Summer Social A Success!

Interns, externs, summer and first-year associates enjoyed the Summer Social on June 10 at the MCBA building. This event, sored by the MCBF’s Diversity and Inclusion Committee (and supported by the Maricopa County Bar Foundation and the State Bar of Arizona), brought together lawyers, judges and bar leaders for a casual evening of drinks and hors d’oeuvres.

Hon. David Gass, Melanie Fahrbach-Staats, Dustin Fahrbach-Staats and Rob Northrup

MCBF Trustee Joel Hoffman and Diversity and Inclusion Committee member Benjamin Taylor

Robyn Krawchuk, Krizia Verplancke and Kaitlyn Carr

Paola Tinoco, D.J. Stapley, Peter Goodman and Hon. Frank Moskowitz

CourtWatch

Daniel P. Schaack

Supreme Court limits state’s potential Liability in highway-accident cases

On the same day this past May, the Arizona Supreme Court handed down opinions in two tragic cases involving car accidents on Arizona highways. In one, the court generally reinstated a statutory defense that the Arizona Court of Appeals had withheld from the State. But there, the design was prepared in conformance with generally accepted engineering or design standards in effect at the time of the preparation of the plan or design. The statute has a proviso, stating that a “reasonably adequate warning shall be given as to any unreasonably dangerous hazards which would allow the public to take suitable precautions.”

The jury found for Glazer, attributing 100 percent of the fault to the State and awarded $7.5 million in damages. The court of appeals affirmed, agreeing with Glazer that her claim was “based on conditions arising long after the roadway was built.” Glazer v. State, 234 Ariz. 305 (App. 2014).

The jury concluded that the Arizona Court of Appeals’ interpretation of the statute “vitiates much of §12-820.03’s protection as a state-of-the-art defense.” It did not stand up to reasoning, according to Timmer, because however Glazer

See Supreme Court limits page 14

The high court held that Glazer’s claim did indeed arise from the highway’s original design. “No evidence,” she wrote, “suggests that the construction of the relevant stretch of I-10, including the median, changed since 1967. Just as no barrier existed to prevent cross-median accidents in 2007, no barrier prevented them in 1967.”

In other words,” she continued, “the highway had the same design in 2007 that it had when built.” For these reasons, and based on the wording of §12-820.03 and the crux of Glazer’s negligence claim, she wrote, “we conclude that the Glazers’ injuries were ones ‘arising out of’ the State’s original construction design for that portion of I-10.”

She concluded that the court of appeals’ interpretation of the statute “vitiates much of §12-820.03’s protection as a state-of-the-art defense.” It did not stand up to reasoning, according to Timmer, because however Glazer

See Supreme Court limits page 14
Educate yourself and nominate someone else

If you’re thinking, “that is one strange headline,” or “TJ, you’ve reach the barrel’s bottom,” you’re absolutely correct. In my defense, the rhythmic nature and relational oddity of the verbage encouraged you to read further, if only to find out what this column is all about.

So, my mission is thusly accomplished: I have your attention.

Welcome to summer. As I write this, we are enjoying the last vestiges of our mild May weather, which has magically continued into early June. It’s warm and muggy, but not uncomfortably so — an atmosphere tease before the sweeter suffering that late July and August will bring to those not fortunate enough to escape it. Even then, hope is not lost. A mere two-hour drive north of our fair city, in the mountain hamlet of Flagstaff, summertime temperatures rarely eclipse the mid-to-low 80s. “But,” you quibble, “I can’t justify a long vacation right now” or “it would sure be nice to expense such a jaunt through my business.”

You’re in luck, for YOUR MARICOPA BAR has your needs in mind. The inaugural CLE IN THE PINES will be held on July 16-18 at the Drury Inn in Flagstaff. With topics ranging from E-discovery, legal technology, litigation in probate court and the new commercial court system, there is something for everyone. In addition, the program includes a two-hour “AMA” (Internet jargon for “Ask Me Anything”) with Judges Jon W. Thompson and Jennifer Green. The family is encouraged to attend, with opportunities for hiking, biking, sightseeing and comradery. The family includes a two-hour “AMA” (Internet jargon for “Ask Me Anything”) with Judges Jon W. Thompson and Jennifer Green. The family is encouraged to attend, with opportunities for hiking, biking, sightseeing and comradery. The family includes a two-hour “AMA” (Internet jargon for “Ask Me Anything”) with Judges Jon W. Thompson and Jennifer Green. The family is encouraged to attend, with opportunities for hiking, biking, sightseeing and comradery. The family includes a two-hour “AMA” (Internet jargon for “Ask Me Anything”) with Judges Jon W. Thompson and Jennifer Green. The family is encouraged to attend, with opportunities for hiking, biking, sightseeing and comradery. The family includes a two-hour “AMA” (Internet jargon for “Ask Me Anything”) with Judges Jon W. Thompson and Jennifer Green. The family is encouraged to attend, with opportunities for hiking, biking, sightseeing and comradery. The family includes a two-hour “AMA” (Internet jargon for “Ask Me Anything”) with Judges Jon W. Thompson and Jennifer Green. The family is encouraged to attend, with opportunities for hiking, biking, sightseeing and comradery.

