**The past is prologue: 100 years of MCBA history**

**By Stan Watts**

As the MCBA centennial year winds down and we step into our next century of service, we offer a final tip of our lawyerly cap, with a glance back at our first 100 years together. We have grown from a small core of exceptional lawyers and judges into an organization renowned for providing principled leadership and service, welcoming and promoting diversity among the bar, and encouraging development of lasting positive relationships within the legal community.

**Origins**

The founders of the MCBA met on a cloudy evening, the first of June in 1914. The lawyers of Phoenix and neighboring communities gathered in Judge John Phillips’ courtroom to formally launch their new organization. Members present elected a slate of distinguished officers, including president George Stoneham, a former city clerk of Seattle, a district attorney for Gila County and president of the Arizona Bar Association; vice president Rowell Stanford, a future Superior Court judge, Arizona Governor and justice of the Arizona Supreme Court; secretary Earl Curtis, chief deputy clerk of the U.S. District Court for the District of Arizona; and treasurer Judge Alexander Baker, member of the territorial and state supreme courts and former chairman of the Arizona Constitutional Convention.

In just a few years, the new association would be disrupted by the demands of mobilization for the Great War and the devastation of a worldwide influenza pandemic. After 1918, MCBA members did not meet again until early 1921. That year, under the leadership of new president, Hon. E. W. Lewis, a former justice of the territorial supreme court, the MCBA was reconstituted with 35 members.

The association was eventually incorporated in 1947. The MCBA Auxiliary, composed primarily of women, was formed in 1947. The MCBA Auxiliary, composed primarily of women, was formed in 1947. The MCBA Auxiliary, composed primarily of women, was formed in 1947. The MCBA Auxiliary, composed primarily of women, was formed in 1947.

**2014 MCBA Holiday Party**

*Past President Kevin Quigley, President Lt. Ryan, Immediate Past President Bill Kastin, Past Presidents Jennifer Cranston and David Funkhouser III, and board member Michael Kielisky. See page 6 for more photos.*

**CourtWatch**

**Daniel P. Schaack**

**Court of Appeals strikes down trial judge's denial of a Franks hearing**

Zealous law-enforcement efforts to quell illegal employment of illegal aliens might have become too zealous, according to the Arizona Court of Appeals. It held that a superior court judge should have held a hearing in response to a business owner’s allegations that sheriff’s deputies presented tainted information in obtaining search warrants against him. *Frimmel v. Sanders*, No. 1 CA-SA 14-0166 (Ariz. App. Nov. 25, 2014).

Bret Frimmel owns Uncle Sam’s, a restaurant chain with several Arizona locations. Informants told the Maricopa County Sheriff’s Office that the restaurants had hired undocumented workers. After a year-long investigation, the MCSO obtained search warrants for Frimmel’s house and the Uncle Sam’s restaurants in Phoenix and Peoria. As the warrants were executed, 10 employees were arrested; four of them were convicted of identity theft. Half a year later, Frimmel was arrested and charged with several counts of knowingly hiring and employing persons having false identification. The MCSO also obtained warrants to search Frimmel’s cell phone.

Frimmel challenged the evidence gathered via the warrants. Asserting that probable cause was lacking, he sought a Franks hearing — after *Franks v. Delaware*, 438 U.S. 154 (1978) — to cross-examine the affiants behind the warrants. Although Frimmel presented a laundry list of problems, the trial judge denied the Franks hearing.

So Frimmel sought special-action relief from the court of appeals. In response, the MCSO did not dispute the facts as Frimmel had stated them. It argued only that the court should not take the case. The court took the case anyway, because, in the words of Judge Kenton D. Jones, “the latitude afforded to law enforcement when providing information, under oath, to support a magistrate’s issuance of a search warrant is a matter of statewide importance.”

Jones noted that Franks hearings are vital for ensuring that suspects’ Fourth Amendment rights are protected because of the way the government obtains search warrants. “Given the potential for abuse of the ex parte procedure by which warrants are issued, the defendant may challenge a search warrant based upon false or incomplete information,” he wrote.

A hearing is called for if the defendant shows that the affiant knowingly, intentionally or recklessly provided false information or omitted material information. Jones concluded that Frimmel had made a sufficient preliminary showing on both accounts and should have had a hearing. He cataloged a long list of problems.

Many of the problems concerned the informants. The MCSO had relied on for information about Frimmel. The affiants had not revealed facts showing both that the informants had limited and stale knowledge and that there were significant questions about their credibility.

The informants were a husband and wife who had previously worked for Uncle Sam’s.
Raise the bar

Thank you. You are reading this article because you’re a member of the best voluntary bar association in Arizona. (If you’re not a member, put the Maricopa Lawyer down and go become one.) You are what make this organization special. Membership keeps this organization unique, powerful and relevant. Whether you’re a new member or a 40-year stalwart, you value what we do and it is our job, as the board of directors, to make sure that we continue to make this bar special.

This year, let’s raise the bar. We celebrated 100 years of active service in 2014, and I expect that our successors will celebrate 125 years, 150 years and 200 years as well. To do so, however, we cannot, and must not, rest on our laurels. The bar depends on the active involvement of its members. Whether by presenting or attending a CLE, involving yourself in your practice’s section leadership, participating with the Lawyer Referral Service, attending the Barristers Ball or running in the annual Race Judicata, your active involvement is important.

Ideas are the key. The bar certainly enjoys a rich history of the creation and implementation of events, resources and benefits that increase the value of membership in the bar. But times change, and we need to address those changing circumstances. We, as your board of directors, encourage you to feel comfortable to approach any of us to discuss new ideas, new concepts and value-added services that you feel the bar should provide. Give us a call or send us an email. Some of the greatest ideas originated outside of the board of directors.

Involvement is crucial. Business leaders often discuss where they need to deploy “capital” to improve their businesses. The bar’s business requires the deployment of human capital. The MCBA has an incredible staff that works tirelessly to bring you the services and benefits that you’ve come to enjoy. However, they don’t work alone.

Members generously donate their time and mental resources to constantly improve services. So many have told me that by volunteering, they have gained much more than they ever exchanged in terms of billable time. MCBA volunteers benefit from much-needed personal contacts and relationships that they would not have found elsewhere. Our numerous and diverse sections and divisions are fertile ground for personal and practice development. Particularly for younger lawyers, the YLD provides a ready opportunity to “plug in” and get involved in the bar community right away. Many of our board of directors have ties to the YLD.

Never forget our heritage. Maricopa County has produced some incredible legal minds and talent. Therefore, the bar maintains the Hall of Fame, which highlights and celebrates the success of both pioneering lawyers and current practitioners who have set themselves apart from the rest in terms of their careers, public service and accomplishments. Their names and images are hung in celebration on the sixth floor of the Old Courthouse, within the confines of the Maricopa County Justice Museum and Learning Center — itself a direct product of determined bar volunteers.

Honor the staff. Many of you will never witness the hard work that each of the dedicated MCBA staff members provides. Please take my word that they deserve your appreciation. Do not forget to thank them for what they do, for without them, the bar would not survive.

Share the wealth. You made a conscious decision to join the MCBA for the value it provides to you. Share it with others. If members of your firm are not members, explain to them why they should be. Let them witness the hard work that each of the dedicated MCBA staff members provides.

