ABA Minority Mentoring Program Lands in Arizona

By Kathleen Brieske
Maricopa Lawyer

For the first time, judges in Arizona participated in an American Bar Association summer program helping students from underrepresented communities succeed both in law school and as lawyers serving a diverse community.

The Litigation Section of the American Bar Association developed the Judicial Intern Opportunity Program (JIOP) five years ago to place students with federal and state judges who mentor and teach students about opportunities available to them in the legal field. The six-week, full-time summer internship is open to first- and second-year minority and economically disadvantaged law students in schools nationwide.

Arizona is the fourth state involved in the program, joining Illinois, Florida and Texas. Arizona was chosen due to the grass roots support among the legal community to increase the diversity of the state’s legal industry, with students from across the country taking part in the ABA Judicial Intern Opportunity Program. Arizona was one of four states participating in the program, which places minority students with local and federal judges.

Policy Targets Delays Criminal Trials

By J.W. Brown
Maricopa Lawyer

The concept that “justice delayed is justice denied” again is impacting the way Superior Court of Arizona, Maricopa County is managing continuances in criminal case trial dates.

After months of monitoring delays in criminal trials, Presiding Judge Barbara Rodriguez Mundell has issued an administrative order intended to assure that criminal defendants have their cases go to a trial in a timely manner without unnecessary delay.

New order

Her order creates a “criminal motion-to-continue calendar.”

“Multiple continuances in cases impede the timely resolution of criminal cases,” she said, noting that Superior Court’s policy is to resolve all criminal cases within Rule 8 (speedy trial) guidelines.

The new calendar, effective on September 5, allows the assigned trial judge to rule on the first motion to continue a trial in a criminal case for five court days or less. All motions to continue, motions to vacate and motions to reset trials must be filed in writing at least five court days before the date set for trial. That request also must include the reason for requesting a continuance.

Even before a case reaches the trial judge, a continuance can be granted by judicial officers in the Early Disposition Court, Regional Court Centers and the Initial Pretrial Conference Center. But, those judicial officers are limited to granting a single continuance for a maximum of five days, if found to be in the furtherance of the administration of justice.

After one continuance has been granted, the pending motions to reschedule trial dates, calendar individually heard oral arguments on the calendar, separate from the trial judges’ calendars. The judges assigned to the specialized calendar individually heard oral arguments on the pending motions to reschedule trial dates, and ruled from the bench.

Continuances were significantly reduced.

Although the process upset some lawyers, over time complaints decreased and it became another step of conducting business in court. In fall 2004, Campbell suspended the concept that “justice delayed is justice denied” again is impacting the way Superior Court of Arizona, Maricopa County is managing continuances in criminal case trial dates.

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Although the process upset some lawyers, over time complaints decreased and it became another step of conducting business in court. In fall 2004, Campbell suspended the policy saying, “For all its controversy, it has broken the culture of delay that was deeply engrained in the criminal case culture in Maricopa County. It is now time to assess...
Taking Time to Recognize Paralegals

It's that time of year again to honor exceptional paralegals in the Arizona community. The MCBA Paralegal Division is currently accepting nominations for Paralegal of the Year and Member of the Year. The Paralegal of the Year award recognizes an Arizona paralegal in one of two ways: one who has made extraordinary contributions during the year to an employer, organization or community; or one who has made extraordinary contributions during the year to the advancement of the paralegal profession. The Member of the Year award recognizes an MCBA Paralegal Division member who has made extraordinary contributions during the year to the MCBA Paralegal Division, including having furthered the mission of the division.

The recipient of the Paralegal of the Year award must be a current member of the MCBA Paralegal Division and involved for at least two years prior to the nomination. A candidate's excellence can be measured by the contributions he or she has made in a variety of ways. For instance, a candidate's contributions might include: demonstrating leadership skills and dedication; implementing innovative processes or practices that result in a more efficient, effective or enhanced work environment; authoring a published article or literary work; providing pro bono services or volunteer assistance; or performing an act of heroism. For the Member of the Year award, a candidate's contributions might include: demonstrating exceptional service to the division through committee work; assisting the division with fundraising efforts to support its causes and activities; providing instruction, information or mentoring to the paralegal profession; or performing public relations activities, marketing, and promotion of the division.

If you know a paralegal who meets the criteria and exemplifies this type of excellence, then submit the nomination for their consideration by August 28, 2006. You can access the nomination forms on the division's website at www.maricopaparalegals.org. We look forward to acknowledging these two paralegals and awarding them this recognition at this year's Arizona Paralegal Conference on September 15.
Join MCBA Public Lawyers Division in Giving Back

The MCBA Public Lawyers Division invites you and your family to give back to the community by assisting St. Mary’s Food Bank in the packaging of emergency food boxes on Saturday, August 5, 2006 from noon until 3 p.m. St. Mary’s Food Bank is located at 2831 31st Ave, Phoenix, AZ 85009. Children 12 and older are welcome to attend. To register, contact Jennifer Deckert at jdeckert@mcbabar.org.

MCBA Seeks Task Force Chair

The MCBA is seeking a volunteer to serve as the chair of the MCBA Task Force on the Recruitment and Retention of Minority and Women Lawyers starting December 2006.

The chair is responsible for oversight and guidance of the Task Force Committee which meets monthly in an ongoing effort to plan and implement programs aimed at the recruitment and retention of minority and women lawyers and law school students.

The MCBA is looking for volunteers with a burden to increase diversity amongst the MCBA membership and as well as individuals with innovative ideas and implementation skills to enhance the Task Force’s existing programs.

The MCBA President will appoint the Task Force chair. Interested individuals should e-mail a letter of interest to Jo Ana Saint-George at jsaintgeorge@gustlaw.com no later than August 20, 2006.

Wills for Heroes

Volunteers are needed for State Bar of Arizona’s Wills for Heroes program, which prepares free will packages for “first responders” (i.e. firefighters, police, paramedics and the like). There are always two or more experienced estate lawyers on hand to answer any complicated questions, so attorneys in all areas of law are welcome to volunteer.

Upcoming Wills for Heroes:
August 26: Apache County First Responders (Eager, AZ)
September 9: Glendale Police and Fire Departments
September 16: Phoenix Fire Department

Each event runs 9 a.m. until 4 p.m. You can volunteer for the whole day or a part of a day. If you are interested in attending one of these events, please contact T.J. Ryan at TJRYAN@fraglaw.com or visit visit www.azbar.org/willsforheroes.