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I hate my student debt, so how do I kill it? Part 2

In Part 1 of this column last month, we discussed the basic plans for repayment that do not account for a borrower’s income. For many borrowers, the standard repayment plan, extended fixed plan and the extended graduated plan are simply untenable. Sadly, many borrowers’ income, particularly right out of law school, prevents them from making the required payments under the basic plans. As a result, more and more borrowers have turned to income-driven plans.

B. Income-driven plans

There are four kinds of income-driven plans, which I’ll discuss below.

1. Income-based repayment (IBR)

Why it’s good: If you are a borrower before July 1, 2014, your payments are limited to 15 percent of your discretionary income. Discretionary income is the difference between your adjusted gross income (AGI) and 150 percent of the poverty guideline amount for your state of residence and family size, divided by 12. After 25 years of IBR repayments, the remaining loan balance is forgiven.

Why it’s bad: While the remaining balance is “forgiven” after 25 years of payments, the forgiven amount is currently treated as income from a tax perspective. So, if $40,000 of Bruce’s debt is forgiven, then for tax purposes, Bruce “made” $40,000 more that year. You will also pay more for your loan over time than you would under the standard repayment plan. In some cases, the payments could be higher than the amount you would pay under the standard repayment plan.

2. Public loan forgiveness

Why it’s good: If you are a borrower beginning on or after July 1, 2014, and have turned to income-driven plans. As a result, more and more borrowers have been helpful and, at a minimum, encourage you to re-examine your own student loans payments. How you pay back your student debt is a very personal decision and requires you to take a careful look at your income and expenses. Like these articles, examining your personal situation is long and, at times, tedious. But in the end, eliminating student debt — and doing so in the most affordable way possible — should be a major priority for all borrowers.


3. Income-contingent repayment plan

Why it’s good: This plan does not have an initial income eligibility requirement. After 25 years of payments, the remaining loan balance is forgiven.

Why it’s bad: You will also pay more for your loan over time than you would under the standard repayment plan. In some cases, the payments could be higher than the amount you would pay under the standard repayment plan.

4. Income-sensitive repayment plan

Why it’s good: Monthly payments are pegged between 4 percent and 25 percent of gross monthly income. You are eligible to operate under this plan for up to 10 years.

Why it’s bad: Some lenders set a minimum threshold on the percentage of income to be paid based on the borrower’s debt-to-income ratio. The rest of the monthly payments are increased to compensate for the decreased monthly payments. Basically, this plan is more of a short-term solution.

NOTE: Borrowers who believe they may need income-sensitive repayment for more than a year should also consider extended or graduated repayment, which reduces the size of the monthly payment by increasing the term.

C. Other issues

Paying back your student loan debt is not just about selecting a payment plan. There are a few other concepts that are worth mentioning, that may help Bruce or any other borrower.

1. Deferment and forbearance

Deferment is a period during which repayment of the principal and interest of your loan is temporarily delayed. The most common examples of when a borrower is entitled to deferment are: (a) when the borrower is still in school and (b) during a period of unemployment or inability to find full-time employment. Typically, if a borrower is unemployed or cannot find full-time work, they may be entitled to deferment for up to three years.

Forbearance allows you to stop making payments or reduce your monthly payment if you can’t make your scheduled payments and you’re not eligible for deferment. However, your interest will continue to accrue. Your lender may grant you a “discretionary” forbearance based on economic hardship or illness, or a borrower may be eligible for “mandatory forbearance” for one of several reasons.

2. Public loan forgiveness

If a borrower is working full-time in certain public service jobs and has made 120 payments on his/her Direct Loans (after October 2007), the remaining balance may be forgiven. Only payments made under certain repayment plans (such as IBR) may be counted toward the required 120 payments. Notably, the amount of forgiveness is NOT taxable income, so this is a major benefit to borrowers who may be working for the government, the prosecutor’s office, public defender or a number of other jobs.

3. Consolidation/refinancing

Most law school borrowers graduate from law school with a series of loans, including subsidized loans, unsubsidized loans and “PLUS” loans. Needless to say, making multiple payments on 6-10 different loans can be a challenging task. As a result, many borrowers choose to consolidate all of their student loans into a single loan for ease of payment. In addition, consolidating your student loans may result in a more favorable interest rate. Consolidating your loans may not be the best option for all borrowers, however, as you may lose some borrower benefits offered with your original loans.

The MCBA has partnered with Credible, an independent marketplace for student loan refinancing. With Credible, graduates can save money by submitting a single form and receiving offers from multiple lenders. Their website, www.credible.com/partners/mcba, is a great resource about refinancing and the repayment plans I discuss above. It also includes some easy-to-follow charts and graphs to provide a better understanding of your options when it comes to managing your student loan debt. Their CEO Stephen Dash explained, “Credible brings transparency to student loan management. Lawyers can frequently save over $30,000 in interest payments by refinancing their student loans. The process of refinancing can be complicated, but we simplify it.”

Overall, there are many options for borrowers when they begin repayment of their student loans. I hope these articles have been helpful and, at a minimum, encourage you to re-examine your own student loans payments. How you pay back your student debt is a very personal decision and requires you to take a careful look at your income and expenses. Like these articles, examining your personal situation is long and, at times, tedious. But in the end, eliminating student debt — and doing so in the most affordable way possible — should be a major priority for all borrowers.


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Meet your 2015 Paralegal Division Board

The 2015 board consists of four executive officers — President, President-elect, Secretary and Treasurer — and six directors at-large. While I previously provided my background, the following is information about the current board including each member’s answer to the question, “What would you like to see the Paralegal Division accomplish in the next year?”