Correction: In the December 2014 issue, there was a Thank You list of Paralegal Conference sponsors. A firm was identified as Ryan Woodrow Rapp, PLLC but it should have been Ryan Rapp and Underwood, PLLC.

Get to know T.J. Ryan

Q: What was your first job and what did you like about it?
A: My paternal grandparents were farmers in rural Iowa and, in high school, I spent summers with them. When I was old enough, I took a job “de-tasseling” corn. My job (along with a team of about 10 other kids) was to remove the tassel (the pollen producing part) from the corn so only certain rows would pollinate the field. It required a lot of walking and picking and, if you were mindless, but for a 14-year-old kid, the money was great. The money aside, when you’re a “big city” kid from Phoenix, dropped into rural Iowa with a group of locals, you’re the 11th finger. Those summers taught me how to break down barriers by finding common ground with people, who may be incredibly different from you, whether racially, socially or educationally. I came away with some great memories, most of which are not appropriate for the sensitive readers of this publication.

Q: What made you decide to pursue a career in law?
A: At age 9, I told my soul to the devil for a Nintendo. Now I’m a probate and trust lawyer. I’d say it was a fair trade. Alternatively, my father and I would spiritually argue at the dinner table about anything that was even remotely interesting. “You’ll make a wonderful lawyer,” he would say. As a result, I never questioned that I would go to law school; it was part of my career path from a very young age. That is, after I realized that it is very hard to live comfortably on a marine biologist’s salary. (That part is true; the devil part, not so much.)

Q: What are some of your interests and hobbies?
A: I have a tendency to accumulate hobbies. Mainly, I run (half marathons and shorter so far; marathons require a certain element of “crazy”), play golf, and ride my road and mountain bikes. But I also enjoy fishing, bird hunting, archery, and shooting trap and skeet. Lately, too, I’ve developed a palate for wine, a rather expensive hobby for which I squarely blame my father. I used to be content with an Nintendo. Now I’m a probate and trust lawyer. I’d say it was a fair trade. Alternatively, my father and I would spiritually argue at the dinner table about anything that was even remotely interesting. “You’ll make a wonderful lawyer,” he would say. As a result, I never questioned that I would go to law school; it was part of my career path from a very young age. That is, after I realized that it is very hard to live comfortably on a marine biologist’s salary. (That part is true; the devil part, not so much.)

Q: What made you decide to pursue a career in law?
A: At age 9, I told my soul to the devil for a Nintendo. Now I’m a probate and trust lawyer. I’d say it was a fair trade. Alternatively, my father and I would spiritually argue at the dinner table about anything that was even remotely interesting. “You’ll make a wonderful lawyer,” he would say. As a result, I never questioned that I would go to law school; it was part of my career path from a very young age. That is, after I realized that it is very hard to live comfortably on a marine biologist’s salary. (That part is true; the devil part, not so much.)

Q: What are some of your interests and hobbies?
A: I have a tendency to accumulate hobbies. Mainly, I run (half marathons and shorter so far; marathons require a certain element of “crazy”), play golf, and ride my road and mountain bikes. But I also enjoy fishing, bird hunting, archery, and shooting trap and skeet. Lately, too, I’ve developed a palate for wine, a rather expensive hobby for which I squarely blame my father. I used to be content with an Nintendo. Now I’m a probate and trust lawyer. I’d say it was a fair trade. Alternatively, my father and I would spiritually argue at the dinner table about anything that was even remotely interesting. “You’ll make a wonderful lawyer,” he would say. As a result, I never questioned that I would go to law school; it was part of my career path from a very young age. That is, after I realized that it is very hard to live comfortably on a marine biologist’s salary. (That part is true; the devil part, not so much.)
This year’s Barristers Ball will be bigger and better than ever

By Brent Kleinman

The 2015 Barristers Ball will be here before you know it, so break out your finest formal wear and get ready to have a night you’ll never forget. This year’s gala will be on Feb. 28 at the Camelback Inn. The Young Lawyers Division hosts the ball each year as an opportunity to raise money for a worthwhile charity while at the same time getting the chance to enjoy a great event that includes dinner, dancing, casino-style gambling and a silent auction with many one-of-a-kind items.

Have you ever thought you might want to take a private plane ride to Sedona, take a few laps around the track at the Bondurant School of High Performance Driving, own a fully stocked wine refrigerator or possibly own a new piece of exquisite jewelry? These are just a small sampling of the silent auction items that will be available at the Barristers Ball.

This fantastic evening will begin at 6 p.m. with a cocktail hour overlooking Camelback Mountain. Choose from one of the signature martinis or a glass of wine while you mingle with some of the 400 other guests. After dinner, the Barristers Ball will feature music by the T.H.E. Band and a dinner dance with a live DJ.

For many reasons, the writing course is my most challenging subject. It forces me to think about what I intend to communicate. To force myself to think about what I intend to communicate, I took a writing course. The writing course is my most challenging subject. It forces me to think about what I intend to communicate.

A lawyer friend recently asked me how to get out of his writing rut. He understood and followed the standard advice to write a sentence looking forward (subject-verb-object), but he found that he ended up starting each sentence with the same word, usually the or a/an. He also noted that his writing sounded choppy. Fortunately, the fix to this writing rut is fairly simple: Vary the beginning of each sentence in order to vary sentence length and rhythm.

“The Little Red Writing Book” provides a wonderful exercise in which the author takes a sentence and starts it nine different ways in order to focus on different parts of the information in the sentence, all while keeping the sentence moving forward. I took on the challenge and created my own set of examples below:

**Start with a subject**

The writing course is my most challenging subject because it forces me to think about what I intend to communicate.

**Start with a transitional phrase**

For many reasons, the writing course is my most challenging subject. It forces me to think about what I intend to communicate.

**Start with a clause**

Because I have to focus on what I intend to communicate, the writing course is my most challenging subject.

**Start with a verb**

Challenge yourself with a writing course because it forces you to think about what you intend to communicate.

**Start with an adjective**

Challenging and helpful, the writing course forces me to think about what I intend to communicate.

**Start with an infinitive**

To force myself to think about what I intend to communicate, I took a writing course.

**Start with correlative conjunctions**

Not only is the writing course my most challenging subject, but it also forces me to think about what I intend to communicate.

MCBF presents check to VLP

The BMO Private Bank Pro Bono Golf Classic is presented each year by the Maricopa County Bar Foundation to raise funds for the Volunteer Lawyers Program (VLP). The foundation presented VLP with a check for $17,559 — the proceeds from this year’s tournament. Pictured are MCBF board members Donna Gandre (BMO Private Bank) and Joel Hoffmann (Warner Angle - Golf Committee Chair), Patricia Gerich (Executive Director of the Volunteer Lawyers Program), MCBF President Frank Moskowitz (Berk & Moskowitz) and board member Tim Huff (Case Huff & Associates).

Break free from monotonous sentences

**Start with a transitional phrase**

(a group of words without a verb, generally)

For many reasons, the writing course is my most challenging subject. It forces me to think about what I intend to communicate.

**Start with a clause**

Because I have to focus on what I intend to communicate, the writing course is my most challenging subject.

**Start with a verb**

Challenge yourself with a writing course because it forces you to think about what you intend to communicate.

**Start with an adjective**

Challenging and helpful, the writing course forces me to think about what I intend to communicate.

