NOMINATE NOW!
Hall of Fame seeks candidates and MCBA invites Member of the Year nominations

Maricopa County Bar Hall of Fame
As the Hall of Fame begins its eighth year, its Selection Committee again seeks candidates for induction into the 2015 Hall of Fame. To date, 115 exceptional lawyers and judges have been inducted (see full list on page 6).

Hall of Fame candidates must have been in practice for at least 10 years; played prominent and important roles that have made an impact on the history and development of our local bar and legal professions; 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.

A full-page form for nominations can be found on page 6 — though nominations may also be made online at www.maricopabar.org — and includes additional information required for each candidate. The committee members do not do their own research, so candidates are judged on the information submitted by their nominators.

You are encouraged to re-nominate an individual who was not selected last year, if you feel they should be considered for 2015. Nominations are due August 21 by 5 p.m.

MCBA Member of the Year
The Robert R. Mills Member of the Year Award was reinstituted in 2012 with the selection of Hon. Glenn Davis as its recipient. Any MCBA member is invited to make a nomination. The criteria are:

A current member of the MCBA who:
(1) Significantly contributes to the programs and activities of the MCBA;
(2) Dedicates himself/herself to furthering the goals of the legal profession and promoting the ideal of professionalism; and/or
(3) Shows an outstanding commitment to public service, including charitable, cultural, humanitarian and/or educational service to the community at large.

To recommend a worthy recipient, please send both an email (akimbrough@maricopabar.org) and a letter of nomination with supporting information to: Allen W. Kimbrough, JD, Executive Director, Member of the Year, Maricopa County Bar Association, 303 E. Palm Lane, Phoenix, AZ 85004.

The deadline for the Member of the Year nomination is 5 p.m. on June 3, 2015. For more information, contact Laurie Williams at (602) 257-4200 or lwilliams@maricopabar.org. Information on both awards can also be found at www.maricopabar.org.

Court strikes down frisking case, says Serna does not apply

In Terry v. Ohio, 392 U.S. 1 (1968), the U.S. Supreme Court held that a police officer may frisk a person encountered in the streets if the officer could reasonably conclude that criminal activity is afoot and that the person may be armed and dangerous. In State v. Serna, 235 Ariz. 270 (2015), the state supreme court placed limitations on such searches in Arizona. Addressing Terry’s second prong, it held that “mere knowledge or suspicion that a person is carrying a firearm [does not] satisfy the second prong of Terry.” The court noted, “Arizona … freely permits citizens to carry weapons, both visible and concealed.” Consequently, “the mere presence of a gun cannot provide reasonable and articulable suspicion that the gun carrier is presently dangerous.”

The state court of appeals recently found itself placing limitations on Serna’s holding. It held that Serna’s limitation applies only when the initial encounter between the person and police officer is consensual. Gastelum v. Hegyi, No. 1 CA-SA 14-0204 (App. Apr. 30, 2015).

Phoenix police officer Dustin Hooker was patrolling an interstate highway in his marked car when he spotted a vehicle driving erratically. The driver seemed to be paying more attention to Hooker in his mirrors than focusing on the road. Hooker pulled the car over. The driver asked his passenger, Humberto Gastelum, to retrieve the necessary paperwork from the glove compartment. What happened next aroused Hooker’s suspicions about Gastelum.

It started with Gastelum’s attitude: He appeared far more nervous than the driver. When the driver consented to Hooker’s request to search the vehicle, Hooker walked around to the passenger side and asked Gastelum if he had any identification. Gastelum pulled several cards out of his wallet, finally handing Hooker an auto-auction identification card. Among the other cards were several religious cards, and among those was one depicting Jesus Malverde. Hooker later testified that “he would expect to find a shrine or tribute to … Jesus Malverde, in approximately two out of every five drug-stash houses.”

Hooker asked Gastelum to get out of the car and police officer Dustin Hooker was patrolling an interstate highway in his marked car when he spotted a vehicle driving erratically. The driver seemed to be paying more attention to Hooker in his mirrors than focusing on the road. Hooker pulled the car over. The driver asked his passenger, Humberto Gastelum, to retrieve the necessary paperwork from the glove compartment. What happened next aroused Hooker’s suspicions about Gastelum.

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Making the most of mandatory education

It's that time of year again: CLE season. Time to complete your mandatory CLE. Whether you have read the rule or not, you already know the requirement: “Every active member of the bar, not exempted, shall complete a minimum of fifteen hours of continuing legal education activity in each educational year.” An educational year shall begin on July 1 and end on the following June 30.” — Rule 45(a), Ariz. R. Sup. Ct.

We have long referred to our work as the “practice” of law. Such a reference belies a relative humility: we never “master” the law or our participation in it. It conjures similarities to the “practice” of yoga, where ongoing improvement, rather than perfection, is the goal. Practice, too, takes on many forms, including thinking about our work, doing our work or, as is my focus here, learning about it and teaching it.

For many, the annual Supreme Court-mandated CLE requirements are a burden. The practice of law, family commitments, business overhead and personal financial obligations consume our days with an insatiable appetite. Taking time away to spend actively learning and teaching about our practice rarely rises to the top of your daily to do list … until the deadline is bearing down on you. At the MCBA, we are committed to presenting CLE that you want. We are constantly inquiring what types of seminars you desire — and which directly improve and benefit your practices. As a result, we are routinely providing CLE programs that you cannot find anywhere else. From topics as far reaching as the “X-Files Divorce” to the “Dangers of Divulbing in Probate Court” to “Car-Bike Accidents” and fundamental series in multiple areas including family law, bankruptcy, estates and trusts. Every level and type of practitioner can find CLE programming that fits his or her needs. (If you don’t share this feeling, help us improve our offerings by telling us what educational topics you want to see presented.) Further, you know when you attend CLE at the MCBA office on Third Street and Palm Lane, the parking is always free and you’ll be greeted by helpful, friendly staff at the door. Can’t break away from the office, or you simply want to receive your CLE from the comfort of your beanbag chair? The MCBA offers both online self-study CLE (www.maricopabar.org) and through West Legal Ed (http://www.maricopabar.org/MCBACLE), both available through the CLE Web page on the Maricopa Bar website (www.maricopabar.org). It’s as easy as clicking on the big red CLE button.