President-elect Nilda Jimenez, CP
Co-chair, Paralegal Conference Committee, 2015; Certified Paralegal, Lawyer Regulation Department, State Bar of Arizona; Previously worked in personal injury, legal/medical malpractice, and civil rights violations; Received B.A. in Educational Studies, 2005; Working on a master’s degree in justice studies; Adjunct instructor at Phoenix Community College and Traffic Survival School instructor.
Answer: “Get more participation from the members and increase our student membership.”

Secretary Norma Franco, MBA, CP
Chair, Resources Committee, and Maricopa Lawyer Editorial Board Liaison, 2015; Certified Paralegal, Owner, NFranco and Associates, LLC, which offers business and legal support services; Received B.S. in business administration, 1988 and MBA with emphasis on project management/operations management, 2003; Obtained Paralegal Studies Certificate from Phoenix College, 2013; Licensed real estate agent.
Answer: “I would like to focus on our current mission statement and objectives, translating them into measurable goals and specific strategies to achieve them. I think our first actions should be to increase membership and an awareness of who we are and what we do not only in our members, but in the entire legal community.”

Treasurer Nichole Stasakovich, M.Ed.
Chair, Scholarship Committee, 2015; Disability Services Coordinator, Arizona Summit Law School; Has substantial experience in the area of insurance defense litigation and over 25 years of legal experience; Holds a master’s degree in education and is a graduate of Phoenix College’s Paralegal Studies program.
Answer: “I would like to see the division’s membership double, see more CLEs offered, and hold the most successful Paralegal Conference the division has ever had. I also have an attendance well over 200 paralegals. Furthermore, I would like for the division to get involved in more community outreach programs and create new events for all of the division’s paralegal members to network.”

DIRECTORS

Elizabeth Cevedia: Paralegal, Hanston, Miller, Per, Feldman & McAnally, PLC; Over 10 years of experience in the legal field including bankruptcy, medical malpractice, collections, and personal injury; Student at ASU obtaining B.L.S. in liberal studies.
Answer: “I am new to the division but would like to see more legal assistants and paralegals participate in this group. There is so much more the group can do but it is limited due to participants.”

Brittany Rae Chavez, CP: Certified Paralegal, ArValent Law Group, PLC; Over seven years of experience in the legal field including bankruptcy, foreclosure and commercial litigation; Holds two B.A.s and a certificate of international studies from ASU as well as a Paralegal Certificate from Phoenix College; Former adjunct instructor at Everest College Phoenix; Member of the Los Abogados Hispanic Bar Association.
Answer: “I would like to see the division grow in membership and become a great resource in the paralegal community.”

Shaya Farago: Member, Community Outreach Committee, 2015; Victim Advocate in Valley Prosecutor’s Office; Works closely with the AZ Attorney General’s Office, Maricopa Association of Governments, and acts as liaison to various law enforcement and criminal justice organizations; Earned associate’s degrees in liberal arts and paralegal studies and B.S. in sociology and justice studies; Former franchise and small-business owner.
Answer: “I would love to see our division encourage more participation of paralegals who work outside the typical downtown corporate legal fields and who might not be aware of the support system the MCBA offers them; increasing the diversity of our membership can only strengthen the bar association as a whole and will create further opportunities for paralegals to learn and grow.”

Kate Hofland, CP: Certified Paralegal; Works in the Financial Remedies Section at the Arizona Attorney General’s Office; Earned bachelor’s degree in music performance and master’s degree in early childhood education from ASU; Former elementary school teacher.
Answer: “The Paralegal Division is an integral part of the legal community. It is important that it accurately represents the vibrant community of paralegals that currently exists in Maricopa County. It should provide professional development, foster personal growth and knowledge, and contribute to the greater community. The division will need to be creative in order to grow membership. I look forward to being part of achieving these goals.”

Melinda Manchester: Co-chair, Paralegal Conference Committee, 2015; Paralegal Coordinator, Perkins Coie, LLP; Over 35 years of legal experience with primary areas of expertise in civil litigation, intellectual property, and mass tort/toxic tort defense; Earned B.S. from NAU, 1980.
Answer: “Have the division have more presence in our community and legal environment. With strength in numbers the division will grow stronger and be able to offer additional services to our membership and the community.”

Cecilia Valadez Rodriguez: Chair, Community Outreach Committee, 2015; Chair, Paralegal Career Day, 2016; Paralegal at the Law Firm of Jeffrey L. Victor, PC, in Scottsdale which specializes in medical malpractice, nursing home/assisted living facility neglect and personal injury law; Has worked in the legal field since 1997; Earned associate’s degree in paralegal studies from Phoenix College and her B.A.S. from Grand Canyon University.
Answer: “I would like to see more opportunities to network.”

As for me, your president, I would like to see the division take a more active role in the legal community, increase its membership and obtain more volunteers. My goal is for the division to be a valuable resource for all members and include mentoring opportunities and the sharing of legal knowledge. I would also like to create more networking opportunities.

Our next meeting is on Monday, July 13, 2015, at 5:30 p.m., at the MCBA office located at 303 E. Palm Lane in Phoenix. All events at MCBA office, unless otherwise specified.