**Start with an infinitive**

To force myself to think about what I intend to communicate, I took a writing course.

**Start with correlative conjunctions**

Not only is the writing course my most challenging subject, but it also forces me to think about what I intend to communicate.
This month's article covers notable changes and requirements for eFiling. These changes are based on technology, practice, and the Arizona Supreme Court's issuance of Administrative Order 2014-99. The filing and processing of electronic filings in Maricopa County are governed by the E-Filing Guidelines. The E-Filing Guidelines apply to documents electronically filed through both the clerk's eFiling online website (criminal and family court cases) and through AZTurboCourt (civil and TX-type tax cases). The guidelines are updated online as needed and by agreement between the clerk of the superior court and the presiding judge in Maricopa County. The guidelines have now been updated to reflect the latest changes and requirements.

**Exhibits**

The Administrative Office of the Courts and the clerk's office notified practitioners in October that some filers seemed unaware that exhibits attached to proposed orders do not get entered into the official record. Exhibits for the court's consideration in issuing an order must be submitted with a Motion, Notice or Stipulation to be included in the official case file. Exhibits do not get filed-in when they are only lodged with a proposed order.

**Document format**

E-filed documents can be uploaded in one of three formats: PDF, .doc or .docx. Proposed orders must be uploaded using word processing software that produces a .doc or .docx format. The format of a document is always indicated by the file extension appearing at the end of the document filename. For example: Defendant Smith Response.docx.

**Document size**

Documents must have a file size of ten megabytes (10MB) or smaller. Color graphics and some scanner settings result in larger document sizes. A scanner setting of 200 or 300 dots per inch (DPI) is sufficient for most documents. Newer versions of Adobe Acrobat's PDF-making software have an option under the "Save As" function called "Reduced Size PDF" that helps create smaller file sizes.

**Passwords**

Password-protected documents must have the password protection removed before uploading the documents for filing or the clerk's office will be unable to open and review the document. These documents are rejected with a note from the review clerk stating that: "This document was uploaded with password protection, but the password is not the same as the password associated with the file on the computer. The document needs to have the password removed."

Once documents have been updated to reflect the latest changes and requirements, Maricopa County. The guidelines have now been updated to reflect the latest changes and requirements.

**Updates to eFiling**

**Mistake No. 3 – Conflict of interest: Current clients (Part 2)**

There are three requirements that must be determined whether a conflict is waivable involves a multistep analysis of the situation and getting the client's informed consent confirmed in writing. Let's discuss these in turn.

**The 3-step analysis**

The first question is whether the conflict is waivable. In other words, can the client even consent to the conflict of interest? There are three requirements that must be satisfied before a lawyer can even consider getting a client waiver. The primary purpose of these requirements is to ensure that the lawyer can still comply with his or her other ethical duties despite the conflict of interest. First, the lawyer must reasonably conclude that he or she can provide competent and diligent representation to all of the affected clients. ER 1.7(b)(1). A lawyer's personal interests or obligations to other clients must not be allowed to affect the lawyer's representation of each client. For example, if a lawyer has several clients in the financial industry, it may be impossible to vigorously represent a person seeking to invalidate regulations protecting that industry. Even if all affected clients provide informed consent, the lawyer will almost certainly face a situation where he or she will have to take positions that could jeopardize his or her relationship with the existing financial industry clients. Because of those relationships, the lawyer may be less willing to take certain positions or pursue them with the same vigor.

The second requirement is that the lawyer may not be allowed to affect the lawyer's representation of each client. For example, if the former client will not consent to its representation, the lawyer must be able to provide competent and diligent representation to all affected clients. Id.

If each of these three requirements is met, then the client may waive the conflict of interest by giving the lawyer informed consent confirmed in writing.

**Informed consent confirmed in writing**

It is important to understand the meaning of informed consent. As discussed in a previous article, ER 1.0(e) defines "informed consent" as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." Ultimately, lawyers want to minimize the chance that a client will later say, "If you had told me that, I wouldn't have agreed to waive the conflict."

Before receiving true informed consent, the lawyer should avoid the circumstances leading to the conflict, the advantages and implications of proceeding with the representation, and the reasonably available alternatives. And the lawyer must do so in a manner that the client will understand and allow the client to make an "informed" decision. This explanation preferably should be done verbally and should allow the client an opportunity to ask questions. When in doubt, lawyers should provide more information and not less.

After this discussion, the client's consent waiving the conflict of interest must be reflected in writing. This writing should be an abbreviated version of the informed consent discussion. Memorializing the consent conversation in writing impresses upon the client the seriousness of the client's decision and helps to avoid subsequent disputes or ambiguities that may occur in the absence of a written document.

Russell Yurk is an attorney with Jennings, Hang & Cunningham, P.L.P. in Phoenix. His practice focuses on professional liability, lawyer discipline and complex civil litigation. He can be reached at (602) 234-7819 or rry@jhclaw.com.

**Maricopa Lawyer**

Get them out of your files and generate revenue

Let an AV Rated Attorney with 30 years of experience handle them for you

Get help collecting past due child support and delinquent spousal maintenance

MICHAEL J. FULLER, ESQ.

3030 North Third Street, Suite 200, Phoenix, Arizona 85012

602-241-8599

michael@mfullerlaw.com | www.mfullerlaw.com

Contingency Fee Splitting available in compliance with Ethical Rule 1.5(e)
A new breed of young lawyers

Many of our parents or grandparents lived through the Great Depression and emerged from that hard-scrabble existence more hardworking, grateful and determined not to be wasteful or take anything for granted. As I take the helm as this year’s president of the Young Lawyers Division, I can’t help but think that today’s young lawyers share the same traits as the post-Depression generation.

I graduated from law school in 2010, at a time when the legal market was as bleak as it has ever been. It seemed the class of 2008 experienced the first signs of job offers being pulled and firms tightening their belts, and the class of 2009 saw the near complete evaporation of on-campus interviews and were left scrambling for any available work. As my class entered into its third and final year, most of us knew that we were staring into the darkness, and finding employment would be very challenging. Fast-forward to today and I am now a fifth-year attorney at Gallagher & Kennedy and nearly all of my classmates have found work of some kind. Not all of them are satisfied with their position, and many are underemployed, but the young lawyers who have known nothing but the recession are a force to be reckoned with.

Today’s young lawyers are under more pressure than ever before. As many of us know, young lawyers are facing an unprecedented crush of student loan debts. It is seemingly impossible for many of them to buy a home, make car payments or meaningfully contribute to their retirement accounts due to the strain of student loan payments. Young lawyers are also in oversupply and there is significant competition for almost any open position. While some may become overwhelmed by the challenges, there seems to be an emerging and growing group who are living proof that “when the going gets tough, the tough get going.”

Like Great Depression survivors, many of Maricopa County’s young lawyers are doing anything they can to be valuable to their profession and to an employer. They are anxious to network, get involved and make themselves more marketable. They understand the precious value of a job and take deliberate steps to add value to their firm and make themselves indispensable. It doesn’t take much effort to see the influx of these motivated young lawyers.

For instance, just last month, the YLD board had its first contested election in several years, as 10 candidates ran for four open spots. We also saw two young lawyers join the MCBA board of directors, and the board is now occupied with more young lawyers than ever before. This trend is not limited to the MCBA. The State Bar board of governors also added new board members in June, several of whom are young lawyers and former YLD board officers.