Even then, there are times when you want to expand the visibility of your practice. While traditional advertising and Web-based marketing are becoming more en vogue with lawyers today, in many regards, the best referral source for clients can be the lawyers themselves. Few activities convey the quality of your services as an attorney better than sharing your knowledge with other practitioners in CLE presentations. Have an idea? Then contact our Assistant Executive Director, Laurie Williams and pitch her the idea. She can be reached at lwilliams@maricopabar.org or 602-257-4200. Our helpful staff will gladly help you develop the idea into a CLE presentation, whether individually or as part of a developing panel.

I have said many times before that the strength of the Maricopa Bar comes from its membership. We benefit as a whole from the efforts of those working to increase the quality of the association. It is YOUR Maricopa Bar. I hope you will look to your bar for your CLE needs this year — and for years to come — and I trust that if you can’t find programming that fits your needs, that you will work with us to bring it to fruition.

By Jason Houston

On April 22, the MCBA Family Law Section presented an in-depth study of the dynamics of identifying and dealing with Parental Alienation. This four-member panel, hosted by Markene Joy, John Moran, Diana Vigil and David Weinstock, covered the history behind alienation, current research, ways to respond and intervention methodology.

Parental Alienation, also known as Parental Alienation Syndrome or PAS, identifies behavior by a parent that is damaging to a child’s mental or emotional well-being. Such behaviors usually appear at the outset of a stressful marriage, divorce or separation. They can be both verbal and non-verbal and cause a child to be mentally manipulated orbullied into believing one parent is the actual cause of their problems — giving an unproven — to see, hate and disrespect toward an otherwise loving parent. Early symptoms of Parental Alienation include a lack of pathy and warmth between the rejected parent and the child. (Note: PAS does not extend to incidents of child abuse, when a child rejects an abusing parent to protect himself.)

Historically, there have been a concomity of motives that ultimately lead to fragile Paternal Alienation situations. Failing to parse parents’ needs from their children’s is always an early start. One or both parents’ desire for revenge is not uncommon. Narcissism, emphasizing one’s own importance over that of the spouse, is yet another. Guilt, as in the act of diverting attention from one’s own mistakes and shifting focus on the other parent, is common. Other forms of alienation have included a fear the child will prefer one parent to the other. Angerous arguments, in which parents criticize each other with the children present, are typical. One or both parents refusing to accept the fact the marriage is really over is another. Unjustified suspicion one parent is conspiring to alienate the other, a documented history of one parent being absent much of the time, displays of hostility, inequitable custodial arrangements, one or both parents re-partnering, and dire financial matters contribute to a decaying familial relationship and, ultimately, Parental Alienation.

Lawyers, judges, mental health professionals and therapists agree courts don’t exercise authority consistently enough to support family mental health progress. One party usually becomes non-compliant with court orders that were issued, leading to an overall sense that orders do not need to be followed; this can be more damaging than when no orders are made at all. When this ultimately happens, a contempt citation rarely results in compliance. Rather, the parents need to invoke such sanctions as removing privileges such as video games, driving a car or cell phones.

A 2006 survey of 1,100 mental health and legal professionals suggests the most frequently recommended intervention for an alienated child is individual therapy for both the child and the parents. A family-focused intervention from 2010 includes assessment, stipulation/court order and therapeutic work with the aligned parent, rejected parent, alienated child and selected combinations thereof.

It should be noted that reunification with the rejected parent is not the main goal of an intervention. The intervention has many goals: 1) to see that the child is able to restore a safe interaction with the rejected parent; 2) that the child can see both parents working together; and 3) that the child becomes desensitized to the rejected parent. At the same time, parents should be able to recognize how conflict impacts their children, and know what to do to repair the parent/child relationship. The downside to this idea is that it is hard for this to happen in weekly therapy, with the result that the child goes home with the favored parent.

A special thanks to our esteemed panel of experts and the Family Law Section for a lively and informative program.

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

By now, most of us are aware of the significant crush of student debt on the lives of many lawyers, due to the confluence of rapidly increasing tuition and challenging employment prospects. Student debt almost tripled between 2004 and 2012 and is the only kind of household debt that continued to rise through the Great Recession. Overall, student debt is over $1.3 trillion nationwide, and is the second largest balance of consumer debt after mortgage debt.

This is to say that just about every lawyer you encounter will be in the process of paying off their debt or, if they’re lucky, will have paid off their debt relatively recently. As an example, President Barack Obama and his wife, First Lady Michelle Obama, paid off their $120,000 in student loans in 2004 (when Obama was 43 years old) thanks to his wife, First Lady Michelle Obama, paid off their debt entirely on student loans during a three-year stint at Arizona Summit, you would emerge from your education/life entirely on student loans during a three-year stint at Arizona Summit, you would emerge with approximately $330,000 in student debt. While all of those numbers can be manipulated based on scholarships, employment, cost cutting (such as living at home), I share them just to give lawyers who’ve been out of law school for a while a sense of what newer grads are dealing with.