What a difference the right word makes

Tamara Herrera

We have all read those transition sentences that announce what subject is coming next. They occur in all kinds of documents. In the next section, I will discuss … The second point this memorandum addresses … I will now turn my attention to … It is important to discuss the next argument … When I read these sentences, I cannot help but envision the author jumping out of the page, talking directly to me while waving the document in my face. I have had to train myself to skip these sentences when reading in order to pay attention to the document’s substance. These sentences do not perform their job as transitions well because they slow down the reader and break the flow of reading. Simply put, they waste space. To be effective, a transition sentence should be smooth and should keep the reader’s attention on the substance. One way to ensure effective transitions is to make sure that the document or section has a strong lead sentence. When possible, the lead (or opening) sentence of a document or section of a document should lay out the structure for the following paragraphs. This summary will provide the logical connections needed to make smooth transitions at the beginnings of the following paragraphs. Consider these examples that show how to use a lead sentence when discussing the specific requirements of a legal claim:

- Smith meets all four elements of a successful adverse possession claim. (Lead sentence, with the rest of the paragraphs discussing the claim and elements in general.)

- First, Smith’s use was open and notorious … Second, Smith used the land for the required amount of time … Third, Smith’s use was adverse … Finally, Smith was using the land exclusively …

Lead sentences can also be broader in scope. For example: The county has two important interests at stake: fiscal and political. Make sure to edit your document so that use effective leads, as the writing (and rewriting) process may change your arguments. Many times legal writers skip this editing step when faced with the crush of an important deadline, yet this simple edit makes a big difference in the polish of the finished document. Now, for my next article, I will discuss … (sorry, couldn’t resist.)

UPCOMING PARALEGAL DIVISION EVENTS

July 13
July Board Meeting

July 31
Deadline for Student Scholarship Applications

Oct 11
Race Judicata (Register to walk with the Paralegal Division Team)

Oct 16
16th Annual Arizona Paralegal Conference

JULY 2015 CALENDAR

All events at MCBA office, unless otherwise specified.

1 MCBA office closes at Noon

3 MCBA office closed for the July 4th holiday

4 Happy 4th of July!

13 Paralegal Division Board Meeting 5:30 p.m.

16 CLE in the Pines 8 a.m.-Noon

18 Drury Inn, Flagstaff

Please watch your MARCBAR email for updated information about meetings and events.

GET THE MOST OUT OF YOUR MEMBERSHIP

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

Customers who receive services at a clerk’s file counter or facility will notice that improvements have been made. The clerk’s office recently updated and improved the physical access to counters, staff, and equipment. Some of these changes were overdue based on standard recommended configurations and others were implemented after successful changes at other locations.

In the summer of 2013, Maricopa County completed a remodel of the Central Court Building that took into account the public’s use and needs. Changes for the public included wheelchair-accessible filing counters, a system to speed up assistance based on the type of filing and staff availability at the counters, and seating space to keep people out of the heavy foot traffic in the adjoining hallways. Internal changes brought employee work spaces into compliance with industry standards and maximized process efficiencies, such as locating cash receipting and victim restitution services closer to vaults and check-writing equipment.

Successes from this project have expanded to other facilities.

In February of this year, the marriage license and passport unit at the Southeast Adult facility in Mesa received improvements to county standards and increased space for customers. In May, the clerk’s appeals unit and non-criminal exhibits in adult cases consolidated with the criminal exhibits unit on the fourth floor of the South Court Tower in downtown Phoenix. This consolidation made it easier for parties, attorneys, and the public to access exhibits and improves efficiency for clerk staff processing appeals. Through May and June, the file counter and office space at the Durango Juvenile facility (near downtown Phoenix) was updated to match the design at the Juvenile facility in Mesa. These changes improved security while adding privacy for customers.

In early June, the marriage license and passport services section of the Northeast Regional Center (near the intersection of State Route 51 and Loop 101) completed its renovations by adding lowered workstations and new customer seating, in addition to cosmetic touch-ups in its increased space.

This summer, document-viewing areas will improve the customer experience at the Clerk’s Customer Service Center, located in downtown Phoenix, where the public and media access court documents and where people apply for marriage licenses and passports.

For several years, the clerk’s office has increased its efficiency and availability to interpreters for customers with limited English proficiency. Clerk employees fluent in Spanish handle the vast majority of the clerk’s language-assistance needs. The office also receives assistance through a telephonic conference call system with offsite interpreters certified in hundreds of languages. (The clerk’s resources for language assistance with records and filing matters are separate from the court’s resources, where parties appear in hearings.)

Some of the clerk’s improvements are required by federal, state, or county mandates and expectations. Other improvements are the result of customer requests and feedback, including internal staff recommendations based on day-to-day operations and interactions with the public. All of these changes were designed to maximize efficiency and the customer experience.

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Hall of Fame Nominations Sought for 2015

The Maricopa County Bar Hall of Fame Selection Committee is now seeking nominations for 2015. The committee expects to select inductees from the broad diversity of lawyers in the county.

The deadline for submissions is August 21, 2015.

Hall of Fame Criteria

The Maricopa County Bar Hall of Fame will recognize Maricopa County attorneys who have practiced for at least 10 years and who have:

- Played prominent and important roles that have had an impact on the history and development of our local bar and the legal profession;
- Made significant or unique contributions to the law or the administration of justice; and/or
- Demonstrated significant leadership, advocacy and accomplishments in service to the community or the profession.