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State Bar Committee’s New Mentoring Program for Persons with Disabilities

By William Sheldon
Special to Maricopa Lawyer

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In 2005, the committee completed a survey of nearly every courthouse in the state of Arizona, including federal, state, municipal, justice of the peace and tribal courts, considering accessibility issues for mobility, hearing and sight-impaired individuals. The committee’s Courthouse Accessibility Survey report is available on the State Bar’s Web site at www.myazbar.org/SecComm/Committees/ADTF/2005CourthouseSurvey.cfm.

Last September in Washington, D.C., the committee held a nationwide career fair, IMPACT, for law students and lawyers with disabilities. The second annual IMPACT fair will be held on September 15-16, 2006. Information for registration and sponsorship is also on the committee’s Web page.

Committee members such as Arizona Supreme Court Justice Michael Ryan (recipient of the James A. Walsh Outstanding Jurist Award in 2005), current chairman Assistant Attorney General, Randall Howe (appointed by Governor Napolitano as chair of the Governor’s Developmental Disabilities Task Force in 2003), attorney James D. Reed (recipient of the ASU College of Law Disability Project’s Distinguished Achievement Award), and many others provide inspiring examples of attorneys with disabilities who have demonstrated exemplary levels of competence, success and public prominence.

The mentoring program is the committee’s next natural step in reducing barriers to full access to legal services for persons with disabilities and unfettered job opportunities for attorneys with disabilities.

To request a mentor or to serve as one, send an e-mail message via the “Feedback” link on committee’s Web site www.myazbar.org/SecComm/Committees/ADTF. Indicate if you are seeking a personal mentor or a situational mentor to answer specific questions or if you are volunteering to be a mentor.

William Sheldon is with the State Compensation Fund and serves on the State Bar of Arizona’s Committee on Persons with Disabilities in the Legal Profession.

Speakers to Present Variety of Topics at Annual Paralegal Conference

By Monica Rapps
Maricopa Lawyer

Each year, the MCBA Paralegal Division works diligently to host a conference benefitting Arizona paralegals and paralegal students. This year’s conference, “Reaching for Excellence—Expanding the Paralegal Zone,” will take place on September 15 and will provide six hours of continuing legal education, timely and relevant topics, and a line-up of outstanding speakers.

2006 Paralegal Topics


Immigration, Emigration: What’s It All About? Nancy-Jo Merritt, a director with Fennermore Craig, has nearly three decades of practicing immigration law. She is an accomplished author and lecturer, past president of the immigration section of the Maricopa County Bar Association, and active in the community.

Title Insurance Claims, Litigations, and Strategies. John T. Lotardo, aka the “Title Man,” is senior vice president and general counsel of Stewart Title and Trust of Phoenix, Inc., and state underwriting and claims counsel for Stewart Title Guaranty Company. He is a former editor of the “Real Property Journal” for the State Bar of Arizona; author of numerous columns, including “Ask the TITLEMAN!” in print throughout the U.S.; is chair of the Phoenix Arts and Culture Commission; and is a member of the Arizona Business Roundtable. Governor Napolitano recently appointed Lotardo to a two-year position with the Electronic Recording Commission.

Labor & Employment: Recognizing & Preventing Sexual Harassment, Discrimination and Retaliation (Ethics). Joshua Woodard, an attorney with Snell & Wilmer, focuses on labor and employment law. He also instructs and trains companies in areas including sexual harassment prevention and other relevant topics. Woodard speaks at numerous seminars regarding employment issues.

Please join us for an educational and informative conference on September 15, 2006. For information and registration, visit www.maricopaparalegals.org.

Have something newsworthy to share?

Have you changed employment? Has your law firm named new partners? Send information for our Legal Moves column to:

Maricopa Lawyer, MCBA, 303 E. Palm Lane, Phoenix, AZ 85004; fax to 602-257-0522; or e-mail to: kbrieske@mcbabar.org
The Art of Law: One Attorney’s Creative Drive

**MCBA Member Profile**

**T.J. Ryan**

Ryan is a born and bred Phoenix attorney. He did make an escape to Texas for his undergraduate degree at Baylor University but faithfully returned to attend law school at the University of Arizona. While in school, he clerked at the Pima County Attorney’s Office as well as at a Tucson law firm.

Ryan is no stranger to the law. Being the son of a lawyer, he has been immersed in the legal world since childhood. However, that is very different at that—career moves.

“My choices vacillated from being a marine biologist, an anesthesiologist, and then in college I thought about a career in IT consulting. But so did 90 percent of the rest of my graduating class in 1999, at the height of the Internet bubble, so I decided that I couldn’t go wrong at least attending law school.”

**Trading spaces**

Ryan began his legal career as an associate with Bonnett Fairbourn Friedman & Balint, P.C. He recently moved to Frazer Ryan Goldberg Arnold & Gittler, LLP, where he is primarily practicing estate, trust and probate litigation.

His career move did not come easy. While he had no reason for leaving, the opportunity to practice with someone he highly respects and admires was too great to pass up. So Ryan now works with his father, James.

**Colorful ties**

The younger Ryan is passionate about the freedom to be creative in law.

“The beauty of our work is that we are called to be creative with our clients problems, using the structures we are given to operate with and within to our clients’ advantage. I think creativity is what separates the great from the mediocre.”

Clients are the driving force in Ryan’s career. “No two are alike and the dynamics of each person and situation keep me on my toes.” As he continues to practice in probate litigation, he is becoming more comfortable with the legal issues and structure he deals with on a day-to-day basis.

But the energy between clients and attorneys create new challenges for each case. “It’s called ‘practice’ because we can’t master it, ever. It’s an art, not a science, and perfecting my own artwork is what I strive to do.”

**Standing tall**

Very early, Ryan learned never to compromise his ethics—for anyone or anything. “Too often I have seen good lawyers fail because they decided to compromise their ethics just this once.”

Ryan believes legal—and to an extent, moral—ethics are the fabric that maintains the practice in the eyes of the public, clients and between lawyers. “Without them, our trust in the system, and in other practitioners, fails.”

**Peer value**

As treasurer of the MCBA Young Lawyers Division, Ryan credits the division for providing an outlet to serve the practice as a whole but also to connect with other young lawyers in similar situations.

“In addition to community service events, social gatherings, and referral opportunities, there exists a chance to develop good friendships with other young lawyers.”

**Stand-up success**

It may come as no surprise that Ryan performed improvisational comedy in high school. He spent weekday nights in high school at the (now defunct) Star Theater in Old Town Scottsdale doing what the television show “Who’s Line Is It Anyways?” does. “Trial and improv comedy have a lot in common, I’ve discovered.”

