandatory for all Arizona-licensed attorneys. Additionally, the State Bar is believed to be the largest provider of CLE in the State at the present time. The State Bar engages in CLE activities with a view towards, among other things increasing its non-dues revenue.

The MCBA is the largest voluntary bar association in Arizona with over 3,000 members, and began its 101st year of service to the profession from bad CLE.

II. The State Bar Should NOT Serve as Both CLE Provider and Regulator

a) Conflict of Interest

As we understand the situation, prior to its recommendations being issued, the CLE Task Force did not include any representation from any other CLE providers, and no such organization or association has had an opportunity to engage in dialogue with the CLE Task Force. We trust that the State Bar knows that the MCBA, and presumably its affiliated bar associations, are willing to engage in such discussions with the State Bar in the future so that any State Bar task force recommendation be the result of a more collaborative effort of those serving Arizona’s legal community.

b) Affiliated Bar Associations

As indicated above in Part I, the State Bar is believed to be the largest provider of CLE in the State, and (i) local and specialty bar associations, (ii) law schools, (iii) law firms, (iv) the American Bar Association (via webinars or live), and (v) various for-profit providers (e.g., NBI, Lorman).

As we understand the situation, prior to its recommendations being issued, the CLE Task Force did not include any representation from any other CLE providers, and no such organization or association has had an opportunity to engage in dialogue with the CLE Task Force. We trust that the State Bar knows that the MCBA, and presumably its affiliated bar associations, are willing to engage in such discussions with the State Bar in the future so that any State Bar task force recommendation be the result of a more collaborative effort of those serving Arizona’s legal community.
Two new programs for MCBA members

The MCBA is in the process of launching two new programs which are specifically intended to ensure that our members have greater access to our most valuable resource — each other.

The first program, although still in its infant stage, is already up and running. Advertised in the Maricopa Lawyer as “Wet Your Whistle Wednesdays,” this program is, at its core, a monthly happy hour. This is an opportunity for MCBA members to get together after work to eat, drink and talk about whatever is on their minds in a no-agenda, no-host, no-ulterior motive environment. Think of it as putting the “bar” back into bar association.

Importantly, the purpose of these events is not to lure you into a situation where someone will try to sell you something, or attempt to enlist your assistance or services respecting bar-related activities. The purposes of this program are simply to be a little more social, to get to know each other a little more and to do a better job living up to our slogan of being the organization “where the legal community connects.” Our next happy hour will be on Nov. 12 at Lustre Bar at the Hotel Palomar in CityScape. For those of you who don’t need a reason to drink, please join us.

And for those of you who are looking for a no-agenda, to get to know each other a little more and to do a better job living up to our slogan of being the organization “where the legal community connects,” our next happy hour will be on Nov. 12 at Lustre Bar at the Hotel Palomar in CityScape. For those of you who don’t need a reason to drink, please join us. And for those of you who are looking for a reason to drink, here it is.

The second program will be up and running in 2015 and is something that many of our members have asked about in the past. Following the improvements to the MCBA’s website, members will have the opportunity to share their knowledge with others in their field, which allows members to create awareness as to recent developments and hot topics in the law.

Importantly, the purpose of these events is not to lure you into a situation where someone will try to sell you something, or attempt to enlist your assistance or services respecting bar-related activities. The purposes of this program are simply to be a little more social, to get to know each other a little more and to do a better job living up to our slogan of being the organization “where the legal community connects.” Our next happy hour will be on Nov. 12 at Lustre Bar at the Hotel Palomar in CityScape. For those of you who don’t need a reason to drink, please join us. And for those of you who are looking for a reason to drink, here it is.

The program will allow section and division members an opportunity to connect with one another by sharing information and issues respecting a particular area of law. Discussion topics can be created, filed and searched so that members can discuss related issues and receive helpful advice from colleagues who have encountered the same or similar problems. This is an incredibly exciting member benefic development that many of you have been seeing. I strongly encourage you to check this out in the upcoming year and to share your knowledge and experiences with your colleagues in the community. Remember, this program starts in 2015.

MCBA awards Diversity Scholarships

In 2013, the Maricopa County Bar Foundation established $1,000 Diversity Scholarships for law students in memory of the late Justice Michael D. Ryan, a long-time champion for equal justice and a past chair of the MCBA’s Diversity Committee. The first scholarships were awarded to students at Arizona State University College of Law and at Arizona Summit Law School. In 2014 a scholarship for a deserving student at the University of Arizona College of Law was added.

The 2014 Diversity Scholarships were awarded at the MCBA’s Centennial Dinner on Sept. 20. The following were the recipients:

Kalin Myers, a second-year student at Arizona Summit Law School. Esther Sanchez-Gomez, a second-year student at the James E. Rogers College of Law at U of A. Marcos Tapia, a third-year student at the Sandra Day O’Connor College of Law at ASU.
Tribute to this year’s YLD board members

First, I would like to say that if you have ever considered getting involved in the MCBA Young Lawyers Division, now is the time. Elections for the 2015 YLD board are underway! To be eligible, you must be practicing attorney with less than five years of experience or under 36 years of age. If you are interested, contact me at cblais@beattorneys.com or Laurie Williams at williams@maricopabar.org for more information. Board members are elected by the other members of YLD and serve for three years. The board is a fun and interactive group of attorneys who serve the community in meaningful ways.

Now, to the current YLD board members, I express my sincere gratitude for all the volunteer hours, dedication and personality that you have given to this board. I wanted to give you a special shout-out in this month’s column and show the readers of the Maricopa Lawyer who really make it all happen. It has been such a pleasure getting to know you. Thank you for your dedicated service! I would also like to give special thanks to Allen Kimbrough, Laurie Williams and Bree Bochikle for everything, and for keeping us on track.