Please note that nominees from previous years will not automatically be re-considered for 2015. You are, however, invited to re-submit a previous nominee with complete information as noted below.

Submission Requirements

- Full name of nominee, including date of birth (and death, if applicable).
- A brief statement or summary of nominee’s significant qualifications and achievements (about 100 words or less).
- A detailed biographical description of nominee. The committee relies on the information supplied by the nominator(s), so comprehensive information is important. Supporting letters from others are also welcome.
- A photograph, preferably in color, submitted in electronic jpg format as an attachment to email.

Where to Submit Nominations

Nominations will be accepted by mail, email or through the MCBA website. For mail or email, please use the form on this page, or you may download the form from the website or use the website’s electronic form: www.maricopabar.org

Forms should be mailed or emailed to: Laurie Williams, Hall of Fame, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, AZ 85004-1532. Phone: (602) 257-4200. Email: bwilliams@maricopabar.org

Hall of Fame Inductees 2008-2014

PIONEERS

(all deceased)

- Dr. John Alsap
- A.C. Baker
- Alice Birdsell
- Frank Haze Burch
- Louis Chalmers
- Jizbel Early Craig
- Hon. Walter E. Craig
- Amelia Dietrich-Lewis
- Rafael (Ralph) Carlos Estrada
- Herbert B. Finn

Larry A. Hammond
Mark L. Harrison
William F. Haug
Hon. Michael Daryl Hawkins
Ed Hendricks, Sr.
Tom Hentze
Hon. Andrew Harwitze
Edward “But” Jacobson*
Curtis A. Jennings*
Lillian Johnson
William R. Jones, Jr.
Michael K. Kennedy
Sen. Ky.
Orme Lewis
Rodney B. Lewis
H. Jerry Lewkowitz
Hon. Lorna E. Lockwood*
William J. Maledon
Alan A. Matheson
Daniel J. Mcauliffe
Hon. James E. McDougall
Joseph E. McGarry
Hon. Ruth V. McGregor
Patrick J. McGregor III
Hon. Stephen M. Mcnamee
Hon. Robert D. Myers
Hon. Stephen M. Mcnamee
Patrick J. McGroder III
Hon. Ruth V. McGregor
Joseph E. McGarry
Hon. Robert D. Myers
Hon. Robert L. Gottfried

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Harry J. Cavanaugh, Sr.*
Hon. Valdemar A. Cordova*
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Michael L. Gallagher
Patricia Gerchick
Samuel P. Goddard, Jr.*
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H. Jerry Lewkowitz
Hon. Lorna E. Lockwood*
William J. Maledon
Alan A. Matheson
Daniel J. Mcauliffe
Hon. James E. McDougall
Joseph E. McGarry
Hon. Ruth V. McGregor
Patrick J. McGregor III
Hon. Stephen M. Mcnamee
Hon. Robert D. Myers
Hon. Robert L. Gottfried

* Deceased
THURSDAY
JULY 16, 2015

8:00 AM - 10:00 AM
SESSION 1
Ediscovery:
What is Ediscovery?
How to Hire the Right
Ediscovery Company /
Ediscovery on a Budget

SPEAKER
Rick Erikson, Snell and Wilmer
***************

10:15 AM - NOON
SESSION 2
Law Practice Technology

SPEAKERS
Alex Lane & Scott Stewart,
Stewart and Lane, PLC

FRIDAY
JULY 17, 2015

8:00 AM - NOON
Dangers of Dabbling in
Probate Litigation

SPEAKERS
Comr. Kerstin LaMaire,
Maricopa County Superior Court
Lauren Garner,
Jaburg and Wilk, PC
T.J. Ryan,
Frazer Ryan Goldberg
& Arnold, LLP

SATURDAY
JULY 18, 2015

8:00 AM - 10:00 AM
SESSION 1
Everything You Ever
Wanted to Ask a Judge

SPEAKERS
Hon. Jon W. Thompson,
Arizona Court of Appeals
Hon. Jennifer Green,
Maricopa County Superior Court
*******

10:15 AM - NOON
SESSION 2
The New Commercial Court

SPEAKER
Hon. Christopher T. Whitten,
Maricopa County Superior Court

We will be having a family-friendly BBQ on Friday night.
Dinner ticket included in the attendee price. Extra adult tickets are $25 adult and $12 for kids.
Register at www.maricopabar.org/pines

HOST HOTEL: DRURY INN & SUITES
Reservations made after June 17, 2015 will be subject to prevailing rates and availability. Online reservations must be made
via the registration link above, or you may call 1-800-325-0720 and reference group number 2225848.
Meet Our 100% Club Members for 2015

The Maricopa County Bar Association is pleased to endorse its 100% Club members in this issue of the Maricopa Lawyer. These firms have made a commitment to the bar association and its work on behalf of the local legal profession and the public by assuring membership to all of their attorneys.

To join, contact Cynthia Quiñonez at 602-682-8582 or cquinonez@maricopabar.org.

See the difference Arizona Summit Law School can make by visiting AZSummitLaw.edu.

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Presiding Judge Norman Davis announces retirement

Presiding Judge Norman Davis announced his retirement from the Superior Court bench, effective June 30. Since joining the bench in 1995, Davis has served in many leadership positions. He also presided over calendars in every department of the court, except tax.

“His contributions to this bench are impressive and, at least with respect to the judicial officers that I have served with over the last 15 years, unprecedented,” said Associate Presiding Judge Janet Barton.