**Family guy**

Ryan is now a doting husband and father to a 6-month-old son. His family life is the balance he seeks to round out his life. And if you don’t find him spending time on the home front, he is probably on the golf course. “It’s a horrible cliché, but golf’s principles do indeed pour over into life. So I use my addiction as an excuse to learn life lessons.”

Avoiding complacency has lent itself to Ryan’s success. Growing up, he always challenged himself to do better than his previous attempts and to take whatever he was doing to the next level. He does have one small regret though. “If only I had applied that thinking to my golf game earlier on, I might be on The Golf Channel in slacks and a golf shirt instead of in a suit in 116 degree heat.”

**The road ahead**

Ten years ago, Ryan was not quite thinking in terms of a career path. “I was probably trying to figure out how long I could possibly go without doing laundry.” Oh, the college years.

But now, his mentality has changed and in another ten years, Ryan sees himself continuing to build a successful probate, trust, and estate litigation practice. “I’d like to have an associate or two of my own and an established reputation for creative problem solving and professionalism.”

He definitely has already begun to carve out that path.
CourtWatch continued from page 1

never regained consciousness. Hernandez’s wife, Lorona, sued SDI, Safeway, and How-
ard for wrongful death.

The blame game
The defendants moved to dismiss, based on A.R.S. § 12-712(B), which immunizes a de-
fendant against claims of negligence or gross negligence “if the plaintiff is harmed as a result of the negligence or gross negligence of the defendant while the plaintiff is attempting to commit or committing a misdemeanor crimi-
nal act and the act directly relates to the de-
fendant or the defendant’s property.” Subsec-
tion A of that act provides immunity in felony cases.

The trial court rejected the defense, rule-
ing that the statute ran afoul of Article XVIII, Section 5 of the Arizona Constitution, which states: “The defense of contributory negli-
gence or of assumption of risk shall, in all cases whatever, be a question of fact and shall, at all times, be left to the jury.” The defendants filed a special action in the Court of Appeals but found no comfort there, as that court af-
firmed.

Held accountable
Judge Joseph H. Howard wrote the opin-
ion. He relied on several Arizona Supreme Court opinions, interpreting them broadly to con-
trol the extent of contributory negligence and as-
sumption of risk encompass just about all ante-
cedent conduct of the plaintiff. “In construing this provision our Supreme Court has repeat-
edly held that a statute may not provide that the antecedent conduct of a person injured is an absolute bar to the recovery of damages from one otherwise liable for the injury unless a different statutory or common law principle,” he wrote, quoting the Supreme Court.

Howard pointed to Schwab v. Matley, 164 Ariz. 421, 793 P.2d 1088 (1990), where the Supreme Court had invalidated a statute protecting tavern keepers against negligence claims by overindulging customers. Against an argument that the statute didn’t implicate contributory negligence or assumption of risk, the Supreme Court had stated: “[T]he statute clearly deals with the antecedent conduct of the person injured, providing that the one who causes the injury ‘shall not be liable.’ If there is a difference between this and contributory negligence, we are unable to perceive it.”

If § 12-712(B) is applied here,” Howard wrote, “Frank Hernandez’s antecedent criminal conduct, and nothing else, triggers a statutory defense of nonliability.” He therefore deter-
mined that the statute bars recovery based on conduct constituting contributory negligence and assumption of risk. “As in Schwab,” he wrote, “the statute at issue here is a ‘legislative codification of these defenses.’”

“We cannot overcome our Supreme Court’s strong direction that the legislature may not bar recovery of damages based on the conduct of ‘a particular category of persons who otherwise could proceed with an action for damages.’” Howard concluded, joined by Judges John Pelander and Garey L. Vásquez.

... When most of us studied criminal law, we learned the two prongs of the famous M’Naghten insanity defense, cognitive inca-
pacity and moral incapacity. The defense ap-
plies if “the party accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or, if he did know it, that he did not know he was doing what was wrong.” Arizona originally adopted both M’Naghten prongs but has since reas-
certified the cognitive component, allowing a verdict of “guilty but insane” only when defendants prove that they did not know the wrongfulness of their acts.

No excuses
The United States Supreme Court re-
cently rejected a challenge to the amended Arizona test, holding that the two-pronged M’Naghten rule is not embedded in the Due Process Clause. The court also upheld Arizona’s abolition of the diminished-capacity defense, under which evidence of insanity may not be presented to rebut the element of mens rea. Clark v. Arizona, No. 05-05966 (U.S. June 29, 2006).

Everybody agreed that Eric Clark was a paranoid schizophrenic when he killed Flagg-
staff police officer Jeffrey Moritz. Clark be-
lieved that Flaggstaff was overrun with extrater-
restrial aliens—some disguised as government agents—many of whom were trying to kill him. He had told friends about desires to kill police officers, having devised a plan to lure an officer into a trap he would create a dis-
traction to attract police attention and then shoot the officers who responded.

The government argued that events trans-
pired in accordance with that plan. Clark took his brother’s truck and, in the pre-dawn hours, drove around a neighborhood with the radio blaring. Inevitably, someone called the police. Officer Moritz responded, and Clark shot him to death.

During a bench trial, Clark’s expert opined that Clark didn’t have the capacity to know right from wrong. The state’s expert acknowledged that Clark was schizophrenic but nonetheless believed that he could make the distinction. The judge agreed that Clark was not insane and convicted him of killing a police officer. The judge refused to consider Clark’s psychological evidence on the issue of mens rea: whether Clark knowingly or inten-
tionally killed the officer.

The state Court of Appeals affirmed. The United States Supreme Court granted certio-
rati and affirmed the conviction.

Writing for the majority, Justice David Souter concluded that the M’Naghten rule has not come a part of the constitutional concept of due process. He also cast doubt on whether there was any effective difference between the two prongs: “As a defendant can... make out moral incapacity by demonstrating cognitive incapacity, evidence bearing on whether the defendant knew the nature and quality of his actions is both relevant and admissible.”

Limited state of mind
The more troubling issue was the aboli-
tion of the diminished-capacity defense. In State v. Mott, 187 Ariz. 536, 931 P.2d 1046 (1997), the Arizona Supreme Court had held that under Arizona law, psychiatric testimony is inadmissible on mens rea.