2014 YLD board members

- **Tyler Carrell**
  - President-Elect
  - Gallagher & Kennedy

- **Krystal Ahart**
  - Secretary
  - James F. Kahn, PC

- **Benjamin Eidt**
  - Treasurer
  - Farley Seletos & Choate

- **Brent Kleinman**
  - Kleinman Law Firm

- **Flynn Carey**
  - Mitchell Stein Carey, PC

- **Quintin Cushner**
  - Steptoe & Johnson

- **Rachel Phillips**
  - Bryan Cave

- **Jason Wood**
  - Titus Brueckner & Levine

- **Matt Fendon**
  - Fendon Law Firm

- **Melissa Benson**
  - Arizona Summit Law School

Happy November, everyone! The temperatures are becoming tolerable after months of blazing heat, and Arizona’s version of fall is in full effect. We are also coming off the heels of the MCBAs 15th Annual Paralegal Conference, which took place at the Hyatt Regency in downtown Phoenix on Oct. 10. I again want to thank all those who attended, every member and student member, as well as our amazing panel of speakers and our generous vendors. It was a wonderful day full of engaging speakers, connecting with old friends, and forming new friendships and networks. Conference-goers also spent time learning about the Paralegal Division’s 15-year history. We were fortunate to have one past Paralegal Division president, except one, in attendance, and we hope to have a full house next year. (Already aiming high!)

November is one of my favorite months of the year, not just for the fact that it finally cools down, but also because it is a whole month dedicated to something beautiful and necessary: giving thanks. The original Thanksgiving Dinner, which was a 1621 celebration in (modern-day) Plymouth, Mass., between puritans and pilgrims, was prompted by an especially good harvest. Over centuries, the original purpose of Thanksgiving has changed and evolved, but at the core it’s still about being thankful.

It’s about giving thanks for a prosperous year, a successful year, a healthy year or whatever you want to be thankful for. In a day and age where technology is used more often than a human touch, and people can carry on relationships and jobs without ever leaving the comfort of their home, I think it is important to take a step back and remember what we have to truly be thankful for. Family, friends, employment, food, a warm bed, the list could go on and on, and still be completely different from that of the person next to me. Regardless of which of life’s many riches you are thankful for this year, it is important to take a minute and reflect on all that you have to be thankful for.

With that in mind, should you feel like meeting new people and helping others out along the way, there are several opportunities this Thanksgiving season to get involved. For instance, in honor of our veterans, the Paralegal Division will be collecting blankets, for instance. The Paralegal Division will be collecting blankets...
The smarter way to edit for length

A story recently circulated among legal news blogs that told of a judge chiding BP’s lawyers for resulting to a college trick for exceeding page limits: reducing the line spacing to something a little less than the required double-spacing. This tactic gave BP’s lawyers almost six pages more content than the court allowed, and the court was quick to reprimand BP for disregarding the court’s rules.

Fortunately, legal writers have other tactics to reduce the size of a document, and these tactics will not violate any court rules. These tactics do take time to implement, though.

Thus, the first step in cutting a document down to the required size is to leave enough time to edit the document before filing it.

1. Review the last few edits made by other reviewers. As Deborah Bouchoux notes in “Aspen Handbook for Legal Writers,” a document can be over-edited, resulting in the document’s excessive length. “Nearly every reader of a document will make changes, and the changes are nearly always additions rather than deletions.” Check to make sure the reviewer’s suggestions are needed or if there is another way to incorporate the feedback. Many times, I find that a reviewer’s suggestion is already in the document, but just not in the place the reviewer expected. Be careful not to duplicate points.

2. Cut words in the non-substantive parts of the document. Almost every legal writer can cut content in conclusion sections. Most legal documents do not need a detailed recap of all the reasons for a conclusion. In fact, most conclusions sections should be one sentence. One-sentence paragraphs work well in legal writing and can be used as tool for emphasizing important points. Depending on the legal document, make similar cuts to non-essential detail in the introduction, statement of facts, and procedural history.

3. Cut words in the non-substantive parts of the document. Almost every legal writer can cut content in conclusion sections. Most legal documents do not need a detailed recap of all the reasons for a conclusion. In fact, most conclusions sections should be one sentence. One-sentence paragraphs work well in legal writing and can be used as tool for emphasizing important points. Depending on the legal document, make similar cuts to non-essential detail in the introduction, statement of facts, and procedural history.

4. Review the document sentence-by-sentence. This tactic is last because it is the most time-consuming. Check to make sure each sentence has a clear subject and verb; they should be close to one another. Avoid the passive voice unless using it for persuasion. Finally, edit for misplaced modifiers, verb tense and pronoun use. Some legal writers avoid using pronouns to avoid ambiguity, but pronouns are helpful tools in making connections succinctly.

Mistake No. 4 – Joint Representations (Part 2)

This month’s article is the second of a two-part series that focuses on one of the most misunderstood concepts in ethics: The representation of multiple clients in the same matter. Lawyers often are asked to jointly represent co-defendants. Common examples include employer/employee, husband/wife and co-workers.

Last month, we discussed three initial steps for initiating a joint representation: (1) consider the potential conflicts of interest at the outset; (2) understand how the attorney-client relationship is affected by a joint representation; and (3) obtain the clients’ informed consent confirmed in writing.

However, the work is not done once the client consents to the joint representation.

This month, we’re going to discuss two final steps to take after the joint representation begins.

Step 4: Maintain awareness of conflicts that arise during the case.

Conflicts are not static. As the case evolves, the interests or advisable legal positions of each client may change. Lawyers need to maintain an awareness of potential conflicts throughout the case that may not have been an issue earlier.

