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

Three newcomers and four incumbents have entered this year’s election to join the 2016-17 Maricopa County Bar Association Board of Directors. They are (in alphabetical order): Lynne Adams, Gail Barsky, Flynn Carey, Tyler Carrell, Michael Kielsky, Jack Levine and Brian Winter. MCBA member attorneys licensed to practice in Arizona and in good standing with the State Bar of Arizona and the MCBA are eligible to vote. Voting will be done through MCBA’s online election vendor. No paper ballots will be distributed.

Members with a valid email address on file will receive information on how to vote electronically from electionsonline.us on Nov. 1. This email will contain a link to the election site and your username and password. At the election site, you will be prompted to vote for five of the candidates. Candidate bios and photos are on page 10.

It is essential that the MCBA has your correct email address. If you are not receiving emails from us on a regular basis, then we do not have your valid email address on file. Please contact the MCBA office at (602) 257-4200 in order to receive the voting information and also to have your email address updated.

The voting period will begin Nov. 1 and close at 5 p.m. on Nov. 15. ■

Reflecting back on the bench

On Dec. 1, the MCBA will have a membership luncheon to honor the retirements of Justice Rebecca White Berch from the Arizona Supreme Court and Presiding Judge Norman J. Davis from the Maricopa County Superior Court. Recently, they spoke with the MCBA and shared their thoughts on judicial life, what it means to be a judge and also provided advice to new judges. Here is what they had to say.

Justice Rebecca White Berch

Q: Your first day on the bench. Do you remember what it was like and how you felt?
A: I’m afraid I don’t really remember it. Appellate judges don’t take the bench every day, so the first day on the bench wasn’t my first day as a judge. And we don’t sit on the bench alone. I remember sitting with two experienced judges, and that was helpful.

Q: What was the most challenging part about being a judge? What about the part you liked the most?
A: It is a wonderful job, so coming up with challenges is, well, a challenge. But here are a few: (a) Like being a police officer or other public official, judges are in the public eye. The public has the right to expect that they will act appropriately at all times. (b) We are often called upon to issue opinions on important issues of the day. To maintain the appearance of impartiality, judges generally do not speak publicly on public issues. (c) As one who likes people, I found judging to be somewhat isolating. The best things about the job? (a) No clients or billing. Much as I liked my clients, it was sometimes a pleasure not to have any. (b) The issues that arose were endlessly interesting. (c) I worked with wonderful people, both on and off the bench.

Q: What is something that you wish other people knew about life on the bench?
A: I would remind members of the public that judges are not their “representatives,” I say that to those who get upset when a court, at any level, holds a law unconstitutional. If a law violates the constitution, no matter how popular the law is, the judge who strikes it down is doing his or her job.

Q: Is there someone who has inspired, motivated or mentored your career?
A: In a perverse way, I learned as much from those whose actions I admired — that is, I quickly learned not to behave that way. I learned that courage and creative vision are necessary to leadership, as are having good people around you to make things happen and trusting them to do it. Having friends, being nice and trusting others are much underrated as leadership skills.

Q: Looking back on nearly two decades on the bench, can you describe a particularly memorable case that you had and what made it so?
A: Which cases will turn out to be significant can only be clearly seen by looking back over time. I think I’m too close to it now. For example, many of the issues that arose between the legislature and the governor seemed monumental at the time. But legislators changed, we got a new governor, the state’s financial picture changed and the groups learned to work together. So cases that seemed important likely won’t stand the test of history. So let’s wait to get better perspective on this question.

Q: What sort of tips or advice would you give a new judge?
A: The rule of law and the proper functioning of government for the good of the people are more important than the result in any one case. And they are more important than the job. If a law is constitutional, your job as a judge is to apply it according to its terms. Remember that while there are some very bad people,
September 26, 2015: A day that shall forever live in infamy (at least in my mind). That day, the rear tire on my road bicycle decided it no longer needed to maintain contact with the pavement and, during a turn, decided that, rather than remaining vertical, it would prefer to be horizontal. As a result, I, too, rapidly went from a vertical to horizontal, bouncing along the asphalt. In addition to some road rash, I received a two-part fracture to my humerus, rendering my right arm unusable for a 4-to-6 week period. I am now forced to wear an “immobilizer” which traps my right forearm against my chest and since I can’t move the humerus and shoulder from moving. While the pain has been mostly manageable — thanks to the aid of modern medicine — the imposition on my ability to do my job, let alone my activities of daily living, has been astonishing. I am unable to fully dress or undress myself without the assistance of my loving and selfless wife. At the office, I have become ever more dependent on the talents and time of my staff, associates and partners to assist me with the completion of duties which I would’ve otherwise completed fully independently. Thankfully, too, advances in technology allow me to dictate directly into the computer (as I am doing right now) in order to complete my writing projects. For those of you who have not looked into Dragon NaturallySpeaking software, I would highly recommend it. While I have been hampered in my use of the computer, unable to use both of my hands to type, it has allowed me to maintain, if not speed up, my drafting of responsive letters and emails. I am able to communicate my thoughts and concepts into the computer at the speed at which I can speak them.

My injury is not the focus of this column. Rather, I want to thank everyone around me who has helped me to get back up on my feet and continue to forge ahead with all the responsibilities and duties that come along with an active practice, and my volunteer roles both at the MCBA and elsewhere. In November we celebrate the Thanksgiving holiday. And while it has been written about in volumes, the power of giving thanks to those around you and those who aid you on a daily basis should never be minimized or forgotten.