A few years ago, I spoke with a senior partner at a large local law firm and asked him what impression he had of young lawyers. Predictably, he said that young lawyers “didn’t want to work hard.” This is a message that young people, not just lawyers, hear from older Americans. I don’t just mean now. There is extensive research indicating (and I’m paraphrasing here) that older people can be a bit judgmental. Specifically, older generations from the time before the Baby Boomers and Generation X always thought that the younger generation was self-centered or lazy. I’m not sure Tom Brokaw would agree with people calling “the Greatest Generation” a bunch of entitled slackers.

Regardless of the perception of some older lawyers, there is a silver lining of becoming a lawyer during a dreadful economic period. We don’t know anything else. While some older lawyers are just holding on until they retire, or desperately hoping that “good times come again,” we live under no such assumptions. While there are still far too many young lawyers struggling, it has been encouraging to see so many of them take charge of their careers.

I feel honored to serve as your president — and getting to work with and meet so many motivated young lawyers is a big reason why. I am excited for the YLD to continue and expand successful programming including the Barristers Ball, Race Judicata and the Necessities Drive. I am also anxious to roll out new programming that has been the brainchild of several wonderful YLD board members. I believe that the MCBA and the YLD, in particular, is in a great position to enrich our legal community more than ever before. In 2013, and over the next decade, I can’t predict what Maricopa County’s young lawyers might accomplish, but I wouldn’t bet against them.

Make room for one more partner at your firm.

$78 million in specialty escrows referred by leading law firms last year.

When leading law firms in Arizona need to move fast, they call on a strategic partner who share their firm’s passion for performance. A partner that has worked with them for years and is able to turn on a dime. Turning around Escrow accounts in days, not weeks. Alliance Bank’s Kelly Conner is that partner.

Timing matters. No bank is better poised to act quickly and think strategically than the state’s largest locally-owned and headquartered business bank. Put us to the test. Call Kelly Conner, SVP, at 602.629.1701, or visit our Phoenix Plaza branch today.
A multi-office national law firm is seeking **ATTORNEYS** for its Phoenix office. Recruiting attorneys for Litigation, Financial Services and Corporate Law Departments.

**LITIGATION DEPARTMENT** is looking for attorneys with experience in the following practice areas: professional liability defense, general liability defense, insurance defense, commercial litigation, and workers compensation defense. Portable book of business is a plus.

**CORPORATE LAW AND FINANCIAL SERVICES DEPARTMENTS** are looking for attorneys with experience handling securities and broker dealer matters, international and domestic taxation, bankruptcy, real estate, intellectual property, international law, corporate structure, asset protection, land use, and mergers and acquisitions. Portable book of business is a plus.

Also seeking 1-3 year associates.

Email resume to RESUME@QPWBLAW.COM

Our new address as of December 15th, 2013 – 2390 E. Camelback Road, Suite 440, Phoenix, AZ 85016

---

*A multi-office national law firm is seeking** **ATTORNEYS** for its Phoenix office. Recruiting attorneys for Litigation, Financial Services and Corporate Law Departments. **LITIGATION DEPARTMENT** is looking for attorneys with experience in the following practice areas: professional liability defense, general liability defense, insurance defense, commercial litigation, and workers compensation defense. Portable book of business is a plus.

**CORPORATE LAW AND FINANCIAL SERVICES DEPARTMENTS** are looking for attorneys with experience handling securities and broker dealer matters, international and domestic taxation, bankruptcy, real estate, intellectual property, international law, corporate structure, asset protection, land use, and mergers and acquisitions. Portable book of business is a plus.

Also seeking 1-3 year associates.

Email resume to RESUME@QPWBLAW.COM

Our new address as of December 15th, 2013 – 2390 E. Camelback Road, Suite 440, Phoenix, AZ 85016

---

**2014 MCBA Holiday Party**

Members old and new gathered for a festive evening.

Hon. Patricia Norris and Chas Wirken.

YLD President-Elect Krystal Ahart and David Enevoldsen.

---

This year's Barristers Ball

continued from page 3
If your client suspects fraud in their business, we can help you get to the bottom of it.

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

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

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

Call Chris Linscott today for a free consultation!

Keegan, Linscott & Kenon, PC
Certified Public Accountants
Certified Fraud Examiners
Certified Insolvency & Restructuring Advisors

33 North Stone Avenue • Suite 1100 • Tucson, Arizona 85701 • (520) 884-0176 • www.klkcpa.com

Space in this unique program is limited!
Mentors/Mentees will be accepted on a first-come, first-served basis, so please do not delay. Email MCBAMentors@gmail.com if you are interested in participating.

If SO, THEN THIS IS THE PROGRAM FOR YOU!
The Maricopa County Bar Association is creating a groundbreaking Mentor/Mentee Program, and WE WANT YOU to be a part of it! Mentors must have a minimum of 5 years experience to participate in this program; mentees will be limited to those with 3 years experience or less. All participants must be members of the MCBA.

Mentors/Mentees will mutually select one another, and then experience the program together. Organized events will be scheduled once per month, for the months of January through May, and September through November 2015. Tours of the United States Bankruptcy Court and the Arizona Court of Appeals will be among the organized events.

We will be taking a break from formal programs in the summer months, but Mentors/Mentees will be encouraged to meet with their assigned Mentor/Mentee regularly, and will also be invited to attend other networking events not officially sponsored by the program throughout the year.

Interested In:
- Sharing your knowledge
- Fostering the growth of young professionals
- Networking with individuals who are seeking to learn from your experience & practices (not just seeking employment opportunities!)
- Meeting new people in a relaxed environment

Hiring?
Expect MORE from our well-prepared law students and graduates

To post a job listing or learn about our interview programs, please visit our Career & Professional Development Office at www.cws.edu/career

CALIFORNIA WESTERN
SCHOOL OF LAW | San Diego

720 hours of supervised, hands-on legal training in 3 years

Through Legal Skills, STEPPS, and Clinical Internships, our graduates earn an average of
Lara Chubaty PLLC
REALTOR® & Attorney
2001 E. Campbell Ave. #202
Phoenix, AZ 85016
Direct (480) 323-5916
lchubaty@roiproperties.com

- Residential
- Commercial
- Short Sales
- Probate & Trust
- Private Sales available if discretion is desired

- CSSN (Certified Short Sale Negotiator)
- CPRES (Certified Probate Real Estate Specialist)
- Real Estate Special Commissioner, Maricopa County

Special Discount for Arizona State Bar Members
Call for details!

Contentious or Contested Probate or Trust Matter?

Refer with confidence
We Handle Litigation and Administration:
Probate, Trust and Estate
Financial Exploitation
Abuse/Neglect
Guardianship/Conservatorship

BerkMoskowitz.com/mcba
(602) 845-8362 • mcba@BerkMoskowitz.com
14220 N. Northsight Boulevard, Suite 135 • Scottsdale, AZ 85260

Stay Social with the McBa
Like us on Facebook.com/maricopabar
Follow us on Twitter @maricopabar
MCBA Corporate Partners save you money

Visit MCBA’s Corporate Partners at www.maricopabar.org and use their products and services at the member discount. It’s a benefit of membership in the Maricopa County Bar Association.