One common example of a later-developing conflict is a substantive difference in testimony. Two clients may testify very differently regarding corporate policy or key events in the litigation. If the testimony or prior statements of one client can be used to impeach the other client, you almost certainly have a conflict of interest in continuing the joint representation.

Differences in settlement positions can also create a conflict of interest. A lawyer who represents two or more clients may not participate in making an aggregate settlement of claims against the clients unless each client gives written, informed consent to the settlement. ER 1.8(g). During negotiations on behalf of jointly represented clients, the interests of both clients must be taken into account. Differences in the clients’ willingness to make or accept a settlement offer are among the risks of a joint representation. If the jointly represented clients differ on how they would like to proceed concerning settlement, there likely is a conflict and the lawyer may need to withdraw from representing both clients.

Step 5: What to do when terminating a joint representation.

Sometimes a conflict of interest that arises during the case will require the lawyer to terminate the representation. Some conflicts can be waived with informed consent, but others are not waivable, such as: (1) the lawyer cannot provide diligent and competent representation to each client; (2) the representation is no longer allowed by law; (3) the representation requires assertion of a claim against another client; or (4) one client will not consent to the joint representation.

Note that any of the jointly represented clients can withdraw their consent to the joint representation at any time. ER 1.16 requires that a withdrawing lawyer continue to protect each client’s interests. Additionally, under ER 1.9(c), the lawyer has a continuing duty to neither reveal nor use any confidential information obtained during the representation to the former client’s disadvantage unless a specific exception applies.

This continuing duty to both clients may put the lawyer in an untenable position and preclude the representation of a remaining client.

See Mistake No. 4 page 5.

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Things to be thankful for

Mistake #4 continued from page 4

client. For this reason, continued representation often is discouraged. In theory, a lawyer may be able to withdraw from representing one client and continue representing the other client if the first client gives informed consent. However, even with informed consent, a court may disqualify the lawyer. Because of these issues, a lawyer seeking to continue representing one of multiple clients should recommend that the clients seek advice of independent counsel before entering into such an agreement.

Conclusion

Joint representations raise myriad ethics issues because a client gives up certain rights when sharing the attorney-client relationship with another client. It is vital that lawyers understand these issues, explain them properly to the client, receive the jointly represented clients’ true informed consent and remain vigilant of potential conflicts during the representation. If considered and handled properly, joint representations can be beneficial to the clients.

Russell Yurk is an attorney with Jennings, Huang & Cunningham, LLP, in Phoenix. His practice focuses on professional liability, lawyer discipline and complex civil litigation. He serves as the chair of the Defense Research Institute’s Lawyers’ Professionalism and Ethics Committee and is a Judge Pro Temp for the Maricopa County Superior Court. He can be reached at (602) 734-7819 or rry@jhc-law.com.

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Celebrating a Century of Service

Reflections: 1991-92

By Don Bivens

We are talking near ancient history here. Small mammals began their ascent as a species. Continents gelled toward their modern shapes. Cellphones weighed two pounds. The year, of course, was 1991–92, when I succeeded Hon. Rebecca Albrecht as president of the MCBA.

Other officers from this period included John Everroad (president-elect), Mark R. Santana (treasurer) and Greg Osborne (secretary). MCBA board members were Gerald W. Alston, Leesa Berens Morrison, Sharon Oscar, Joseph Rich, Jr., Lonnie Williams, Jr., Susan Lagerman, Kevin O’Malley, Hon. Maurice Portley, Bradley Stevens and Nancy Bodinet.

Walk with me through the mists of time for a few highlights.

The first Barristers Ball

January 11, 1992, marked the MCBA’s first Barristers Ball, which was a black-tie dinner dance at the Camelback Inn, intended to permit the legal community to party and to support pro bono projects in one swoop. Attended by over 400 lawyers and guests, this inaugural event sold out over 30 tables of ten to advance “guarantor” lawyers to ensure financial success. (If you were among the guarantors, God bless you and let me hear from you.)

Tom Simplot was the event chair. I remember Leo Beus tapping me on the dance floor with words to the effect that, “I rarely come to MCBA events, because I thought they were boring, but this has changed my mind. A terrific night.” And it was, the first of many since.

Defending attacks on merit selection

A proposed constitutional amendment arose in the Arizona legislature to eliminate merit selection of superior court judges in Maricopa County, to be replaced by elections from separate judicial precincts. The proposal for judicial precincts ultimately morphed to a proposed return to the countywide election of trial judges, as in the days before 1974.

The MCBA board of directors strongly supported merit selection as “the best way to produce qualified judges that reflect the diversity of Arizona’s population,” as I wrote in several columns. Then-Justice Tom Zlaket of the Arizona Supreme Court spoke to the MCBA on March 18, 1992. Zlaket admitted that no selection process was perfect, “But,” he said, “whenever I hear someone suggest that we go back to the system of selecting judges that we used to have, and that some states still have, I cringe, and I hope you agree.”

The MCBA did agree, and we brought our resources to bear at the legislature and in the governor’s office. I spent a substantial amount of my time as MCBA president lobbying to retain merit selection. Susan Lagerman and Lonnie Williams monitored developments at the legislature. Ultimately, modifications to the existing merit selection process carried the day, preserving the basic benefits of merit selection into the future.

State salary commission adopts MCBA’s recommendations

Paul Eckstein and I appeared before the Commission on Salaries to present the MCBA’s recommendations for raising Arizona judicial salaries. The commission adopted the MCBA’s recommendations in total in its report to Gov. Symington. For superior court judges the recommended raise, to become effective in 1993, was to $106,000 from a 1992 salary of $87,360. The political process ensured thereafter between the legislature and the governor.