No one achieves success alone. Even a solo practitioner who spent many years building a practice without the aid of staff can point to other people who have assisted him or her. Referral sources, vendors, friends and the courts, as well as others, are integral and required if one is to succeed in the practice of law. And while we are raised to say “thank you,” we should challenge ourselves to go out of our way to do so, and to identify those who may, even in the smallest way, have benefited us to move our lives forward. And while it cannot be ignored that membership dues propel our organization forward. And we produce. It cannot be ignored that membership dues propel our organization forward. And we

A season of gratitude

September 26, 2015: A day that shall forever live in infamy (at least in my mind). That day, the rear tire on my road bicycle decided it no longer needed to maintain contact with the pavement and, during a turn, decided that, rather than remaining vertical, it would prefer to be horizontal. As a result, I, too, rapidly went from a vertical to horizontal, bouncing along the asphalt. In addition to some road rash, I received a two-part fracture to my humerus, rendering my right arm unusable for a 4-to-6 week period. I am now forced to wear an “immobilizer” which traps my right forearm against my chest and since I can’t move the humerus and shoulder from moving. While the pain has been mostly manageable — thanks to the aid of modern medicine — the imposition on my ability to do my job, let alone my activities of daily living, has been astonishing. I am unable to fully dress or undress myself without the assistance of my loving and selfless wife. At the office, I have become ever more dependent on the talents and time of my staff, associates and partners to assist me with the completion of duties which I would’ve otherwise completed fully independently. Thankfully, too, advances in technology allow me to dictate directly into the computer (as I am doing right now) in order to complete my writing projects. For those of you who have not looked into Dragon NaturallySpeaking software, I would highly recommend it. While I have been hampered in my use of the computer, unable to use both of my hands to type, it has allowed me to maintain, if not speed up, my drafting of responsive letters and emails. I am able to communicate my thoughts and concepts into the computer at the speed at which I can speak them.

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As my presidency begins to wind down and I begin to look back over my year, I am constantly reminded of the support and assistance that I have received. I have called on past presidents to help me with tough questions as well as what might seem otherwise mundane or routine procedures within the MCBA, and they have been more than willing to lend their support. The bar leadership of both the sections and divisions this year has exceeded expectations, both in terms of the quality of their work and also their dedication to the association as a whole. My executive committee — Hon. Geoff Fish, Norma Izoo, Kyle Hirsch and Bill Kastin — have been outstanding. Facing tough challenges together was a delightful exercise; a combination of both challenging and intellectual discourse, interspersed with sufficient levity to ensure freshness in the discussions. The staff of the MCBA is nothing short of top-notch. As the staff of the MCBA is nothing short of top-notch. As the staff of the MCBA is nothing short of top-notch. As the staff of the MCBA is nothing short of top-notch. As the staff of the MCBA is nothing short of top-notch. As the staff of the MCBA is nothing short of top-notch. As the staff of the MCBA is nothing short of top-notch.

Please send editorial submissions to Mindy Haskins mhaskins@maricopabar.org. The editorials and the Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, AZ 85004-1532. Please send ad

Letters to the Editor

Letters must be signed to verify authorship, but names will be withheld upon request. Authors of opinion pieces should be typed and preferably typed and preferably typed and preferably typed and preferably typed and preferably typed and preferably typed and preferably typed and preferably typed and preferably typed and preferably typed and preferably typed. Thank you.
All good things … will continue next year

As 2015 slowly comes to a close, so does my term as president of the Young Lawyer's Division (YLD). It has been a wonderful year, thanks to the great staff at the MCBA and the wonderful lawyers that serve on the YLD Executive Board. I wanted to take this month's article to recognize people who are rising to serve as YLD officers in 2016, and also those that are “aging out” of the YLD and will complete their board service at the end of 2015.

Casey Blais, Burch & Cracchiolo: RIP. Oh wait, I’m sorry; he’s not dead. Casey is merely moving on from the YLD after six years of service. He humbly served as the past-president this year, and was a valuable resource to me, personally. More importantly, he was a great person to have at our meetings and events. From my first day as a new board member to now as president, Casey always made me feel welcome and happy to spend time at the MCBA. He will be missed.

Krystal Ahart, Bankruptcy Legal Center: Krystal will be taking the reins as YLD President next year, and I couldn't be happier about it. She has demonstrated both a tireless work ethic for all of the YLD programming, as well as the positive, relaxed attitude required to lead so many strong personalities. Once Krystal takes charge, I will serve as past-president, where my primary focus will be to try to de brief board meetings. Just kidding Krystal, sort of.

Kimberly Davis, Udall Shumway: No, not that Kim Davis. Our Kim Davis not only chaired this year’s Barrister’s Ball, but she also served as the board secretary. Kim’s professionalism and determination made her a valuable asset to every committee and every program the YLD organized over the past year. She will be the 2016 President-Elect, so the YLD and the MCBA as a whole, will have the great fortune of having her around for at least the next two years.

Ben Eid, The Law Office of Joseph A. Kula: Ben was this year’s treasurer and will continue in that capacity next year. Ben always brings a smile to our meetings and events, and is beloved by everyone on the board. He took on a new project this year, helping to chair the Domestic Violence Committee, and is always willing to lend a hand in any task, big or small.

Jessica Lysy, Udall Shumway: Kim Davis helped convince Jessica to join the board, and Jessica has been a wonderful addition. She constantly volunteers to help out with domestic violence counseling sessions, and jumped into board service with both feet. Next year, she will serve as secretary, and I have no doubt she has a bright future in the YLD. Let’s just hope that working with and volunteering with Kim won’t make them sick of each other.

Flynn Carey, Mitchell Stein Carey: Flynn is exiting the YLD board, but he has certainly served his time. I didn’t mean that in “the YLD board is prison” sort of way. He has been heavily involved with the Barrister’s Ball and also served on the MCBA Board of Directors and the board of the Solo and Small Firm Division. We are thankful for all of his help over the years, and I have no doubt I’ll see him around at other MCBA events for years to come.

Quinton Cushiner, Stepstone & Johnson: Quinton is aging out of the YLD, and I will miss seeing him at meetings and talking about our babies. Well not our babies, but the babies we had with our wives … you get it, Quinton. Flynn and I helped organize mock interviews at the local law school this year, and Quinton was extremely supportive to the cause and the board in general.