For this article, we are going to take a fake person, Bruce the Borrower, who has $150,000 of student debt upon graduating law school, with a 6.5 percent average interest rate. There are a number of ways Bruce can attack his debt, and the goal of this article is to explore different methods and the advantages and disadvantages of each. There are a few assumptions involved in the actual figures, but I have omitted them for simplicity’s sake. You are welcome to contact me or head over to studentloans.gov for more information. Let’s get started.

A. Basic plans: These plans do not account for the borrower’s income. Unlike the income-driven repayment plan, which we’ll discuss next month, the basic plans are available to all borrowers and do not have eligibility requirements.

1. Standard repayment plan
Why it’s good: Payments are fixed, and your loans are paid off in 10 years or less. You pay less interest for your loan over time under this plan than under other plans.
Why it’s bad: Almost nothing; except trying to pay of $150,000 in 10 years may be incredibly difficult financially.
Bruce’s approximate monthly payments: $1,703.

2. Graduated repayment plan
Why it’s good: Payments are lower at first, then increase, usually every two years. If your income increases over time, this makes the payments more manageable at first. Your loans are paid off in 10 years.
Why it’s bad: You pay more interest over a 10-year period than in a standard repayment plan. The monthly payments will eventually exceed the standard repayment plan payments.
Bruce’s approximate monthly payments: Beginning at $973 and increasing every two years, ending at $2,938.

3. Extended fixed plan
Why it’s good: Payments are fixed, with up to 25 years to pay off loans.
Why it’s bad: With 25 years of loan payments, you end up paying a LOT of interest. For Bruce, he would pay approximately $100,000 more over the life of the loan than under a standard repayment plan.
Bruce’s approximate monthly payments: $1,013.

4. Extended graduated plan
Why it’s good: Payments are lower than other plans at first, and then they increase every two years. You have 25 years to pay off your loans.
Why it’s bad: Bruce will pay approximately $130,000 more during repayment than he would under a standard plan — a total of approximately $330,000.
Bruce’s approximate monthly payments: Beginning at $913 and increasing every two years, ending at $1,474.
Stay tuned for part 2 next month, where I’ll talk about income-driven repayment plans.

Tips for collecting a judgment in Arizona, part two

After securing a judgment against a person or business, what collection remedies are available to your client? In addition to those mentioned in last month’s article, here are some other possible remedies available:

4. Informal interviews/supplemental proceedings (aka debtor’s exams)

Before asking the court for a formal debtor’s exam, consider sending a letter to the debtor setting an informal interview in your office. For those who reside out of county or are unable to travel to your office, the interview can take place over phone. For the cost of a stamp, you can collect the same information you would during a formal debtor’s exam. If the debtor appears for the informal exam, the chances of collection are quite good. If the debtor fails to appear, consider petitioning the court for a debtor’s exam, which is a more formal financial interview that usually takes place at the courthouse. After the court selects the date and time of the exam, the debtor must be personally served with the paperwork. The purpose of the exam is to obtain asset and employment information and set up a formal payment arrangement, if possible. This process can get expensive, especially if a debtor avoids service. If they fail to appear, the judge could then issue a civil arrest warrant.

5. Writs of execution

These give the sheriff the ability to go to a debtor’s home or place of business and recover items valued up to the amount of the judgment balance. The debtor must have complete ownership of the items taken. This is not a good way to recover your judgment balance unless you know the debtor has something of value which they own outright. This could get expensive as moving and storage costs as well as sheriff, auction and repossession fees may be included. In cases with collateral at stake, filing a replevin action in lieu of a traditional lawsuit to recover the collateral up front will keep that element of surprise. Attempting to recover collateral post judgment through a writ of execution, months after the service of the lawsuit, gives the debtor advance notice and may cause the collateral to “disappear.”

Writs of execution can be beneficial when attempting to collect from business debtors, especially those who receive cash payments. Unfortunately, Arizona does not have a Keeper’s levy law like California where the sheriff can go to a business for 4 to 8 hours to collect money paid during that time frame. Here, you can send the sheriff out to collect money from the register of a business on a certain date and time to try to maximize the collection amount. For example, you would want to send the sheriff to a sports bar on Super Bowl Sunday when you know the cash in the register is more than usual.

6. Post-judgment discovery/subpoenas

These are attempts to obtain a debtor’s financial and employment information to enforce a judgment. They include requests for production of documents and interrogatories sent to the judgment debtor and subpoenas served on third parties to obtain information about the debtor. Regarding discovery, it is better to conduct a debtor’s exam where the debtor is required to provide you with their financial information pursuant to a court order, making them more likely to provide it. A subpoena is a very useful tool to obtain current employment and banking information from the debtor’s recent creditors to assist with your collection efforts.

7. Judgment liens

A lien is created when a signed judgment is recorded with a county recorder’s office. If a debtor owns property in more than one county, it is best to record the judgment in each county. The recordation in each county. The recordation creates a lien on any property a debtor owns at the time of recording or any property that they subsequently purchase. It also causes a judgment to show up on the debtor’s credit thus exposing it to other creditors who may require it be paid before extending new credit or lending money to the debtor. This is especially beneficial when dealing with a personal guaranty situation where the judgment is only against one spouse. A debtor’s employer may also require them to be free of any judgment liens. Just because a debtor is uncollectible does not mean they are “judgment proof.” In such circumstances, your best option is to record the judgment and sit back and wait for another creditor to require the debtor to pay off the judgment.

8. Driver’s license suspension

This is a unique collection remedy for those who have a judgment resulting from a motor vehicle accident in Arizona involving an uninsured driver. It allows a creditor to suspend the debtor’s driver’s license after providing proof of the judgment to the Arizona Department of Transportation. This remedy is very effective since the majority of us need our driver’s license.