MAKING THE MOST OF SETTLEMENTS

WHAT WE DO:
- Quote and handle placement of structured settlement annuities
- MSA Allocations
- Help you and your clients avoid constructive receipt issues
- Assist and complete settlement documents (i.e. court approvals and conservatorships)
- Trust services

Ryan J. Garrison
rgarrison@guardiansettlements.com • (480) 478-0154

Learn more on our website and call us today!

GURDIANSSETTLEMENTS.COM
You Are Cordially Invited to the

2015 Barristers Ball & Casino Night
A gala occasion to benefit a worthy cause

Saturday, February 28, 2015

CAMELBACK INN RESORT & SPA  5402 E. Lincoln Drive, Scottsdale, AZ 85253
COCKTAILS & SILENT AUCTION  6:00 p.m.
DINNER AND DANCING  7:30 p.m.
Black Tie Preferred

Beneficiary of the 2015 Ball
Maricopa County Bar Foundation
Presenting Sponsor
Case, Huff and Associates, Inc.

Reservations
EARLY BIRD REGISTRATION (ends Jan. 15)  ■ Table of Ten: $1,400
Individual: $150

REGULAR REGISTRATION  ■ Table of Ten: $1,650
Individual: $175

How to Register
Please register online at www.maricopabar.org or call Laurie Williams at (602) 682-8585

PLEASE PRINT CLEARLY

Name: ______________________________________ Firm: __________________________________________
Please reserve seats for _____________ # of guests Table host name*: ______________________________
Address: ______________________________________________________________________________________________
City: ________________ State: ______ Zip: __________ E-mail: _____________________________________________
* Table hosts are firms or individuals who sponsor a table of ten. Please provide guest list along with payment.

☐ Please place me/us at a no host Table  ☐ Please seat me/us with ______________________________

TABLE GUESTS

PAYMENT INFORMATION

Please Charge my: ☐ Visa ☐ MasterCard ☐ AMEX
☐ Total charge to my card $ __________________________or ☐ My check for $ __________________________

Credit Card Number: __________________________________  CVV#: _________ Exp. Date: __________________

Please return form to MCBA, Attn: Laurie Williams, 303 E. Palm Lane, Phoenix, AZ 85004 or Fax to: 602-682-8601.
Three MCBA and MCBF leaders appointed to superior court bench

Geoffrey Fish

Frank Moskowitz

Jennifer Green

On Dec. 10, 2014, Gov. Jan Brewer announced the appointment of three new judges of the Maricopa County Superior Court: Superior Court Commissioner Geoffrey Fish, Assistant United States Attorney Jennifer Green and Berk & Moskowitz founder Frank Moskowitz. Commissioner Fish was appointed to fill the vacancy created by the appointment of the Hon. Eileen Willett as a United States Magistrate Judge, and the others were appointed to two of the three new judicial divisions created by the Arizona Legislature.

It has been my pleasure to work with each of these outstanding members of the MCBA during my tenure as your Executive Director — persons who have provided leadership to the association and to the Maricopa County Bar Foundation.

Commissioner Fish’s service includes his work as a member, and later chair, of the Lawyer Referral Service Committee and as a member of the Bench-Bar and Finance Committees. He began a term on the MCBA board of directors in January 2014 and became the secretary of the association on Jan. 1, 2015.

Ms. Green’s service to the MCBA is lengthy and varied. She served as president of the association in 2010, having previously served as president of the Young Lawyers Division. She is an active member of the Bench-Bar Committee and served as co-chair of the MCBA Centennial Committee during 2014. Mr. Moskowitz has served multiple stints on the board of trustees of the foundation. He has been extensively involved in aiding the foundation to refocus its work and mission over the past several years, as well as increasing the level of individual contributions. He served as chair of the board during 2014 and continues as immediate past chair and a trustee.

All of us who know these individuals are aware that Gov. Brewer has made excellent choices from among our MCBA/MCBF leadership. We wish each of them every success in the future.

INSIDE THE COURTS

Judge Ronan retires

Judge Emmet J. Ronan has submitted his letter of retirement to Gov. Jan Brewer. Ronan, who retired at the end of 2014, served as a superior court judge for 15 years.

In his retirement letter, Ronan wrote, “I have been blessed to work in the finest trial court in the United States. The Judicial Officers, Court Administrators, Clerk’s and Staff have a well-deserved reputation around the country for their daily commitment to excellence and public service. They have helped make my time on the court one of the most rewarding experiences of my life.”

During his judicial career, Ronan served rotations in the juvenile, family, criminal and civil departments of the court. He also served a term as the juvenile court presiding judge.

Accountability Court: Helping remove barriers

A child support payment is not just a bill; it’s a parent’s number one financial priority. To make litigants aware of the great importance of paying unpaid child support and keep them current with their obligations, the superior court has revamped Accountability Court.

“We have found that many parents with delinquent child support obligations want to pay their child support,” Family Court Presiding Judge Janet Barton said. “However, because of employment barriers, they are simply unable to do so. The court determined that a program that assisted parents with those employment barriers would benefit not only those parents, but also the other parent and the children.”

Litigants who are referred to Accountability Court by judicial officers are ordered to appear periodically at court proceedings until they demonstrate a history of consistent child support payments. People who fail to comply with their orders may be held in contempt of court. Currently, there are more than 350 people in the program who owe approximately $16 million.

“Accountability Court provides appropriate resources to child support obligors who are currently unable to pay their support obligations on a consistent month-to-month basis,” said Commissioner Roger Hartsell.

Accountability Court is a problem-solving court that offers service and assistance to its litigants. The court has partnered with various community partners to help participants find employment. They offer such services as resume help and job searches and provide items such as work clothing and hygiene products.

Following their court date, litigants have the opportunity to visit a mobile job unit once a month, provided by St. Joseph the Worker, parked outside the courthouse. Also, everyone who is enrolled in Accountability Court attends an orientation class that offers money management and employment information.

“At orientation, a free class on managing income and expenses is taught by outside organizations,” said Deputy Family Court Administrator Brian Bledsoe. “Parents are often engaged and learn valuable information that may assist them in their daily lives. Everyone can benefit from a class on managing money.”

Litigants referred to Accountability Court differ from those who are sent to Enforcement Court. Those referred to Enforcement Court have the ability to make payments but are not willing. Accountability Court assists people who are willing to pay child support and physically able to do so, but are not fulfilling their obligation in a consistent manner due to an employment issue. The court

Investiture ceremony

Arizona Supreme Court Justice Ann Scott Timmer delivers the oath of office to Judge Lori Horn Bustamante at her investiture ceremony.

Maricopa Lawyer

JANUARY 2015 • 11

INSIDE THE COURTS

Three MCBA and MCBF leaders appointed to superior court bench

Geoffrey Fish

Frank Moskowitz

Jennifer Green

On Dec. 10, 2014, Gov. Jan Brewer announced the appointment of three new judges of the Maricopa County Superior Court: Superior Court Commissioner Geoffrey Fish, Assistant United States Attorney Jennifer Green and Berk & Moskowitz founder Frank Moskowitz. Commissioner Fish was appointed to fill the vacancy created by the appointment of the Hon. Eileen Willett as a United States Magistrate Judge, and the others were appointed to two of the three new judicial divisions created by the Arizona Legislature.