Trial by jury at the state fair

The MCBA had a starring role at the state fair presenting “Trial by Jury: The Lawyer’s Craft,” a program in which lawyers and judges re-enacted portions of trials before a live audience on the Bandstand Stage. Debra Hill was the program chair. The program, developed by the ABA Section of Litigation, highlighted the important role that juries play in American justice, and demonstrated the skill, lore and craft of the trial lawyer. The audience asked live questions about the legal system and trials.

MCBA finds a new home

The board of directors decided it was time for the MCBA to start plans for the purchase of its own building, rather than continue to pay rent. The executive committee expressed the preference to stay in the downtown Phoenix corridor. The ultimate result was the MCBA’s current building on 303 E. Palm Lane.

Bond election to support court renovations

Maricopa County Presiding Judge Kimball Rose sought the MCBA’s public support for bond proposals that would involve funding renovation of superior court facilities. The board authorized me to issue a press release and to take other political steps to notify the media and the public about the MCBA’s support for the bond issues on the ballot.

Back to the future

Any organization of perpetual life will watch similar issues rise and fall at intervals over time. So it was with the MCBA in 1991–92, and today. I was privileged to serve as president with a dedicated and diverse board and officers group. We owe all them a debt of gratitude for their service to the profession. Good people all, some no longer with us.

But the year is now 2014. Onward and upward, MCBA! We all look forward to your continuing success.

Don Bivens was the 1991–92 MCBA president.

Can you guess who they are?

Go to page 9 for the answers.
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Candidate biographies for 2015-16 MCBA board of directors’ election

Nicole Brickner is a commissioner for the superior court of Arizona presently assigned to the Probate/Mental Health Department. She received her undergraduate degree in Latin American Studies from the University of Virginia and her law degree from the University of Idaho College of Law. Following her graduation from law school in 1997, she moved to Arizona working both in the private and public sectors. Prior to joining the bench, Brickner practiced in a number of areas including juvenile, family, civil and probate.

Brickner hopes to bring a broad range of experience to the board, having worked in both the public and private settings, along with her current position at the superior court.

Tyler Carrell is an attorney at Gallagher & Kennedy, PA, who focuses his practice on commercial litigation and real estate transactions. He has served as a board member for the Young Lawyers Division at MCBA for the last four years, including most recently as president-elect. While on the YLD board, Carrell helped implement programs including mock interviews for law students, the Barristers Ball and the Race Judicata. Carrell is currently serving a third term as an officer of the State Bar of Arizona’s Young Lawyers Division.

In addition, he is a volunteer mock trial coach and a St. Mary’s Food Bank volunteer. If elected, his focus will include increasing MCBA membership and participation, and expanding programming that is both valuable and affordable to members. He believes that his MCBA, State Bar, philanthropic and professional experiences will help advance these priorities.

Carrell received his BS in business administration from the University of Arizona and earned his J.D. from the Sandra Day O’Connor College of Law at Arizona State University.

Julie LaFave has served on the MCBA board of directors consecutively since 2010. Prior to that, she served on the board, taking a small break when her second child was born. She also served on the Young Lawyers Division of the MCBA for over 10 years, including as its president.

LaFave is committed to the success of the MCBA as a whole, and to providing services for its sections and divisions. In that capacity, she has recently served as a member of the Litigation Section for the MCBA, first as its chair, and now as a member of its board of directors. LaFave works to ensure that the MCBA is providing valued services for its Litigation Section members, including organizing the first annual War Story CLE so that members could hear from experienced practitioners in the community. LaFave also worked with the Litigation Section Board of Directors to help present the Trial Skill Seminar. She seeks re-election so that she may continue to work with the MCBA, as she has done since she began practicing in 2000.
Amanda Sheridan is a current MCBA board member and a previous member of the MCBA's Young Lawyers Division Board. She has been an active participant in the MCBA since her admittance to the Arizona bar in 2010.

Sheridan would like to continue her service as a member of MCBA's board of directors because she strongly believes it is important to dedicate time and resources toward strengthening the local legal community. During her first term on the board, Sheridan was instrumental in increasing membership — she brought in more new and renewal memberships than any other board member. If re-elected, Sheridan will continue her efforts to increase membership and ensure that in return, the MCBA is a vehicle for professional growth of all members of Maricopa County's diverse legal community.

Sheridan is currently a sixth-year associate with Snell & Wilmer, focusing on product liability and criminal defense. She serves as the firm's administrator for the Volunteer Lawyers Program and recently earned an award as one of the Top 50 Pro Bono Lawyers in Arizona.

Her commitment to the Maricopa County legal community, as well as the community at-large, has been consistently demonstrated throughout her legal career and she would sincerely appreciate your support.

Richard Siever serves as assistant general counsel at Phoenix Children's Hospital, where he provides legal support to various aspects of the hospital operations. Prior to joining Phoenix Children's, Siever served as corporate counsel for Rural/Metro Corporation, where he provided legal representation to the company's ambulance and fire operations throughout the country, and was an associate attorney with the law firm of Snell & Wilmer in Phoenix.

Siever attended college at Vanderbilt University, where he also obtained his J.D. He has been active with the Maricopa County Bar Association for many years, serving as president of the Young Lawyers Division in 2010, as well as a member of its general board of directors and co-chair of MCBA's Strategic Planning Committee in 2009-10. He continues to serve on the Volunteer Lawyers Program Advisory Committee. Siever also currently serves as secretary and treasurer to the board of the Volunteer Lawyers Program and recently earned an award as one of the Top 50 Pro Bono Lawyers in Arizona.

Her commitment to the Maricopa County legal community, as well as the community at-large, has been consistently demonstrated throughout her legal career and she would sincerely appreciate your support.