In Clark’s case, the unavailability of that defense was fairly startling. He was convicted of first-degree murder for the knowing or in-
tentional killing of a peace officer in the line of duty. With Clark’s mental state an element of the offense, the state theorized that Clark had intentionally carried out his plan to lure a police officer by creating a disturbance in a quiet neighborhood in the small hours of the morning. The defense was precluded from in-
troducing evidence that Clark’s mental condi-
tion rendered him incapable of knowing that he was killing a police officer or forming the intent to do so or otherwise explained his be-
havior.

Souter was evidently somewhat troubled by this aspect of Arizona law. “[I]f the same evidence that affirmatively shows he was not guilty by reason of insanity... also shows it was at least doubtful that he could form mens rea, then he should not be found guilty in the first place...” “[T]he fact that it thus violates due process when the [s]tate impedes him from using mental-
disease and capacity evidence directly to rebut the prosecution’s evidence that he did form mens rea.

He nevertheless found sufficient reasons for Arizona to limit the evidence, reasons founded “in the controversial character of some categories of mental disease, in the potential of mental disease evidence to mislead, and in the danger of according greater certainty to capac-
ye evidence than experts claim for it.”

Souter concluded that “Arizona’s rule serves to preserve the state’s chosen standard for recognizing insanity as a defense and to avoid confusion and misunderstanding on the part of jurors.” Joining him were Chief Jus-
tice John G. Roberts, Jr., and Justices Antonin Scalia, Clarence Thomas, and Samuel A. Alito, Jr.

Justice Stephen G. Breyer dissented in part. He was unsure that the Arizona courts had made the evidentiary distinctions that Souter had made on the mens rea issue. He would have remanded to have them determine that issue.

Justice Anthony M. Kennedy dissented on the mens rea issue. Joined by Justices John Paul Stevens and Ruth Bader Ginsburg, he ac-
cused the majority of inventing an evidentiary theory that had never been raised, and of using it to “narrow [ Clark’s] claim so he cannot raise the point everyone else thought was involved in the case.”

Kennedy lamented the fact that Clark could not introduce expert testimony of his paranoid schizophrenia, in part as a possible explanation for his having had the radio blaring. The judge refused to admit the radio into evidence but to drown out the voices in his head, a common occurrence in schizophrenics. On a more funda-
mentally level, “[t]he psychiatrist’s explana-
tion of Clark’s condition was essential to un-
derstanding how he processes sensory data and therefore to deciding what information was in his mind at the time of the shooting. Simply put, knowledge relies on cognition, and cog-
ition can be affected by schizophrenia.”

Ignoring the known
“Arizona’s rule is problematic,” Kennedy complained, “because it excludes evidence no matter how credible and material it may be in disproving an element of the offense.”

He opined that Arizona has no legitimate inter-
est in a blanket prohibition on psychiatric evidence on the mens rea issue. While “defin-
ing mental illness as a difficult matter,” Arizo-
a “seems to exclude the evidence one would think most reliable by allowing unexplained and uncategorized tendencies to be introduced while excluding relatively well-understood psy-
chiatric testimony regarding well-documented mental illnesses.”

Arizona’s rule, Kennedy decided, “forces the jury to decide guilt in a fictional world with undefined and unexplained behaviors but without mental illness.” “This rule has no rational justification,” he concluded.
Judges Receive Judicial Performance Review Commission Endorsement

By Jack Levine
Maricopa Lawyer

On July 12, the Arizona Commission on Judicial Performance Review met at the Arizona Court Center to vote on whether our merit selection judges should or should not be recommended for retention. The commission consists of 18 public members, six lawyer members and six judicial members. The lawyer members are: Roberta L. Voss, Eugene M. Goldsmith, Marc R. Lieberman, Mary Beth Pfister, Carl A. Piccarreta, and William N. Poorten, III. Judges on the commission include: Daniel A. Barker and John Pelander, Arizona Court of Appeals, Ted B. Borek and Charles S. Sabalos of Pima County Superior Court, and Pendleton Gaines and Maria Verdin of Maricopa County Superior Court. The commission is chaired by Margaret C. Kenski, a public member from Tucson.

The commission meets twice a year, midway through the judges’ terms, and again in July, before the November retention election. The commission contracts with a data center to survey lawyers, litigants, jurors, witnesses, court staff, staff attorneys, other judges and parties who have had contact with the judge being reviewed. Judges are rated on a number of individual qualities under the broad headings of legal ability, integrity, communication skills, judicial temperament, administrative performance and settlement activity.

Those participating in the survey are asked to rate judges as either unsatisfactory, poor, satisfactory, very good, or superior. Numerical ratings of zero to four are assigned to the preceding categories and a numerical average is established for each judge.

When the surveys are completed, the data center removes the name of the judge from the survey results and substitutes a number. That way commission members are not aware of the identity of the judges they are voting on. Voting proceeds by a computer projection on a large screen with each commission member pushing one of three buttons designated as either “meets standards,” “does not meet standards” or “not voting” as each judge’s number appears on the screen.

Since 1994, when the Judicial Performance Review Commission was created, the commission has never voted not to recommend a judge for retention. This year was no exception, although a handful of Maricopa County judges received the equivalent of a slap on the wrist in the form of a few negative votes from individual commission members.

Judges Janet Barton, Edward O. Burke and Jonathan Schwartz each received two “do not recommend” votes; Barton and Burke for perceived deficiencies in legal ability and judicial temperament, and Schwartz for judicial temperament and administrative performance.

Judges Bethany Hicks and John M. Gaylord each had one “do not recommend” vote. Hicks received it for her judicial temperament and administrative performance, and Gaylord for his judicial temperament.

In the coming weeks, the Joint Performance Review Commission will be distributing their recommendations and the survey results to the news media. There will also be mailings to the public by the secretary of state in the state voter information pamphlet in the weeks before the general election in an effort to keep the electorate informed about judicial candidates. Also this year, for the first time, there will be a Web site where the public can go for information on judges. Local television stations will be requested to put the Web site information on the screen in an effort to increase voter awareness.

In a further effort to involve the electorate, at the July 12 meeting, Gaines suggested that retired Supreme Court Justice Sandra Day O’Connor be enlisted to do a series of television ads to encourage voters to learn more about the judges and the joint performance review surveys.

Tell Us!
Have you won an award? Is your law firm involved in an interesting community project?
Send information for our People in Law Column to Maricopa Lawyer, MCBA, 3003 N. Central Ave. Suite 1850, Phoenix, AZ 85012; fax to 602-257-0522; or e-mail to: kbrieske@mcbabar.org
Attorneys Necessary to Guide Students

Thousands of students each school year depend on attorneys to guide them through the Courthouse Experience educational program, sponsored by Superior Court, that this year is being expanded to regional court sites too.