9. Judgment renewal

In Arizona, judgments are valid for five years. To prevent it from expiring, a creditor must renew a judgment within 90 days of the expiration date. This can be done every five years until the judgment is paid. This act alone is a collection remedy. While a judgment may appear to be uncollectible now, a debtor’s circumstances can change over the course of five years. They could get a new job or receive a large sum of money. A married guarantor could get divorced, making the issue of community property moot and thus allowing your client to issue a wage garnishment. It is a good idea to renew a judgment at least once and periodically review the debtor’s situation to see if anything changes that would allow your client to enforce. Collecting a judgment can be a challenge, but, as you can see, a creditor has many remedies from which to choose.

In other news, our next meeting is at 5:30 p.m. on Monday, June 8, 2015, at the MCBA office, 303 E. Palm Lane in Phoenix. Don’t sit on the sidelines. Come join us and become an active part of the Paralegal Division.
What a difference the right word makes

Legal Writing
Tamara Herrera

Recently I was reading a trial brief and came across the following sentence: “The patient was eager to get the test results.” I thought the sentence was odd because earlier in the brief, the patient was characterized as nervous and scared about anything medical. The author’s misuse of “eager” distracted me as a reader and caused me to question what I knew about the case. Following are the top five misused words that distract me. Any legal writing style manual will contain a longer list of these “treacherous words” if you are interested in seeing more. Bryan Garner’s The Redbook is a good book to have as a reference.

Anxious/Eager: Anxious means concerned or worried about a future event. Eager means excited about a future event. Of all the word pairs in this list, writers tend to misuse these words the most.

Continual/Continuous: Continual refers to a periodic event. Continuous refers to an event that occurs without interruption. The Lady Legal Writer blog provides a great visual for remembering the difference. “Drips aren’t constant; they come at intervals, so the word continual is applicable. Water running through a hose, however, is constant, and therefore, the word continuous is the appropriate word.

Adequate/Sufficient: Adequate means good enough. It is a qualitative word. Sufficient means plenty or big enough. It is a quantitative word. The two words are not interchangeable.

Judicial/Judicious: Judicial is an adjective used to describe an object relating to courts. Judicious means discreet or well thought out. Thus, it is correct for me to say that I enjoy reading judicious judicial opinions.

Imply/Infer: Imply means you are hinting at something. Infer means that you have deduced some meaning from something unsaid. Simply put, writers imply meaning, and readers infer meaning.

Affect/Effect: Affect is a verb that means to influence. Effect is most commonly used as a noun that means result, or, in a less common usage, possession. As Bryan Garner puts it, “To affect something is to have an effect on it.” To make matters even more confusing, effect can be used as a verb too, meaning to bring about. My suggestion is to study these words carefully if they give you trouble.

Make plans to win the BMO Private Bank Pro Bono Golf Classic

By Joel Hoffman, Warner, Angle, Hallam, Jackson, & Formanek, PLC

Mark your calendar for the 2015 BMO Private Bank Pro Bono Golf Classic on Nov. 7 at the Legacy Golf Resort! This is a great opportunity to golf at a reasonable rate and enjoy the perfect Arizona fall weather — all while supporting the Volunteer Lawyers Program (VLP). All of the net proceeds of the event go to VLP, which is co-sponsored by Maricopa County Bar Association and Community Legal Services.

Last year, the golf classic raised over $19,000 for VLP, which helped them:

• Arrange civil legal help to more than 10,000 people;
• Partner with the MCBA Bankruptcy Section to provide clinics to advise people who are troubled about debts;
• Support the VLP’s Family Lawyers Assistance Project (FLAP) provide family law advice to 5,000 people;
• Help VLP’s Children’s Law Center impact nearly 3,000 children a year by arranging pro bono legal assistance;
• Help VLP’s HIV/AIDS Law Assistance Project, which provides estate-planning help to HIV/AIDS patients;
• Support the VLP’s HIV/AIDS Law Project, which provides estate-planning help to HIV/AIDS patients.

This year’s tournament is open to the public, and there are many ways to get involved! Contact the VLP at (602) 257-4200 for more information.

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

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Call Chris Linscott today for a free consultation!
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: lwilliams@maricopabar.org.

Hall of Fame Inductees 2008-2014

PIONEERS

- Hon. Rebecca Albrecht
- Jerry L. Angle
- Charles (Chick) Arnold
- Bruce Babitt
- Roxanna G. Bacon
- Peter D. Band*
- Hon. Scott Bales
- Hon. Rebecca White Berch
- Hon. Charles C. Bernstein*
- Don Bivens
- Hon. Robert A. Broomfield
- John J. Bouma
- Robert W. Browder
- Jack E. Brown*
- Jose A. Cardenas
- Walter Cheifetz
- Hon. Valdemar A. Cordova*
- Daniel F. Cracchiolo
- Harry J. Cavanaugh, Sr.*
- Hon. Hayzel B. Daniels*
- Paul E. Eckstein
- John J. Flynn*
- John P. Frank*
- Hon. William P. French*
- Michael E. Gallagher
- Patricia Gerrich
- Samuel P. Goddard, Jr.*
- Hon. Robert L. Gottsfeld
- Dr. John Alsap
- A.C. Baker
- Alice Birdsell
- Frank Haze Burch
- Louis Chalmers
- Jubel Early Craig
- Hon. Walter E. Craig
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- Rafael (Ralph) Carlos Estrada
- Herbert B. Finn
- Greg Garcia
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- Richard F. Harless
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- Hon. Joseph Kibbey
- Hon. A.D. Lemon
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- Hon. Andrew Hurwitz
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- Rodney B. Lewis
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- Hon. Robert D. Myers
- Hon. Stephen M. McNamee
- Hon. Frank E. O’Connor
- Hon. Robert D. Myers
- Hon. Stephen M. McNamee
- Patrick J. McGroder III
- Hon. Sandra Day O’Connor

MODERN ERA

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- Hon. Valdemar A. Cordova*
- Daniel F. Cracchiolo
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- Patrick J. McGroder III
- Hon. Sandra Day O’Connor

* Deceased
### Q&A

By Russell Yurk

This month, I will address common questions I receive regarding conflict checks.