Melinda Sloma has served on the Maricopa County Bar Association Young Lawyers Division Board for the past six years. In her time on the YLD board, she served in various capacities including president, treasurer, chair of the Law Week Committee and chair of the Domestic Violence Committee. As a result of Sloma's service on the YLD board, she finds that the MCBA provides not only countless opportunities for professional development, but serves the general public through fundraising and legal programs. As a lawyer that attended an out-of-state law school and the owner of a small firm, she finds her time as a member of the MCBA to be invaluable. If elected, Sloma would work to continue to provide the same opportunities to lawyers in Maricopa County and aid in the MCBA's role in providing legal assistance to the general public.

Can you guess who they are? continued from page 6

Photo #1 is Patricia K. Norris. Photo #2 is Larry Scarborough. Photo #3 is Van V. Wolf.

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Please return form to MCBA, Attn: Laurie Williams, 303 E. Palm Lane, Phoenix, AZ 85004 or Fax to: 602-682-8601.
Arizona Supreme Court appoints Hon. Janet Barton as new presiding judge

The Arizona Supreme Court has appointed the Honorable Janet Barton to a three-year term as presiding judge for the Superior Court in Maricopa County. She will begin serving on July 1, 2015. In the interim, she will be working alongside Presiding Judge Norman Davis to ensure a smooth transition in July.

Presiding judges in Arizona take on extra duties and serve as the chief executive officer of the county courts, overseeing all aspects of court business. The presiding judge oversees case assignments and the court calendar and monitors performance of the courts to ensure that cases are processed in a timely manner.

Barton was nominated to the Superior Court in Maricopa County in 2000 by former Gov. Jane Dee Hull. She first served as a juvenile court judge before serving rotations on the civil, criminal and family court benches. She was in private practice with the firm Snell & Wilmer and served as a Judge Pro Tem before being selected to serve as a superior court judge.

Barton is active in the county, state and national bar associations and has served her community on a number of important committees and nonprofit organizations, including the Arizona Tax Research Association’s Board of Directors; the superior court’s Jury Advisory Committee; the Phoenix Chamber of Commerce’s City Budget Task Force; Arizona Town Hall and Soroptimist International.

Streamlining the adoption process

Navigating the adoption process can sometimes be daunting and time consuming. Recognizing the need to simplify adoptions and provide the best possible customer service to adoptive parents and community partners, the Maricopa County Superior Court created the Juvenile Court Adoption Unit.

“The juvenile court recognizes that the best way to improve outcomes for children is to provide them with safe, loving, permanent homes,” said Presiding Juvenile Court Judge Colleen McNally. “When birth parents are unable to provide this for their children and generous people come forward offering to provide a forever home, this new relationship must be established in court. We want to do our very best to ensure that all the protections of the law are provided for these families, while making the process as efficient and easily accessible as possible.”

Some of the new procedures include enhanced processing and tracking of the necessary paperwork, so that adoptions can be approved sooner.

Hon. Janet Barton

is believed to be the largest provider of CLE in the State at the present time. The inherent conflict of interest in having any CLE provider, much less the State’s largest CLE provider, pass judgment on the CLE offerings of its competitors is, in our opinion, blatantly obvious on its face.

b) Unfair Competition

Additionally, the proposed Recommendation raises serious anti-competition issues. By way of example only, query whether the State Bar would, as a practical matter, deem any of the State Bar’s own CLE programs to be non-compliant with the State Bar’s own certification standards? We do not mean to impugn the integrity of the proposed regulatory committee; however, we trust that you can at least recognize the potential for abuse in light of the conflict of interest described above.

The MCBA and other legitimate CLE providers, for-profit and non-profit alike, could be placed at a significant competitive disadvantage by such a regulatory scheme, and, for that reason alone, the CLE Task Force’s Recommendation should not be approved.

c) Recommendation

While the State Bar is arguably the appropriate regulatory authority for many areas of the profession (e.g., professional responsibility), under these circumstances, it would be totally inappropriate to make it the CLE regulator.

One obvious solution to the conflicts-of-interest and unfair competition concerns raised in this Part II is for the State Bar to serve solely as the regulatory authority of Arizona CLE programs and cease its operations as a CLE provider.

III. Cost and Logistical Concerns

a) Cost

The State Bar’s financial situation is well known and membership dues were recently increased to assist the State Bar in providing its services. Presumably, additional funds would be required to fund the CLE Task Force’s Recommendation for the State Bar to serve an additional regulatory function.

We anticipate that, as a practical matter, such additional funds will be obtained by way of fees charged to either (i) CLE providers seeking State Bar certification respecting such provider’s programs, or (ii) attorneys seeking Arizona CLE credit respecting one or more programs. We submit that either of these alternatives is inappropriate.

The MCBA, and we assume other non-profit CLE providers, operate in as lean a fashion as possible to accomplish their respective missions. The imposition of any additional costs on the MCBA to fund the proposed regulatory scheme would seriously and adversely affect the MCBA’s financial position, and, we assume, the financial positions of other non-profit CLE providers as well. In comparison, to the extent the State Bar charged itself a fee (which we assume it would, but this has not yet been discussed), the State Bar as a whole would have the ability to offset some of those costs through the additional funds the State Bar would receive from the other CLE providers seeking certification.

See Streamlining the adoption process page 14

b) Other Logistical Concerns

Finally, the logistical nightmare for the MCBA, and presumably other CLE providers, would be far-reaching, especially if the intent of the Recommendation is to require pre-certification for every CLE program offered.

For example, the MCBA has a long tradition of presenting CLEs with rapid turn-around on “cutting edge” or “hot” topics. The MCBA prides itself on having a quick response time when there are new developments in the law. The timeliness of these programs is of great benefit to the profession, and these programs are advertised via the Internet and social media, sometimes with little advance notice to potential attendees.