Jennifer Rebholz, Choate & Seletos: We have been teasing Jen a lot about aging out over the last few months, so it’s important that I set that aside, at least until I see her in person again. Jen and I serve on the State Bar Board of Governors together, so her and I often get to share perspectives on the Arizona legal world, current issues, and how best to move the MCBA and the State Bar forward. Individually, Jen has served in a variety of roles for the YLD. She has helped create and coordinate law week programs and, for many years, has always been the person to volunteer and raise her hand when others don’t. If every board had a Jen Rebholz on it, they would consider themselves very lucky.

In all, this has been a wonderful year for me. But even the name “Young” Lawyer’s Division is linked to time, and the fact that it’s fleeting. I have been honored to serve as the president of the YLD for 2015, and I turn over the gavel knowing there are great leaders in place for 2016 and rising to serve as YLD officers in 2016, and will complete their board service at the end of 2015. The MCBA’s greatest asset is that there are great leaders in place for the next year.

Thank you for everything.

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A time for giving thanks

Fall is finally here! This is my favorite time of year when the leaves change color, the weather finally starts to cool off, and the holiday season kicks off with Thanksgiving feasting on turkey, stuffing and apple pie. Since November is the month of giving thanks, I would like to reflect on some of the things for which I am thankful.

With the division’s 16th Annual Arizona Paralegal Conference now behind us, I am thankful for all who helped make this year’s event a success — from those who worked behind the scenes to the volunteers who assisted during the event to our wonderful speakers, vendors, sponsors and donors. I would especially like to thank our conference committee co-chairs, Nilda Jimenez and Melinda Manchester, whose hard work and extra personal touches made the conference one of the division’s best ever. I also want to thank student committee member Frank Robson for reaching out to paralegal students and inviting them to join the division and attend the conference. To all of our past presidents, I thank you for your continued support of the division and the paralegal conference.

I am thankful for all of the hard work and dedication of this year’s board members. Nilda, Nichole, Norma, Melinda, Cecilía, Shaya, Liz, and Kate — you are a great group of ladies and I treasure the bond we formed working together this year. I look forward to working with you next year. I am thankful for the opportunity to be the division’s president in 2016 and hope to meet more members at our upcoming events.

I am also thankful for the MCBA and its board of directors, especially Allen Kimbrough, Laurie Williams, Kelly Brantiger, T. J. Ryan, Kyle Hirsch and Bill Kastin, for all of their support since I assumed the role of president in April. The Paralegal Division also had the pleasure of working with the Young Lawyers Division on a couple of joint efforts this year and I appreciate the inclusion of our members. We welcome the opportunity to work with them and other sections of the MCBA in the future.

I am thankful for my law firm, Hammerman & Hultgren, PC, where I have worked for the past 21 years. I am especially thankful for my boss, Stanley Hammerman, who is also my mentor and friend. Stan has been one of my biggest supporters over the years, encouraging me to become an Advanced Certified Paralegal, national speaker and MCBA member.

I am thankful for my friends, both near and far, for their continued support of all of my endeavors. And, most of all, I am thankful for my family, especially my husband, Mike, who has time and time again forgiven me for the many late nights and even has dinner waiting for me after a long day. He has supported me in all of my personal and professional activities and has been my rock for over 15 years. I would also like to thank my mother and my daughter, who I am lucky enough to work with every day, and my son, who creates some of our division flyers.

In our busy lives, it is important to stop and reflect on the things that are most valuable to us. This holiday season, I hope to take some time to consider what you are thankful for and let the special people in your life know how much they mean to you. Whether your Thanksgiving tradition is watching Macy’s Day Parade, having dinner with your family, watching football or taking a post-turkey nap, I wish you and your family a Happy Thanksgiving.

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2015 ARIZONA PARALEGAL CONFERENCE

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Dan Barr, Esq.
Scot Clauss, Esq.
Kimberly Demarchi, Esq.
Heather Hamel, Esq.
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The 2015 Paralegal Division Board

Kelli Burson (left) is the 2015 recipient of the Maricopa County Bar Foundation Scholarship. She received her award from MCBF Secretary Kathy Bunch.

Paralegal Division scholarship recipient Kathryn (Kacie) Cannon (left).

Paralegal Member of the Year Nilda Jimenez (left) receiving her award from Paralegal President Tina Ziegler.

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Paralegal Member of the Year Nilda Jimenez (left) receiving her award from Paralegal President Tina Ziegler.
Is the exclamation point a nuisance or persuasive tool?

Over the past 10 years, I have written about punctuation marks except for one: the exclamation point. Most legal writers have definite views about whether the exclamation point should be used in legal writing. One side argues that the exclamation point is (or should be) dead in professional writing. The other side reasons that an exclamation point serves a persuasive purpose, as long as the writer uses the mark sparingly. My view falls somewhere in the middle of the two sides.

First, an exclamation point is the standard punctuation point for an interjection and for the end of a sentence that conveys a demand or a strong emotion, such as surprise or danger. See the following examples: 

Wow! I was not expecting that ending.
Get out! The suspect is in the house.
I never saw that briefcase before in my life!

In fact, in some types of personal writing (emails, for example) the absence of an exclamation point makes me question the writer’s intent. Just recently I emailed a colleague asking her what she thought of my plan. Her response was “Great.” If I did not know her better, I might have interpreted her response as sarcastic and not enthusiastic. In short, an exclamation point is appropriate if the writer is conveying a strong emotion.

Second, an exclamation point is an attention-grabber. No other punctuation mark draws the reader into an emotion in quite the same way, which is why I suggest that you keep the exclamation point as part of your persuasive writing tools. Use an exclamation point strategically to draw the reader’s attention to a specific sentence and emotion.