Lawyers who volunteer their expertise and time are crucial to the success of the program. And this is the time of year when the court looks to local lawyers to participate. Last year, over 100 attorneys volunteered and helped educate more than 5,600 students about the judicial branch of government.

The responsibilities of each participating lawyer are to lead student tours through Superior Court, arrange for the students to sit in on appropriate court proceedings and meet with judges, when possible. Lawyers also take the visiting students to the jury assembly room and law library and answer students’ questions during their visits.

Attorneys interested in participating in this year’s program are invited to contact Karin Philips, Program Coordinator, at 602-506-3206 or e-mail her at philipsk@superiorcourt.maricopa.gov.

“An information packet, offering valuable guidelines and suggestions, is given to all volunteer attorneys to help make the tours well paced and valuable,” Philips explained.

Since the Courthouse Experience started in 1990, lawyers have made it possible for 88,600 students to learn about the courts, judges, lawyers and issues about justice. In those 16 years, attorneys have volunteered the services of a total of 2,900 individual lawyers.

Looking for more exposure for your business? Have space to lease or need to fill a position at your firm? To place a display or classified ad, call the MCBA 602-257-4200
Fighting Identity Theft at All Times

The featured expert this month is Harry Coder, vice president of operations for Premier Document Shredding, Inc., in Tempe. Coder is a retired police officer with 40 years of experience in areas such as instruction, background investigation, and destruction of intelligence record information.

There are many ways a criminal can gain access to your personal information. In several cases involving identity theft, months pass before the victim is aware of any wrongdoing. Coder shares what the government has been doing to protect the public’s information as well steps you can take to better secure your identity.

Q What is HIPAA?
A The Health Insurance Portability and Accountability Act (HIPAA) was enacted by Congress to create a national standard for protecting privacy of patients’ health information. The law requires healthcare entities that use electronic means to process transactions, including health information; use standardized forms; and a universal code system for illnesses and treatments. The regulation act also requires new safeguards to protect the security and confidentiality of an individual’s protected health information.

Q What is FACTA?
A The Fair and Accurate Credit Transactions Act (FACTA) was the Federal Trade Commission’s “disposal rule” of 2003. It calls for the proper disposal of information in consumer reports and records to protect against “unauthorized access to or use of the information.” The rule requires disposal practices that are reasonable and appropriate to prevent the unauthorized access to—or use of—information in a consumer report. For example, reasonable measures for disposing of consumer report information could include establishing and complying with policies to: burn, pulverize, or shred papers containing consumer information so that the information cannot be read or reconstructed.

Q How do my credit cards get so vulnerable?
A Your credit cards should never leave your sight. If the store clerk moves to another location to run your card you should follow or advise them to stay within your sight. When signing a receipt at a restaurant, look to see if the entire credit card number is on the receipt. If so, after signing, hand it to the waiter personally. Do not place it back on the table and leave. Do not type in your card information on Web sites without knowing if it is a secured site. There are companies like PayPal who specialize in Internet credit card safety.

Q How can I safeguard personal information?
A There are many things you can do to keep your personal information secure:
- Request electronic versions of bills, statements, and checks instead of paper.
- Sign up for direct deposit of payroll to prevent paper checks from ending up in the wrong hands.
- Shred all personal and financial information such as bills, bank statements, ATM receipts, and credit card offers before you discard them.
- Keep your personal documentation (e.g. birth certificate, social security card, etc) and your bank and credit card records in a secured place.
- Limit the personal information that you carry in your wallet or purse.
- Do not give your social security number, credit card number, or any bank account details over the phone unless you have initiated the call and know that the business you are dealing with is reputable.
- Do not allow mail to go uncollected. Retrieve it promptly.
- Be aware of your surroundings when entering your Personal Identification Number (PIN) at an ATM or store credit machine.
- Frequently monitor your account activity, such as balances and withdrawals.

Q What is the best method of destroying my personal and business documents? What will become of the end waste?
A There are several methods of destruction for your sensitive information and records, including burning, pulverizing or shredding. These methods must be handled with the utmost security and safety. We suggest shredding as the most responsible and safest, thus making it available for recycling. Recycling one ton of paper saves 17 trees, 7,000 gallons of water, 3.1 cubic yards of landfill space and 4,077 kilowatts of electricity—enough to power the average home for six months. Harry Coder can be reached at 480-829-0089 or via email at hac726@pdshred.com. Premier Document Shredding, Inc.’s Web site address is www.pdshred.com.
Court Reaffirms “Direct Injury” Requirement for Civil RICO Claims

By Richard Alcorn
Special to Maricopa Lawyer

In the 1930 gangster film classic Little Caesar Edward G. Robinson portrays a Chicago mobster named “Rico” Bandello. In the final scenes, having been shot, Robinson gasps the oft-quoted line “Mother of Mercy! Is this the end of Rico?” Many civil RICO plaintiffs undoubtedly are asking the same question, perhaps also with a gasp following the announcement on June 5, 2006, of the United States Supreme Court’s decision in Anza v. Ideal Steel Supply Co., 547 U.S. ___ (2006).

In Anza, the court emphatically affirms that private civil RICO plaintiffs must show a direct causal connection between the injury asserted and the injurious “racketeering” conduct alleged. In doing so, the court further limits the types of lawsuits that may be brought by persons seeking relief under the civil enforcement provisions of the Racketeer Influenced and Corrupt Organizations Act.

Misuse

The federal RICO statute was enacted in 1970. In addition to criminal enforcement provisions, the act provides for civil remedies and a private civil cause of action, including treble damages and attorneys’ fees. Pursuant to the act, such civil relief may be sought by any person injured in his business or property by reason of a violation of the act. In light of this broad language and the very favorable civil remedies available under the act, strong incentives existed for economic claims to be characterized and filed as RICO lawsuits. As a result, dissatisfaction among courts and defense lawyers became widespread regarding the misuse and breadth of RICO’s application.

A significant limit to standing under the act evolved in the form of a proximate cause standard for civil RICO standing. In 1992 the court in Holmes v. Securities Investor Protection Corporation, 503 U.S. 258 (1992), decided that a plaintiff may sue under the act “only if the alleged RICO violation was the proximate cause of the plaintiff’s injury.” In Holmes, the court adopted a common-law approach to the proximate cause requirement, specifically mandating that there be “some direct relation between the injury asserted and the injurious conduct alleged.” Following Holmes, however, the lower courts developed and applied many divergent proximate cause tests for civil RICO standing issues, including the direct injury standard, the zone-of-interest test, and the three-facors approach articulated in Holmes.