In light of pre-certification, the MCBA would be required to plan all of its CLE programs months in advance so that, prior to advertising to potential attendees, each program would be pre-certified by the State Bar. As a result of the additional pre-certification step, the MCBA and the profession would arguably lose all of the benefits described above.

In this respect, the CLE Task Force’s recommendation would adversely affect this aspect of MCBA CLE offerings. Alternatively, the MCBA would be required to advertise its substantive law programs without being able to confirm to potential attendees whether attendance at any such program would qualify towards Arizona CLE credit. Obviously, this alternative would have a chilling effect on attendance and would similarly adversely affect MCBA CLE programming.

In addition, there is no question that a CLE provider who produces the number of programs that the MCBA does would be forced to hire additional staff just to comply with the new regulatory scheme. The financial burdens imposed by such hiring would be un heterogeneous as applied to a non-profit CLE provider like the MCBA and, presumably, similarly situated bar associations throughout the State.

IV. Conclusion

For the reasons set forth above, the MCBA is forced to agree with others who have filed in opposition to the CLE Task Force’s Recommendation. As indicated above, we have every confidence that the Recommendation was aimed towards protecting the profession from bad CLE. That said, the MCBA is concerned that, as a practical matter, the Recommendation would, if accepted, (i) put the MCBA and other affiliated and non-profit bar associations in a significant competitive disadvantage in the CLE marketplace, and (ii) result in an additional and unacceptable financial burden on the MCBA and other CLE providers.

For all of the above reasons, we respectfully urge the Board of Governors to deny the proposals contained in Part A of the CLE Task Force Recommendations.
NOV. 4 • 8 - 10 A.M.  
(Light breakfast provided)
Managing the Message — Communicating Ethically and Effectively with the Media

2 CLE credit hours available including 0.5 ethics

This seminar will cover:
- Ethics considerations before speaking with the media about a client matter
- How to deal with a high-profile client crisis
- What not to say to the media
- How to become a legal resource for the media
- How to manage a client who says too much

PRESENTERS: Lynda Shely, The Shely Firm, PC; Monica K. Lindstrom, Lindstrom Attorney at Law; Matt Silverman, R&R Partners; Marc J. Victor, Marc J. Victor, PC.

COST:  
- MCBA members: $85
- Bring your paralegal (Please provide their name and email): $25
- MCBA Paralegal & Public Lawyer Division members: $55
- MCBA student members: $10
- Non-members: $125

NOV. 6 • 3:30 - 6:30 P.M.
Bats Might Be Par for the Course

SPONSORED BY: MCBA Environmental and Natural Resources Law Section

1 CLE credit hour available

Water for golf courses in dry Arizona? Now, that is barry. How do the over 300 thirsty golf courses in Arizona manage to stay so green in our dry climate? Like any large industrial water user, the golf industry must also secure the necessary water supplies. Karlene Martorana, a real estate and water rights attorney at Snell & Wilmer, will discuss the various aspects of securing water, including reclaimed water, for use at Arizona golf courses. Biologist and environmental scientist Tracy C. Shoumaker will highlight scientific studies on the effects of urbanization on the bat community structure in the Phoenix metropolitan region.

PRESENTERS: Tracy C. Shoumaker, Engineering & Environmental Consultants; Karlene Martorana, Snell & Wilmer, LLP

WHERE: Topgolf International, Inc.  
9500 E. Indian Bend Rd., Scottsdale, Arizona 85256

COST:  
- MCBA members: $35
- MCBA Environmental and Natural Resources Law Section members (use promo code FOR): $125
- Non-members: $175

NOV. 13 • 7:30 - 9 A.M.  
(Breakfast provided)
Top Things That Irritate JAs and Clerks

SPONSORED BY: MCBA Estate Planning, Probate and Trust Section

1.5 CLE credit hours available

Have you ever wondered which situations truly frustrate court clerks and judicial assistants? Have you had any specific instances that have frustrated you? This interactive CLE will address the top issues that give clerks and judicial assistants the most problems. Whether it’s filling, getting hearing dates, contacting divisions, submitting exhibits or obtaining letters — inevitably, we all run into difficulty. Find out how to best handle these situations or head issues off before they happen. In addition, please bring any of your own comments or suggestions.

PRESENTERS: Maritied Solac, Probate Registrar/Clerk Supervisor; Elaina Cano, Probate Court Administration; Julia Sigleton, Judicial Assistant Maricopa County; Commissioner Geoffrey Fish, Probate Court

COST:  
- MCBA Estate Planning, Probate and Trust Section members (use promo code EPTDNOV): $55
- Bring your paralegal (Please provide their name and email): $25

NOV. 14 • NOON - 1 P.M.  
(Lunch provided)
How to Effectively Use Mobile Technology to Enhance Your Law Practice

1 CLE credit hour available

This seminar will include:
- How your mobile device can become an “intelligence amplifier” and allow you to instantly and completely recall almost any legal issue you have ever worked on.
- How to de-clutter your mobile devices.
- How to add an “information kill switch” to your device in less than 3 minutes.
- How to safely and effectively store information in the Cloud.
- How activating one simple setting can make Cloud services such as Dropbox, iCloud, OneDrive, etc.
- How to have handwritten notes magically appear in the Cloud.

Will cover a few tech-tips such as how much memory you should buy on your device and whether you should upgrade your device. How the rise of “machine intelligence” is changing and will continue to change the practice of law.