As presiding judge for the last five years, Davis conceptualized and worked tirelessly to implement the new case management system, iCISng. He also helped reform the probate department to address community complaints of excess cost; fostered the initiation of the court's automated evidence-based risk assessment instrument for the release of criminal defendants; created Intelligent Forms for family and probate court; and was a tireless advocate for the court on so many issues, including pension reform.

During his eight years as the family court's presiding judge, Davis spearheaded a major reformation of family court processes that culminated in new statewide rules, significantly improved procedures and greatly accelerated case dispositions. He also created the child support calculator that is currently used by family court judges on a daily basis.

Davis also served as Juvenile Court's Presiding Judge and the Presiding Judge of the Northwest Regional Court Center.

While on the bench, he sat on many committees. He served on the Supreme Court's Child Support Committee, Committee on the Superior Courts, the Presiding Judges Committee and the Arizona Judicial Counsel. He has also served on the Court's Judicial Executive Committee, IT Governance Committee, ICJIS Executive Committee, Wendell Advisory Board, Superior Court Pro Tem Committee, Self Service Center Advisory Committee and eCourt Development Committee.

In recognition of his many accomplishments, Davis was the recipient of the 2012 Justice Michael D. Ryan Award for Judicial Excellence.

“We have been extremely fortunate to have Norm as a member of our bench for the last 20 years. While he may be retiring on June 30, this court will continue to benefit from his hard work and innovations for years to come. Please join me in wishing Norm a wonderful and well-earned retirement,” said Judge Barton.

Hon. Norman Davis

Chief Justice Scott Bales delivers the oath of office to MCBA Past President Judge Jennifer Green during her investiture ceremony at the Board of Supervisors Auditorium in Phoenix.

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

WALK-INS: 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.

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NO SHOWS: If you register and paid, but could not attend, you may request that materials be sent to you, fees charge (allow 3-4 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 Bar of Arizona, including the indicated hours of professional responsibility (ethics), if applicable.

AUGUST 19 • 11:30 A.M. - 1 P.M. (Lunch provided)
Leveling the Playing Field: Receivership and Special Commissioner Appointments in Family Law Matters
SPONSORED BY: Family Law Section
1.5 CLE Credit hours available
Special Commissioner Appointments: Bringing Order to a Chaotic Sales Process
• Standard Orders
• Customized Order Provisions
• Maximizing Value
• Reporting
• Contract Negotiations
Receivership Appointments: Operating Closely Held Businesses and Real Estate Assets
• Acquiring Operational and Financial Information
• Valuation
• Operational Expertise/Continuity
• Financial and Physical Foreclosures
• Sale of Businesses and Assets in Receivership
PRESENTERS: Beth Jo Zeitzer, Esq., R.O.I. Properties
COST: • MCBA members: $62.50
• MCBA Paralegal & Public Lawyer Division members: $40
• MCBA Eppt section members: $35
• MCBA Family Law Section members: $55
• MCBA student members: $10
• Non-members: $102.50

AUGUST 27 • 7:30 - 9 A.M.
Assisting the Disabled Client: An Overview of Public Benefits, Special Needs Trusts and “Allowable Disbursements”
SPONSORED BY: Estate Planning and Probate Section
1.5 CLE Credit hours available
This program will provide guidance on: • Identifying the Public Benefits for Which Your Disabled Client is Eligible • Determining when a Special Needs Trust is Advisable • First Party versus Third Party Special Needs Trusts • Drafting Strategies for Special Needs Trusts • “Allowable Disbursements” from a Special Needs Trust • Specific Needs to Consider for the Individual: Home Ownership and the Vehicle • Termination of First Party Special Needs Trusts
PRESENTERS: Bridget O’Brien Swartz, Esq., VP, Sr. Trust Officer, First International Bank and Trust; Charles “Mike” Dyer, Esq., Dyer & Ferris, LLC
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• MCBA Family Law Section members: $55
• MCBA student members: $10
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SEPT. 8 • 11:30 A.M. - 1 P.M. (Lunch provided)
It’s Hard to Say Goodbye: Top Tips for Resolving Employment Disputes
SPONSORED BY: Corporate Counsel Division
1.5 CLE Credit hours available
This interactive session will offer an in-depth look at sophisticated, high-level strategies that employers are using to resolve employment disputes, including a robust discussion of current risk management, the future of employment litigation, models to monetize and resolve cases in mediation, and even a look at sophisticated, high-level strategies that employers are using to resolve employment disputes, including a robust discussion of current risk management, the future of employment litigation, models to monetize and resolve cases in mediation, and even a look at sophisticated, high-level strategies that employers are using to resolve employment disputes, including a robust discussion of current risk management, the future of employment litigation, models to monetize and resolve cases in mediation, and even a look at sophisticated, high-level strategies that employers are using to resolve employment disputes, including a robust discussion of current risk management, the future of employment litigation, models to monetize and resolve cases in mediation, and even a look at sophisticated, high-level strategies that employers are using to resolve employment disputes, including a robust discussion of current risk management, the future of employment litigation, models to monetize and resolve cases in mediation, and even a look at sophisticated, high-level strategies that employers are using to resolve employment disputes, including a robust discussion of current risk management, the future of employment litigation, models to monetize and resolve cases in mediation, and even a look at sophisticated, high-level strategies that employers are using to resolve employment disputes, including a robust discussion of current risk management, the future of employment litigation, models to monetize and resolve cases in mediation, and even a look at sophisticated, high-level strategies that employers are using to resolve employment disputes, including a robust discussion of current risk management, the future
PRESENTERS: Joe Clee, Esq. and Nonnie Shivers, Esq., Ogletree Deakins
COST: • MCBA members: $62.50
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• MCBA Corporate Counsel Division members: $55 (use promo code TOP)
• MCBA student members: $10
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SEPT. 24 • NOON - 1 P.M. (Lunch provided)
Five Ethics Tips Every Family Lawyer Should Know
SPONSORED BY: Family Law Section
1 CLE credit hour available
This seminar will provide five tips (maybe even more!) practical ethical tips including how to deal with pro per (ethically), what lawyers must consider before entering an “avowal” of their clients’ positions, and a provision that should be in every fee agreement.
PRESENTERS: Lynda C. Shely, The Shely Firm, PC
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**VLP ATTORNEY OF THE MONTH**