Narrow scope

Anza provides further clarification and guidance regarding the proximate cause requirement. It further narrows the scope of civil RICO lawsuits. In Anza, the court held that a business could not maintain its civil RICO claim against a competitor allegedly engaging in an unlawful racketeering scheme aimed at “gain[ing] sales and market share at [plaintiff’s] expense.” Plaintiff claimed that its competitor failed to charge New York state sales tax to cash-paying customers, thus allowing the competitor to reduce its prices and then undersell the plaintiff. Further, the plaintiff alleged its competitor submitted fraudulent state tax returns to conceal the conduct, thus committing mail and wire fraud, both predicate racketeering offenses under RICO.

The Anza Court, per Justice Kennedy, held that plaintiff could not maintain its civil RICO claim because the “alleged injury was not the direct result of a RICO violation.” Holding that plaintiff’s civil RICO claim did not satisfy the requirement of proximate causation, the Anza Court unambiguously articulated a stringent direct injury standard: “A RICO plaintiff cannot circumvent the proximate-cause requirement simply by claiming that the defendant’s aim was to increase market share at a competitor’s expense... When a court evaluates a RICO claim for proximate causation, the central question it must ask is whether the alleged violation led directly to the plaintiff’s injuries.”

Distinct actions

The court explained that there was only an “attenuated connection” between plaintiff’s injury and the competitor’s allegedly injurious conduct. That is, in the court’s view, the cause of plaintiff’s asserted harms was a set of actions (offering lower prices) entirely distinct from the alleged RICO racketeering activity (tax nonpayment to the State of New York). “[T]he absence of proximate causation is... clear,” according to the court.

Only Justice Thomas dissented, arguing that the court was adopting a theory of proximate causation not supported by the RICO statute or the court’s prior decision in Holmes. Thomas in his dissent asserted that the court’s “stringent proximate causation requirement” eliminates recovery for many plaintiffs whose injuries were intended to be subject to remediation under the RICO statute: “[A]fter today, civil RICO plaintiffs that suffer precisely the kind of injury that motivated the adoption of the civil RICO provision will be unable to obtain relief.”

The dissent by Thomas criticizes the theory of directness adopted by the majority of the court, suggesting that the majority holding will exclude civil RICO cases “that were at the core of Congress’ concern in enacting the statute.”

Direct fulfillment

Anza makes it clear that a civil RICO plaintiff may not pursue claims that are derivative of injury to another. Anza does provide additional clarity for an issue that was troublesome for the courts. If any question remained following Holmes, it is clear following Anza that the directness of an alleged RICO injury now is of predominant and, perhaps, controlling significance in proximate cause determinations. Injuries that are viewed as or characterized by a court as being “indirect” will not fulfill the proximate causation requirement. Factual causation—for example, “cause in fact” or “but for” causation—will not be legally sufficient. Proximate causation must be shown and, following Anza, there unquestionably must be a “direct causal connection” between the injury asserted and the injurious racketeering injury alleged.

Federal guidance

Arizona also has a state civil RICO statute. The Arizona civil RICO statute (A.R.S. §13-2314.04) gives a private civil cause of action to “[a]ny person who sustains reasonably foreseeable injury to his person, business or property by reason of a violation of the statute.” In its discussion of proximate causation, the Arizona statute makes it clear that a civil RICO plaintiff may not pursue claims that are derivative of injury to another. Anza does provide additional clarity for an issue that was troublesome for the courts. If any question remained following Holmes, it is clear following Anza that the directness of an alleged RICO injury now is of predominant and, perhaps, controlling significance in proximate cause determinations. Although Arizona’s statute unambiguously requires the same elements as the federal RICO counterpart, it is materially different in providing a civil cause of action for “reasonably foreseeable injury.”

Several courts from other jurisdictions, however, have equated RICO proximate cause with “injury that is reasonably foreseeable or anticipated” as a natural consequence of a pattern of racketeering activity. The Arizona courts also have held that, because Arizona’s RICO statute was patterned after the federal RICO statute, a plaintiff must demonstrate proximate causation before becoming eligible for the favorable civil remedies (for example, treble damages) under the Arizona RICO statute. It remains to be seen, however, whether the Arizona courts would impose the rigid direct causal connection standard adopted by the Anza Court.

Richard Alcorn practices in commercial litigation and trust/probate litigation in Phoenix.
Shiela B. Schmidt and James T. Giel have joined Gust Rosenfeld, P.L.C. as members of the firm.

Schmidt (J.D., 1987, UA) focuses her practice in the areas of water law, environmental law, commercial real estate transactions and public law.

Giel (J.D., 1993, Temple University) joins the public finance department of the firm. He has served as bond counsel, issuer’s counsel, borrower’s counsel and underwriter’s counsel in numerous transactions throughout his career.


Crane (LL.M., J.D., 2002, Duke University) practices in the firm’s real estate client service group.

DeCastro (J.D., 2003, American University) joins the firm’s environmental client service group.

LaFave (J.D., 2000, ASU) joins the firm’s commercial litigation client service group. She currently serves as president of the MCBA Young Lawyer’s Division.

Opaska (J.D., 2004, UA) practices in the firm’s intellectual property client service group.

Casbeer Pohl (LL.M., 2002, NYU; J.D., 2001, Tulane University), practices in the firm’s private client and tax advice and controversy client service groups.

Reder (LL.M., 2004, University College London, J.D., 2003, Suffolk University) joins the firm’s environmental client service group.

Lewis and Roca promoted six attorneys in its Phoenix office into partnership: Lynne C. Adams, Kevin W. Goff, Christy L.E. Hubbard, Brian J. Pollock, Quentin D. Vaughan and Jeffrey W. Wutzke.

Adams (J.D., 1987, Columbia University) is a member of the firm’s commercial litigation practice group.

Goff (J.D., 1999, Boston University) practices in the firm’s real estate transactions group.

Hubbard (J.D., 1999, ASU) is a member of the firm’s intellectual property and technology practice group.

Pollock (J.D., 1998, UA) practices in the firm’s commercial litigation section and is also part of its professional malpractice and antitrust & trade regulation practice groups.

Vaughan (J.D., 1995, Northwestern University) is the practice group leader of the life sciences group and a member of the corporate and securities group.

Wutzke (J.D., 1998, University of Virginia) is a member of the firm’s real estate practice group.