PRESENTER: Alex Lane, The Law Office of Alex Lane

COST:  
- MCBA members: $50
- Bring your paralegal (Please provide their name and email): $25
- MCBA Paralegal & Public Lawyer Division members: $35
- MCBA student members: $10
- Non-members: $70
How to Work Effectively and Ethically With Investigators

2 CLE credits available including 1.5 hours of ethics

This program will provide practical tips on how private investigators can assist criminal defense and civil litigators. The experienced panelists will provide guidance on:

• The roles of an investigator
• What you need to know about investigator licensing and insurance
• Does the investigator work for you or your client?
• What the investigator can do that your paralegal can’t
• Issues about confidentiality, work product, conflicts of interest/representation
• How an investigator can get you into ethical trouble
• Misrepresentation, secret recordings, contacting represented parties, conducting surveillance
• Make your investigator the witness, not you
• Communications between investigators and attorneys
• Researching social media
• Legal and ethical issues that arise from the Sixth Amendment right to effective counsel and Victims’ Rights Act
• Is it okay to interview or investigate a person who may later become a victim if a case gets changed?
• How aggressive can an investigator be in pursuing ancillary yet potentially exculpatory facts about victims or potential victims?

PRESENTERS: William Foreman, William Foreman, PC; Rich Robertson, R3 Investigations; Joel Robbins, Robbins & Carin PLLC; Scott Roades, Jennings Strouss & Salmon, PLLC; Joel Robbins, Robbins & Carin PLLC

COST: ■ MCBA members: $50
■ Bring your paralegal (Please provide name and email): $25
■ MCBA Paralegal & Public Lawyer Division members: $35
■ MCBA student members: $10
■ Non-members: $70

DEC. 5 • 8:30 – 11:30 A.M.

Appellate Update

2.75 CLE credits available including 1 hour of ethics

This program will discuss recent cases of interest, rule changes (including to the Arizona Rules of Civil Appellate Procedure effective January 1, 2015) and ethics issues as well as tips on briefing and arguing special actions and appeals.

PRESENTERS: Chief Judge Diane M. Johnsen; Vice-Chief Judge Michael J. Brown; Judge Samuel A. Thumma

COST: ■ MCBA members: $75
■ MCBA Paralegal & Public Lawyer Division members: $50
■ MCBA student members: $10
■ Non-members: $125

DEC. 10 • 7:30 – 9 A.M.

(Lunch provided)

The Dangers of Dabbling — Unique Aspects of Probate Litigation

This program will explore the numerous differences between litigation in the probate court and civil courts. Topics will include types of initial pleadings and the procedural posture of various probate cases, uncontroverted matters, defining parties and “interested” parties, service of process and notice of probate matters, scheduling and procedures for case management, appearance and non-appearance hearings, adversary proceedings, appeals, and the new mandatory ADR procedures adopted by the Probate Division. A discussion of ethical topics includes attorney-client privilege and representation of fiduciary clients.

PRESENTER: Megan Hunter, MBA, Unhooked Media, High Conflict Institute

COST: ■ MCBA members: $115
■ Bring your paralegal (Please provide name and email): $25
■ MCBA Family Law Section members (use promo code FMAMDEC): $100
■ MCBA Paralegal & Public Lawyer Division members: $70
■ MCBA student members: FREE
■ Non-members: $175
Streamlining continued from page 11

A time to give thanks continued from page 3

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Central and Roosevelt: Share space with small established law firm. Easy client access, conference room, kitchen, free garage parking. Call Dennis at 602-234-8481 x9306.

Share Luxury Space in Biltmore Area with established law firm. Located conveniently, 10 to 15 minutes from the Downtown and Northeast Courts. Remodeled in 2014, includes multiple conference rooms, large screen televisions. Signage, internet access and telephone system available. Send email to jschoeder@actamail.com or call J.K. Schneider at 602-230-1265.


I wish everyone a happy, warm and wondrous Thanksgiving. I will be visiting my dad in Las Vegas, which is our Thanksgiving tradition and, of course, football with my wife. I am thankful for every year that we get to live out this tradition.

As always, please come out to the monthly Paralegal Division Meeting, which is held at the MCBA office, on Monday, November 10, starting at 5:30 pm. Everyone is welcome to attend. I look forward to seeing you there!

Volunteer Lawyers Program Thinks Attorneys

The Volunteer Lawyers Program thanks the following attorneys and firms for agreeing to assist on 17 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 pro bono malpractice coverage, donated services from professionals, training, materials, mentors and consultants. Each attorney receives a certificate from MCBA for a CLE discount. For information about ways to help please contact Pat Gerrich at VLP at 602-254-4714 or pgerrich@claz.org.

Adoption:
Sarah J. Michael
Law Office of Sarah J. Michael
Joseph M. Miller
Snell & Wilmer

Bankruptcy:
Krystal Ahart
Law Office of James F. Kahn
Nathan Finch
Fulkern Law Group
Mallory Powers
Stone & Stone
Robert Ray Teague
Teague Law Firm
J. Murray Zeigler
Zeigler Law Group

Consumer:
Rick Erickson
Snell & Wilmer
James M. Gotry
Snell & Wilmer
Justin R. Hernandez
Law Office of Justin R. Hernandez
John F. Lomax
Snell & Wilmer
Joseph M. Miller
Snell & Wilmer
Wm. Charles Thomson
Gallagher & Kennedy

Court Advisors for Children:
In Family Court:
Charles E. McTheny
McTheny Law Firm
Jennifer W. Shick
Shick Law Offices
Alicia Meier Wolfson
Law Office of Alicia Meier Wolfson

Guardianship of Incapacitated Adults:
Ke’vonne Wilson
Ke’vonne Wilson Legal

Guardianship of Minor Children:
Bruce M. Squire
Bruce Squire Law

Private Landlord/Tenant:
Nature M. Lewis, 2 Cases
Janie Law Office

**PRO BONO SPOTLIGHT ON CURRENT NEED**

Volunteer lawyers are needed to assist working families with low incomes who are dealing with debts and debt collectors.