An early commitment to VLP helps attorney thrive in pro bono work

By Peggi Cornelius, VLP Programs Coordinator

When asked to accept recognition as the Volunteer Lawyers Program “Attorney of the Month,” Krystal Ahart says being on the receiving end of pure gratitude brings her joy. “When I represent someone who couldn’t otherwise afford legal assistance, their ‘thank you’ is always so sincere and heartfelt, I find it truly touching each time,” she says.

Ahart has done remarkable pro bono work since joining the VLP as a student at the Phoenix School of Law in 2012. Although she holds a degree in business administration and information systems, she’s had her sights on the law since elementary school. She was encouraged to pursue her dream by her mother, who was a paralegal. Lawyer” by her third-grade classmates and calls being voted “Most Likely to Become a lawyer” since elementary school. She re-

Once licensed, Ahart volunteered to provide advice at the court’s Self Help Center and to accept VLP Chapter 7 cases for representation. Her most recent pro bono client was a single mother of four with a very modest income. “I know the results I achieved by representing her will help her family for years to come,” she says.

In addition to her VLP commitments, Ahart is active with the Maricopa County Bar Association. She is a board member and chairs mentor committees for both the Young Lawyers Division and the Bankruptcy Section.

Even with extensive volunteer endeavors and full-time employment, she enjoys a rewarding family life. “I have a younger broth-

Ahart became involved with the VLP through the Friend of the Court Program. Experienced attorneys volunteer as advisors to pro se litigants and mentor law students who are given the opportunity to appear as Friends of the Court during Chapter 7 reaffirmation hear-

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- Justin R. Hernandez
- Arcadia Law Firm
- Shannon L. Clark
- Gallagher & Kennedy (2 cases)
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Volunteer lawyers are needed to assist families who are renting and need to resolve problems with their landlords.

**ADDITIONAL**

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**The Volunteer Lawyers Program thanks attorneys and firms for agreeing to assist on 31 cases referred by VLP to help people with low incomes. VLP supports pro bono service of attorneys by screening for financial need and legal merit and provides primary malpractice coverage, donated services from professionals, training, materials, mentors and consultants. Each attorney receives a certificate from MCBA for a CLE discount. For information about ways to help, please contact Pat Gerrich at VLP at (602) 254-4714 or pgerrich@clsaz.org.**

**VLP RECEPTION AND PRO BONO INCEPTION**

In addition to her VLP commitments, Ahart was "smitten" by speak-

Ahart says. “Jim has been a tremendous mentor, with the law firm of James F. Kahn,” she

Ahart has done remarkable pro bono work since joining the VLP as a student at the Phoenix School of Law in 2012. Although she holds a degree in business administration and information systems, she’s had her sights on the law since elementary school. She was encouraged to pursue her dream by her mother, who was a paralegal.

“Jim has been a tremendous mentor, inspiring me with his wealth of knowledge. Now, as his associate, I still learn from him every day.”

Ahart became involved with the VLP through the Friend of the Court Program. Experienced attorneys volunteer as advisors to pro se litigants and mentor law students who are given the opportunity to appear as Friends of the Court during Chapter 7 reaffirmation hearings at the Bankruptcy Court. Ahart was “smitten” by speaking with “real clients” and appearing in “real hearings.” After law school, she joined court and VLP employees in facilitating the program by becoming a trainer and coordinator for law student participants.

Once licensed, Ahart volunteered to provide advice at the court’s Self-Help Center and to accept VLP Chapter 7 cases for representation. Her most recent pro bono client was a single mother of four with a very modest income. “I know the results I achieved by representing her will help her family for years to come,” she says.

In addition to her VLP commitments, Ahart is active with the Maricopa County Bar Association. She is a board member and chairs mentor committees for both the Young Lawyers Division and the Bankruptcy Section.

Even with extensive volunteer endeavors and full-time employment, she enjoys a rewarding family life. “I have a younger brother, and most of my family members live in the Valley, including my father, aunts, uncles, four grandparents and a great-grandmother,” she says. “I’d be lost without my partner of 12 years, Scott O’Brien, and our three loving pit bulls.”

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

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VLP’s reception and pro bono awards event held April 15, 2015
Supreme Court limits
continued from page 1
characterized her position, her damages arose from
the highway’s design. “Although Glazer frames her
claim as one arising from the State’s failure to ad-
here to operational standards, the core of her claim
is that the State failed to redesign the roadway by
adding a median barrier in the face of changed
standards and circumstances.”