Fennemore Craig has added nine new attorneys: J. Christopher Gooch, Zora K. Shaw, Sonia I. Krainz, Christopher L. Raddatz, Tyler R. Stradling, Jeffrey E. Meyerson, Daniel J. Holwerda, C.W. Ross, and Sarah A. Kubiak.

Gooch (J.D., 1998, UA) concentrates his practice in commercial litigation and business torts.

Shaw (J.D., 2000, University of Idaho) is part of the firm’s environmental and natural resources practice group.

Krainz (J.D., 2000, ASU) focuses on health care litigation, as well as businesses and personal injury torts and litigation.

Raddatz (J.D., 2001, St. Thomas University; LL.M., NYU) focuses primarily on commercial real estate transactions, federal taxation, and business and finance.

Stradling (J.D., 2003, Brigham Young University), Holwerda (J.D., 2004, Michigan State), and Kubiak (J.D., 2005, UA) join the real estate practice area.

Meyerson (J.D., 2003, UA), and Ross (J.D., 2004, Harvard) join the firm in the business and finance practice.

Amy R. Fish has joined Ryley Carlock & Applewhite as an associate.

Fish (J.D., 2005, ASU) joins the firm’s environmental and natural resources practice group.

Martin D. Jones has joined Gallagher & Kennedy, P.A. as an associate.

Jones (J.D., 2004, University of Idaho) is part of the firm’s environmental and natural resources practice. He has represented major natural resource companies and has extensive experience in the preparation of title opinions for oil and gas development on federal, state and private lands.
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Getting Straight to the Point

When someone’s speech is full of “uh,” “eh,” and other annoying throat-clearing noises, listeners tend to tune out; they no longer pay attention to what is being said. Readers have the same reaction when faced with throat-clearing phrases. The biggest offenders: “there is,” “there are,” “it is,” and “I think.”

Technically, these phrases are called expletives—words in a sentence that impart no meaning. Expletives are detrimental to persuasive legal writing for two reasons: (1) they make the sentence less persuasive and (2) they take up precious space. When a sentence begins with one of the above expletives, the important verb in the sentence becomes secondary and thus, less effective. In addition, the use of “I think” makes the writer appear unsure of the point, even though the writer may have intended to be deferential or respectful. Compare the following simple examples:

**Poor:**
“I think it is a fact that an employee must pass the drug test.” (12 words)

**Better:**
“It is a fact that an employee must pass the drug test.” (10 words)

**Best:**
“An employee must pass the drug test.” (7 words)

If a legal writer is truly unsure of a point, the writer can indicate this with an appropriate adverb, such as “perhaps” or “most likely.” Although some sentences must start with an expletive in order to sound graceful, a reader can successfully rewrite most sentences by simply removing the expletive and leaving the rest of the sentence. Legal writers should search for unnecessary expletives during the editing phase and remove them. Not all expletives are easy to find, however, as they can be combined with other words or phrases to form even longer throat-clearing phrases, such as “it is clear that” and “it would appear to be the case that.” The key is to be aware of what throat-clearing phrases each legal writer uses habitually and search for them; the “find and replace” function in any word processing program can help with this step.

### Citation of unpublished opinions to take effect absent Congressional interference

In April the United States Supreme Court adopted a proposed Rule of Appellate Procedure, Rule 32.1, which allows the citation of unpublished opinions—a practice now banned by the Ninth Circuit Court of Appeals. New Rule 32.1 prohibits courts from restricting the citation of “federal judicial opinions, orders, judgments, and other written dispositions that have been designated ‘unpublished,’ ‘not for publication,’ ‘non-precedential,’ ‘non precedent,’ or the like.”

The new rule has a prospective application, requiring courts to allow the citation of unpublished opinions issued on or after January 1, 2007. Additionally, the new rule does not dictate the weight courts must give unpublished opinions.

Rule 32.1 will take effect on December 1 unless Congress intervenes before that time. A spokesman for the Administrative office of the U.S. Courts says congressional intervention is rare.

### Judge removed from hearing Native American trust funds lawsuit

A unanimous panel of the United States Court of Appeals for the District of Columbia Circuit ordered the removal of U.S. District Court Judge Royce C. Lamberth from a decade-long class action lawsuit filed by the Native American Rights Fund over the United States Department of the Interior’s management of Indian trust accounts. The D.C. Circuit panel decision stressed that “reassignment is necessary if reasonable observers could believe that a judicial decision flowed from the judge’s animus toward a party rather than from the judge’s application of law to fact.”

In a July 2005 opinion in *Cobell v. Kempthorne*, Lamberth called the Department of the Interior “a dinosaur—the morally and culturally oblivious hand-me-down of a disgracefully racist and imperialist government that should have been buried a century ago, the pathetic outpost of the indifference and anglocentrism we thought we had left behind.”

Last August the Justice Department asked that another judge be assigned because Lamberth was an obstacle.

### Judges defensive over Congressional bills to split Ninth Circuit

The 2006 Judicial Conference for the Ninth Circuit met in Huntington Beach, California in July, where Chief Judge Mary Schroeder reminded her audience that “[t]he view of the overwhelming majority of our circuit judges, district and bankruptcy judges is that the [Ninth] circuit should not be divided.” Pointing out that much of the movement to divide the circuit comes from outside sources, Schroeder said that “[o]f the total contingent of more than 200 active and senior Article III judges in the circuit, only 24 signed on to a recent letter to Congress advocating the split.” More specifically, the letter Schroeder referred to was a letter to Republican Senate Judiciary Chairman Arlen Specter, who recently came out in favor of the split.

Active Ninth Circuit Judges Richard Tallman, Diarmuid O’Scaithlain and Andrew Kleinfield are in favor of the split but contend that the goal is to reduce a backlog of cases that has accumulated due to the circuit’s growth. “I think we are farther along in this process than we have ever been before,” remarked Tallman. Meanwhile, Schroeder has extended an invitation to Specter and other members of the Senate Judiciary Committee to hold hearings in the circuit and “get to know us and our geography a little better.”

### Justice Blackmun’s widow dies at age 95

Dorothy C. Blackmun, widow of the late U.S. Supreme Court Justice Harry A. Blackmun, died July 13, 2006 in Winter Park, Florida. The Blackmuns were married on June 21, 1941. On June 9, 1970, Blackmun was appointed to the United States Supreme Court by President Richard Nixon. He retired from the bench on August 3, 1994 and died on March 4, 1999, at the age of 90.