**QUESTION:** When do I need to run a conflict check?

**ANSWER:** You need to run a conflict check before you give legal advice to a client or potential client. When you are asked for legal advice, you should first ask for the names of parties (and key witnesses if known) and ensure that you do not have a conflict of interest.

**Q:** When do I need to re-run a conflict check?

**A:** Conflict checks should be re-run whenever new parties are added and when non-parties at fault, experts and other key witnesses are disclosed. Any potential conflict with those individuals would not have been apparent in an original conflict check. Additionally, it is always a good idea to run a new conflict check on each of your cases annually to ensure that no conflicts have arisen over time.

**Q:** What people or entities should be listed in my conflict system?

**A:** Conflict systems should include not only the obvious (clients and opposing parties), but also several groups of individuals you may not be thinking about. You should include opposing counsel, non-parties at fault, expert witnesses, third-party payors (such as insurance companies or parents paying legal fees for their children) and prospective clients. You may also include close family members of lawyers and staff in your firm, which would at least alert your firm to potential conflicts between firms or clients employing spouses or relatives. Each individual in the system should be identified by name and by role in the matter.

**Q:** Do I need to buy expensive conflict-checking software?

**A:** Not necessarily. Although professional conflict-checking software is always preferable, the key is to have a system that is thorough, current, and used by lawyers and staff. Someone at each firm should be responsible for ensuring that the conflict system is properly maintained and that conflict checks are appropriately conducted. Whatever system is used, it is critical to identify potential conflicts and ensure that they are properly addressed.

If you have a question about ethics or lawyer liability that you would like addressed in this column, please email me at rry@jbc-law.com.

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**Learn to manage clients or suffer the consequences**

By Alexander Benikov

Client management can be the difference between a happy lawyer and a miserable lawyer. Client management can also be the difference between making more, or less money. For our purposes, client management is defined as how a lawyer treats, manages, deals with and interacts with their clients. Like all skills, it needs to be practiced, and all attorneys can get better at it. The first and, arguably, the most important step, is to make a conscious effort to improve. For lawyers who do become better at client management, there will be two crucial benefits.

Two goals for most attorneys are a higher quality of life and more money. Who would argue with more money and less stress? Becoming better at client management will have a direct affect on both goals. An attorney who is good at managing their clients will be more likely to send you referrals. Just this past week I gave a co-defendant case to a lawyer friend of mine because I knew he had excellent client management skills and would take great care of his client. Client management alone will not guarantee you less stress and more money, but it can help your chances of achieving both goals.

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CLE IN THE PINES

JULY 16-18, 2015

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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

THREE-DAY PRICING
$500 non member
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ONE-DAY PRICING
$300 non member
$225 MCBA member

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

To receive the Conference room rate, please make your hotel reservations by June 17, 2015.
Reservations made after this date 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.
MCBA Books for Lawyers

Guide to Arizona Statutes of Limitation 2011 (2nd edition)
The one reference every lawyer really needs to meet critical deadlines and avoid malpractice

This 174-page book (softcover, spiral bound), newly updated through 2011, includes most, if not all, statutes where a time limitation is specified. Compiled, updated and edited by the MCBA Young Lawyers Division, the Guide is intended for use as an aid to Arizona attorneys in all areas of practice.

The essential criminal law practitioner’s reference

This book is a compilation of the most frequently referenced criminal statutes, rules, guidelines, timelines, and sentencing information, among other useful information. This second edition contains updates and additional sections to make it more practical and helpful for use as a portable criminal law reference. Use it as a quick reference during Arizona criminal proceedings. Spiral bound, 210 pages, the book lies flat and is convenient to take to court. Compiled by the MCBA Criminal Law Section. Downloadable online.

The Most Frequently Asked Questions in Environmental Law (2nd edition)

The environmental answer book for Arizona businesses and non-specialists

Completely up-to-date and comprehensive, this publication of 16 chapters covers every major area of environmental law of interest to persons and organizations in the Arizona business community. Each chapter has been drafted and updated by experienced local practitioners and provides fully referenced, Arizona-specific information. The content is presented in an informative, non-technical manner for use by non-environmental practitioners and non-lawyers. It is also useful for legal professionals who are experienced in environmental law but need a quick reference and research aid for questions in unfamiliar subject areas. The book has sixteen chapters and 200 double-spaced pages in a three-ring binder. It is written and edited by the MCBA Environmental & Natural Resources Section and can be downloaded online.

Order books online at www.maricopabar.org. You may purchase online with VISA, MasterCard or American Express, or download an order form and purchase by check. Save mailing charges ($5-$8) by purchasing books at the MCBA Office at 303 E. Palm Lane in Phoenix.

Cohen Kennedy Dowd & Quigley was born in 1991 with a clear vision of its present and future professional profile. We will specialize in complex commercial litigation. We will embrace the toughest cases and the most interesting, demanding clients. We will hire only top law students who can play in the street. Sound, practical judgment will be our theme and our reputation. We will be a small, boutique law firm. We will know each other. We will respect each other and our profession. We will love and cherish our families. We will recognize our ethical responsibilities while we exercise every bit of our fabric to benefit our client. We will win. That was then. That is now.