She noted that “Arizona has thousands of miles
of state, county, and municipal roadways, and ma-
terial changes to travel conditions like speed limits
and traffic congestion occur over time that may
make roadway designs outdated.” She added that
“public entities have limited resources to bring
all roadways into compliance with current design
standards and must prioritize needs.”

“If § 12-820.03’s protection vanishes when
changes in travel occur over a roadway or road-
way feature,” she wrote, “public entities should be
tasked with doing ‘everything that might be done’
for transportation safety by continuously bringing
roadways up to current standards.” She added that
“requiring warning for ‘unreasonably dangerous
hazards’ contemplates that roadways could be-
come hazardous despite having been designed and
built according to plans that originally conformed
to safety standards.”

Having confirmed that the statute was applica-
tive to Glazer’s case, Timmer nonetheless affirmed
the judgment. She held that the State had failed to
fulfill the statute’s proviso because it had provided
no evidence that it had warned the public of any
unreasonably hazardous condition. She was not
bothered by the fact that Glazer had waited until
after the verdict before challenging the State’s fail-
ure to provide evidence. “[A]s the proponent of the
affirmative defense, the State — not Glazer —
was required to prove its compliance with all
aspects of § 12-820.03, including the warning re-
quirement,” she concluded.

Joining Timmer were Vice Chief Justice John
Pelander and Justices Rebecca White Berch and
Robert M. Brutinel.

Chief Justice Scott Bales concurred in the result,
but dissented from Timmer’s opinion. “Because
the statute recognizes that injuries may arise from
plans for maintenance or improvement as distinct
from plans for construction,” he wrote, “it is inap-
propriate to conclude that an injury is one ‘arising
out of’ a plan of construction merely because the
injury relates to existing highway conditions.” He
would have held “that an injury arises out of a plan
for construction only if the dangerous condition
causing the injury is inherent in the plan itself.”

See Supreme Court limits page 15
Supreme Court limits

continued from page 14

Guerra v. State, No. CV-14-0144-PR (Ariz. May 8, 2015), arose from another accident on the I-10, this time a one-car rollover. The resulting lawsuit did not claim physical injuries arising from the crash, but emotional injuries from a case of mistaken identity.

Abby Guerra and her friend — identified as “M.C.” — who were physically similar, were among the riders in the car. One young lady was pronounced dead at the scene, and her body was sent to the county medical examiner’s office. The other was transported unconscious to a hospital emergency room. Identification of the victims proved difficult.

A nurse at the ER who undertook to identify the victims told highway-patrol officers that M.C. was one of the patients there, leading the officers to conclude that Abby was the one who had died at the scene. They notified Abby’s mother that it was M.C. who had died.

The Guerras sued the State, alleging that the DPS officers had made a negligent next-of-kin notification. The superior court granted summary judgment to the State, relying on two decisions holding that the government has no duty to properly investigate and identify the victims of car accidents and crimes: Vasquez v. State, 220 Ariz. 304 (App. 2008), and Morton v. Maricopa County, 177 Ariz. 147 (App. 1993).

The court of appeals reversed. It acknowledged that under Vasquez and Morton, the State could not be held liable for not properly identifying the victims. But this case was different because it focused on actions occurring after the investigation. Once the State undertook to make a next-of-kin identification, the court held, it assumed a duty to do so non-negligently. “If law enforcement … undertakes a NOK notification, such is independent of the investigation itself.” Guerra v. State, 234 Ariz. 482 (App. 2014).

The supreme court granted review and, in another split decision, reversed the court of appeals. Writing for the majority, Pelander held that public policy counseled the Guerras’ attempt to distinguish Vasquez and Morton. “Although the Guerras allege that the DPS officers negligently informed them that their daughter was deceased,” he wrote, “the core of their complaint is that the officers failed to reasonably investigate the decedent’s identity.”

“The Guerras have not alleged negligence in the method or manner in which the notification was given; rather, the officers’ alleged negligence arises solely from the deficient investigation that failed to reveal the charge nurse’s misidentification,” Pelander wrote. “Given the thrust and actual underpinnings of the Guerras’ negligence claim, it is difficult to square finding a duty one time in this case when no duty was found in Morton and Vasquez cases with which we agree.”

Pelander held that public policy counseled against imposing a tort duty in next-of-kin notifications. “Imposing such a duty, at a minimum, would cause officers to delay in making [next-of-kin] notifications. At worst, it may deter officers from sharing whatever information they have with anxious family members for fear of litigation and possible liability.”

“In such a prompt, open, and frank communication with distraught family members of potential crime or accident victims is both critical and considerate, imposing a duty in this context would contravene rather than advance public policy,” Pelander concluded. Timmer and Brutinel joined him.

This time joined by Berch, Bales again dissented, contending that the majority’s holding “does not promote desirable conduct by law enforcement officers.” He would have applied sections of the Restatement of Torts that impose a tort duty to those who undertake actions for the protection of others.

Bales lamented that the court’s holding “means that those who have suffered emotional trauma and even physical injury will have no potential for redress from those who incorrectly tell them they have lost a child or other family member.”

Editor’s note: Daniel P. Schaack, an assistant attorney general, was one of the attorneys representing the State in both Glazer and Guerra.
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