If you use too many exclamation points, though, the mark’s persuasive effect is diluted. I suggest limiting the use to no more than one or two exclamation points per document. Generally, avoid relying on punctuation points to convey emotion; focus instead on conveying emotion through words. Also, never double-up on using an exclamation point (!!) or use an exclamation point with another punctuation mark in professional writing (?!). This second use is called an “interrobang,” and it is used to convey disbelief in a possibly disrespectful way. Most legal writers agree that these last two uses of the exclamation point should indeed be dead.

Attaining fulfillment in the legal profession: 
Three strategies for finding happiness

Money and status. These are the achievements for which lawyers are popularly known to aspire. And, indeed, many do aspire and achieve those things, but they’re not guaranteed to provide happiness. Far from it, according to new research from the George Washington Law Review that includes data from 6,200 lawyers.

In fact, the research shows that lawyers who are paid the least — those working in public-service jobs — enjoy the highest levels of health and well-being. Meanwhile, partner-track jobs and high income have nearly no correlation to happiness.

“Throughout the history of literature, we’ve been given many examples illustrating the folly of blind ambition,” says Arlene Krieger, a paralegal and literary humorist whose latest novel “Privileged Attorneys: Las Vegas Style” proves that lawyers can be funny. “But lawyers aren’t like most people; they’re sharks, at least that’s what so many jokes and quotes have told us. Any cutthroat lawyer wouldn’t want to tarnish this reputation, which is so valuable in this competitive industry. Like it or not, lawyers are like other people. If you want to be happy in the legal profession, you’ll need more than making partner.”

Want to be happy while working in the legal field? Here are some suggestions from Krieger.

Charity: High-powered, high-status attorneys are not as happy as public-service attorneys, whose work includes law reform organizations and legal services as well as government agencies at all levels. That includes educational and public international organizations, charities, private public interest law firms and private law firms performing pro bono work. “Those legal professionals do the work because they believe in their work,” she says. “It’s not about the money for them; their first form of currency is meaningful work. If you’re rich and unhappy as a lawyer, try some pro bono work or something along those lines. Or, charity work not related to law may be a nice break for you.”

Creative outlets: Legal professionals tend to be intelligent, multidimensional people. Given their commitment to their
Reflecting back on the bench

there are also many good people. Our job is to protect the public and get the good-but-fallen people back on a productive track. As a judge, outcomes will often be dictated by the law. When they are, apply the law. At other times, you will have some discretion. Exercise that discretion wisely, as peoples’ lives may depend on the outcome.

Q: What’s next for you? A: I have retired.

A: I sometimes wonder if I should have gone to law school.

Q: Is there someone who has inspired, motivated or mentored your career? A: When I was 4 years old she had the patience to teach a shy, withdrawn boy to read before starting first grade (we had no kindergarten).

I suspect I did it poorly the first day, but fortunately the learning curve is tremendous for a judge required to address a myriad of different issues each day, and within a few days I really came to enjoy the work and loved being a judge for the next 20 years.

Q: If you could have any experience over again, what would you have? A: Probably the most challenging part of being a judge is finding adequate time to deal with the relentless flow of cases that impact people’s lives in very real and important ways. You can’t afford to have a bad day, and unfortunate the learning curve is tremendous for a judge required to address a myriad of different issues each day, and within a few days I really came to enjoy the work and loved being a judge for the next 20 years.

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There’s no skating on thin ice when it comes to customer service

Part of innovation and customer service is being where there is a need. Hockey great Wayne Gretzky is credited with saying “A good hockey player plays where the puck is. A great hockey player plays where the puck is going to be.” In the relatively near future, court customers will be able to take advantage of clerk services at a Southwest Regional Center. Long-time practitioners and residents may find it hard to believe the clerk’s office currently operates in a dozen locations around the Valley. In the spirit of customer service, this article looks back at one regional location and one customer service tool that recently passed milestone anniversaries and how they are serving customers today.

The Northeast Regional Court Center, located near State Route 51 between Bell Road and Union Hills Drive, recently reached its 10-year anniversary. When the office opened, it was staffed with 34 clerk’s office employees. On its first day of operation, the office had 30 cash-receiving transactions totaling $2,530 at the filing counter. Ten years later, the Northeast location is staffed with 38 clerk’s office employees and had 470 one-day cash-receiving transactions totaling over $30,000. Clerk’s office services at this location include access to public records, issuing marriage licenses, processing passport applications, and filing counters for civil, family and probate court. Other adult-court filings can be processed through the external filing depository box onsite.

Fifteen years ago, filing depository boxes were a new and welcome innovation. The clerk’s office installed the first external filing box inside the former Madison Street parking garage, where the South Court Tower now stands. The filing boxes allow the public to file documents 24 hours a day, seven days a week. In its first few weeks, the first external filing box averaged 10 filings per day. Today there are four external filing boxes and two internal filing boxes for convenience and to handle overflow during the busiest times. This past fiscal year, the clerk’s office received more than 26,000 filings from the external boxes and more than 83,000 filings from the internal boxes, for a combined total of nearly 110,000 filings.

External filing boxes are currently located in downtown Phoenix at the 4th Avenue entrance to the County Administration Building, at the north entrance of the Southeast Court Complex in Mesa, at the main entrance to the Northeast Regional Court Center in Surprise, and at the main entrance to the Northeast Regional Court Center in Phoenix. Internal filing boxes are located in the main lobby of the Central Court Building in downtown Phoenix, in the probate counter lobby of the Old Courthouse in downtown Phoenix, and in the main lobby of the Northeast Regional Court Center. For more detail about locations and filing procedures for the depository boxes, see the clerk’s website at http://www.azcourt.maricopa.gov/alternatives/filing.asp.

Regional court locations and filing depository boxes have become part of our local court culture over the last 15 years. Their value and benefits have been proven over time and are expected to maintain the customer service and access that the public and practitioners appreciate. With a Southwest Regional Court being planned, and improved electronic filing and access always in development, the clerk’s office expects to keep reaching for where the customer service puck is going to be.