Blackmun was survived by three daughters and five grandchildren, as well as a sister, Irene Clark Bowers, of Mesa. She will be buried next to her husband in Arlington National Cemetery.
Sign Language Interpreter Adds Unique Voice to Superior Court

By Court Interpreters and Translation Services
Special to Maricopa Lawyer

In his eloquent poem, “You Have to Be Deaf to Understand,” Willard J. Madsen speaks about the confusion and helplessness that deaf people experience, until “some nimble fingers” come along to help them become a part of the rest of the world.

John Folker is the “nimble fingers” of communication at Superior Court of Arizona in Maricopa County. And he is a rarity. He is one of only six American Sign Language (ASL) on-staff court interpreters in the entire nation; and brings 28 years of experience to the Court Interpretation and Translation Services department.

Folker, who is a certified sign language interpreter, spends his days traveling to various courtrooms and court locations, interpreting for deaf and hearing-impaired litigants, witnesses and others. He also interprets for deaf court employees, deaf persons serving jury duty, and walk-in hearing-impaired court users. And he schedules contract interpreters, provides job orientation for them, keeps statistical information on ASL court interpreter usage, and participates in classes about deafness for court staff, all of whom are required to participate in educational programs as a requirement of their jobs.

Folker has also been instrumental in strengthening a network of outside agencies that provide ASL interpreting for the court. When he first arrived, there were only four contractors who worked with the courts. He has helped build that considerably and today there are twelve.

This congenial man not only works to build relations with outside ASL contractors, he also is focused on improving the skills of the contractors through orientation, mentoring, and exposure to the court system. State licensure for ASL court interpreters is approaching, so John has volunteered his personal time to work on this project.

In order to ensure a future supply of ASL interpreters, Folker is a site supervisor for student interns from Phoenix College, who are learning the skills of ASL interpretation. Between January and April, three to four student interns from the college work in the court’s program, during which the students spend 80 hours observing legal situations to expose them to the opportunity of a career in interpreting.

The court recently also hosted a group of ASL students from Metro Tech, a local vocational high school. Folker led the students on a tour of the downtown Superior Court complex, showing them the various aspects of legal interpreting. He hopes when these high school students begin their future career planning, some will choose court interpretation as their professional goal.

Folker acknowledges that his favorite aspect of working in the court is that he is able to work with court staff at all levels of the system. He enjoys doing what he can to bring awareness to the challenges that the deaf and hard of hearing face in the legal system. To that end, this job also allows him to educate people and to promote a higher level of service to the deaf and hard of hearing than they may have received in the past.

More information about court services for hearing impaired court customers can be obtained by calling Court Interpretation and Translation Services, 602-506-3494.

Court Interpretation and Translation Services accommodates court customers with language and communication assistance to provide equal access for everyone to the judicial branch of government.

Honors Bestowed on Superior Court

By J.W. Brown
Maricopa Lawyer

The Arizona Superior Court in Maricopa County was honored with six awards from the state Supreme Court in recognition of excellence of its judges, self-improvement programs, staff and services.

Those honored were presented their awards at the annual Judicial Conference in Tucson, which is a mandatory educational event for all justices, judges and court commissioners in the state.

This year’s outstanding examples of the best of the best in the state’s judicial branch were highlighted at the June conference.

Judge Ronald S. Reinstein earned top honors for Improving Public Trust and Confidence category.

William J. Harkins III, a Maricopa County Adult Probation Officer, was shot on duty, earned the top award in the category of Employees Being Accountable.

Spanish DUI Court, was honored because it exceeded its mission of Improving Communication and Cooperation with the Community.

Family Court was recognized for serving as an outstanding example in the category of Protecting Children, Families and Communities.

The two final awards—exceptional examples of Serving the Public by Improving. The Legal Profession—were awarded to the Judicial Formation Program in Maricopa County Superior Court and to Attorney David Tierney for his dedication and volunteer work with the Adult Probation Office.
Delays

continued from page 1

whether we can return to our historic preference for individual, rather than master calendars, for criminal case management.”

That assessment continued through Campbell’s term as presiding judge and into Mundell’s term, that is in the second year of her five-year presiding judge term.

Analysis is done on data that is compiled monthly on the lengths of continuances. That review shows a couple of realities about delay. One is that the number of continuances is increasing and the other is that the length of continuances is also growing.

Record high

March was a record-setting month. Statistics indicate 600 continuances were granted in that month alone. That is the most continuances granted in a single month over a 14-month period.

The data also reveals that of the continuances granted in March: 259 criminal trials were continued for 31 to 60 days; another 87 criminal trials were delayed 61 to 90 days; and 17 were continued longer than 91 days. Continuances longer than 30 days are not acceptable according to court policy.

Mundell held a series of meetings with administrators and judges trying to find a solution to the rising delays. Other ideas were considered, but the final analysis was nothing else would be better or more effective. And the similar, previous method for curtailing repeated continuances proved effective.

The four-year run for that earlier effort resulted in 93 to 94 percent of felony criminal cases being brought to trial or change of plea within 180 days of arraignment.

“Increased case filings alone do not account for the backlog,” Mundell said pointing to other factors including “the growing volume and length of continuances, an unmanageable number of calendar settings and a loss of trial date certainty.”

But the increased number of cases also impacts the court, as does the volume of trials. Superior Court statistics show over the past two years, its lowest number of criminal felony trials in one month was in July 2004 when 44 trials were held. That amount more than doubled to a high of 96 in July this year.

That sharp increase is coupled with a stunning rise in criminal case filings. Statistics show that since 1999, felony cases filed in Superior Court have increased by more than 50 percent. In 1999, a total of 24,342 felony cases were filed. Filings this year totaled 38,975 new cases.

Mundell and Court Administrator Marcus Reinkensmeyer credit county officials for helping the court with tools needed to address its multi-pronged challenge.

“The Maricopa County Board of Supervisors and the county’s top administrators have responded to the court’s needs by adding more resources including one additional judge (bringing the number to 93) and additional commissioners,” Reinkensmeyer said. “We anticipate the continuance calendar is another link in the chain of steps being taken to manage the rapid increase in our criminal case filings and trials.”

Time matters

Mundell said she is convinced the motion-to-continue calendar is the right choice because justice suffers when cases are not tried as scheduled.

“That creates uncertainty for attorneys, victims and their families and witnesses and may compromise a defendant’s right to a speedy trial,” she said. “This specialty calendar helps insure a firm trial date is reliable and better meet the court’s standard of providing the timely, fair and impartial administration of justice.”

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