It has been my pleasure to work with each of these outstanding members of the MCBA during my tenure as your Executive Director — persons who have provided leadership to the association and to the Maricopa County Bar Foundation.

Commissioner Fish’s service includes his work as a member, and later chair, of the Lawyer Referral Service Committee and as a member of the Bench-Bar and Finance Committees. He began a term on the MCBA board of directors in January 2014 and became the secretary of the association on Jan. 1, 2015.

Ms. Green’s service to the MCBA is lengthy and varied. She served as president of the association in 2010, having previously served as president of the Young Lawyers Division. She is an active member of the Bench-Bar Committee and served as co-chair of the MCBA Centennial Committee during 2014. Mr. Moskowitz has served multiple stints on the board of trustees of the foundation. He has been extensively involved in aiding the foundation to refocus its work and mission over the past several years, as well as increasing the level of individual contributions. He served as chair of the board during 2014 and continues as immediate past chair and a trustee.

All of us who know these individuals are aware that Gov. Brewer has made excellent choices from among our MCBA/MCBF leadership. We wish each of them every success in the future.

INSIDE THE COURTS

Judge Ronan retires

Judge Emmet J. Ronan has submitted his letter of retirement to Gov. Jan Brewer. Ronan, who retired at the end of 2014, served as a superior court judge for 15 years.

In his retirement letter, Ronan wrote, “I have been blessed to work in the finest trial court in the United States. The Judicial Officers, Court Administrators, Clerk’s and Staff have a well-deserved reputation around the country for their daily commitment to excellence and public service. They have helped make my time on the court one of the most rewarding experiences of my life.”

During his judicial career, Ronan served rotations in the juvenile, family, criminal and civil departments of the court. He also served a term as the juvenile court presiding judge.

Accountability Court: Helping remove barriers

A child support payment is not just a bill; it’s a parent’s number one financial priority. To make litigants aware of the great importance of paying unpaid child support and keep them current with their obligations, the superior court has revamped Accountability Court.

“We have found that many parents with delinquent child support obligations want to pay their child support,” Family Court Presiding Judge Janet Barton said. “However, because of employment barriers, they are simply unable to do so. The court determined that a program that assisted parents with those employment barriers would benefit not only those parents, but also the other parent and the children.”

Litigants who are referred to Accountability Court by judicial officers are ordered to appear periodically at court proceedings until they demonstrate a history of consistent child support payments. People who fail to comply with their orders may be held in contempt of court. Currently, there are more than 350 people in the program who owe approximately $16 million.

“Accountability Court provides appropriate resources to child support obligors who are currently unable to pay their support obligations on a consistent month-to-month basis,” said Commissioner Roger Hartsell.

Accountability Court is a problem-solving court that offers service and assistance to its litigants. The court has partnered with various community partners to help participants find employment. They offer such services as resume help and job searches and provide items such as work clothing and hygiene products.

Following their court date, litigants have the opportunity to visit a mobile job unit once a month, provided by St. Joseph the Worker, parked outside the courthouse. Also, everyone who is enrolled in Accountability Court attends an orientation class that offers money management and employment information.

“At orientation, a free class on managing income and expenses is taught by outside organizations,” said Deputy Family Court Administrator Brian Bledsoe. “Parents are often engaged and learn valuable information that may assist them in their daily lives. Everyone can benefit from a class on managing money.”

Litigants referred to Accountability Court differ from those who are sent to Enforcement Court. Those referred to Enforcement Court have the ability to make payments but are not willing. Accountability Court assists people who are willing to pay child support and physically able to do so, but are not fulfilling their obligation in a consistent manner due to an employment issue. The court

Investiture ceremony

Arizona Supreme Court Justice Ann Scott Timmer delivers the oath of office to Judge Lori Horn Bustamante at her investiture ceremony.

Maricopa Lawy
Three Ways to Register

ONLINE
Register online at: www.maricopabar.org. Click on "CLE/Events" at the top menu and then "CLE Calendar."

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

PHONE
Call Beece at (602) 682-8588

Program Location

UNLESS OTHERWISE NOTED, ALL PROGRAMS ARE HELD AT THE MARICOPA COUNTY BAR ASSOCIATION OFFICE AT 303 E. PALM LANE, PHOENIX 85004

Attendance Policies

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

LATE REGISTRATION: All registrations must be paid in full two business days prior to the program date or a late fee of $15 applies. For example, registrations for a September 17 program must be paid by September 15 in order to avoid the late fee.

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

CANCELLATIONS/REFUNDS: Refunds, less a $10 fee, will be issued only if the MCBA receives your cancellation, in writing or by email, at least 72 hours prior to the program date or no later than 5 p.m. on the day of the program, or no later than 11:45 a.m. if the program is on Saturday. Day-of-program cancellations will be refunded if space is available. The MCBA cannot guarantee space or availability of materials.

NO SHOWS: If you registered and paid, but could not attend, you may request that materials be sent to you, free of charge (allow 3-5 weeks). If audio media is available, registrations may be converted to a self-study package for an additional $15 charge.

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 of Arizona, including the indicated hours of professional responsibility (ethics), if applicable.

January 8 • 7:30 - 9 a.m.
(Breakfast Provided)
Veterans Benefits — A Primer for Elder Law Attorneys

SPONSORED BY: Estate Planning, Probate and Trust Section
1.5 CLE: credit hours available including 0.5 ethics
An overview of VA compensation and pension benefits, especially those for elderly veterans and their survivors.

Criteria for eligibility for VA benefits, and how they compare to criteria for ALTCS eligibility
Planning techniques to achieve eligibility
Requirements for attorneys to represent applicants for veterans benefits
How attorneys can get paid for representing claimants for VA benefits

PRESENTER: Maresha Goodman, Frazer, Ryan, Goldberg & Arnold, LLP
COST: MCBA members: $62.50
Bring your paralegal/legal assistant (Please provide their name and email): $25
MCBA Estate Planning, Probate and Trust Section members (use promo code PRIMER): $55
MCBA Paralegal & Public Lawyer Division members: $40
MCBA student members: $10
Non-members: $102.50

February 3 • 8 - 9 a.m.
(Breakfast Provided)
What Every Lawyer Should Know About the Arizona Legislature

1.5 CLE: credit hour available
Learn the basics of advocacy at the Arizona legislature, including how to research and identify bills, how to weigh in for your client and speak before a committee, how to meet with legislators and more.

PRESENTERS: David Benton, Sims Murray, L.T.D. and Maureen P. Kane
COST: MCBA members: $50
Bring your paralegal/legal assistant (Please provide their name and email): $25
MCBA Paralegal & Public Lawyer Division members: $35
MCBA student members: $10
Non-members: $70

February 26 • 4:30 - 6 p.m.
War Stories and Lessons Learned

1.5 CLE: ethics credit hours available; happy hour to follow
Every litigator has a moment they wish they could take back, been in a tough spot or had to learn a lesson the hard way. Fortunately, these experiences make for better lawyers (provided we learn from our experiences and the experiences of others). The MCBA Litigation section is thrilled to have some of our favorite experienced trial lawyers share their most memorable experiences and let us all share a laugh at the profession we have chosen.