Q&A

**Different ways to get your ethical questions answered**

**By Russell Yurk**

This month’s column focuses on what options are available for lawyers and non-lawyers when analyzing ethics issues.

**QUESTION:** What tools are available to better understand the ethics rules?

**ANSWER:** Many straightforward questions regarding the ethics rules can be answered through the comments to the rules themselves. When the comments do not address a particular ethics issue, I typically recommend reviewing the ethics opinions issued by the State Bar of Arizona’s ethics committee. Ethics opinions can be found at http://www.azbar.org/ethics/ethicsopinions. Ethics opinions can be searched by year, by rule, or by phrase. For those who want a useful treatise on Arizona’s ethics rules, I highly recommend the Arizona Legal Ethics Handbook (available through the State Bar of Arizona). For a good discussion of the model rules, I recommend the ABA Annotated Model Rules of Professional Conduct.

**Q:** What if my question is not answered by the rule comments or ethics opinions?

**A:** For more complicated ethics issues or situations that may have significant implications, I strongly recommend consulting with a lawyer who practices in the field of legal ethics. Lawyers with experience in this particular area will be familiar not only with the ethics rules and ethics opinions, but also disciplinary rulings and how various rules are interpreted in Arizona.

**Q:** I’ve heard about the State Bar of Arizona’s ethics hotline. What is that and how does it work?

**A:** The State Bar of Arizona’s ethics hotline (602-340-7284) provides a resource for State Bar members to consult with a State Bar ethics counsel or members of the State Bar ethics committee. Ethics advice provided through the hotline is non-binding and is intended only to be informational. However, reliance on advice received through the hotline may be considered as mitigation in disciplinary proceedings.

**Q:** Are these resources available for corporate clients to discuss their ethical issues?

**A:** In-house counsel certainly can consult with outside ethics counsel or call the State Bar ethics hotline to discuss lawyer ethics issues. Clients who need to consult on non-lawyer ethics issues have options available as well. One option that has been recommended to me is the Williams Institute for Ethics and Management, a nonprofit organization that offers a myriad of services, including employee training that focuses on personal responsibility and ethical decision-making.

If you have any questions on the issues discussed in this column or if you have topics that you’d like me to address in future columns, please email me at rry@jbe-law.com.

Russell Yurk is a partner with Jennings, Hang & Cunningham, L.L.P., in Phoenix. His practice focuses on professional liability, lawyer discipline and complex civil litigation.

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**Race Judicata**

**Judge Jennifer Green and Comr. Brian Rees chat and get ready for the race.**

MCBA Paralegal Division Team members Tina Ziegler, Melinda Manchester and Kate Holland.

We even had a four-legged racer join the fun. MCBA YLD President-Elect Krystal Ahart and her dog Tyson gear up for the race.

**Over age 70 category winner Stan Neuman.**

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**Q&A**

**Lawyer Liability and Ethics**

**By Russell Yurk**

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The firm has changed its name from Berk & Moskowitz, P.C. in light of the departure of Frank W. Moskowitz to become a Maricopa County Superior Court Judge.

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Maricopa Lawyer
ARCHIVAL PROJECT

Calling all loyal readers and history buffs!

The Maricopa Lawyer is trying to assemble a complete archive of all MCBA monthly newsletters published since 1956 (or earlier if they exist) and all editions of the Maricopa Lawyer published since October 1982.

If you have historic copies of either and are willing to share your collection with us, contact Stan Watts at watts@dwlaw.net or 602-279-7488. Thank you!
Candidate biographies for 2016-17 MCBA board of directors election

Lynne Adams
I have practiced law in Phoenix for more than 25 years, both in private practice and with the Arizona Attorney General’s Office. During that time, the Maricopa County Bar Association has provided me with the opportunity and tools to improve my legal skills, meet and connect with other lawyers, and serve the public. In addition to serving on the MCBA Board for the past year, I currently serve as the co-chairperson of the Volunteer Lawyers Program advisory committee, and my work with that committee has given me a deeper understanding of the important role that the MCBA plays in helping the public. As the MCBA leader in helping the volunteer lawyers provide legal services to clients, if elected to the MCBA Board, I will work to ensure the continued viability and effectiveness of the MCBA’s core functions. I believe that my experience working both for private law firms, large and mid-sized, and for the government gives me a unique perspective on the needs of all of the MCBA’s members, and I am committed to continue to ensure that its services and programs are relevant to every member and potential member, as well as to the general public.

Gail Barsky
I am a graduate of Temple University School of Law, with an L.L.M. in Trial Advocacy. For twenty-five years, I have always been proud to say I was a member of our legal profession. I began my legal career with the Federal Government in Philadelphia, then went to work for an insurance defense firm and later assumed the Managing Trial Attorney position for Nationwide Insurance Company for 14 years, ending with my own private practice.

In Arizona, my legal career began with Ryley, Carlock, & Appelwhite in Phoenix, then Resnick & Louis in Scottsdale (for over three years doing insurance defense work and construction defect litigation) and now I am one of the Managing Attorneys for Goldberg & Osborne, serving the Phoenix and suburban areas.

Community involvement and volunteerism has been a way of life for me since I was a teenager, including serving in leadership positions, which has been extremely rewarding. Recently, I have served on the Board of Directors for Scottsdale Bar Association starting in April 2013, and The Phoenix Philanthropists since October 2012. I volunteer often for Free Arts of Arizona, Community Senior Centers, U.S. VETS, Andre House of Hospitality, Duet and Pimai Center.