Focused on Arizona Bankruptcy Matters

Founded in 1999, the bankruptcy law firm of Allen Maguire & Barnes, PLC (formerly Allen, Sala & Bayne PLC) has extensive experience representing constituents in and out of bankruptcy, including lenders (individual and institutional), debtors (business and individual), and bankruptcy trustees. AMB’s attorneys represent borrowers, creditors, and other parties in all phases of loan workouts, restructurings, and bankruptcy, including bankruptcy litigation and appeals.
**New judge Q&A: Hon. Jennifer Green**

**Q:** How has your experience as an assistant U.S. Attorney prepared you to be a judge?
**A:** Serving as a federal prosecutor in Arizona and practicing in our federal court for seven years was a rewarding and extraordinary opportunity. My colleagues at the U.S. Attorney’s Office are first-rate lawyers who made me a better thinker, writer and advocate. The federal bench in Arizona holds lawyers to high standards, and the judges serve as role models for me today. At the end of the day, regardless of the case, my job as an AUSA was to “do the right thing,” which could mean anything from asking for a harsh sentence down to filing a motion to dismiss. All of these skills required the exercise of good judgment and the ability to connect with people, which are necessary to make difficult decisions on my family court assignment.

**Q:** Who has been the biggest inspiration in your legal career?
**A:** I am lucky to have many sources of inspiration. First, I come from a family of hard workers, and my parents have instilled in me a commitment to service to others. I admire anyone who chooses a career in public service, whether it is my high school softball coach, a victim advocate or a soldier. I also appreciate women who went to law school when it was rare to do so, carving out a now well-worn path for us to follow.

**Q:** What’s your favorite quote?
**A:** My most recent favorite is our 3-year-old informing me that, “Mommy, you are NOT the best mommym in town!” A good friend also got me a sign for my office that reads, “Grammar Snobs are Great Big Meanies.”

**Q:** If you had a day to spend with anyone (living or dead, real or fictional), who would it be and what would you do?
**A:** I would have a beer with Pat Tillman. Preferably at the Rose Bowl watching ASU thump some national powerhouse.

**Q:** What songs are currently in your playlist?
**A:** My most recent favorite is our 3-year-old and extraordinary obsession with the Frozen soundtrack, our 3-year-old has moved on to Mary Poppins. So, for now, plenty of spoonfuls of sugar. Disney stands to make a lot of thump some national powerhouse. Preferably at the Rose Bowl watching ASU thump some national powerhouse.

**Q:** What’s your favorite quote?
**A:** “It’s easy to contribute.”

**New judges appointed**

**Hon. James D. Smith**

Governor Doug Ducey appointed James D. Smith and Dewain D. Fox as Maricopa County Superior Court judges.

Smith is currently practicing law with Bryan Cave, LLP, with previous law practice experience with Squire Sanders & Dempsey, LLP, and Tealbong, Sanders & Parks, PC, and the Arizona Court of Appeals, Division I as a law clerk.

He is a 1995 graduate of the University of Notre Dame Law School cum laude and has practiced law extensively in the areas of class action defense, commercial litigation, anti-trust litigation and products liability defense. Smith will start with the court on May 25 and, after a week of training, assume a family court calendar at the Southeast Regional Center on June 1.

Fox graduated from the University of Arizona Law School in 1992 summa cum laude. He currently practices law with the firm of Sherman & Howard, LLC, and previously with Fenneworth Craig, PC. Fox has years of civil litigation experience in all facets of civil and commercial law. He has also served for many years with the National High School Mock Trial Championship organization as an officer and director, and currently is chair of that organization.

Fox will start with the court on May 4 and, after a week of training, assume Judge Ainee Anderson’s family court calendar on May 11.

**Hon. Dewain D. Fox**

**Husband and wife retire**

On April 7, Judges Robert and Linda Miles, husband and wife, submitted their letters of resignation to Gov. Ducey announcing their retirement, effective April 30, from the Maricopa County Superior Court bench.

Linda Miles started with the court as a commissioner in October 1995, and was appointed as a judge in December 2001. During her nearly 20 years on the superior court bench, she served multiple rotations in family, civil and juvenile court.

Robert Miles was appointed to the bench in 2005 after serving more than 30 years in private practice at Quarles & Brady, LLP. During his judicial career, he served in civil, family and criminal court.

**Judges Linda and Robert Miles**

**Maricopa Lawyer ARCHIVAL PROJECT**

**Calling all loyal readers and history buffs!**

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

If you have historic copies of either and are willing to share your collection with us, contact Stan Watts at watts@dwlaw.net or 602-279-7488. Thank you!

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**A Small Donation Makes a Big Difference**

Arbitration Fee Donations Help

Partnering with the Maricopa County Superior Court, the Maricopa County Bar Foundation (MCBF) is once again encouraging attorneys assigned to arbitration to donate the $75 fee to the Foundation’s fundraising efforts.

It’s Easy to Contribute
The court has made it easy to contribute with a convenient “pro bono” check-off box located at the bottom of the Invoice in Support of Request for Warrant, a form provided in your arbitration packet. For more information, go to maricopabar.org and click on the Maricopa County Bar Foundation link located on the homepage sidebar.

Thank you for making a difference!
Bring your paralegal/legal assistant to the 2014 legal developments and what is on the horizon for 2015. It will also offer practical tips especially helpful for solo and small firm practitioners as they manage ediscovery and electronic data in their practices. PRESENTER: Brandon Colburn, Vice President of Teris, LLC (a nationwide provider of information governance and e-discovery services).