PRESENTERS: Buzz Alston, Jennings, Strouss & Salmon, PLLC; Torin Toone, Beer & Toone, PC; Doug Zimmermann, Davis Miles McGuire Gardner, PLLC; Barbara Dawson, Snell & Wilmer; David Tierney, Sacks Tierney, PA
COST: MCBA members: $62.50
Bring your paralegal/legal assistant (Please provide their name and email): $25
MCBA Litigation Section members (use promo code LESSON): $55
MCBA Paralegal & Public Lawyer Division members: $40

January 9 • 11:15 - 11:30 a.m.
Registration: 11:30 a.m. - 1 p.m.
Location: 303 E. Palm Lane, Phoenix, AZ 85004
Lunch included • Each session offers 1.5 hours CLE credit available

Sponsored by the Estate Planning, Probate & Trust Section

Package of Four
MCBA EPPT Section Member (use promo code EPPTSER): $185
MCBA Member: $195
Non-Member: $210.50
MCBA Public Lawyers Division members/Paralegal Division members: $105

Individual Session Prices
MCBA EPPT Section Member (use promo code EPPTSES): $55
MCBA Member: $62.50
Non-Member: $102.50
MCBA Student Member: $10
MCBA Public Lawyers Division members/Paralegal Division members: $45

Session I
Friday • January 9
Where There Isn’t a Will, There’s a Way
PRESENTED BY: Mark Moritz, Attorney at Law

Session II
Friday • January 16
Basic Estate Planning
PRESENTED BY: Roberta Berger, Adjunct Professor, Arizona Summit Law School

Session III
Friday • January 23
Basic Conservatorship/Guardianship for Adults
PRESENTED BY: Brian Theut, Theut, Theut & Theut PC; Kevin Parker, Snell & Wilmer

Session VI
Friday • January 30
Introduction to Probate
PRESENTED BY: Judy M. Rettelle, Attorney at Law

Two Ways to Register:
Online: www.maricopabar.org under CLE/EVENTS header, then click CLE Calendar.
PHONE: Call Beece Boehlitz at (602) 682-8588 M-F, 8:30 am to 5 pm.
Have your credit card information handy.

March 18 • Noon - 1 p.m.
(Lunch Provided)
So You’re the Arbitrator

PRESENTED BY: Public Lawyers Division
1 CLE: credit hour available including 0.5 ethics

MCBA members: $10
Non-members: $102.50

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

Most CLEs are available for simultaneous webcast or later viewing through West LegalEd at http://tiny.cc/kg4ejw
The past is prologue continued from page 1

marily of lawyers’ spouses, was established in 1960 and the bar foundation was organized in 1983.

Leadership

Since our earliest days, the community has looked to the MCBA for leadership in a wide range of legal, civic and political matters. The association has taken this responsibility seri-
ously and provided principled guidance in matters related to the judiciary, civil rights, access to justice and more.

In 1915, Gov. Hunt sought input from the MCBA regarding nominees for the county’s new judiciary. Governor Hunt and county attorney Frank Lyman was appointed. At the request of the MCBA, Marici-
opa County was granted a third superior court division in 1921 and, with input from the bar, the governor appointed Joseph Jenkis to fill the new bench slot. Over the decades, the MCBA has continued to lead in the effort to assure quality judges and efficient delivery of justice in the county by strongly supporting merit selec-
tion of judges, promoting judicial salary increases, providing input for expediting case processing, and conducting and publishing judicial performance surveys.

In the early 1920s the MCBA took a coura-
gous, public stand against the rising violence of the revived Ku Klux Klan in Arizona, resulting in grand jury investigations and publicity that exposed Klan members’ identities and helped bring about the Klan’s collapse in the state.

County bar president Henry Miller and his legislative committee chairman Charles Carson, Jr. pushed strongly for legislation to create the State Bar of Arizona — a mandatory bar association. To provide legal services to the disadvantaged.

When the bar was organized in 1914, Marici-
opa County had just over 50 attorneys and the MCBA had 12 members and a budget of $14,000. We had one employee, a full-time secretary making $325 per month. By 1970, membership had increased to 1,950 members and a budget of $140,000. We had 10 levels of membership, practiced in the county and became active in grand jury investigations and publicity that exposed Klan members’ identities and helped bring about the Klan’s collapse in the state.

By the numbers

The past is prologue

As early as the 1920s, the MCBA had its first female officer. Attorney Alice Maybath Birdwell served as treasurer in 1922. Over time, justice, lawyers and legal assistants of all ethnicities, with varied sexual orientations and some with disabilities, practiced in the county and became active in the association and its leadership. Milestones included the bar’s hiring of Nan Wilder in the mid-1970s as the first female executive director of any major professional organization in Arizona; the election in the late 1980s of our first female president, Hon. Rebecca Albrecht; Lon-
nie Williams’ election in 1999 as the first African-American president; and, a little over a decade later, the first Hispanic president, Hon. Louis Araneta took office.

In the late 1990s the MCBA established the Task Force on Recruitment and Retention of Women and Minorities. In October 2000, we celebrated our diversity with the 100 Women and Minorities Dinner, attended by more than 900 persons, including Justice Sandra Day O’Connor.

Professional relationships and networking

Without the strong personal and profes-
sional relationships built over shared meals, special events, volunteer opportunities, athletic competition and continuing legal education, the MCBA could never have become the force for diversity and community leadership that it is.

In March 1922, the association began its tra-
sition from meetings to a wide range of the issues and opportunities for the public and legal community to better understand the issues.

In the 1990s the association joined with members of the court to lead efforts to pre-
sate funding to meet the financial com-
nisters of  the association to provide legal services to the disadvantaged.

The MCBA has quietly welcomed a di-
verse mix of legal professionals to Arizona and by its example led in assuring opportuni-
ty to all comers.

The MCBA is the oldest bar association in the state.

The assembled membership debated politics and policy issues; practiced in the county and became active in general public understanding of the legal system. The MCBA offered forums for open discussion of the issues and opportunities for the public and legal community.

Diversity

The MCBA has quietly welcomed a di-
verse mix of legal professionals to Arizona and by its example led in assuring opportuni-
ty to all comers.

As early as the 1920s, the MCBA had its first female officer. Attorney Alice Maybath Birdwell served as treasurer in 1922. Over time, justice, lawyers and legal assistants of all ethnicities, with varied sexual orientations and some with disabilities, practiced in the county and became active in the association and its leadership. Milestones included the bar’s hiring of Nan Wilder in the mid-1970s as the first female executive director of any major professional organization in Arizona; the election in the late 1980s of our first female president, Hon. Rebecca Albrecht; Lon-
nie Williams’ election in 1999 as the first African-American president; and, a little over a decade later, the first Hispanic president, Hon. Louis Araneta took office.

In the late 1990s the MCBA established the Task Force on Recruitment and Retention of Women and Minorities. In October 2000, we celebrated our diversity with the 100 Women and Minorities Dinner, attended by more than 900 persons, including Justice Sandra Day O’Connor.

Professional relationships and networking

Without the strong personal and profes-
sional relationships built over shared meals, special events, volunteer opportunities, athletic competition and continuing legal education, the MCBA could never have become the force for diversity and community leadership that it is.