Michael Kielsky
Michael Kielsky is a partner in the Tempe law office of Kielsky Rike, PLLC. He is admitted in Arizona and California, and to Arizona’s U.S. District Court. Kielsky’s general practice areas include criminal defense and traffic ticket defense. He has served on the MCBA Board since 2012, was President of the East Valley Bar Association from 2011-12 and is currently its Vice President. His committee memberships include the State Bar’s Technology Committee since 2012, and the MCBA’s Lawyer Referral Service Committee since 2012. Kielsky has presented CLEs on a wide variety of topics, and is a State Bar of Arizona certified CLE provider. Kielsky is a founding board member of “Generation After, Descendants of Holocaust Survivors in Greater Phoenix.” Also active in politics, Kielsky was the Libertarian candidate for Maricopa County Attorney in 2008, 2010 and 2012, receiving nearly 26 percent and 28 percent of the votes in the last two races, respectively.

Jack Levine
I have been an active member of the MCBA since 1964. I am a graduate of the N.Y.U. School of Law. After graduation, I served as a Special Agent with the FBI.

I am a past member of the Editorial Board of the Maricopa Lawyer, a participant in the MCBA’s Lawyer Referral Service and a past member of the Association’s Family Law Committee. I served as President of the Arizona Trial Lawyers Association in 1983 and as a member of the State Bar Board of Governors from 2011-2013.

Although I am somewhat older than the average candidate for the MCBA Board of Directors, I have not lost my zeal and energy for supporting our Association’s efforts in building its membership and prominence in the local community. While with the State Bar Board of Governors, I advocated converting the State Bar from a mandatory Bar to a voluntary one, which would permit many more lawyers to afford membership in the MCBA. This could result in the membership of our Association doubling or tripling to become the largest and most prestigious Bar Association in the state. I hope you will support me.

Brian Winter
Winter received his B.A. in Government & Politics in 1990 from St. John’s University and received his J.D. from St. John’s University School of Law in 1993. He has extensive practice in Family Law, Divorce Mediation and Collaborative Law, Probate Law and Estate Planning.

Winter is admitted to practice law in Arizona, Connecticut, New York, Florida and the United States District Court, District of Connecticut.

In 2015, Winter received Avvo Clients’ Choice Award for Divorce, a recognition that is based off of positive reviews on Avvo.com. Winter is Lead Counsel Rated in Family Law, a distinction that recognizes his profound legal experience, reputation and ethics.

A native of Connecticut, Winter was actively involved in the local community and was a member of the Board of Directors of Habitat for Humanity of Coastal Fairfield County, Inc. from 2006 to 2012. Winter was formerly the chair of the Site Selection Committee and served as the organization’s legal counsel. In 2008, Winter was awarded the Second Mile Award for his strong dedication and outstanding leadership for the organization.

Winter is a member of the Scottsdale Bar and Maricopa County Bar Associations.
Library Resource Center receives grant

Maricopa County Superior Court’s Law Library Resource Center was awarded an AmeriCorps grant to help deliver a higher level of customer service to self-represented litigants. The grant will fund the Providing Access to Court Services (PACS) program. A major component of the program will be to train Arizona college students, as AmeriCorps members, to assist individuals navigating the judicial process. The students will provide much needed legal information and personal assistance to individuals with such matters as orders of protection and injunctions against harassment. The members will also address custody and child support issues, and provide help to litigants seeking assistance for Arizona’s vulnerable adult population in probate court.

“The Law Library Resource Center will give our customers — the vast majority of which are here for family court matters — quality access to justice and the protections of the law,” said Presiding Judge Janet Barton. “We anticipate the extra resources and attention will familiarize them and increase their knowledge of the court process. The AmeriCorps grant is a key component in our overall plan to create a premier Law Library Resource Center for the citizens of Maricopa County.”

Through the PACS program, the court will also provide seminars from local experts, staff and college students for those looking for assistance on various issues such as domestic violence, adoption, sex trafficking and behavioral health services for families in crisis. Starting in January, the court plans to have 38 AmeriCorps members working in the Law Library Resource Center to serve self-represented litigants.

Commissioners swearing-in ceremony highlights

Commissioners Margaret LaBianca and Sigmund Popko were recently sworn-in at the Board of Supervisors Auditorium in Phoenix. The ceremony included the oath of office, the robing of the new commissioners, the presentation of the gavels and remarks by Presiding Judge Janet Barton, Presiding Probate Judge Andrew Klein and Presiding Criminal Court Judge Samuel Myers.

CLE Review

Leveling the playing field: Receivership and special commissioner appointments

By Jason A. Houston

This was a very informative CLE presented by Beth Jo Zeitzer, who has worked more than two decades in high-end real estate, including 12 years as a specialized real estate attorney. Her company, ROI Properties, specializes in maximizing the return on commercial and residential real estate assets through commercial brokerage, residential brokerage, property management and consulting services, particularly when these come under court jurisdiction.

A real estate special commissioner is utilized most often in family court matters, but also in partition, probate and contested estate cases. Through a careful review of operational obligations and understanding of the operational aspects of the property, the real estate special commissioner is able to accept, reject or renegotiate contracts so that equity is preserved and risk minimized. The special commissioner is a licensed real estate agent or broker who is appointed by the court. Compensation is on a success-fee basis, at market rates, including financials, must be filed with the court on or before the 15th of each month, outlining steps for maintaining the business operations at maximum efficiency.

An assignment begins with a thorough presentation of the gavels and remarks by Presiding Judge Samuel Myers.

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The approximately 75 lawyers in the Phoenix office handle the full range of commercial litigation (including patent and other intellectual property disputes, business torts, contracts, antitrust, product liability, corporate governance, securities and professional liability), as well as bankruptcy and white collar criminal defense matters. The extensive corporate practice encompasses business transactions and counseling, intellectual property transactions, corporate governance, real estate, mergers and acquisitions, and corporate finance matters. We also have substantial experience in media law, constitutional law, election law, Native American law, and labor and employment matters.

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The State Bar of Arizona does not approve or accredit CLE activities for the Mandatory Continuing Legal Education requirement. The activities offered by the MCBA may qualify for the indicated number of hours toward your annual CLE requirement for the State Bar of Arizona, including the indicated hours of professional responsibility (ethics), if applicable.