The Volunteer Lawyers Program is a joint venture of Community Legal Services and the Maricopa County Bar Association.

Volunteer Lawyers Program participates in National Pro Bono Week

By Peggi Cornelius
VLP Programs Coordinator

Sponsored by the MCBA and Community Legal Services, the Volunteer Lawyers Program (VLP) participated in National Pro Bono Week with several events beginning on Oct. 16. Volunteer lawyers participating in VLP’s Family Lawyers Assistance Project offered a free public information session titled, “Litigants without Lawyers.” On Oct. 21, a continental breakfast honoring volunteers was held at the MCBA. The breakfast was followed the next day with a “Financial Distress Clinic,” during which volunteer provided advice to VLP clients facing debt problems. And on Oct. 24, VLP’s Children’s Law Center sponsored a free continuing education program with volunteer lawyer Christina Kelly presenting, “Guardianships for Minors.” VLP would like to recognize those who have recently been recipients of pro bono awards for their outstanding commitment to access to justice for all.

Arizona Foundation for Legal Services & Education “Top 50” Pro Bono Attorneys Awards

Maricopa County Recipients: June 2014

Kristy M. Ahart
Thomas H. Allen
Barbara R. Bereman
Kristy B. Blackwell
Jonathan G. Brinson
Joshua P. De La Osa
Shirley A. Fohke
Jeremy M. Goodman
Macie J. Hawkes
Shannon E. Hennessey
Sarah J. Michael
Ross M. Mumme
Amanda C. Sheridan
Richard B. Siever
Christoph J. Van Mullem
William G. Voit

Additional gratitude is expressed to the following attorneys and firms for agreeing to assist on 17 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 pro bono malpractice coverage, donated services from professionals, training, materials, mentors and consultants. Each attorney receives a certificate from MCBA for a CLE discount.

For information about ways to help please contact Pat Gerrich at VLP at 602-254-4714 or pgerrich@claz.org.

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Law Office of Justin R. Hernandez
John F. Lomax
Snell & Wilmer
Joseph M. Miller
Snell & Wilmer
Wm. Charles Thomson
Gallagher & Kennedy

Court Advisors for Children
In Family Court
Charles E. McTheny
McTheny Law Firm
Jennifer W. Shick
Shick Law Offices
Alicia Meier Wolfson
Law Office of Alicia Meier Wolfson

Guardianship of Incapacitated Adults
Ke’vonne Wilson
Ke’vonne Wilson Legal

Guardianship of Minor Children
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The Volunteer Lawyers Program is a joint venture of Community Legal Services and the Maricopa County Bar Association.
HONORS & AWARDS

Chief Presiding Judge of the Phoenix Municipal Court, Roxanne Song Ong, was awarded the 2014 State Bar Committee on Minorities and Women in the Law Award for outstanding achievement in advancing equal opportunity in the legal profession. She was also named “One of the 25 Most Influential Minority Business Leaders in Arizona” by the Arizona Business Magazine in March 2014. Song Ong was elected the 2014 President of the National Conference of Metropolitan Courts.

Roxanne Song Ong

Jennings, Strouss & Salmon, PLC, is pleased to announce Jay M. Mann and Andy J. Chambers have been appointed vice chairs of the American Bar Association’s Tort Trial & Litigation Practice Section’s (TIPS) Fidelity and Surety Law Committee.

Jay M. Mann

Andy J. Chambers

Chambers is a member of the firm’s Construction, Fidelity and Surety department. He focuses his practice on fidelity law, commercial litigation, surety and construction law. Mann is also active in professional and civic organizations, including the State Bar of Arizona and the Maricopa County Bar Association. He received a J.D. from Loyola University of Chicago and a B.A. from the University of Illinois.

Matt Dana and associates signing ceremony

Quarles & Brady, LLP has announced that Matt Dana will be joining the firm, along with two associates and two paralegals on his team. With the addition of Dana and his team, Quarles & Brady will establish a presence in Scottsdale, its tenth location nationwide and third in Arizona.

Dana will be joining as a partner in the firm’s Phoenix office. He will combine his Arizona trusts and estates practice, Dana Law Firm, with Quarles & Brady’s national practice, allowing the two firms to support and augment one another on a single platform.

Also joining the firm are associates Trevor Whiting and Todd Smith, and paralegals Jennifer Skubic and Kate Sieger.

Riley Carlock & Applewhite is pleased to announce that Elizabeth C. Heims has joined the firm in their Phoenix office. Heims expands Riley Carlock & Applewhite’s Bankruptcy and Commercial Litigation practices.

Elizabeth C. Heims

ANNOUNCEMENTS

Friends and colleagues of Richard A. Segal, a 55-year partner with Gust Rosenfeld and founding secretary of the Phoenix Community Alliance (PCA), honored him with a special tour of the Maricopa County Justice Museum & Learning Center on September 10, 2014.

Segal, who passed away on April 18, 2014, was a lawyers’ lawyer and loved the practice of law. He had requested that PCA members visit the museum, which is on the sixth floor of the Old County Courthouse at 125 W. Washington Street, to gain an appreciation of the importance of the Rule of Law to the growth and development of Phoenix. Segal was president of both the Maricopa County Bar Association and the State Bar of Arizona, and a fellow in the American College of Trial Attorneys. He served as an officer and legal counsel to the Phoenix Community Alliance, which is dedicated to the revitalization of downtown Phoenix.

BULLETIN BOARD POLICY

If you are an MCBA member and you’ve moved, been promoted, hired an associate, taken a partner, 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, Bar 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.

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