In March 1922, the association began its tran-
sition from meetings to a wide range of

If past is prologue, then the MCBA story of overcoming adversity indicates that an ex-
ceptional organization gives us much to look forward to. Tomorrow’s history will be made by us today. We are not just stewards of the past, but are the builders of the future of our association. Congratulations to each of you for helping make the MCBA what it is today: We all have a part in continuing the MCBA’s lasting and positive impact in our profession and our community. Where will you take us for the next 100 years?
The Maricopa Lawyer invites members to send news of moves, promotions, honors, and special events to post in this space.

Photos welcome. Send your news via email to mhaskins@maricopabar.org.

**NEW HIRES**

Poblonski is pleased to announce that Monica Thompson has joined its Phoenix office as an associate, practicing in the area of insurance recovery. Thompson graduated earlier this year from Arizona State University's Sandra Day O'Connor College of Law where she was on the Law Journal for Social Justice. She earned her master's degree in social work from ASU and her B.A. from the University of California, Berkeley.

**HONORS & AWARDS**

Green has served as an Assistant United States Attorney for the District of Arizona since 2001. She currently serves as section chief of the Civil Trials Section. In 2012, Green was named to the Maricopa County Bar Association's Top Women in the Law list. In May 2013, she was named to the Arizona Women's Bar's list of the 50 Most Influential Women in Arizona. Green has been involved in multiple community organizations including The Women's Foundation of Arizona, as the co-chair of the Construction Association of Arizona, as the co-chair of the Commercial Contractors Association of Arizona, as the co-chair of the Construction Association of Arizona, as the co-chair of the Commercial Contractors Association of Arizona, and as a member of the Arizona High School Athletic Association.
but they had stopped working there long before the MCSO applied for the search warrants. “The reliance upon state information is troubling,” Jones wrote. He explained that the MCSO had withheld more recent information that “specifically contradicted the statements in the affidavits and affirmatively indicated” that Frimmel acted lawfully by requiring employees to show proper documentation before he hired them.

Also troubling was the information provided about the inferences. Contrary to what was said in the affidavits, neither of them had worked at the Peota restaurant. And while the husband had asserted that Frimmel kept business records at his home, he did not identify which of Frimmel’s twin homes was involved. The home that the MCSO eventually searched had not belonged to Frimmel while the husband worked at Uncle Sam’s. The MCSO had also not divulged that its surveillance of Frimmel’s home had not developed any evidence that he had used it as an office or kept any business records there.

The affidavits also did not divulge that the couple had both been fired from Uncle Sam’s or that “[t]he husband was subsequently convicted of felony theft for embezzlement funds from Uncle Sam’s.” Indeed, the wife, who was the first to snitch, made her call on the very day that her husband was arrested. She had quit her job after being admonished for poor performance — and she had lost her subsequent claim against Uncle Sam’s for unemployment benefits.

The affidavits stated that the county assessor’s office listed Frimmel’s home as a business address for Uncle Sam’s, but that was not true. Indeed, government records, which were in the MCSO’s possession, showed the Peota restaurant as the business address. Jones concluded that Frimmel had made a sufficient preliminary showing to call into question much of the information in the search warrants’ affidavits. Without the bad information, the probable cause necessary to issue the warrant was missing. Consequently, a Franks hearing should have been held.

“We do not bind the trial court to any findings following its evaluation of the evidence,” Jones wrote. “If Frimmel is able to prove some or all of the averments or omissions were made knowingly, intentionally or recklessly,” he added, “the trial court must determine whether the corrected affidavits are sufficient to support a finding of probable cause for the warrant.”

“If not,” he concluded, “the evidence obtained from the improper search or searches must be suppressed.” Joining Jones were Judges Peter B. Swann and Michael J. Brown.

**Court’s jurisdiction over anticipatory suit is limited**

Under Article III of the United States Constitution, federal courts do not have jurisdiction to hear a case unless there is an actual case or controversy. The Ninth Circuit was recently asked whether a case or controversy exists when a corporation that has received a government benefit believes that there is a chance that some public-interest group might challenge that benefit. The court said no.

Two subsidiaries of Shell Oil — Shell Gulf of Mexico and Shell Oil of California — have invested heavily in exploring and developing oil and gas resources in the Beaufort and Chukchi Seas, which lie on Alaska’s Arctic coast. In addition to their fossil-fuel riches, the Beaufort and Chukchi seas have bountiful ecosystems supporting a wide array of life. In association with its operations and under the Oil Pollution Act, Shell obtained from the federal Bureau of Safety and Environmental Enforcement approval of two oil-spill response plans.

Anticipating potential legal challenges and federal pressure to obtain a “swift determination of the legality of the approval so it could conduct exploratory drilling,” Shell decided to be proactive. It sued several environmental groups, including the Center for Biological Diversity, the Alaska Wilderness League, the Natural Resources Defense Council, the Sierra Club and Greenpeace. It sought a judgment declaring that the bureau had acted properly under the Administrative Procedures Act.

The environmental groups have a history of vehemently and publicly opposing Shell’s exploration and development of activities in the Beaufort and Chukchi. Some have filed suits that challenge regulatory approval of Shell’s operations. And according to the Ninth Circuit, “Some of these organizations have proclaimed litigation to be a particularly effective tool for achieving their goal of stopping oil and gas exploration in the Arctic, and have stated their intentions to continue resisting Shell’s plans in court.”

Shell asserted that that the groups’ history of litigation and public criticism made it nearly certain that they would challenge the bureau’s approval in court. This, Shell asserted, justified its pre-emptive suit. The district court agreed.

Not the Ninth Circuit, though. In an opinion by Judge Dorothy W. Nelson, the court held that there was no case or controversy. Shell Gulf of Mexico, Inc. v. Center for Biological Diversity, Inc., No. 13-35835 (9th Cir. Nov. 12, 2014).

Nelson acknowledged that the Declared Judgment Act, under which Shell sued, was intended “in part, to allow potential defendants to file preemptive litigation to determine whether they have any legal obligations to their potential adversaries.” But this did not answer the jurisdiction issue. Article III requires the opposing parties to have adverse legal interests. Nelson noted, and she found it lacking. Shell, she noted, sought to bulletproof its approvals from a potential attack by the environmental groups under the Administrative Procedures Act. The problem was that the environmental groups could not sue Shell under the APA.

Nelson noted only those who have been aggrieved by an agency decision may sue under the APA. Shell was not aggrieved because the bureau had approved Shell’s plans. And the defendant in an APA suit must be the government agency. Thus, Nelson wrote, “[t]he only entities with adverse legal interests are the Bureau and the environmental groups.

And since it is not the Bureau, and not Shell, that can be sued under the APA, it would be odd to conclude that a case or controversy exists merely because Shell seeks to know who would prevail if the environmental groups asserted an APA claim against the Bureau.” It would be anomalous, she concluded, to allow a court to declare a federal agency’s action unlawful in a suit where the agency is not a party, leading to a judgment that would not bind the agency.

Joining Nelson in ordering the suit dismissed were Judges Jerome Farris, and Jacqueline H. Nguyen.
Helping law firms get paid.

It is critical for attorneys to handle credit card transactions correctly. IOLTA guidelines and the ABA Rules of Professional Conduct require attorneys to ethically accept credit cards. LawPay guarantees complete separation of earned and unearned fees, giving you the confidence and peace of mind that your transactions are always handled the right way.

www.lawPay.com/mcba | 866.376.0950

Affinipay is a registered ISO/MSP of BMO Harris Bank, N.A., Chicago, IL