NOV. 6 = NOON - 1 P.M. (Lunch provided)
Deposition Oddities – Handling the Unexpected
1 CLE. credit hour available (qualifies as ethics credit)
Learn from an experienced civil litigator about how to deal with situations (practically and professionally) such as:
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• Dependent who does not show up
• Opposing counsel seeks to inject objections beyond “form” or “foundation”
• Opposing counsel attempts to depose an employee of the party and the testimony may be adverse to the party
• Counsel for the deponent has not filed a notice of appearance and is not admitted in Arizona
• When is it really time to call the judge?

PRESENTERS: Richard Cobb, Esq.; Lake & Cobb, PLC

COST: MCBA members: $45
• MCBA members: $25

NOV. 13 = 1 P.M. TO 4:30 P.M. (Lunch provided)
The ABC’s of the DOC
SPONSORED BY: Public Lawyers Division
3.5 CLE. credit hour available
Please join the Public Lawyers Division and leaders from the Department of Corrections (DOC) for a seminar addressing questions you, a family member or friend may have regarding what happens once someone is convicted and sentenced to serve time in the DOC in Arizona. The seminar will address:
• What factors does DOC consider in making inmate classification and placement decisions?
• How does the DOC calculate inmate release dates?
• What vocational, educational and treatment programs are available to inmates?

PRESENTERS: Herb Haleby, Time; Economy; Probation and Parole

COST: MCBA members: $137.50
• MCBA student members: $25

NOV. 18 = 11:30 A.M. TO 1 P.M. (Lunch provided)
Like-Kinda Exchanges: Essentials & Developments
1.5 CLE. credit hour available
Individuals, partnerships, trusts, LLCs and corporations may be eligible for deferring gain-recognition on the sale of certain business or investment assets through the employment of a like-kind exchange pursuant to IRC Section 1031. Seminar topics will include:
• Introductory refresher about the essential requirements for successfully completing a like-kind exchange
• Reverse exchanges and “build-to-suit” exchanges
• Identification Issues
• Assets which can and cannot be exchanged and
• Recent developments
This program is intended to provide attendees with both a technical understanding of applicable rules and practical guidance to satisfy such rules.

PRESENTERS: Bill Kastin, Esq., Partner, Snell & Wilmer, LLP; Karin A. Church, Esq., President, National Exchange Titleholder 1031 Co. (NEXT1031)

COST: MCBA members: $77.50
• MCBA members: $25

DEC. 10 = NOON TO 1 P.M. (Lunch provided)
Changes to the Ethical Rules are Coming Jan. 2016
1 CLE. ethics credit hour available
Lynda Shely will discuss several of the Arizona Rules of Professional Conduct that will change January 1st, including:
• New options and requirements when fee sharing
• New requirements for screening lateral lawyers
• New provisions about what out-of-state lawyers may do in Arizona (temporarily or permanently)
• In-House Counsel Rule changes

PRESENTER: Lynda Shely, The Shely Firm, PC

COST: MCBA members: $55

DEC. 11 = 1 NOON: 1:30 P.M. (Lunch provided)
Help Me Help You: Advice and Tips from Family Law Judicial Assistants
SPONSORED BY: Family Law Section
1.3 CLE. credit hours available
This CLE will provide lawyers and their staff insight into the things we do that tend to drive judges and their court staff crazy! This CLE is geared to help create a better understanding of how to interact with judges and their court staff in order to streamline the litigation process and to create a more pleasant relationship between the bar and the bench.

PRESENTERS: Diane Hilty, Judge Polk’s Judicial Assistant; Shelby Dornast, Judge Green’s Judicial Assistant; and Eileen Clevenger, Judge Ryan-Toshull’s Judicial Assistant

COST: MCBA members: $77.50
• MCBA Paralegal & Public Lawyer Division members: $40

DEC. 15 = 1:30 P.M. TO 4:30 P.M.
Appellate Update
2.75 CLE. credit hours available, including 1 hour of ethics
This program will discuss recent cases of interest, rule changes (including those effective January 1, 2016) and ethics issues as well as tips on briefing and arguing special actions and appeals.

PRESENTERED BY: Arizona Court of Appeals, Division One; Chief Judge Michael J. Brown, Vice Chief Judge Samuel A. Thurman and Judge Andrew W. Gould and Diane M. Johnsen

COST: MCBA members: $112.50
• MCBA Paralegal & Public Lawyer Division members: $40
• MCBA student members: $25

Most CLEs are available for simultaneous webcast through West LegalEd or later viewing through the MCBA CLE Self-Study Page.
**NEW HIREs**

Riley Carlock & Appelhenn is pleased to announce that Thomas R. Nolasco has joined the firm's Phoenix office. Nolasco has substantial litigation experience assisting clients in a variety of disputes including professional liability, products liability, real estate, intellectual property, restrictive covenants, lender liability, franchise and bankruptcy.

Nolasco is also active in the business and philanthropic community. He serves as chair of the International Law Section of the Arizona State Bar, as vice president of the Arizona Association of Gifted and Talented, on the board of directors for Friends of Phoenix Public Library, and on the Arizona Business and Education Coalition.

Nolasco earned his law degree from Marquette Law School in 2010, his J.D. from the Sandra Day O'Connor College of Law at Arizona State University in 2000, and his B.A. from De-Pauw University in 1995. In addition, he attended the London School of Economics and Political Science.

Quares & Brady, LLP, announced that Thomas R. Nolasco has joined the firm's Phoenix office as a partner in its Tax Law Practice Group. Gabel focuses her practice on sales and use tax advice and litigation, property tax advice and litigation, and multisite income tax advice and litigation. She represents clients across a broad range of industries, including energy, construction, retail, manufacturing, low-income housing, remote vending, and development of golf courses and resorts.

She received her law degree from the University of Arizona College of Law and her bachelor's degree from Arizona State University.