**JUNE 4 • NOON TO 1:30 P.M.**
(Lunch provided)

**What to Know About Car-Bicycle Accidents/Lawsuits**

An introduction on how to present and defend bicycle accident claims. Starting with investigation, statutory and municipal regulations, deposition tips and trial presentation ideas. Hear strategies and theories from the plaintiff’s and defendant’s points of view—along with biking experts’ thoughts on safety, statutes, ordinances and other regulations.

**PRESENTERS:** Joseph S. Kelly, Jr., Esq., JSK Law; Greg Novak, Esq., Kleinman, Lesseyong & Novak; and Robert Ferraro, Tempe Police Department.

**COST:**
- MCBA members: $62.50
- Bring your paralegal/legal assistant (Please provide their name and email): $25
- MCBA Paralegal & Public Lawyer Division members: $40
- MCBA student members: $10
- Non-members: $102.50

**JUNE 4 • 4:30 P.M. - 5:30 P.M.**
(Pizza provided)

The E-Discovery Year in Review: State of the Law, Emerging Trends, and Practice Tips and Pitfalls

**SPONSORED BY:** Litigation Section

**1 CLE ethics credit hour available**

This CLE will address the range of issues, challenges and realities practitioners and their clients confront in mounting electronic data discovery in potential and active litigations. Topics will include technology assisted review and predictive coding, corporate cyber security concerns, information governance, social media discovery, self-collection and “bring your own device” implications.

**COST:**
- MCBA members: $150
- Bring your paralegal/legal assistant (Please provide their name and email): $25
- MCBA Family Law Section members: $130 (use promo code TRIUNJE)
- MCBA Paralegal & Public Lawyer Division members: $90
- MCBA student members: $10
- Non-members: $245

**JUNE 9 • NOON - 1 P.M.**
(Lunch provided)

**Woe Is The Legal Department! What Happens, What To Do When Things Legal Go Awry**

**SPONSORED BY:** Corporate Counsel Division

**1 CLE credit hour available, including 3 hours of ethics**

This popular CLE is in the format of a mock trial. Attorneys acting as the parties provide testimony while multiple family law attorneys present either direct examinations or cross-examinations to a panel of sitting superior court judges. The issues this year will include child support and relocation. At the conclusion of the “trial,” judges provide feedback and enter a ruling. Attendees will learn pointers on how best to present their family law case, as well as receive important feedback from family court judges.

**PRESENTERS:** Mervyn Braude, Jahangir Willk, PC; Jason Castles, Jahangir Willk, PC; Dr. David Weinstock; Jennifer Gadow, Fromm, Smith & Gadow, PC; Marlene Pontrelli, Dickinson Wright, PLLC; Greg Wilcock, Davis Finn Blase, PLLC; Tracey Van Wicker, Hildebrand Law; Nicole Siqueiros-Stoutner, Haller & Lawrence, PLC; Hon. Suzanne Cohen; Hon. Boyd Dunn; Hon. Geoffrey Fish; Hon. Jennifer Ryan-Touhill.

**COST:**
- MCBA members: $150
- Bring your paralegal/legal assistant (Please provide their name and email): $25
- MCBA Family Law Section members: $130 (use promo code TRIUNJE)
- MCBA Paralegal & Public Lawyer Division members: $90
- MCBA student members: $10
- Non-members: $245

**JUNE 10 • NOON - 1 P.M.**
(Lunch provided)

**Evolving Theories of Design – Professional Liability in Arizona**

**SPONSORED BY:** Construction Law Section

**1 CLE credit hour available**

A discussion of contract, tort and other theories of recovery whereby claimants seek to hold design professionals liable for defective designs and the damages that result.

**PRESENTERS:** Andrew Q. Everroad, Bennet Fairbourn Friedman & Balint, PC; P. Douglas Folke, Clark Hill, PLLC; Kirk H. Hays, Holm Wright Hyde & Hays, PLC.

**COST:**
- MCBA members: $50
- Bring your paralegal/legal assistant (Please provide their name and email): $25
- MCBA Paralegal & Public Lawyer Division members: $35
- MCBA Corporate Counsel Division members: $45 (use promo code CCDJUNE)
- MCBA student members: $10
- Non-members: $70

**JUNE 11 • 7:30 A.M. - 10:30 A.M.**

**Ethical Pitfalls for Estate Planners and Probate Practitioners**

**PRESENTED BY:** Estate Planning Probate Trust Section

**3 CLE credit hours available, including 3 hours of ethics**

Representing multiple clients in estate planning, probate matters, transactions or litigation gives rise to important ethical issues involving confidentiality, conflicts of interest, privileges and decision-making authority. This program will discuss the ethical issues that arise in joint representations and the step-by-step approach for handling these types of representation to protect the clients (and the lawyers themselves) from potential ethical pitfalls. This program will also cover ethics of “multi-jurisdictional” practice, which means to practice law “in” a jurisdiction in which a lawyer is not licensed, if lawyers can represent clients from other states if the lawyer is not licensed in that state and what the risks are of advising a client regarding the law of another jurisdiction.

**PRESENTERS:** Russell Yurk, Esq., Jennings Haug & Cunningham, LLP; Phoebe Moffat, Esq., Sacks Tierney, PA; Scott Erickson, Esq., Frazer, Ryan, Goldberg & Arnold, LLP.

**COST:**
- MCBA members: $115
- Bring your paralegal/legal assistant (Please provide their name and email): $25
- MCBA EPPT Section members: $100 (use promo code CONF)MCBA Paralegal & Public Lawyer Division members: $70
- MCBA student members: $10
- Non-members: $190
Family Law Meet the Judges

On April 29, the MCBA Family Law section hosted a fun and casual event that invited members to come and get to know the family court judges.
Court strikes down continued from page 1
car. Instead of exiting the normal way, Gastelum turned to his left and walked around the open door without facing Hooker. This alarmed Hooker because it appeared that Gastelum might have a gun, Hooker stopped and frisked him. He felt a bulge on Gastelum's left side, which he immediately recognized as illegal drugs. He found a lophane-wrapped package, which he immediately called in to the superior court. The superior court had held that Gastelum was trying to conceal something and that an officer has a reasonable suspicion to believe that Gastelum might be armed because of his unusual movement in exiting the vehicle. This led to the conclusion that Gastelum was not only armed, but also dangerous.

Swann concluded that Sorra did not apply. He noted that the supreme court had limited its holding to “only those circumstances in which the police wish to search a person with whom they are engaged in a consensual encounter.” And this was not a consensual encounter, Swann held. “[T]here was nothing that occurred in this case that would have conveyed to Gastelum, before the frisk, that the traffic stop had ended or that he was otherwise free to depart without permission.”

“Was held,” Swann wrote, “that when an encounter between a police officer and an individual is not based on consent, and an officer has a reasonable suspicion that criminal activity is afoot and that the individual is armed, the officer may conduct a Terry frisk without specifically assessing the likelihood that the individual is presently dangerous.”

Joining him in affirming the denial of Gastelum’s motion to suppress were Judges Kenton D. Jones and Michael J. Brown.

ANNOUNCEMENTS

The Scottsdale Bar Association recently elected new officers and directors. Officers are: Kevin Estevez, President; Ryan Lorenzo, Vice President; Lance Davidson, Secretary; Perry L. Goosman, Treasurer. Directors are: Donald Alvarez, Gail Barsky, Dean Dinner, Carolyn Goldman, Steve Guttell, Cody Hayes, Charles Berry, Denise Blommel, Coni Rae Good, Steve Kupiszewski, Michael Shumway, Scott Weiner, Paige Martin and Monica Lindstrom (immediate past-president).

NEW HIRES

Nushsbaum Gills & Dinner, PC, is pleased to announce that Abbie Shindler has joined the firm’s Scottsdale office as partner. Shindler is an experienced estate planning and corporate law attorney who assists individuals and families with their various estate planning needs and provides small and medium-size businesses with transactional legal services.

Shindler assists her clients with their estate planning, which includes the preparation of comprehensive estate plans, wills and trusts; administration of trusts and estates; obtaining appointments of guardians or conservators for adults and minors; creating revocable living trusts, special needs trusts and irrevocable life insurance trusts; obtaining tax-exempt status for nonprofit organizations; as well as asset protection agreements and probate. Through her corporate law practice, Shindler primarily assists small and medium-size businesses with business formation, contract review, operating agreements, buy-sell and gifting agreements as well as title transfers for real property. She is also a trained mediator.

In 1999, Shindler earned her law degree from California Western School of Law in San Diego. She received her bachelor’s degree from the University of Arizona. Shindler is a member of the State Bar of Arizona, the Scottsdale Bar Association, and the American Bar Association. Shindler is a member of the Scottsdale Bar Association, and the American Bar Association.

BULLETIN BOARD POLICY

If you are an MCBA member and you’ve moved, been promoted, hired an associate, taken on a partner, or received a promotion or award, we’d like to hear from you. Talks, speeches (unless they are of national stature), CLE presentations and political announcements are not accepted. In addition, the Maricopa Lawyer will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, etc.). Notices are printed at no cost, must be submitted in writing and are subject to editing. Items are printed as space is available. News releases regarding lawyers who are not MCBA members in good standing will not be printed.
VLP’s “For Love of Justice” awards recognizes outstanding pro bono work

Peggi Cornelius,
VLP Programs Coordinator

This year, the annual celebration of National Volunteer Week was April 12-18, and in keeping with what’s becoming an Arizona tradition, Gov. Ducey proclaimed April “Access to Justice Month.” In appreciation for the pro bono work of hundreds of volunteers who contributed their time and expertise during the past year, the Volunteer Lawyers Program (VLP) celebrated the week and the month with a reception and awards program on April 15.

Held at the Hyatt Regency in Phoenix, the reception was attended by members of the judiciary, attorneys, law students, legal professionals and other guests who came to recognize the outstanding community service being performed by members of the VLP. In his welcoming remarks, Vice Chief Justice of the Arizona Supreme Court John Pelander expressed his thanks for the pro bono work of hundreds of volunteers who contributed their time and expertise during the past year, the Volunteer Lawyers Program (VLP) celebrated the week and the month with a reception and awards program on April 15.

In presenting the award named in his honor, Gordon reflected on the early development of the VLP during his term as Chief Justice of the Arizona Supreme Court.

“In 1988, I asked partners in Arizona’s largest law firms which of them had started pro bono programs. One firm responded affirmatively,” he said. “A year later, when I asked the same firms again, the number had increased to 20! Soon after, more firms followed, both large and small. In the face of tremendous need for pro bono assistance to Arizona’s low-income population, it gives me great pride to see the generous response from law firms and individual lawyers in our legal community. My thanks to the VLP and to all of you.”

Left to right: Hon. Frank X. Gordon, Jr. (Ret.), Hon. Janet Barton, Hon. John Pelander

Volunteer Lawyers Program Thanks Attorneys

The Volunteer Lawyers Program thanks the following attorneys and firms for agreeing to assist on 17 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.

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