Riley Carlock & Appelhenn is pleased to announce that Thomas R. Nolasco has joined the firm’s Phoenix office.

**PROMOTIONS**

The national law firm of Quarles & Brady, LLP, announced new partners in the firm’s Phoenix office. They are:

- **Rowan P. Smith**, who practices in the firm's Intellectual Property Practice Group with a focus on patent prosecution and counseling. He represents clients in many technology areas with a focus on those involving computer science and electrical engineering.
- **Catherine T. Yu**, who practices in the firm’s Business Law Practice Group. Her practice includes employment litigation defense and advising employers on all aspects of the employer-employee relationship with a focus on providing clients with business-oriented solutions to identify and mitigate risk.

**HONORS & AWARDS**

The national law firm of Quarles & Brady, LLP, announced that Phoenix partners Brad Vynalek and Leonardo Loo have been named among the “Most Admired Lawyers in Arizona” by the Phoenix Business Journal. Vynalek and Loo were recognized with their fellow honorees during the Phoenix Business Journal’s 11th Annual Most Admired Leaders dinner, which took place on Sept. 24 at the Omni Montelucia in Paradise Valley. Vynalek is a member of the firm’s Litigation & Dispute Resolution Practice Group and was recently elected to the firm’s national executive committee. He focuses on clients in the financial, technology, university, commercialization and health industries. Vynalek’s leadership roles outside the firm have included serving as chair of Make-A-Wish Arizona, president of the University of Arizona College of Law Alumni Association, Greater Phoenix Economic Council Board of Directors and co-chair of the ABA Section of Litigation Annunal Conference.

Vynalek earned his law degree from the University of Arizona James E. Rogers College of Law, his bachelor’s degree from Stanford University and he also has studied abroad in Prague through Georgetown University.

Leonardo Loo, who was also recently honored as among the Top Minority Leaders in Arizona by Az Business Magazine, is the Practice Chair of the firm’s Intellectual Property Practice Group. He practices in the areas of mergers and acquisitions, commercial financing, intellectual transactions, technology and trademarks, copyright, unfair competition and counseling. He represents clients in many technology areas with a focus on those involving computer science and electrical engineering. He began his career at Chicanos Por La Causa and serves on the boards of directors for the Arizona Hispanic Chamber of Commerce and the Arizona Hispanic Chamber of Commerce. Earlier this year, he was honored with the 2015 Chairperson’s Award by the Black Chamber of Arizona for his positive economic impact across the state through his service to both the Black Chamber, where he serves as its general counsel, and the community at large. He also serves as general counsel for the Arizona Hispanic Chamber of Commerce.

Loo earned his law degree from the University of Chicago Law School and his bachelor’s degree from Stanford University.

**PROMOTIONS**

- **Rowan P. Smith**
- **Catherine T. Yu**
- **Leonardo Loo**
- **Brad Vynalek**
- **Marian N. Zapata-Rosa**
VLP ATTORNEY OF THE MONTH

Family law attorney honored for service to FLAP

As a way of supporting himself during his undergraduate and law school years, attorney Gilbert Weiner perfected what is becoming a lost art — that of fitting and selling ladies shoes. Though he may have had no awareness of it at the time, or ever since, that experience probably developed in him a talent for the fine art he now practices as a volunteer lawyer — that of educating, advising and reassuring pro per litigants in the family law court. For his outstanding pro bono work at the Family Lawyers Assistance Project (FLAP), the Volunteer Lawyers Program (VLP) has recognized Weiner as the “Attorney of the Month.”

“When you couple the emotional aspects of a family law case with a lack of financial resources and an inability to hire private counsel, being an unrepresented litigant can be traumatic. FLAP is a source for free or low-cost basic legal advice. And, especially in cases of divorce, it seems a unique place where an experienced attorney can assure those who are unrepresented that they, like thousands of others, will survive,” Weiner says of his work at FLAP.

“FLAP is a terrific service to litigants in the midst of complex court proceedings, or someone needing to interpret or modify court orders. Weiner is well qualified to provide such a broad range of legal advice, as he has been a sole practitioner specializing in both family law and commercial litigation since 1995.

In his current practice, Weiner specializes in family law and commercial litigation, but he has had a diverse education and other varied interests throughout his life. Born in Washington, D.C., and raised in suburban Maryland, Weiner attended the University of Maryland in College Park. He completed an undergraduate degree in economics, with minor studies in math and physics.

“Although I eventually obtained my J.D. at the University of Maryland in Baltimore, I started college in the school of engineering,” he says. “After law school, I practiced for a number of years as in-house counsel in the corporate world of finance, before establishing my solo practice. In fact, it was a position at the former Valley National Bank that drew me from Maryland to Arizona.”

Just as his educational background and professional life reflect diverse experiences, so do the educations and personal lives of Weiner’s family members. “My wife of nearly 38 years is a software consultant to government and nonprofit agencies,” he says. “For pleasure, she joins me in road cycling. We recently completed a 60-mile ride in ‘Pedal the Petrified Forest.’ The ride was a fundraising event to benefit Northland Pioneer Community College, which serves Navajo and Apache counties.” Being a proud father, he added, “My daughter is a forensic chemist in an Arizona crime lab and my son is a CPA who also provides software consulting in the food-services industry.”

The gratification Weiner feels in doing pro bono work is evident when he speaks of his motivation, “If I can assist a litigant in identifying the issues in his or her case, provide them an outline of what to expect and, perhaps, develop a game plan, I’ve done my job. For experienced family law attorneys, I believe volunteer work at FLAP is a wonderful way to give back and make a difference in the community. Plus, people typically express great appreciation for what volunteers do to help them. It’s humbling. No matter how busy I am, I can always find time to block out a half day on the calendar for FLAP.”

Gilbert Weiner

**PRO BONO SPOTLIGHT ON CURRENT NEED**
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